MUSKEGON COUNTY BOARD OF COMMISSIONERS
Community Development/Strategic Planning Committee
AGENDA

April 23, 2019 – 3:30 PM
Hall of Justice
990 Terrace, Muskegon, MI

Charles Nash, Chair
Kenneth Mahoney, Vice-Chair

1) Call to Order
2) Roll Call
3) Approval of the Minutes of March 19, 2019
4) Public Comment (on an agenda item)
5) Items for Consideration
   CD/SP19/04 – 07 (Administration) Approve the Amended Bylaws of the Lakeshore Museum Center Board
   CD/SP19/04 – 08 (Community Development) Adopt the License Agreement with B. Baskin Enterprises, LLC, for Rockstock Music Festival, Independence Day Fireworks Display and Carnival and Authorize the Board Chair to Sign
   CD/SP19/04 – 09 (Community Development) Adopt the License Agreement with the City of Muskegon for Their 150th Anniversary Celebration and Authorize the Board Chair to Sign
6) Old Business
7) New Business
8) Public Comment
9) Adjournment

Public Comment
Persons may address the Commission during the time set aside for Public Comment or at any time by suspension of the rules. All persons must address the commission and state their name for the record. Comments shall be limited to two (2) minutes for each participant, unless time is extended prior to the public comment period by a vote of a majority of the commission.

AMERICAN DISABILITY ACT POLICY FOR ACCESS TO OPEN MEETINGS OF THE MUSKEGON COUNTY BOARD OF COMMISSIONERS AND ANY OF ITS COMMITTEES OR SUBCOMMITTEES

The County of Muskegon will provide necessary reasonable auxiliary aids and services, such as signers for the hearing impaired and audio tapes of printed materials being considered at the meeting, to individuals with disabilities who want to attend the meeting upon 24-hours’ notice to the County of Muskegon. Individuals with disabilities requiring auxiliary aids or services should contact the County of Muskegon by writing or calling: Administration, 990 Terrace Street, Muskegon, MI 49442 (231) 724-6520
Muskegon County
Community Development/Strategic Planning Committee
March 19, 2019
3:30 p.m.
Hall of Justice
990 Terrace
Muskegon, MI

Charles Nash, Chair

Kenneth Mahoney, Vice-Chair

MINUTES

CALL TO ORDER

The meeting was called to order by Commissioner Nash at 3:39 p.m.

ROLL CALL

Present: Gary Foster, Marcia Hovey-Wright, Susie Hughes, Zach Lahrning, Kenneth Mahoney, Charles Nash, Robert Scolnik, I. John Snider, Il, Rillastine Wilkins

Also Present: Doug Hughes, Williams Hughes, PLLC, Corporate Counsel; Mark Eisenbarth, County Administrator; Lisa Chalko, Administrative Coordinator

APPROVAL OF MINUTES

It was moved by Commissioner Mahoney, supported by Commissioner Snider, to approve the minutes of February 19, 2019, as written. Motion carried.

PUBLIC COMMENT (On an agenda item)

None.

ITEMS FOR CONSIDERATION

CD/SP19/03 – 03 It was moved by Commissioner Foster, supported by Commissioner Hovey-Wright, to adopt the License Agreement with the Michigan Irish Music Festival to provide a license for the use of Heritage Landing, Thursday, September 12 through Sunday, September 15, 2019 for the Michigan Irish Music Festival, and to
authorize the Chairperson of the County Board to execute the agreement. Motion carried.

CD/SP19/03 – 04 It was moved by Commissioner Snider, supported by Commissioner Mahoney, to adopt the License Agreement with Unity Christian Events/Alive On the Lakeshore to provide a license for the use of Heritage Landing, August 7 – 10, 2019 for the Unity Christian Music Festival, and to authorize the Chairperson of the County Board to execute the agreement. Motion carried.

CD/SP19/03 – 05 It was moved by Commissioner Mahoney, supported by Chairman Hughes, to adopt the License Agreement with iHeartRadio/WMUS to provide a license for the use of Heritage Landing, August 17, 2019 for "Moosefest", and to authorize the Chairperson of the County Board to execute the agreement. Motion carried.

OLD BUSINESS

None.

NEW BUSINESS

CD/SP19/03 – 06 It was moved by Chairman Hughes, supported by Commissioner Hovey-Wright, to approve a Resolution for Charles Hodson on his retirement as Band Director for Reeths-Puffer Schools. Motion carried.

PUBLIC COMMENT

None.

ADJOURNMENT

There being no further business to come before the Community Development/Strategic Planning Committee, the meeting adjourned at 3:44 p.m.
REQUEST FOR BOARD CONSIDERATION-COUNTY OF MUSKEGON

REQUESTING DEPARTMENT
Administration

COMMITTEE
Community Development/Strategic Planning

COMMITTEE DATE
April 23, 2019

REQUESTOR SIGNATURE
Mark Eisenbarth

SUMMARY OF REQUEST (GENERAL DESCRIPTION, FINANCING, OTHER OPERATIONAL IMPACT, POSSIBLE ALTERNATIVES)

The Lakeshore Museum Center Board amended its bylaws on October 22, 2018 and its membership approved the amended bylaws at the Annual Meeting on February 25, 2019. It is now being requested that the Muskegon County Board of Commissioner approve the bylaws to make them official.

The main changes were updates to titles and roles. The Board President becomes Board Chair, and the Executive Director becomes President/CEO. This reflects the changes that occurred years ago moving from a volunteer Board President serving as CEO to paid staff serving as CEO.

SUGGESTED MOTION (STATE EXACTLY AS IT SHOULD APPEAR IN THE MINUTES)

Move to approve the amended bylaws of the Lakeshore Museum Center Board as presented.

ADMINISTRATIVE ANALYSIS (AS APPLICABLE)

HUMAN RESOURCES ANALYSIS:

FINANCE & MANAGEMENT ANALYSIS:

CORPORATE COUNSEL ANALYSIS:

ADMINISTRATOR RECOMMENDATION:

If motion originates from a Statutory Board, Authority or Advisory Committee, please provide the date the motion was approved by that Board/Authority/Committee

AGENDA DATE: 4/23/19
AGENDA NO.: CDSP19/04-07
BOARD DATE: 4/30/19
PAGE NO.

Revised 4/17/19
RESTATED AND AMENDED BY-LAWS

OF

MUSKEGON COUNTY MUSEUM

(A Michigan Non-Profit Corporation)

ARTICLE I
Name and Registered Office

Section 1. Name. The name of this Corporation is the Muskegon County Museum. By action of the Board of Trustees, it may use assumed names legally registered, including the name Lakeshore Museum Center.

Section 2. Registered Office. The registered office of the Corporation is 430 West Clay Avenue, Muskegon, Michigan, and the mailing address of the registered office is 430 West Clay Avenue, Muskegon, Michigan 49440. The resident agent shall be the person who from time to time is designated by the Board of Trustees.

Section 3. Principal Office. The Corporation shall have its principal office at 430 West Clay Avenue, Muskegon, Michigan, and it may also maintain offices at such other place or places as the Board of Trustees may from time to time designate.

ARTICLE II
Purpose

Section 1. Purpose. The purpose or purposes for which the Corporation is organized are:

(a) To commemorate the founding and settlement of what is now the County of Muskegon, Michigan;
(b) To foster and to promote the establishment, maintenance and continuance of a historical and natural science Museum, including provision for the collection and preservation of local and Western Michigan relics, mementos, documents and other historical materials;
(c) To operate the same and to provide for its care and management for the benefit and educational advancement of the public;
(d) To develop educational programs and opportunities for the community and schools that connect to Muskegon’s history, natural science, and cultural history; including past, present, and future trends.
(e) To cooperate with and make its facilities available to the schools of the County of Muskegon and other educational institutions;
(f) To acquire by lease, gift, bequest, or in any other manner, such specimens, relics, mementos, documents or other articles of interest;
(f) To receive, collect and disburse any and all funds or moneys fully belonging to the Corporation to acquire by purchase, contract or lease, devise or gift, and to hold for any of its objectives and purpose any property, real, personal or mixed, without limitation as to the amount or value, except as determined by law;

(g) To hold, protect and disburse any and all funds or moneys fully belonging to the Corporation to acquire by purchase, contract or lease, devise or gift, and to hold for any of its objectives and purposes any property, real, personal or mixed, without limitation as to the amount or value, except as determined by law;

(h) To transfer and assign, when the occasion arises, the physical properties of the Corporation to a governmental or tax supported unit which will continue the operation of such Museum;

(i) In general to carry on such business in connection therewith and incident thereto not forbidden by the laws of the State of Michigan and with all powers conferred upon non-profit corporations by the laws of said State;

(j) To solicit, receive, and accept property to be applied in the operation of said Museum;

(k) To do all acts not otherwise prohibited by law which will assist in the furtherance of the above-stated purpose;

(l) No part of the net earnings of the Corporation shall insure to the benefit of any member, trustee or officer of the Corporation, but the Corporation shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in Article II of the Articles of Incorporation. No substantial part of the activities of the Corporation shall be the carrying on of propaganda or otherwise attempting to influence legislation, and the Corporation shall not participate in or intervene in (including the publication or distribution of statements) any political campaign on behalf of any candidate for public office.

(m) Notwithstanding any other provisions of the Articles of Incorporation, the Corporation shall not carry on any other activities not permitted to be carried on:

(1) By a corporation exempt from Federal Income Tax under Section 501(g) (3) of the Internal Revenue Code of 19541986; or

(2) By a corporation, contributions to which are deductible under Section 170 (c) (2) of the Internal Revenue Code of 19541986.

(n) This Corporation is organized and will be operated exclusively for educational and charitable purposes as defined under Section 501 (c) (3) of the Internal Revenue Code of 19541986 as amended, and the purposes of the Corporation shall be restricted exclusively to such activities and purposes as are allowed under said Section or any successor provision anything to the contrary hereinabove provided notwithstanding.

(o) To foster, adopt and implement strategic plans for the successful and meaningful functioning of the corporation, and which will refine, broaden and improve its mission within the exempt purposes for which the corporation was formed.
ARTICLE III
Membership

Section 1. Eligibility. All interested persons shall be eligible for membership in
this corporation.

Section 2. Classification. The Board of Trustees shall establish by resolution
from time to time, classifications of membership together with the appropriate dues for
each class.

Section 3. Information and Voting. Members shall be sent a copy of all
newsletters and bulletins issued by the Museum, shall be eligible to attend and to vote at
membership meetings called by the Corporation, and shall have a vote in the selection of
 Trustees of the Museum.

Section 4. Default. Any member in default in payment of minimum dues shall be
 ipso facto suspended from all privileges of membership.

Section 5. Removal of Members. A member who is considered for suspension or
removal for a reason other than default in payment of minimum dues shall be entitled to
notice of such pending suspension or removal and, on request, shall be entitled to a
hearing respecting such suspension or removal.

Section 6. Fees and Dues. Such dues or fees may be changed from time to time
by action of the Board of Trustees and the Board of Trustees shall also have authority to
make such other or additional regulations respecting the membership as the Board may,
in its discretion, deem necessary for the best interests of the Corporation.

ARTICLE IV
Meetings of Members

Section 1. Annual Meeting. The Annual Meeting of members shall be held at
4:30 p.m. on the 4th Monday of January each year at the principal office of the
Corporation, or as otherwise provided by the Board of Trustees.

Section 2. Special Meetings. Special meetings of the members may be called by
the President upon authorization by the Board of Trustees, and shall be called by the
President at the request in writing of any five (5) members.

Section 3. Place of Meeting. The Board of Trustees may designate any place as
the place of meeting for any annual or special meeting called in the manner authorized by
Section 2 hereof. If no designation is made, or if a special meeting be otherwise called,
the place of the meeting shall be the principal office of the Corporation designated in
Section 3 of Article I of these By-Laws.

Section 4. Notice of Meetings. Written or printed notice stating the place, day
and hour of the annual, regular and any special meetings, and the purpose or purposes for
which any meeting is called, shall be delivered not less than ten nor more than 60 days
before the day of the meeting, either personally, by ordinary mail/email, or through
publication in the official bulletin of the Corporation by or at the direction of the
President, the Secretary or the officers or persons calling the meeting, to each member. If mailed, such notice shall be deemed to be delivered when deposited in the United States mails in a sealed envelope addressed to the member at its address as it appears on the records of the Corporation with postage thereon prepaid. Any member may waive notice and consent to the holding of any meeting. The attendance of the member at any meeting constitutes a waiver of notice of the meeting, except when a member attends a meeting for the express purpose of objecting, at the beginning of the meeting, or thereafter when an item, not included in the Notice of the Meeting because the meeting is not lawfully called or convened, or the item had not been included in the Notice of Meeting.

Section 5. Quorum. The presence of ten (10) of the members in person or by proxy shall be requisite and shall constitute a quorum at all meetings of the members for the transacting of business except as otherwise provided by statute, by the Articles of Incorporation or by the By-Laws. Whether or not a quorum is present, a meeting may be adjourned by a vote of a majority of the members present and entitled to vote. At such adjourned meeting, at which a quorum shall be present or represented, any business may be transacted which might have been transacted at the meeting as originally notified.

Section 6. Voting. At every meeting of the members each member shall be entitled to vote in person, or by proxy duly appointed by instrument in writing which is subscribed by such member and which bears a date not more than 11 months prior to such meeting, unless such instrument provides for a longer period. Each member of the Corporation shall be entitled to one vote. The vote for trustees and, upon the demand of any member, the vote upon any question before the meeting, shall be by ballot. All elections shall be had and all questions decided by a majority vote of the persons present in person or by proxy.

Section 7. Inspectors of Election. Whenever any person entitled to vote at a meeting of the members shall request the appointment of inspectors, the presiding officer shall appoint not more than three inspectors, who need not be members. If the right of any person to vote at such meeting shall be challenged, the inspector shall determine such right. The inspectors shall receive and count the votes either upon an election or for the decision of any question and shall determine the result. Their certificate of any vote shall be prima facie evidence thereof.

Section 8. Order of Business. The order of business at all meetings of the members shall be as follows:

(a) Roll call, or sign in.
(b) Reading of notice and proof of mailing.
(c) Reading of minutes of last preceding meeting.
(d) Report of officers.
(e) Report of committees.
(f) Report of Treasurer.
(g) Election of Trustees.
(h) Transaction of other business mentioned in the notice.
(i) Adjournment.

Provided that, in the absence of any objections, the presiding officer may vary the order of business at his discretion.
ARTICLE V
Board of Trustees

Section 1. Election and General Powers. The business and affairs of the Corporation shall be managed by its board of Trustees, except as otherwise provided by statute, by the Articles of Incorporation or by the By-Laws. The term of one-third of the members of the Board of Trustees shall expire each year. Except as provided in Section 2(b) below, the Board of Trustees shall nominate a sufficient number of nominees to allow election of one-third of the board by a majority vote of the members voting in person or by proxy. The list of nominees shall be prepared and approved for nomination by the Board on or before December 10. Following the approval of nominees a ballot shall be sent to all members for return by January 5.

Section 2. Number, Tenure and Qualifications.

(a) The membership of the Board of Trustees of the Corporation shall be no more than 15 and no less than 12 trustees. Members of the Board of Trustees shall be divided into three (3) classes with the same number of trustees in each class. The members of each class shall hold office for a term of three years. At all annual elections, one third trustees shall be elected by the members for a term of three (3) years to succeed the Trustees whose term then expires (subject to reduction by one in the event Section 2 (b) applies and subject to timing of terms resulting from Board shrinkage since 2013). Trustees shall hold office until the election of their respective successors except in the event of their prior death, resignation, retirement, disqualification or removal; provided that nothing herein shall be construed to prevent the election of a Trustee to succeed himself. The Trustees shall be paid members in good standing of the Corporation. A Trustee may be removed for any or no reason upon the vote of the majority of the members of the Board, including the Trustee or Trustees then subject to removal. Any removal or termination of membership of a Trustee shall be subject to a requirement that the affected Trustee or Trustees be given notice, in advance, in writing, of the pending removal or termination and the reasons therefore, if any, and an opportunity for a hearing before such removal or termination is effective. If a Trustee fails to attend, without good reason, nine or more Board meetings during a calendar year, such failure shall constitute good cause for removal, to be exercised in the Board's discretion. Trustees elected to office after December 31, 1985 shall be limited to two consecutive full terms in office plus the unexpired portion of any term to which the Trustee is appointed prior to election. A Trustee shall not be limited in non-consecutive terms.

(b) So long as more than ninety percent (90%) of the Corporation's total annual budget is provided by the County of Muskegon through a Millage assessment, one member of each class shall be appointed to the Board of Trustees by the Muskegon County Board of Commissioners ("County") for each of the three (3) years beginning January, 1991, and the County may appoint the successors to such Trustees originally
appointed by the County. The Trustees appointed by the County must be paid members in good standing of the Corporation and be approved by a majority vote of the Board of Trustees then in office before the persons then appointed may assume the position and responsibilities of members of the Board of Trustees. If the Board of Trustees fails to approve a person appointed by the County, the County may appoint a replacement candidate, who will not be subject to the approval of the Board of Trustees.

Section 3. Regular Meetings. A regular meeting of the Board of Trustees shall be held without other notice than this By-Law, immediately after, and at the same place as, the annual meeting of members. The Board of Trustees may provide, by resolution, the time and place, either within or without Michigan, for the holding of additional regular meetings without other notice than such resolution.

Section 4. Special Meetings. Special meetings of the Board of Trustees may be called by or at the request of the President or any five (5) Board of Trustee Members. The person or persons authorized to call special meetings of the Board of Trustees may fix any place within the County of Muskegon as the place for holding any special meeting of the Board of Trustees called by them.

Section 5. Notice, means, waiver. Notice of any special meeting shall be given at least five (5) days previous thereto by written notice delivered personally, mailed to each Board of Trustees member at his or her business or home address, or by electronic means, including, but not limited to, e-mail or facsimile transmission. If notice is by electronic means such as e-mail or facsimile transmission, delivery shall be sufficiently evidenced by confirmation on the sender’s device. Notice to a trustee proposed for removal or termination under Section 2a of this Article shall be by certified mail or personal delivery. Trustees shall register with the Corporation their electronic, e-mail or facsimile numbers/addresses, if they have same, or inform the Corporation that they do not wish to be notified by those means. Any member of the Board of Trustees may waive notice of any meeting. The attendance of a Board of Trustees member at any meeting shall constitute a waiver of notice of such a meeting, except where a Board of Trustees member attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened, and except as provided in Section 13. Neither the business to be transacted nor the purpose need to be specified in the notice or waiver of notice of such meeting.

Section 6. Quorum. One-third of the members of the Board of Trustees then in office constitutes a quorum for the transaction of business at any meeting of the Board of Trustees, provided that less than a majority of the members of the Board of Trustees present may adjourn the meeting from time to time without further notice. The vote of the majority of members present at a meeting at which a quorum is present constitutes the action of the Board of Trustees, unless the vote of a larger number is required by statute, the Articles of Incorporation, or these By-Laws.

Section 7. Participation by Communication Equipment. A member of the Board of Trustees or of a committee designated by the Board may participate in a meeting by means of conference telephone or similar communications equipment by means of which all persons participating in the meeting can hear and address each other. Participation in a meeting pursuant to this provision constitutes presence in person at the meeting.

Section 8. Informal Action by Board of Trustees. Action required or permitted to be taken pursuant to authorization voted at a meeting of the Board of Trustees or of a
committee thereof, may be taken without a meeting if, before or after the action, all members of the Board of the committee consent thereto in writing, to include writing by electronic means. The written consent shall be filed with the minutes of the proceedings of the Board or committee. The consent has the same effect as a vote for the Board of Trustees or committee of the board for all purposes.

Section 9. Vacancies. If any vacancy or vacancies occur in the Board of Trustees, a majority of the Board of Trustees then in office, though less than a quorum, may choose a successor or successors. Board of Trustee members chosen to fill unexpired terms shall hold office until the expiration of the balance of the term of office and until their successors shall be duly elected and qualified except in the event of their prior death, resignation, retirement, disqualification, or removal. If any new membership on the Board of Trustees is created by any increase in the authorized number of Board of Trustee members, the newly created Board of Trustees membership shall be filled by the election of a new member of the Board of Trustees by a majority vote of the Board of Trustees then in office.

Section 10. Compensation. Members of the Board of Trustees shall not receive any compensation for their services as members of the Board of Trustees but may be reimbursed for reasonable expenses of attendance; provided that nothing herein contained shall be construed to preclude any member of the Board of Trustees from serving the corporation in any other capacity and receiving compensation therefor.

Section 11. Chairman. At all meetings of the Board of Trustees, the President or Vice President/Vice-Chairman, or in their absence a Chairman chosen by the Trustees, shall preside.

Section 12. Committees. The Board of Trustees may, by resolution passed by a majority of the whole Board, designate and appoint the members of one or more committees, each committee to consist of two or more of the members of the Board of Trustees. A committee, and each member thereof, shall serve at the pleasure of the Board. Except for the Executive Committee, the Board shall define the function and role of each committee and record such determinations by resolution as set forth in its minutes.

(a) An Executive Committee of not less than five (5) and not more than seven (7) members may be appointed at the first regular meeting following the annual meeting of the members of the Corporation. The Board may designate one or more Board of Trustees members as alternate members of the committee, who may replace an absent or disqualified member at a meeting of the committee, and if none is designated the committee members present at an executive committee meeting and not disqualified from voting, whether or not they constitute a quorum, may unanimously appoint another member of the Board to act at the meeting in place of such an absent or disqualified member.

The executive committee shall meet regularly to oversee on a more frequent basis the activities and business of the corporation, take actions, and make recommendations to the Board concerning the same. It shall implement the Board of Trustees' performance reviews of the director.
(b) A committee, only to the extent provided by resolution of the Board, may exercise all powers and authority of the Board in the management of the business and affairs of the corporation, except that such committee shall not have the power or authority to: (a) amend the Articles of Incorporation; (b) recommend to members a dissolution of the corporation or a revocation of dissolution; (c) amend the By-Laws of the corporation; (d) fill vacancies on the Board of Trustees; or (e) (unless and only to the extent authorized by Board Resolution) expend money.

Section 13. Manifestation of Dissent. A member of the Board of Trustees of the Corporation who is present at a meeting of the Board of Trustees at which action on any corporate matter is taken shall be assumed to have assented to the action taken unless his or her dissent shall be entered in the minutes of the meeting or unless he or she shall file written dissent to such action with the person acting as the secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the secretary of the corporation immediately following after the adjournment of the meeting. Such right of dissent shall not apply to a member of the Board of Trustees who voted in favor of such action.

ARTICLE VI
Officers

Section 1. Officers. The officers of the corporation shall be elected or appointed by the Board of Trustees and shall consist of a Chairperson President, one or more Vice Chairpersons President(s), Secretary, Treasurer and such other officers as may, from time to time, be determined by the Board of Trustees. Two or more offices may be held by the same person but an officer shall not execute, acknowledge or verify an instrument in more than one capacity if the instrument is required by law or the Articles or By-Laws to be executed, acknowledged or verified by two or more officers.

Section 2. Election and Term of Office. The officers of the corporation shall be elected or appointed annually by the Board of Trustees at the first meeting of the Board of Trustees held after each annual meeting of the members. The officers shall be elected from among the members of the Board of Trustees. If the election or appointment of the officers shall not be at such meeting, such election or appointment of officers shall be held or made as soon thereafter as is convenient. Each officer so elected or appointed shall hold office for the term of which he or she is elected or appointed and until his successor is elected or appointed and qualified, or until his or her resignation or removal. Notwithstanding the preceding sentence, no officer may hold the same office for more than three consecutive terms.

Section 3. Removal. Any officer, agent or other person elected or appointed by the Board of Trustees may be removed by the affirmative vote of two-thirds (2/3) of all the trustees in office at any regular or special meeting called for the purpose with or without cause whenever in their judgment the best interests of the corporation would be served thereby. Any officer or person proposed to be removed shall be entitled to at least
five (5) days notice in writing by mail of the meeting at which removal is to be voted on
and shall be entitled to appear and be heard by the Board of Trustees at such meeting.

Section 4. Vacancies. A vacancy in any office because of death, resignation,
removal, disqualification or otherwise, may be filled at any meeting of the Board of
Trustees for the unexpired portion of the term of such office by a majority of the
Trustees then in office, although less than a quorum.

Section 5. President/Chair. The President shall be the chief executive officer
of the corporation, but may from time to time delegate all or any part of the duties of the
office of President to the Vice President. The President shall preside at all meetings of
the Board of Trustees, shall have general management and supervision of the
President/CEO affairs of the corporation, shall be an ex-officio member of all committees
and shall see that all orders and resolutions of the Board are carried into effect. The
President shall execute all mortgages, conveyances and other instruments entered into
pursuant to the powers of the corporation as set forth in the Articles of Incorporation with
the authority of the Board of Trustees.

Section 6. Vice President (Chair). The Vice President(s) shall perform
such duties as are delegated by the Chair President, and shall, in the absence or in the
event of the disability of the President, perform the duties and exercise the powers of the
Chair President, and shall perform such other duties as the Board of Trustees shall
prescribe.

Section 7. Secretary. The secretary shall attend all meetings of the Board and all
meetings of the members and record all votes and the minutes of all proceedings. The
Secretary shall give, or cause to be given, notice of all meetings of the members and of
the Board of Trustees, and shall perform such other duties as may be prescribed by the
Board of Trustees under whose supervision the Secretary shall be. The Secretary may
sign with the Chair President, or Vice Chair President, in the name or on behalf of the
corporation, any contracts or agreements authorized by the Board of Trustees and when
so authorized affix the seal of the corporation to any instrument requiring it, and when so
affixed it shall be attested by the signature of the Secretary or that of the Treasurer. The
Secretary shall be sworn to the faithful discharge of the duties of the office of Secretary.
The Assistant Secretary, if one is elected, shall perform the duties and exercise the
powers of the Secretary in the absence or in the event of the disability of the Secretary.

Section 8. Treasurer. Financial and bookkeeping duties are completed by the
Corporation’s Finance Director. The Treasurer shall serve as Chair of the Finance
Committee of the Board. The Treasurer shall review monthly the financial status of the
Corporation and provide regular updates to the Board. The Treasurer shall also review the
990 and financial audit completed annually by the Corporation. The Assistant
Treasurer, if one is elected, shall perform the duties and exercise the power of the
Treasurer in the absence or in the event of the disability of the Treasurer.
ARTICLE VII
Agents and Representatives

Section 1. Appointment of Agents and Representatives. The board may appoint such other agents, one of whom shall be the Executive Director/President/CEO, and representatives with authority to perform such acts or duties on behalf of the corporation as the Board may from time to time delegate, so far as may be consistent with the Articles of Incorporation, By-Laws and permitted by law.

ARTICLE VIII
Contracts, Loans, Checks and Deposits

Section 1. Contracts. The Board of Trustees may authorize any officer or officers, agent or agents, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the corporation, and such authority may be general or confined to specific instances.

Section 2. Loans. No loan shall be contracted on behalf of the corporation and no evidence of indebtedness shall be issued in its name unless authorized by a resolution of the Board of Trustees. Such authority may be general or confined to specific instances.

Section 3. Checks, Drafts, etc. All checks, drafts or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the corporation, shall be signed by such officer or officers, agent or agents of the corporation unless below the approved spending limit of President/CEO and outlined in the Finance Policy approved by the Finance Committee and Board of Trustees, and in such manner as shall from time to time be determined by resolution of the Board of Trustees.

Section 4. Borrowing. The Board of Trustees shall have the full power and authority to borrow money whenever in the discretion of the Board the exercise of such power is required in the general interests of this corporation, and in such case the Board of Trustees may authorize the proper officers of this corporation to make, execute and deliver in the name of and on behalf of this corporation such notes, bonds and other evidence of indebtedness as said Board may deem proper, and said Board shall have full power to mortgage the property of this corporation, or any part thereof, as security for such indebtedness.

ARTICLE IX
Fiscal Year
The fiscal year of the corporation shall begin on the first day of January in each year and end on the thirty-first day of December of each year.

ARTICLE X
Trustees and Officers' Liability and Indemnification

(a) A volunteer trustee of the Corporation is not personally liable to the Corporation or its members for monetary damages for breach of the trustee's fiduciary duties. However, this Section shall not eliminate or limit the liability of a director for any of the following:

(i) A breach of the trustee's duty of loyalty to the Corporation or its members;
(ii) Acts or omissions not in good faith or that involve intentional misconduct or a knowing violation of the law;
(iii) A violation of Section 551 (1) of the Michigan Nonprofit Corporation Act;
(iv) A transaction from which the trustee derived an improper personal benefit;
(v) An act or omission occurring before the date this amended document is filed; or
(vi) An act or omission that is grossly negligent.

A volunteer trustee of the Corporation shall only be personally liable for monetary damages for a breach of fiduciary duty as a trustee to the Corporation or its members to the extent set forth in this Section (a). If the Michigan Nonprofit Corporation Act, or any other applicable law, is amended to authorize corporation action further eliminating or limiting the personal liability of trustees, then liability of a trustee of the Corporation shall be eliminated or limited to the fullest extent permitted by the Michigan Nonprofit Corporation Act, or any other applicable law, as so amended. Any repeal or modification of this Section (a) by the members of the Corporation shall not adversely affect any right or protection of a trustee of the Corporation existing at the time of such repeal or modification.

(b) The Corporation assumes all liability to any person, other than the Corporation or its members, for all acts or omissions of a volunteer director occurring on or after the date of filing this Amendment.

(c) The Corporation shall indemnify a person who was or is a party or is threatened to be made a party to a threatened, pending, or completed action, suit, or proceeding, whether formal or informal, other than an action by or in the right of the Corporation, by reason of the fact that he or she is or was a trustee, officer, employee, or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, partner, trustee, employee, or agent of
another foreign or domestic corporation, partnership, joint venture, trust, or
other enterprise, whether for profit or not, against expenses, including
attorneys' fees, judgments, penalties, fines, and amounts paid in settlement
actually and reasonably incurred by him or her in connection with the action,
suit, or proceeding, if the person acted in good faith and in a manner he or she
reasonably believed to be in or not opposed to the best interests of the
Corporation or its shareholders, and with respect to a criminal action or
proceeding, if the person had no reasonable cause to believe his or her conduct
was unlawful. The termination of an action, suit, or proceeding by judgment,
order, settlement, conviction, or upon a plea of nolo contendere or its
equivalent, does not, of itself, create a presumption that the person did not act
in good faith and in a manner which he or she reasonably believed to be in or
not opposed to the best interests of the Corporation or its shareholders, and,
with respect to a criminal action or proceeding, had reasonable cause to
believe that his or her conduct was unlawful.

(d) The Corporation shall indemnify a person who was or is a party to or is
threatened to be made a party to a threatened, pending, or completed action or
suit by or in the right of the Corporation to procure a judgment in its favor by
reason of the corporation to procure a judgment in its favor by reason of the
fact that he or she is or was a director, officer, employee, or agent of the
Corporation, or is or was serving at the request of the Corporation as a
director, officer, partner, trustee, employee, or agent of another foreign or
domestic enterprise, whether for profit or not, against expenses, including
actual and reasonable attorneys' fees, and amounts paid in settlement incurred
by the person in connection with the action or suit, if the person acted in good
faith and in a manner the person reasonably believed to be in or not opposed
to the best interests of the Corporation or its shareholders. However,
indemnification shall not be made for claim, issue, or matter in which the
person has been found liable to the Corporation unless and only to the extent
that the court in which the action or suit was brought has determined upon
application that, despite the adjudication of liability but in view of all
circumstances of the case, the person is fairly and reasonably entitled to
indemnification for the expenses which the court considers proper.

(e) (1) To the extent that a director, officer, employee, or agent of the
Corporation has been successful on the merits or otherwise in defense of an
action, suit, or proceeding referred to in this Article, or in defense of a claim,
issue, or matter in the action, suit, or proceeding, he or she shall be
indemnified against expenses, including actual and reasonable attorneys' fees,
incurred by him or her in connection with the action, suit, or proceeding and
an action, suit, or proceeding brought to enforce the mandatory
indemnification provided in this subsection.

(2) An Indemnification under this Article, unless ordered by a court, shall be
made by the Corporation only as authorized in the specific case upon a determination that
indemnification of the director, officer, employee, or agent is proper in the circumstances
because he or she has met the applicable standard of conduct as set forth in this Article.
This determination shall be made in any of the following ways:
(a) By a majority vote of a quorum of the board consisting of directors who were not parties to the action, suit, or proceedings.

(b) If the quorum described in subdivision (a) is not obtainable, then by a majority vote of a committee of directors who are not parties to the action. The committee shall consist of not less than 2 disinterested directors.

(c) By independent legal counsel in a written opinion.

(d) By the members.

(3) If a person is entitled to indemnification under this Article for a portion of expenses including attorneys’ fees, judgments, penalties, fines, and amounts paid in settlement, but not for the total amount thereof, the Corporation may indemnify the person for the portion of the expenses, judgments, penalties, fines, or amounts paid in settlement for which the person is entitled to be indemnified.

(f) Expenses incurred in defending a civil or criminal action, suit, or proceedings described in this Article may be the action, suit, or proceeding upon receipt of an undertaking by or on behalf of the director, officer, employee, or agent to repay the expenses if it is ultimately determined that the person is not entitled to be indemnified by the corporation. The undertaking shall be by unlimited general obligation of the person on whose behalf advances are made but need not be secured.

(g) The indemnification or advancement of expenses provided under this Article is not exclusive of other rights to which a person seeking indemnification or advancement of expenses may be entitled under the articles of incorporation, bylaws, or a contractual agreement. However, the total amounts of expenses advanced or indemnified from all sources combined shall not exceed the amount of actual expenses incurred by the person seeking indemnification or advancement of expenses.

(b) The indemnification provided for in this Article continues as to a person who ceases to be a director, officer, employee, or agent and shall inure to the benefit of the heirs, executors, and administrators of the person.

(i) For purposes of this Article the Corporation includes all constituent corporations absorbed in a consolidation or merger and the resulting or surviving corporation, so that a person who is or was a director, officer, employee, or agent of the constituent corporation or is or was serving at the request of the constituent corporation or is or was serving at the request of the constituent corporation as a director, officer, partner, trustee, employee, or agent of another foreign or domestic enterprise whether for profit or not shall stand in the same position under the provisions of this section with respect to the resulting or surviving corporation as the person would if he or she had served the resulting or surviving corporation in the same capacity.

(j) The Corporation may maintain insurance, at its expense, to protect itself and any director, officer, employee or agent of the Corporation or another corporation, partnership, joint venture, trust or other enterprise against any expense, liability or loss, whether or not the Corporation would have the power to indemnify such person against such expense, liability or loss under the Business Corporation Act of the State of Michigan or any other applicable law.
(k) So long as the corporation’s Articles of Incorporation do not contain conflicting provision, this Article shall apply.

ARTICLE XI
Voting Upon Shares of Other corporations

Section 1. Power to Vote. Unless otherwise ordered by the Board of Trustees, the President-Chairman shall have full power and authority on behalf of the corporation to vote either in person or by proxy at any meeting of shareholders of any corporation in which this corporation may hold shares, and at any such meeting may possess and exercise all of the rights and powers incident to the ownership of such shares which, as the owner thereof, this corporation might have possessed and exercised if present. The board of Trustees may confer like powers upon any other person and may revoke any such powers as granted at its pleasure.

ARTICLE XII
Prohibition Against Sharing in Corporate Earnings

Section 1. Prohibition. No member, trustee, officer, or employee of or member of a committee of or person connected with the corporation, or any other private individual shall receive at any time any of the net earnings or pecuniary profit from the operations for the corporation, provided that this shall not prevent the payment to any such person of such reasonable compensation for services rendered to or for the corporation in effecting any of its purposes as shall be fixed by the Board of Trustees; and no such person or persons shall be entitled to share in the distribution of any of the corporate assets upon the dissolution of the corporation.

ARTICLES XIII
Investments

Section 1. Investments. The corporation shall have the right to retain all or any part of the securities or property acquired by it in whatever manner, and to invest and reinvest any funds held by it, according to the judgment of the Board of Trustees, without being restricted to the class of investments which a trustee is or may hereafter be permitted by law to make or any similar restriction, provided, however, that no action shall be taken by or on behalf of the corporation which jeopardizes the tax exemption under Section 501 of the Internal Revenue Code and its Regulations as they now exist or as they may hereafter be amended or if such action is prohibited by Article XIV of these By-Laws.
ARTICLE XIV
Exempt Activities

Section 1. Permitted Activities. Notwithstanding any other provision of these By-Laws, no member, trustee, officer, employee or representative of this corporation shall take any action or carry on any activity by or on behalf of the corporation not permitted to be taken or carried on by an organization exempt under Section 501 (c) (3) of the Internal Revenue Code and its Regulations as they now exist or as they may hereafter be amended, or by an organization contributions to which are deductible under Section 170 (c) (2) of the Code and Regulations as they now exist or as they may hereafter be amended.

ARTICLE XV
Corporate Seal

Section 1. Corporate Seal. The Board of Trustees may provide a corporate seal, which, if authorized, shall be in the form of two concentric circles and shall have inscribed thereon the name of the corporation and the words “Corporate Seal, Michigan”.

ARTICLE XVI
Amendments

Section 1. Amendments. These By-Laws may be amended, altered, changed, added to or repealed by the affirmative vote of a majority of the members entitled to vote at any regular or special meeting of the members if notice of the proposed amendment, alteration, change, addition or repeal be contained in the notice of the meeting or by the affirmative vote of a majority of the Board of Trustees if the amendment, alteration, change, addition or repeal be proposed at a regular or special meeting of the Board and adopted by a subsequent regular meeting; provided, that any by-laws made by the affirmative vote of a majority of the Board of Trustees as provided herein may be amended, altered, changed, added to or repealed by the affirmative vote of a majority of the members entitled to vote at any regular or special meeting of the members; also provided that no change of the date for the annual meeting of members shall be made within thirty (30) days before the day on which such meeting is to be held unless consented to in writing, or by a resolution adopted at a meeting, by all members entitled to vote at the annual meeting, further provided that no By-Law fixing the qualification,
classification, or term of office of any member of the then-existing Board of Trustees shall be altered in any way during such term; further provided that no By-Law fixing the number, composition, or term of office of any member of the Board of Trustees shall be altered in any way without the County's approval prior to the effective date of the modification.

ARTICLE XVII
Liquidation of Corporation

Section 1. Liquidation of Corporation. Upon the two-thirds (2/3rds) majority vote of the Board of Trustees and a two-thirds (2/3rds) vote of the membership, the corporation shall be liquidated. All members of the corporation shall be deemed to have expressly consented and agreed that upon such dissolution or winding up of the affairs of the corporation, whether voluntary or involuntary, the assets of the corporation, after all debts have been satisfied, then remaining in the hands of the Board of Trustees shall be distributed, transferred, conveyed, delivered, and paid over, in such amounts as the Board of Trustees may determine pursuant to a duly-adopted plan of liquidation, or as may be determined by a court of competent jurisdiction upon application of the Board of Trustees, exclusively to charitable, religious, scientific, testing for public safety, literary, or educational organizations which would then qualify under the provisions of Section 501 (c) (3) of the Internal Revenue Code and its regulations as they now exist or as they may hereafter be amended.

I hereby certify that the above By-Laws as Amended and Restated were adopted the 23rd day of January, 2017, by action of the Board of Trustees, in accordance with Article XVI hereof.

Secretary

Reviewed on (date)

Distributed on (date)
REQUEST FOR BOARD CONSIDERATION-COUNTY OF MUSKEGON

COMMITTEE COMMUNITY DEVELOPMENT/STRATEGIC PLANNING

BUDGETED NON-BUDGETED PARTIALLY BUDGETED X

REQUESTING DEPARTMENT CVB

COMMITTEE DATE 4/23/19

REQUESTOR SIGNATURE ROBERT M. LUKENS

SUMMARY OF REQUEST (GENERAL DESCRIPTION, FINANCING, OTHER OPERATIONAL IMPACT, POSSIBLE ALTERNATIVES)

B. Baskin Enterprises, LLC, seeks to enter into a License Agreement with the County of Muskegon for a festival event, Rockstock, taking place Wednesday, July 3 through Sunday, July 7, 2019, at the County-owned Heritage Landing property. The event requires a nominal admission fee, and will include music, an Independence Day fireworks display, and a carnival. This is the first time in many years a carnival will be held at Heritage Landing. The promoter will provide additional security in the carnival area.

Facility rental fee will be $7,500 and a $1,000 security damage deposit has been received by the County, with the agreement stipulating that these deposits and proof of insurance are required. Proper permitting by the City of Muskegon has also been secured. The event benefits several local charities.

The License Agreement for the proposed event has been reviewed by the County's Corporate Counsel and approved.

SUGGESTED MOTION (STATE EXACTLY AS IT SHOULD APPEAR IN THE MINUTES)

Move to adopt the License Agreement with B. Baskin Enterprises, LLC, to provide a license for the use of Heritage Landing July 3-7, 2019 for the Rockstock music festival, an Independence Day fireworks display, and a carnival, and authorize the Chairperson of the County Board to execute the agreement.

ADMINISTRATIVE ANALYSIS (AS APPLICABLE)

HUMAN RESOURCES ANALYSIS:

FINANCE & MANAGEMENT ANALYSIS:

CORPORATE COUNSEL ANALYSIS:

ADMINISTRATOR RECOMMENDATION:

If motion originates from a Statutory Board, Authority or Advisory Committee, please provide the date the motion was approved by that Board/Authority/Committee N/A
LICENSE AGREEMENT
BETWEEN
THE COUNTY OF MUSKEGON
AND
B. BASKIN ENTERPRISES, LLC,
FOR HERITAGE LANDING FESTIVAL USE IN 2019

THIS AGREEMENT, entered into this ______ day of ______________, 2019, by and between the County of Muskegon, a public corporation with an address of 990 Terrace Street, Muskegon, Michigan 49442, hereinafter referred to either as “COUNTY” or “LICENSOR” and B. Baskin Enterprises, LLC, 7834 E. St. Huberts Trail, Hesperia, MI 49421, hereinafter referred to as “LICENSEE” for use of Heritage Landing for the “Festival Event” of 2019.

RECATALS

A.    WHEREAS, COUNTY owns and operates a facility, commonly referred to as Heritage Landing, hereinafter referred to as “Facility”, situated within the City of Muskegon; and,

B.    WHEREAS, COUNTY, in its operation and management of said facility desires to make facility available to public interest groups and organizations to promote such public interest objectives and to maximize citizen use of such facility; and

C.    WHEREAS, LICENSEE, as above identified, has requested special authorization from the COUNTY to use facility for staging of an event, hereinafter referred to as “Festival Event”, and the COUNTY, through its Board of County Commissioners, is desirous of permitting and authorizing such activity in accordance with the terms and conditions herein contained;
NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter contained, the parties hereto agree as follows:

**AGREEMENT**

**SECTION 1 - LICENSE TO USE HERITAGE LANDING**

In consideration of the covenants herein contained, the COUNTY hereby grants to LICENSEE the right and privilege to conduct and stage certain Festival Event activities at, and upon, COUNTY facility property, commonly referred to as Heritage Landing, situated within the City of Muskegon.

**SECTION 2 - USE OF PROPERTY**

LICENSEE shall be permitted to use and occupy facility for those activities reasonably relating to the conducting of the Festival Event during calendar year 2019 on dates specified in Section 3 below. In concurrence with the County Administrator, the Community Development Director may prohibit any activity that they determine is not reasonably related to the conducting of the Festival Event.

**SECTION 3 - PERIOD OF USE**

LICENSEE shall hold the Festival Event from 3:00 p.m. on Wednesday, July 3 to 11:00 p.m. on Sunday, July 7, 2019. The “Rockstock” portion of the event will be held Thursday, July 4 through Saturday, July 6. LICENSEE is authorized to have use of Heritage Landing seven (7) days before the Festival Event for set-up and three (3) days after the Festival Event for clean-up. LICENSEE must obtain prior written approval from the Director of the Convention & Visitors Bureau in the event that the LICENSEE shall require additional days for set-up and clean-up.
SECTION 4 – RESERVATION FEE

LICENSEE shall pay a non-refundable reservation fee of One Thousand, Five Hundred Dollars ($1,500.00) per day to the Convention & Visitors Bureau for the use of the facility for the festival event, totalling Seven Thousand, Five Hundred Dollars ($7,500.00). No reservation will be valid until the reservation fee is received. The reservation fee will be forfeited if the event is canceled.

SECTION 5 – COMPENSATION/RENT

There shall be no compensation or rent paid, with the exception as provided in Section 15, by LICENSEE, inasmuch as the COUNTY has determined, through its Board of Commissioners, that this use of property is within the public interest and consistent for the purpose for which the park is dedicated.

SECTION 6 - UTILITIES

LICENSEE shall pay all charges for all utilities, including but not limited to electricity, light, heat, water, power and telephone rendered or supplied upon or in connection with the LICENSEE's use of said facility. Said cost, to the extent not determinable by direct charge computation, shall be determined to equal amount of utility charge in excess of that average charge imposed for a comparable period, to be determined by the Director of the DPW. Provided, however, any and all special hook-ups or support facilities required by LICENSEE for its event shall be solely the responsibility of the LICENSEE to pay.

SECTION 7 – RESTROOMS

LICENSEE shall bear responsibility for payment of all charges associated with the providing of toilet facilities on the property during the period of Festival Event. LICENSEE shall provide a sufficient number of portable restrooms for use by all LICENSEE participants and guests as well as users of the facility.
SECTION 8 - ACCEPTANCE OF PROPERTY AS-IS

LICENSEE accepts the buildings, improvements and any equipment in or on the facility in their existing conditions. No representation, statement or warranty either express or implied, has been made by or on behalf of COUNTY as to said condition, as to the use that may be made of such property, except as may be expressly limited herein by way of restriction. In no event shall COUNTY be liable to LICENSEE for any defect in such property or for limitations on its use. No representational warranty of habitability, express or implied, has been made by or on behalf of the COUNTY.

SECTION 9 - MAINTENANCE/SET-UP/CLEAN-UP

LICENSEE shall, at its own expense, take all necessary steps to organize and set-up the facility for Festival Event activities. All costs associated with same shall be borne exclusively by LICENSEE.

In addition, LICENSEE shall bear full responsibility for cleaning up of the facility. In addition thereto, LICENSEE affirmatively covenants to restore the facility fully to its “pre-event” condition, usual wear and tear excepted, at the completion of Festival Event activities.

LICENSEE shall pay the COUNTY the sum of One-Thousand Dollars ($1,000.00) in a refundable security damage deposit. During the period of this Agreement, the LICENSEE shall be responsible to maintain the Facility in the same condition, usual wear and tear excepted, that existed at the time this Agreement commenced. LICENSEE will be given a pre-event checklist whereby any damaged equipment or missing property can be identified. Once the event is over, the equipment and property will be subject to a post-event inspection. The cost of any maintenance resulting from the activities of the LICENSEE, the repair of any damage or loss of any equipment indicated on the post-event checklist and an amount necessary to remedy the
findings of the post-event inspection, shall be deducted from the security deposit. The balance of the security deposit will then be returned to the LICENSEE within thirty (30) days, after the last day of the event. If there are no damages, repairs required, or missing property following the event, and the event surcharge is paid in full, the entire security deposit will be returned within thirty (30) days. If the cost necessary to remedy the post inspection exceeds the deposit, LICENSEE will be billed the difference.

SECTION 10 - COMPLIANCE WITH LAW

LICENSEE shall comply with all requirements which may be imposed by public authorities, whether State or local, with regard to equipping facility for conducting of Festival Event activities and any changes and/or additions to property necessitated as a result of any such requirements shall be solely at the cost, and at the expense of the LICENSEE; provided, however, that the property may not be physically altered in a permanent manner except upon prior written approval of the Director of the DPW, in concurrence with the County Administrator, as above identified.

SECTION 11 - LICENSEE AUTHORIZATION/OBLIGATION TO RESTRICT USE OF PARK PROPERTY AND ALCOHOL USE

LICENSEE is authorized to dispense alcohol only in accordance with State and local laws.

SECTION 12 – SECURITY MANAGEMENT

LICENSEE shall make suitable arrangements for providing reasonable security personnel during the period of the Festival Event. LICENSEE shall provide satisfactory written proof of same to the Director of the DPW prior to the Festival Event. LICENSEE shall be responsible for management of facilities and property the during period of the License.
SECTION 13 – INSURANCE AND INDEMNITY

LICENSEE shall, at its own expense, provide and keep in force, general public liability insurance protecting the LICENSEE and COUNTY from all claims of damage to persons or property or for loss of life or of property, occurring on, in or about the facility, during the period of Festival Event, and with respect to preparatory and clean-up activities occurring in connection with same. LICENSEE shall maintain comprehensive general liability insurance in the minimum amount of One Million Dollars ($1,000,000.00) per occurrence and name COUNTY as additional insured; copies and certificates of coverage naming the COUNTY as an additional insured, shall be provided to the Community Development Director at the time of reservation.

LICENSEE agrees to indemnify and hold COUNTY harmless as against all claims, liabilities, costs or expenses, including attorney fees and costs, relating to any third party complaint as brought by Festival Event patron(s) or contractee(s), or agent(s) of same alleging injury or damage of any kind, except for the acts and omissions of the employees, representatives, and agents of the COUNTY. The County agrees to indemnify and hold LICENSEE harmless as against any claims, liabilities, costs or expenses that are caused by employees, representatives, and agents of the COUNTY.

LICENSEE shall furthermore, and at its own expense, keep in force such other insurance against other insurable hazards in such amounts as may from time to time be required by COUNTY, provided that such are insurable assets and hazards commonly insured against with respect to similar premises and uses. LICENSEE shall provide insurance required by state and local law.

SECTION 14 – LICENSEE’S OBLIGATION REGARDING HERITAGE LANDING MECHANICAL EQUIPMENT

LICENSEE agrees that it will provide approved padlocks for any electrical panels that it
requires in order to provide the necessary power for its event. LICENSEE further represents that in the event that work is performed on any of the electrical or mechanical equipment at the Facility that it will be only be performed by a journeyman or master electrician or others with the same level of qualification. A copy of the license of said journeyman or master electrician shall be presented to the COUNTY before any electrical work for the festival event begins at the Facility.

During the Festival Event, any problems that arise with power disruption, inadvertent activation of the sprinkler system or other routine or emergency mechanical matters which arise as a consequence of LICENSEE’S event, will be LICENSEE’S responsibility to correct. LICENSEE will be expected to provide necessary and qualified personnel. It is understood that should any of these problems arise, any cost incurred to correct them will be the responsibility of LICENSEE unless deemed caused by acts of God, as that phrase is commonly understood, and not a consequence of LICENSEE’S event.

SECTION 15 - OBLIGATIONS AND REPRESENTATIONS IN REGARD TO CONTRACT CONTRACTEES AND VENDEES

LICENSEE represents, and agrees to provide evidence upon request, of satisfactory agreements existing between LICENSEE and all Contractees/Vendees offering services for goods at the facility during the period of Festival Event. Such contracts of agreement shall include, with respect to all contracted vendee offerings, at a minimum, the following:

A. Requirement that Contractee/Vendee maintain adequate insurance and provide workers' compensation coverage for any of its employees;

B. Contractee/Vendee shall be an Equal Opportunity Employer;

C. Contractee/Vendee shall maintain adequate levels of liability and casualty
insurance, to be determined adequate in the reasonable exercise of judgment of Festival Event;

D. Contractee/Vendee shall comply with all rules and regulations appurtenant to use
   of park and facilities.

E. LICENSEE shall exercise best efforts to engage local contractors and local
   veteran contractors.

SECTION 16 - EVENT PARKING

Convention and Visitors Bureau (CVB) and Carpenter Facility properties will be
available to Festival Event for parking.—Festival will be responsible for access and control of
parking.—Parking spaces shall be available for visitors to the CVB.—In exchange for this license,
LICENSEE will charge a minimum of Five Dollars ($5.00) per vehicle per day.—Provided,
however, that the LICENSEE will pay to the COUNTY fifty (50%) percent of all fees collected
regardless of the rate charged within sixty (60) days from the close of the event.

SECTION 17 – COUNTY EMPLOYEES

It is understood that during the course of the Festival Event, County employees may be
used as necessary to ensure that the Facility and its related structures are properly operated and
maintained. It is also understood that when County employees are engaged in connection with
this Festival that the licensee shall be responsible for any cost incurred by the County, including
wages, fringe benefits and overtime pay, as applicable. These amounts will be invoiced to the
licensee within 30 days following the Festival Event.

SECTION 18 - RELATIONSHIP BETWEEN COUNTY AND LICENSEE

It is understood that the relationship created by this Agreement between the County of
Muskegon and the Festival Event shall be LICENSOR-LICENSEE. It is not a joint venture, a
partnership or a cooperative arrangement in any sense. Nothing in this Agreement shall be
construed so as to give rise to an agency relationship as between COUNTY and LICENSEE. Nothing in this Agreement shall be construed so as to give rise to an arrangement other than authorization by COUNTY for LICENSEE to use property in accordance with the terms and conditions as herein set forth. It is further understood that the conduct of the Festival Event shall be the exclusive responsibility of the LICENSEE.

**SECTION 19 - MICHIGAN LAW**

This Agreement shall be governed by the laws of the State of Michigan. Any litigation regarding this Agreement or its contents shall be filed in the County of Muskegon, if in State Court, or in the United States District Court for the Western District of Michigan, if in Federal Court.

**SECTION 20 - TERMS AND CONDITIONS**

The terms and conditions used in this Agreement shall be given their common and ordinary definition and will not be construed against either party.

**SECTION 21 – ASSIGNMENT**

LICENSEE shall not assign any of its rights nor transfer any of its obligations under this Agreement without the prior written consent of COUNTY and any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination. This Agreement is personal between the parties hereto and may not be assigned without written permission of the non-transferring party.

**SECTION 22 - NONEXCLUSIVE AGREEMENT**

LICENSEE understands that this is not an exclusive Agreement and that COUNTY shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided by LICENSEE as the COUNTY desires.
SECTION 23 - ENTIRE AGREEMENT AND AMENDMENT

In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superceded or changed by any oral agreements, course of conduct waiver or estoppel.

SECTION 24 - NO THIRD-PARTY BENEFICIARY

No person dealing with the COUNTY or LICENSEE shall be, nor shall any of them be deemed to be, third-party beneficiaries of this Agreement. This Agreement is not intended to, nor shall it be interpreted to create a special relationship between the COUNTY or the LICENSEE and any staff, visitors, residents, or other individuals who may have business through the COUNTY.

SECTION 25 – SEVERABILITY

If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
SECTION 26 – EXECUTION OF COUNTERPARTS

This Agreement may be executed in any number of counterparts and each such counterpart shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

SECTION 27 – AUTHORITY

All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, person, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any State and/or Federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, LICENSEE hereby warrants that it shall not have breached the terms or conditions of any contract or agreement to which LICENSEE is obligated, which breach would have a material effect there on.

IN WITNESS WHEREOF, the following signators, having been duly authorized to execute this Agreement, execute same by and on behalf of their respective organizations.

LICENSEE:
B. Baskin Enterprises, LLC

LICENSOR:
County of Muskegon

By: Brandon Baskin
Its: President and Chief Executive Officer

By: Susie Hughes
Chairperson, Muskegon County Board of Commissioners

Dated: ________________________

Dated: ________________________
The City of Muskegon seeks to enter into a License Agreement with the County of Muskegon for a festival event, the "City of Muskegon's 150th Anniversary Celebration," taking place Thursday, July 11 through Saturday, July 13, 2019, at the County-owned Heritage Landing property. The event will include music and entertainment activities for children and families.

Facility rental fee will be $2,500 and a $1,000 security damage deposit has been received by the County, with the agreement stipulating that these deposits and proof of insurance are required. Proper permitting by the City of Muskegon has also been secured.

The City has also listed the County of Muskegon as a sponsor, and will also recognize the County's 160th Anniversary at the event.

The License Agreement for the proposed event has been reviewed by the County's Corporate Counsel and approved.

Move to adopt the License Agreement with the City of Muskegon, to provide a license for the use of Heritage Landing July 11-13, 2019 for their "150th Anniversary Celebration" music festival, and authorize the Chairperson of the County Board to execute the agreement.

If motion originates from a Statutory Board, Authority or Advisory Committee, please provide the date the motion was approved by that Board/Authority/Committee

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Revised 4/16/19
LICENSE AGREEMENT

BETWEEN

THE COUNTY OF MUSKEGON
AND THE
CITY OF MUSKEGON

FOR HERITAGE LANDING FESTIVAL USE IN 2019

THIS AGREEMENT, entered into this ______ day of ______________, 2019, by
and between the County of Muskegon, a public corporation with an address of 990 Terrace
Street, Muskegon, Michigan 49442, hereinafter referred to either as “COUNTY” or
“LICENSOR” and The City of Muskegon, 933 Terrace St., Muskegon, MI 49440, hereinafter
referred to as “LICENSEE” for use of Heritage Landing for the “Festival Event” of 2019.

RECATALS

A. WHEREAS, COUNTY owns and operates a facility, commonly referred to as
Heritage Landing, hereinafter referred to as “Facility,” situated within the City of Muskegon;
and,

B. WHEREAS, COUNTY, in its operation and management of said facility desires
to make facility available to public interest groups and organizations to promote such public
interest objectives and to maximize citizen use of such facility; and

C. WHEREAS, LICENSEE, as above identified, has requested special authorization
from the COUNTY to use facility for staging of an event, hereinafter referred to as “Festival
Event”, and the COUNTY, through its Board of County Commissioners, is desirous of
permitting and authorizing such activity in accordance with the terms and conditions herein
contained;
NOW, THEREFORE, in consideration of the mutual covenants and conditions hereinafter contained, the parties hereto agree as follows:

AGREEMENT

SECTION 1 - LICENSE TO USE HERITAGE LANDING

In consideration of the covenants herein contained, the COUNTY hereby grants to LICENSEE the right and privilege to conduct and stage certain Festival Event activities at, and upon, COUNTY facility property, commonly referred to as Heritage Landing, situated within the City of Muskegon.

SECTION 2 - USE OF PROPERTY

LICENSEE shall be permitted to use and occupy facility for those activities reasonably relating to the conducting of the Festival Event during calendar year 2019 on dates specified in Section 3 below. In concurrence with the County Administrator, the Community Development Director may prohibit any activity that they determine is not reasonably related to the conducting of the Festival Event.

SECTION 3 - PERIOD OF USE

LICENSEE shall hold the Festival Event from 7:00 AM on Thursday, July 11, 2019, to 11:00 p.m. Saturday, July 13, 2019. The days prior to this rental period are contracted to a different event. LICENSEE will work with said event for set up access to grounds. LICENSEE is authorized to have use of Heritage Landing for up to three (3) days after the Festival Event for clean-up. LICENSEE must obtain prior written approval from the Community Development Director in the event that the LICENSEE shall require additional days for clean-up.

SECTION 4 – RESERVATION FEE

LICENSEE shall pay a non-refundable reservation fee of Two Thousand, Five Hundred
Dollars ($2,500.00) to the Convention & Visitors Bureau for the use of the facility for the festival event. No reservation will be valid until the reservation fee is received. The reservation fee will be forfeited if the event is canceled.

SECTION 5 – COMPENSATION/RENT

There shall be no compensation or rent paid, with the exception as provided in Section 15, by LICENSEE, inasmuch as the COUNTY has determined, through its Board of Commissioners, that this use of property is within the public interest and consistent for the purpose for which the park is dedicated.

SECTION 6 - UTILITIES

LICENSEE shall pay all charges for all utilities, including but not limited to electricity, light, heat, water, power and telephone rendered or supplied upon or in connection with the LICENSEE's use of said facility. Said cost, to the extent not determinable by direct charge computation, shall be determined to equal amount of utility charge in excess of that average charge imposed for a comparable period, to be determined by the Community Development Director. Provided, however, any and all special hook-ups or support facilities required by LICENSEE for its event shall be solely the responsibility of the LICENSEE to pay.

SECTION 7 – RESTROOMS

LICENSEE shall bear responsibility for payment of all charges associated with the providing of toilet facilities on the property during the period of Festival Event. LICENSEE shall provide a sufficient number of portable restrooms for use by all LICENSEE participants and guests as well as users of the facility.
SECTION 8 - ACCEPTANCE OF PROPERTY AS-IS

LICENSEE accepts the buildings, improvements and any equipment in or on the facility in their existing conditions. No representation, statement or warranty either express or implied, has been made by or on behalf of COUNTY as to said condition, as to the use that may be made of such property, except as may be expressly limited herein by way of restriction. In no event shall COUNTY be liable to LICENSEE for any defect in such property or for limitations on its use. No representational warranty of habitability, express or implied, has been made by or on behalf of the COUNTY.

SECTION 9 - MAINTENANCE/SET-UP/CLEAN-UP

LICENSEE shall, at its own expense, take all necessary steps to organize and set-up the facility for Festival Event activities. All costs associated with same shall be borne exclusively by LICENSEE.

In addition, LICENSEE shall bear full responsibility for cleaning up of the facility. In addition thereto, LICENSEE affirmatively covenants to restore the facility fully to its “pre-event” condition, usual wear and tear excepted, at the completion of Festival Event activities.

LICENSEE shall pay the COUNTY the sum of One-Thousand Dollars ($1,000.00) in a refundable security damage deposit. During the period of this Agreement, the LICENSEE shall be responsible to maintain the Facility in the same condition, usual wear and tear excepted, that existed at the time this Agreement commenced. LICENSEE will be given a pre-event checklist whereby any damaged equipment or missing property can be identified. Once the event is over, the equipment and property will be subject to a post-event inspection. The cost of any maintenance resulting from the activities of the LICENSEE, the repair of any damage or loss of any equipment indicated on the post-event checklist and an amount necessary to remedy the
findings of the post-event inspection, shall be deducted from the security deposit. The balance of the security deposit will then be returned to the LICENSEE within thirty (30) days, after the last day of the event. If there are no damages, repairs required, or missing property following the event, and the event surcharge is paid in full, the entire security deposit will be returned within thirty (30) days. If the cost necessary to remedy the post inspection exceeds the deposit, LICENSEE will be billed the difference.

SECTION 10 - COMPLIANCE WITH LAW

LICENSEE shall comply with all requirements which may be imposed by public authorities, whether State or local, with regard to equipping facility for conducting of Festival Event activities and any changes and/or additions to property necessitated as a result of any such requirements shall be solely at the cost, and at the expense of the LICENSEE; provided, however, that the property may not be physically altered in a permanent manner except upon prior written approval of the Community Development Director, in concurrence with the County Administrator, as above identified.

SECTION 11 - LICENSEE AUTHORIZATION/OBLIGATION TO RESTRICT USE OF PARK PROPERTY AND ALCOHOL USE

LICENSEE is authorized to dispense alcohol only in accordance with State and local laws.

SECTION 12 – SECURITY MANAGEMENT

LICENSEE shall make suitable arrangements for providing reasonable security personnel during the period of the Festival Event. LICENSEE shall provide satisfactory written proof of same to the Community Development Director prior to the Festival Event. LICENSEE shall be responsible for management of facilities and property the during period of the License.
SECTION 13 – INSURANCE AND INDEMNITY

LICENSEE shall, at its own expense, provide and keep in force, general public liability insurance protecting the LICENSEE and COUNTY from all claims of damage to persons or property or for loss of life or of property, occurring on, in or about the facility, during the period of Festival Event, and with respect to preparatory and clean-up activities occurring in connection with same. LICENSEE shall maintain comprehensive general liability insurance in the minimum amount of One Million Dollars ($1,000,000.00) per occurrence and name COUNTY as additional insured; copies and certificates of coverage naming the COUNTY as an additional insured, shall be provided to the Community Development Director at the time of reservation.

LICENSEE agrees to indemnify and hold COUNTY harmless as against all claims, liabilities, costs or expenses, including attorney fees and costs, relating to any third party complaint as brought by Festival Event patron(s) or contractee(s), or agent(s) of same alleging injury or damage of any kind, except for the acts and omissions of the employees, representatives, and agents of the COUNTY. The County agrees to indemnify and hold LICENSEE harmless as against any claims, liabilities, costs or expenses that are caused by employees, representatives, and agents of the COUNTY.

LICENSEE shall furthermore, and at its own expense, keep in force such other insurance against other insurable hazards in such amounts as may from time to time be required by COUNTY, provided that such are insurable assets and hazards commonly insured against with respect to similar premises and uses. LICENSEE shall provide insurance required by state and local law.

SECTION 14 – LICENSEE’S OBLIGATION REGARDING HERITAGE LANDING MECHANICAL EQUIPMENT

LICENSEE agrees that it will provide approved padlocks for any electrical panels that it
requires in order to provide the necessary power for its event. LICENSEE further represents that
in the event that work is performed on any of the electrical or mechanical equipment at the
Facility that it will be only be performed by a journeyman or master electrician or others with the
same level of qualification. A copy of the license of said journeyman or master electrician shall
be presented to the COUNTY before any electrical work for the festival event begins at the
Facility.

During the Festival Event, any problems that arise with power disruption, inadvertent
activation of the sprinkler system or other routine or emergency mechanical matters which arise
as a consequence of LICENSEE’S event, will be LICENSEE’S responsibility to correct.
LICENSEE will be expected to provide necessary and qualified personnel. It is understood that
should any of these problems arise, any cost incurred to correct them will be the responsibility of
LICENSEE unless deemed caused by acts of God, as that phrase is commonly understood, and
not a consequence of LICENSEE’S event.

SECTION 15 - OBLIGATIONS AND REPRESENTATIONS
IN REGARD TO CONTRACT CONTRACTEES AND VENDEES

LICENSEE represents, and agrees to provide evidence upon request, of satisfactory
agreements existing between LICENSEE and all Contractees/Vendees offering services for
goods at the facility during the period of Festival Event. Such contracts of agreement shall
include, with respect to all contracted vendee offerings, at a minimum, the following:

A. Requirement that Contractee/Vendee maintain adequate insurance and provide
    workers' compensation coverage for any of its employees;

B. Contractee/Vendee shall be an Equal Opportunity Employer;

C. Contractee/Vendee shall maintain adequate levels of liability and casualty
insurance, to be determined adequate in the reasonable exercise of judgment of Festival Event;

D. Contractee/Vendee shall comply with all rules and regulations appurtenant to use of park and facilities.

E. LICENSEE shall exercise best efforts to engage local contractors and local veteran contractors.

SECTION 16 - EVENT PARKING

Convention and Visitors Bureau (CVB) and Carpenter Facility properties will be available to Festival Event for parking. Festival will be responsible for access and control of parking. Parking spaces shall be available for visitors to the CVB. In exchange for this license, LICENSEE will charge a minimum of Five Dollars ($5.00) per vehicle per day. Provided, however, that the LICENSEE will pay to the COUNTY fifty (50%) percent of all fees collected regardless of the rate charged within sixty (60) days from the close of the event.

SECTION 17 – COUNTY EMPLOYEES

It is understood that during the course of the Festival Event, County employees may be used as necessary to ensure that the Facility and its related structures are properly operated and maintained. It is also understood that when County employees are engaged in connection with this Festival that the licensee shall be responsible for any cost incurred by the County, including wages, fringe benefits and overtime pay, as applicable. These amounts will be invoiced to the licensee within 30 days following the Festival Event.

SECTION 18 - RELATIONSHIP BETWEEN COUNTY AND LICENSEE

It is understood that the relationship created by this Agreement between the County of Muskegon and the Festival Event shall be LICENSOR-LICENSEE. It is not a joint venture, a partnership or a cooperative arrangement in any sense. Nothing in this Agreement shall be
construed so as to give rise to an agency relationship as between COUNTY and LICENSEE. Nothing in this Agreement shall be construed so as to give rise to an arrangement other than authorization by COUNTY for LICENSEE to use property in accordance with the terms and conditions as herein set forth. It is further understood that the conduct of the Festival Event shall be the exclusive responsibility of the LICENSEE.

**SECTION 19 - MICHIGAN LAW**

This Agreement shall be governed by the laws of the State of Michigan. Any litigation regarding this Agreement or its contents shall be filed in the County of Muskegon, if in State Court, or in the United States District Court for the Western District of Michigan, if in Federal Court.

**SECTION 20 - TERMS AND CONDITIONS**

The terms and conditions used in this Agreement shall be given their common and ordinary definition and will not be construed against either party.

**SECTION 21 - ASSIGNMENT**

LICENSEE shall not assign any of its rights nor transfer any of its obligations under this Agreement without the prior written consent of COUNTY and any attempt to so assign or so transfer without such consent shall be void and without legal effect and shall constitute grounds for termination. This Agreement is personal between the parties hereto and may not be assigned without written permission of the non-transferring party.

**SECTION 22 – NONEXCLUSIVE AGREEMENT**

LICENSEE understands that this is not an exclusive Agreement and that COUNTY shall have the right to negotiate with and enter into contracts with others providing the same or similar services as those provided by LICENSEE as the COUNTY desires.
SECTION 23 - ENTIRE AGREEMENT AND AMENDMENT

In conjunction with the matters considered herein, this Agreement contains the entire understanding and agreement of the parties and there have been no promises, representations, agreements, warranties or undertakings by any of the parties, either oral or written, of any character or nature hereafter binding except as set forth herein. This Agreement may be altered, amended or modified only by an instrument in writing, executed by the parties to this Agreement and by no other means. Each party waives their future right to claim, contest or assert that this Agreement was modified, canceled, superceded or changed by any oral agreements, course of conduct waiver or estoppel.

SECTION 24 - NO THIRD-PARTY BENEFICIARY

No person dealing with the COUNTY or LICENSEE shall be, nor shall any of them be deemed to be, third-party beneficiaries of this Agreement. This Agreement is not intended to, nor shall it be interpreted to create a special relationship between the COUNTY or the LICENSEE and any staff, visitors, residents, or other individuals who may have business through the COUNTY.

SECTION 25 – SEVERABILITY

If any one or more of the provisions contained herein shall for any reason be held to be invalid, illegal or unenforceable in any respect, then such provision or provisions shall be deemed severable from the remaining provisions hereof, and such invalidity, illegality or unenforceability shall not affect any other provision hereof, and this Agreement shall be construed as if such invalid, illegal or unenforceable provision had never been contained herein.
SECTION 26 – EXECUTION OF COUNTERPARTS

This Agreement may be executed in any number of counterparts and each such counterpart shall for all purposes be deemed to be an original; and all such counterparts, or as many of them as the parties shall preserve undestroyed, shall together constitute one and the same instrument.

SECTION 27 – AUTHORITY

All parties to this Agreement warrant and represent that they have the power and authority to enter into this Agreement in the names, titles and capacities herein stated and on behalf of any entities, person, or firms represented or purported to be represented by such entity(ies), person(s), or firm(s) and that all formal requirements necessary or required by any State and/or Federal law in order to enter into this Agreement have been fully complied with. Furthermore, by entering into this Agreement, LICENSEE hereby warrants that it shall not have breached the terms or conditions of any contract or agreement to which LICENSEE is obligated, which breach would have a material effect there on.

IN WITNESS WHEREOF, the following signators, having been duly authorized to execute this Agreement, execute same by and on behalf of their respective organizations.

LICENSEE:
City of Muskegon

LICENSOR:
County of Muskegon

By: Frank Peterson
Its: City Manager

By: Susie Hughes
Chairperson, Muskegon County Board of Commissioners

Dated: ______________________

Dated: ______________________