

AGENDA

City Commission Meeting
222 Meigs Street
5:00 p.m.

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MONDAY, JANUARY 14, 2008

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Prayer
Pledge of Allegiance
Meeting Called to Order
Roll Call - DW, DK, CS, DM, BF, BC, JF
Minutes - December 26th – Regular, Swearing In Ceremony/Elect President/Vice President Meetings

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Charter Officers - Matthew Kline, City Manager, Don Icsman, Law Director, Ed Widman, Finance Director, and B. Joyce Brown, Clerk of the City Commission

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Audience Participation – Agenda Items Only (3 minute limit)

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PRESENTATION – Linda Woods of North Coast Wind & Power – Residential Wind Turbines

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ITEM #1 – Communication – Jeffrey W. Rosekelly, P.E. Project Engineer

BUDGETARY INFORMATION: The revised estimated project cost including engineering costs and a 5% contingency is \$686,518.65. The City is responsible for the entire project cost and will be paid with the Sewer Funds.

RESOLUTION NO. _____ Repealing Resolution No. 026-07R and declaring the necessity for the City of Sandusky, Ohio, to proceed with the proposed Hollyrood and McKinley Streets Sewer Separation Project; approving the revised specifications and engineer's estimate of cost thereof; directing the City Manager to advertise for and receive bids in relation thereto. **Request passed under suspension of rules in full accordance of Section 14 of the City Charter.**

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ITEM #2 – Communication – Kathryn K. McKillips, P.E. Director of Engineering Services

BUDGETARY INFORMATION: The project cost based on bids, including engineering, inspection, advertising, and miscellaneous cost is \$25,300.00, which will be paid with Sewer Funds.

ORDINANCE NO. _____ Enter into a contract with Burch Hydro, Inc. of Fredericktown, Ohio, for the Wastewater Treatment Plant Digester Cleaning Project. **Request passed under suspension of rules in full accordance of Section 14 of the City Charter.**

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ITEM #3 – Communication – Matthew Kline, City Manager

BUDGETARY INFORMATION: The costs for this contract are covered in the City's 2008 Budget through the availability of funds in Economic Development, the City Manager's Office and Sewer & Water. There will be no impact upon the General Fund.

ORDINANCE NO. _____ Enter into a Consulting Contract with James L. (Don) Miers for Calendar Year 2008, a copy of which is attached to this Ordinance. **Request passed under suspension of rules in full accordance of Section 14 of the City Charter.**

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ITEM #4 –Communication – Kathryn K. McKillips, P.E. Director of Engineering Services

BUDGETARY INFORMATION: There is no impact on the general budget.

ORDINANCE NO. _____ Enter into a Lease Agreement with Peerless Stove and Manufacturing Company for the building and land located at 334 Harrison Street, Sandusky, Ohio. **Request passed under suspension of rules in full accordance of Section 14 of the City Charter.**

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City Manager's Report
Old Business
New Business
Audience Participation – open discussion on any item (5 minute limit)
Press Question/Answers
Executive Session
Adjournment

TO: Matthew D. Kline
City Manager

FROM: Jeffrey W. Rosekelly, P.E.
Project Engineer

DATE: January 2, 2008

SUBJECT: Commission Agenda Item

ITEM FOR CONSIDERATION: Permission to re-bid the Hollyrood and McKinley Streets Sewer Separation Project This project will install new storm sewers in Hollyrood Road, McKinley Street, Fifth Street and the Arthur Street right-of-way. The Hollyrood Road/McKinley Street drainage basin has been a problem area during heavy rains for several years and is in need of stormwater drainage improvements.

The original Engineer's Estimate for the construction contract was \$560,634.92. Two (2) bids were received on October 16, 2007 from the following companies:

Speer Brothers, Inc.	Sandusky, OH	Bid: \$638,470.91
Buckeye Excavating, Inc.	Bucyrus, OH	Bid: \$902,451.00

In accordance with Section 41 of the City Charter, "In no instance shall contracts be let either as a whole, or in aggregate if bids for parts of the work are taken, which exceed the estimate of costs by more than 10%". Therefore, the two bids received were rejected. After reviewing the bids, revisions were made to the specifications and plans and the revised Engineer's Estimate for the construction contract is \$606,453.00.

BUDGETARY INFORMATION: The revised estimated project cost including engineering costs and a 5% contingency is \$686,518.65. The City is responsible for the entire project cost and will be paid with the Sewer Fund.

ACTION REQUESTED: It is recommended that the proposed Hollyrood and McKinley Streets Sewer Separation Project be approved and that the necessary legislation be passed under suspension of the rules and in accordance with Section 14 of the City Charter in order to re-bid the project, receive competitive prices and start work so that work may be completed before the June 1, 2008 completion deadline.

Jeffrey W. Rosekelly, P.E.
Project Engineer

Approved by:

Matthew D. Kline
City Manager

Kathryn K. McKillips, P.E.
Director of Engineering Services

cc: Joyce Brown, Clerk of City Commission

Ed Widman, Finance Director

RESOLUTION NO. _____

A RESOLUTION REPEALING RESOLUTION NO. 026-07R AND DECLARING THE NECESSITY FOR THE CITY OF SANDUSKY, OHIO, TO PROCEED WITH THE PROPOSED HOLLYROOD AND MCKINLEY STREETS SEWER SEPARATION PROJECT; APPROVING THE REVISED SPECIFICATIONS AND ENGINEER'S ESTIMATE OF COST THEREOF; DIRECTING THE CITY MANAGER TO ADVERTISE FOR AND RECEIVE BIDS IN RELATION THERETO; AND DECLARING THAT THIS RESOLUTION SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, this City Commission declared the necessity for the City to proceed with the Hollyrood and McKinley Streets Sewer Separation Project which consisted of installing new storm sewers at Hollyrood Road, McKinley Street, Fifth Street and Arthur Street right-of-way and making stormwater drainage improvements for Hollyrood and McKinley Streets by Resolution No. 026-07R, passed on September 24, 2007; and

WHEREAS, subsequent to advertisement according to law two (2) bids were received on October 16, 2007, and both exceeded the Engineer's original estimate of cost by more than 10% and pursuant to §41 of the City Charter no contract can be awarded when this occurs which necessitates the rebid of the Hollyrood and McKinley Streets Sewer Separation Project; and

WHEREAS, the revised estimated total project cost is \$686,518.65 including engineering costs and a 5% contingency and will be paid with Sewer Funds; and

WHEREAS, this legislation should be passed under suspension of the rules and as an emergency measure in accordance with Section 14 of the City Charter in order to provide for the immediate rebid of this project, receive competitive prices, and schedule the work so the project can be completed by the June 1, 2008, completion deadline; and

WHEREAS, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of Department of Engineering Services of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio, finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Resolution** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and, NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. This City Commission hereby repeals Resolution No. 026-07R, passed on September 24, 2007.

Section 2. This City Commission approves the revised specifications and estimates of cost for the proposed Hollyrood and McKinley Streets Sewer Separation Project as prepared by the Director of Engineering Services and which are now on file with the Clerk of this City Commission and in the office of the Director of Engineering Services.

Section 3. This City Commission hereby declares it necessary to proceed with said improvements at the earliest possible time.

PAGE 2 - RESOLUTION NO. _____

Section 4. The City Manager be and hereby is authorized and directed to advertise for and to receive bids in relation to said improvements as required by law and specifically Ohio Revised Code §729.01.

Section 5. If any section, phrase, sentence, or portion of this Resolution is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 6. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Resolution were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 7. That for the reasons set forth in the preamble hereto, this Resolution shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

DENNIS E. MURRAY, JR.
PRESIDENT OF THE CITY COMMISSION

ATTEST: _____
B. JOYCE BROWN
CLERK OF THE CITY COMMISSION

Passed:

To: Matthew D. Kline, City Manager
From: Kathryn K. McKillips, Director of
Engineering Department
Date: December 27, 2007
Subject: Commission Agenda Item

ITEM FOR CONSIDERATION: Ordinance awarding a contract for the Wastewater Treatment Plant Digester Cleaning Project to Burch Hydro, Inc. of Fredericktown, Ohio.

The existing secondary digester No. 2 at the wastewater plant will need to be cleaned and inspected prior to the finalization of the plans for Phase II of the plant expansion project. Depending on the condition of the digester, replacement or repair of the structure will be included in the Wastewater Treatment Plant Expansion Project Phase II.

Five bids were received on December 13, 2007, including one no-bid.

<u>Company</u>	<u>Bid Amount</u>
Burch Hydro, Inc., Fredericktown, OH	\$ 22,000.00
Midwest Compost, Clyde, OH	\$ 24,672.00
Bebley Enterprises, Toledo, OH	\$ 28,113.00
Marine Building Group, Maumee, OH	\$ 37,700.00
Synagro	No-bid

The Local Preference Ordinance (Chapter 149) was appropriately applied in the evaluation and comparison of the bids but did not alter the selection of Burch Hydro, Inc., as the lowest and best bid as recommended by the design engineer, Jones & Henry Engineers Ltd. The City has a Professional Design Agreement with Jones & Henry for the design of the Wastewater Treatment Plant Expansion Project Phase II. Please see the attached recommendation by Jones & Henry.

BUDGETARY INFORMATION: The project cost based on bids, including engineering, inspection, advertising and miscellaneous cost is \$25,300.00 which will be paid with Sewer Funds.

ACTION REQUESTED: It is recommended that the necessary legislation awarding a contract to Burch Hydro, Inc. for the Wastewater Treatment Plant Digester Cleaning Project be passed under suspension of the rules and in full accordance with Section 14 of the City Charter in order to perform the cleaning as soon as possible in order to keep the expansion project progressing.

Kathryn K. McKillips, P.E.

Services

Director of Engineering

I concur with this recommendation:

Matthew D. Kline
City Manager

KKM/cal

cc: Ed Widman, Finance Director
Joyce B. Brown, Clerk of the City Commission

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH BURCH HYDRO, INC., OF FREDERICKTOWN, OHIO, FOR THE WASTEWATER TREATMENT PLANT DIGESTER CLEANING PROJECT; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, this City Commission declared the necessity for the City to proceed with the Wastewater Treatment Plant Digester Cleaning Project by Resolution No. 035-07R passed on November 26, 2007; and

WHEREAS, this project involves the cleaning and inspection of the existing secondary digester No. 2 at the Wastewater Treatment Plant which is necessary to finalize the plans for the Wastewater Treatment Plant Expansion Project Phase II; and

WHEREAS, this City Commission authorized the City Manager to enter into a contract for Professional Design Services with Jones & Henry Engineers, Ltd., for the proposed Wastewater Treatment Plant Expansion Project Phase II by the passage of Ordinance No. 07-010, passed on February 12, 2007; and

WHEREAS, depending on the condition of the digester, replacement or repair of the structure will be included in the Wastewater Treatment Plant Expansion Project Phase II; and

WHEREAS, upon public competitive bidding as required by law four (4) appropriate and one (1) non-responsive bids were received and the bid from Burch Hydro, Inc., of Fredericktown, Ohio, was determined to be the lowest and best bid; and

WHEREAS, the total cost of this project based on bids including engineering, inspection, advertising and miscellaneous cost is \$25,300.00 and will be paid with Sewer Funds; and

WHEREAS, this legislation should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to complete the Wastewater Treatment Digester Cleaning Project and obtain the information necessary to move forward with the design phase of the Wastewater Treatment Plan Expansion Project Phase II; and

WHEREAS, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Department of Engineering Services of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. The City Manager is authorized and directed to enter into a contract with Burch Hydro, Inc., of Fredericktown, Ohio, for the Wastewater Treatment Plant Digester Cleaning Project in an amount **not to exceed** Twenty Two Thousand and 00/100 Dollars (\$22,000.00) consistent with the bid submitted by Burch Hydro, Inc., of Fredericktown, Ohio, currently on file in the office of the Director of Engineering Services.

Section 2. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4. That for the reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

DENNIS E. MURRAY, JR.
PRESIDENT OF THE CITY COMMISSION

ATTEST: _____
B. JOYCE BROWN
CLERK OF THE CITY COMMISSION

Passed:



CITY COMMISSIONERS

DENNIS E. MURRAY, JR., President
CRAIG H. STAHL, Vice President
BRIAN C. CRANDALL
JULIE A. FARRAR
BRETT L. FUQUA, SR.
DANIEL J. KAMAN
DAVID L. WADDINGTON

MATTHEW D. KLINE, City Manager
DONALD C. ICSMAN, Law Director
EDWARD A. WIDMAN, Finance Director
B. JOYCE BROWN, Commission Clerk

222 MEIGS STREET
SANDUSKY, OH 44870
Phone: 419.627.5844
FAX: 419.627.5825

www.ci.sandusky.oh.us

TO: City Commission

FROM: Matthew D. Kline

DATE: January 3, 2008

SUBJECT: Agreement for Services of Consultant – James L. (Don) Miears

ITEM FOR CONSIDERATION: *It is requested the City Commission authorize the City Manager to enter into a contract with James L. (Don) Miears to act as a consultant for the City of Sandusky. Under this contract, Mr. Miears would provide economic development services and other forms of professional management assistance on behalf of, an in conjunction with, the City Manager.*

BUDGETARY INFORMATION: *The costs for this contract are covered in the city's 2008 budget through the availability of funds in Economic Development, the City Manager's Office and Sewer & Water. There will be no impact upon the General Fund.*

ACTION REQUESTED: *It is requested the City Commission approve the attached legislation allowing for the City Manager to execute a contract between the City of Sandusky and James L. (Don) Miears, Consultant. Further, it is requested this legislation be approved under Section 14 of the City Charter to allow for the effective date of the agreement as January 1, 2008.*

AGREEMENT FOR SERVICES OF CONSULTANT

This Agreement made on and entered into on this _____ day of _____, 2008, between the City of Sandusky, Ohio, a Municipal Corporation of the State of Ohio, located in the County of Erie, herein referred to as "City," and James L. (Don) Mears herein referred to as "Consultant."

In consideration of the mutual promises herein set out, the parties agree as follows:

I. RECITALS

The City desires to contract with the Consultant to provide economic development services and other forms of professional management assistance in order to assist the City Manager.

The Consultant acknowledges that he currently has the necessary education and experience to provide the services required by this agreement.

II. SCOPE OF SERVICES/NON-ASSIGNMENT

The Consultant agrees to personally furnish professional assistance at the request of the City Manager, which includes but is not necessarily limited to economic development matters which Consultant had become familiar with during his term as Interim City Manager.

Consultant shall perform the duties under this agreement personally and shall not assign or delegate the performance of those duties to any other person.

III. INDEPENDENT CONTRACTOR

Consultant acknowledges that he is an independent contractor while performing the services required in this agreement. The City is contracting with Consultant for the

services described within the body of this agreement and Consultant reserves the right to determine the method and manner by which the services will be performed.

IV. CONFIDENTIALITY

Consultant agrees that any information communicated in any manner to the Consultant during the performance of the services required by this agreement, which concerns confidential personal, financial or other affairs of the City or the public shall be treated by the Consultant as confidential and shall not be revealed or discussed unless specifically authorized in writing by the City to do so.

V. COMPENSATION

Consultant shall be paid at the rate of Fifty and 00/100 Dollars (\$50.00) per hour for work performed in accordance with this agreement. The maximum number of hours to be invoiced in any given weekly period will be thirty (30).

Consultant agrees to timely submit monthly invoices to the City Manager representing services rendered for the previous 30 day period. The City agrees to make timely payment to Consultant within 30 days after receipt of the monthly invoice from Consultant.

VI. TERM AND TERMINATION

This agreement will begin January 1, 2008 and will terminate December 31, 2008.

Either party may terminate this agreement by giving 30 days written notice to the other party by certified mail, return receipt requested, to Consultant at 1314 Mirheath

Drive, Huron, Ohio 44839 and to the City at 222 Meigs Street, Sandusky, Ohio 44870-2632, Attention: City Manager.

The notice of termination is deemed to be effective upon receipt by the other party. Upon termination of this agreement, Consultant shall have no further obligation to provide services to the City and the City shall have no further obligation to pay compensation beyond that for services rendered before the notice of termination is received or December 31, 2008, whichever occurs first.

VII. PARTIES BOUND

This Agreement shall be governed by and construed in accordance with the laws of the State of Ohio.

VIII. ENTIRE AGREEMENT

This Agreement sets forth the entire Agreement between the parties with regard to the subject matter of the Agreement. No other agreements, representations or warranties have been made by either party to the other with respect to the subject matter of this Agreement.

IX. SEVERABILITY

If any of the provisions of this Agreement are found or deemed by a Court of competent jurisdiction to be invalid or unenforceable, they shall be considered severable from the remainder of this Agreement and shall not cause the remainder to be invalid or unenforceable.

X. AMENDMENTS

This Agreement may be amended by the parties only by a written agreement signed by both parties.

WITNESSES:

CITY OF SANDUSKY:

Matthew D. Kline
City Manager

WITNESSES:

James L. (Don) Mears

Approved as to Form:

Donald C. Icsman
Law Director
City of Sandusky

CERTIFICATE OF DIRECTOR OF FINANCE

The undersigned, fiscal officer of the City of Sandusky, hereby certifies that the moneys required to meet the obligations of the City during the year 2008 under the Agreement have been lawfully appropriated by the Commission of the City for such purposes and are in the treasury of the City or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Date

Edward Widman
Director of Finance
City of Sandusky

Account Number

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO A CONSULTING CONTRACT WITH JAMES L. (DON) MIEARS FOR CY 2008, A COPY OF WHICH IS ATTACHED TO THIS ORDINANCE; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, the City desires to utilize the services of James L. (Don) Mears to provide economic development services and other forms of professional management assistance including those with which he had become familiar with during his term as Interim City Manager in order to assist the City Manager; and

WHEREAS, there is no impact to the General Fund and the cost of this contract is covered in the City's 2008 budget through the availability of funds in Economic Development, City Manager's Office and Sewer & Water; and

WHEREAS, this legislation should be passed under suspension of the rules as an emergency measure in accordance with Section 14 of the City Charter in order to continue this service and allow for the effective date of the agreement as January 1, 2008; and

WHEREAS, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. The City Manager is authorized and directed to enter into a Consulting Contract with James L. (Don) Mears for CY 2008, substantially in the same form as Exhibit "A" which is attached to this Ordinance and is specifically incorporated as if fully rewritten herein.

Section 2. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4. That for the reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

DENNIS E. MURRAY, JR.
PRESIDENT OF THE CITY COMMISSION

ATTEST: _____
B. JOYCE BROWN
CLERK OF THE CITY COMMISSION

Passed:

TO: Matthew D. Kline, City Manager
FROM: Kathryn K. McKillips, P.E., Director of Engineering Services
DATE: January 2, 2008
SUBJECT: Commission Agenda Item

ITEM FOR CONSIDERATION: Legislation for approval to enter into a 5-year Lease Agreement with Peerless Stove and Manufacturing Co., Inc. for the building and land located at 334 Harrison Street, Sandusky, Ohio, for the operation and management of the Peerless Stove and Manufacturing Co. business. This contract is to begin January 1, 2008 and continue through December 31, 2012.

BACKGROUND INFORMATION: Peerless began its business in Columbus, Ohio in the late 1800's as a distributor of gas heaters and cook stoves. The company began to manufacture commercial cooking equipment in 1919, incorporated in the State of Ohio in 1934 and moved to Sandusky in 1942 in the old Easiest Way Washing Machine Co. building at the foot of Harrison Street where it remains today after 65 years.

Peerless was purchased by Jim & Barbara Huntley in 1968. The gas shortage of the 1970's significantly affected the business but Peerless resurged in the 1980's by contracting with South Bend who was a major manufacturer in the commercial industry. This relationship ended in the 1990's and forced Peerless to reinvent itself and began marketing primarily ovens which includes a full line of pizza ovens and all-purpose ovens which can be found in restaurants and pizzerias across the country and abroad. Ranges and griddles are also produced and can be found in many churches and family diners around the area.

Jim Huntley, along with help from his son and before health issues affected him, patented a commercial InfraRed Cooker which at the time was considered "revolutionary" and made Jim Huntley and Peerless pioneers in InfraRed cooking technology. Many subsequent patents were based on the intellectual information in this patent.

Bryan Huntley, a life long resident of the Sandusky area, purchased the business in 1997 after working many years in the family business. The business is doing very well and Mr. Huntley would like to expand and construct a removable building on the property to be used for light manufacturing or warehouse space and therefore desires to enter into this 5-year lease so he can complete his plans for expansion.

Peerless, through perseverance, has remained a viable entity today in the commercial food service industry and operates on property listed on the National Register of Historical Places.

BUDGET INFORMATION: There is no impact on the general budget.

ACTION REQUESTED: It is requested that legislation be approved allowing the City Manager to enter into a 5-year lease contract with Peerless Stove Manufacturing Co, for the building and land located at 334 Harrison Street, Sandusky, Ohio, for the operation and management of the Peerless Stove and Manufacturing Co., Inc. business. It is further requested that this legislation take immediate effect in full accordance with Section 14 of

the City Charter to allow the Lease Agreement to be fully executed as soon as possible as the commencing date of the agreement is January 1, 2008.

I concur with this recommendation.

Matthew D. Kline
City Manager

Kathryn K. McKillips, P.E.
Director of Engineering Services

cc: Don Icsman, Law Director
Ed Widman, Finance Director
Joyce Brown, Clerk of City Commission

LEASE AGREEMENT

This Lease Agreement is made and entered into by and between the City of Sandusky, Ohio, an Ohio Charter Municipal Corporation with offices at 222 Meigs Street, Sandusky, Erie County, Ohio 44870, (hereinafter referred to as "Lessor"), and Peerless Stove and Manufacturing Co., an Ohio Corporation, located at 334 Harrison Street, Sandusky, Erie County, Ohio 44870, (hereinafter referred to as "Lessee").

SECTION 1.

DESCRIPTION OF PREMISES

Lessor does now lease to Lessee the building and land located at 334 Harrison Street, Sandusky, Erie County, Ohio 44870, consisting of .8924 acres, more or less, and more specifically described in Exhibit "A" which is attached to this Lease Agreement and specifically incorporated as if fully rewritten herein and collectively hereinafter referred to as the "Leased Premises".

SECTION 2.

TERM

The term of this Lease shall commence on January 1, 2008, and shall end on December 31, 2012 unless otherwise terminated as provided in this Lease which shall be occupied and used by Lessee as the business premises for the purpose of manufacturing.

SECTION 3.

RENT

Lessee shall pay Lessor for the use of the leased premises \$1,000 per month for the entire term of the Lease, payable in advance on the first day of month during the entire term of the Lease at the following office address, City of Sandusky Finance Department, 222 Meigs Street, Sandusky, OH 44870 or at another place as Lessor may designate, without any set-off or deduction, except that Lessee shall pay the 1st monthly installation of rent upon the execution of this Lease.

SECTION 4.

DELIVERY OF POSSESSION AT BEGINNING OF TERM / ACCEPTANCE

Lessee acknowledges possession of the Leased Premises at the beginning of the term of this Lease and its responsibilities for the Leased Premises including rental payments as of January 1, 2008, despite any delay in the execution of this Lease Agreement. Lessee has occupied the premises under a prior Lease Agreement since January 1, 2003, and knows the condition of the Leased Premises and accepts the same as being in a good state of repair and in sanitary condition.

SECTION 5.

USE OF LEASED PREMISES

Lessee agrees that the Leased Premises shall be used by Lessee exclusively for the operation and management of the Peerless Stove and Manufacturing Co. and for no other purpose and use shall comply with all Federal, State and Local laws, regulations and requirements. No other usage of the Leased Premises shall be allowed unless prior written consent is obtained from the City Manager of the City of Sandusky, Ohio, which shall be granted or not granted at the absolute discretion of Lessor, it being understood that it is the purpose of Lessor to maintain and preserve the buildings and property. Lessor warrants that the Premises is properly zoned/permitted for the intended use.

SECTION 6.

INSURANCE / INDEMNIFICATION

A. PUBLIC LIABILITY AND PROPERTY DAMAGE INSURANCE

(i) Lessee at its sole cost shall maintain liability insurance acceptable to Lessor with liability limits of not less than Two Million Dollars (\$2,000,000.00) per occurrence combined single limit for its activities related to this Lease and the Premises. Insurance shall be on an 'occurrence' form. Deductible or retention shall be disclosed to Lessor. Policy terms must be acceptable to Lessor.

(ii) All liability insurance shall insure performance by Lessee of the indemnity provisions of this Section 6. Both Lessor and its employees, agents, officers, elected

officials and representatives shall be named as additional insureds. The liability insurance policy shall not include a Cross Insured exclusion.

(iii) All insurance required in this section shall be issued by insurance companies authorized to do business in the State of Ohio with a financial rating of at least A- and at least VI as rated in the most recent A. M. Best Company report and shall provide that the coverage may not be reduced or materially cancelled unless thirty (30) days unrestricted prior written notice thereof is furnished to Lessor.

(iv) All insurance required in this section shall be primary and not contributory with regard to any other available insurance to Lessor and its employees, agents, officers, elected officials and representatives.

(v) Each certificate and applicable endorsement of the policy shall be deposited with Lessor at the commencement of the term of this Lease Agreement and on each renewal of the policy. Lessor's failure to request, review or object to the terms of such certificates or insurance shall not be deemed a waiver of Lessee's obligations or the rights of Lessor.

(vi) The minimum limits of the insurance required in the section shall in no way limit or diminish Lessee's liability under other provisions of this Agreement.

B. INDEMNIFICATION

(i) Lessee shall defend, indemnify and hold Lessor and its employees, agents, officers, elected officials and representatives, harmless from and against any and all claims, demands, suits, judgments, losses or expenses of any nature whatsoever arising directly or indirectly, in whole or in part, from or out of this Lease Agreement and the performance or non-performance, act or omission of any of the obligations, responsibilities or requirements in this Lease Agreement by Lessee its parent company, or any subsidiaries, related and affiliated companies of each and the officers, directors, shareholders, agents, employees, agents, subcontractors or invitees of each, except to the extent caused by the negligence of Lessor.

To the extent authorized by Ohio law, Lessor shall defend, indemnify and hold Lessee and its employees, agents, officers, elected officials and representatives, harmless from and against any and all claims, demands, suits, judgments, losses or expenses of any nature whatsoever arising directly or indirectly, in whole or in part, from

or out of this Lease Agreement and the performance or non-performance, act or omission of any of the obligations, responsibilities or requirements in this Lease Agreement by Lessor or its agents, employees, subcontractors or invitees of each, except to the extent caused by the negligence of Lessee.

C. ENVIRONMENTAL

Lessee shall comply with all applicable State, Federal, and Local Air and Water Pollution Control and prevention laws and regulations regarding the use and occupancy of the Leased Premises.

Lessee shall not cause or permit any hazardous material to be brought upon, or used in or about the Leased Premises by Lessee, its agents, employees, contractors, invitees or guests except for such hazardous material as is necessary to the operation of the Lessee.

Any Hazardous Material permitted in the Leased Premises as provided above, and all containers therefore, shall be used, kept, stored and disposed of in a manner that complies with all federal, state, and local laws or regulations applicable to this Hazardous Material.

Lessee shall not discharge, leak or emit, or permit to be discharged, leaked or emitted, any material into the atmosphere, ground, sewer system, or any body of water, that material (as is reasonably determined by a governmental authority) does or may pollute or contaminate the same, or may adversely affect (a) the health, welfare, or safety or persons, whether located in the Leased Premises or elsewhere, of (b) the condition, use or enjoyment of the water or any other real or personal property.

As used herein, the term "Hazardous Material" means (a) any "hazardous waste" as defined by the Resource Conservation and Recovery Act of 1976 as amended from time to time, and regulations promulgated thereunder; (b) any "hazardous substance" as defined by the Comprehensive and Liability Act of 1980, as amended from time to time. And regulations promulgated thereunder; (c) any oil, petroleum products, and their by-products; and (d) any substance that is or becomes regulated by any federal, state, or local governmental authority.

Lessee hereby agrees that it shall be fully liable for all costs and expenses related to the use, storage, and disposal of Hazardous Material utilized in the Leased Premises by

the Lessee its agents, employees, contractors, invitees, or guests. Lessee shall defend, indemnify, and hold harmless Lessor and its officers, agents, elected officials, employees, any representatives from and against any claims, demands, penalties, fines, liabilities, settlements, damages, costs, or expenses (including, without limitation, attorneys' and consultants' fees, court costs, and litigation expenses) of whatever kind or nature, known or unknown, contingent or otherwise, arising out of or in any way related to (a) the presence, disposal, release, or threatened release of any such Hazardous Material that is on, from, or affecting the soil, water, vegetation, buildings, personal property, persons, animals, or otherwise; (b) any personal injury (including wrongful death) or property damage (real or personal) arising out of or related to that Hazardous Material; (c) any lawsuit brought or threatened, settlement reached, or (d) any violation of any laws applicable thereto.

SECTION 7.

MAINTENANCE AND REPAIR BY LESSEE

Lessee shall take good care of the Leased Premises and the fixtures in the Leased Premises and shall keep the same in good working order and condition, including particularly the protection of water pipes, electrical systems, heating and air conditioning equipment, plumbing, fixtures, appliances, and utility lines and systems, and shall keep the Leased Premises and the approaches, sidewalks, and the parking lot adjacent to the premises clean and presentable (including policing the grounds if they are included in the Leased Premises), free from ice and snow and from fire hazard and any other nuisance. At the expiration of the term, Lessee shall surrender the Leased Premises broom clean, in as good condition as the reasonable use of the premises will permit. All damage or injury to the Leased Premises not caused by fire and other casualty, as set forth in Section 12 and all damage to glass shall be promptly repaired by Lessee.

Lessee shall provide routine maintenance and minor repair the roof, exterior walls, gutters, and downspouts of the building leased, except as to damage arising from the negligence of Lessor. Lessor shall be responsible for major repair for damage not

caused by Lessee. Any repairs, renovations, or modifications of the building must not change the exterior and must be approved by the City Manager of the City of Sandusky.

All building repairs, alterations, additions, improvements, installation, equipment, and fixtures, by whomsoever installed or erected (except such business trade fixtures belonging to Lessee as can be removed without damage to or leaving incomplete the premises or building) shall belong to Lessor and remain on and be surrendered with the premises as a part of the premises, at the expiration of this Lease or any extension of it.

Lessor and Lessee agree that Lessor shall have no obligation to provide security in the form of or alarms or security personnel for the Leased Premises and that any such security desired by Lessee shall be obtained and paid for by Lessee.

SECTION 8.

LESSOR'S RIGHT OF ENTRY

Lessor or Lessor's agent may enter the Leased Premises at reasonable hours to examine the same, to do anything Lessor may be required to do under this Lease or which Lessor may deem necessary for the good of the Leased Premises.

SECTION 9.

UTILITIES AND SERVICES

Lessee shall furnish and pay for all electricity, gas, water, fuel, or any services or utilities used in or assessed against the Leased Premises unless otherwise expressly provided in this Lease Agreement. Lessee shall also be responsible for removal of garbage from the Leased Premises.

SECTION 10.

SIGNS AND ADVERTISEMENTS

Lessee shall not put upon or permit to be put upon any part of the Leased Premises any signs, billboards or advertisements whatever, without the prior written approval of the City Manager of the City of Sandusky and in compliance with the Codified Ordinances of the City of Sandusky.

SECTION 11.

DAMAGE TO PROPERTY ON LEASED PREMISES

Lessee agrees that all property of every kind and description kept, stored, or placed in or on the Leased Premises shall be at Lessee's sole risk and hazard and that Lessor and its employees, agents, officers, elected officials and representatives shall not be responsible for any loss or damage to any of such property.

SECTION 12.

DAMAGE BY CASUALTY

In case the Leased Premises shall be destroyed or shall be so damaged by fire or other casualty, as to become untenable, then in such event, at the option of Lessor, this Lease shall terminate from the date of such damage or destruction and Lessee shall immediately surrender such premises and all interest in the premises to Lessor, and Lessee shall pay rent only to the time of such surrender. Lessor shall exercise such option to terminate this Lease by notice in writing delivered to Lessee within thirty (30) days after such damage or destruction. In case Lessor shall not elect to terminate this Lease in such event, this Lease shall continue in full force and effect and Lessor shall repair the Leased Premises with all reasonable promptness, placing the same in as good a condition as they were at the time of the damage or destruction and for that purpose may enter such premises, and rent shall abate in proportion to the extent and duration of untenability. In either event, Lessee shall remove all rubbish, debris, merchandise, furniture, equipment, and other personal property, within thirty (30) days after the request of Lessor. If the Leased Premises shall be only slightly injured by fire or the elements, so as not to render the same untenable and unfit for occupancy, then Lessor shall repair the same with all reasonable promptness, and in that case the rent shall not abate. No compensation or claim shall be made by or allowed to Lessee by reason of any inconvenience or annoyance arising from the necessity of repairing any portion of the building or the Leased Premises, however the necessity may occur.

SECTION 13.

PUBLIC REQUIREMENTS

Lessee shall comply with all laws, orders, ordinances, and other public requirements now or later affecting the premises or the use of the premises, and save Lessor harmless from expense or damage resulting from failure to do so. The Leased Premises are not exempted from compliance with zoning or any other municipal codes or ordinances nor from any other requirements of law due to title being in the name of Lessor.

SECTION 14.

ASSIGNMENT OR SUBLEASE

Lessee shall not assign, transfer or encumber this Lease Agreement and shall not sublease the Leased Premises or any part of the Leased Premises or allow any other person to be in possession of the Leased Premises without the prior written consent of the Lessor.

SECTION 15.

SURRENDER AT END OF TERM

At the expiration of the term of this Lease, Lessor shall have the right to enter and take possession of the Leased Premises and Lessee agrees to deliver the same without process of Law. Lessee shall be liable to Lessor for any loss or damage including attorney's fees and court costs incurred as a result of Lessee's failure to comply with this obligation.

SECTION 16.

RESTORATION OF LEASED PREMISES

Lessee agrees that at the expiration of the term of this Lease Agreement, or upon the earlier termination of this Lease Agreement, or upon the Lessee's unlawful abandonment of the Leased Premises, whichever occurs first, Lessee will surrender the Leased Premises to Lessor in the same condition as when received, reasonable wear and tear, loss by fire or other casualty, and acts of God excepted.

SECTION 17.
HOLDING OVER

Any holding over by Lessee after the expiration of the term of this Lease Agreement or any extension of it shall be construed to be a tenancy from month to month at a monthly rental equal to the rent payable during the last month immediately prior to the expiration of the term and shall be subject to the terms and conditions of this Lease Agreement. Nothing in this Lease Agreement shall be construed to authorize any such holding over.

SECTION 18.
DEFAULT

If default is made in the payment of any installation of rent on its due date, or if Lessee shall default in the performance of any other agreement (other than payment of rent) continuously for ten (10) days after written notice of default, or if the premises be vacated or abandoned, then in any such event this Lease shall terminate, at the option of Lessor, and Lessor may re-enter the premises and take possession, with or without legal process and without notice or demand, other than the prior ten (10) days notice which shall include assertion the Lessor may take possession in ten (10) days if default remains uncured. The service of notice, demand, or legal process in such case is waived, and upon such entry by Lessor, this Lease shall terminate and Lessor may exclude Lessee from the premises, changing the lock on the door or doors if deemed necessary, without being liable to Lessee for any damages or for prosecution for the same. Lessor's rights in such event may be enforced by action in unlawful detainer or other proper legal action, and Lessee agrees, notwithstanding termination of this Lease and re-entry by Lessor that Lessee shall remain liable for a sum equal to the entire rental payable to the end of the term of this Lease and shall pay any loss or deficiency sustained by Lessor on account of the premises being let for the remainder of the original term for a less sum than before. Lessor, as agent for Lessee, without notice may re-let the Leased premises or any part of the premises for the remainder of the term or for any longer or shorter period as opportunity may offer, and at such rental as may be obtained, and Lessee agrees to pay the difference between a sum equal to the

amount of rent payable during the remainder of the term and the net rent actually received by Lessor during the term after deducting all expenses of every kind for repairs, recovering possession, and re-letting the same, which difference shall accrue and be payable monthly.

All property of Lessee which is now or may later be at any time during the term of this Lease in or upon such premises, whether exempt from execution or not, shall be bound by and subject to a lien for the payment of the rent reserved in this Lease, and for any damages arising from any breach by Lessee of any of the covenants or agreements of this Lease to be performed by Lessee. In the event of default by Lessee in the payment of rent or otherwise, Lessor may foreclose such lien and take possession of such property or any part of it and sell or cause the same to be sold, at such place as Lessor may elect, at public or private sale, with or without notice, to the highest bidder for cash, and apply the proceeds of such sale to pay the costs of taking possession of and selling such property, and then toward the debt and/or damages. Any excess of the proceeds of the sale over such costs, debt, and/or damages shall be paid to Lessee. Any such sale shall bar any right of redemption by Lessee.

If Lessor shall default in the performance of any of its obligations under this Lease, Lessee shall provide notice of the default to Lessor and should the default be substantial in nature so as to significantly affect Lessee's ability to perform its obligations pursuant to the Transportation Agreement between Lessor and continue for ten (10) days after written notice of default, the Lease shall terminate, at the option of Lessee. Should Lessor's default substantially affect Lessee's use (including but not limited to adequate function of all utilities), the rent due to Lessor may be withheld by Lessee until such time as the default is remedied.

SECTION 19.

WAIVER

The rights and remedies of Lessor and Lessee under this Lease Agreement, as well as those provided or accorded by law, shall be cumulative, and none shall be exclusive of any other rights or remedies under this Lease Agreement or allowed by law. A waiver by Lessor or Lessee of any breach or breaches, default or defaults, of the

other party under this Lease Agreement shall not be deemed or construed to be a continuing waiver of such breach or default nor as a waiver of or permission, expressed or implied, for any subsequent breach or default, and it is agreed that the acceptance by Lessor of any installment of rent, subsequent to the date the same should have been paid under this Lease Agreement shall in no manner alter or affect the covenant and obligation of Lessee to pay subsequent installments of rent promptly upon the due date. The acceptance and use by Lessee of the any part of the premises subsequent to the date a default by Lessor should have been remedied shall in no manner alter or affect the covenant and obligations of Lessor pursuant to this Lease. No receipt of money by Lessor after the termination in any way of this Lease Agreement shall reinstate, continue, or extend the term above demised.

SECTION 20.

INSOLVENCY / ENCUMBRANCES

The occurrence of any of the following events shall constitute a breach of this Lease Agreement by Lessee and a default under this Lease Agreement: (1) the appointment of a receiver to take possession of all or substantially all of the assets of Lessee; or (2) a general assignment by Lessee for the benefit of creditors; or (3) any action taken or suffered by lessee under any insolvency or bankruptcy act.

Any assignment, transfer, or conveyance by Lessee of any property rights arising out of this Lease shall not encumber, alienate, diminish, cloud, or impair in any way the title ownership and interests of Lessor in and to such property. Lessee shall promptly pay when due all obligations or indebtedness incurred under or by virtue of this Lease, including but not limited to taxes, labor, services, materials, supplies, utilities, furnishings, machinery, or equipment which may be secured by any mechanic's or materialmen's lien or any other lien against the premises leased. This Lease is subject to provisions of the City Charter, Ordinances, and State Statutes prohibiting alienation of title.

SECTION 21.
NOTICES

Notices, approvals, consents and other communications required or permitted under this Lease Agreement shall be in writing and be deemed effectively served by depositing in the United States certified mail, or express mail, postage prepaid, return receipt requested, and addressed to the Lessor and Lessee at the following addresses:

Lessor: City of Sandusky
 Office of City Manager
 222 Meigs Street
 Sandusky, Ohio 44870

With copies by regular U.S. mail to:

 Law Director
 City of Sandusky
 222 Meigs Street
 Sandusky, Ohio 44870

And Finance Director
 City of Sandusky
 222 Meigs Street
 Sandusky, Ohio 44870

Lessee: Peerless Stove and Manufacturing Co.
 c/o Bryan Huntley
 334 Harrison Street
 Sandusky, Ohio 44870

Either party may change its notice address by giving notice to the other in the foregoing manner.

SECTION 22.
COVENANTS TO RUN WITH THE LEASED PREMISES

The covenants contained in this Lease shall run with the Leased Premises, and shall bind the heirs, executors, administrators, assigns, and successors of Lessor and Lessee respectively. Consent of Lessor to assignment, and acceptance of rent from

assignee of Lessee shall not release Lessee from the obligation to pay rent and comply with the other conditions of this Lease.

SECTION 23.

ENTIRE AGREEMENT

This Lease Agreement contains the entire agreement between the parties, and no modification of this Lease Agreement shall be binding upon the parties unless evidenced by an Agreement in writing signed by Lessor and Lessee after the date of this Lease Agreement.

SECTION 24.

SEVERABILITY

The invalidity, illegality, or unenforceability of any provision of this Lease Agreement shall not render the other provisions invalid, illegal, or unenforceable.

SECTION 25.

CAPTIONS

The captions of this Lease Agreement are for convenience only and are not a part of this Lease Agreement and shall have no effect on the construction or interpretation of this Lease Agreement.

SECTION 26.

CHOICE OF LAW

This Lease Agreement shall be construed and interpreted in accordance with the laws of the State of Ohio.

SIGNATURE PAGES TO FOLLOW

IN WITNESS WHEREOF, Lessor and Lessee have duly executed this agreement, all as of the date hereinbefore written.

WITNESSES:

**LESSEE: PEERLESS STOVE AND
MANUFACTURING CO.**

BRYAN HUNTLEY

STATE OF OHIO)
) ss:
ERIE COUNTY)

On this _____ day of _____, 2007, before me, a Notary Public in and for said County and State, personally appeared _____, Peerless Stove and Manufacturing Co., and acknowledged his execution of the foregoing instrument and by its authority and that the same is his voluntary act and deed on behalf of Peerless Stove and Manufacturing Co.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed by official seal on the day and year aforesaid.

Notary Public
My Commission Expires: _____

CERTIFICATE OF DIRECTOR OF FINANCE

The undersigned, fiscal officer of the City of Sandusky, hereby certifies that the moneys required to meet the obligations of the City during the year 2008 under the Agreement have been lawfully appropriated by the Commission of the City for such purposes and are in the treasury of the City or in the process of collection to the credit of an appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Sections 5705.41 and 5705.44, Ohio Revised Code.

Date

Edward Widman
Director of Finance
City of Sandusky

Account Number

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO A LEASE AGREEMENT WITH PEERLESS STOVE AND MANUFACTURING CO., FOR THE BUILDING AND LAND LOCATED AT 334 HARRISON STREET, SANDUSKY, OHIO; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, Peerless Stove and Manufacturing Co. has occupied the building and land located at 334 Harrison Street under a prior Lease Agreement since January 1, 2003; and

WHEREAS, Peerless began its business in Columbus, Ohio in the late 1800's, incorporated in the State of Ohio in 1934 and moved to Sandusky in 1942 in the old Easiest Way Washing Machine Co. building at the foot of Harrison Street where it remains today after 65 years and is listed on the National Register of Historical Places; and

WHEREAS, Peerless was purchased by Jim & Barbara Huntley in 1968 and in the 1990's began marketing primarily ovens which includes a full line of pizza ovens and all-purpose ovens which can be found in restaurants and pizzerias across the country and abroad and ranges and griddles are also produced that can be found in many churches and family diners around the area.

WHEREAS, Bryan Huntley, a life long resident of the Sandusky area, purchased the business in 1997 after working many years in the family business and would like to expand and construct a removable building on the property to be used for light manufacturing or warehouse space and therefore desires to enter into this proposed Lease Agreement for the term of January 1, 2008 through December 31, 2012 so he can complete his plans for expansion.

WHEREAS, this Ordinance should be passed as an emergency measure in accordance under suspension of the rules in accordance with Section 14 of the City Charter in order to allow the Lease Agreement to be fully executed as soon as possible subsequent to the commencing date of January 1, 2008; and

WHEREAS, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio, finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Ordinance** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. The City Manager is authorized and directed to enter into a Lease Agreement with the Peerless Stove and Manufacturing Co., of Sandusky, Ohio, substantially in the same form as Exhibit "1", a copy of which is attached to this Ordinance and is specifically incorporated as if fully rewritten herein, together with such revisions or additions as are approved by the Law Director as not being adverse to the City and as being consistent with carrying out the terms of this Ordinance.

Section 2. If any section, phrase, sentence, or portion of this Ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 3. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Ordinance were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 4. That for the reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

DENNIS E. MURRAY, JR.
PRESIDENT OF THE CITY COMMISSION

ATTEST: _____
B. JOYCE BROWN
CLERK OF THE CITY COMMISSION

Passed:

RESOLUTION NO. _____

A RESOLUTION SUPPORTING CONGRESSWOMAN MARCY KAPTUR'S FY09 FEDERAL APPROPRIATION REQUEST FOR MATCHING FUNDS FOR THE DEVELOPMENT OF THE OHIO HUB CLEVELAND - TOLEDO - DETROIT PASSENGER RAIL CORRIDOR; AND DECLARING THAT THIS RESOLUTION SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, if the federal government provided Ohio with matching funds for passenger rail corridor development, it would take approximately seven years to plan, design and construct railroad capacity improvements needed for reliable, fast, frequent service with passenger train speeds up to 110-MPH as defined in the Ohio Hub Plan and Midwest Regional Rail System (MWRRS) plan; and

WHEREAS, the first two project development phases will advance the rail corridors through the required steps under the National Environmental Policy Act (NEPA) and will resolve decisions regarding project location, capital improvements, community priorities and environmental impacts, and

WHEREAS, the first step in NEPA compliance will provide federal recognition of the Cleveland - Toledo - Detroit interstate passenger rail corridor improvement program as "*funding ready*," will take 18 to 24 months to complete, and will result in a "*program-level*," or "*first tier*" *Environmental Impact Statement* (PEIS); and

WHEREAS, industry experts, ODOT, along with the Federal Railroad Administration (FRA) have confirmed to ORDC that a PEIS is an appropriate approach to NEPA compliance; and

WHEREAS, the PEIS "*record of decision*," to be approved by the FRA, will narrow the range of feasible corridor alternatives to one route, which will be analyzed in greater detail in subsequent "*project-level*" or "*tier two*" NEPA documents; and

WHEREAS, PEIS documentation will define the capital and operating needs for Cleveland - Toledo - Detroit corridor start-up services and will identify critical railroad rights-of-way and facilities that must be preserved for the corridor's future long-term railroad capacity needs; and

WHEREAS, the second phase of NEPA compliance will be completed in approximately one year and will result in "*project-level*," or "*tier two*" NEPA documents that will clear more detailed "*decisions*" regarding capacity projects and make the corridor eligible to receive funding for preliminary engineering; and

WHEREAS, the estimated cost for "*program-level*" and "*project-level*" NEPA compliance is estimated at 1% of the total capital cost for improving the Cleveland - Toledo - Detroit rail corridor; and

WHEREAS, the "*program-level*" NEPA document is expected to cost approximately 0.25% of the total estimated corridor capital cost while "*project-level*" NEPA documents are expected to cost approximately 0.75% of the total estimated corridor capital cost; and

WHEREAS, preliminary engineering, the third project development phase, will take one year; final design, the fourth phase, will take another year; and construction of rail corridor capacity improvements, the fifth and final phase, is expected to take two years; and

WHEREAS, the Ohio Hub study concludes that the economic benefits justify the capital investment; that the system will not be a burden on the State's annual budget; and that it is justifiable based on an 80% federal construction match; and

WHEREAS, if, as in the case of highway projects, Ohio provides just 20% of the capital costs of the Ohio Hub, a \$1 billion investment will leverage a \$17 billion return; and

WHEREAS, it is highly unlikely that ORDC and Ohio's neighboring states will advance the development of the proposed intercity and interstate passenger rail corridors without federal matching funds; and

WHEREAS, Ohio and the Nation are faced with an array of urgent economic, environmental and mobility challenges that require bold, effective action be taken to implement strategic and essential investments in our rail transportation system.

WHEREAS, this legislation should be passed under suspension of the rules and as an emergency measure in accordance with Section 14 of the City Charter in order to provide this Resolution of support to key decision makers and to Congresswoman Marcy Kaptur in advance of the forum on Ohio Hub Funding Issues for Northern Ohio and SE Michigan scheduled for January 28, 2008; and

WHEREAS, in that it is deemed necessary in order to provide for the immediate preservation of the public peace, property, health, and safety of the City of Sandusky, Ohio, and its citizens, and to provide for the efficient daily operation of the Municipal Departments of the City of Sandusky, Ohio, the City Commission of the City of Sandusky, Ohio, finds that an emergency exists regarding the aforesaid, and that it is advisable that this **Resolution** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter upon its adoption; and, NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COMMISSION OF THE CITY OF SANDUSKY, OHIO, THAT:

Section 1. This City Commission requests that Congresswoman Kaptur work to establish a federal program with the long-term funding necessary for full federal participation in the development of the Ohio Hub Cleveland - Toledo - Detroit corridor.

Section 2. This City Commission requests that Congresswoman Kaptur support the development of the Ohio Hub Cleveland - Toledo - Detroit intercity/interstate passenger rail corridor by funding a "*program-level*" PEIS for this corridor that will serve the citizens in her district.

Section 3. The Clerk of this City Commission is directed to transmit a certified copy of this Resolution to Congresswoman Marcy Kaptur, Matthew R. Dietrich of the Ohio Rail Development Commission and Warren E. Henry of the TMACOG.

Section 4. If any section, phrase, sentence, or portion of this Resolution is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

Section 5. This City Commission finds and determines that all formal actions of this City Commission concerning and relating to the passage of this Resolution were taken in an open meeting of this City Commission and that all deliberations of this City Commission and of any of its committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 6. That for the reasons set forth in the preamble hereto, this Resolution shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

DENNIS E. MURRAY, JR.
PRESIDENT OF THE CITY COMMISSION

ATTEST: _____
B. JOYCE BROWN
CLERK OF THE CITY COMMISSION

Passed: