

**AGENDA**  
**CITY OF CHARLEVOIX CITY COUNCIL MEETING**

**Monday, February 4, 2013 - 7:00 p.m.**  
210 State St, City Hall, Second Floor City Council Chambers, Charlevoix, MI

- I. Invocation or Pledge of Allegiance**
- II. Roll Call of Members Present**
- III. Inquiry Regarding Possible Conflicts of Interest**
- IV. Consent Agenda**
  - A. City Council Meeting Minutes – January 21, 2013 Regular Meeting **PG 1-7**
  - B. Accounts Payable Check Register **PG 8-14**
  - C. Payroll Check Register **PG 15-17**
  - D.
- V. Public Hearings**
- VI. Reports**
- VII. Requests, Petitions and Communications and Actions Thereon**
  - A. Consideration of Paddleworks Mobile Rental of Kayaks and Paddleboards at City Beaches **PG 18-24**
  - B. Consideration to Approve the Sale of Property Located at the Intersection of Dixon Avenue and Mercer Boulevard **PG 25-37**
  - C. City Investment Depositories - Update **PG 38-40**
- VIII. Introduction and Initial Actions Relating to Ordinances or to Resolutions That Require Publication or Hearings Prior to Final or Further Action**
- IX. Resolutions**
- X. Ordinances**
- XI. Miscellaneous Business**
- XII. Audience – Non-Agenda Input (written requests take precedent)**
- XIII. Adjourn**

The City of Charlevoix 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 at the meeting upon one week's notice to the City of Charlevoix. Individuals with disabilities requiring auxiliary aids or services should contact the City of Charlevoix Clerk's Office in writing or calling the following: City Clerk, 210 State Street, Charlevoix, MI 49720 (231) 547-3250.

Posted January 31, 2013 3:00 p.m.

**CHARLEVOIX CITY COUNCIL  
AGENDA ITEM**

**AGENDA ITEM TITLE:** Consideration of Paddleworks Mobile Rental of Kayaks and Paddleboards at City Beaches

**DATE:** February 4, 2013

**PRESENTED BY:** Bill Schulman

**ATTACHMENTS:** Business Proposal  
Depot Beach Aerial  
Ferry Beach Aerial  
Email from Tom Barnes dated December 10<sup>th</sup>  
(Tom reviewed Paddlework's first proposal.)

**BACKGROUND INFORMATION:** Bill Schulman is requesting to have a beach kayak/stand up paddleboard mobile rental service at both Depot and Ferry Beaches this summer. Attached is a copy of their business proposal. The City's Department Heads have reviewed the proposal and selected areas on both Depot and Ferry Beaches for the mobile rental. The City does not wish to encroach on the Lake Charlevoix Mariner's area located at the north end of Depot Beach, so Staff is proposing that the mobile rental take place on the southern end of Depot Beach. City Staff is proposing that north end of Ferry Beach be used for the mobile rental. Attached are aerials for both Depot Beach and Ferry Beach showing the Staff recommended areas for the rental service. Both areas are not in the designated swimming areas.

Mr. Schulman's proposal states:

- the boats will be rented off a trailer and all boats will be removed from the park at the end of the day (5:00 p.m.)
- he is proposing to have eight kayaks and six stand up paddleboards, with the option to add more.
- He will provide the City with one million dollars of liability insurance, with the City named as co-insured.
- plans to sell items such as waterproof bags/phone cases, sun hats, sunscreen, paddles and Paddleworks clothing.

He is requesting that the City provide the following:

- A "designated parking spot" for their van and trailer at the beach
- An area to set up for sidewalk sales days.

Mr. Schulman has stated that paying for the use of the beach is not part of their business plan. He will have to pay for a business license. The City Clerk has advised that as he is proposing to have two locations, Depot and Ferry Beach, Mr. Schulman would have to acquire two separate business licenses, one for each location. Mr. Schulman will also have to acquire a transient business license for sidewalk sales days. The City Clerk advises that in order for Paddleworks to participate in sidewalk sales days, he will have to find a sponsor in the downtown area who will permit him to park his van in front of their store during sidewalk sales days.

Tom Barnes is the City's contact for the Lake Charlevoix Mariners. The Mariners' sailing school uses the north end of Depot beach for six weeks (July to mid-August). The Mariners' also have a boat storage concession for kayaks and canoe storage on the north end of Depot Beach. The City's agreement has expired and they will be approaching Council to renew the concession in the next few months.

**RECOMMENDATION:**

The City Council authorize Schulman Paddleworks to use the south end of Depot Beach and the north end of Ferry Beach to rent kayaks and paddleboards to beach patrons, with the condition that they (1) provide the City with liability insurance, which names the City named as co-insured; (2) has its patrons sign a *Release of Liability* prior to renting the kayaks/paddleboards and (3) acquire all necessary licenses from the Clerk's office and (4) the mobile rental must conform with the City's zoning ordinance and its sign regulations..

**BUSINESS PROPOSAL  
SCHULMAN PADDLEWORKS-MOBILE RENTALS**

**RECEIVED**  
JAN 18 2013  
CITY OF CHARLEVOIX

Who we are: Jack and Bill Schulman, former owners/operators of Camp Sea-Gull, Charlevoix; current owners/operators of Schulman Paddleworks, a retail business.

The goal is to encourage Charlevoix area residents and visiting tourists to make use of the magnificent waters surrounding our city in non-motorized watercraft. Our mobile rental business would enable customers to easily rent kayaks (including fishing kayaks) and stand-up paddleboards (a popular way to enjoy the water) at local beaches. This kind of equipment is not for rent anywhere in the immediate Charlevoix area.

**PROPOSAL FOR MOBILE RENTAL BUSINESS:**

1. Paddleworks would use a van (or small step truck) and kayak trailer in a designated parking spot, during specific times of the day, in order to facilitate quick and easy rentals. (see below for proposed set-up).
2. Between Memorial Day and Labor Day, rentals would serve both Ferry and Depot beaches.
3. All necessary insurance, permits, licenses, etc., will be in place. Renters must complete release of liability/hold harmless agreements prior to rental. (see pg. 2).
4. Equipment rentals include lifejackets, paddles, as well as a quick orientation and safety guidelines.
5. Paddle-related items (i.e. waterproof bags/phone cases, sun hats, sunscreen, paddles and some Paddleworks clothing) will be available for sale in the van.
6. Our business would also like permission to set up van in town for sales, during Sidewalk Sale Days, if possible.

This service could be a great addition to the recreational activities available in Charlevoix.

It would be appreciated if a timely decision could be made, in order for proper equipment to be secured and in place for the 2013 summer season.

Thank you in advance.....Jack and Bill Schulman



**schulman paddleworks**  
**RELEASE OF LIABILITY-READ BEFORE SIGNING**

In consideration of the services of paddleworks, their officers, agents, employees, stockholders and all other persons or entities with this business I, \_\_\_\_\_, the undersigned, acknowledge, appreciate and agree as follows:

The risk of injury from any outdoor activities have inherent, both known and unknown, risks, dangers and hazards and can be significant, including the potential for permanent paralysis and death, and while particular skills, equipment and personal discipline may reduce this risk, the risk of serious injury does exist in the use of water craft; and,

I KNOWINGLY AND FREELY ASSUME ALL SUCH RISKS, BOTH KNOWN AND UNKNOWN, EVEN IF ARISING FROM THE NEGLIGENCE OF THE RELEASEES or others, and assume full responsibility for my participation; and

I will agree to comply with the stated and customary terms and conditions for participation. If, however, I observe any unusual significant hazard during my presence or participation, I will remove myself from participation and bring such to the attention of an officer, agent or employee of paddleworks immediately; and

I, do myself and on behalf of my heirs, assigns, personal representatives and the next of kin, HEREBY RELEASE, INDEMNIFY, AND HOLD HARMLESS paddleworks, their officers, officials, agents and/or employees, and other participants, sponsoring agencies, sponsors, advertisers, and owners and lessors of premises used for the activity (Releasees), WITH RESPECT TO ANY AND ALL INJURY, DISABILITY, DEATH, or loss or damage to person or property associated with my presence or participation, WHETHER ARISING FROM THE NEGLIGENCE OF THE RELEASEES OR OTHERWISE, to the fullest extent permitted by law, and

I acknowledge that paddleworks will supply me with a Personal Floatation Device (P.F.D.) and that it is my responsibility to use it properly.

I agree that any photographs, video or other medium made of me during my time spent on the premises, during transport or at any other time by paddleworks or a party of paddleworks are the sole properties of paddleworks and can be used in advertising, promotion or any way paddleworks sees fit, and

I agree that if I do file suit against paddleworks, it will be filed in Charlevoix County, Michigan, under Michigan law.

**I have read this release of liability and assumption of risk agreement, fully understand its terms, understand that I have given up substantial rights by signing it, and sign it freely and voluntarily without any inducement.**

X \_\_\_\_\_ Age \_\_\_\_\_ Date

**FOR PARENTS/GUARDIANS OF PARTICIPANTS OF MINORITY AGE**  
**(UNDER AGE 18 AT TIME OF REGISTRATION)**

This is to certify that I, as parent/guardian with legal responsibility for this participant, do consent and agree to his/her release as provided above of all the releasees, and, for myself, my child and our heirs, assigns, and next of kin, I release and agree to indemnify and hold harmless the Releasees from any and all liabilities incident to my minor child's involvement or participation in these programs as provided above, EVEN IF ARISING FROM THE NEGLIGENCE OF THE RELEASEES, to the fullest extent permitted by law.

X \_\_\_\_\_ Date  
Parent/Guardian's Signature & Printed name

X \_\_\_\_\_ Date  
Child's Signature & Printed name

FERRY AVE.

Mobile Rental Site

224

FERRY

CHARLE

305

Mobile Rental Site

308

*Jack*

DEFOTER

PA

**Linda Weller**

---

**From:** Tom Barnes [tfbarnes@charter.net]  
**Sent:** Monday, December 10, 2012 3:32 PM  
**To:** Linda Weller  
**Subject:** RE: Use of Beach for Renting Boats  
**Attachments:** Depot beach with comments.docx

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

**Categories:** Purple Category

Linda – I would love to see this happen as it would be a great addition to the area. I do have a few concerns based on the limited information in the write-up.

1. “extreme north end...” is where we park the Mariner’s trailer. The paths from there to the water are the most heavily travelled by our instructors and students (sails are moved 4 times per day!) I am concerned that people moving kayaks and paddle boards through this densely used area would present a hazard. I would suggest that Paddleworks use the area between the pavilion and the woods to move their equipment and park their trailer in line with that. This is the same path used by rack storage customers. If traffic was heavy this might present concerns to those renting the pavilion.
2. If Paddleworks can restrict their activities to the area not further north than the end of the storage racks, I don’t see that as being a conflict either. I am presuming they will not have any kayaks or paddleboards left on the beach when not in use. We do not have any extra room at the beach and I think that would be in conflict with our program.
3. LCM uses the pavilion and the immediate area around it almost daily and especially in inclement weather. We don’t see a conflict with both programs operating in the pavilion area, but would like to make sure we’re not prohibited from using it.

Those are the immediate concerns that come to mind. Please see the attached sketch that I hope clarifies the specific areas to which I referred.

I hope/expect that the City will collect a fee for this, much like the rack storage program(?)

Thanks for the opportunity to comment.

Best regards,

Tom

---

**From:** Linda Weller [mailto:lindaw@cityofcharlevoix.org]  
**Sent:** Monday, December 10, 2012 12:12 PM  
**To:** Barnes at Home; Tom Ochs  
**Cc:** Rob Straebel  
**Subject:** Use of Beach for Renting Boats

Good Afternoon:



**CHARLEVOIX CITY COUNCIL**

**AGENDA ITEM**

**AGENDA ITEM TITLE:** Consideration to Approve Documents Pertaining to Sale of  
Land to Todd Wyett

**DATE:** February 4, 2013

**PRESENTED BY:** Rob Straebel  
Bryan Graham

- ATTACHMENTS:**
1. Appraisal Summary Sheet
  2. Draft Purchase Agreement
  3. Blanket Easement and Reverter Clause Language
  4. Email-Legal Opinion from Jim Young
  5. Photo of trees at corner of Dixon and Mercer
  6. Survey Map with Utilities and legal Description

**BACKGROUND INFORMATION:** At a previous meeting, Council directed Staff to develop documents for the sale of land at the corner of Dixon Avenue and Mercer Boulevard to Todd Wyett. An appraisal has been completed establishing a value of \$4,000 for the 4,918 s.f. piece of property. The attorney has developed blanket easement language giving City control over future improvements on the small piece of land. There is also a Reverter Clause included stating that if Mr. Wyett violates any provision in the Blanket Easement, and does not rectify the violation within 14 days, the land reverts back to the City.

There are several large trees at this corner. One of the trees is diseased but the other trees are old but relatively healthy. The City and Mr. Wyett have agreed that the diseased tree needs to be removed. Nevertheless, by transferring ownership of this corner to Mr. Wyett, the trees are no longer in the City right-of-way giving him full authority to remove trees at his discretion. Mr. Wyett has stated to the City Manager that he has no plans to remove the healthy trees any time soon. It is worthy to note that the City will not have a say into when the trees should be removed upon transfer of ownership to Todd Wyett.

**RECOMMENDATION:** Motion to approve sale of the parcel and to give the City Manager and City Attorney direction to draft a purchase agreement consistent with City Council's direction for sale of land at the intersection of Dixon Avenue and Mercer Boulevard to Todd Wyett.



REAL ESTATE APPRAISERS & CONSULTANTS

Phone: (231) 547-2238 Fax: (231) 547-4645  
Est. 1963 Web: [michiganappr.com](http://michiganappr.com) E-mail: [mac@michiganappr.com](mailto:mac@michiganappr.com)

Michigan Appraisal Company, Inc.  
1201 Bridge St  
Charlevoix, MI 49720

December 27, 2012

Todd A. Wyatt  
25900 W Eleven Mile Rd, Suite 250  
Southfield, MI 48034-2263

Re: Property: SW Corner Dixon Ave & Mercer Blvd  
Charlevoix, MI 49720

File No.: 3000-L

Opinion of Value: \$ 4,000  
Effective Date: 11/23/2012

In accordance with your request, we have appraised the above referenced property. The report of that appraisal is attached.

The purpose of the appraisal is to develop an opinion of market value for the property described in this appraisal report, as is, in unencumbered fee simple title of ownership, subject to easements. Furthermore, certain hypothetical conditions and extraordinary assumptions apply, which are identified within the text of the following appraisal report.

This report is based on a physical analysis of the site and improvements, a locational analysis of the neighborhood and city, and an economic analysis of the market for properties such as the subject. The appraisal was developed and the report was prepared in accordance with the Uniform Standards of Professional Appraisal Practice.

The opinion of value reported above is as of the stated effective date and is contingent upon the certification and limiting conditions attached.

It has been a pleasure to assist you. Please do not hesitate to contact me or any of my staff if we can be of additional service to you.

Sincerely,

Jeffrey L. Kirby, SRA  
License or Certification #: 1201000516  
State: MI Expires: 07/31/2014  
[jkirby@michiganappr.com](mailto:jkirby@michiganappr.com)

## PURCHASE AGREEMENT

THIS PURCHASE AGREEMENT (this "Agreement") is made and entered into as of the date of the last signature shown on the signature page hereof, by and between the TODD A. WYETT 1995 TRUST ("Purchaser"), whose address is 808 E. Dixon Avenue, Charlevoix, Michigan 49720, and THE CITY OF CHARLEVOIX, whose address is 210 State Street, Charlevoix, Michigan 49720 ("Seller").

### RECITALS:

A. Seller is the owner of that certain real property consisting of approximately 4,198 square feet located at the southwest corner of Dixon Avenue and Mercer Blvd in the City of Charlevoix, Charlevoix County, Michigan, sidwell number 15-052-168-016-00 (the "Real Estate"). A legal description of the Real Estate is attached hereto as Exhibit "A", and made a part hereof.

B. Seller desires to sell and Purchaser desires to purchase the Real Estate and the improvements located thereon, all in accordance with and subject to the terms and conditions hereinafter set forth.

### CONSIDERATION AND AGREEMENT:

IN CONSIDERATION of the mutual covenants and agreements herein contained and of the benefits to be derived herefrom, receipt whereof is hereby severally acknowledged, Seller and Purchaser hereby agree as follows:

1. Offer. Purchaser hereby offers and agrees to purchase Seller's interest in the Real Estate subject to the Blanket Easement and Reverter Clause described below. The purchase price for the Subject Premises is Four Thousand and 00/100 (\$4,000.00) Dollars.

2. Acceptance. Seller hereby accepts the said Offer of the Purchaser. Such Offer and Acceptance are subject to and in accordance with the terms and conditions hereinafter set forth.

3. Seller's Reservation of a Blanket Easement and Reverter Clause. The Seller has no need to sell the Real Estate. However, Purchaser has presented a landscaping plan for the Real Estate that exceeds any landscaping that Seller could do and, thus, benefits the area. As the current owner, Seller may use the Real Estate for any purpose authorized by law, which includes its Home Rule City Charter. Purchaser recognizes that, as a public entity, Seller has an obligation to protect the future needs of the public and has agreed that Seller should retain a broad easement (the "Blanket Easement") relating to the Real Estate so that it has rights to the Real Estate similar to its rights as the current owner. Accordingly, Seller reserves a comprehensive Blanket Easement that is described in Exhibit B in which the Seller is called the "Grantor" and the Purchaser is called the "Grantee". In addition, the Real Estate shall be subject to a Reverter Clause. The Reverter Clause shall be in a form acceptable to Seller and, among other things, shall provide that the Real Estate will revert to Seller if there is a violation of the Blanket Easement. The Blanket Easement and Reverter Clause shall be contained in the deed to

Purchaser. The reservation of the Blanket Easement and Reverter Clause are important consideration to Seller. These provisions shall be liberally construed to effectuate their intent.

4. Evidence of Title. As evidence of title, Purchaser may obtain at its own expense title insurance. Purchase shall obtain the title insurance commitment, within fourteen (14) days after the Effective Date or objections to title are waived.

A. If objection to the condition of title is made, based upon a written opinion of Purchaser's attorney sent within fourteen (14) days following Purchaser's receipt of the Title Commitment together with legible copies of all items of record, indicating that title is not suitable for Purchaser's intended use of the Real Estate, Seller shall have thirty (30) days from the date it is notified in writing of the particular defects claimed, to remedy the title at no cost to Seller; or (2) to terminate this Agreement if unable to remedy the title despite Seller's best efforts; provided, that Purchaser may elect to waive such defects or cure such defects as provided herein below and proceed with this transaction.

5. Possession. Subject to the Blanket Easement, possession of the Real Estate shall be delivered to Purchaser at the time of closing.

6. Closing. Purchaser and Seller shall close this transaction (the "Closing") within fifteen (15) days following receipt of the Title Commitment if a Title Commitment is obtained by Purchaser. If a Title Commitment is not obtained by Purchaser as provided above, the Closing shall take place not later than thirty (30) days after the Effective Date in City Manager's Office of Seller or at such other location mutually acceptable to Purchaser and Seller. At Closing, the following documents, in such form and content as are reasonably satisfactory to Seller and Purchaser, shall be executed by Seller and/or delivered to Purchaser:

A. A statutory form Quit Claim Deed conveying Seller's interest in the Real Estate subject to Blanket Easement.

B. Such other documents as are necessary, as reasonably determined by Seller and Purchaser, to complete this transaction.

7. Closing Adjustments. The following shall be apportioned against sums due Seller at closing:

A. All taxes and special assessments of whatever nature and kind which have become due and payable as of the date of closing shall be paid and discharged by Seller. Current real property taxes, if any, shall be prorated based on the local custom. Seller shall be responsible for taxes up to and including the day of closing.

B. Purchaser shall pay for all transfer and/or revenue stamps to be attached to the Quit Claim Deed.

8. Default. In the event of a default by either party hereunder, the non-defaulting party shall be entitled to maintain an action for specific performance and/or damages against the

defaulting party. In addition to the foregoing, the non-defaulting party shall also be entitled to recover from the defaulting party any and all actual attorney's fees, court costs and legal expenses incurred in connection with the enforcement of this Agreement, should the non-defaulting party prevail in such litigation.

9. Governing Law. This Agreement shall be governed by Michigan law.

10. Binding Effect. This Agreement shall bind the parties hereto, their respective heirs and assigns.

11. Effective Date. This Agreement shall become effective on which it has been signed by the last of the parties.

**[SIGNATURES APPEAR ON THE FOLLOWING PAGE]**

IN WITNESS WHEREOF, the Purchaser has executed this Agreement on the date signed by Purchaser shown below and Seller has accepted same on the date signed by Seller shown below.

**PURCHASER:**

TODD A. WYETT 1995 TRUST

By: \_\_\_\_\_  
Todd A. Wyett, Trustee

Date signed by Purchaser: February \_\_, 2013

**SELLER:**

THE CITY OF CHARLEVOIX

By: \_\_\_\_\_  
Norman Carlson, Mayor

By: \_\_\_\_\_  
Carol Ochs, City Clerk

Date signed by Seller: February \_\_, 2013

**EXHIBIT "A"**

**LEGAL DESCRIPTION**

COM AT NORTHERLY-MOST CORNER OF LOT 11, BLK 8 OF LINDSAY PARK ADD TO CX AS RECD L2 OF PLATS P40 CHX CTY RECORDS TH AL NELY LI OF SD BLK S70DEG55'11"E(RECD AS S70DEG52'E)187.5FT TO A PT THAT IS 22.5FT NWLY OF EAST-MOST COR OF LOT 14 OF SD BLK, TH CONT AL SD BLK LI, S70DEG55'11"E (RECD AS S70DEG52'E) 49.5FT BEING POB TH CONT AL LAST DESC CRSE S70DEG55'11"E (RECD AS S70DEG52'E) 75FT TO NWLY LI OF MERCER AVE, AS EXPANDED, TH AL SD NWLY LI S42DEG01'11"W (RECD AS S42DEG08'W)92FT TH NLY AL A CURV TO LFT 93.73FT (RECD AS 93.5FT M/L) (RAD OF SD CUR IS 292 FT & CHORD BEARS N5DEG43'0"W 93.33FT)TO POB BEING PT OF BLK 8 OF LINDSAY PARK ADD TO CX, .068A NEW ON ROLL FOR 2009

sidwell number 15-052-168-016-00

See Attached Utility Survey

## **EXHIBIT B (Blank Easement)**

This conveyance is subject to an easement reserved by the Grantor. This easement contains the following terms:

1. The easement covers the entire parcel (the Real Estate) that is described in this deed.
2. On, above or under the Real Estate in its entirety or any portion of the Real Estate, the Grantor shall have the right to (a) install and repair utilities, fiber optic cables and any other device or object that the Grantor, as a city, would be authorized by law to install owned by Grantor; (b) to widen or alter the public street right of way; (c) to remove or alter trees, shrubbery, other types of vegetation and any other man-made or natural object when, in the reasonable judgment of Grantor, the removal or alteration is necessary to implement its rights under this easement; and (d) authorize a utility or other franchisee to exercise the same rights under this term of the easement which the Grantor could exercise.
3. Neither Grantor nor an authorized franchisee shall be obligated to repair, restore or replace any damages to the Real Estate. Grantee shall have the sole obligation to restore the Real Estate.
4. This conveyance restricts Grantee's use of the Real Estate to landscaping and fencing only. Accordingly, Grantee shall not use the Real Estate in any way that will impair with the rights of the Grantor.
5. This easement and associated rights and restrictions are granted in perpetuity.
6. The rights, obligations and restrictions under this easement shall run with the Real Estate and shall be binding on the estate, heirs, successors and assigns of Grantee.



This conveyance is subject to the following Reverter Clause. If Grantee violates the Blanket Easement contained in this deed, the Grantor shall provide written notice to Grantee of the violation. Grantee shall have 14 calendar days to eliminate the violation. After this period of time, if Grantor in its reasonable discretion determines that the violation has not been eliminated, then, without further notice to Grantee, Grantor may record an affidavit with the Charlevoix County Register of Deeds, which declares that the interest of Grantee in the property has reverted to Grantor. Upon the recording of the affidavit, all interest of Grantee in the property shall be deemed reverted to Grantor and Grantor shall have the right to re-enter and take possession of the property. All improvements to the property shall run with the land and shall revert to Grantor.

This Reverter Clause shall bind the successors and assigns of Grantee.

## **Rob Straebel**

---

**From:** James G. Young [jyoung@upnorthlaw.com]  
**Sent:** Wednesday, January 23, 2013 5:23 PM  
**To:** Rob Straebel; Linda Weller  
**Subject:** Mercer Ave - Wyett Trust land sale

**Categories:** Red Category

Rob -

If this transaction is approved by Council, the purchase agreement and deed will contain some unusual provisions. To assist the Council in evaluating these provisions, you asked that I cover the key points in the documents. The key documents or provisions are the Purchase Agreement, the Blanket Easement and a Reverter Clause. I will discuss the key points of each item. I drafted these items to protect the City and to be consistent with the discussion which Council had with Mr. Wyett when this matter was last on the agenda. It must be remembered that a sale of the strip of land will be "forever" and binds future owners. Accordingly, it was my duty to protect the long term interests, as well as the short term interests, of the City. Mr. Wyett has agreed to these provisions.

### PURCHASE AGREEMENT (PA)

1. The PA governs the transaction and, thus, is currently the most important document.
2. The PA sets the terms for the Easement and the Reverter Clause and requires that these concepts are contained in the deed.
3. It provides that the City is required to provide only a Quit Claim Deed and not a Warranty Deed. This means that the City will not guarantee (or "warrant") title to the strip of land. This is fair because the City has not owned this land for a long period of time.
4. Unlike most transactions, the Seller (the City) will not be required to pay for title insurance. Mr. Wyett can get title insurance if he wishes.

### EASEMENT

1. I drafted it to be broad so that the City has almost as many rights as it would if the City owned the strip of land.
2. It restricts the Buyer's use of the land merely to fencing and landscaping. It does not permit future owners to interfere with the City's use of the land as permitted in the easement.

3. Unlike most easements over private property, the City is not obligated to repair any damages to the land if the City uses the land. This is fair because, unlike most easements over private property, the City currently owns the land.

4. The easement will be reserved by the City in the deed and the easement wording will be contained in an attachment to the deed.

### REVERTER CLAUSE

1. There must be a way to enforce the provisions of the easement. The reverter clause would return the land to the City IF the easement is violated and the property owner does not correct the problem or stop the interference after 14 days notice. Rob and I chose the reverter clause because we want to AVOID problems and the reverter clause should provide sufficient deterrent to avoid problems. As I explained to Mr. Wyatt, the reverter clause was not designed for him, but for future property owners who may not be as cooperative.

When this matter was discussed by Council at a prior meeting, I was asked to draft documents that protected the City. These documents are intended to meet that goal.

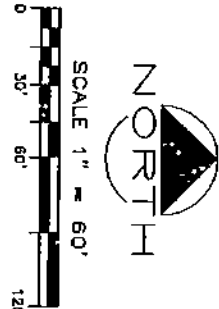
Respectfully,

*James G. Young*  
Attorney at Law  
of Counsel  
Young, Graham, Elsenheimer & Wendling, P.C.  
P.O. Box 398  
Bellaire, MI. 49615

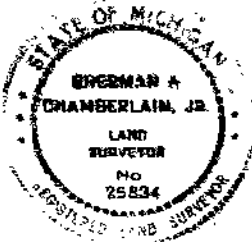
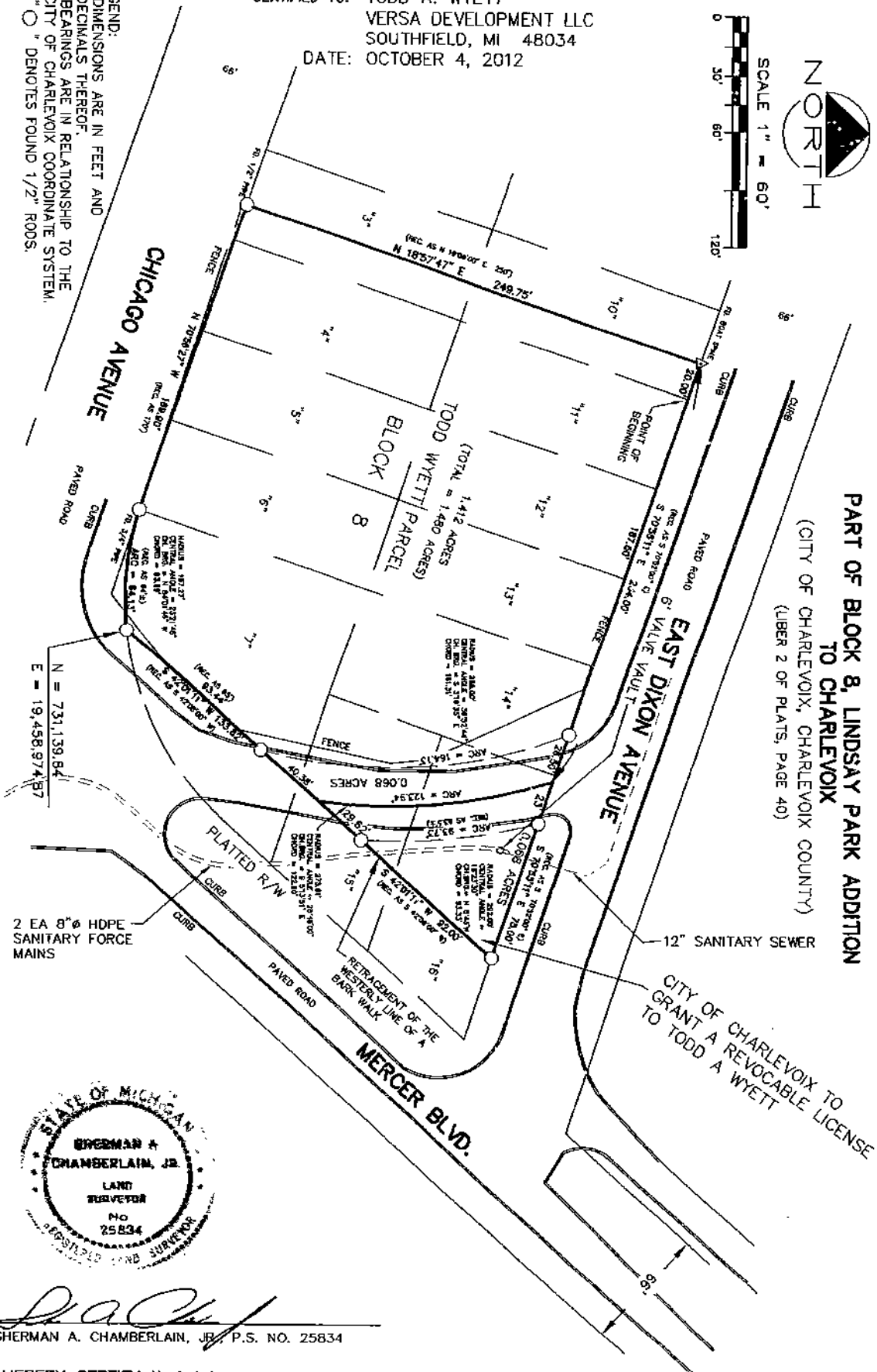
mobile: 231 288-7700  
fax: 231 533-6225

**CERTIFICATE OF BOUNDARY SURVEY**

CERTIFIED TO: TODD A. WYETT  
 VERSA DEVELOPMENT LLC  
 SOUTHFIELD, MI 48034  
 DATE: OCTOBER 4, 2012



- LEGEND:
1. DIMENSIONS ARE IN FEET AND DECIMALS THEREOF.
  2. BEARINGS ARE IN RELATIONSHIP TO THE CITY OF CHARLEVOIX COORDINATE SYSTEM.
  3. "O" DENOTES FOUND 1/2" RODS.



*Sherman A. Chamberlain, Jr.*  
 SHERMAN A. CHAMBERLAIN, JR., P.S. NO. 25834

I HEREBY CERTIFY that I have surveyed and mapped the property hereon delineated and that the ratio of position closure of the unadjusted field data exceeds 1:5000; and that it complies with P.A. 132, 1970.

FIELD: S.P.-R.R.	STAKED: 3-25-08	DRAWN: R.C.
JOB: SB-22500c-08	DATE: 3-24-08	

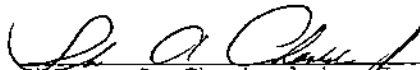
**FERGUSON & CHAMBERLAIN ASSOCIATES, INC.**  
 PROFESSIONAL SURVEYORS  
 103 W. UPRIGHT STREET, CHARLEVOIX, MICHIGAN 49720  
 12 - FAX (231) 547-0021  
 survey@freeway.net

THE CITY OF CHARLEVOIX PARCEL (Proposed to grant Todd A. Wyett a revocable license for landscaping purposes)

In the City of Charlevoix, Charlevoix County, Michigan, Commencing at the Northerly-most corner of Lot 11, Block 8 of Lindsay Park Addition to Charlevoix as recorded in Liber 2 of Plats, Page 40, Charlevoix County records; thence along the Northeasterly line of said block, South 70°55'11" East (recorded as South 70°52' East) 214.00 feet, BEING THE POINT OF BEGINNING OF THIS DESCRIPTION; thence continuing along said block line, South 70°55'11" East (recorded as South 70°52' East) 98.00 feet to a 1/2" re-rod on the Northwesterly line of Mercer Avenue, as expanded; thence along said Northwesterly line, South 42°01'11" West (recorded as South 42°08' West) 121.62 feet; thence Northerly along a curve to the left 123.94 feet (radius of said curve is 275.61 feet and the chord bears North 05°13'51" West 122.90 feet) to the point of beginning, being a part of Block 8 of Lindsay Park Addition to Charlevoix, Charlevoix County records and containing 4918 square feet. Subject to the rights of the public and of any governmental unit in any part thereof taken, used or deeded for street, road of highway purposes.

Prepared by:

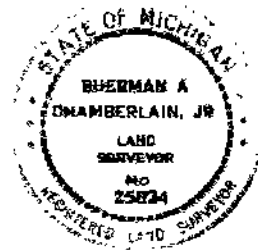
Ferguson & Chamberlain Associates, Inc.  
103 Upright Street  
Charlevoix, Michigan 49720

  
Sherman A. Chamberlain, Jr.  
Professional Surveyor No. 25834

October 08, 2012

For: Todd A. Wyett  
Job Number: SB-21016c-08

Sheet 2 of Two Sheets



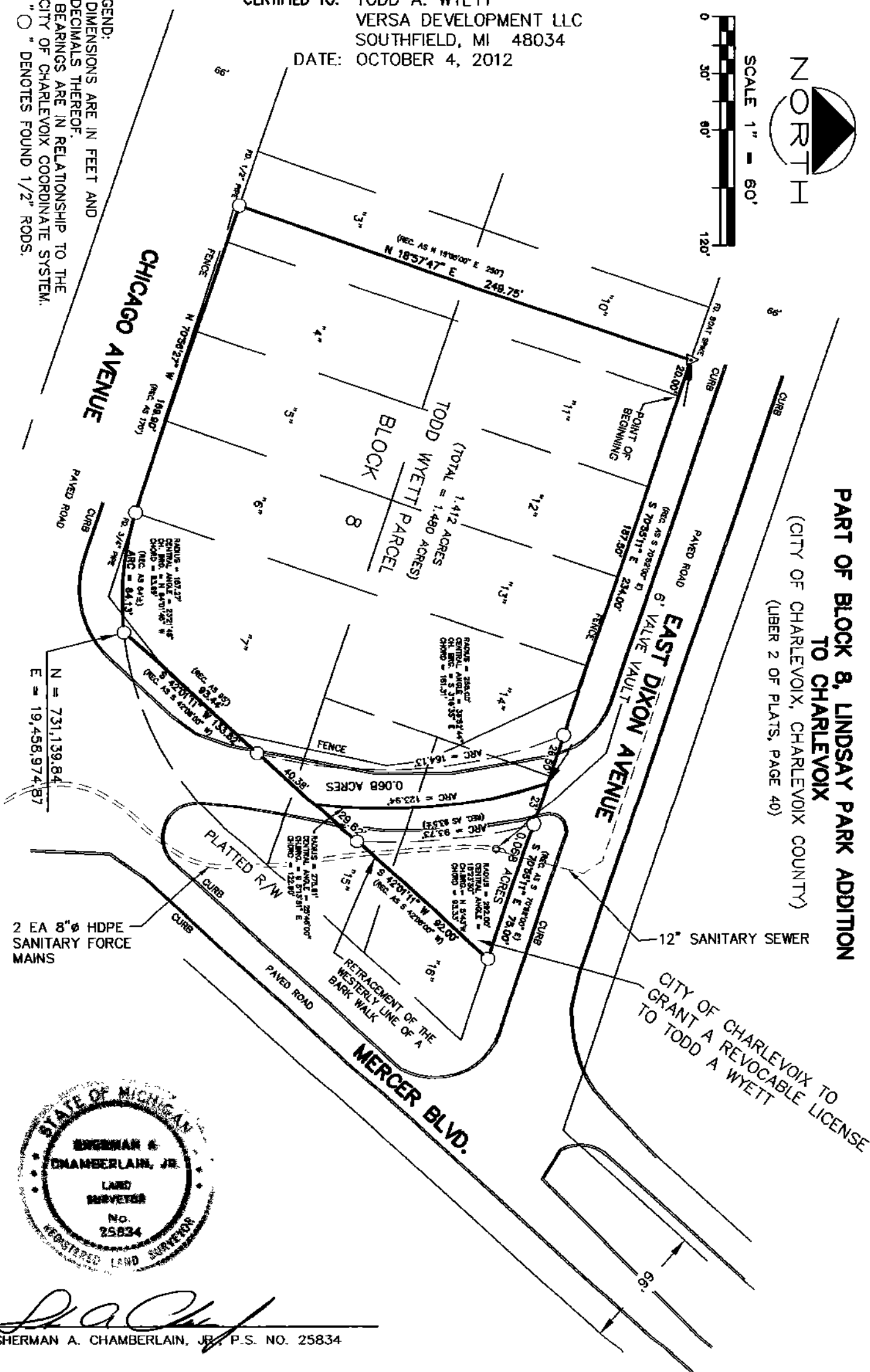
**CERTIFICATE OF BOUNDARY SURVEY**

CERTIFIED TO: TODD A. WYETT  
 VERSA DEVELOPMENT LLC  
 SOUTHFIELD, MI 48034  
 DATE: OCTOBER 4, 2012



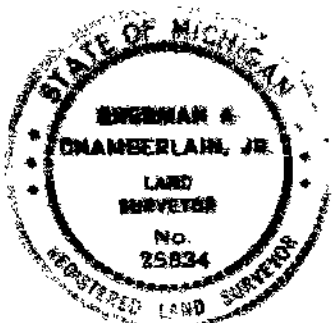
- LEGEND:**
1. DIMENSIONS ARE IN FEET AND DECIMALS THEREOF.
  2. BEARINGS ARE IN RELATIONSHIP TO THE CITY OF CHARLEVOIX COORDINATE SYSTEM.
  3. " O " DENOTES FOUND 1/2" RODS.

**PART OF BLOCK 8, LINDSAY PARK ADDITION**  
 (CITY OF CHARLEVOIX, CHARLEVOIX COUNTY)  
 (LIBER 2 OF PLATS, PAGE 40)



2 EA 8" HDPE  
 SANITARY FORCE  
 MAINS

CITY OF CHARLEVOIX TO  
 GRANT A REVOCABLE LICENSE  
 TO TODD A WYETT



*Sherman A. Chamberlain, Jr.*  
 SHERMAN A. CHAMBERLAIN, JR., P.S. NO. 25834

I HEREBY CERTIFY that I have surveyed and mapped the property hereon delineated and that the ratio of position closure of the unadjusted field data exceeds 1:5000; and that it complies with P.A. 132, 1970.

**FERGUSON & CHAMBERLAIN ASSOCIATES, INC.**  
 PROFESSIONAL SURVEYORS  
 103 W. UPRIGHT STREET, CHARLEVOIX, MICHIGAN 49720  
 TEL - (231) 547-0021  
 survey@freeway.net

FIELD: S.P.-R.R.	STAKED: 3-25-08	DRAWN: R.C.
JOB: SB-22500c-08	DATE: 3-24-08	

THE CITY OF CHARLEVOIX PARCEL (Proposed to grant Todd A. Wyett a revocable license for landscaping purposes)

In the City of Charlevoix, Charlevoix County, Michigan, Commencing at the Northerly-most corner of Lot 11, Block 8 of Lindsay Park Addition to Charlevoix as recorded in Liber 2 of Plats, Page 40, Charlevoix County records; thence along the Northeasterly line of said block, South 70°55'11" East (recorded as South 70°52' East) 214.00 feet, BEING THE POINT OF BEGINNING OF THIS DESCRIPTION; thence continuing along said block line, South 70°55'11" East (recorded as South 70°52' East) 98.00 feet to a 1/2" re-rod on the Northwesterly line of Mercer Avenue, as expanded; thence along said Northwesterly line, South 42°01'11" West (recorded as South 42°08' West) 121.62 feet; thence Northerly along a curve to the left 123.94 feet (radius of said curve is 275.61 feet and the chord bears North 05°13'51" West 122.90 feet) to the point of beginning, being a part of Block 8 of Lindsay Park Addition to Charlevoix, Charlevoix County records and containing 4918 square feet. Subject to the rights of the public and of any governmental unit in any part thereof taken, used or deeded for street, road or highway purposes.

Prepared by:

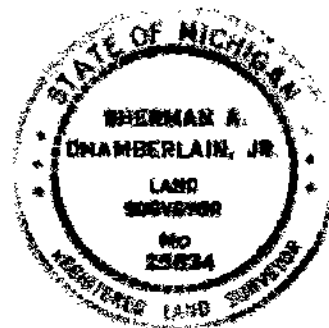
Ferguson & Chamberlain Associates, Inc.  
103 Upright Street  
Charlevoix, Michigan 49720

  
Sherman A. Chamberlain, Jr.  
Professional Surveyor No. 25834

October 08, 2012

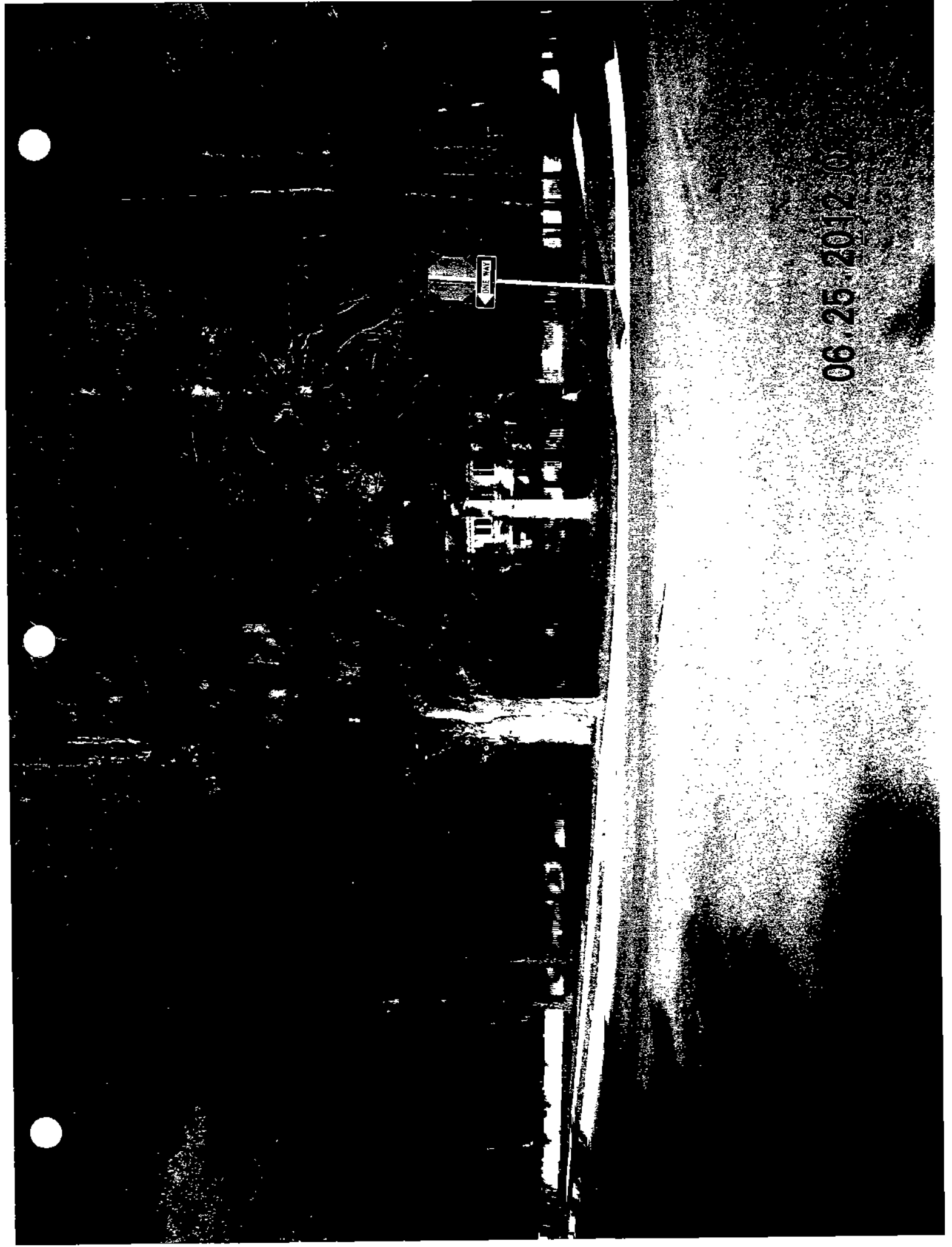
For: Todd A. Wyett  
Job Number: SB-21016c-08

Sheet 2 of Two Sheets



06.25.2012.0

ONE WAY





**CHARLEVOIX CITY COUNCIL**

**AGENDA ITEM**

**AGENDA ITEM TITLE:** City Investment Depositories - Update

**DATE:** February 4, 2013

**PRESENTED BY:** Rick Brandi *RB*

**ATTACHMENTS:** Additional bank information, regular investment report

**BACKGROUND INFORMATION:**

The Charter (section 7.14), our investment policy and P.A. 20 requires that City Council approve our investment depositories. Here are our current depositories and an additional bank to be added to our list:

Current In-City

- Citizens Bank (soon to be known as FirstMerit Michigan, merger February 2013)
- Charlevoix State Bank
- Northwestern Bank
- Bay Winds Federal Credit Union

Current – Other

- Huntington Bank
- Bank of Northern Michigan
- Fifth Third Bank
- MBIA Class Pool
- Flagstar Bankcorp Inc.
- The Private Bank

New Additions

- Talmer Bank and Trust – Troy/Port Huron
- JP Morgan Chase – Boyne City/Petoskey (used for credit card acceptance PEP station)

All depositories are required to sign agreements to comply with Michigan P.A. 20 and would be subject to all evaluations required by our adopted investment policy. Bank ratings are reviewed quarterly using Veribanc Inc's ratings report.

**RECOMMENDATION:**

I would like to add these two options to our list to make sure we have more diversity in our portfolio and reduce the amount of investments that are not covered by FDIC Insurance (limited to \$250,000 per institution). Talmer Bank & Trust is rated at the best bank rating provided by Veribanc Inc., our bank rating service and I have worked with the representative of Talmer personally in the past. The list also removes a bank we no longer use. JP Morgan Chase is only being used to collect credit card payments through our new charging station in the White Parking Lot at this time.

City Council needs to approve 1) the updated list and per our auditors and also needs to approve 2) all bank accounts shown on our regular investment report (attached) which lists all of our current investment accounts.

**CITY OF CHARLEVOIX**  
**SCHEDULE OF INVESTMENTS**  
 January 24, 2013

ACCOUNT#	BANK	AMOUNT	FDIC COVERAGE	PURCH DATE	END DATE	CASHED?	ANNUAL RATE	TIME DAYS	EST PROCEEDS
1009927049 [4]	CDARS - State Bank Toulon, Great Southern, WestBarco	650,000	650,000	4/15/2010	4/12/2012	Yes	1.250%	728	16,306
1011845912 [3]	CDARS - Republic Bank & Trust, EagleBank, RelianceBank	632,274	632,274	3/10/2011	3/7/2013	NO	0.820%	728	10,369
1010819667 [3]	CDARS - Cole Taylor Bank, TriState Capital Bank	300,000	300,000	9/9/2011	9/6/2012	Yes	0.499%	365	1,496
337107505	Bank of America	250,000	250,000	12/1/2011	5/29/2012	Yes	0.510%	180	630
7154233564	Huntington Bank	250,000	250,000	1/3/2012	12/28/2012	Yes	0.500%	360	1,250
132817-77	Bay Winds FCU	250,000	250,000	2/7/2012	2/7/2014	NO	0.750%	731	3,807
804720	Bank of Northern Michigan	250,000	250,000	3/12/2012	3/12/2013	NO	0.400%	365	1,014
59160312	The Private Bank	250,000	250,000	3/26/2012	9/25/2013	NO	0.750%	548	2,823
422408480	Flagstar Bank	250,000	250,000	3/30/2012	4/1/2013	NO	0.700%	367	1,760
450036157	Northwestern Bank	250,000	250,000	4/23/2012	5/23/2013	NO	0.500%	395	1,353
4537031876	Citizens Bank - MMIA	250,001	250,000	4/30/2012	4/30/2013	NO	0.300%	365	750
337107505	Bank of America	250,000	250,000	5/29/2012	5/29/2013	NO	0.520%	365	1,318
7154233564	Huntington Bank	250,000	250,000	12/28/2012	12/23/2013	NO	0.350%	360	875
<b>TOTALS:</b>		<b>\$2,132,275</b>	<b>\$2,132,275</b>					<b>2012-13 Ave &amp; YTD Totals:</b>	<b>483</b>

SAVINGS/SWEEP/MONEY MARKET/TRUST ACCOUNTS	Current Rate	FDIC Coverage	EFF Annual Yield	EFF DATE	% of Funds Invested	Est Annual Proceeds
Charlevoix State Bank Taxes Sweep Account [1]	0.10%	250,000	1.00%	Dec-12	5.65%	8,687
Fifth Third Bank Trust Account (Electric Fund) [3]	2.10%	250,000	0.50%	Dec-12	2.39%	1,837
Citizens Bank Credit Card Public Funds Checking	0.00%	9,540	0.00%	Dec-12	0.06%	0
Citizens Bank Money Market Investment Account	0.30%	250,000	0.30%	Dec-12	1.63%	751
Citizens Bank Sweep Account [2]	0.01%	3,464,197	0.01%	Dec-12	49.97%	845
<b>Total Money Market/Sweep Funds:</b>						<b>12,119</b>
<b>[3] Charlevoix State Bank Account</b>						<b>\$888,698</b>
<b>[4] Northwestern Bank Account</b>						<b>367,370</b>
<b>[5] \$5,000 of this account is non-interest bearing to cover fund expenses (Goldman Sachs FTS Federal Fund)</b>						<b>9,640</b>
<b>[2] Sweep account is invested in US Treasury Notes &amp; Bills thru REI, another portion is in Citizens Bank non-interest bearing checking account to cover costs bank fees.</b>						<b>250,317</b>
<b>[3] Trust account is off the balance sheet credits received by the Electric Fund. Rate shown is for 2011 average.</b>						<b>7,677,348</b>
<b>FDIC insurance on non-interest bearing accounts will no longer be automatically covered up to \$250,000 as of January 1, 2013.</b>						<b>\$9,173,373</b>

**Total Cash & Investments:**

Covered by FDIC Insurance  
 Invested in Treasury Instruments

\$11,305,647.56

2,641,915  
 3,464,197  
 6,106,112  
 5,199,535

Uninsured Investments: