

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

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**MONDAY, OCTOBER 27, 2008**

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Invocation  
Pledge of Allegiance  
Meeting Called to Order  
Roll Call – DW, DK, CS, DM, BF, JF, BW  
Minutes – October 14<sup>th</sup>

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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** - Mario D’Amico promoted to Lieutenant of the Sandusky Fire Department

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**PRESENTATION** - City Way Finding/Signage Plan – Mark Morehart & Teryl Fox of Brady Signs

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**PUBLIC HEARING** – Application for a USEPA Cleanup Grant for Sandusky Cabinets

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**PREVIOUS BUSINESS**

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**This item was tabled at the meeting of October 14<sup>th</sup>.**

**ITEM #1** – 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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**CURRENT BUSINESS**

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**ITEM #2** – Communication – Scott J. Schell, Economic Development Specialist

**BUDGETARY INFORMATION:** Cleanup grants require a 20 percent cost share, which may be in the form of a contribution of money, labor, material, or services, and must be for eligible and allowable costs (the match must equal 20 percent of the amount of funding provided by EPA and cannot include administrative costs). The match requirement will be a cost to the City's General Fund of \$40,000. This means the total amount of funds that can be dedicated to this cleanup will be \$240,000.

**RESOLUTION NO.**\_\_\_\_\_ File an application for Brownfield Petroleum Cleanup Grant Funds with the United States Environmental Protection Agency. **Request passed under suspension of rules in full accordance of Section 14 of the City Charter.**

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**ITEM #3** – Communication – Kathryn K. McKillips, Engineering Director

**BUDGETARY INFORMATION:** The total estimated project cost including miscellaneous expenses is \$27,490.00 and will be paid with CDBG Funds.

**RESOLUTION NO.** \_\_\_\_\_ Declaring the necessity to proceed with the Demolition of 1432 Harrison Street, 711 Decatur Street (house only) and 526 E. Madison Street, Sandusky, Ohio; approving the specifications and engineer’s estimate of cost thereof; and directing the City Manager to advertise for and receive bids in relation thereto. **Request passed under suspension of rules in full accordance of Section 14 of the City Charter.**

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**ITEM #4** – Communication – Warrenette Parthemore, Director of Administrative Services

**BUDGETARY INFORMATION:** The \$10,455.00 will be charged to the General Fund.

**ORDINANCE NO.** \_\_\_\_\_ Make payment to Downes, Hurst & Fishel, LLP, for Professional Services incurred in relation to Arbitration Matters. **Request passed under suspension of rules in full accordance of Section 14 of the City Charter.**

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**ITEM #5** – Communication – Charlie Sams, Interim Chief of Police

**BUDGETARY INFORMATION:** This invoice represents a current expense for 2008. Funds are routinely included in the Police Department Operating Budget for each year's 911 billing. The replacement cost is \$10,780.52 and the maintenance cost is \$1,792.29 for a total cost of \$19,572.81. Funds will be expended from 110-1020-53000.

**ORDINANCE NO.** \_\_\_\_\_ Authorizing payment for replacement and maintenance costs pursuant to the 9-1-1 agreement between the City of Sandusky and Erie County. **Request passed under suspension of rules in full accordance of Section 14 of the City Charter.**

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**ITEM #6** – Communication – Lieutenant Phillip J. Frost

**BUDGETARY INFORMATION:** The estimated cost of the new items requested by the Sandusky Police Department is approximately \$60,725.00 as determined on-line by company catalog list prices and factoring in discounts provided with large quantity purchases. To help the Police Department place a fair value on the weapons, four companies known to be certified Class 3 firearms dealers were contacted to review the inventory list of the confiscated and departmentally owned weapons to be disposed of and each submitted informal evaluations that were utilized as independent appraisals of the trade in value of the weapons. In conjunction, each weapon was researched and identified in the Blue Book of Gun Values, 28th addition, Copyright 2007, through which the total trade-in value was determined to be \$67,916.40. The trade-in value will cover the cost of new items or the City has the right to refuse the bid.

**ORDINANCE NO.** \_\_\_\_\_ Dispose of Law Enforcement Firearms, Equipment and Accessories, as well as the Firearms, Equipment and Accessories that have been lost, abandoned, stolen or otherwise lawfully seized or forfeited and that are not needed, or obsolete, or are unfit for any public municipal purpose pursuant to Section 25 of the City Charter; and authorizing the City Manager to proceed with a request for proposals (RFP) process for the sale, exchange and purchase of items for the Sandusky Police Department. **Request passed under suspension of rules in full accordance of Section 14 of the City Charter.**

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**ITEM #7** – Communication – Ed Widman, Finance Director

**BUDGETARY INFORMATION:** All of the current employees covered by the fringe benefit pension pick-up have been factored into the current appropriations. There is no cost of enacting this ordinance.

**ORDINANCE NO.** \_\_\_\_\_ Authorizing the City of Sandusky to pick up the statutorily required contribution to the Ohio Public Employees Retirement System for the following employees of the City of Sandusky Pursuant to IRC Section 414(h)(2). **Request passed under suspension of rules in full accordance of Section 14 of the City Charter.**

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**ITEM #8** – Communication – Kathryn K. McKillips, Engineering Director

**BUDGETARY INFORMATION:** The revised project cost based on bids, including engineering, inspection, advertising and miscellaneous costs are \$53,220.00. This project will be paid with Community Development Block Grant (CDBG) Funds and Demolition Funds.

**ORDINANCE NO.**\_\_\_\_\_ Enter into a contract with Barnes Nursery of Huron, Ohio, for the Demolition of 405 Perry Street, 2123 E. Forest Drive, 1134 Huntington Avenue, 809 Decatur Street (barn only), 829 Fulton Street and 808 Hancock Street, Sandusky, Ohio. **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:** Funds for the payment of this service are routinely included in the Operating Budget of the Water Pollution Control Plant. The estimated amount of sludge for 2009 is 11,000,000 gallons. Therefore, the cost would be no more than \$300,300.00.

**ORDINANCE NO.**\_\_\_\_\_ Enter into a One Year Contract Extension with Maple View Farms, LLC, of Castalia, Ohio, for the Land Application of Sewage Sludge from the Water Pollution Control Plant for Calendar Year 2008. **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 revised project cost based on bids, including engineering, inspection, advertising and miscellaneous costs is \$26,645.00. This project will be paid with a donation in the amount of \$18,000.00 and the \$8,645.00 remaining will be paid with Community Development Block Grant (CDBG) and Demolition Funds.

**ORDINANCE NO.**\_\_\_\_\_ Enter into a contract with Barnes Nursery of Huron, Ohio, for the Demolition of the structure located at 1502-1504 Hayes Avenue, Sandusky, Ohio. **Request passed under suspension of rules in full accordance of Section 14 of the City Charter.**

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**ITEM #11** – Communication – Jane E. Cullen, E.I.T.

**BUDGETARY INFORMATION:** This change order is a \$5,664.62 addition to the original contract amount of \$30,987.00. The Final Construction Contract Cost is \$36,651.62. The Water Fund will pay \$12,217.21, the Sewer Fund will pay \$12,217.21 and the Street Funds will pay the remaining \$12,217.20.

**ORDINANCE NO.**\_\_\_\_\_ Approve the First & Final Change Order for work performed for the Dutch Lane Sheet Piling Project in the amount of \$5,664.62 to be paid to Shepherd's Shoreline Construction, Inc. of Sandusky, Ohio. **Request passed under suspension of rules in full accordance of Section 14 of the City Charter.**

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**ITEM #12** – Communication – Scott Schell, Economic Development Specialist

**BUDGETARY INFORMATION:** This action will not impact the City Operating Budget. RLF Funds are restricted in use and this loan is within the guidelines of the program. The company estimates that, when complete, the project will result in the hiring of 5 new full-time employees. The new hires will result in additional income taxes for the City.

**ORDINANCE NO.**\_\_\_\_\_ Authorizing and approving an Economic Development Loan in the amount of \$175,000.00 to Lewco, Inc. **Request passed under suspension of rules in full accordance of Section 14 of the City Charter.**

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**ITEM #13** – Submitted by B. Joyce Brown, Clerk of the City Commission on behalf of ODOL.

A transfer request of D5A and D6 Liquor Permits to Suntharee Inc., 2047 Cleveland Road, Sandusky, Ohio, from JM Sciarappa Inc. dba South Shore Inn, Grahams Restaurant & Patio, 2047 Cleveland Road, Sandusky, Ohio 44870. **Request the Clerk notify the Ohio Department of Liquor Control that the City has no objections to this request.**

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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

Executive Session

Adjournment

October 15, 2008

Mr. Gregory Spatz  
United States Construction Corporation  
2785 SE 11<sup>th</sup> 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:  $\frac{\text{The maximum Loan Balance achieved including principal and all accrued interest}}{\text{total original salable square footage of Project}} \times \frac{\text{the square footage of the unit(s) being sold or transferred}}{\text{total original salable square footage of Project}} \times 1.25 = \text{Payment due lender}$ . 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: \_\_\_\_\_

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:

TO: Matthew D. Kline, City Manager

FROM: Scott J. Schell, Economic Development Specialist

DATE: October 15, 2008

SUBJECT: Commission Agenda Item – USEPA Cleanup Grant Application

**ITEM FOR CONSIDERATION:** Resolution authorizing the City Manager to submit an application for a Brownfield Petroleum Cleanup Grant with the United States Environmental Protection Agency (USEPA) to be used at the Sandusky Cabinets property. If awarded the Grant will be used to remove three petroleum underground storage tanks (UST's), remove all ancillary piping and remediate any contaminated soils beneath the UST's.

**BACKGROUND INFORMATION:** Cleanup grants provide funding for a grant recipient to carry out cleanup activities at Brownfield sites. An eligible entity may apply for up to \$200,000 per site. These funds may be used to address sites contaminated by petroleum and hazardous substances, pollutants, or contaminants (including hazardous substances co-mingled with petroleum).

In 2007 the City of Sandusky applied for and was awarded a \$200,000 Petroleum Cleanup Grant from the USEPA to be used at the Sandusky Cabinets property to remove three petroleum UST's, remove all ancillary piping and remediate any contaminated soils beneath the UST's. An applicant must own the site for which it is requesting funding at time of application or demonstrate the ability to acquire title. Because of unforeseen property liens on the Sandusky Cabinets property that could not be removed in a timely manner, the City could not obtain clear title to the property and was forced to give the Grant back to the USEPA in July of this year. No liens remain on the property today and the City will complete the acquisition of the property prior to the June 30, 2009 deadline to prove ownership of the property. The performance period for these grants is two years.

**BUDGETARY INFORMATION:** Cleanup grants require a 20 percent cost share, which may be in the form of a contribution of money, labor, material, or services, and must be for eligible and allowable costs (the match must equal 20 percent of the amount of funding provided by EPA and cannot include administrative costs). The match requirement will be a cost to the City's General Fund of \$40,000. This means the total amount of funds that can be dedicated to this cleanup will be \$240,000.

**ACTION REQUESTED:** It is requested that City Commission approve a Resolution authorizing the City Manager to submit an application with the USEPA for a Brownfield Petroleum Cleanup Grant. It is also requested that this resolution be approved under suspension of the rules and in accordance with Section 14 of the City Charter, in order to be able to complete and submit the application by the November 14, 2008 deadline.

I concur with this recommendation:

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Matthew D. Kline, City Manager

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION AUTHORIZING AND DIRECTING THE CITY MANAGER TO FILE AN APPLICATION FOR BROWNFIELD PETROLEUM CLEANUP GRANT FUNDS WITH THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY; AND DECLARING THAT THIS RESOLUTION SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.**

**WHEREAS**, this grant if awarded will be utilized at the Sandusky Cabinets property to remove three petroleum underground storage tanks (UST's), remove all ancillary piping and remediate any contaminated soils beneath the UST's; and

**WHEREAS**, in 2007 the City applied for and was awarded a \$200,000.00 Petroleum Cleanup Grant from the USEPA for the Sandusky Cabinets property which required the applicant, the City of Sandusky, to own the property which is titled to Bay Area Neighborhood Development Corporation and due to unforeseen property liens the City was unable to obtain clear title to the property and the funds were returned to the USEPA in July of 2008; and

**WHEREAS**, there are currently no liens remaining on the property and the City will complete the acquisition of the property prior to the June 30, 2009, deadline to prove ownership of the property; and

**WHEREAS**, the total amount of funding requested is \$200,000.00 which requires a 20% match (\$40,000.00) and will be paid the City's General Fund for a total funding of \$240,000.00 that can be dedicated for this cleanup; and

**WHEREAS**, this legislation should be passed as an emergency measure under suspension of the rules and in accordance with Section 14 of the City Charter in order to submit the application for the Brownfield Petroleum Cleanup Grant with the United States Environmental Protection Agency by the November 14, 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 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. The City Manager hereby is authorized and directed to file an application for Brownfield Petroleum Cleanup Grant Funds with the United States Environmental Protection Agency on behalf of the citizens of the City of Sandusky, Ohio and if awarded to enter into an agreement to receive those funds from the United States Environmental Protection Agency for costs relating to the cleanup of the Sandusky Cabinets property.

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.

**PAGE 2 - RESOLUTION NO. \_\_\_\_\_**

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.

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 this Commission of the City of Sandusky, Ohio.

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

ATTEST: \_\_\_\_\_  
B. JOYCE BROWN  
CLERK OF THE CITY COMMISSION

Passed:

TO: Matthew D. Kline, City Manager  
FROM: Kathryn K. McKillips, P.E., Director of Engineering Services  
DATE: October 15, 2008  
SUBJECT: Commission Agenda Item

**ITEM FOR CONSIDERATION:** Proposed Demolition of 1432 Harrison Street, 711 Decatur Street (house only), and 526 E. Madison Street. These properties were condemned by the City of Sandusky because they are vacant and dilapidated properties.

1432 Harrison Street, 711 Decatur Street (house only), and 526 E. Madison Street were ordered to be demolished at the September 23, 2008 Housing Appeals Board.

**BUDGETARY INFORMATION:** The total estimated project cost including miscellaneous expenses is \$27,490.00 and will be paid with CDBG Funds.

**ACTION REQUESTED:** It is recommended that the City Commission approve a Resolution of Necessity. It is requested that this Resolution take effect immediately in accordance with Section 14 of the City Charter so that competitive bids can be obtained as soon as possible in order to move forward with the project and eliminate potential hazards from our neighborhoods.

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

I concur with this recommendation:

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Matthew D. Kline  
City Manager

KKM/cal

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

RESOLUTION NO. \_\_\_\_\_

**A RESOLUTION DECLARING THE NECESSITY FOR THE CITY OF SANDUSKY, OHIO, TO PROCEED WITH THE DEMOLITION OF 1432 HARRISON STREET, 711 DECATUR STREET (HOUSE ONLY) AND 526 E. MADISON STREET, SANDUSKY, OHIO; APPROVING THE SPECIFICATIONS AND ENGINEER'S ESTIMATE OF COST THEREOF; AND DIRECTING THE CITY MANAGER TO ADVERTISE FOR AND RECEIVE BIDS IN RELATION THERETO; AND DECLARING THAT THIS RESOLUTION SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.**

**WHEREAS**, this project will provide for the demolition of the properties located at 1432 Harrison Street, 711 Decatur Street (House Only) and 526 E. Madison Street, Sandusky, Ohio, that were ordered to be demolished by the Housing Appeals Board on September 23, 2008; and

**WHEREAS**, the total estimated cost of the project including miscellaneous expenses is \$27,490.00 and will be paid with Community Development Block Grant (CDBG) funds; and

**WHEREAS**, this legislation should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order to obtain competitive bids, award a contract and move forward with this project and eliminate potential hazards from City neighborhoods; and

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

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

Section 1. The specifications and estimates of cost as prepared by the Director of Engineering Services of the City of Sandusky, Ohio, and submitted to the City Commission, and which are now on file with the Clerk of the said City Commission, and the office of the said Director of Engineering Services, for the proposed demolition of the structures located at 1432 Harrison Street, 711 Decatur Street (House Only), and 526 E. Madison Street, Sandusky, Ohio, be and the same hereby are approved by the City Commission of the City of Sandusky, Ohio.

Section 2. The City Commission of the City of Sandusky, Ohio, hereby declares it necessary to proceed with said demolitions at the earliest possible time.

Section 3. The City Manager of the City of Sandusky, Ohio, be and hereby is authorized and directed to advertise for and to receive bids in relation to said demolitions as required by law.

Section 4. If any section, phrase, sentence, or portion of this Resolution is for

any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof.

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

Section 6. That for the reasons set forth in the preamble hereto, this Resolution 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: \_\_\_\_\_  
Warrenette Parthemore, Director of Administrative Services

DATE: October 15, 2008

RE: Item for Commission Agenda

**ITEM FOR CONSIDERATION:** *Legislation authorizing the payment for an invoice totaling \$10,455.00 to Downes, Hurst & Fishel, LLP, for legal services rendered in several matters.*

**BACKGROUND INFORMATION:** The invoices covered services for the months of July and August for the arbitration hearings of several police officers. The invoices are for the preparation of the cases and the presentation of the cases before the hearing officers. Legislation is needed because the amount of the invoice exceeds \$10,000.

**BUDGET IMPACT:** The \$10,455.00 will be charged to the General Fund.

**ACTION REQUESTED:** It is requested that the proper legislation be prepared authorizing payment to Downes, Hurst & Fishel, LLC, in the amount of \$10,455.00 for professional services. **It is further requested that this legislation take immediate effect in full accordance with Section 14 of the City Charter in order to make payment in a timely manner and so that the City may keep its accounts current and maintain good credit.**

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 MAKE PAYMENT TO DOWNES, HURST & FISHEL, LLP, FOR PROFESSIONAL SERVICES INCURRED IN RELATION TO ARBITRATION MATTERS; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.**

**WHEREAS**, the City of Sandusky has incurred legal fees to the law firm of Downes, Hurst & Fishel, LLP, for professional services in the months of July and August, 2008, relating to the arbitration hearings of several police officers; and

**WHEREAS**, the total cost of these legal fees as reflected on current unpaid invoices is \$10,455.00 and will be paid with funds from the City's General Fund; 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 payment to be made to Downes, Hurst & Fishel, LLP for services rendered in a timely manner; 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 hereby authorizes and directs the City Manager and/or Finance Director to make payment to Downes, Hurst & Fishel, LLP, in an amount **not to exceed** Ten Thousand Four Hundred Fifty Five and 00/100 Dollars (\$10,455.00) for professional services relating to the arbitration hearings of several police officers.

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

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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:



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## SANDUSKY POLICE DEPARTMENT

CHARLIE SAMS, INTERIM POLICE CHIEF

222 MEIGS STREET  
SANDUSKY, OH 44870  
Phone: 419.627.5870  
FAX: 419.627.5862

[www.ci.sandusky.oh.us](http://www.ci.sandusky.oh.us)

TO: Matthew D. Kline, City Manager  
FROM: Charlie Sams, Interim Chief of Police  
DATE: October 15, 2008  
RE: Commission Agenda Item

**ITEM FOR CONSIDERATION:** An ordinance authorizing the payment of 9-1-1 equipment replacement and maintenance billing for 2007 to Erie County.

**BACKGROUND INFORMATION:** On October 8, 2008 the bill for 9-1-1 equipment replacement and maintenance charges for 2007 was received. This is an agreement between the Erie County Commissioners and City of Sandusky to pay annual charges for the 9-1-1 equipment beginning in 1999. An ordinance was passed in November 2007 to pay for 2007. We have now been invoiced the 9-1-1 equipment replacement and maintenance charges for 2008.

**BUDGETARY INFORMATION:** This invoice represents a current expense for 2008. Funds are routinely included in the Police Department operating budget for each year's 911 billing. The replacement cost is \$10,780.52 and the maintenance cost is \$1,792.29 for a total cost of \$19,572.81. Funds will be expended from 110-1020-53000.

**ACTION REQUESTED:** It is requested that the proper legislation be prepared to allow for the payment of the 9-1-1 equipment replacement and maintenance billing in the amount of \$19,572.81. Erie County requests payment within 30 days of receipt. It is further requested that this be passed to take immediate effect in accordance with Section 14 of the City Charter.

Approved:

I concur with this recommendation:

\_\_\_\_\_  
Charlie Sams, Interim Police Chief

\_\_\_\_\_  
Matthew D. Kline, City Manager

Cc: Ed Widman, Finance Director  
Don Icsman, Law Director

***SANDUSKY, OHIO – HOME OF 'AMERICA'S ROLLER COAST'®***

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AUTHORIZING PAYMENT FOR REPLACEMENT AND MAINTENANCE COSTS PURSUANT TO THE 9-1-1 AGREEMENT BETWEEN THE CITY OF SANDUSKY AND ERIE COUNTY; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.**

**WHEREAS**, the City of Sandusky entered into an agreement with Erie County to provide funding for an enhanced 911 system as authorized by Ordinance No. 99-244, passed by the City Commission on August 23, 1999; and

**WHEREAS**, authorization for payment of the City's share for replacement and maintenance for the calendar year 2008 is being requested; the County routinely invoices for 9-1-1 services in the Fall of each year; and

**WHEREAS**, the total cost for the 9-1-1 equipment replacement and maintenance charges for the calendar year 2008 as reflected on the current unpaid invoice is \$19,572.81 and is to be paid with funds from the Police Department's 2008 budget (110-1020-53000); and

**WHEREAS**, this legislation should be passed as an emergency measure under suspension of the rules and in accordance with Section 14 of the City Charter in order that payment to the County can be made immediately for the current expense for 2008 consistent with the E-911 agreement with Erie County; 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 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 and/or the Finance Director are authorized and directed to make payment to the Erie County Commissioners for the City's share of the 9-1-1 replacement and maintenance costs in an amount **not to exceed** Nineteen Thousand Five Hundred Seventy-Two and 81/100 Dollars (\$19,572.81) consistent with the invoice received by the City from the Erie County Finance Department.

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: 10-15-2008  
RE: Commission Agenda Item

**ITEM FOR CONSIDERATION:**

An ordinance authorizing the disposal of the Police Department's current inventory of firearms and accessories as well as the firearms, equipment and accessories that have been lost, abandoned, stolen or otherwise lawfully seized or forfeited and that are not needed, or obsolete, or are unfit for any public municipal purpose. A request is also being made for authorization to proceed with a Request for Proposals (RFP) process which will enable the Police Department to maximize the value received for these weapons and thereby obtain the greatest amount of new weaponry. At the conclusion of the RFP process the proposal that provides the maximum value of the property will be selected and a proposed agreement for the sale, exchange and purchase will be presented to the City Commission for approval.

**BACKGROUND INFORMATION:**

The Sandusky Police Department's duty weapons are over fifteen (15) years old and the shotguns are over thirty (30) years old and need to be replaced (see attached Exhibit "A"). The duty weapons would need extensive and costly maintenance to keep them fully functional. These items have been determined to be of no value for law enforcement purposes by the Department and it is recommended that the City Commission find that they are obsolete, unnecessary and unfit for City use.

The Sandusky Police Department has recently inventoried the firearms, equipment and accessories which have been lawfully seized, abandoned, and/or forfeited (see attached Exhibit "B"). The related Court cases have been adjudicated and closed thereby eliminating the need to retain these items as evidence. These items have been determined to be of no value for law enforcement purposes by the Department and it is recommended that the City Commission find that they are obsolete, unnecessary and unfit for City use.

The RFP process and the sale, exchange and purchase contract will provide for the purchase of new duty weapons and duty gear for each officer and new shotguns and M16 rifle racks for each cruiser (see attached Exhibit "C"). Any additional funds left over from the trade will be used to buy ammunition for the weapons.

**BUDGETARY INFORMATION:**

The estimated cost of the new items requested by the Sandusky Police Department is approximately \$60,725.00 as determined on-line by company catalog list prices and factoring in discounts provided with large quantity purchases.

To help the Police Department place a fair value on the weapons, four companies known to be certified Class 3 firearms dealers were contacted to review the inventory list of the confiscated and departmentally owned weapons to be disposed of and each submitted informal evaluations that were utilized as independent appraisals of the trade in value of the weapons. In conjunction, each weapon was researched and identified in the Blue Book of Gun Values, 28th addition, Copyright 2007, through which the total trade in value was determined to be \$67,916.40. The trade in value will cover the cost of new items or the City has the right to refuse the bid.

**ACTION REQUESTED:**

It is requested that the proper legislation be prepared authorizing the disposal of the Police Department's current inventory of firearms and accessories as well as the firearms, equipment and accessories that have been lost, abandoned, stolen or otherwise lawfully seized or forfeited and that are not needed, or obsolete, or are unfit for any public municipal purpose. Authorization is also being requested to proceed with utilizing an RFP process for the sale, exchange and purchase of items for the Sandusky Police Department. It is further requested that this legislation be passed and take immediate effect in accordance with Section 14 of the City Charter in order to being the RFP process and replace the SPD's current weapons as soon as possible which will provide immediate safety to the police officers and eliminate unnecessary maintenance costs.

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Phillip J. Frost  
Lieutenant, Sandusky Police Department

Approved:

I concur with this recommendation:

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Charlie Sams, Acting Police Chief

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Matthew D. Kline, City Manager

Attachments

**ORDINANCE NO. \_\_\_\_\_**

**AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO DISPOSE OF LAW ENFORCEMENT FIREARMS, EQUIPMENT AND ACCESSORIES, AS WELL AS THE FIREARMS, EQUIPMENT AND ACCESSORIES THAT HAVE BEEN LOST, ABANDONED, STOLEN OR OTHERWISE LAWFULLY SEIZED OR FORFEITED AND THAT ARE NOT NEEDED, OR OBSOLETE, OR ARE UNFIT FOR ANY PUBLIC MUNICIPAL PURPOSE PURSUANT TO SECTION 25 OF THE CITY CHARTER; AND AUTHORIZING THE CITY MANAGER TO PROCEED WITH A REQUEST FOR PROPOSALS (RFP) PROCESS FOR THE SALE, EXCHANGE AND PURCHASE OF ITEMS FOR THE SANDUSKY POLICE DEPARTMENT; 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 Sandusky Police Department's current duty weapons need to be replaced and together with their inventory of items that have been lawfully seized, abandoned, and/or forfeited recommend proceeding with a RFP process for the sale and exchange of these items and the purchase of new duty weapons, duty gear, shotguns and rifle racks in a single contract; and

**WHEREAS**, the following Sandusky Police Department's current duty weapons and shotguns are antiquated and need to be replaced; and

<b>Make</b>	<b>Model</b>	<b>Qty.</b>
Sig Sauer	P225 / 9 mm	2
Sig Sauer	P239 / 9 mm	10
Sig Sauer	P226 / 9mm	70
Smith & Wesson	10-6 / .38 Special	36
Remington	870 / 12 gauge	16
Mossberg	500 A / 12 gauge	3
Thompson	1921 "Tommy Gun" Includes: 2 Buttstocks, 2 Forearms, 2 Thirty (30) round magazines, and 1 Drum magazine	1

**WHEREAS**, the following items have been lost, abandoned, stolen or otherwise lawfully seized or forfeited 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, or unnecessary, or unfit for City use:

<b>Make</b>	<b>Model</b>	<b>Serial No.</b>	<b>Cal. &amp; Type</b>
H & R	923	T25864	.22 Revolver 6 shot
Interarms	Rossi	L019914	.22 Revolver 6 shot
Interarms	Rossi	L019684	.22 Revolver 6 shot
Smith & Wesson	K-22	K115102	.22 Revolver 6 shot
Taurus		UG898447	.22 Revolver 12 shot
High Standard	R101	635409	.22 Revolver 9 shot
Sturm Ruger		13-96231	.22 semi auto pistol
Colt	Det Spec.	H30120	.38 Revolver 6 shot
Smith & Wesson	10--6	D152639	.38 Revolver 6 shot
Smith & Wesson	10--6	C823837	.38 Revolver 6 shot
Smith & Wesson	10--6	D590017	.38 Revolver 6 shot
Smith & Wesson		K546058	.38 Revolver 6 shot
Smith & Wesson		400097	.38 Revolver 6 shot
Rohm	385	FF286581	.38 Revolver 6 shot
Titan	Tiger	514727	.38 Revolver 6 shot
Interarms	Rossi	D778651	.38 Revolver 5 shot
Taurus	Special	MC79676	.38 Revolver 5 shot
Interarms	M885	W148300	.38 Revolver 5 shot
Smith & Wesson	36	403492	.38 Revolver 5 shot
H & R	632	AT064332	.32 Revolver 6 shot

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Interarms	Rossi	10248	.32 Revolver 6 shot
Smith & Wesson	29--5	BFE3831	.44 Revolver 6 shot
Sturm Ruger	RedHawk	550-35894	.44 Revolver 6 shot
Smith & Wesson	581	AAH6984	.357 Revolver 6 shot
Smith & Wesson	66	7K14057	.357 Revolver 6 shot
Smith & Wesson	66	17K6170	.357 Revolver 6 shot
Dan Wesson	Magnum	294584	.357 Revolver 6 shot
Dan Wesson	Magnum	108671	.357 Revolver 6 shot
Colt	Python	K08461	.357 Revolver 6 shot
Sturm Ruger	Blk.Hawk	113168	.357 Revolver 6 shot
Sturm Ruger	Blk.Hawk	106148	.357 Revolver 6 shot
Taurus	Magnum	1J227653	.357 Revolver 6 shot
Interarms	Star	1878051	.380 semi auto pistol
Sturm Ruger	P91DC	340-33630	.40 semi auto pistol
Beretta	96D	A17644M	.40 semi auto pistol
Smith & Wesson	SW40V	PBA4266	.40 semi auto pistol
Star	Firestar	2070437	.45 semi auto pistol
Smith & Wesson	4506-1	Ty64902	.45 semi auto pistol
Colt	MKIV80	FL10786	.45 semi auto pistol
Llama	Stoeger	560436	.45 semi auto pistol
Sturm Ruger	P94DC	308-44845	9mm semi auto pistol
Glock	17	AVD843	9mm semi auto pistol
Glock	17	MS727	9mm semi auto pistol
Walther	P4	605991	9mm semi auto pistol
Taurus	PT911	TSJ28705	9mm semi auto pistol
Beretta	92FS	FER335851Z	9mm semi auto pistol
Smith & Wesson	SW9F	PAD4346	9mm semi auto pistol
Excam	GT	T10926	9mm semi auto pistol
Intratec	TEC-9	69103	9mm semi auto pistol
S.W.D. Inc.	M 11	87-0011525	9mm semi auto pistol
S.W.D. Inc.	M 11	85-0000710	9mm semi auto pistol
Marlin	882SS	368847	.22 blt action & scope
Marlin	60	6207849	.22 semi auto rifle
Marlin	60	14483885	.22 semi auto rifle
Marlin	60W	6221154	.22 semi auto rifle
J.C. Higgins	31	none	.22 s/a rifle & scope
Remington	522	3123752	.22 semi auto rifle
Glenfield	60	22455402	.22 s/a rifle & scope
Ruger	10--22	56226	.22 semi auto rifle
J.Sports	Legacy	1019	.50 muzzler loader
Traditions	Deerhuntr	14-13-074614-95	.50 muzzler loader
Stevens	39	none	.410 b/a shotgun
Stevens	258A	none	20 ga. b/a shotgun
Winchester	1300	L2447565	20 ga. Pump shotgun
Winchester	1300	L3412656	12 ga. Pump shotgun
Remington	870	W416812M	12 ga. Pump shotgun
J.C. Higgins	58320	none	12 ga. b/a shotgun
Mossberg	500A	L683574	12 ga. Pump shotgun
Mossberg	500A	P510047	12 ga. Pump shotgun
Mossberg	500A	J393213	12 ga. Pump shotgun
Mossberg	500C	K827710	20 ga. Pump shotgun
Winchester	1300	L3263716	20 ga. Pump shotgun
Browning	PD221	40689PR221	16 ga. s/a shotgun
Winchester	140	N956032	12 ga. s/a shotgun
Stevens	77D	none	16 ga. Pump shotgun
Norinco	M21	70913529	7.62 x 39 rifle
Norinco		5712M005712	7.62 x 39 rifle
Norinco	90	9416303	7.62 x 39 rifle
US Carbine	M1	5782808	.30 rifle
US Carbine	M1	3557697	.30 rifle
German	MP40	9160	9MM
Heckler & Koch	HK91	A036796	.308 rifle
Spanish	Mauser	OT15627	.308 rifle
US	Grease	187267	.45 ACP rifle
Lithgow	1921	A87660	.303 rifle
Colt	SP1	SP1383510	.223 rifle

Egypt Miser	AK-47	CA105576	7.62 x 39 rifle
Phoenix Arms	HP-25A	4254390	.25 pistol
Beretta	21A	DAA018375	
Freedom Arms	0.22	A43662	
COP Inc.	Derringer	19578	357 magnum
Starfire Crossbow	w/arrows	none	
Spanish	Military	665	.32 semi auto pistol
Mossberg	500A	PO34463	12 ga. Pump shotgun
Mossberg	500A	R099268	12 ga. Pump shotgun
Mossberg	500A	P889388	12 ga. Pump shotgun
Remington	870	V041113V	12 ga. Pump shotgun
Remington	870	V528727V	12 ga. Pump shotgun
Remington	870	S614458V	12 ga. Pump shotgun
Remington	870	V041048V	12 ga. Pump shotgun
Remington	870	S614492V	12 ga. Pump shotgun
Remington	870	V040972V	12 ga. Pump shotgun
Remington	870	V528737V	12 ga. Pump shotgun
Remington	870	S836151V	12 ga. Pump shotgun
Remington	870	V489401V	12 ga. Pump shotgun
Remington	870	S615201V	12 ga. Pump shotgun
Remington	870	V041037V	12 ga. Pump shotgun
Remington	870	V489187V	12 ga. Pump shotgun
Remington	870	S614494V	12 ga. Pump shotgun
Remington	870	S614456V	12 ga. Pump shotgun
Remington	870	V041130V	12 ga. Pump shotgun
Remington	870	V270580M	12 ga. Pump shotgun
70-Sig Sauer	P-226		9mm semi auto pistol
10-Sig Sauer	P-239		9mm semi auto pistol
2-Sig Sauer	P-225		9mm semi auto pistol
1- Thompson	1921	7210	Machine Gun

**WHEREAS**, there will be no cost to the City for this sale, exchange and purchase contract; the estimated cost of new items requested is \$60,725.00 and the estimated value of the items to be exchanged is \$67,916.40 and any additional funds left over from the trade will be used to purchase ammunition for the weapons; 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 begin the RFP process and replace the Sandusky Police Department's current weapons as soon as possible which will provide immediate safety to the police officers and eliminate unnecessary maintenance costs; 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 are no longer needed, or obsolete, or are unfit for any municipal purpose pursuant to Section 25 of the City Charter and the City Manager is authorized and directed to dispose of the personal property through a sale, exchange and purchase process.

Section 2. The City Manager of the City of Sandusky, Ohio, be and hereby is authorized and directed to proceed with a Request for Proposals (RFP) process for the sale, exchange and purchase of items for the Sandusky Police Department.

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.

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

ATTEST: \_\_\_\_\_  
B. JOYCE BROWN  
CLERK OF THE CITY COMMISSION

Passed:

# MEMO

TO: City Commission  
FROM: Ed Widman, Finance Director  
DATE: October 17, 2008  
RE: Commission Agenda Item

## **ITEM FOR CONSIDERATION:**

In January 2001, the City of Sandusky offered a fringe benefit pension pick-up to offset the need for salary adjustments with certain administrative employees. In 2003, as an attempt to minimize the cost of authorized 4% wage increases, the city again offered a fringe benefit pension pick-up in lieu of wage increases. The City of Sandusky has been ordered to comply with Internal Revenue Ruling 2006-43 in order to offer fringe benefit pension pick-up under the Ohio Public Employees Retirement System (OPERS) by January 1, 2009.

At this time there are five administrative employees covered by OPERS who receive a fringe benefit pension pick-up. In the course of discussing Chapter 145, Employment Provisions, of the City's Codified Ordinances, this matter was reviewed by the committee. It is the committee's recommendation to the City Commission these five employees would be allowed to receive the fringe benefit pension pickup under OPERS for the remainder of their employment with the city. The committee recommends the practice of fringe benefit pension pick-up to be discontinued beyond the current five employees.

A draft of the proposed ordinance has been reviewed by OPERS and it satisfies the mandate of Internal Revenue Ruling 2006-43. The committee supports the proposed ordinance as part of the review of Chapter 145.

## **BUDGETARY INFORMATION:**

All of the current employees covered by the fringe benefit pension pick-up have been factored into the current appropriations. There is no cost of enacting this ordinance.

## **ACTION REQUESTED:**

It is requested that the City Commission approve the proposed ordinance under suspension of the rules in full accordance with Section 14 of the City Charter in order to comply with Internal Revenue Ruling 2006-43 under the OPERS. OPERS is aware of the tentative action by the City of Sandusky. If there are any questions, please contact the Finance Director or the City Manager.

CC: Matt Kline  
Don Icsman

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AUTHORIZING THE CITY OF SANDUSKY TO PICK UP THE STATUTORILY REQUIRED CONTRIBUTION TO THE OHIO PUBLIC EMPLOYEES RETIREMENT SYSTEM FOR THE FOLLOWING EMPLOYEES OF THE CITY OF SANDUSKY PURSUANT TO IRC SECTION 414(h)(2); AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.**

**WHEREAS**, pursuant to federal and Ohio laws, the City of Sandusky may offset future salary increases and “pick up” (assume and pay) the contributions statutorily required by such covered employees to the Ohio Public Employees Retirement System (OPERS) and such individuals will not be required to pay federal and state taxes on such contributions; 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 comply with Internal Revenue Ruling 2006-43 under the OPERS; 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. Effective immediately 50% of the statutorily required employee contributions to OPERS shall be picked up and paid as a fringe benefit by the City of Sandusky for City Manager.

Section 2. Effective November 15, 2008, 60% of the statutorily required employee contributions to OPERS shall be picked up and paid as a fringe benefit by the City of Sandusky for City Manager.

Section 3. Effective November 15, 2009, 70% of the statutorily required employee contributions to OPERS shall be picked up and paid as a fringe benefit by the City of Sandusky for City Manager.

Section 4. Effective November 15, 2010, 80% of the statutorily required employee contributions to OPERS shall be picked up and paid as a fringe benefit by the City of Sandusky for City Manager.

Section 5. Effective November 15, 2011, 100% of the statutorily required employee contributions to OPERS shall be picked up and paid as a fringe benefit by the City of Sandusky for City Manager.

Section 6. Effective immediately, 4% of the statutorily required employee contributions to OPERS shall be picked up and paid as a fringe benefit by the City of Sandusky for Finance Director.

Section 7. Effective immediately, 4% of the statutorily required employee contributions to OPERS shall be picked up and paid as a fringe benefit by the City of Sandusky for Senior Accountant/Auditor.

Section 8. Effective immediately, 4% of the statutorily required employee contributions to OPERS shall be picked up and paid as a fringe benefit by the City of Sandusky for Data Systems Manager.

Section 9. Effective immediately, 4% of the statutorily required employee contributions to OPERS shall be picked up and paid as a fringe benefit by the City of Sandusky for Fire Department Administrative Secretary.

Section 10. The pick up shall be an offset against future salary increases. This “pick up” by the City of Sandusky shall be designated as public employee contributions and shall be in lieu of contributions to OPERS by the designated employee. No person subject to this “pick up” shall have the option of choosing to receive the statutorily required contribution to OPERS directly instead of having it “picked up” by the City of Sandusky. The City of Sandusky shall, in reporting and making remittance to OPERS, report that the public employees contribution for each person subject to this “pick up” has been made as provided by the statute. Therefore, contributions, although designated as employee contributions, are employer-paid, and employees do not have the option to receive the contributions directly. All contributions are paid by the employer directly to the plan. The “pick up” by the City of Sandusky provided by this ordinance shall apply to the persons listed in this ordinance. Any positions in which a vacancy occurs after the enactment of this ordinance shall no longer be in force for any subsequent title holder.

Section 11. 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 12. 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 of this City Commission and any of it's committees that resulted in those formal actions were in meetings open to the public in compliance with the law.

Section 13. That for the reasons set forth in the preamble hereto, this Ordinance is hereby declared to be an emergency measure which shall take immediate effect in accordance with Section 14 of the City Charter after its adoption and due authentication by the President and the Clerk of the City Commission of the City of Sandusky, Ohio.

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

ATTEST: \_\_\_\_\_  
B. JOYCE BROWN  
CLERK OF THE CITY COMMISSION

Passed:

TO: Matthew D. Kline, City Manager  
FROM: Kathryn K. McKillips, P.E., Director of Engineering Services  
DATE: October 15, 2008  
SUBJECT: Commission Agenda Item

**ITEM FOR CONSIDERATION:** Ordinance authorizing and directing the City Manager to enter into a contract for the demolition of 1134 Huntington Avenue, 405 Perry Street, 2123 E. Forest Drive, 809 Decatur Street (Barn Only), 829 Fulton Street and 808 Hancock Street. These properties were condemned by the City of Sandusky because they were dilapidated properties.

405 Perry Street and 1134 Huntington Avenue were ordered to be demolished at the April 8, 2008 Housing Appeals Board. 2123 E. Forest Drive was ordered to be demolished by the Housing Appeals Board on May 20, 2008. 829 Fulton Street and 808 Hancock Street were both ordered to be demolished by the Housing Appeals Board on June 17, 2008. The property owner at 809 Decatur Street (Barn) signed a consent form for the demolition of this structure.

The following bids were received on October 14, 2008:

Barnes Nursery	Huron, OH	\$44,500.00	100% Bond
Ed Burdue & Co.	Sandusky, OH	\$45,500.00	100% Bond
A. Bonamase Contracting	Boardman, OH	\$55,135.00	100% Bond
Herbst Excavating	Sandusky, OH	\$59,068.00	100% Bond
Baumann Enterprises	Garfield Hts, OH	\$85,200.00	100% Bond

Barnes Nursery of Huron, Ohio was determined to be the lowest and best bid.

**BUDGETARY INFORMATION:** The revised project cost based on bids, including engineering, inspection, advertising and miscellaneous costs are \$53,220.00. This project will be paid with Community Development Block Grant (CDBG) funds and Demolition Funds.

**ACTION REQUESTED:** It is recommended that the Ordinance awarding a contract to Barnes Nursery of Huron, Ohio for the Demolition of 1134 Huntington Avenue, 405 Perry Street, 2123 E. Forest Drive, 809 Decatur Street (Barn Only), 829 Fulton Street and 808 Hancock Street, in the amount of \$44,500.00 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 to move forward with the project and eliminate potential hazards from our neighborhoods. These properties have been an issue for many neighbors over the years.

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

I concur with this recommendation:

Matthew D. Kline

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City Manager

KKM/cal

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

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH BARNES NURSERY OF HURON, OHIO, FOR THE DEMOLITION OF 405 PERRY STREET, 2123 E. FOREST DRIVE, 1134 HUNTINGTON AVENUE, 809 DECATUR STREET (BARN ONLY), 829 FULTON STREET AND 808 HANCOCK STREET, SANDUSKY, 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 a Resolution of Necessity to proceed with the demolition of 405 Perry Street, 2123 E. Forest Drive, 1134 Huntington Avenue, 809 Decatur Street (Barn Only), 829 Fulton Street and 808 Hancock Street, Sandusky, Ohio, by Resolution No. 014-08R, passed on July 14, 2008; and

**WHEREAS**, the following vacant and dilapidated properties were ordered to be demolished by the Housing Appeals Board: 405 Perry Street and 1134 Huntington Avenue, ordered on April 8, 2008; 2123 E. Forrest Drive ordered on May 20, 2008; and 829 Fulton Street and 808 Hancock Street ordered on June 17, 2008; and

**WHEREAS**, the owner of the property located at 809 Decatur Street (Barn Only) signed a consent form for the demolition of this structure on March 19, 2008; and

**WHEREAS**, upon competitive bidding as required by law for the demolition of the properties located at 405 Perry Street, 2123 E. Forest Drive, 1134 Huntington Avenue, 809 Decatur Street (Barn Only), 829 Fulton Street and 808 Hancock Street, Sandusky, Ohio, five (5) appropriate bids were received and the bid from Barnes Nursery of Huron, Ohio, was determined to be the lowest and best bid; and

**WHEREAS**, the revised project cost based on bids including engineering, inspection, advertising and miscellaneous costs is \$53,220.00, to be paid with Community Development Block Grant (CDBG) funds and Demolition funds; and

**WHEREAS**, this legislation should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order move forward with the demolition of these properties which have been an issue for many neighbors for years and eliminate potential hazards from City neighborhoods; 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 Barnes Nursery of Huron, Ohio, for the demolition of the properties located at 405 Perry Street, 2123 E. Forest Drive, 1134 Huntington Avenue, 809 Decatur Street (Barn Only), 829 Fulton Street and 808 Hancock Street, Sandusky, Ohio, in an amount **not to exceed** Forty Four Thousand Five Hundred and 00/100 Dollars (\$44,500.00) consistent with the bid submitted by Barnes Nursery of Huron, 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.

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

ATTEST: \_\_\_\_\_  
B. JOYCE BROWN  
CLERK OF THE CITY COMMISSION

Passed:

**TO:** Matthew D. Kline, City Manager  
**FROM:** Kathryn K. McKillips, P.E., Director of Engineering Services  
**DATE:** October 15, 2008  
**RE:** Commission Agenda Item

**ITEM FOR CONSIDERATION:** Legislation to enter into a one year contract extension for land application of sewage sludge for calendar year 2009.

In 2006 a contract was awarded upon competitive bidding to Maple View Farms, LLC, of Castalia, Ohio, for land application of sewage sludge for the calendar year 2007. The contract documents included a provision for the potential of two (2) one year extensions of the contract price and terms based upon the mutual consent of the City and Maple View Farms.

Due to the rise in fuel costs during 2005, 2006, 2007 and 2008, maintaining the contract rate for 2009 by invoking the second of the one-year extensions is in the best interest of the City of Sandusky. The City would expect increased contract costs if this service were competitively bid for CY 2009. The extension was offered contingent on City Commission approval and accepted by Mr. Keith Edwards, owner of Maple View Farms, at the current contract rate of \$.0273 per gallon. Maple View Farms has been the City's contractor for this service for a number of years. Mr. Edwards is familiar with the site and there have been no complaints as to the service his company performs at the Wastewater Treatment Plant.

**BUDGETARY INFORMATION:** Funds for the payment of this service are routinely included in the operating budget of the Water Pollution Control Plant. The estimated amount of sludge for 2009 is 11,000,000 gallons. Therefore, the cost would be no more than \$300,300.00.

**ACTION REQUESTED:** It is requested that the proper legislation be prepared to enter into the second of the one year contract extensions with Maple View Farms, LLC of Castalia, Ohio for land application of sewage sludge for the calendar year 2009 in an amount not to exceed \$300,300.00. It is further requested that the legislation take immediate effect in accordance with Section 14 of the City Charter to allow sufficient time to execute the contract extension prior to January 1, 2009 thereby having no break in service.

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

I concur with this recommendation:

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Matthew D. Kline, City Manager

KKM/cal

cc: Edward A. Widman, Finance Director  
Jeffrey Meinert, Interim Water Pollution Control Plant Superintendent

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO A ONE YEAR CONTRACT EXTENSION WITH MAPLE FARMS, LLC, OF CASTALIA, OHIO, FOR THE LAND APPLICATION OF SEWAGE SLUDGE FROM THE WATER POLLUTION CONTROL PLANT FOR CALENDAR YEAR 2008; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.**

**WHEREAS**, this City Commission authorized and directed the City Manager to enter into a contract with Maple Farms, LLC, of Castalia for the land application of sewage sludge from the Water Pollution Control Plant for the calendar year 2007 by passage of Ordinance No. 06-075, passed on August 14, 2006, which included a provision for two (2) one-year extensions by mutual agreement between the City of Sandusky and Maple View Farms, LLC; and

**WHEREAS**, due to rising fuel costs during 2005, 2006, 2007 and 2008, maintaining the current contract rate for 2009 by invoking the second one-year extension is in the best interest of the City and therefore the extension was offered contingent on City Commission approval and accepted by the owner of Maple View Farms, LLC, at the current contract rate of \$.0273 per gallon; and

**WHEREAS**, the estimated amount of sludge for 2009 is 11,000,000 gallons at a contract rate of \$.0273 per gallon, not to exceed \$300,300.00, and funds for the payment of this service are routinely included in the operating budget of the Water Pollution Control Plant; 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 sufficient time to execute the contract extension prior to January 1, 2009, and thereby avoid a break in service; 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 one year contract extension with Maple View Farms, LLC, of Castalia, Ohio, for the land application of sewage sludge from the Water Pollution Control Plant for the calendar year 2009, in the amount of \$.0273 per gallon or an amount **not to exceed** Three Hundred Thousand Three Hundred and 00/100 Dollars (\$300,300.00). Said land application shall be provided in accordance with the proposal of the said Maple View Farms, LLC, currently on file in the office of the Director of Engineering Services and the bid specifications in relation thereto which are made a part of said contract and agreement as if fully rewritten therein.

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.

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

ATTEST: \_\_\_\_\_  
B. JOYCE BROWN  
CLERK OF THE CITY COMMISSION

Passed:

TO: Matthew D. Kline, City Manager  
FROM: Kathryn K. McKillips, P.E., Director of Engineering Services  
DATE: October 15, 2008  
SUBJECT: Commission Agenda Item

**ITEM FOR CONSIDERATION:** Ordinance authorizing and directing the City Manager to enter into a contract for the demolition of 1502 Hayes Avenue. This property was condemned by the City of Sandusky because it is a dilapidated property.

1502 Hayes Avenue was ordered to be demolished at the May 20, 2008 Housing Appeals Board. This property was taken to court, and the court upheld the order of the Housing Board of Appeals. The Environmental Review for use of CDBG funds is in progress.

The following bids were received on October 14, 2008:

Barnes Nursery	Huron, OH	\$16,500.00	100% Bond
Ed Burdue & Co	Sandusky, OH	\$19,800.00	100% Bond
Baumann Enterprises	Garfield Hts, OH	\$48,000.00	100% Bond

Barnes Nursery of Huron, Ohio was determined to be the lowest and best bid.

**BUDGETARY INFORMATION:** The revised project cost based on bids, including engineering, inspection, advertising and miscellaneous costs is \$26,645.00. This project will be paid with a donation in the amount of \$18,000.00 and the \$8,645.00 remaining will be paid with Community Development Block Grant (CDBG) and Demolition Funds.

**ACTION REQUESTED:** It is recommended that the Ordinance awarding a contract to Barnes Nursery of Huron, Ohio for the Demolition of 1502 Hayes Avenue, in the amount of \$16,500.00 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 to move forward with the project and eliminate potential hazards from our neighborhoods. This specific property has been an issue for many neighbors over the years.

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

I concur with this recommendation:

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Matthew D. Kline  
City Manager

KKM/cal

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

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH BARNES NURSERY OF HURON, OHIO, FOR THE DEMOLITION OF THE STRUCTURE LOCATED AT 1502-1504 HAYES AVENUE, SANDUSKY, 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 a Resolution of Necessity to proceed with the demolition of 1502 Hayes Avenue, Sandusky, Ohio, by Resolution No. 026-08R, passed on September 22, 2008; and

**WHEREAS**, the property located at 1502 Hayes Avenue was ordered to be demolished by the Housing Appeals Board on May 20, 2008; and

**WHEREAS**, on June 19, 2008, a Notice of Administrative Appeal and Motion to Stay Execution was filed with the Erie County Common Pleas Court by First Bank of Ohio from the decision of the City of Sandusky Housing Appeals Board regarding the Order of Demolition and on June 26, 2008, the Court ordered the execution of the case to permit the demolition of said structure; and

**WHEREAS**, on June 30, 2008, a second Motion to Stay Execution Pending Appeal was filed with the Court by First Bank of Ohio and by Judgment Entry filed on September 15, 2008, the Court sustained the Order for the demolition of the structure located at 1502-1504 Hayes Avenue; and

**WHEREAS**, upon competitive bidding as required by law for the demolition of 1502 Hayes Avenue, Sandusky, Ohio, three (3) appropriate bids were received and the bid from Barnes Nursery of Huron, Ohio, was determined to be the lowest and best bid; and

**WHEREAS**, the revised project cost based on bids including engineering, inspection, advertising and miscellaneous costs is \$26,645.00, and will be paid with a donation in the amount of \$18,000.00 and the remaining \$8,645.00 will be paid with Community Development Block Grant (CDBG) funds and Demolition funds; and

**WHEREAS**, this legislation should be passed as an emergency measure under suspension of the rules in accordance with Section 14 of the City Charter in order move forward with the demolition of this property which has been an issue for many neighbors for years and eliminate potential hazards from City neighborhoods; 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 Barnes Nursery of Huron, Ohio, for the demolition of the structure located at 1502-1504 Hayes Avenue, Sandusky, Ohio, in an amount **not to exceed** Sixteen Thousand Five Hundred and 00/100 Dollars (\$16,500.00) consistent with the bid submitted by

Barnes Nursery of Huron, 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.

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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.  
Engineering Technician

Date: October 17, 2008

Subject: Commission Agenda Item

**Item for Consideration:** First and Final Change Order for the Dutch Lane Sheet Piling Project. The construction costs for the work performed by Shepherd's Shoreline Construction, Inc., Sandusky, Ohio, came in over the contract amount by \$5,664.62. On July 30, 2008, a email was sent by the Engineering Director to the City Manager and the Engineering Department's City Commission Liaison regarding the need for a change order on this project. This change order includes changes in the amount of actual work required to be performed that was not covered in the original contract specifications and estimate prepared by the City's Traffic Engineer. There was additional excavation due to the removal and replacement of the concrete patio and steps at 835 Dutch Lane in order to place an additional tie back to secure the new sheet piling installed. There were also added costs for the disposal of the additional excavated materials. The contractor originally had asked for a change order that totaled \$9,321.35 for the extra work completed. However, there were charges for labor that were not per the contract rate and were for more hours than were shown on the city inspection reports for the extra work completed, therefore, the change order amount was reduced to \$5,664.62.

**Budgetary Information:** This change order is a \$5,664.62 addition to the original contract amount of \$30,987.00. The Final Construction Contract Cost is \$36,651.62. The Water Fund will pay \$12,217.21, the Sewer Fund will pay \$12,217.21 and the Street Funds will pay the remaining \$12,217.20.

**Action Requested:** It is requested that the First and Final change order in the amount of \$36,651.62 to be added to the contract with Shepherd's Shoreline Construction, Inc. of Sandusky, Ohio for the Dutch Lane Sheet Piling Project be approved and that the necessary legislation be passed under suspension of the rules in accordance with Section 14 of the City Charter for work completed and to close out the project and notify the Army Corps of Engineers of the completed work per their Nationwide Permit requirements.

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Jane E. Cullen, E.I.T.  
Engineering Technician

I concur with this recommendation:

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Matthew D. Kline  
City Manager

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

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

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO APPROVE THE FIRST & FINAL CHANGE ORDER FOR WORK PERFORMED FOR THE DUTCH LANE SHEET PILING PROJECT IN THE AMOUNT OF \$5,664.62 TO BE PAID TO SHEPHERD'S SHORELINE CONSTRUCTION, INC., OF SANDUSKY, OHIO; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.**

**WHEREAS**, this City Commission previously declared the necessity for the City to proceed with the Dutch Lane Sheet Piling Project by Resolution No. 004-08R passed on February 11, 2008; and

**WHEREAS**, this City Commission previously approved the awarding of the contract for work being performed for the Dutch Lane Sheet Piling Project by Ordinance No. 08-018, passed on March 24, 2008; and

**WHEREAS**, this First & Final Change Order includes changes in the amount of actual work required that was not covered in the original contract specifications with additional excavation due to the removal and replacement of the concrete a patio and steps in order to place an additional tie back to secure the new sheet piling installed and added costs for the disposal of the additional excavated materials; and

**WHEREAS**, the original contract with Shepherd's Shoreline Construction, Inc., was \$30,987.00 and with the addition of this First & Final Change Order in the amount of \$5,664.62, the revised contract cost is \$36,651.62, in which \$12,217.21 will be paid with Water Funds, \$12,217.21 to be paid with Sewer Funds, and the remaining \$12,217.20 to be paid with Street Funds; 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 for this completed project to be closed out and notify the Army Corps of Engineers of the completed work as required by the Nationwide Permit; 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 First & Final Change Order for work performed for the Dutch Lane Sheet Piling Project in an amount **not to exceed** \$5,664.62 resulting in the final contract cost of Thirty Six Thousand Six Hundred Fifty One and 62/100 Dollars (\$36,651.62) with Shepherd's Shoreline Construction, Inc., of Sandusky, 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: City Commission  
FROM: Scott Schell, Economic Development Specialist  
DATE: October 15, 2008  
RE: Commission Agenda Item (LEWCO, Inc. RLF)

**ITEM FOR CONSIDERATION:** An Ordinance approving a \$175,000 loan from the City's Revolving Loan Fund (RLF) for LEWCO, Inc. The RLF Committee met on October 6, 2008 and unanimously voted to recommend a 7 – 10year loan for \$175,000 at 4%. The company is purchasing a new piece of equipment that will allow them to cut and finish a variety of tubing for conveyor rollers where currently they buy this tubing from an outside supplier. This loan is part of a \$440,000 financing package for the equipment purchase. The city will have a lien on the equipment purchased and a subordinated lien on all other personal property of the company.

**BACKGROUND INFORMATION:** The Company was founded in 1917 as the Ohio Welding Company, a neighborhood welding shop. After World War II Tony Guerra started working for the company, which was then called Lake Erie Welding and Fabricating. In 1963 Guerra purchased an ownership interest and the company remains in the Guerra family to this day.

From its humble beginning, Lake Erie Welding and Fabricating (now called LEWCO) has expanded its operations and moved into the old Farrell Cheek Steel building on Lane Street in 1992. Today the company occupies approximately 135,000 square feet of the 185,000 square foot facility.

The company manufactures a wide variety of conveyor and material handling systems and also designs and manufactures a wide array of industrial ovens used in a variety of industries. Material handling equipment accounts for approximately 80% of LEWCO's business.

Today, the company may be looked upon as much as a design and engineering company tailoring and designing products to fit the customer's needs. Twenty-four of their 112 employees are engineers.

The new project consists of the addition of a Hautau Rotary Cutoff (tube cutting) machine at a total installed cost of approximately \$440,000. The company considers the addition of this machine a competitive necessity as they are currently spending a great deal of money to purchase tubing that is already cut to length. The new equipment will be programmable to cut a variety of tubing stock into a number of sizes and configurations at a reduced cost thereby allowing the company to capture a larger portion of the material handling market.

The city last loaned money to LEWCO in 1999 where we loaned approximately

\$150,000 toward equipment costing approximately \$400,000. This company made the last payment on this loan in September of 2008. The company had 71 employees before the 1999 capital equipment project and has approximately 112 employees today. All positions are full-time with benefits.

**BUDGETARY INFORMATION:**

This action will not impact the City operating budget. RLF funds are restricted in use and this loan is within the guidelines of the program. The company estimates that, when complete, the project will result in the hiring of 5 new full-time employees. The new hires will result in additional income taxes for the City.

**ACTION REQUESTED:**

It is requested that the City Commission enact the attached legislation under suspension of the rules as an emergency measure in accordance with Section 14 of the City Charter. The equipment has been ordered and city monies will be combined with the company's bank commitment to finance this important piece of equipment.

**I concur with this recommendation:**

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Matthew D. Kline, City Manager

ges 10/15/08

**COGNOVIT PROMISSORY NOTE/SECURITY AGREEMENT**  
**(COGNOVIT)**  
**CITY OF SANDUSKY, OHIO REVOLVING LOAN FUND**

**\$175,000.00**

**October \_\_\_\_, 2008**

**FOR VALUE RECEIVED**, the undersigned **LEWCO, INC.**, a corporation duly organized and validly existing under the laws of the State of Ohio, with its main offices located at 706 Lane Street,

Sandusky, Ohio (hereinafter called "BORROWER") promises to pay to the order of the **CITY OF SANDUSKY, OHIO**, a Commission-Manager form of government with its main offices at 222 Meigs Street, Sandusky, Ohio 44870 (hereinafter called "LENDER"), the principal sum of ONE HUNDRED SEVENTY FIVE THOUSAND DOLLARS (\$175,000) or such lesser sum as may be owed to LENDER pursuant to the terms of a certain Economic Development Agreement and Loan Agreement, both dated, October\_\_\_\_, 2008 between BORROWER and LENDER, to which reference is made for additional terms of the loan evidenced by this Promissory Note, together with interest as hereinafter provided.

### **SECTION I - DISBURSEMENT**

This Promissory Note does not of itself constitute a commitment by the LENDER to make any disbursement of the Loan (as defined in the Loan Agreement) to the BORROWER. The conditions for making such a disbursement are set forth in the Loan Agreement. The disbursements made by the LENDER to the BORROWER shall not exceed the face amount of this Note and the total amount of such disbursement is limited by and subject to the conditions for making disbursement of the Loan as set forth in the Loan Agreement.

Subject to compliance by the BORROWER in all other material respects with the with the Loan Agreement, proceeds of the loan shall be disbursed on a pro rata basis with other sources of financing based upon bills of sale presented by BORROWER for machinery and equipment purchased by BORROWER and proof of other costs incurred by BORROWER. Such costs will be verified and approved by LENDER prior to disbursement.

### **SECTION II - INTEREST**

**During Disbursal:** Interest shall accrue on the unpaid principal balance from the first disbursal date, estimated to be on or before November 10, 2008 through approximately December 31, 2008 at the rate of **Four Percent (4%)** per annum calculated on a 365/365 day basis with monthly payments of interest only billed to BORROWER at the end of each month and payment due to LENDER by the 15th of the following month.

**During Amortization:** Interest shall accrue on the unpaid principal balance at the rate of **Four Percent (4%)** per annum calculated on a 360/360 day basis from January 1, 2009 for the remaining term of the loan.

### **SECTION III - REPAYMENT**

**Repayment. Interest Only Payments:** Payments of interest only on the amount disbursed will be billed to BORROWER at the end of each month during the disbursal period with payment due LENDER by the 15th of the following month.

**Repayment. Amortization:** Commencing February 1, 2009 and continuing on the first day of each month thereafter through January 1, 2019, BORROWER shall pay LENDER One Thousand Seven Hundred Seventy-One Dollars and Seventy-Nine Cents (\$1,771.79) in principal and interest per month, in accordance with an amortization schedule (attached) calculated to fully amortize the principal balance of the loan within one hundred twenty (120) months. Payment adjustments will be made if all funds are not disbursed. All payments shall be made to the City of Sandusky, Ohio.

### **SECTION IV - LATE PAYMENT FEE**

A late payment fee of fifty dollars (\$50.00) shall be due and payable for each and every installment of interest or principal and interest when such installments remain unpaid for a period of ten (10) days after any such installment may have become due and payable.

#### **SECTION V - PREPAYMENT**

Prepayment of any principal sum of this loan may occur in whole, or in part, at any time, or times, without penalty. All such prepayments shall be applied to the payment of principal installments due hereon in the inverse order of their maturity.

#### **SECTION VI – SECURITY INTEREST**

To secure payment of this Note or any extensions or renewals of this Note, BORROWER grants and pledges to LENDER a security interest in the property listed below, and in after-acquired property of such description, replacements, substitutions, additions, accessions, products and the proceeds of all the foregoing and wherever such property is or may be located as follows:

1. The collateral acquired with the proceeds of this loan, subject and subordinate to the purchase money security interest of Croghan Colonial Bank securing its loan in the amount of \$\_\_\_\_\_.
2. Accounts receivable, accounts chattel paper, documents, contract rights, instruments, general intangibles, and all right, title and interest in sold, leased, or furnished goods giving rise thereto (including, without limitation, all rights (a) of stoppage in transit, (b) of reclamation, and (c) in returned or repossessed goods).
3. Inventory (including, without limitation, all goods, that are (a) raw materials, (b) Work in process, (c) materials used or consumed in the ordinary course of BORROWER's business, or (d) in the ordinary course of Debtor's business, held for sale or lease or furnished or to be furnished under contracts of service, all substitutes and replacements thereof, and all parts, accessories, additions, attachments, and accessions thereto and insurance proceeds from insurance of any of the above.
4. Proceeds, products, profit, and rents of and from all of the foregoing.
5. All ledger sheets, books, records and documents concerning any of the Collateral, including all computer records, programs, storage media and computer software useful or required in connection therewith.
6. All equipment, machinery, furniture and fixtures now owned and/or hereafter acquired.

#### **SECTION VII - UPON RELOCATION**

The entire balance of the outstanding principal and all accrued interest and charges shall, at the option of the LENDER become immediately due and payable upon the relocation of BORROWERS manufacturing facility to any location outside the corporate limits of the City of Sandusky, Ohio.

#### **SECTION VIII - DEFAULT/REMEDIES**

All liabilities created by this instrument shall, at the option of LENDER, accelerate, mature and become due and payable without demand or notice, which are hereby waived, if any maker, endorser, or guarantor of this Note shall:

- 1) suspend business;
- 2) become insolvent;
- 3) offer settlement to any creditors;

- 4) commit an act of bankruptcy;
- 5) file for, or have filed against it, any petition in bankruptcy or in any proceeding under any law relating to the relief of debtors, or for the appointment of a receiver of its property;
- 6) make any bulk sale of its property;
- 7) make any assignment for the benefit of creditors;
- 8) mortgage, pledge, or transfer any accounts receivable or otherwise impair the collateral or other property, in trust or otherwise; collateral or other property, in trust or otherwise without the prior consent of LENDER;
- 9) make any false representation;
- 10) fail to furnish information or permit inspection of books or records on demand of the holder;
- 11) fail to pay any obligation when due;
- 12) have a warrant of attachment or execution issued against any of its property;
- 13) have any judgment entered against it;
- 14) be dissolved or have its capital impaired;
- 15) if the Sandusky, Ohio facility is relocated beyond the corporate limits of Sandusky, Ohio.

Upon the happening of any one or more of the foregoing Events of Default, the entire amount of the loan described above, or any extension, renewal or replacement of the same, shall, at the option of LENDER, immediately mature and become due and payable without presentment, demand, protest or notice of any kind, all of which are hereby expressly waived.

Any event of default under any mortgage or other lien affecting the various security interests shall constitute an event of default hereunder, at LENDER's option.

The BORROWER waives presentment, protest and demand, notice of protest, notice of demand and dishonor and non-payment of this Note, and expressly agrees that this Note or any payment thereunder may be extended from time to time without in any way affecting the liability of the BORROWERS.

If this Promissory Note is placed in an attorney's hands for collection, or collected by suit or through the bankruptcy or probate, or any other court, either before or after maturity, there shall be paid to the holder of this Promissory Note reasonable attorney fees, costs and other expenses incurred by the holder in enforcing the terms of this Note.

The undersigned hereby authorizes any attorney-at-law to appear in any court of record situated in Erie County in the State of Ohio, or elsewhere, where the undersigned resides or has its principal place of business, signed this Promissory Note, or can be found, after the obligation evidenced hereby, or any part thereof becomes due and is unpaid, and waives the issuance and service of process and confesses judgment against the undersigned in favor of the holder of this Note for the amount then appearing due, together with the costs of the suit, and thereupon to release all errors and waive all right to appeal and stay of execution.

The rights and remedies of the LENDER, as provided herein, shall be cumulative and concurrent and may be pursued singly, successively or together at the sole discretion of the LENDER, and may be exercised as often as occasion theretofore shall occur, and the failure to exercise any such right or remedy shall in no event be construed as a waiver or release of the same.

Any notice may be delivered personally or sent Certified Mail to BORROWER at the following address: 706 Lane Street, Sandusky, Ohio 44870 or to such other addresses as may be furnished to the LENDER in writing from time to time.

#### **SECTION IX – MISCELLANEOUS**

- (a) Severability - If any provision of this Promissory Note or the application of any provision to any party or circumstance shall, to any extent, be adjudged invalid or unenforceable, the application of such provision to other parties or circumstances and the application of the remainder of this Agreement shall not be affected thereby. Each provision in this Agreement shall be valid and enforceable to the fullest extent of the law.
- (b) Headings - The headings contained in this Promissory Note have been inserted for convenience and reference only and are not to be used for interpretive purposes.

- (c) Governing Law-The parties agree that this Promissory Note shall be governed by and interpreted in accordance with the laws of the state of Ohio, and the parties submit to its jurisdiction for such purposes.
- (d) Non-Waiver-The failure of either party to insist or enforce in any instance strict performance of any of the terms of this Promissory Note or to exercise any rights hereunder conferred, shall not be construed as a waiver or relinquishment to any extent of its rights to assert or rely upon such terms or rights on any future occasion.
- (e) Amendments-This Promissory Note shall be amended only in a writing duly executed by the properly authorized representatives of both parties.
- (f) Assignment-Neither party may assign this Promissory Note or any part hereof without prior written consent of the other party hereto.
- (g) Waiver of Jury Trial-The BORROWER'S, any guarantor which is a party hereto, and LENDER hereby jointly and severally waive any and all right to trial by jury in any action or proceeding related to the loan documents, the obligations thereunder or any transaction arising therefrom or connected thereto. The BORROWER'S, guarantor(s) and LENDER each represents to the other that this waiver is knowingly, willingly and voluntarily given.

(Signatures commence on the following page.

**WARNING: BY SIGNING THIS PAPER YOU GIVE UP YOUR RIGHT TO NOTICE AND COURT TRIAL. IF YOU DO NOT PAY ON TIME, A COURT JUDGMENT MAY BE TAKEN AGAINST YOU WITHOUT YOUR PRIOR KNOWLEDGE, AND THE POWERS OF A COURT CAN BE USED TO COLLECT FROM YOU REGARDLESS OF ANY CLAIMS YOU MAY HAVE AGAINST THE CREDITOR WHETHER FOR RETURNED GOODS, FAULTY GOODS, FAILURE ON HIS PART TO COMPLY WITH THE AGREEMENT OR ANY OTHER CAUSE (Section 2323.13, Ohio Revised Code).**

IN WITNESS WHEREOF, this Promissory Note has been duly executed by the undersigned acting on behalf of LEWCO, Inc. on the day and year written above.

WITNESS OR ATTEST:                      **LEWCO, INC., an Ohio Corporation**

\_\_\_\_\_ By: \_\_\_\_\_  
Ronald Guerra, President

APPROVED AS TO FORM:

APPROVED AS TO CONTENT:

\_\_\_\_\_  
Donald C. Icsman  
Law Director

\_\_\_\_\_  
Scott Schell  
Economic Development Specialist

ges 10/15/08

ORDINANCE NO. \_\_\_\_\_

**AN ORDINANCE AUTHORIZING AND APPROVING AN ECONOMIC DEVELOPMENT LOAN IN THE AMOUNT OF \$175,000.00 TO LEWCO, INC.; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.**

**WHEREAS**, LEWCO, Inc., of Sandusky, Ohio, submitted an application to the City of Sandusky's Revolving Loan Fund Committee for partial funding to purchase a new piece of equipment that will allow them to cut and finish a variety of tubing for conveyor rollers which is currently purchased from an outside supplier thus reducing costs and allowing the company to capture a larger portion of the material handling market; and

**WHEREAS**, the Ohio Welding Company, now known as LEWCO, Inc., was founded in 1917 and currently manufactures a wide variety of conveyor and material handling systems and also designs and manufactures a wide array of industrial ovens used in a variety of industries; and

**WHEREAS**, the RLF Committee met on October 6, 2008, and unanimously voted to recommend a 7-10 year loan for \$175,000.00 at 4% with the City having a lien on the equipment purchased and a subordinated lien on all other personal property of the company, as contained in the terms of the Promissory Note and Security Agreement, a copy of which is attached to this Ordinance and marked Exhibit "A" and specifically incorporated herein; and

**WHEREAS**, LEWCO, Inc., estimates the completion of this project will result in hiring 5 new full-time employees which will result in additional income taxes for the City; and

**WHEREAS**, this loan will not impact the City's operating budget, the loan is restricted in use and is within the RLF guidelines and shall be **monitored on an annual basis by the Department of Development**; 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 to allow LEWCO, Inc., to complete their financing and have funds available upon receipt of equipment which has already been ordered; 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 Finance Director is authorized and directed to deliver to LEWCO, Inc., a draft in the sum of One Hundred Seventy Five Thousand and 00/100 Dollars (\$175,000.00) from the Revolving Loan Fund of the City of Sandusky pursuant to and in accordance with the terms of the Promissory Note and Security Agreement, with LEWCO, Inc., of Sandusky, Ohio, a copy of which is attached to this Ordinance, marked Exhibit "A" and specifically incorporated as if fully rewritten herein.

Section 2. If any section, phrase, sentence, or portion of this Ordinance is for

any reason held invalid or unconstitutional by any Court of competent jurisdiction, such portion shall be deemed a separate, distinct, and independent provision, and such holding shall not affect the validity of the remaining portions thereof;

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

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 effect and be in full force from and 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: