

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

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TUESDAY, OCTOBER 14, 2008

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Invocation
Pledge of Allegiance
Meeting Called to Order
Roll Call – BW, DW, DK, CS, DM, BF, JF
Minutes – September 22nd

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CHARTER OFFICERS

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

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Audience Participation – Agenda Items Listed Below Only (3 minute limit)

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PRESENTATION – Community Foundation Greenhouse Renovation

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PROCLAMATION – “EXCHANGE CLUB NATIONAL DAY OF SERVICE IN ERIE COUNTY”

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PREVIOUS BUSINESS

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ITEM #1 – This item was read at first reading on September 22nd.

ORDINANCE NO. _____ Approving the Development Agreement with Sandusky Marina District Development, LLC for the Marina District Project.

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CURRENT BUSINESS

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ITEM #2 – Communication – Warrenette Parthemore, Director of Administrative Services

BUDGETARY INFORMATION: Proceeds from the sale of the scrap aluminum will be earmarked for Greenhouse Energy Improvements. We estimate the sale of the benches will bring approximately \$1,320.00.

ORDINANCE NO. _____ Dispose of Aluminum Planting Benches from the City Greenhouse as having become unnecessary and unfit for City use and the sale of the scrap aluminum pursuant to Section 25 of the City Charter. **Request passed under suspension of rules in full accordance of Section 14 of the City Charter.**

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ITEM #3 – Communication – Lieutenant Phillip J. Frost

BUDGETARY INFORMATION: The total cost for the 12 Ballistic Vests is \$19,680.00 with \$9,840.00 to be taken from the Police Department’s 2008 Budget and the remainder, \$9,840.00 will be taken from the U.S. Department of Justice, Office of Justice Programs Bulletproof Vest Partnership Program.

ORDINANCE NO. _____ Purchase twelve (12) Point Blank Dragon Fire Tactical Vests from D & G Uniforms, Inc. of Akron, Ohio, through the State of Ohio Department of Administrative Services Cooperative Purchasing Program for the Sandusky Police Department’s Special Response Team (SRT). **Request passed under suspension of rules in full accordance of Section 14 of the City Charter.**

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ITEM #4 – Communication – Matthew D. Kline, City Manager

BUDGETARY INFORMATION: Proceeds from the sale of the items from the Police Department will be placed into the Police Department’s General Trust Account, with the exceptions of the proceeds for the bicycles which will be placed into the City’s General Fund. The items from the Recreation Department will be placed into the Recreation’s Budget and all others items will be placed into the City’s General Fund.

ORDINANCE NO. _____ Dispose of surplus personal property and equipment as having become unnecessary and unfit for City use pursuant to Section 25 of the City Charter. **Request passed under suspension of rules in full accordance of Section 14 of the City Charter.**

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ITEM #5 – Communication – Kathryn K. McKillips, Engineering Director

BUDGETARY INFORMATION: The current construction contract amount with Kelstin, Inc. of Shelby, Ohio, is \$193,721.95. The revised contract amount including the Second and Final Change Order in the amount of \$2,300.00 is \$196,021.95. The estimated engineer’s cost was \$211,650.00. The Ohio Public Works Commission will contribute \$98,010.97 and the City’s Sewer Fund will pick up the remaining \$98,010.98.

ORDINANCE NO._____ Approve the Second and Final Change Order for work preformed for the Venice Road Lift Station Rehabilitation Project in the amount of \$2,300.00 to be paid to Kelstin, Inc. of Shelby, Ohio. **Request passed under suspension of rules in full accordance of Section 14 of the City Charter.**

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ITEM #6 – Communication – Jane E. Cullen, E.I.T.

BUDGETARY INFORMATION: This grant is 100% funded by the Ohio Department of Natural Resources. The Harbour Marina and the Sandusky Sailing Club will place and maintain all navigational aids received from the grant.

RESOLUTION NO._____ File two applications with the Ohio Department of Natural Resources Navigational Aids Grant Program on behalf of the Cedar Fair, LP and the Sandusky Sailing Club to replace a total of thirteen (13) Existing Buoys. **Request passed under suspension of rules in full accordance of Section 14 of the City Charter.**

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ITEM #7 – Communication – Michael R. Meinzer, Fire Chief

BUDGETARY INFORMATION: There will be no impact to the General Fund. Proposed activities will be paid for through the grant funds.

RESOLUTION NO._____ Approving and ratifying the Grant Application submitted to the Mylander Foundation for the Sandusky Fire Department and, if awarded, authorizing the City Manager to execute any required agreements. **Request passed under suspension of rules in full accordance of Section 14 of the City Charter.**

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ITEM #8 – Communication – Carrie R. Handy, Chief Planner

BUDGETARY INFORMATION: The cost of repairs as of 9/30/08 is \$455,591.03. This additional request for \$200,000.00 to continue the repair work will be funded by the City’s General Fund. It is anticipated that additional funds will be necessary beyond this request, but the exact amount is not known at this time. It is noted that the City is pursuing all avenues including legal means to recover these funds from the contractors involved in the original rehabilitation work done under the 2004, 2005 and 2006 Programs.

ORDINANCE NO._____ Appropriating funds and approving payments to be made to various contractors for future services for the repairs to homes involved in the City of Sandusky’s 2004, 2005, and 2006 Housing Rehabilitation Programs. **Request passed under suspension of rules in full accordance of Section 14 of the City Charter.**

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ITEM #9 – Communication – Kathryn K. McKillips, Engineering Director

BUDGETARY INFORMATION: The City and Erie County are partnering on this project. The City’s portion of the construction costs is 61.1% as stated in the new Sewer Services Agreement between the City and Erie County. The cost of the additional 6 million gallons per day as required by the Ohio EPA was estimated at \$2.5 million, however, the cost has been prorated with the decrease in the project cost. (Please see the attached sheet). This cost is considered a wet weather expense. The City’s share of this additional cost is 90% as discussed with Erie County. The total project cost is estimated at \$ 20,918,194.74. (See the attached spreadsheet for a breakdown of costs). The City’s share of the total project cost is \$13,424,400.66. Erie County’s share is \$7,493,794.08. The balance of the Planning Loan with OWDA, approximately \$890,273.00 after payments are taken into account to date, will be rolled into the construction loans for the City and the County.

ORDINANCE NO._____ Authorizing a Cooperative Agreement between the City of Sandusky and the Ohio Water Development Authority to finance the cost of the construction activities for the Wastewater Treatment Plant Expansion Project Phase II. **Request passed under suspension of rules in full accordance of Section 14 of the City Charter.**

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ITEM #10 – Communication – Kathryn K. McKillips, Engineering Director

BUDGETARY INFORMATION: The City and Erie County are partnering on this project. The City’s portion of the construction costs is 61.1% as stated in the new Sewer Services Agreement between the City and Erie County. The cost of the additional 6 million gallons per day as required by the Ohio EPA was estimated at \$2.5 million, however, the cost has been prorated with the decrease in the project cost. (Please see the attached sheet). This cost is considered a wet weather expense. The City’s share of this additional cost is 90% as discussed with Erie County. The total project cost is estimated at \$ 20,918,194.74. (See the attached spreadsheet for a breakdown of costs). The City’s share of the total project cost is \$13,424,400.66. Erie County’s share is \$7,493,794.08. The City is applying for an OWDA Loan for construction and technical services, and the Planning Loan will be rolled into the loan as well.

ORDINANCE NO._____ Enter into a contract with Mosser Construction of Fremont, Ohio, for the Wastewater Treatment Plant Expansion Project Phase II. **Request passed under suspension of rules in full accordance of Section 14 of the City Charter.**

ORDINANCE NO._____ Enter into a contract with Industrial Power Systems (IPS) of Maumee, Ohio, for the Wastewater Treatment Plant Expansion Project Phase II. **Request passed under suspension of rules in full accordance of Section 14 of the City Charter.**

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ITEM #11 – Communication – Scott Schell, Economic Development Specialist

BUDGETARY INFORMATION: This action will not impact the City's General Fund. RLF funds are restricted in use and this loan is within the guidelines of the program. The matching grant from the Foundations will become part of the loan to the company and repayments will be added to the City's Revolving Loan Fund making additional dollars available for other deserving projects. It is estimated that, when complete, the project will result in the hiring of 30 full time equivalent employees. The new hires will result in additional income taxes for the City.

ORDINANCE NO._____ Repealing Ordinance No. 06-096 passed on October 10, 2006; approving and authorizing a Community Development Block Grant Loan from the City's Revolving Loan Fund to United States Construction through its related entities (Rieger Lofts, L.L.C., Rieger Commercial Properties, L.L.C., and 232 Jackson Street, L.L.C.); authorizing and directing the City Manager to execute the commitment letter in relation thereto. **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

ORDINANCE NO. _____

AN ORDINANCE APPROVING A DEVELOPMENT AGREEMENT WITH SANDUSKY MARINA DISTRICT DEVELOPMENT, LLC RELATING TO DEVELOPMENT ACTIVITIES IN CONNECTION WITH CERTAIN PROPERTY LOCATED IN THE CITY.

WHEREAS, in order to provide for the private redevelopment of certain parcels of real property in the City (the "Property"), the City desires to enter into a development agreement with Sandusky Marina District Development, LLC (the "Developer"), a copy of which is on file with the Clerk of the City Commission (the "Development Agreement"); and

WHEREAS, the City and the Developer have determined to enter into this Agreement in order to permit the Developer to conduct such preliminary activities as are necessary to obtain certain financing and other commitments for the first phase of the proposed development;

WHEREAS, the Development Agreement provides for the sale and conveyance to the Developer of certain parcels of property owned or to be owned by the City if certain conditions are satisfied (the "Property"), provides for the redevelopment of the Property by the Developer with the Private Improvements as described in the Development Agreement, and provides for the construction by the City of Public Improvements as described in the Development Agreement, NOW, THEREFORE,

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

Section 1. This Commission hereby finds and determines that the disposition of the Property to the Developer in accordance with the terms and conditions of the Development Agreement is necessary in order to carry out the City's public purpose of providing for the creation of jobs and employment opportunities, for the provision of adequate housing and for the redevelopment of an underutilized area of the City; hereby approves the sale of the Property for and pursuant to the terms of the Development Agreement; hereby approves the sale price and finds that the covenants of the Developer to redevelop the Property with the Private Improvements constitutes substantial additional valuable consideration to the City; and hereby approves the sale by negotiation being the method of disposition necessary to accomplish the City's objectives and deemed appropriate by the City Manager for the benefit of the City.

Section 2. This Commission hereby approves the Development Agreement, a copy of which is on file in the office of the Clerk of the City Commission, and the City Manager is hereby authorized to execute the Development Agreement on behalf of the City in substantially the form of the Development Agreement on file with the Clerk, and together with such revisions or additions as are approved by the Law Director as being consistent with the objectives and requirements of this ordinance and the objectives of the Plan and with carrying out the City's public purposes.

Section 3. This Commission hereby authorizes the City Manager, the Director of Law, the Director of Finance, the City Engineer, and other City officials as appropriate to prepare, execute and deliver or accept delivery of such other easements, instruments, licenses or agreements, in form satisfactory to the Director of Law, to provide such information, carry out such investigations and studies, and do such other things, as are necessary for and incidental to carrying out the requirements of this ordinance, the terms of the Development Agreement.

Section 4. 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 5. 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 committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 7. This ordinance shall take effect at the earliest time permitted by law.

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

ATTEST:

B. JOYCE BROWN
CLERK OF THE CITY COMMISSION

Passed: _____, 2008

DEVELOPMENT AGREEMENT

This Development Agreement (the “Agreement”) has been made and entered into as of the ____ day of _____, 2008 (the “Effective Date”) between the CITY OF SANDUSKY, OHIO (the “City”), a municipal corporation and political subdivision duly organized and validly existing under the Constitution and laws of the State of Ohio, and SANDUSKY MARINA DISTRICT DEVELOPMENT, LLC, or its permitted assigns (the “Developer”), a limited liability company duly organized and validly existing under the laws of the State of Ohio.

WITNESSETH:

WHEREAS, to enhance the availability of adequate housing, and to create jobs and employment opportunities and to improve the economic welfare of the people of the City, the City desires to provide for the development of real property located in the City and to enter into this Agreement to provide for (a) the redevelopment of a portion of the property described in **Exhibit A** attached hereto (such portion, the “Property”), which Property shall consist of two development parcels separately described as parcel 1 and parcel 3 on **Exhibit B** and **Exhibit D** respectively, (each, a “Parcel”) and (b) the construction on those Parcels of the retail, commercial and residential structures and facilities and all related improvements described in Section 1.6 and Section 3.6 hereof (collectively, the “Private Improvements”); and

WHEREAS, the City’s conveyance of Parcel 1 (as defined below) is contingent upon the approvals of the Ohio Department of Natural Resources and the National Park Service, as further described in Section 1.5 hereof; and

WHEREAS, the City’s conveyance of Parcel 3 (as defined below) is contingent upon the City obtaining property for the relocation of City operations currently conducted on Parcel 3 at a cost determined by the City to be reasonable; and

WHEREAS, the City has obtained and delivered to the Developer, and the Developer has accepted, a Phase I Environmental Assessment for the Property; and

WHEREAS, to promote the safe and efficient flow of vehicular and pedestrian traffic in and around the Property and to improve public spaces and to provide recreational opportunities in the City, and subject to financing and other conditions described herein, the City intends to construct or cause the construction of right of way improvements, pathway improvements and park improvements described in Section 5.1 hereof (the “Public Improvements”); and

WHEREAS, the City and the Developer intend that all of the costs of the construction of the Public Improvements will be paid from the proceeds of bonds to be issued by a port authority, which bonds will not be a debt of the City, but would be payable from payments in lieu of taxes collected by the City pursuant to one or more tax increment financing programs relating to improvements to the Property and other additional security provided by the Developer; and

WHEREAS, the City has determined that the Developer has the ability to perform or cause the performance of this Agreement, and that (a) the redevelopment by the Developer of the Property with the Private Improvements, (b) the construction of the Public Improvements, and (c) the fulfillment generally of this Agreement, are in the vital and best interests of the City and the health, safety, morals and welfare of its residents; and

NOW, THEREFORE, in consideration of the premises and the mutual obligations of the parties set forth in this Agreement, each of them does hereby covenant and agree as follows:

SECTION 1
SANDUSKY BAY PAVILION SITE

Section 1.1. Sale and Sublease of Property Interests; Purchase Price; Term

(a) **Sale of Fee Simple Interest/Sublease of Submerged Lands Leases** –

Subject to and conditioned upon the conditions described in Section 1.2 and subject to the City obtaining from the State of Ohio one or more extensions and/or amendments of its current submerged land leases for the relevant portions of the real property identified by the shaded area in **Exhibit B** attached hereto, the City agrees to sell its fee simple interest and sublease its submerged land leases (the “Subleases”, and each, a “Sublease”) in the portions of such real property that the City determines is not needed for the Public Improvements and not including any existing right of way (such portion hereinafter referred to as “Parcel 1”), and the Developer agrees to accept Parcel 1 in exchange for payment of the purchase price as described in Section 1.1(b). The boundaries of Parcel 1 is expected to contain between 2.2 acres and 2.59 acres, but ultimately shall be determined by the City after consultation with the Developer, taking into account the acreage and other necessary factors to provide adequate real property for the Private Improvements to be constructed on Parcel 1 and for public parks, public parking and other public spaces. Such public parks and public spaces shall be developed following extensive input by citizens of the City and the City’s Planning Commission and the City’s Recreation Board. Notwithstanding the foregoing, Parcel 1 shall contain no more than 2.6 acres unless otherwise agreed to in writing by the City and the Developer.

(b) **Purchase Price** – The purchase price for Parcel 1 shall be an amount equal to \$10.11 per square foot of property conveyed. Based on the expected area of real property to be conveyed, the purchase price is estimated to be not less than \$968,861 and not

more than \$1,145,018. The purchase price for Parcel 1 shall be paid on the Parcel 1 Closing Date as defined in Section 1.2.

(c) **Term** – The terms of each Sublease will depend on the planned use for each portion of Parcel 1 to which the Sublease relates. The term of each Sublease must be 50 years for property to be used for commercial facilities and must be 99 years renewable forever for property to be used for residential facilities, if agreed to by the State of Ohio.

Section 1.2. Conditions to Closing; Closing

Title to the portions of Parcel 1 that the City holds a fee simple interest shall be conveyed to the Developer, and the submerged lands leases to Parcel 1, in form satisfactory to the City, the Developer, and approved by the State of Ohio, shall be assigned to the Developer, upon receipt of the Purchase Price, subject to and conditioned upon, and on a mutually acceptable date within 30 days after the date on which all of the following events have occurred with respect to Parcel 1 (the “Parcel 1 Closing Date”):

- (1) the receipt by the City of the deposit described in Section 4.3 hereof;
- (2) the zoning classification for the Property has received all required City approvals and has been changed to PUD;
- (3) the approval of the Developer’s Improvement Plans as defined in Section 4.1 hereof;
- (4) the receipt by the City of evidence reasonably satisfactory to the City that the Developer has obtained refundable deposits for the pre-sale of at least 80 residential units in the condominium tower to be constructed on Parcel 1, or such lesser amount required by the bank providing the financing referred to in item (5) below;

(5) the receipt by the City of evidence reasonably satisfactory to the City that (i) the Developer has obtained all necessary commitments to finance the construction of the Private Improvements on Parcel 1 and (ii) that the Developer has the ability to satisfy any conditions to such financing commitments;

(6) the issuance of bonds, as described in Section 5.3, to pay the costs of constructing all of the Public Improvements that the City determines are necessary or related to the development of Parcel 1, together with any school district or other governmental approvals that may be conditions to the issuance of bonds;

(7) all other federal, state and local permits or approvals have been obtained for the construction of the Private Improvements;

(8) the City has obtained amended submerged lands leases for Parcel 1;

(9) the City has obtained the necessary governmental approvals as described in Section 1.5;

(10) the City Commission has held a public hearing and made a finding that Parcel 1 is no longer need for public use;

(11) delivery of the title insurance commitment and policy in accordance with Section 1.3 and Section 1.4.

Section 1.3. Title, Permitted Exceptions, Etc.

The City shall convey to the Developer title to Parcel 1 by quit claim deed (the “Deed”). The City shall convey to the Developer good, marketable and insurable legal title to Parcel 1, and all of the City’s right, title and interest therein, free and clear of all liens, leasehold interests, restrictions, encumbrances, reservations, conditions or other exceptions, except for (1) real property taxes and assessments not then due and payable; (2) zoning and building laws,

ordinances and regulations; (3) such permanent easements or restrictions as the City may require for the construction, operation, inspection, maintenance, repair, improvement and replacement of any part of the Public Improvements; (4) the City grant of temporary construction easements, or permanent easements agreed to by the Parties, to the Developer for the construction of the Private Improvements; (5) legal dedicated public streets and right-of-ways; (6) such other title exceptions as are permitted by this Agreement or approved by the Developer and the City in writing; and (7) matters disclosed by a survey that do not adversely affect, in any material respects, the use of Parcel 1 by the Developer (collectively, the "Permitted Exceptions"). The City shall convey Parcel 1 and all existing structures and improvements on Parcel 1 as provided above in "as is where is" condition subject to the Parcel 1 closing conditions contained in Section 1.2.

Section 1.4. Cooperation and Closing

The City and the Developer each shall proceed diligently to carry out its activities described herein, and the City and Developer shall work cooperatively and use good faith efforts to satisfy the conditions of closing within each of their control and to accomplish the requirements of the closing at the earliest practicable time. The City shall not be required to sublease its lease interests in Parcel 1 to the Developer if the Developer has breached any material obligations under this Agreement. If no closing has occurred with respect to Parcel 1 by December 31, 2009, then this Agreement shall terminate with respect to Parcel 1 unless otherwise extended in writing by the parties hereto, and the termination of this Agreement with respect to Parcel 1 shall be the parties' sole remedy with respect thereto, other than the City's retention of the good faith deposit described in Section 4.3. The Developer acknowledges that following its purchase of Parcel 1, its failure to develop Parcel 1 in accordance with this

Agreement, including the timing requirements and any extensions of time agreed to by the City, would constitute a material breach under this Agreement and the City may proceed in accordance with Section 7 hereof.

The closing of Parcel 1 shall take place at the office of the Southern Title Company which shall also serve as escrow agent (“Escrow Agent”) for the closing. The City shall furnish and pay for an owner’s title insurance commitment and policy in the amount of the purchase price, which shall be certified to within twenty (20) days prior to closing with endorsements not before 8:00 am on the business day prior to closing, all in accordance with the standards of the local bar association and shall show in Developer marketable title in fee simple or as holder of a submerged land lease free and clear of all liens and encumbrances except for the Permitted Exceptions identified in Section 1.3. The Parties agree that they shall each pay one-half of the costs of the services of the Escrow Agent and all real property conveyance fees, if any. The Developer agrees to pay for the costs of recording each Sublease and each Deed. The Developer shall promptly file each conveyance document for recording in the Official Records of Erie County. Any real estate taxes and special assessments shall be prorated as of the date of recording of the Subleases and Deeds, based upon the last available real property tax duplicate, provided that if the last available real property tax duplicate relates to real property identified by the shaded area in **Exhibit B**, such proration shall be made by acreage between the portions retained by the City and the portion consisting of Parcel 1. The parties shall place all funds and documents necessary for the completion of the closing with the Escrow Agent three (3) business days before the Parcel 1 Closing Date.

As of the date of the Parcel 1 Closing Date, the City shall pay or credit on the Purchase Price for Parcel 1, all delinquent taxes attributable to Parcel 1 together with penalties

and interest thereon, municipal service fees, and all assessments, including agricultural recoupments, that are a lien thereon on the Parcel 1 Closing Date. The City shall also pay or credit on the Purchase Price all unpaid real estate taxes, assessments and municipal service fees incurred but not yet due for years prior to the closing and a portion of such taxes and assessments for the year of the closing, prorated through the Parcel 1 Closing Date. The proration of undetermined taxes shall be based on a 365-day year and on the most recently available information on tax rate and valuation. The amounts so computed and adjusted shall be recomputed after the closing when the tax bills are received and the appropriate party will pay the other party the amount of any adjustment, if any.

Section 1.5. Governmental Approvals

The parties hereby acknowledge that the existing facilities on Parcel 1 were constructed, in part, from the proceeds of a National Park Service (the "NPS") grant administered by the Ohio Department of Natural Resources (the "ODNR"). Under the terms of that grant, the use of the property on which the facilities were constructed is regulated by the ODNR. The terms of the grant require that the area funded with the grant be continually maintained in public recreation use, unless the NPS approves reasonably equivalent substitution property. The parties hereby agree that the sale of Parcel 1 is contingent upon the City's receipt of the required approvals from the ODNR and the NPS regarding substitution property on or before March 15, 2009, unless such date is extended in writing by the parties hereto. The parties further agree that the determination of the sufficiency of the required approvals is solely at the discretion of the City.

Section 1.6. Agreement to Construct Private Improvements - Surf's Up Redevelopment

Subject to the terms hereof, the Developer agrees to construct the Private Improvements on Parcel 1, consisting of a mixed use building containing approximately 100 - 120 residential units in one residential tower, along with related commercial lease space of approximately 26,000 square feet, and a parking facility for the residential units. The minimum total cost of construction (i.e. labor and materials only) of the Private Improvements on Parcel 1 shall be \$33,000,000. The Private Improvements shall be constructed as approved by the City and in accordance with the requirements of the approved Improvement Plan as provided in Section 4.1 hereof.

Section 1.7. Timing for Construction of Private Improvements

Subject to the terms of this Agreement, the Developer agrees to commence construction of the Private Improvements on Parcel 1 pursuant to the following schedule:

The Developer shall commence the construction activities for the Private Improvement on Parcel 1 within 3 months following the Parcel 1 Closing Date. The Developer shall obtain a Certificate of Occupancy within 24 months following the commencement of the construction activities, unless extended in accordance with Section 7.2 due to force majeure or otherwise extended in writing by the City and the Developer. This shall not include any tenant improvements for lease space not completed by the Developer, or any custom interior build outs for any modified residential units.

The Developer shall proceed diligently to complete each of the Private Improvements in accordance with this schedule at its sole cost and expense. Completion of the Private Improvements shall be evidenced by a certificate of completion issued by the City in accordance with the terms of Section 4.4 hereof.

SECTION 3
CITY HALL BUILDING AND SITE

Section 3.1. Sale and Sublease of Property Interests; Purchase Price; Term

(a) **Sale of Fee Simple Interest/Sublease of Submerged Lands Leases** –

Subject to and conditioned upon the conditions described in Section 3.2 and subject to the City obtaining from the State of Ohio one or more extensions and/or amendments of its current submerged land leases for the relevant portions of the real property identified by the shaded area in **Exhibit D** attached hereto, the City agrees to sell its fee simple interest and sublease its submerged land leases (the “Subleases”, and each, an “Sublease”) in the portions of such real property that the City determines are not needed for the Public Improvements and not including any existing right of way (such portion hereinafter referred to as “Parcel 3”), and the Developer agrees to accept Parcel 3 in exchange for the payment of the purchase price as described in Section 3.1(b). The boundaries of Parcel 3 is expected to contain between _____ and _____ acres but ultimately shall be determined by the City after consultation with the Developer, taking into account the acreage and other necessary factors to provide adequate real property for the Private Improvements to be constructed on Parcel 3 and for public parks, public parking and other public spaces. Such public parks and/or public spaces shall be developed following extensive input by citizens of the City and the City’s Planning Commission and the City’s Recreation Board.

(b) **Purchase Price** – The purchase price for Parcel 3, and all related structures that are currently located on Parcel 3 shall be \$2,500,000. The purchase price for Parcel 3 shall be paid on the Parcel 3 Closing Date.

(c) **Term** – The terms of each Sublease will depend on the planned use for each portion of Parcel 3 to which the Sublease relates. The term of each Sublease must be 50

years for property to be used for commercial facilities and must be 99 years for property to be used for residential facilities, if agreed to by the State of Ohio.

Section 3.2. Conditions to Closing; Closing

Title to the portions of Parcel 3 that the City holds a fee simple interest shall be conveyed to the Developer, and the submerged lands leases to Parcel 3 in form satisfactory to the City, the Developer, and approved by the State of Ohio, shall be assigned to the Developer, upon receipt of the Purchase Price, subject to and conditioned upon, and on a mutually acceptable date within 30 days after the date on which all of the following events have occurred with respect to Parcel 3 (the “Parcel 3 Closing Date”):

- (1) the receipt by the City of the deposit described in Section 4.3 hereof;
- (2) the zoning classification for Parcel 3 has received all required City approvals and has been changed to PUD;
- (3) the approval of the Developer’s Improvement Plans as defined in Section 4.1 hereof;
- (4) the receipt by the City of evidence reasonably satisfactory to the City that the Developer has obtained a commitment from a regional or national hotel chain satisfactory to the City for the construction and operation of a hotel and conference facility satisfying the conditions of Section 3.6 hereof;
- (5) the receipt by the City of evidence reasonably satisfactory to the City that
 - (i) the Developer has obtained all necessary commitments to finance the construction of the Private Improvements on Parcel 3 and
 - (ii) that the Developer has the ability to satisfy any conditions to such financing;

(6) the issuance of bonds, as described in Section 5.3, to pay the costs of constructing all of the Public Improvements that the City determines are necessary or related to the development of Parcel 3, together with any school district or other governmental approvals that may be conditions to the issuance of bonds;

(7) all other federal, state and local permits or approvals have been obtained for the construction of the Private Improvements on Parcel 3;

(8) the City has obtained amended submerged lands leases for Parcel 3;

(9) the City has found property to which the City Hall facility can be relocated at a cost determined by the City to be reasonable, and the City has determined it will be able to vacate the City Hall facility within a time period agreed to by the City and the Developer (the “City Hall Relocation Date”);

(10) the City Commission has held a public hearing and made a finding that Parcel 3 is no longer need for public use;

(11) delivery of the title insurance commitment and policy in accordance with Section 3.3 and Section 3.4;

(12) the Developer has received satisfactory test results in accordance with Section 3.5.

Section 3.3. Title, Permitted Exceptions, Etc.

The City shall convey to the Developer title to Parcel 3 by quit claim deed (the “Deed”). The City shall convey to the Developer good, marketable and insurable legal title to Parcel 3, and all of the City’s right, title and interest therein, free and clear of all liens, leasehold interests, restrictions, encumbrances, reservations, conditions or other exceptions, except for (1) real property taxes and assessments not then due and payable; (2) zoning and building laws,

ordinances and regulations; (3) such permanent easements or restrictions as the City may require for the construction, operation, inspection, maintenance, repair, improvement and replacement of any part of the Public Improvements; (4) the City grant of temporary construction easements, or permanent easements agreed to by the Parties, to the Developer for the construction of the Private Improvements; (5) legal streets and right-of-ways; (6) such other title exceptions as are permitted by this Agreement or approved by the Developer or the City in writing; and (7) matters disclosed by a survey that do not adversely affect, in any material respects, the use of Parcel 3 by the Developer (collectively, the “Permitted Exceptions”). The City shall convey Parcel 3 and all existing structures and improvements on Parcel 3 as provided above in “as is where is” condition, subject to the closing conditions contained in Section 3.2.

Section 3.4. Cooperation and Closing

The City and the Developer each shall proceed diligently to carry out its activities described herein, and the City and Developer shall work cooperatively and use good faith efforts to satisfy the conditions of closing within each of their control and to accomplish the requirements of the closing at the earliest practicable time. The City shall not be required to sublease its lease interests in Parcel 3 to the Developer if the Developer has breached any material obligations under this Agreement. If no closing has occurred with respect to Parcel 3 by December 31, 2009, then this Agreement shall terminate with respect to Parcel 3 unless otherwise extended in writing by the parties hereto, and the termination of this Agreement with respect to Parcel 3 shall be the parties’ sole remedy with respect thereto, other than the City’s retention of the good faith deposit described in Section 4.3. The Developer acknowledges that following its purchase of Parcel 3, its failure to develop Parcel 3 in accordance with this Agreement, including the timing requirements and any extensions of time agreed to by the City,

would constitute a material breach under this Agreement and the City may proceed in accordance with Section 7 hereof.

The closing of Parcel 3 shall take place at the office of the Southern Title Company which shall also serve as escrow agent (“Escrow Agent”) for the closing. The City shall furnish and pay for an owner’s title insurance commitment and policy in the amount of the purchase price, which shall be certified to within twenty (20) days prior to closing with endorsements not before 8:00 am on the business day prior to closing, all in accordance with the standards of the local bar association and shall show in Developer marketable title in fee simple or as holder of a submerged land lease free and clear of all liens and encumbrances except for the Permitted Exceptions identified in Section 3.3. The Parties agree that they shall each pay one-half of the costs of the services of the Escrow Agent and all real property conveyance fees, if any. The Developer agrees to pay for the costs of recording each Sublease and each Deed. The Developer shall promptly file each conveyance document for recording in the Official Records of Erie County. Any real estate taxes and special assessments shall be prorated as of the date of recording of the Subleases and Deeds, based upon the last available real property tax duplicate, provided that if the last available real property tax duplicate relates to the real property identified by the shaded area in **Exhibit D** attached hereto, such proration shall be made by acreage between the portions retained by the City and the portion consisting of Parcel 3. The parties shall place all funds and documents necessary for the completion of the closing with the Escrow Agent three (3) business days before the Parcel 3 Closing Date.

As of the Parcel 3 Closing Date, the City shall pay or credit on the Purchase Price for Parcel 3, all delinquent taxes attributable to Parcel 3 together with penalties and interest thereon, municipal service fees, and all assessments, including agricultural recoupments, that are

a lien thereon on the Parcel 3 Closing Date. The City shall also pay or credit on the Purchase Price all unpaid real estate taxes, assessments and municipal service fees incurred but not yet due for years prior to the closing and a portion of such taxes and assessments for the year of the closing, prorated through the Parcel 3 Closing Date. The proration of undetermined taxes shall be based on a 365-day year and on the most recently available information on tax rate and valuation. The amounts so computed and adjusted shall be recomputed after the closing when the tax bills are received and the appropriate party will pay the other party the amount of any adjustment, if any.

Section 3.5 Asbestos Testing

The City hereby grants the Developer a temporary license during regular business hours Monday through Friday to conduct any asbestos testing necessary to determine the feasibility of the Private Improvements on Parcel 3, upon receipt by the City of advance reasonable notice of the time and date of such testing. Notwithstanding this license, under no circumstances shall the Developer be permitted to cause any damage to the building or property.

All such testing shall be completed and results received within 180 days following the Effective Date of this Agreement, unless such date is extended by the City, and the Developer shall notify the City in writing by no later than 30 days following such testing if the test results are not satisfactory. Upon receipt of such notice, this Agreement shall terminate with respect to Parcel 3. If no notice is received, the test results shall be deemed satisfactory and the condition to closing identified as item (11) in Section 3.2 shall be deemed satisfied.

Section 3.6. Agreement to Construct Private Improvements – City Hall site redevelopment

Subject to the terms hereof, the Developer agrees to construct the Private Improvements on Parcel 3, consisting of a hotel and conference facility with approximately 120 guest rooms and approximately 8,0000 square feet of conference space and related private parking facilities. The minimum total cost of construction (i.e. labor and materials only) of the Private Improvements on Parcel 3 shall be \$10,000,000. The Private Improvements shall be constructed in accordance with the time scheduled set forth in Section 3.7. The Private Improvements shall be constructed as approved by the City and in accordance with the requirements of the approved Improvement Plan, as provided in Section 4.1 hereof.

Section 3.7. Timing for Construction of Private Improvements

Subject to the terms of this Agreement, the Developer agrees to commence construction of the Private Improvements on Parcel 3 pursuant to the following schedule:

The Developer shall commence or cause the commencement of any demolition or environmental remediation work on Parcel 3 within 2 months following the City Hall Relocation Date and shall commence or cause the commencement of construction of the Private Improvements on Parcel 3 within 5 months following the City Hall Relocation Date.

The Developer shall obtain or cause to be obtained a Certificate of Occupancy as described in Section 4.4 for the Private Improvements on Parcel 3 within 24 months following the commencement of the construction activities, unless extended in accordance with Section 7.2 due to force majeure or otherwise extended in writing by the City and the Developer. This shall not include any tenant improvements for lease space not completed by the Developer.

The Developer shall proceed diligently to complete or cause the completion of each of the Private Improvements in accordance with this schedule at its sole cost and expense. Completion of the Private Improvements shall be evidenced by a Certificate of Occupancy issued by the City in accordance with the terms of Section 4.4 hereof.

SECTION 4
IMPROVEMENT PLANS AND COMPLETION

Section 4.1. Improvement Plans

As a condition precedent to the City's conveyance of its interest in any Parcel to Developer, the Developer agrees to prepare and submit to the City for review and approval such preliminary elevations, site plans, zoning variances required, construction drawings and specifications, and such additional plans and information, as is reasonably required by the City for both Parcels (collectively, the "Improvement Plans"). The Improvement Plans shall be consistent with the requirements of this Agreement, and the requirements of applicable federal, state and local laws. Such Improvement Plans shall also conform to the ordinances and regulations of the City and shall include reference to the areas of property to be utilized for the Public Improvements, which property shall not be included in any Sublease. The Developer shall submit its Improvement Plans within 120 days following the Effective Date. Upon completion of the reviews by the City and compliance with any revision requirements, the City shall evidence its approval of the Improvement Plans in writing. If the City disapproves any Improvement Plans in whole or in part, it shall notify the Developer in writing, setting forth the reasons for such disapproval. The provisions of this Section shall likewise apply to the submission of any revised Improvement Plans to the City for review and approval.

If the Developer desires to make any material change in any of the Improvement Plans, the Developer shall submit the proposed change to the City for review and approval by the City in accordance with the terms and procedures described above. Any disapproval of such change by the City shall be made in writing (setting forth details) to the Developer within 30 days after the date of initial receipt of such proposed change by the City.

The Developer shall submit the proposed change in any of the Improvement Plans to the City in sufficient time to enable the City to review and approve, or to enable the Developer to correct and obtain City approvals, prior to the time required by this Agreement for the Developer to commence constructing any of the Private Improvements.

The foregoing requirements for preparation, review and approval of the Improvement Plans are in addition to the City's usual requirements for obtaining building permits. Accordingly, promptly after the Improvement Plans have been approved by the City, the Developer will submit to the City Building Department such construction drawings and specifications as are required by applicable building code and zoning requirements for the purpose of obtaining a building permit or other construction permits for the construction of the Private Improvements on that Parcel, prior to purchase of the relevant Parcel, and prior to commencement of construction. Such construction drawings and specifications shall be in accordance with and consistent with the requirements of this Agreement, and with the Improvement Plans approved by the City.

Section 4.2. Competitive Bidding and Prevailing Wage

(1) The contracts for the construction of the Public Improvements shall be competitively bid in accordance with all competitive bidding requirements of the City and all contracts for the construction of the Public Improvements shall comply with the prevailing wage requirements applicable to City public improvements.

(2) The Developer shall seek to achieve a minimum of ten percent (10%) local minority participation and fifty percent (50%) local labor force for the construction of the Private Improvements. The term "local" shall include Erie County and the five (5) adjoining counties of Ottawa, Lorain, Huron, Sandusky, and Seneca. All contracts for the construction of the Private

Improvements shall comply with then-current commercial or residential prevailing wages rates, provided that at least 85% of the labor shall be paid at commercial prevailing wage rates.

(3) A committee shall be formed to monitor the Developer's performance of the local participation goals as stated in item (2) above (the "Monitoring Committee"). The Monitoring Committee shall include a representative for each of the Developer, the City Commission, the City Manager, the general contractor for the Private Improvements, and a public representative from the building trades.

(4) All contractors, sub-contractors, and sub-sub-contractors shall seek to comply with the Responsible Contractor Policy, a copy of which is attached hereto as **Exhibit E**.

(5) The Developer agrees to submit to the City and the Monitoring Committee as a part of the monthly report required by Section 8.4 of this Agreement, a proposed bidders list of the intended pre-qualified sub-contractors and suppliers for the purpose of working toward the local participation goals stated in item (2) above.

(6) The contracts for the construction of the Private Improvements shall be competitively bid to union and non-union pre-qualified contractors in accordance with the competitive bidding procedures of either the construction manager or the general contractor.

(7) The Developer shall inform the City and the Monitoring Committee of the successful bidding results from the competitive bidding process conducted pursuant to item (6) above.

(8) The City acknowledges that the requirements of this Section 4.2 may not apply to the construction of the Private Improvements on Parcel 3 if the Developer sells or assigns its rights to construct the hotel and conference facility on Parcel 3 to a national hotel chain (the "Hotel Developer"). The Developer shall not sell or assign its rights to construct the

Private Improvements on Parcel 3 until the Monitoring Committee has met with the Hotel Developer to discuss the local and minority participation requirements of this Section 4.2.

Section 4.3. Good Faith Deposit

The Developer has, prior to or simultaneously with the execution of this Agreement by the City, delivered to the City a good faith deposit of cash or a certified or cashier's check payable to the City, drawn on a solvent bank, in the amount of \$100,000 (hereinafter referred to as the "Deposit"), which Deposit is to be retained by the City as security for the performance of the obligations of the Developer pursuant to this Agreement, provided, however, that if the Developer has submitted its Improvement Plans in accordance with Section 4.1, has demonstrated to the City that it has obtained all necessary commitments to finance the construction of the Private Improvements, and has not defaulted on its obligations under this Agreement, the City shall return the Deposit to the Developer upon the earlier of (i) the termination of this Agreement or (2) the issuance of the final Certificate of Occupancy with respect to the completion of all of the Private Improvements.

Section 4.4. Certificates of Occupancy

Promptly after completion of the Private Improvements with respect to a particular Parcel in accordance with those provisions of this Agreement relating solely to the obligations of the Developer to construct the Private Improvements, the City upon request of the Developer and in accordance with standard City procedures shall provide to Developer a certification of occupancy with respect to such Parcel (a "Certificate of Occupancy"). Such certification by the City shall be a conclusive determination of satisfaction and termination of the covenants in the Agreement with respect to the obligations of the Developer and its successors and assigns to construct the Private Improvements with respect to such Parcel. For purposes of

obtaining the Certificate of Occupancy, the Private Improvements shall be deemed “substantially complete” upon the issuance of an occupancy permit for that portion of the Private Improvements that are under consideration, but shall not include custom interior build outs for any modified residential units and/or any tenant improvements not performed by the Developer.

In response to the request for a Certificate of Occupancy by the Developer, the City shall either issue a Certificate of Occupancy with an attached list of items to be completed, or the City shall, within 15 days after the written request by the Developer, provide the Developer with a written statement, indicating in adequate detail in what respects the Developer has failed to complete the Private Improvements in accordance with the provisions of this Agreement, or is otherwise in default, and what measures or acts it will be necessary, in the opinion of the City, for the Developer to take or perform in order to obtain such Certificate of Occupancy.

SECTION 5

PUBLIC IMPROVEMENTS AND FINANCING

Section 5.1. Public Improvements

Subject to and conditioned upon (a) the Developer's purchase of Parcel 1 and Parcel 3 in accordance with this Agreement, (b) the issuance and sale of bonds by the Issuer in accordance with Section 5.3 or the receipt of other funds from the Developer, in each case in an amount sufficient to pay all costs of the Public Improvements, (c) the City's receipt of sufficient property interests, without cost, for such Public Improvements, and (d) the terms and conditions of this Agreement, the City agrees to construct or cause the construction of the Public Improvements consisting of: (1) Perry Street right-of-way improvements; (2) pedestrian shoreline, public path and public park improvements; (3) Meigs Street right-of-way improvements; (4) Meigs Street Pier improvements; (5) Water Street right-of-way improvements and public parking; (6) Washington Street right-of-way improvements and public parking (collectively, the "Public Improvements"). The Public Improvements are estimated to cost \$3,000,000 in the aggregate.

These Public Improvements shall be constructed in accordance with the designs and plans and specifications set forth in the approved Improvement Plans. To the extent feasible and to the extent the funding contemplated hereunder is made available to the City, the City shall use good faith efforts to communicate and cooperate with the Developer so that the Public Improvements related to a particular Parcel will be completed at or about the same time as the Private Improvements for that particular Parcel.

The City shall not be obligated to construct or cause the construction of any Public Improvements that would cost in the aggregate more than \$4,000,000 (the "Public

Improvement Cap”), unless otherwise agreed to by the City. Notwithstanding the foregoing, any improvements constructed using amounts received in accordance with Section 5.4 hereof usable for costs of the Public Improvements shall not be included in determining the costs attributable to the Public Improvement Cap.

Section 5.2. Easements

The Developer hereby grants to the City such temporary construction easements over the Property (after owned by the Developer) as are reasonably necessary from time to time to enable the City to construct and complete the Public Improvements, and shall execute and deliver to the City upon request from time to time temporary construction easements in forms satisfactory to the City. The City agrees to terminate any such construction easement once the Public Improvements have been completed.

The City hereby grants to the Developer such temporary construction easements over any portions of the Property owned by the City or public rights-of-way as are reasonably necessary from time to time to enable the Developer to construct and complete the Private Improvements, and shall execute and deliver to the Developer upon request from time to time temporary construction easements in forms satisfactory to the Developer. The Developer agrees to terminate any such construction easement once the Private Improvements have been completed.

Section 5.3. Funding for Public Improvements

The City and the Developer intend that a port authority or other issuer acceptable to the City (the “Issuer”) will issue bonds to pay all of the costs of the construction of the Public Improvements (the “Bonds”). The Bonds shall be issued by the Issuer and may provide for a cooperative agreement to be entered into between the City and the Issuer. Such cooperative

agreement may provide that the Issuer will construct the Public Improvements on behalf of the City consistent with the terms of this Agreement or as otherwise agreed to by the City. The Bonds would be payable from service payments in lieu of taxes collected by the City pursuant to one or more tax increment financing programs (the “Service Payments”) and from such other security provided by the Developer that may be necessary to offer the Bonds at public or private sale.

Subject to the City Conditions (defined below), if requested by the Developer, the City shall use good faith efforts to cooperate with an acceptable Issuer and, if required, enter into a cooperative agreement to be delivered in connection with the delivery of the Bonds, in form and substance satisfactory to the City, under which the City will agree to transfer the Service Payments received by the City to the Issuer for payment of debt service on the Bonds, other than any portion of the Service Payments to be paid to the Sandusky City School District (the “School District”); provided, however, that the City shall not assume any financial obligation for the repayment of the Bonds or the construction of the Public Improvements, or for any payments to the School District, or for any fees or expenses related thereto except for such transfer of Service Payments and the City otherwise shall have no obligation to cause the issuance of the Bonds.

The City’s agreements in this Section 5.3 are subject to the following conditions (the “City Conditions”):

- (1) the Developer’s Improvement Plans have been approved by the City pursuant to Section 4.1 hereof;
- (2) the documents to be entered into in connection with the Bonds satisfactorily address the security for the Bonds, the evidence of financing for the remaining costs of the Public Improvements and the costs of the Private Improvements, the ownership and

maintenance of the Public Improvements, the process for construction of the Public Improvements, and the time schedule for the construction of the Public Improvements.

The City shall use good faith efforts in cooperation with the Developer to implement a tax increment financing program or programs so that Service Payments are available to pay debt service on the Bonds; provided that, it is acknowledged that the City's participation in tax increment financing is subject to receiving approvals from the School District and potentially from the Erie County Board of County Commissioners. The Developer shall seek the approvals from the School District and any necessary approval from the County Commissioners and shall be responsible for fulfilling any condition of those approvals.

Section 5.4. Sustainable Design & Alternative Power

The City agrees to cooperate with the Developer in applying for any public funding or grant dollars specifically designated for green and sustainable design and alternative energy. The City also agrees to cooperate with the Developer in seeking to designate the Property as a "Green District", seeking to obtain Leadership in Energy and Environmental Design ("LEED") certification for the various improvements to the Property, and seeking to incorporate LEED design standards and guidelines into the PUD zoning classification for the Property.

SECTION 7
BREACH AND REMEDIES

Section 7.1. In General

Except as otherwise provided in this Agreement, in the event of breach of this Agreement, or any of its terms or conditions, by either party hereto, or any successor to such party, such party (or successor) shall, upon written notice from the other, proceed promptly to cure or remedy such breach, and, in any event, within 30 days after receipt of such notice, which period may be extended if the breaching party is making reasonable progress to cure or remedy the breach; provided, however, that such 30 day grace period shall not be applicable to the times by which Service Payments shall be made under this Agreement. In case such action is not taken within such time or not diligently pursued, or the default or breach shall not be cured or remedied within such time, the party asserting breach may institute such proceedings at law or in equity as may be necessary or desirable in its opinion to remedy such breach, including, but not limited to, proceedings to compel specific performance by the party in default or breach of its obligations, or proceedings to recover damages suffered as the result of such default.

Pursuit of any of the remedies in this Section shall not preclude pursuit of any of the other remedies herein provided, or any other remedies provided by law or equity, nor shall pursuit of any remedy herein provided constitute a forfeiture or waiver of any damages accruing to a party by reason of the violation of any of the other party's obligations hereunder. Forbearance by a party to enforce one or more of the remedies herein provided upon the occurrence of an event of default shall not be construed to constitute a waiver of such default.

Section 7.2. Force Majeure

Except as otherwise provided herein, neither the City nor Developer shall be considered in default in their obligations to be performed hereunder, if delay in the performance

of such obligations is due to unforeseeable causes beyond its control and without its fault, including but not limited to, acts of God or of the public enemy, acts of terrorism, acts of the Federal or state government, acts or delays of the other party, fires, floods, unusually severe weather, epidemics, freight embargoes, unavailability of materials, strikes or delays of contractors, subcontractors or materialmen due to any of such causes, but not including lack of financing or financial capacity by Developer or the City, it being the purpose and intent of this Section that in the event of the occurrence of any such enforced delay, the time or times for performance of such obligations shall be extended for the period of the enforced delay; provided, however, that the party seeking the benefit of the provisions of this Section shall within 14 days after the beginning of such enforced delay, notify the other party in writing thereof and of the cause thereof and of the duration thereof, or, if a continuing delay and cause, the estimated duration thereof, and if the delay is continuing on the date of notification, within 30 days after the end of the delay, notify the other party in writing of the duration of the delay.

Section 7.3. Canceling of Submerged Land Lease or Revesting Title in the City Upon Happening of Event Subsequent to Sublease or Conveyance to Developer

In the event that subsequent to conveyance by the City to the Developer of title to any Parcel or any part thereof or sublease by the City to the Developer of the submerged lands lease to any Parcel or any part thereof, and prior to completion of the Private Improvements with respect to that Parcel as certified by the City, the Developer (or successors in interest) shall default in or violate its obligation with respect to the construction of such Private Improvements (including the nature of the improvements and the dates for the beginning and completion thereof), or shall abandon or substantially suspend construction work, and any such default, violation, abandonment, or suspension shall not be cured, ended, or remedied within 90 days (180 days if the default is with respect to the date for completion of construction of the Private

Improvements), or cure is not being diligently pursued, after written demand by the City so to do, then the City shall have the right, as the case may be, to terminate Sublease to that Parcel and the City shall have the right to reenter and take possession of that Parcel and to terminate (and revert in the City) the estate conveyed by the Deed to the Developer, it being the intent of this provision, together with other provisions of this Agreement, that the conveyance of that Parcel to the Developer, shall be made upon, and that the Deed shall contain, a condition subsequent to the effect that in the event of any default, failure, violation or other action or inaction by the Developer specified in this Section, failure on the part to the Developer to remedy, end, or abrogate such default, failure, violation or other action or inaction, within the period and in the manner stated in such clauses, the City at its option may declare a termination in favor of the City of the title, and of all the rights and interests in and to that Parcel conveyed by the Deed to the Developer, and that such title and all rights and interests of the Developer, and any assigns or successors in interest to and in that Parcel, shall revert to the City; provided, that the City shall provide written notice to the Developer thirty (30) days prior to exercising any remedy pursuant to this Section, and provided further, that such condition subsequent and any reversion of title as a result thereof in the City shall always be subject to and limited by, and shall not defeat, render invalid or limit in any way (i) the lien of any mortgage entered into to finance the Private Improvements, and (ii) any right or interest provided in this Agreement for the protection of the holder of such mortgage.

Section 7.4. Other Rights and Remedies of City; No Waiver by Delay

The City shall have the right to institute such actions or proceedings as it may deem desirable for effectuating the purposes of this Section, including also the right to execute and record or file among the public land records in the office in which the Sublease or Deed is

recorded a written declaration of the termination of all the right, title and interest of the Developer, and (subject to such mortgage liens and leasehold interests as provided in this Section), their successors in interest and assigns, in that Parcel, and the reversioning of title thereto in the City; provided, that any delay by the City in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this Section shall not operate as a waiver of such rights or to deprive it of or limit such right in any way (it being the intent of this provision that the City should not be constrained, so as to avoid the risk of being deprived of or limited in the exercise of the remedy provided in this Section because of concepts of waiver, laches, or otherwise, to exercise such remedy at a time when it may still hope otherwise to resolve the problems created by the default involved); nor shall any waiver in fact made by the City with respect to any specific default by the Developer under this Section be considered or treated as a waiver of the rights of the City with respect to any other defaults by the Developer under this Section or with respect to the particular default except to the extent specifically waived in writing.

SECTION 8
MISCELLANEOUS

Section 8.1. Term of Agreement

Unless earlier terminated in accordance with the terms herein, the provisions of this Agreement shall be effective as of the Effective Date and shall continue in full force and effect until the full payment of all debt service for the Bonds.

Section 8.2. Representations of Authority

The Developer hereby represents that it has full power and authority to enter into this Agreement and carry out its terms. The City hereby represents that it has full power and authority to enter into this Agreement and carry out its terms.

Section 8.3. Representation as to Developer Entity

Sandusky Marina District Development, LLC hereby represents that it is an Ohio limited liability company, with its sole member and Managing Member being R. John Eymann.

Section 8.4. Progress Reports

Until construction of all of the Private Improvements has been completed, the Developer shall make monthly reports, in such detail as may reasonably be requested by the City, of the actual progress of the Developer with respect to construction of such Private Improvements. Developer, for itself and future Assignees, agrees to supply or cause to be supplied to the City from time to time such information as the City may reasonably request concerning the amount of investment made, number of new jobs created, and amount of payroll attributable to such new jobs, and such other information related to carrying out this Agreement, as the City reasonably requires in connection with preparation of reports required by the State of Ohio, Erie County, or any other public agency, in connection with the City's implementation of this Agreement and any other applicable law.

Section 8.5. Discrimination Prohibited

The Developer shall, and shall cause future Assignees to, in the use and redevelopment of the Property, not to discriminate against any person or group of persons based upon race, creed, sex, religion, color, age, national origin or ancestry in the sale, lease or other transfer, use or occupancy, of the Property.

Section 8.6. Restrictions on Transfer of Property, Assignment and Encumbrance

The Developer further represents and agrees that, prior to completion of the Private Improvements with respect to a Parcel, the Developer will not sell, transfer, assign or otherwise dispose of its rights in this Agreement or property interest in such Parcel without the written consent of the City; provided, however, that Developer may sell and convey residential units on each Parcel upon completion, and may enter into sales agreements providing therefor prior to completion, and provided further that the Developer may assign the obligations in this Agreement to an entity that is 51% or more owned by (a) the Developer, or (b) the sole member of the Developer (the "Member"); provided that the assignee agrees to be bound by all of the provisions of this Agreement, including this Section. The Developer may also transfer its interest in a Parcel or a structure thereon, or any part thereof, for the purposes of obtaining construction or permanent financing for the Private Improvements.

Prior to completion of the Private Improvements with respect to a Parcel, neither the Developer nor any successor in interest to such Parcel or any part thereof shall engage in any financing or any other transaction creating any mortgage or other encumbrance or lien upon such Parcel or any part thereof, whether by express agreement or operation of law, or suffer any encumbrance or lien to be made on or attach to such Parcel or any part thereof, except for the purposes only of obtaining funds only to the extent necessary for paying the Purchase Price and

constructing, developing, furnishing and equipping the Private Improvements on the such Parcel, paying any other costs associated with such financing, including attorney fees, and entering into leases that will not be effective until after the completion of the Private Improvements.

After the Private Improvements have been constructed on each parcel the Developer may assign all of its obligation, rights and duties under this Agreement pursuant to a written agreement where the City is a party or a third-party beneficiary if the assignee assumes all of the rights, duties and obligations of the Developer pursuant to this Agreement or a portion thereof. After all of its obligations contained in this Agreement have been assigned, the Developer shall be released from any further obligations, rights or duties under this Agreement.

Section 8.7. Restrictions on Transfer of Interests in the Developer

The Developer acknowledges that the identity of the principals who own and control the Developer are important considerations to the City in entering into this Agreement with the Developer. Prior to completion of the Private Improvements, and without the prior written approval of the City, the Developer represents and agrees for itself, its Member and any successor in interest to itself and its Member, respectively, that there shall be no voluntary transfer by the current Member which would decrease the interest of such Member in the Developer to less than fifty-one percent (51%), nor shall the Member suffer or permit such transfer to be made, or be suffered that would cause any other similarly significant change in the ownership of the Developer, or with respect to the identity of the persons in control of the Developer or the degree thereof, by any other method or means.

Section 8.8. Agreement Binding on Parties; No Personal Liability

All covenants, obligations and agreements of the City, the Developer and future assignees contained in this Agreement shall be effective to the extent authorized and permitted

by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation or agreement of any present or future member, officer, agent or officer, or employee of the City in other than their official capacity or of any individual person who is an officer, member, director or shareholder of the Developer or other owner other than in their capacity as an officer, member, director or shareholder, and neither the members of the City Commission nor any City official executing this Agreement, or any individual person executing this Agreement on behalf of the Developer, shall be liable personally by reason of the covenants, obligations or agreements of the City or the Developer contained in this Agreement.

Section 8.9. Compliance with Applicable Laws

The Parties hereby agree to comply with all applicable federal, state and local laws, regulations and ordinances in connection with construction of the Private Improvements, the Public Improvements and the use and operation thereof, and otherwise in connection with the performance of their rights, duties and obligations pursuant to this Agreement. In accordance with the Plan, the Developer shall maintain all structures and facilities in accordance with all codes and ordinances of the City.

Section 8.10. Counterparts

This Agreement may be signed in several counterparts, each of which shall be an original but all of which shall constitute but one and the same instrument.

Section 8.11. Notice

Any notice or communication between the parties required or permitted to be given under this Agreement shall be deemed sufficiently given if delivered personally or mailed by U.S. registered or certified mail, return receipt requested, which shall be deemed delivered when either the return receipt is signed or refused, and addressed as follows:

1. Notices to the City:

City Manager
City of Sandusky
222 Meigs Street
Sandusky, Ohio 44870

With a copy to:

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

2. Notices to Developer:

Sandusky Marina District Development LLC
6161 Riverside Drive
Suite A
Dublin, Ohio 43017
Attention: R. John Eymann

With a copy to:

Isaac, Brant, Ledman & Teetor, LLP
250 East Broad Street
Suite 900
Columbus, Ohio 43215
Attention: Timothy E. Miller

Section 8.12. Captions

The captions and headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

Section 8.13. Governing Law

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

Section 8.14. Complete Agreement

All negotiations, considerations, representations and understandings between the parties as to the Property and the subject matters of this Agreement, are incorporated herein and

may be modified or altered only by an agreement in writing signed by both parties to this Agreement.

Section 8.15. Severability

If any provision in this Agreement or any portion thereof shall be invalid or unenforceable for any reason, such invalidity or lack of enforceability shall not affect the validity or enforceability of any other provision or portion thereof. To the extent an interpretation of a provision or a portion thereof can be made which will make it valid or enforceable, the parties agree that the interpretation making it valid or enforceable should be chosen.

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IN WITNESS WHEREOF, the City and the Developer have each caused their duly authorized representatives to execute this Agreement as of the date aforesaid.

CITY OF SANDUSKY, OHIO

By: _____
City Manager

**SANDUSKY MARINA DISTRICT
DEVELOPMENT LLC**

By: _____
R. John Eymann, Managing Member

The legal form of the within instrument
is hereby approved.

By: _____
Director of Law

Date: _____, 2008

STATE OF OHIO)
) SS:
COUNTY OF ERIE)

On this _____ day of _____, 2008, before me a Notary Public in and for said County and State, personally appeared Matt Kline, City Manager of the City of Sandusky, Ohio, who acknowledged the execution of the foregoing instrument as the authorized officer of the City on behalf of the City, and that the same is his voluntary act and deed as the officer on behalf of the City and the voluntary act and deed of said City.

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

[SEAL]

Notary Public

STATE OF OHIO)
) SS:
COUNTY OF _____)

On this _____ day of _____, 2008, before me a Notary Public in and for said County and State, personally appeared R. John Eymann, being the Managing Member of Sandusky Marina District Development LLC, who acknowledged the execution of the foregoing instrument as the duly authorized representative thereof, and that the same is his voluntary act and deed as said representative and the voluntary act and deed of said company.

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

[SEAL]

Notary Public

EXHIBITS

Exhibit A – The Property

Exhibit B – Parcel 1

Exhibit C – [Reserved]

Exhibit D – Parcel 3

Exhibit E – Responsible Contractor Policy

CERTIFICATE OF DIRECTOR OF FINANCE

The undersigned, fiscal officer of the City, hereby certifies that the money required to meet the obligations of the City during the year 2008 under the Agreement has 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.

Director of Finance

TO: Matthew D. Kline, City Manager

FROM: _____
Warrenette Parthemore
Director of Administrative Services

DATE: September 25, 2008
RE: Item for Commission Agenda

ITEM FOR CONSIDERATION: Ordinance authorizing the disposal of the old planting benches at the City Greenhouse that are unnecessary and unfit for City use and the sale of scrap aluminum and allowing the funds to be earmarked for Greenhouse energy improvements.

BACKGROUND INFORMATION: The Kellogg Grant is paying for the cost of replacement planting benches that meet ADA guidelines which will allow persons with disabilities to participate as volunteers in the Greenhouse. The old benches are not needed and have been dismantled. They need to be removed from the site. The total weight of the 16 benches to be scrapped is approximately 3,300 pounds. Currently, the estimated return from Sandusky Steel is .40 per pound. The market, however, is somewhat fluid, and the rate may go up or down.

In order to move toward a more "green" environment as an example to the community, and to save money on fuel costs, we are planning to continue to improve the energy efficiency with projects such as the installation of heaters that will use the waste oil from our city vehicles and machines.

BUDGET IMPACT: Proceeds from the sale of the scrap aluminum will be earmarked for Greenhouse energy improvements. We estimate the sale of the benches will bring approximately \$1320.

ACTION REQUESTED: It is requested that an Ordinance be passed authorizing the disposal of the old planting benches at the City Greenhouse that are unnecessary and unfit for City use and the sale of the scrap aluminum and earmarking the funds for Greenhouse energy efficiency improvements. **It is further requested that this legislation take immediate effect in full accordance with Section 14 of the City Charter upon its adoption.** The aluminum is currently loaded in the back of a truck and must be removed from site to free up space and allow the truck to go back into service as soon as possible

I concur with this recommendation.

Matthew D. Kline
City Manager

CC: Donald C. Icsman, Law Director
B. Joyce Brown, Clerk of the Commission

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO DISPOSE OF ALUMINUM PLANTING BENCHES FROM THE CITY GREENHOUSE AS HAVING BECOME UNNECESSARY AND UNFIT FOR CITY USE AND THE SALE OF THE SCRAP ALUMINUM PURSUANT TO SECTION 25 OF THE CITY CHARTER; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, Section 25 of the City Charter authorizes the City Manager to conduct all sales of personal property that has become obsolete, unnecessary and unfit for City use; and

WHEREAS, the old aluminum planting benches at the City Greenhouse have been dismantled and are no longer necessary and fit for City use and it is requested the 16 aluminum planting benches weighing approximately 3,300 pounds be sold for scrap; and

WHEREAS, the Kellogg Grant is providing funds for replacement benches that meet ADA guidelines allowing persons with disabilities to participate as volunteers in the Greenhouse; and

WHEREAS, the proceeds from the sale of the scrap aluminum will be earmarked for Greenhouse energy improvements which has been estimated at approximately \$1320.00; 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 allow for the benches to be declared unnecessary and unfit for City use and scrapped allowing the vehicle being used to store the benches to be placed back in service at the earliest possible time; 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 dispose of the 16 aluminum planting benches weighing approximately 3,300 pounds as having become obsolete, unnecessary and unfit for City use, pursuant to Section 25 of the City Charter, through a sale process, with the proceeds received to be earmarked for Greenhouse energy improvements.

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: Matt Kline, City Manager
FROM: Lt. Phillip J. Frost
DATE: 09-22-2008
RE: Commission Agenda Item

ITEM FOR CONSIDERATION:

An ordinance authorizing the City Manager to enter into an agreement to purchase twelve (12) POINT BLANK "Dragon Fire" Tactical Ballistic Vests from D+G Uniforms of Akron Ohio, through the State of Ohio Cooperative Purchasing Program for the Sandusky Police Department's Special Response Team.

BACKGROUND INFORMATION:

The above listed ballistic vests are available through the State of Ohio Department of Administrative Services Cooperative Purchasing Program from D+G Uniform of Akron Ohio. These items are available under State of Ohio contract number 7778100206 for a total purchase price of \$19,680.00 The State of Ohio's Cooperative Purchasing Program through the Department of Administrative Services allows local political subdivisions to purchase items that have been competitively bid from the successful State vendor thereby giving the City the benefit of the State's competitively bid price without necessity of formal competitive bidding by the City. The ballistic vests are not available locally.

These new ballistic vests will replace existing vests that are 2 years past their recommended service life.

The Sandusky Police Department SRT (Special Response Team) conducted several comparisons of similar products; with the consensus being the "Dragon Fire" is the best tactical ballistic vest for our teams use. Some of the things that were considered were ease of use; fit and ease of movement, functionality, attachment system and the "Dragon Fire" fit our teams needs the best. The Dragon Fire is a side opening tactical vest, which offers greater protection for the officers. It has enhanced side protection, a ballistic collar and throat protector and adjustable cummerbund for load bearing support.

BUDGETARY INFORMATION:

The total cost for the 12 ballistic vests is \$19,680.00 with \$9,840.00 to be taken from the police department's 2008 budget and the remainder, \$9,840.00 will be taken from the U.S. Department of Justice, Office of Justice Programs Bulletproof Vest Partnership Program.

ACTION REQUESTED:

It is requested that the proper legislation be prepared to approve the purchase of the 12- "Dragon Fire" Ballistic Vests. It is further requested that this be passed and take immediate effect in accordance with Section 14 of the City Charter. The reason for emergency legislation is due to this being requested in late September, the ballistic vests

must be ordered, and paid for before the end of 2008 to use the funds from the 2008 police budget. There is also the concern of a price increase in the upcoming year combined with the safety and liability risks of utilizing a ballistic vest that is past its manufacturers recommended service life.

Phillip J. Frost
Lieutenant, Sandusky Police Department

Approved:

I concur with this recommendation:

Charlie Sams, Acting Police Chief

Matthew D. Kline, City Manager

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO PURCHASE TWELVE (12) POINT BLANK DRAGON FIRE TACTICAL VESTS FROM D & G UNIFORMS, INC., OF AKRON, OHIO, THROUGH THE STATE OF OHIO DEPARTMENT OF ADMINISTRATIVE SERVICES COOPERATIVE PURCHASING PROGRAM FOR THE SANDUSKY POLICE DEPARTMENT'S SPECIAL RESPONSE TEAM (SRT); AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, the existing tactical vests for the Sandusky Police Department's Special Response Team (SRT) have exceeded their recommended service life and the SRT conducted comparisons of similar products and based upon functionality, maneuverability, protection, and the attachment system, determined the Point Blank Dragon Fire Tactical Vests best fits the needs of the SRT; and

WHEREAS, the Point Blank Dragon Fire Tactical Vests from D & G Uniforms, Inc., of Akron, Ohio, are available through the State of Ohio Department of Administrative Services Cooperative Purchasing Program, thereby, allowing local political subdivisions to purchase items that have been competitively bid from the successful state vendor giving the City the benefit of the State's negotiated price and eliminating the necessity of formal bidding; and

WHEREAS, the total cost for twelve (12) Point Blank Dragon Fire Tactical Vests is \$19,680.00 in which \$9,840.00 will be paid with funds from the Police Department's 2008 budget and the remainder \$9,840.00 will be paid with funds from the U.S. Department of Justice, Office of Justice Programs Bulletproof Vest Partnership Program; 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 to allow for the placement of the order as soon as possible to ensure the vests are received and payment is made before the end of year to utilize the funds budgeted for 2008, avoid possible price increases and provide immediate safety to the Special Response Team; 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 purchase twelve (12) Point Blank Dragon Fire Tactical Vests for the Sandusky Police Department's Special Response Team from D & G Uniforms, Inc., of Akron, Ohio, at an amount **not to exceed** Nineteen Thousand Six Hundred Eighty and 00/100 Dollars (\$19,680.00).

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 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 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 upon its passage, and its 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
JULIE A. FARRAR
BRETT L. FUQUA, SR.
DANIEL J. KAMAN
DAVID L. WADDINGTON
ROBERT R. WARNER

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: September 30, 2008

SUBJECT: Disposal of Property

ITEM FOR CONSIDERATION: *It is requested that the City Commission authorize legislation to dispose of bicycles, equipment and two unneeded vehicles, pursuant to Section 25 of the City Charter.*

BACKGROUND INFORMATION: *The first vehicle below has been determined to be beyond its useful life by city staff and will be scrapped out; the second was confiscated by the Sandusky Police Department and is of no use to the City of Sandusky as it exceeds the mechanical limits. It is requested that these vehicles be sold for scrap:*

1989 Chevy CCL, VIN 1G1BN51E4KR209895, mileage 62,420 – confiscated, beyond useful life
1995 Chevy Lumina, VIN 1GN DU06D3ST161354, mileage 101,809 – beyond its useful life

The items below have all been confiscated by the Sandusky Police Department; the criminal cases involving each of these items have been closed and it is no longer necessary to hold the items (they are of no value to the City of Sandusky).

4 baseball bats	2 golf clubs	1 backpack
5 car CD player/stereo system	3 XBOX games	Large blue tub
6 speakers	1 watch	1 milk can
1 amp	1 ring	1 flat screen tv
1 printer/scanner/copier	1 bag of clothing	1 VFX skateboard
1 printer & cables	5 squirt guns	1 red air hose
3 Royal typewriters	2 HERO guitars	15 bicycles

The items below are from the respective department listed and are no longer of useful life to the city:

Municipal Court

Unisys UDS 2055 printer
9 Unisys printer ribbons
Staples for Xerox copier
2 Xerox drum cartridges
4 "Dummy" terminals
1 printer

Recreation Department

ALCO commercial refrigerator
True Mfg. Commercial cooler
Bunn coffeepot & 2 warmers

Fire Department

2 truck seats, backs only
Tool belt
Box of misc. electrical
parts
Inverter (DC to AC)
Homelite rotary saw w/
carbide blade
2 plastic 90 qt. totes

Boat anchor
3 drawer filing cabinet
3 spud bars
Boat bumper caddy
Stadium seat
20 lb. sledge hammer
Work light

2 porta. Pwr. hydraulic
hand pumps
4 misc. rotary saw
blades
Stream light – hand light
Bed frame & headboard
3 wooden backboards
4 drawer filing cabinet

In addition, it is requested that the following sections of hose be placed in the auction from the Sandusky Fire Department:

- 2.5" Hose, 54 Sections (no couplings, various lengths)*
- 1.5" Hose, 20 sections (no couplings, various lengths)*
- 1.5" Hose, 9 sections (hose out of service)*
- 1.5" Hose, 25 Sections (no longer of useful life)*

BUDGET IMPACT: *Proceeds from the sale of the items from the Police Department will be placed into the Police Department's General Trust Account, with the exceptions of the proceeds for the bicycles which will be placed into the city's General Fund. The items from the Recreation Department will be placed into the Recreation's budget and all other items will be placed into the city's General Fund.*

ACTION REQUESTED: *It is requested the attached legislation be approved authorizing the disposal of the vehicles and equipment listed above. It is further requested this legislation take immediate effect in full accordance with Section 14 of the City Charter. The auction is scheduled to be held on Thursday, October 23 at 6 p.m. at the City Service Center, 1024 Cement Avenue.*

/klk

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO DISPOSE OF SURPLUS PERSONAL PROPERTY AND EQUIPMENT AS HAVING BECOME UNNECESSARY AND UNFIT FOR CITY USE PURSUANT TO SECTION 25 OF THE CITY CHARTER; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, Section 25 of the City Charter authorizes the City Manager to conduct all sales of personal property that has become obsolete, unnecessary and unfit for City use; and

WHEREAS, the following vehicles have been determined to be obsolete, unnecessary and unfit for City use and it is requested the vehicles be sold for scrap:

Year Make / Model	Vehicle ID Number	Mileage
1989 Chevy CCL (confiscated)	1G1BN51E4KR209895	62,420
1995 Chevy Lumina	1GNDU06D3ST161354	101,809

WHEREAS, the following items have been confiscated by the Sandusky Police Department and the related Court cases have been adjudicated and closed thereby eliminating the need to retain these items as evidence and these items have been determined to be obsolete, unnecessary and unfit for City use:

4 baseball bats	2 golf clubs	1 backpack
5 car CD player/stereo system	3 XBOX games	Large blue tub
6 speakers	1 watch	1 milk can
1 amp	1 ring	1 flat screen tv
1 printer/scanner/copier	1 bag of clothing	1 VFX skateboard
1 printer & cables	5 squirt guns	1 red air hose
3 Royal typewriters	2 HERO guitars	15 bicycles

WHEREAS, the following items have been determined to be obsolete, unnecessary and unfit for City use by the respective department listed:

Fire Department

2 truck seats, backs only
Tool belt
Box of misc. electrical parts
Inverter (DC to AC)
Homelite rotary saw w/ carbide blade
2 plastic 90 qt. totes
Boat anchor
3 drawer filing cabinet
3 spud bars
Boat bumper caddy
Stadium seat
20 lb. sledge hammer
Work light
2 porta. Pwr. hydraulic hand pumps
4 misc. rotary saw blades
Stream light - hand light
Bed frame & headboard
3 wooden backboards
4 drawer filing cabinet
2.5" Hose, 54 Sections (no couplings, various lengths)
1.5" Hose, 20 sections (no couplings, various lengths)
1.5" Hose, 9 sections (hose out of service)
1.5" Hose, 25 Sections (no longer of useful life)

Municipal Court

Unisys UDS 2055 printer
9 Unisys printer ribbons
Staples for Xerox copier
2 Xerox drum cartridges
4 "dummy" terminals
1 printer

Recreation Department

ALCO commercial refrigerator
True Mfg. Commercial cooler
Bunn coffeepot & 2 warmers

WHEREAS, the proceeds from the sale of the items from the Police Department will be placed into the Police Department's General Trust Account with the exception of the proceeds from the bicycles which will be placed in the City's General Fund; the proceeds from the Recreation Department will be placed into the Recreation

Department's Account and all other proceeds will be placed into the City's General Fund; 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 allow for the items to be declared unnecessary and unfit for City use prior to the auction date of October 23, 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. This City Commission finds and determines that the personal property described in the preamble above has become obsolete and is unnecessary and unfit for City use pursuant to Section 25 of the City Charter and the City Manager is authorized and directed to dispose of the personal property through public auction or sale process with the proceeds received to be placed in the respective department's account (the Police Department's Trust Account, the Recreation Department's Account and the City's General Fund).

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.

PAGE 3 - ORDINANCE NO. _____

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

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

Passed:

To: Matthew Kline, City Manager
From: Kathryn K. McKillips, Director of Engineering Services
Date: September 25, 2008
Subject: Commission Agenda Item

Item for Consideration: Second and Final Change Order for the Venice Road Lift Station Rehabilitation Project in the amount of \$2,300.00. This change order provides for the labor performed by the contractor to remove and dispose of the existing block wall in the wet side of the pump station.

Removal of Existing Block Wall	ADD	\$2,300.00
--------------------------------	-----	------------

The bid specifications, prepared by the City's Traffic Engineer with consultation from the Sewer Collections Superintendent at the time, did not include the removal of a block wall that was installed when the pump station was originally built. The original plans for the pump station do not call out the wall as a temporary wall that must be removed in order for the third pump to operate. **Another former City Sewer Maintenance Superintendent stopped by during construction and mentioned to Kelstin that there is a wall that may need to be removed. The Contractor and City Staff investigated and reviewed the plans for the pump station, and Kelstin made contact with Jones & Henry, the consultant that designed the original pump station over 30 years ago, and received verification that the wall needed to be removed. Sewer crews pumped down the wet well, and dropped down the sewer camera on ropes to verify that the wall was there. The contractors bidding on this project did not have the opportunity to see the well pumped down prior to bidding since there would normally be no reason to do so. The wall looks to have been built to keep debris from collecting in a corner of the wet well where the new pump was installed. It was not determined that the wall needed to be removed until the pump was ready to be installed. This work was performed during the construction. The final project walkthrough took place on July 31, 2008.**

The City's Traffic Engineer at the time of the construction granted permission for the work to take place. With the transition of project managers on this project due to the resignation of the Traffic Engineer, the need for this change order was not found until the final payment of the project was submitted. The contractor is due compensation for this work which was not included in the project specifications. And, although staff reviewed the plans for the pump station, they did not notice a wall on the plans that would impede the installation of the new pump.

As requested by Mr. Kline, Mr. Steve Stine was asked about the change order amount. After performing the work and dealing with the amount of sludge that was left in the wet well and dealing with the removal of the wall in those conditions, he determined that the change order amount did not cover the cost of the work. The conditions were confirmed by City Staff. One staff member

stated that the city definitely got their money's worth. Kelstin scraped the walls and removed sediment from the wet well and the wall itself using five gallon buckets. All this took place without bypass pumping or shutting down the station. This was a slow process in an undesirable atmosphere as you can imagine.

Budgetary Information: The current construction contract amount with Kelstin, Inc. of Shelby, OH is \$193,721.95. The revised contract amount including the Second and Final Change Order in the amount of \$2,300.00 is \$196,021.95. The estimated engineer's cost was \$211,650.00. The Ohio Public Works Commission will contribute \$98,010.97 and the City's Sewer Fund will pick up the remaining \$98,010.98.

Action Requested: It is requested that the Second and Final Change Order for the Venice Road Lift Station Rehabilitation Project be approved and that the necessary legislation be passed under suspension of the rules and in full accordance with Section 14 of the City Charter in order to compensate the contractor for work performed and finalize the project. **Per the grant agreement, the project completion date was August 31, 2008.**

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

I concur with this recommendation:

Matthew Kline
City Manager

KKM/cal

cc: Ed Widman, Finance Director
Joyce Brown, Commission Clerk

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO APPROVE THE SECOND & FINAL CHANGE ORDER FOR WORK PERFORMED FOR THE VENICE ROAD LIFT STATION REHABILITATION PROJECT IN THE AMOUNT OF \$2,300.00 TO BE PAID TO KELSTIN, INC., OF SHELBY, OHIO; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, this City Commission previously approved the awarding of the contract for work being performed for the Venice Road Lift Station Rehabilitation Project by Ordinance No. 07-077, passed on November 13, 2007; and

WHEREAS, this Second & Final Change Order provides for the labor performed by the contractor to remove and dispose of the existing block wall in the wet side of the pump station that was not included in the bid specification as it was not determined until the pump was ready to be installed that the wall needed to be removed and is listed as follows:

Removal of Existing Block Wall	ADD	\$2,300.00
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WHEREAS, the current contract with Kelstin, Inc. is \$193,721.95 and with the addition of this Second & Final Change Order in the amount of \$2,300.00, the revised contract cost is \$196,021.95, with the Ohio Public Works Commission contributing \$98,010.97 and the City's Sewer Fund providing the remaining \$98,010.98; and

WHEREAS, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to compensate the contractor for work performed and finalize the project; 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 hereby authorized and directed to approve this Second & Final Change Order for work performed for the Venice Road Lift Station Rehabilitation Project in an amount **not to exceed** Two Thousand Three Hundred and 00/100 Dollars (\$2,300.00) to be paid to Kelstin, Inc., of Shelby, Ohio.

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: Jane E. Cullen, E.I.T.
Date: October 1, 2008
Subject: Commission Agenda Item

ITEM FOR CONSIDERATION: Resolution authorizing the City Manager to submit two applications to the Ohio Department of Natural Resources Navigational Aids Grant Program and to sign the Cooperative Agreements as required.

The first application will be submitted on behalf of the Harbour Marina, owned and operated by Cedar Fair, L.P. The requested buoys would replace twelve (12) existing buoys that are located in East Sandusky Bay and Pipe Creek.

A second application will be submitted on behalf of the Sandusky Sailing Club. The requested buoy would replace 1 (one) existing buoy that is in poor condition that marks the location of a rocky shoal that was part of the old City's water intake crib located near the entrance to the Sadler Sailing Basin.

BUDGETARY INFORMATION: This grant is 100% funded by the Ohio Department of Natural Resources. The Harbour Marina and the Sandusky Sailing Club will place and maintain all navigational aids received from the grant.

ACTION REQUESTED: It is requested that the necessary legislation be passed under suspension of the rules in accordance with Section 14 of the City Charter. The ODNR grant program requires a resolution attached to the application and the deadline for application submittal is November 1st, 2008.

Jane E. Cullen, E.I.T.

I concur with this recommendation:

Matthew D. Kline
City Manager

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

JEC

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

RESOLUTION NO. _____

A RESOLUTION AUTHORIZING AND DIRECTING THE CITY MANAGER TO FILE TWO APPLICATIONS WITH THE OHIO DEPARTMENT OF NATURAL RESOURCES NAVIGATIONAL AIDS GRANT PROGRAM ON BEHALF OF THE CEDAR FAIR, LP AND THE SANDUSKY SAILING CLUB TO REPLACE A TOTAL OF THIRTEEN (13) EXISTING BUOYS; AND DECLARING THAT THIS RESOLUTION SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, one application submitted by the City will allow Cedar Fair, L.P., to participate in the Ohio Department of Natural Resources Navigation Aids Grant Program and will, if awarded, replace twelve (12) existing buoys located in East Sandusky Bay and Pipe Creek; and

WHEREAS, a second application submitted by the City will allow the Sandusky Sailing Club to participate in the Ohio Department of Natural Resources Navigation Aids Grant Program and will, if awarded, replace one (1) existing buoy located near the entrance to the Sadler Sailing Basin; and

WHEREAS, this grant is 100% funded by the Ohio Department of Natural Resources; 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 submit the grant applications to ODNR by the November 1, 2008, 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 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 **Resolution** be declared an emergency measure which will take immediate effect in accordance with Section 14 of the City Charter; and NOW, THEREFORE

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

Section 1. The City Manager is hereby authorized and directed to file two applications with the Ohio Department of Natural Resources Navigational Aids Grant Program, substantially in the same form as described in Exhibits "A" and "B" attached to this Resolution and specifically incorporated as if fully rewritten herein, and to execute the cooperative agreements, if awarded, for the furnishing and replacement of a total of thirteen (13) existing buoys,.

Section 2. The Clerk of the City Commission is hereby directed to furnish a certified copy of this Resolution to be utilized for the filing of the applications for assistance from the Ohio Department of Natural Resources.

Section 3. 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 4. 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 5. That for the reasons set forth in the preamble hereto, this Resolution 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: Jane E. Cullen, E.I.T.
Date: October 1, 2008
Subject: Commission Agenda Item

ITEM FOR CONSIDERATION: Resolution authorizing the City Manager to submit two applications to the Ohio Department of Natural Resources Navigational Aids Grant Program and to sign the Cooperative Agreements as required.

The first application will be submitted on behalf of the Harbour Marina, owned and operated by Cedar Fair, L.P. The requested buoys would replace twelve (12) existing buoys that are located in East Sandusky Bay and Pipe Creek.

A second application will be submitted on behalf of the Sandusky Sailing Club. The requested buoy would replace 1 (one) existing buoy that is in poor condition that marks the location of a rocky shoal that was part of the old City's water intake crib located near the entrance to the Sadler Sailing Basin.

BUDGETARY INFORMATION: This grant is 100% funded by the Ohio Department of Natural Resources. The Harbour Marina and the Sandusky Sailing Club will place and maintain all navigational aids received from the grant.

ACTION REQUESTED: It is requested that the necessary legislation be passed under suspension of the rules in accordance with Section 14 of the City Charter. The ODNR grant program requires a resolution attached to the application and the deadline for application submittal is November 1st, 2008.

Jane E. Cullen, E.I.T.

I concur with this recommendation:

Matthew D. Kline
City Manager

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

JEC

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

October 2, 2008

MEMORANDUM

TO: Matthew D. Kline, City Manager
FROM: Michael R. Meinzer, Fire Chief
RE: Commission Agenda Item

ITEM FOR CONSIDERATION:

Requesting legislation for the approval and ratification of the submission of a grant application on October 1, 2008, in the amount of \$1670.00 to the Mylander Foundation to fund ten (10) residential Knox Boxes.

BACKGROUND INFORMATION:

The Purpose of this program is to fund the purchase of ten (10) residential Knox Box units to be utilized by the Fire Department personnel to gain immediate access to homes wherein a person or persons have serious medical needs and are unable to allow entry. The residents key, medical information and important phone numbers are placed in the Knox Box and secured to the door. Fire Department personnel are the only ones that have access to the master key which is monitored electronically on each apparatus by code. Currently, there are 13 residential Knox Boxes in the City from our previous grant but there has been a waiting list of an additional ten candidates for the past six months.

BUDGETARY INFORMATION:

There will be no impact to the general fund. Proposed activities will be paid for through the grant funds.

ACTION REQUESTED:

It is requested that the proper legislation be prepared to allow for the approval and ratification of the submission of the grant application to the Mylander Foundation in the amount of \$1670.00 for the purchase of ten (10) residential Knox Boxes and if awarded for the City Manager to execute any required agreements and expend funds consistent with the agreement. It is further requested that this be passed to take immediate effect in accordance with Section 14 of the City Charter in order to provide the residents on the waiting list with the Knox Boxes at the earliest opportunity.

Approved:

I concur with this recommendation:

Michael R. Meinzer, Fire Chief

Matthew D. Kline, City Manager

cc: Donald Icsman, Law Director
Ed Widman, Finance Director

RESOLUTION NO. _____

A RESOLUTION APPROVING AND RATIFYING THE GRANT APPLICATION SUBMITTED TO THE MYLANDER FOUNDATION FOR THE SANDUSKY FIRE DEPARTMENT AND, IF AWARDED, AUTHORIZING THE CITY MANAGER TO EXECUTE ANY REQUIRED AGREEMENTS; AND DECLARING THAT THIS RESOLUTION SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, the Sandusky Fire Department submitted an application on October 1, 2008, to the Mylander Foundation for grant funding to purchase ten (10) residential Knox Boxes in the amount of \$1,670.00; and

WHEREAS, the purpose of the Sandusky Fire Department's Residential Knox Box Loaner Program is to fund the purchase of residential Knox Box units to be utilized by Fire Department personnel to gain immediate access to homes when a resident needs medical assistance and is unable to allow entry; 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 accept any funds, if awarded, and provide Knox Boxes for the residents currently on the waiting list at the earliest opportunity; 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; and NOW, THEREFORE

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

Section 1. This City Commission hereby approves and ratifies the submission of the grant application to the Mylander Foundation, a copy of which is attached to this Resolution and marked Exhibit "A", for funding to purchase ten (10) Knox Boxes for the Sandusky Fire Department and authorizes and directs the City Manager to execute any grant agreements and lawfully expend funds should they be awarded.

Section 2. 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 3. 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.

PAGE 2 - RESOLUTION NO. _____

Section 4. That for the reasons set forth in the preamble hereto, this Resolution 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: Carrie R. Handy
Chief Planner

DATE: October 3, 2008

SUBJECT: Commission Agenda Item – Housing Program Repair Work

ITEM FOR CONSIDERATION: An Ordinance appropriating funds and authorizing the payment of an additional sum in the amount of \$200,000 to contractors who will assist the City with repairs to homes involved in the City's 2004, 2005 and 2006 CHIP and CDBG housing rehabilitation programs. The Commission will recall that it approved a similar ordinance authorizing payment of \$261,067 for emergency repairs to former CHIP and CDBG housing program homes and of an additional \$200,000 for further repair work in July of 2008. Most of the emergency work is finished and the City's consultant has now commenced the process of bidding out the repair work on entire homes to bring them up to State Residential Rehabilitation Standards and thus, the first \$200,000 approved by the Commission has been expended. A list of the contractors, the amounts spent to date and the addresses of the work done is attached to this communication.

BUDGETARY INFORMATION: The cost of repairs as of 9/30/08 is \$455,591.03. This additional request for \$200,000.00 to continue the repair work will be funded by the City's General Fund. It is anticipated that additional funds will be necessary beyond this request but the exact amount is not known at this time. It is noted that the City is pursuing all avenues including legal means to recover these funds from the contractors involved in the original rehabilitation work done under the 2004, 2005 and 2006 programs.

ACTION REQUESTED: It is recommended that this Ordinance authorizing additional payment to contractors to perform the necessary repairs for the homes involved in the 2004, 2005, and 2006 City CHIP and CDBG Housing Rehabilitation Programs in the amount of \$200,000 be approved. It is requested that the legislation be passed under suspension of the rules in accordance with Section 14 of the City Charter in order for repairs to continue to be made as expeditiously as possible for the aggrieved homeowners who participated in these programs.

Carrie R. Handy
Chief Planner

I concur with this recommendation:

Matthew D. Kline, City Manager

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

ORDINANCE NO. _____

AN ORDINANCE APPROPRIATING FUNDS AND APPROVING PAYMENTS TO BE MADE TO VARIOUS CONTRACTORS FOR FUTURE SERVICES FOR THE REPAIRS TO HOMES INVOLVED IN THE CITY OF SANDUSKY'S 2004, 2005, AND 2006 HOUSING REHABILITATION PROGRAMS; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, In November of 2007, the City's Housing Rehabilitation Programs were temporarily suspended and subsequently the City's Department of Development was directed by the State of Ohio Department of Development to immediately repair the life and safety items identified by the State in the City's 2004, 2005 and 2006 Housing Rehabilitation Programs as emergencies; and

WHEREAS, this City Commission authorized the payments made to various contractor for services provided to repair homes involved in the City of Sandusky's 2004, 2005, and 2006 Housing Rehabilitation Program in the amount of \$261,067.00 and appropriated an additional \$200,000.00 for additional repairs by Ordinance No. 08-062, passed on July 14, 2008; and

WHEREAS, most of the emergency work is finished and most of the appropriated \$200,000.00 has been expended and the City's consultant has now commenced the process of bidding out the repair work on entire homes to bring them up to State Residential Rehabilitation Standards; and

WHEREAS, the total amount spent of the \$461,067.00 previously approved is \$455,591.03 as of September 30, 2008, and it is requested that an additional \$200,000.00 be appropriated from the City's General Fund to continue the housing program repair work; the City is pursuing all legal means necessary to recoup the costs from the individuals and entities responsible for the damages and to correctly repair each of the properties; 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 for repairs to continue to be made as expeditiously as possible for the aggrieved homeowners who participated in the City's Housing Rehabilitation Programs; 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. This City Commission authorizes and directs the City Manager and/or Finance Director to appropriate funds in an amount **not to exceed** Two Hundred Thousand and 00/100 Dollars (\$200,000.00) to make timely payment for additional repairs to other affected homes involved in the City's 2004, 2005, and 2006 Housing Rehabilitation Programs subject to an additional requirement of submission of a monthly itemized expense report to the City Commission.

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:

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING A COOPERATIVE AGREEMENT BETWEEN THE CITY OF SANDUSKY AND THE OHIO WATER DEVELOPMENT AUTHORITY TO FINANCE THE COST OF THE CONSTRUCTION ACTIVITIES FOR THE WASTEWATER TREATMENT PLANT EXPANSION PROJECT PHASE II; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, the City of Sandusky is required by the State of Ohio through a Consent Decree Order to perform tasks in furtherance of the City's Master Plan which includes the expansion of the Wastewater Treatment Plant and as part of Phase II is required to perform certain construction activities as described in Exhibit "A" which is attached to the "Cooperative Agreement for Construction, Maintenance and Operation of State Water Project or Wastewater Project"; and

WHEREAS, Phase II of the Wastewater Treatment Plant Expansion Project is intended to increase the plant average capacity and address combined sewer overflow (CSO) issues that the City has been dealing with since the inception of the Wastewater Treatment Plant; and; and

WHEREAS, the City and County entered into a Sewer Services Agreement in January of 2007 and consistent with the Consent Order it provides for the expansion in peak flow capacity at the Wastewater Treatment Plant from 24 MGD to 36 MGD; and

WHEREAS, On November 7, 2007, the Ohio EPA by letter notified the City that it was requiring the peak flow or wet weather capacity to be increased from 36 MGD to 42 MGD at the Wastewater Treatment Plant; and

WHEREAS, the Ohio Water Development Authority (OWDA) has been created pursuant to Chapter 6121 of the Ohio Revised Code for reasons including to carry forward the declared public policy of the State of Ohio to preserve, protect, upgrade, conserve, develop, utilize and manage the water resources of Ohio and to assist and cooperate with other governmental in achieving such purposes through the establishment, operation and maintenance of water development projects and the City of Sandusky (referred to as the "LGA" in the Cooperative Agreement) desires to obtain a loan from the OWDA to finance the cost of certain construction activities on the terms as set forth in the "Cooperative Agreement for Construction, Maintenance and Operation of State Water Project or Wastewater Project", a copy of which is marked Exhibit "1" attached to this Ordinance and is specifically incorporated as if fully rewritten herein; and

WHEREAS, the revised estimated total cost for Phase II based on bids is \$20,918,194.74 and pursuant to the Sewer Services Agreement the City's portion of the construction costs, other than for the increase in wet weather capacity required by the EPA which is allocated 90% to the City and 10% to the County, is 61.1% or \$13,424,400.66 and the County's share is 38.9% or \$7,493,794.08; and

WHEREAS, this City Commission authorized a Cooperative Agreement with OWDA for the planning activities for the Wastewater Treatment Plant Expansion Project Phase II by Ordinance No. 07-004, passed on January 8, 2007, in which the balance will be combined with this loan for the construction and technical services; and

WHEREAS, this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter to allow the application to be submitted to the Ohio Water Development Authority on October 15, 2008, in order to expedite the construction phase so the project can continue on schedule; 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. This City Commission (LGA) hereby approves the construction activities for the Wastewater Treatment Plant Expansion Project Phase II and to finance the costs of these activities in cooperation with the OWDA under the provisions, terms and conditions set forth in the "Cooperative Agreement for Construction, Maintenance and Operation of State Water Project or Wastewater Project" substantially in the same form as attached hereto marked Exhibit "1".

Section 2. The City Manager and the Finance Director are hereby authorized and directed to execute the Agreement on behalf of the City in substantially the same form of the Agreement attached hereto and together with such revisions or additions as are approved by the Law Director as not being substantially adverse to the City and as being consistent with carrying out the City's public purpose.

Section 3. 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 4. 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 5. 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.

PAGE 3 - ORDINANCE NO. _____

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

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

Passed:

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH MOSSER CONSTRUCTION, OF FREMONT, OHIO, FOR THE WASTEWATER TREATMENT PLANT EXPANSION PROJECT PHASE II; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

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

WHEREAS, this City Commission declared the necessity to proceed with the Wastewater Treatment Plant Expansion Project Phase II by Resolution No. 021-08R, passed on August 25, 2008; and

WHEREAS, upon competitive bidding as required by law and pursuant to their contract with the City, Jones & Henry Engineers, Ltd. reviewed the bids from fourteen (14) bidders and provided their recommendation to the City for the contracts for G (General Trades), E (Electrical), P (Plumbing) and H (HVAC); and

WHEREAS, the City's Department of Engineering Services agrees with the recommendations of Jones & Henry Engineers, Ltd, that the bids of Mosser Construction for Contracts G & E and Industrial Power Systems (IPS) for Contract P & H are the lowest and best bids; and

WHEREAS, the revised estimated total cost for Phase II based on bids is \$20,918,194.74 and pursuant to the Sewer Services Agreement the City's portion of the construction costs, other than for the increase in wet weather capacity required by the EPA which is allocated 90% to the City and 10% to the County, is 61.1% or \$13,424,400.66 and the County's share is 38.9% or \$7,493,794.08; and

WHEREAS, the City's is applying for funds through the Ohio Water Development Authority (OWDA) to fund the construction and technical services in which the prior OWDA loan for planning services will be combined as well; 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 submit legislation awarding the construction contracts with the OWDA loan application by October 15, 2008, in order for the project to continue on schedule; 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 Mosser Construction of Fremont, Ohio, for contracts G (General Trades) & E (Electrical) for the Wastewater Treatment Plant Expansion Project Phase II in an amount **not to exceed** Sixteen Million Five Hundred Thousand and 00/100 Dollars

(\$16,500,000.00) consistent with the bid submitted by Mosser Construction of Fremont, 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:

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH INDUSTRIAL POWER SYSTEMS (IPS) OF MAUMEE, OHIO, FOR THE WASTEWATER TREATMENT PLANT EXPANSION PROJECT PHASE II; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

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

WHEREAS, this City Commission declared the necessity to proceed with the Wastewater Treatment Plant Expansion Project Phase II by Resolution No. 021-08R, passed on August 25, 2008; and

WHEREAS, upon competitive bidding as required by law and pursuant to their contract with the City, Jones & Henry Engineers, Ltd. reviewed the bids from fourteen (14) bidders and provided their recommendation to the City for the contracts for G (General Trades), E (Electrical), P (Plumbing) and H (HVAC); and

WHEREAS, the City's Department of Engineering Services agrees with the recommendations of Jones & Henry Engineers, Ltd, that the bids of Mosser Construction for Contracts G & E and Industrial Power Systems (IPS) for Contract P & H are the lowest and best bids; and

WHEREAS, the revised estimated total cost for Phase II based on bids is \$20,918,194.74 and pursuant to the Sewer Services Agreement the City's portion of the construction costs, other than for the increase in wet weather capacity required by the EPA which is allocated 90% to the City and 10% to the County, is 61.1% or \$13,424,400.66 and the County's share is 38.9% or \$7,493,794.08; and

WHEREAS, the City's is applying for funds through the Ohio Water Development Authority (OWDA) to fund the construction and technical services in which the prior OWDA loan for planning services will be combined as well; 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 submit legislation awarding the construction contracts with the OWDA loan application by October 15, 2008, in order for the project to continue on schedule; 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 Industrial Power Systems (IPS) Of Maumee, Ohio, for contracts P (Plumbing) & E (HVAC) for the Wastewater Treatment Plant Expansion Project Phase II in an amount **not to exceed** Five Hundred Forty Nine Thousand Seven Hundred and 00/100 Dollars

(\$549,700.00) consistent with the bid submitted by Industrial Power Systems (IPS) Of Maumee, 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:

To: Matthew D. Kline, City Manager
From: Kathryn K. McKillips, Director of Engineering Department
Date: September 29, 2008
Subject: Commission Agenda Item

ITEM FOR CONSIDERATION: Ordinance awarding contracts for the Wastewater Treatment Plant Expansion Project Phase II.

The City is under a consent order to perform certain tasks that are included in the City's Wastewater General Plan. This plan will address combined sewer overflow (CSO) issues that the City has been dealing with since the inception of the wastewater plant. The consent order requires the City to expand the capacity of the wastewater plant from 24 MGD to 36 MGD for peak flow. The City received a letter dated November 8, 2007 from the Ohio EPA requiring that the plant be expanded to 42 MGD to eliminate additional CSO events at a very reasonable price. The City agreed to design the project for the additional 6 MGD that is estimated to cost \$2.5 million for construction. The City and County have tentatively agreed to split the cost of the additional 6 MGD based on the additional flow coming from wet weather. According to the Sewer Agreement, the City pays 90% and the County pays 10% for wet weather facilities. Erie County is a partner in this very important project. The estimated time for construction is 24 months.

On August 25, 2008, City Commission passed Resolution No. 021-08R approving the Engineer's estimate and permitting the project to go out to bid. Bids were opened on September 25th. Fourteen (14) bidders submitted bids for this project. Please see the attached bid tab. With the ability of contractors to bid multiple contracts, the lowest and best bids, including combinations, were considered. As part of the agreement with Jones & Henry for Engineering Design Services, approved by Ordinance No. 07-010, the following two contractors are being recommended by Jones & Henry Engineers, with the Department of Engineering Services in agreement, as the lowest and best;

Mosser Construction of Fremont, Ohio	
Contracts G (General Trades) & E (Electrical)	\$16,500,000.00
IPS (Industrial Power Systems) of Maumee, Ohio	
Contracts P (Plumbing) & H (HVAC)	<u>\$549,700.00</u>
TOTAL	\$17,049,700.00

BUDGETARY INFORMATION: The City and Erie County are partnering on this project. The City's portion of the construction costs is 61.1% as stated in the new Sewer Services Agreement between the City and Erie County. The cost of the additional 6 million gallons per day as required by the Ohio EPA was estimated at \$2.5 million, however, the cost has been prorated with the decrease in the project cost. (Please see the attached sheet.) This cost is considered a wet weather expense. The City's share of this additional cost is 90% as discussed with Erie County. The total project cost is estimated at \$20,918,194.74. (See the attached spreadsheet for a breakdown of costs). The City's

share of the total project cost is \$13,424,400.66. Erie County's share is \$7,493,794.08.

The City is applying for an OWDA loan for construction and technical services, and the planning loan will be rolled into the loan as well.

ACTION REQUESTED: It is recommended that an Ordinance awarding a contract to Mosser Construction of Fremont, Ohio in the amount of \$ 16,500,000.00 for Contract No. G and E and IPS of Maumee, Ohio the amount of \$ 549,700.00 for Contract P and H for the Wastewater Treatment Plant Expansion Project Phase II be passed under suspension of the rules in accordance with Section 14 of the City Charter. The City is applying for an OWDA construction loan which is due on the 15th of each month. In order to get our application in for the October approvals, the legislation and awarding legislation must be submitted on Wednesday, October 15th. The timeframe for the expansion project is very tight. By approving this legislation, the project will continue on schedule.

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

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

To: Matthew D. Kline, City Manager
From: Kathryn K. McKillips, P.E.
Date: September 29, 2008
Subject: Commission Agenda Item

ITEM FOR CONSIDERATION: Legislation approving a cooperative agreement between the City of Sandusky and the Ohio Water Development Authority. The Ohio Water Development Authority will provide a loan to finance the cost of construction activities for the Wastewater Treatment Plant Expansion Project Phase II.

The City is under a consent order to perform certain tasks that are included in the City's Wastewater General Plan. This plan will address combined sewer overflow (CSO) issues that the City has been dealing with since the inception of the wastewater plant. The consent order requires the City to expand the capacity of the wastewater plant from 24 MGD to 36 MGD for peak flow. The City received a letter dated November 8, 2007 from the Ohio EPA requiring that the plant be expanded to 42 MGD to eliminate additional CSO events at a very reasonable price. The City agreed to design the project for the additional 6 MGD that was originally estimated to cost \$2.5 million for construction. The City and County have tentatively agreed to split the cost of the additional 6 MGD based on the additional flow coming from wet weather. According to the Sewer Agreement, the City pays 90% and the County pays 10% for wet weather facilities. Erie County is a partner in this very important project. The estimated time for construction is 24 months.

The Ohio Water Development Authority has been created to carry forward the declared public policy of the State of Ohio to preserve, protect, upgrade, conserve, develop, utilize and manage the water resources of Ohio and to assist and cooperate with other governmental agencies in achieving such purposes through the establishment, operation and maintenance of water development projects. The City of Sandusky desires to obtain a loan from the OWDA to finance the cost of construction activities for the Wastewater Treatment Plant Expansion Project Phase II.

BUDGETARY INFORMATION: The City and Erie County are partnering on this project. The City's portion of the construction costs is 61.1% as stated in the new Sewer Services Agreement between the City and Erie County. The cost of the additional 6 million gallons per day as required by the Ohio EPA was estimated at \$2.5 million, however, the cost has been prorated with the decrease in the project cost. (Please see the attached sheet.) This cost is considered a wet weather expense. The City's share of this additional cost is 90% as discussed with Erie County. The total project cost is estimated at \$ 20,918,194.74. (See the attached spreadsheet for a breakdown of costs). The City's share of the total project cost is \$13,424,400.66. Erie County's share is \$7,493,794.08. The balance of the Planning Loan with OWDA, approximately \$890,273.00 after payments are taken into account to date, will be rolled into the construction loans for the City and the County.

ACTION REQUESTED: Request approval for the City Manager and the Finance Director to enter into a cooperative agreement with the Ohio Water Development Authority. It is requested that the necessary legislation to be passed under the suspension of the rules in accordance with section 14 of the City Charter so the application can be filed with the Ohio

Water Development Authority on October 15, 2008, and approved by the end of the month of October in order to expedite the construction phase.

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

I concur with the recommendation:

Matthew D. Kline
City Manager

cc: Joyce Brown, Clerk of Commission
Ed Widman, Finance Director



CITY COMMISSIONERS

DENNIS E. MURRAY, JR., President
CRAIG H. STAHL, Vice President
JULIE A. FARRAR
BRETT L. FUQUA, SR.
DANIEL J. KAMAN
DAVID L. WADDINGTON
ROBERT R. WARNER

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: Scott Schell, Economic Development Specialist

DATE: October 2, 2008

RE: Commission Agenda Item (Rieger Lofts RLF)

ITEM FOR CONSIDERATION: An Ordinance authorizing additional expenditure of \$200,000 of City Revolving Loan Funds to be dedicated to the Rieger Lofts Redevelopment Project. This Ordinance, if passed, would repeal Ordinance 06-096 passed October 10, 2006 that approved a maximum of \$250,000 for this project. This approval was subject to a reduction of \$50,000 should the project receive a funding commitment under a Save America's Treasures Grant and as a commitment for that grant was received the city's maximum obligation under the ordinance being repealed would have been \$200,000.

BACKGROUND INFORMATION: The Hotel Rieger has been vacant for a number of years and, until recently, had continued to deteriorate. U.S. Construction has spent over \$400,000 repairing and stabilizing the building as well as additional monies for architects, engineers and consultants. The project and its funding sources have been subject to many revisions over the years and, until recently, it would have been difficult to envision that this project would actually happen. The Revolving Loan Fund Committee met with the developer and three officers from Key Bank on July 31, 2008 and we now believe that the funding commitments are in place to move this project closer than we have ever been to groundbreaking. Staff believes that U.S. Construction's current proposal for this building has the best chance of succeeding.

The Revolving Loan Fund Committee unanimously voted to recommend loaning an additional \$200,000 for this project. The new ordinance requests approval of the expenditure of Revolving Loan Funds in an amount not to exceed \$400,000. It should be noted that, to date, no City RLF funds have been expended on this project.

The funds will be loaned to United States Construction (or a related entity or entities) for partial funding of the renovation of a building located at 232 Jackson Street commonly known as the Hotel Rieger. The building will be renovated into 14,700 square feet of retail space and 41 apartments. The project will also include complete exterior renovation and new windows throughout the building. The project costs have risen dramatically and the latest cost estimate is \$6,208,432 (excluding a deferred developer's fee) with funding coming from a variety of sources including a Key Bank construction loan, New Market Tax Credits, historic tax credits, developer investment and other miscellaneous funding sources.

The City's Foundations have agreed to support this project by providing up to \$200,000 in funding for the project in the form of a grant to the City's Revolving Loan. These funds will

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become part of the loan package and loan repayments will be credited to the to the City's Revolving Loan Fund. In return for this commitment the Foundations have insisted that the developer demonstrate that a minimum of \$1,000,000 has been spent by the developer on improvements to the project site by March 31, 2009.

The Revolving Loan Committee's recommendation includes only the additional funds and recommends that all other terms remain the same as was outlined in the City's original commitment letter of October 13, 2006. The City's prior commitment expired October 18, 2007. Under the proposal repayment sources include receipt by the City of 5% of gross rents on the commercial units; repayments from project cash flow and a formulaic repayment for each residential unit sold as a condominium, which is further delineated in the attached commitment letter. No city funds will be expended until all other financing is in place and the renovation project is underway.

Construction costs have continued to increase and the funding gap has increased accordingly. The RLF Committee believes that the additional commitment from the City is warranted especially in light of the expanded project costs.

U.S. Construction is owned by Gregory Spatz. Mr. Spatz graduated from Ohio State in 1976 with a degree in real estate and construction and has primarily done construction work including building 70 stores for Home Depot and has developed two condominium projects and several office buildings, all of which he owns. Mr. Spatz developed a subdivision/marina in Ottawa County two years ago and has been involved in various facets of the development and construction of 500-1,000 apartment units.

BUDGETARY INFORMATION:

This action will not impact the City's general fund. RLF funds are restricted in use and this loan is within the guidelines of the program. The matching grant from the Foundations will become part of the loan to the company and repayments will be added to the City's Revolving Loan Fund making additional dollars available for other deserving projects. It is estimated that, when complete, the project will result in the hiring of 30 full time equivalent employees. The new hires will result in additional income taxes for the city.

ACTION REQUESTED:

It is requested that the City Commission enact legislation under suspension of the rules as an emergency measure in accordance with Section 14 of the City Charter. The Key Bank commitment requires that the developer have commitment letters from all other sources of financing before a commitment is issued. Time is of the essence as the New Market Tax Credit commitment will be stripped from the project and be given to another project unless the project comes together very soon.

I concur with this recommendation:

Matthew D. Kline, City Manager

ORDINANCE NO. _____

AN ORDINANCE REPEALING ORDINANCE NO. 06-096 PASSED ON OCTOBER 10, 2006; APPROVING AND AUTHORIZING A COMMUNITY DEVELOPMENT BLOCK GRANT LOAN FROM THE CITY'S REVOLVING LOAN FUND TO UNITED STATES CONSTRUCTION THROUGH ITS RELATED ENTITIES (RIEGER LOFTS, L.L.C., RIEGER COMMERCIAL PROPERTIES, L.L.C., AND 232 JACKSON STREET, L.L.C.); AUTHORIZING AND DIRECTING THE CITY MANAGER TO EXECUTE THE COMMITMENT LETTER IN RELATION THERETO AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, this City Commission previously approved an Economic Development Loan to United States Construction or related entities as recommended by the City's Revolving Loan Fund Committee for \$100,000.00 by Ordinance No. 05-156, passed on October 24, 2005; and

WHEREAS, this City Commission previously repealed Ordinance No. 05-156 and approved an Economic Development Loans to United States Construction or related entities as recommended by the City's Revolving Loan Fund Committee for a maximum of \$250,000.00 by Ordinance No. 06-096, passed on October 10, 2006; and

WHEREAS, the City previously applied for and had received a commitment for a Federal Save America's Treasurers Grant in the amount of \$100,000.00 which reduced the commitment of the Foundations from \$250,000.00 to \$200,000.00; and

WHEREAS, the City's Revolving Loan Fund Committee met on July 31, 2008, and is recommending that the terms of the loan as approved by Ordinance No. 06-096 be amended and is further recommending the expenditure of a maximum amount of \$400,000.00, which includes the original \$200,000.00 approved by Ordinance No. 06-096 which was encumbered but not expended, from the City's Revolving Loan Fund; and

WHEREAS, a copy of the Commitment Letter containing the terms of the City's financial commitment to be ultimately reflected in loan documents is attached, marked Exhibit "1" and specifically incorporated as if fully rewritten herein; and

WHEREAS this Ordinance should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to provide the Commitment Letter to the developer as a requirement of The Key Bank commitment and to ensure the project will not lose the New Market Tax Credit commitment; 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. Ordinance No. 06-096, passed on October 10, 2006, is hereby repealed.

Section 2. This City Commission approves the terms of the City's financial commitment as delineated in Exhibit "1" attached to this Ordinance and specifically incorporated as if fully rewritten herein and authorizes and directs the City Manager to execute the Commitment Letter substantially in the same form.

Section 3. The Finance Director is authorized and directed to deliver to United States Construction through its related entities (Rieger Lofts, L.L.C., Rieger Commercial Properties, L.L.C., and 232 Jackson Street, L.L.C.), a draft in the maximum amount of \$400,000.00 from the City's Revolving Loan Fund pursuant to and in accordance with the terms contained in the Commitment Letter, a copy of which is marked Exhibit "1", attached to this Ordinance and specifically incorporated as if fully rewritten herein.

Section 4. 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 5. 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 6. 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:

October 15, 2008

Mr. Gregory Spatz
United States Construction Corporation
2785 SE 11th Street
Pompano Beach, Florida 33062

RE: Your term loan application-Rieger Lofts, LLC, Rieger Commercial Properties, LLC and 232 Jackson Street, LLC.

Dear Mr. Spatz:

I am pleased to confirm that the City of Sandusky, Ohio (the "City" or "Lender") will make available a maximum of \$600,000 (the "Loan Amount") in the form of a loan (the "Loan") for the rehabilitation and construction of the Rieger Lofts project (the "Project") located at 232 Jackson Street and Market Street, Sandusky, Ohio 44870 (the "Property" or "Project Site") subject to the fulfillment of all of the terms, requirements and conditions listed below.

- a. The Loan Amount is subject to the City receiving funding from and approvals by all of the following funding sources:
 1. Receipt by the City of a donation(s) from foundations or other benefactors (Foundations), and/or grants to the City in an amount not to exceed \$200,000.
 2. The City had applied for and had received a commitment for a Federal Save America's Treasurers Grant in the amount of \$100,000. As you voluntarily decided not to accept that grant the commitment of the Foundations was reduced from \$250,000 to \$200,000.
 3. Approval by the Sandusky City Commission (in its sole and absolute discretion) of the expenditure of an amount not to exceed \$400,000 from the City of Sandusky Revolving Loan Fund. (but in no event from monies raised by taxation) for the Loan. Such expenditures are conditioned upon the Borrower(s) meeting conditions set forth by the Department of Housing and Urban Development (HUD) guidelines as appropriate for loans sourced from Community Development Block Grant (CDBG) funds.
- b. The Loan would be provided pursuant to the terms of the "Surplus Cash Promissory Note", open-end mortgage, and loan and/or economic development agreement(s) and other documents as reflected in the mutually acceptable form (collectively, the "Loan Documents") as may be required to document the Loan and incorporate the provisions approved by the City Commission and the Foundations. The Loan Documents shall be in a form and substance satisfactory to the City (to be determined in its sole and absolute discretion). These terms and conditions to be reflected in the Loan Documents, as set forth herein will necessarily be further developed and added to during the course of preparing and negotiating the Loan Documents. If any other material business or legal issues arise during the course of documentation, they must be resolved to the City's satisfaction.

- c. The Loan Documents, will include, among other terms acceptable to the parties, the following terms and conditions (such terms being subject to further negotiation as described in paragraph (b) above):
1. The borrower shall be Rieger Lofts, LLC and Rieger Commercial Properties, LLC and 232 Jackson LLC (collectively or individually the "Borrower" or Borrowing Entity or Rieger Lofts);
 2. The principal amount shall not exceed \$600,000 to be disbursed on a pro-rata basis with other funding, public and private, for demolition and renovation of the commercial portion of the Project;
 3. For purposes of this commitment, RLF funds, to the extent possible, shall be dedicated to the various soft costs of the Project in accordance with an interpretation received by the City from the Columbus Regional Office of HUD;
 4. Approval of the loan is predicated upon Project going forward as a mixed-use project with commercial development on the lower floor(s) and market rate rental housing or residential condominium units. Should the project evolve into some other use, such as a hotel project, this commitment letter is void and of no further force and effect;
 5. The Borrower shall use the proceeds of the Loan only for gap financing required to develop the Project into an apartment/restaurant/retail complex;
 6. Interest shall accrue at the rate of 1.00% per annum, calculated and added to the to the outstanding principal balance each month during the construction period estimated to be not more than eighteen (18) months.
 7. After the construction period and for the remaining term of the Loan, interest shall accrue at the rate of 1.00% per annum (except as defined in Number 11 of this Section, below) with accrued interest compounded and added to the principal balance yearly.
 8. Commencing with the issuance of Certificate(s) of Occupancy for the commercial portion of the Project, and within 30 days of receipt by the Borrower or his agent of any rent payment(s) from tenants of the commercial portion of the Project, the Borrower shall pay Lender, on such date or dates as are defined in the Promissory Note, a monthly sum equal to five percent of any gross rent payments received. Such payments shall continue until the entire principal balance and all accrued interest has been paid. Both Borrower and Lender agree that this may result in a negative amortization of the Loan particularly during those periods of time when such payments from gross rents represent the only source of repayment from the Borrower to the Lender.

9. Commencing five (5) years after the issuance of Certificate(s) of Occupancy for units comprising fifty one percent (51%) of the residential space available for occupancy at the Project Site the Borrower shall pay Lender annual payments equal to twenty five percent (25%) of Surplus Cash (as defined in the Promissory Note) generated on the residential units and on the date or dates as defined in the Promissory Note. In all events, Surplus Cash shall be calculated before depreciation and owners, partners or investors draws but after a management fee not to exceed six percent (6%) of gross receipts, payments upon superior mortgages and after normal and necessary expenses and the funding of reasonable replacement reserves;
10. In the event that rental-housing units or rental commercial units are converted to and sold as condominium units, Borrower shall pay Lender a lump sum payment for each unit sold. The formula for said lump sum payments is as follows: $\frac{\text{The maximum Loan Balance achieved including principal and all accrued interest}}{\text{total original salable square footage of Project}} \times \text{the square footage of the unit(s) being sold or transferred} \times 1.25 = \text{Payment due lender}$. Such lump sum payments shall continue until the entire outstanding balance of principal and all accrued interest is paid. Such lump sum payments are due upon sale of each residential or commercial unit with payment delivered to the City not later than thirty (30) days after the sale of each unit.
11. The Borrower shall pay the City one dollar for each dollar in developer's cash advanced (shown on the most recent proforma as "project sponsor cash equity/capital") or developer's fees (including any fee received that has the same intent or purpose as a developer's fee even if referred to by another name) received by any Borrowing Entity. Payments under this provision shall continue until the Loan from the City, including principal and any outstanding interest, has been repaid in full.
12. If within ten (10) years of the issuance of Certificate(s) of Occupancy for units comprising fifty one percent (51%) of the space available for occupancy at the Project Site the Borrower fails to sell sufficient condominium units at sufficient sale prices to reduce the balance of the Loan Balance to zero (0), the Loan Balance, consisting of all principal disbursed plus all compounded and accrued interest, may, at Lender's option, be amortized for a period not to exceed 20 years with interest fixed for the period of the amortization at the rate of one percent (1%) with monthly amortization payments commencing thirty (30) days after the tenth anniversary of said Certificate(s) of Occupancy.
13. The loan shall be secured by three separate mortgages on all three portions of the Project and assignment of rents. The City's secured interest shall be subordinate to Key Bank's first mortgage and any superior mortgage related to the New Market Tax Credits. The City in its sole discretion will determine what is or is not an allowable superior mortgage except as defined above and in no event shall the City's mortgage be subordinate to any the interest(s) of

the Developer or any Borrowing Entity.

14. At the second anniversary of Rieger Lofts acquiring acceptable financing commitments for the primary financing for the Project, Rieger Lofts must have complied with terms of this commitment and have both the commercial and residential portions of the project substantially under construction. For purposes of this Section “substantially under construction” is defined as Rieger having spent or having work irrevocably contracted for and underway which, when completed will total a minimum of \$2,000,000 and be under immediate contract and demonstrate that financing is in place for the completion of the balance of the Project work. Failure to comply with the terms of this Section and related terms and issues as may arise and may be addressed in the Loan Documents shall be considered a default under the Loan Documents and, in the event of such default, the City has the right to reclaim title the Property (such Property having been separately sold by the City to Rieger Lofts) for an amount not to exceed the original purchase price paid by Rieger to the City exclusive of any closing or brokerage costs. The terms of this Section and the Loan Documents contemplated hereunder shall be an addendum to any reversion clauses found in the deed to the Property or in any other option or purchase agreements and are not intended to supplant or negate any reversion clauses found in these documents.
- d. The City’s obligation to enter into the Loan Documents and disburse funds thereunder shall be subject to the following conditions:
1. Receipt and review by the City and its counsel of executed loan agreements with Key Bank, Key Bank’s CDC (or other lender) for a loan to the Borrower in an amount, when added to the amounts of other funding available provides sufficient funding to complete the Project.
 2. The Borrower shall enter into a construction contract for the Project in form and content approved in writing by the City;
 3. The plans and specifications for the Project must receive prior written approval by the City;
 4. Before City funds are disbursed the Borrower, at its expense, shall provide a fair market value (as built) or income approach appraisal of the Project acceptable to the City and its counsel. For purposes of this section, a copy of any appraisal(s) required by and acceptable to Key Bank will suffice.
 5. Before City funds are disbursed the Borrower, at its expense, shall provide a copy of its most recent market study or studies. For purposes of this section, a copy of any market study of studies required by and acceptable to Key Bank will suffice.
 6. Before City funds are disbursed, the Borrower must demonstrate proper Environmental due diligence regarding the Project acceptable to the City and

its counsel. The Lender will coordinate with Key Bank or other lender as appropriate to assure that efforts are not duplicated. Borrower shall provide all information that may be reasonably requested by Lender to help Lender complete the environmental review process.

7. Before City funds are disbursed, the Borrower is responsible for obtaining any required permits and approvals.
 8. Before City funds are disbursed the Borrower will provide evidence of perfection of liens and security interests in favor of the City and the absence of other liens and security interests not permitted by the loan documentation. For purposes of this section the City anticipates requesting copies of and sharing title abstracts and reports with Key Bank.
 9. At or before closing the borrower must demonstrate evidence of adequate insurance for the Project, naming the City as an additional loss payee.
- e. The Borrower shall demonstrate compliance with the following additional terms and conditions (which terms and conditions will be included, as appropriate, in the Loan Documents):
1. The Borrower will, where applicable assure that all wages paid to laborers and mechanics employed on the Projects shall be paid not less than the federal prevailing rates of wages for the class of work called for by the Project, which wages shall be determined in accordance with the federal requirements. For purposes of the section, the City will accept H.U.D.'s determination as to the applicability of prevailing wage to the various portions of the project and require that wages be paid in accordance with this determination, where and if required.
 2. For all City funds to be disbursed the Borrower shall demonstrate a total minimum total project cost of \$6,208,432 (\$7,341,691 shown on the latest pro forma minus a deferred developers fee of \$1,133,259). Loan funds are always drawn proportionately. Should the projected amount not be expended, the City will reduce its funding on a proportional basis. For purposes of this section the City will accept Key Bank cost certifications and inspections as to percentage of project completion.
 3. Revolving Loan Fund and Community Development Block Grant rules require that City funds be drawn proportionately with other sources of funding. Under no circumstances may City funds be drawn first. If required, the Borrower agrees to obtain a "bridge loan" or other suitable temporary financing so that compliance with the provision will not negatively impact the financing of the Project;
 4. Within two years of Project completion Borrower must demonstrate compliance with all requirements of the City's Revolving Loan Fund Program, including, without limitation, all job creation/retention commitments. Failure to

demonstrate compliance with job creation and retention commitments may result in the City demanding immediate repayment of any outstanding principal and accrued interest.

5. At closing, the Borrower shall be responsible for Lender's actual out-of-pocket expenses in an amount not to exceed \$10,000. Such expenses may include, but are not limited to the cost of title examinations, filing fees and legal fees incurred by Lender.
 6. All City funds related to this commitment must be drawn in accordance with the city's Revolving Loan Fund policies and procedures and expended for eligible activities within eighteen (18) months after the start of actual construction (as defined above) unless extended in writing by the City.
- f. This commitment is valid for a period of one (1) year from the date of acceptance of this commitment letter. If actual construction has not commenced within this time frame this commitment is void. For purposes of this commitment, preservation and maintenance work shall not be classified as "actual construction".

The terms of this letter may be accepted at any time prior to the close of business on _____, 2008, by the Borrower in the manner indicated in the final paragraph of this letter. If this letter is not so accepted by that date it shall automatically expire unless extended in writing by the City.

This commitment is further conditioned on there not having occurred, prior to the closing date any material adverse change in the business, finances or prospects of the Borrower. This commitment specifically replaces the Commitment Letter dated October 13, 2006 and accepted on October 18, 2006.

The City shall have the right to review and approve all public announcements and filings related to the transactions contemplated hereby which refer to the City before they are made (such approval not to be unreasonably withheld).

If the foregoing is satisfactory to the Borrower, please have the enclosed copy of this letter executed and return it to us.

Very truly yours,

Matthew D. Kline
City Manager

ACCEPTED AND AGREED TO:
RIEGER LOFTS, LLC

232 JACKSON STREET, LLC

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Date: _____

Title: _____

Date: _____

RIEGER COMMERCIAL PROPERTIES, LLC

By: _____

Name: _____

Title: _____

Date: _____