

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

MONDAY, MAY 12, 2008

Invocation
Pledge of Allegiance
Meeting Called to Order
Roll Call - DK, CS, DM, BF, BC, JF, DW
Minutes - April 28th

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

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

PROCLAMATION - "Emerald Ash Borer Awareness Week" - May 18th through May 24th

PRESENTATION - Teresa Buchanan - (Fun Day) Youth Community Effort

CURRENT BUSINESS

ITEM #1 - Communication - Joshua R. Snyder, P.E., Traffic Engineer

BUDGETARY INFORMATION: The original construction contract amount with Ed Burdue & Co. was \$797,706.75. The revised contract amount including the First and Final Change Order in the amount of \$109,110.55 is \$906,817.30. The estimated engineer's cost was \$990,860.00. The project will be funded with \$102,809.82 from the Sewer Fund, \$129,457.18 from the Water Fund, \$532,814.00 from CDBG funds, and the remaining \$141,736.30 will be included in a general obligation note. This note can be retired upon one year maturity or can be included in a bond sale which could have up to 20 years of repayment. The existing note that is maturing has an interest rate of 3.75%.

ORDINANCE NO. _____ Approve the First & Final Change Order for work being performed for the Bayfront Paper District Shoreline Drive Improvement Project Phase I in the amount of \$109,110.55 to be paid to Ed Burdue & Company of Sandusky, Ohio. **Request passed under suspension of rules in full accordance of Section 14 of the City Charter.**

ITEM #2 - Communication - Carrie R. Handy, Chief Planner

BUDGETARY INFORMATION: The cost of this contract will be covered by various sources of funds including remaining CHIP dollars, CDBG funds, general fund monies and potentially insurance and legal claims against contractors. The exact amount of the ORDC contract has not been determined as a percentage of the amount to be paid to the contractor is based on the cost of remediation work. Administrative assistance shall not exceed \$30,000 per grant year with a minimum fee of \$10,000 per grant year.

ORDINANCE NO. _____ Enter into a contract with Ohio Regional Development Corporation (ORDC) for Professional Services related to the Administration of the City's Community Housing Improvement Program (CHIP) and Community Development Block Grant (CDBG) Program. **Request passed under suspension of rules in full accordance of Section 14 of the City Charter.**

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

To: Matthew D. Kline, City Manager
From: Joshua R. Snyder, P.E.
Traffic Engineer
Date: May 2, 2008
Subject: Commission Agenda Item

ITEM FOR CONSIDERATION: Ordinance approving the First and Final Change Order for Ed Burdue & Co., in the amount of \$109,110.55 for the Bayfront Paper District Shoreline Drive Improvement Project Phase 1. The change order is due to unforeseen conditions as a result of actual field conditions and omissions by the design engineer, K.S. Associates, Inc., including: rock excavation, deteriorated sewer piping, additional sanitary and storm lateral connections, storm and sanitary manhole alterations, additional catch basins, relocations of manholes due to utility conflicts, additional concrete work and asphalt paving work based on actual quantities used in the field, removal of abutments by the Keller Building, relocation of sidewalks and curbing from the plans.

The City Manager and Engineering Liaison were notified on May 7, 2007 regarding additional underground work on the north side of the Keller Building. The City Manager and City Commissioners were notified on July 5, 2007 regarding more unforeseen underground work and additional costs to dispose of excavated materials. Although a large part of the cost of the change order is attributable to the sewer that was found behind the Keller Building and the deteriorated sewer on Decatur Street, the quantities used in the field were significantly different in some cases than the quantities estimated for the project. The lack of consideration for ADA design, transition to existing pavement and drainage increased the project also.

This project would have been closed out sooner, but the last minute change with the street light poles and fixtures caused a delay of about five months (City Commissioners and City Manager were notified of change on September 9, 2007).

Below is a breakdown of the items that changed in the project:

CB's Removed	\$	3,600.00
M.H. Adjusted to Grade	\$	(800.00)
12" Reinforced concrete pipe (RCP)	\$	9,883.20
15" RCP	\$	227.20
CB Type 1	\$	7,200.00
MH Type 3	\$	4,940.00
301 Asphalt	\$	1,372.39
304 Asphalt	\$	3,888.00
Tack Coat	\$	56.34

448 Asphalt Intermediate	\$	25,540.74
448 Asphalt Surface	\$	(854.91)
9" Concrete	\$	9,890.00
4" Concrete Walks	\$	(3,457.50)
Curb & Gutter	\$	238.00
Valve Box Adjusted	\$	(150.00)
Fire Hydrant	\$	(2,675.00)
12" Water Main	\$	3,219.00
8" Water Main	\$	(1,365.00)
6" Water Main	\$	3,520.00
1 1/2 Water Service	\$	952.00
2" Water Service	\$	152.00
12" Gate Valve & Box	\$	(2,900.00)
8" Gate Valve & Box	\$	(2,250.00)
4" Bollard & Cap	\$	(1,200.00)
No. 2 Post	\$	(1,309.00)
Sign sheet	\$	(709.50)
Double faced sign	\$	(1,080.00)
Street Name Sign	\$	(700.00)
Edge Line	\$	(252.00)
Center Line	\$	(1,732.50)
Transverse Line	\$	(3,011.80)
Parking Lot Lines	\$	(1,435.60)
Handicap Marking	\$	(224.00)
Stop Line	\$	(1,285.00)
Crosswalk	\$	(5,644.55)
Work Zone Center Line	\$	(787.50)
Work Zone Edge Line	\$	(1,050.00)
Calcium Chloride	\$	(1,650.00)
Connection Kit Type 2	\$	195.50
Connection Kit Type 7	\$	2,488.00
Cable Splice Kit	\$	(10.50)
Light Pole Type B	\$	(3,437.50)
Light Pole Type C	\$	2,637.50
AWG 600 Cable	\$	(111.65)
#10 AWG Cable	\$	(1,277.75)
2" Conduit	\$	(204.00)
#10 AWG Pole	\$	294.00
Trench	\$	346.50
High Voltage Service	\$	(616.00)
Topsoil	\$	2,700.60
Lime	\$	(709.50)
Brick Pavers	\$	107.25
Contaminated Soil	\$	(4,000.00)
Curb Ramp	\$	(450.00)
411 Aggregate	\$	14,779.84
MH - Shoreline & Jackson	\$	3,000.00

Additional items not included in the contract		
135 LF 12" Sanitary Sewer	\$	5,130.00
10 LF 24" SDR 35	\$	340.00
4 CY Rock Excavation	\$	400.00
2 Water Service Taps	\$	400.00
65 LF 3/4" Copper	\$	910.00
Electrical Circuits per elec inspector	\$	7,500.00
6 Laterals behind Feddersens	\$	900.00
Relocate CB due to Gas Main	\$	150.00
Cut existing manhole for elevation	\$	125.00
Special frame & grates for manholes	\$	800.00
Remove concrete abutment -Keller Bldg	\$	1,500.00
Excavate for future sign	\$	150.00
1" Steel plate on MH	\$	1,750.00
Excavate for OE vault and conduit	\$	3,800.00
56 LF 8" SDR 35	\$	1,792.00
169 LF 18" SDR 35	\$	10,140.00
Remove shotrock and debris-Tricor	\$	12,000.00
1" steel plate and LSM	\$	530.00
Remove 16 LF Type 2 curb & gutter	\$	80.00
Remove 53 LF Type 2 curb & gutter	\$	265.00
Remove 168 LF 4" sidewalk	\$	420.00
Excavate for 2 dumpster pads	\$	250.00
Prep and pave beyond project end	\$	1,361.25
Landscaping	\$	540.00
22 LF concrete steps	\$	1,100.00
56 SY 6" concrete pavement	\$	1,960.00
124 LF curb wall	\$	930.00
TOTAL	\$	109,110.55

BUDGETARY INFORMATION: The original construction contract amount with Ed Burdue & Co. was \$797,706.75. The revised contract amount including the First and Final Change Order in the amount of \$109,110.55 is \$906,817.30. The estimated engineer's cost was \$990,860.00. The project will be funded with \$102,809.82 from the Sewer Fund, \$129,457.18 from the Water Fund, \$532,814.00 from CDBG funds, and the remaining \$141,736.30 will be included in a general obligation note. This note can be retired upon one year maturity or

can be included in a bond sale which could have up to 20 years of repayment. The existing note that is maturing has an interest rate of 3.75%.

ACTION REQUESTED: It is requested that the ordinance approving the First and Final Change Order for Ed Burdue & Co., for the Bayfront Paper District Shoreline Drive Improvement Project Phase 1 be approved and that the necessary legislation be passed in full accordance with Section 14 of the City Charter in order for the project to be closed out.

Joshua R. Snyder, P.E.
Director of Engineering Services

I concur with this recommendation:

Matthew D. Kline
City Manager

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

KKM/cal

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

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO APPROVE THE FIRST & FINAL CHANGE ORDER FOR WORK BEING PERFORMED FOR THE BAYFRONT PAPER DISTRICT SHORELINE DRIVE IMPROVEMENT PROJECT PHASE I IN THE AMOUNT OF \$109,110.55 TO BE PAID TO ED BURDUE & CO., 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 approved the awarding of the contract for work being performed for the Bayfront Paper District Shoreline Drive Improvement Project Phase I by Ordinance No. 06-087, passed on September 11, 2006; and

WHEREAS, this First & Final Change Order is due to unforeseen conditions as a result of actual field conditions and omissions by the design engineer, K.S. Associates, Inc., including: rock excavation, deteriorated sewer piping, additional sanitary and storm lateral connections, storm and sanitary manhole alterations, additional catch basins, relocations of manholes due to utility conflicts, additional concrete work and asphalt paving work based on actual quantities used in the field, removal of abutments by the Keller Building, relocation of sidewalks and curbing from the plans; and

WHEREAS, although a large part of the cost of the change order is attributable to the sewer found behind the Keller Building and the deteriorated sewer on Decatur Street, the quantities used in the field were significant different in some cases than the estimated quantities for the project and the lack of consideration for ADA design, transition to existing pavement and draining increased the cost of the project as well; and

WHEREAS, the City Manager and Engineering Liaison were notified on May 7, 2007, of the additional underground work on the north side of the Keller Building and the City Manager and City Commission were notified on July 5, 2007, of more unforeseen underground work and additional cost to dispose of excavated materials; and

WHEREAS, this project was delayed about five months due to the last minute change with the street light poles and fixtures which the City Manager and City Commission were notified about on September 9, 2007; and

WHEREAS, the original contract with Burdue & Co. was \$797,706.75 and with the addition of this First & Final Change Order in the amount of \$109,110.55, the final contract cost is \$906,817.30; and

WHEREAS, this project will be funded with \$102,809.82 from the Sewer Fund, \$129,457.18 from the Water Fund, \$532,814.00 from CDBG funds and the remaining \$141,736.30 will be included in a general obligation note; 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 the Bayfront Paper District Shoreline Drive Improvement Project Phase 1 to be closed out; 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 Bayfront Paper District Shoreline Drive Improvement Project Phase I in an amount **not to exceed** \$109,110.55 resulting in the final contract cost of Nine Hundred Six Thousand Eight Hundred Seventeen and 30/100 Dollars (\$906,817.30) with Ed Burdue & Co., 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: Matthew D. Kline, City Manager

FROM: Carrie R. Handy, Chief Planner

DATE: May 6, 2008

SUBJECT: COMMISSION AGENDA ITEM (ORDC Contract)

ITEM FOR CONSIDERATION: Legislation authorizing the City Manager to enter into a contract with the Ohio Regional Development Corporation (ORDC) to act as the City's consultant for housing and CDBG program administration matters. The contract would be consistent with the attached proposal from ORDC and will allow the City of Sandusky to meet Ohio Department of Development and HUD requirements pertaining to the 2004, 2005 and 2006 CHIP programs and the 2004-2007 CDBG programs.

Appropriate disciplinary actions have been taken which have resulted in the removal of the housing division staff from housing and CDBG program administration duties. The City is now able to move forward with these programs and get them back up and running as expeditiously and effectively as possible. In addition, besides beginning to serve the public once again with these programs, the City is also facing several deadlines from the State and HUD to get staffing and program administration issues resolved. This situation necessitates this contract being approved as an emergency and obviating the need for formal competitive bidding.

It is noted that the State has also recommended that the City engage a consultant like ORDC in order to ensure that the City has on-site staff with the necessary technical expertise/knowledge of housing and CDBG programs.

ORDC has substantial experience and technical skill in the implementation of housing and CDBG programs. This organization has performed these activities for many other jurisdictions in Ohio and received excellent monitoring reports and recommendations from the State of Ohio.

STRATEGIC PLAN IMPACT: This contract will assist the City in remedial work associated with rehabilitation work completed under City housing programs and will provide administrative guidance to ensure the CHIP and CDBG programs will meet State and Federal standards in the future. In this regard, the proper administration of these programs will ensure that the City can continue to provide assistance to its residents through these two grant programs and improve neighborhoods and residents' quality of life.

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BUDGETARY INFORMATION: The cost of this contract will be covered by various sources of funds including remaining CHIP dollars, CDBG funds, general fund monies and potentially insurance and legal claims against contractors. The exact amount of the ORDC contract has not been determined as a percentage of the amount to be paid to

the contractor is based on the cost of remediation work. Administrative assistance shall not exceed \$30,000 per grant year with a minimum fee of \$10,000 per grant year.

ACTION REQUESTED: It is recommended that an agreement for professional services with ORDC be executed and that the necessary legislation be passed as an emergency under suspension of the rules and in full accordance with Section 14 of the City Charter so that program administration can finally resume; housing and CDBG program policies, procedures and forms can be revamped; and, most importantly, that damaged homes can be repaired as soon as possible.

I concur with this recommendation:

Matthew D. Kline, City Manager

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO A CONTRACT WITH THE OHIO REGIONAL DEVELOPMENT CORPORATION (ORDC) FOR PROFESSIONAL SERVICES RELATED TO THE ADMINISTRATION OF THE CITY'S COMMUNITY HOUSING IMPROVEMENT PROGRAM (CHIP) AND COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) PROGRAM; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, the City has taken certain actions which resulted in the removal of the housing division staff from housing and CDBG program administration duties; and

WHEREAS, as part of the City's plan to resolve the issues with the 2004-2006 CHIP programs cited by the State of Ohio and resume CDBG programs as expeditiously and effectively as possible it is being requested to enter into a contract with Ohio Regional Development Corporation (ORDC) for professional services related to the administration of the City's CHIP and CDBG programs allowing the City of Sandusky to meet the Ohio Department of Development and HUD requirements pertaining to the 2004, 2005 and 2006 CHIP programs and the 2004-2007 CDBG programs; and

WHEREAS, this contract will assist the City in remedial work associated with rehabilitation work completed under the City housing programs and provide administrative guidance to ensure the CHIP and CDBG programs will meet State and Federal standards in the future and will ensure that the City can continue to provide assistance to residents to improve neighborhoods and quality of life; and

WHEREAS, the Ohio Regional Development Corporation (ORDC) has substantial experience and technical skill in the implementation of housing and CDBG programs and has performed these activities for many other jurisdictions in Ohio and received excellent monitoring reports from the State of Ohio; and

WHEREAS, administrative assistance shall not exceed \$30,000 per grant year with a minimum fee of \$10,000 per grant and the cost of this contract will be covered by various sources of funds including remaining CHIP funds, CDBG funds, general funds and potentially insurance and legal claims against contractors; 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 resume administration of the programs, revamp CHIP and CDBG program policies, procedures and forms and most importantly begin to repair damaged homes as soon as possible; 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 that a real and present emergency exists in connection with the operation of the City's CHIP and CDBG programs which obviates the need for formal competitive bidding and advertising as authorized by Section

735.051 of the Ohio Revised Code.

Section 2. This City Commission authorizes and directs the City Manager to enter into a contract with the Ohio Regional Development Corporation (ORDC) for professional services related to the administration of the City's Community Housing Improvement Program (CHIP) and Community Development Block Grant (CDBG) Program, consistent with the proposal submitted by the Ohio Regional Development Corporation of Coshocton, Ohio, currently on file in the office of the Department of Development, together with such revisions or additions thereto as are approved by the Law Director as not being substantially adverse to the City and as being consistent with the purpose thereof as set forth in the preamble hereto, and authorizes the City Manager and/or Finance Director to expend funds as required pursuant to the contract.

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

PAGE 3 - ORDINANCE NO. _____

CLERK OF THE CITY COMMISSION

Passed:

GRANT AGREEMENT

This Grant Agreement (the "Agreement") is made and entered into on this ____ day of May, 2008 (the "Effective Date"), by and between the **The City of Sandusky, Ohio** ("Grantor"), and the **Sandusky Area YMCA** ("Grantee").

BACKGROUND INFORMATION

WHEREAS, the Grantor desires to facilitate community and economic development within the City of Sandusky and to expand the availability of recreational, social, youth and child care programming and activities to its residents all in furtherance of its Strategic Recreational Plan dated _____, 2007; and

WHEREAS, the Grantee is the owner of certain real property described in Exhibit A attached hereto and known as the former Memorial Hospital site located adjacent to the Sandusky High School on Hayes Avenue (hereinafter referred to as the "Property"); and

WHEREAS, the Grantee has submitted to the City a proposed plan for developing and using the Property consisting of (i) the construction of a new YMCA facility (the "YMCA Facility"); and (ii) activities and programming as further described in Exhibit B attached hereto that are customarily provided by Grantee and that are consistent with and supportive of the City's community and economic development goals (the "Programming"). The YMCA Facility and the Programming may be referred to herein collectively as the "Project"; and

WHEREAS, Grantee represents that it has the experience to perform the obligations required to be performed by it under this Agreement, and Grantee represents that it has the organization, means and financial and technical ability to fulfill all of its obligations under this Agreement; and

WHEREAS, the Grantor has determined that it is in the best interests of the Grantor and the residents of the City of Sandusky to enter into this Agreement for the purpose of providing funds from Grantor to Grantee in furtherance of the Project and that entering into this Agreement will further the public purposes of the Grantor.

STATEMENT OF THE AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the mutual promises and covenants hereinafter set forth, the parties hereby agree as follows:

1. **Grant of Funds.** Grantor hereby grants funds to Grantee in the following amounts and for the following purposes:

(a) Up to One Hundred Thousand and 00/100 Dollars (\$100,000) for the purpose of paying for the costs of water and sewer infrastructure improvements at the Project site as further described in Exhibit C attached hereto and made a part hereof (the "Infrastructure Improvements"); and

(b) Four Hundred Thousand and 00/100 Dollars (\$400,000) in equal annual installments of \$40,000 each as set forth in Article 5 herein for the purpose of paying the Programming costs.

2. Use of Funds. The funds and any and all interest income shall be used solely for the stated purposes set forth in this Agreement. Grantee shall not use any funds granted under this Agreement for the purpose of funding any religious activity or for any sectarian purposes, and shall use such funds only for secular purposes. If the funds and any and all interest income are not expended in accordance with the terms, conditions and time period set forth in this Agreement or the total amount of the funds and any and all interest income exceeds the eligible costs of the Project, the amounts improperly expended or not expended shall be returned to Grantor within thirty (30) days after the expiration or termination of this Agreement. In the event that the Project does not become operational and/or is abandoned, all moneys paid by Grantor to Grantee under this Agreement shall be remitted to Grantor by Grantee within thirty (30) days after such event has occurred.

3. Payment of the Cost of the Infrastructure Improvements. The Grantor agrees to pay the costs of the Infrastructure Improvements as set forth in Article 1(a) herein, based on invoices submitted by Grantee, provided that the total payment from the Grantor for the Infrastructure Improvements shall not exceed \$100,000. Grantee shall be responsible for any costs that exceeds said amount. The invoice shall be accompanied by unconditional lien waivers and releases from all contractors, subcontractors, suppliers or lien claimants. The Grantor shall, within fourteen (14) business days following receipt of the invoice, pay to the Grantee the amounts reflected in the invoice, provided that payment toward the costs of the Infrastructure Improvements may be in the form of a credit for tap fees and other City imposed fees that are waived by the Grantor. The Grantor may object to all or a part of a invoice by giving written notice of and specific reasons for the objection(s) and of the amounts subject to the objection(s). Any amount objected to shall not be payable until the objection is resolved.

Upon request of the Grantor, Grantee shall furnish invoices or other documentation in connection with the invoice. In paying any invoice, the Grantor shall be entitled to rely as to the completeness and accuracy of all statements in such invoice.

4. Completion of Construction and Commencement of Programming. The Programming Commencement Date as defined in Article 5 herein shall not be later than June 1, 2010 or such additional time as is agreed to in writing by the Grantor and Grantee. If it is anticipated that Grantee will not commence Programming by said date, Grantee must request an extension of time within sixty (60) days before the required date, unless otherwise agreed upon by Grantor. It will be within the sole discretion of Grantor to grant such extension of time.

5. Payment of the Programming Costs. The first annual installment from the Grantor as set forth in Article 1(b) shall be due and payable within thirty (30) days following the date that the public participation in the Programming commences as certified by Grantee in writing and accepted by Grantor, which acceptance will not be unreasonably withheld (the "Programming Commencement Date"). Each annual installment set forth in Article 1(b) herein shall thereafter be payable on the anniversary date of the Programming Commencement Date.

6. Specific Programmatic Benefits to Grantor. In exchange for the funds provided herein to Grantee, Grantee shall provide to Grantor at not additional cost the following:

a. Grantee shall provide a minimum of eight “Teen Nights” per calendar year, free of charge to residents of the City of Sandusky between the ages of 13 to 18. Grantee shall work cooperatively with the Grantor and community organizations in promoting the “Teen Night” events.

b. Grantee shall provide a minimum of one “Family Night” per calendar quarter, free of charge, to residents of the City of Sandusky, which event will include open access to the gymnasium, swimming pools and other recreational areas of the YMCA Facility.

c. Grantee will provide free swimming lessons for residents of the City of Sandusky between the ages of six and eight of age who qualify for “scholarships” under the low to moderate income guidelines.

d. Grantee will allocate spaces in its youth sports and swimming programs to be filled by the Recreation Department of the City of Sandusky. These spaces are designated for youth that qualify for “scholarships” under the low to moderate income guidelines.

e. Grantee will work in the spirit of collaboration to promote all recreation programs designated by the City of Sandusky that do not compete with the Grantee’s Programming and will work constructively with the Grantor to assure that current and future recreational programs are initiated in a spirit of cooperation and with the goal of efficiency and broad community benefit.

7. Accounting of Funds. The funds and any and all interest income therefrom shall be deposited and maintained in a separate account upon the books and records of Grantee (the “Account”). Grantee shall keep all records of the Account in a manner consistent with generally accepted accounting principles. All disbursements from the Account shall be for obligations incurred in the performance of this Agreement and shall be supported by contracts, invoices, vouchers, paid receipts and other data, as appropriate, evidencing the necessity of such expenditure. Should Grantee fail to comply with the requirements of this Article 7, Grantor may withhold payment requests until such compliance is demonstrated.

8. Prevailing Wage Standard. Grantee acknowledges and agrees that construction of the Facility is subject to the prevailing wage requirements of Ohio Revised Code Chapter 4115 (“Chapter 4115”), and Grantee agrees to pay all wages to laborers and mechanics employed on the Project at not less than the prevailing rates of wages of laborers and mechanics for the classes of work called for by the Project, which wages shall be determined in accordance with the requirements of Chapter 4115. The Grantee shall comply, and the Grantee shall require compliance by all subcontractors working on the Project, with all applicable requirements of Chapter 4115 including, without limitation, (i) obtaining from the Ohio Department of Commerce its determination of the prevailing rates of wages to be paid for all classes of work called for by the Project; (ii) obtaining the designation of a prevailing wage coordinator for the Project; (iii) insuring that all Subcontractors receive notification of changes in prevailing wage rates as required by Chapter 4115, and (iv) making the necessary adjustment in the prevailing wage rate and pay any wage increase during the term of the Contract.

9. Term of Agreement. The term of this Agreement shall commence as of the Effective Date and shall expire fifteen (15) years after the Programming Commencement Date.

10. Insurance. At all times during the term of this Agreement, Grantee shall insure the YMCA Facility against loss or damage by fire or other casualties normally covered by standard fire and extended coverage policies for not less than one hundred percent (100%) of its actual replacement value through responsible insurance carriers licensed to do business in Ohio, having a Best Insurance Reports policy holders rating of "A" or better and a financial size category of Class VII or better.

11. Submission of Annual Progress Reports. Grantee shall submit to Grantor an annual progress report, as specified by Grantor, detailing the progress of the Project. The report shall be received by Grantor no later than April 1st of each year. In addition, Grantee shall supply Grantor with any additional reports containing such information as Grantor may from time to time require. All costs incurred by Grantee in complying with the reporting requirements contained in this Agreement shall be borne by Grantee and shall not be an allowable expense of the funds granted herein.

12. Contingency of the Grant of Funds. Grantor's obligations for amounts payable during the Grantor's fiscal year in effect as of the Effective Date are contingent upon the appropriation and certification of available funds, and Grantor's obligations for amounts payable in future years are contingent upon the appropriation and certification of available funds for those fiscal years of the Grantor. By executing this Agreement, Grantee represents that sufficient funding, in addition to the funds granted hereunder, has been obtained to complete the Project.

13. Prerequisites to Disbursement of Funds. The disbursement of funds shall be subject to Grantee providing the Grantor written authorization in the form of a resolution, authorizing the Grantee to accept the funds and authorizing Grantee to execute this Agreement.

14. Equal Employment Opportunity. Grantee will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, disability, age, veteran status or ancestry. Grantee shall ensure that applicants for employment are considered for employment and that employees are treated during employment, without regard to their race, religion, color, sex, national origin, disability, age, veteran status or ancestry. Grantee will incorporate the requirements of this paragraph in all of its respective contracts for any work performed related to this Agreement and the Project, and Grantee will require all of its subcontractors for any part of such work to incorporate such requirements in all subcontracts for such work.

15. Sale or Transfer. If the Grantee sells or transfers the Property prior to expiration of this Agreement, the Grantee shall immediately repay to the Grantor the entire amount of funds advanced to Grantee.

16. Records, Access and Maintenance. Grantee shall establish and maintain for at least three (3) years from the expiration or termination of this Agreement such records as are required by

Grantor, including but not limited to, financial reports, intake and participant information, and all other relevant information. The parties further agree that records required by Grantor with respect to any questioned costs, audit disallowances, litigation or dispute between Grantor and Grantee shall be maintained for the time needed for the resolution of said question and that in the event of early termination of this Agreement, or if for any other reason Grantor shall require a review of the records related to the Project, Grantee shall, at its own cost and expense, segregate all such records related to the Project from its other records of operation and provide such records to Grantor.

17. Audits and Inspections. At any time during normal business hours upon written notice and as often as Grantor may deem necessary, Grantee shall make available to Grantor, for examination, and to appropriate governmental agencies or officials, all of its records with respect to matters covered by this Agreement including, but not limited to, records of personnel and conditions of employment and shall permit Grantor and such governmental agencies or officials to audit, examine and make excerpts or transcripts from such records. In the event that Federal funds are used under this Agreement, such funds may be subject to audit by the agency of the United States Government granting the funds to the Grantor for the purposes of this Agreement.

18. Event of Default. The Grantee shall be deemed to be in default under this Agreement upon the occurrence of any one or more of the following events (each an "Event of Default"):

- a). Grantee assigns this Agreement or any funds advanced hereunder or any interest herein to a third party or if the Property or any interest is conveyed, assigned or otherwise transferred without the prior written consent of the Grantor;
- b). Any representation or warranty made herein or in any report, certificate, financial statement or other instrument furnished in connection with this Agreement shall prove to be false in any material respect;
- c). Grantee defaults in the performance of any term, covenant or condition to be performed hereunder;
- d). Any proceeding involving the Grantee or the Property, commenced under any bankruptcy or reorganization arrangement, probate, insolvency, readjustment of debt, dissolution or liquidation law of the United States, or any state, that are not dismissed within sixty (60) days; and
- e). An order, judgment or decree is entered, without the application, approval or consent of the Grantor, by any court of competent jurisdiction approving the appointment of a receiver, trustee or liquidator of the Grantee of all or a substantial part of its assets, and such order, judgment or decree shall continue in effect for a period of sixty (60) days.

If an Event of Default remains uncured for a thirty (30) day period following written notice from Grantor, then Grantor may terminate this Agreement in which event the entire amount of funds disbursed to Grantee shall become immediately due and payable without the necessity of demand from Grantor.

19. Closeout Report. Within sixty (60) days after termination of this Agreement, Grantee shall provide Grantor with a final closeout report setting forth the total expenditure of the funds by Grantee and the status of the Project at the time of termination. In addition, Grantee shall surrender all reports, documents, and other materials assembled and prepared pursuant to this Agreement, which shall become the property of Grantor. Upon review of the closeout report, Grantor shall determine whether or not Grantee shall be required to return any portion of the funds. This decision will be within the sole discretion of Grantor. In no event shall Grantee be required to return an amount in excess of the total funds granted under this Agreement.

20. Forbearance Not a Waiver. No act of forbearance or failure to insist on the prompt performance by Grantee of its obligations under this Agreement, either express or implied, shall be construed as a waiver by Grantor of any of its rights hereunder.

21. Indemnification. The Grantee agrees to indemnify and to hold Grantor harmless from any and all claims for injury or damages arising from this Agreement and Grantee's performance of the obligations or activities in furtherance of the Project which are attributable to the Grantee's own actions or omissions or those of its trustees, officers, employees, subcontractors, suppliers, third parties utilized by the Grantee, or joint venturers while acting under this Agreement.

22. Adherence to State and Federal Laws, Regulations. Grantee agrees to comply with all applicable federal, state, and local laws related to Grantee's performance of the obligations of this Agreement. Grantee accepts full responsibility for payments of all unemployment compensation, insurance premiums, workers' compensation premiums, all income tax deductions, social security deductions, and any and all other taxes or payroll deductions required for all employees engaged by Grantee on the performance of the work authorized by this Agreement.

23. Falsification of Information. Grantee affirmatively covenants that it has made no false statements to Grantor in the process of obtaining this grant of funds. If Grantee has knowingly made a false statement to Grantor to obtain this grant of funds, Grantee shall be required to return all funds immediately.

24. Miscellaneous.

a). Governing Law. This Agreement shall be governed by the laws of the State of Ohio as to all matters, including but not limited to matters of validity, construction, effect and performance.

b). Forum and Venue. All actions regarding this Agreement shall be forumed and venued in a court of competent subject matter jurisdiction in Erie County, Ohio.

c). Entire Agreement. This Agreement and its exhibits and any documents referred to herein constitute the complete understanding of the parties and merge and supersede any and all other discussions, agreements and understandings, either oral or written, between the parties with respect to the subject matter hereof.

d). Severability. Whenever possible, each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement is held to be prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity, without invalidating the remainder of such provisions of this Agreement.

e). Notices. All notices, consents, demands, requests and other communications which may or are required to be given hereunder shall be in writing and shall be deemed duly given if personally delivered or sent by United States mail, registered or certified, return receipt requested, postage prepaid, or by a delivery service that can provide proof of mailing and receipt by both parties, to the addresses set forth hereunder or to such other address as the other party hereto may designate in written notice transmitted in accordance with this provision.

1). In case of Grantor, to:

The City of Sandusky, Ohio
222 Meigs Street
Sandusky, Ohio 44870
Attention: [_____]

2). In case of Grantee, to:

Sandusky Area YMCA
2101 West Perkins Avenue
Sandusky, Ohio 44870

f). Amendments or Modifications. All material changes or modifications to this Agreement, including the Project activities, shall be approved in writing by both parties prior to such change or modification becoming effective. Should the parties consent to modification of the Agreement, then an amendment shall be drawn, approved, and executed in the same manner as this Agreement.

g). Pronouns. The use of any gender pronoun shall be deemed to include all the other genders, and the use of any singular noun or verb shall be deemed to include the plural, and vice versa, whenever the context so requires.

h). Headings. Article headings contained in this Agreement are inserted for convenience only and shall not be deemed to be a part of this Agreement.

i). Assignment. The Grantee shall not assign or attempt to assign directly or indirectly, any of its rights under this Agreement or under any instrument referred to herein without the prior written consent of the Grantor. The Grantee shall not assign all or any portion of the Property made the subject of this Agreement without the prior written consent of the Grantor.

j. Third Party Rights. This Agreement is not intended to create or vest any rights in any third party or to create any third party beneficiaries.

k). Successor in Interest. Each and all of the terms and conditions of this Agreement shall extend to and bind and inure to the benefit of not only Grantee, but to its successors and assigns.

IN WITNESS WHEREOF, the parties hereto have caused this Grant Agreement to be executed by their respective officers thereunto duly authorized on the last day and year set forth below.

GRANTEE:

GRANTOR:

SANDUSKY AREA YMCA

CITY OF SANDUSKY, OHIO

By: _____

By: _____

Title: _____

Date: _____

Date: _____

APPROVED AS TO FORM BY:

Director of Law
City of Sandusky

FISCAL OFFICER'S CERTIFICATE

The undersigned, as fiscal officer of the City of Sandusky, Ohio, hereby certifies that the money required for the payment of the obligations of the City under this Agreement during the current fiscal year has been lawfully appropriated for such purposes and is in the treasury or in the process of collection to the credit of the appropriate fund, free from any previous encumbrances. This Certificate is given in compliance with Section 5705.41 of the Revised Code.

CITY OF SANDUSKY, OHIO

Dated: _____

Name: Edward A. Widman
Title: Finance Director

EXHIBIT A

Description of Property

EXHIBIT B
Programming

EXHIBIT C

Infrastructure Improvement

ORDINANCE NO. _____

AN ORDINANCE AUTHORIZING AND DIRECTING THE CITY MANAGER TO ENTER INTO AN AGREEMENT WITH THE SANDUSKY AREA YMCA TO PROVIDE ASSISTANCE IN SUPPORT OF THE NEW YMCA PROJECT; AND DECLARING THAT THIS ORDINANCE SHALL TAKE IMMEDIATE EFFECT IN ACCORDANCE WITH SECTION 14 OF THE CITY CHARTER.

WHEREAS, the Sandusky Area YMCA in cooperation with Firelands Regional Medical Center is proposing a new state-of-the-art YMCA facility to be located on Hayes Avenue next to the Sandusky High School; and

WHEREAS, in order to bring this project to fruition the Sandusky Area YMCA needs financial support and commitment from members of the community including the City of Sandusky; 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 meet the YMCA's funding deadline of May 19, 2008; and

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

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

Section 1. This City Commission authorizes and directs the City Manager to enter into an agreement with the Sandusky Area YMCA substantially in the same form as Exhibit "A", a copy of which is attached to this Ordinance and is specifically incorporated as if fully rewritten herein, together with such revisions or additions thereto as are approved by the Law Director as not being substantially adverse to the City and as being consistent with the purpose thereof as set forth in the preamble hereto, and authorizes the City Manager and/or Finance Director to expend funds as required pursuant to the agreement.

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: