

**AGENDA**  
**WYOMING CITY COUNCIL MEETING**  
**MARQUETTE PARK**  
**MONDAY, AUGUST 16, 2021, 7:00 P.M.**

- 1) Call to Order**
- 2) Invocation** – Pastor Mike Young, Newhall Christian Fellowship Church  
*If you wish and are able, please stand for the invocation. The Pledge of Allegiance will immediately follow the invocation.*
- 3) Pledge of Allegiance**
- 4) Roll Call**
- 5) Student Recognition**
- 6) Approval of Minutes**  
From the August 2, 2021 Regular Meeting and the August 9, 2021 Work Session and Closed Session
- 7) Approval of Agenda**
- 8) Public Hearings**  
*If you wish to speak to an item during a public hearing you are welcome to do so. It is important to note this is not an opportunity for dialog or debate; this is an opportunity to provide comment to the City Council. Comments made during a public hearing may become part of the meeting’s permanent record. Upon approaching the podium, please begin by providing your name and address. There is a 3 minute limit per person.*  
**7:01 p.m.** To Confirm the Necessity of Constructing Public Improvements in 56<sup>th</sup> Street from Haughey Street to Division Avenue, Special Assessment Roll 21-810  
**7:02 p.m.** To Consider Use of the 2021 Edward Byrne Memorial Justice Grant Funds for Program Activities
- 9) Public Comment on Agenda Items**  
*This public comment period is reserved for comment on agenda items only. If you wish to speak about an item that is not on the agenda, please hold your comments until the acknowledgement of visitors at the end of the meeting. It is important to note this is not an opportunity for dialog or debate; this is an opportunity to provide comment to the City Council. Upon approaching the podium, please begin by providing your name and address. There is a 3 minute limit per person.*
- 10) Presentations and Proclamations**
  - a) Presentations
  - b) Proclamations
- 11) Petitions and Communications**
  - a) Petitions
  - b) Communications
- 12) Reports from City Officers**
  - a) From City Council
  - b) From City Manager  
21-08 Acceptance of a Temporary Permit for 190 – 56<sup>th</sup> Street SW  
(Jeannica Shanell Garmon)
- 13) Budget Amendments**
  - a) Budget Amendment No. 24 – To appropriate an additional \$26,610.00 of budgetary

authority for the Community Development Block Grant related to the carryover of program income from the prior grant year

- b) Budget Amendment No. 25 – To appropriate an additional \$424,890.00 of budgetary authority for the hiring of 7 firefighters contingent upon City Council approval of the income tax resolution and ordinance moving the request forward as a ballot initiative

**14) Consent Agenda**

- a) Of Appreciation to Kim Briggs for His Service as a Member of the Community Enrichment Commission of the City of Wyoming
- b) Of Appreciation to Sonia Riley for Her Service as a Member of Community Enrichment Commission of the City of Wyoming
- c) To Confirm the Appointment of Jaylyn McCloy as a Member of the Board of Directors of the City of Wyoming Downtown Development Authority
- d) To Appoint Kristian Daniel as a Member of the Historical Commission for the City of Wyoming
- e) To Appoint Thomas DeGennaro as a Member of the Historical Commission for the City of Wyoming
- f) To Set Meeting Day and Time for WKTV Commission of the City of Wyoming

**15) Resolutions**

- g) To Confirm Special Assessment Roll #21-810
- h) To Authorize the City Manager to Sign the Kent County Essential Needs Task Force (ENTF) Governance Memorandum of Understanding (MOU)

**16) Award of Bids, Contracts, Purchases, and Renewal of Bids and Contracts**

- i) To Accept Assignment of PFM Asset Management, LLC Investment Advisory Contract to BanCorp Asset Management Inc. and to Authorize the Mayor and City Clerk to Execute the Agreement
- j) To Award a Bid for the Gezon Park Phase One Development Project
- k) To Authorize the Mayor and City Clerk to Execute an Agreement for Professional Services with Johnson Hill Land Ethics Studio for the Gezon Park Development Project and Authorize the Related Budget Amendment (Budget Amendment 23)
- l) To Authorize the Purchase of Allen Bradley/Rockwell Components from Kendall Electric
- m) To Accept a Proposal from Cummins Sales and Service for a Generator Aftercooler Leak Repair at the Water Treatment Plant and to Authorize the Mayor and City Clerk to Execute the Contract
- n) To Award the Bid for the 2021 56<sup>th</sup> Street Improvement Project (Haughey Avenue to Division Avenue) and to Authorize the Mayor and City Clerk to Execute the Contract (Budget Amendment 26)

**17) Ordinances**

- 21-21 To Amend and Supplement City Ordinances to Authorize Issuing and Selling an Additional Series of Water System Revenue Bonds; To Prescribe the Form of the Bonds; To Provide for Collection of Revenues to Pay Water System Operation and Maintenance Costs; To Segregate and Distribute Certain Water System Revenues; To Provide a Reserve Fund, for Rights of the Holders of and for Other Matters Related to the Issuance of Water System Revenue Bonds
- 22-21 To Amend the Code of Ordinances, City of Wyoming, Michigan, by Adding Chapter 23, Entitled “City Income Tax,” to Adopt the Uniform City Income Tax

Ordinance by Reference, as Provided in the City Income Tax Act, 1964 PA 284,  
with an Amendment to Section 31 to Increase the Amount of Exemptions  
Conditional on Approval by City Electors at a May 3, 2022 Special Election

**18) Informational Material**

Consumers Energy Foundation Grant

**19) Acknowledgment of Visitors**

*This public comment period is an opportunity to share concerns or present topics to the City Council that were not part of this meeting's agenda. This is not an opportunity for dialog with Council, but Council may make referrals or request staff to follow up. Please provide your name and address when approaching the podium. There is a 3 minute limit per person.*

**20) Closed Session** (as necessary)

**21) Adjournment**

August 16, 2021

Wyoming City Council  
Wyoming, Michigan

City Manager's Report No. 21-08

Subject: Acceptance of a Temporary Permit for  
190 – 56<sup>th</sup> Street, SW (Jeannica Shanell Garmon)

Councilmembers:

Jeannica Shanell Garmon, owner of 190 – 56<sup>th</sup> Street, SW, has submitted the following described Temporary Permit. The Temporary Permit conveys rights to access and grade on this property for the 56<sup>th</sup> Street Improvement project from Haughey Avenue – Division Avenue. The Temporary Permit area is shown on the attached Exhibit B.

Grantor:	Jeannica Shanell Garmon
Parcels:	41-17-36-426-015
Right-of-way Size	812 sf – Temporary Permit
Consideration:	\$2904.00

It is recommended that the City Council accept Temporary Permit which has been approved as to form by the City Attorney.

Respectfully submitted,



Curtis L. Holt  
City Manager

Attachments: Temporary Permit  
Estimate of Just Compensation

community • safety • stewardship

CITY COUNCIL

Sheldon DeKryger   John Fitzgerald   Kent Vanderwood   Marissa Postler   Robert Postema   Sam Bolt

**Jack A. Poll, Mayor**

**CITY OF WYOMING**  
**TEMPORARY PERMIT**  
Parcel No. 41-17-36-426-015

The Grantor, **Jeannica Shanell Garmon**, a woman, whose address is 190 56<sup>th</sup> Street, SW, Wyoming, MI 49548

**DOES HEREBY GRANT AND CONVEY TO:**

**CITY OF WYOMING**, a Michigan Municipal corporation, whose address is 1155 28<sup>th</sup> Street, SW, Wyoming, Michigan 49509 a Temporary Permit to change existing land contours, to remove and/or install trees and vegetation, and to construct and/or reconstruct side-slopes, service walks, sidewalks, driveways, parking lots, curb and gutter, public and private utilities, drainage facilities, lighting facilities, and other facilities as required for the 56<sup>th</sup> Street Improvements Project from Haughey Ave. to Division Ave. All areas disturbed by the work in the Temporary Permit area will be properly restored. The Temporary Permit area is located on property in the City of Wyoming, County of Kent, State of Michigan, as follows:

**See Exhibit A attached hereto for the Temporary Permit Area  
and Temporary Permit Legal Description (A Portion of Parcel No. 41-17-36-426-015)**

The Temporary Permit as referenced herein is granted and conveyed for the full consideration of **Three Hundred Eighty Four Dollars and No Cents (\$384.00)**.

The Temporary Permit, including all rights granted or inferred, shall terminate upon completion of the 56<sup>th</sup> Street Improvements Project from Haughey Ave. to Division Ave., including restoration of the Temporary Permit Area.

**IN WITNESS, WHEREOF**, the undersigned have hereunto set their hand this day and year as referenced herein.

**DATED:** \_\_\_\_\_

**Approved as a form:**

  
\_\_\_\_\_  
**Attorney for the City of Wyoming**

**GRANTOR:**

  
\_\_\_\_\_  
**Jeannica Shanell Garmon**

Prepared by and return to:  
Deborah S. Poeder  
Land Matters, LLC  
11230 Tallmadge Woods Drive  
Grand Rapids, Michigan 49534

Legal Description prepared by:  
Meyers, Bueche & Nies, Inc.  
1750 3 Mile Road, NW  
Grand Rapids, Michigan 49544

# EXHIBIT B

FOR: CITY OF WYOMING

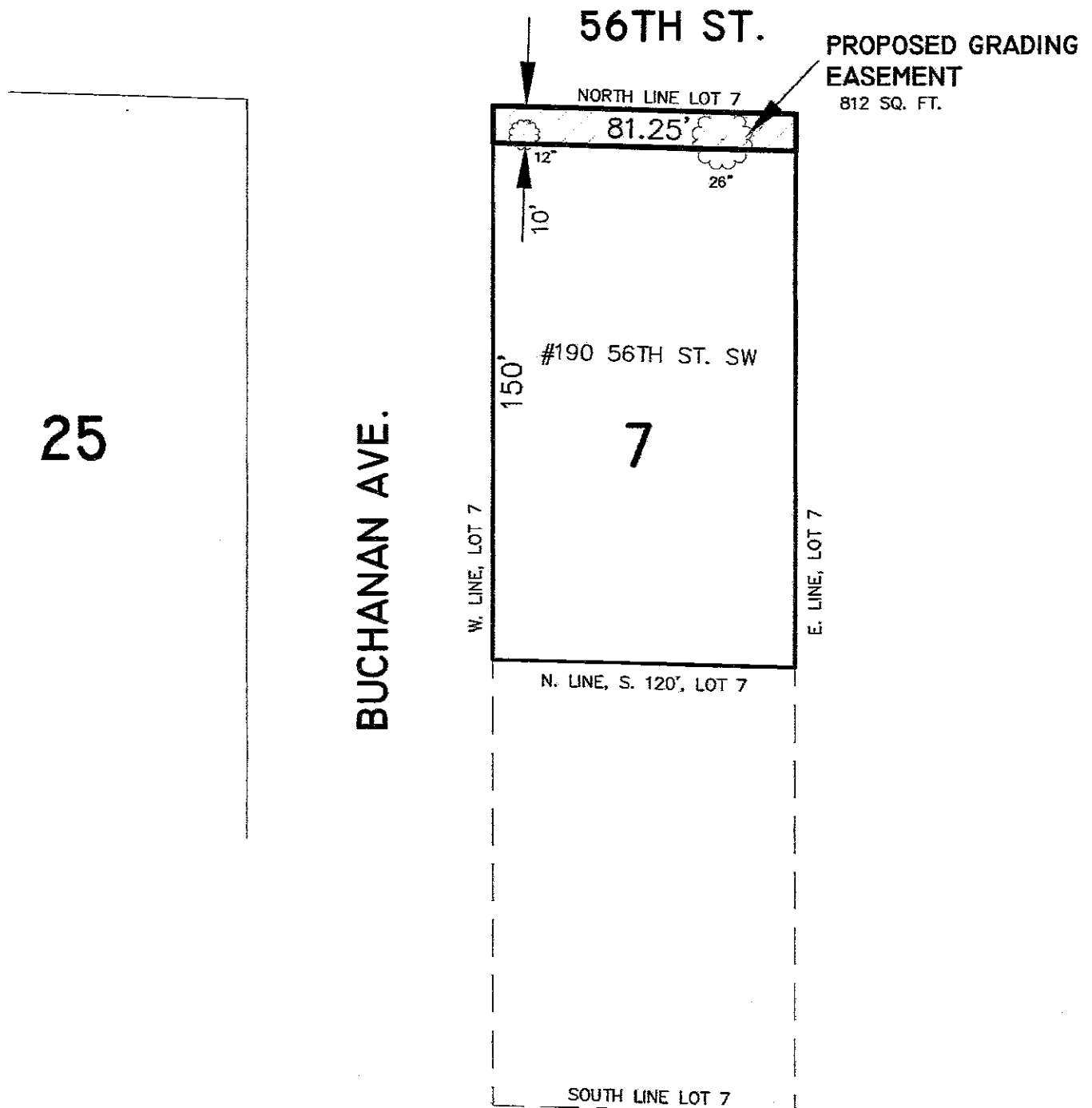
DATE: 5-13-21

PROJECT NO: 15055-190 56TH

RE: TEMPORARY GRADING EASEMENT

**PROPOSED GRADING EASEMENT DESCRIPTION:** SITUATED IN THE CITY OF WYOMING, COUNTY OF KENT, STATE OF MICHIGAN

THE NORTH 10 FEET OF LOT 7, LAMAR EXTENTION PLAT, ACCORDING TO THE PLAT THEREOF AS RECORDED IN LIBER 29 OF PLATS, PAGE(S) 27, KENT COUNTY RECORDS.



25

BUCHANAN AVE.

56TH ST.

PROPOSED GRADING EASEMENT  
812 SQ. FT.

NORTH LINE LOT 7

81.25'

12'

26'

10'

150'

#190 56TH ST. SW

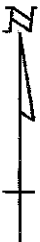
7

W. LINE, LOT 7

E. LINE, LOT 7

N. LINE, S. 120', LOT 7

SOUTH LINE LOT 7









SCALE: 1"=40'

**mbn**

Meyers, Bueche & Nies, Inc.  
Civil Engineers/Surveyors  
1750 3 Mile Road NW  
Grand Rapids, MI 49544  
616-457-5030  
fax 616-457-8244

## LEGEND

-  WOOD STAKE (SET)
-  IRON STAKE (SET)
-  IRON STAKE (FOUND)
-  FENCE
-  DECIDUOUS TREE
-  CONIFEROUS TREE

# CITY OF WYOMING ESTIMATE OF JUST COMPENSATION

**PROJECT:** City of Wyoming – 56<sup>th</sup> Street Improvement Project, Haughey Ave. to Division Ave.

<b>SITE DATA:</b>	Permanent Parcel No.: 41-17-36-426-015
Parcel: Jeannica Shanell Garmon	Land Use: Residential – Improved      Size: 0.542 ac (total)
Address: 190 56 <sup>th</sup> St., SW	Zoning: 401

<p><b>ACQUISITION DESCRIPTION:</b> Square foot values based on Land Values obtained from the comparable sales in the City of Wyoming.</p> <p>Summary of Costs:</p> <div style="border: 1px solid black; padding: 5px; margin-top: 10px;"> <p><u>Temporary Permit:</u> A 10' rectangular piece of property located adjacent to the 56<sup>th</sup> Street ROW at 190 56<sup>th</sup> Street, as shown.</p> <p style="text-align: center;">Area: 812 sft</p> </div>	<p><b>SKETCH:</b></p> <div style="text-align: right; margin-bottom: 10px;">North ↑</div>
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<b>COMPUTATION OF VALUE:</b>	
<p>LAND ACQUISITION, TEMPORARY PERMIT</p> <p>812 s.f. (Area) X \$ 4.73 / s.f. x 10% = \$ 384.07 ~ Round to \$384.00</p>	<b>\$ 384.00</b>
<p>VEGETATION REMOVALS – Based on Landscape Appraisal dated July 18, 2021 from Aurora</p>	<b>2,520.00</b>

REMARKS:

**\$2,904.00**

Signed: \_\_\_\_\_  
Land Matters, Ilc  
Deborah S. Poeder

For information call 616.791.9805

Agreed to by:   
Jeannica Garmon



**CITY OF WYOMING BUDGET AMENDMENT**

**Date: August 16, 2021**

**Budget Amendment No. 025**

To the Wyoming City Council:

A budget amendment is requested for the following reason: To appropriate an additional \$424,890.00 of budgetary authority for the hiring of 7 firefighters contingent upon City Council approval of the income tax resolution and ordinance moving the request forward as a ballot initiative.

<u>Description/Account Code</u>	<u>Current</u>	<u>Increase</u>	<u>Decrease</u>	<u>Amended</u>
<b><u>General Fund</u></b>				
Fire - Fighting - Uniform Salaries 101-337-33900-705.000	1,906,133.00	323,000.00		2,229,133.00
Fire - Fighting - FICA 101-337-33900-715.000	171,891.00	24,400.00		196,291.00
Fire - Fighting - Hospitalization 101-337-33900-716.000	579,856.00	25,600.00		605,456.00
Fire - Fighting - Life Insurance 101-337-33900-717.000	2,165.00	370.00		2,535.00
Fire - Fighting - DC Pension 101-337-33900-718.100	108,772.00	25,800.00		134,572.00
Fire - Fighting - DC Retiree Health 101-337-33900-718.200	53,606.00	2,090.00		55,696.00
Fire - Fighting - Workers Comp Insurance 101-337-33900-719.000	116,580.00	17,500.00		134,080.00
Fire - Fighting - Liability 101-337-33900-910.000	52,308.00	6,130.00		58,438.00
 Fund Balance/Working Capital (Fund 101)		<u>0.00</u>	<u>424,890.00</u>	

Recommended: *Kate Bergan*  
Finance Director

*C. Smith*  
City Manager

Motion by Councilmember \_\_\_\_\_, seconded by Councilmember \_\_\_\_\_ that the General Appropriations Act for Fiscal Year 2021-2022 be amended by adoption of the foregoing budget amendment.

Motion carried: Yes \_\_\_\_\_, No \_\_\_\_\_

I hereby certify that at a \_\_\_\_\_ meeting of the Wyoming City Council duly held on \_\_\_\_\_ the foregoing budget amendment was approved.

\_\_\_\_\_  
City Clerk

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

RESOLUTION OF APPRECIATION TO KIM BRIGGS FOR HIS SERVICE  
AS A MEMBER OF THE COMMUNITY ENRICHMENT COMMISSION  
OF THE CITY OF WYOMING

WHEREAS:

1. Kim Briggs has served faithfully and effectively as a member of the Community Enrichment Commission since July 6, 2020.

NOW, THEREFORE, BE IT RESOLVED:

1. Councilmembers and citizens of the City of Wyoming wish to express their deep appreciation to Kim Briggs for his dedicated service as a member of the Community Enrichment Commission.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried        Yes  
                                  No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on August 16, 2021.

\_\_\_\_\_  
Kelli A. VandenBerg, Wyoming City Clerk

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

RESOLUTION OF APPRECIATION TO SONIA RILEY FOR HER SERVICE  
AS A MEMBER OF THE COMMUNITY ENRICHMENT COMMISSION  
OF THE CITY OF WYOMING

WHEREAS:

1. Sonia Riley has served faithfully and effectively as a member of the Community Enrichment Commission since October 7, 2019.

NOW, THEREFORE, BE IT RESOLVED:

1. Councilmembers and citizens of the City of Wyoming wish to express their deep appreciation to Sonia Riley for her dedicated service as a member of the Community Enrichment Commission.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried      Yes  
                                    No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on August 16, 2021.

\_\_\_\_\_  
Kelli A. VandenBerg, Wyoming City Clerk

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

RESOLUTION TO CONFIRM THE APPOINTMENT OF JAYLYN MCCLOY  
AS A MEMBER OF THE BOARD OF DIRECTORS OF THE CITY OF WYOMING  
DOWNTOWN DEVELOPMENT AUTHORITY

WHEREAS:

1. Jaylyn McCloy has submitted an application requesting appointment to the Downtown Development Authority for the City of Wyoming.
2. A vacancy exists in an unexpired term ending January 1, 2024 on the Downtown Development Authority.
3. Mayor Jack Poll has recommended that Jaylyn McCloy be appointed as a member of the Board of Directors of the City of Wyoming Downtown Development Authority.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council for the City of Wyoming, Michigan, does hereby confirm the appointment of Jaylyn McCloy as a member of the Board of Directors of the City of Wyoming Downtown Development Authority for the unexpired term ending January 1, 2024.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried        Yes  
                                  No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on August 16, 2021.

\_\_\_\_\_  
Kelli A. VandenBerg, Wyoming City Clerk

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

RESOLUTION TO APPOINT KRISTIAN DANIEL AS A MEMBER OF THE  
HISTORICAL COMMISSION FOR THE CITY OF WYOMING

WHEREAS:

1. Kristian Daniel has submitted an application requesting appointment to the Historical Commission for the City of Wyoming.
2. A vacancy exists in an unexpired term ending June 30, 2024.
3. Mayor Jack Poll has recommended that Kristian Daniel be appointed as a member of the Historical Commission for the City of Wyoming.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council for the City of Wyoming, Michigan, does hereby confirm the appointment of Kristian Daniel to the Wyoming Historical Commission for the unexpired term ending on June 30, 2024.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried      Yes  
                                    No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on August 16, 2021.

\_\_\_\_\_  
Kelli A. VandenBerg, Wyoming City Clerk

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

RESOLUTION TO APPOINT THOMAS DEGENNARO AS A MEMBER OF THE  
HISTORICAL COMMISSION FOR THE CITY OF WYOMING

WHEREAS:

1. Thomas DeGennaro has submitted an application requesting appointment to the Historical Commission for the City of Wyoming.
2. A vacancy exists in an unexpired term ending June 30, 2022.
3. Mayor Jack Poll has recommended that Thomas DeGennaro be appointed as a member of the Historical Commission for the City of Wyoming.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council for the City of Wyoming, Michigan, does hereby confirm the appointment of Thomas DeGennaro to the Wyoming Historical Commission for the unexpired term ending on June 30, 2022.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried        Yes  
                                  No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on August 16, 2021.

\_\_\_\_\_  
Kelli A. VandenBerg, Wyoming City Clerk

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

RESOLUTION TO SET MEETING DAY AND TIME  
FOR THE WKTV COMMISSION OF THE CITY OF WYOMING

WHEREAS:

1. The WKTV Commission currently meets on the first Tuesday of each month at 6:00 p.m.
2. The WKTV Commission has proposed changing its meeting schedule to 6:00 p.m. on the first Monday of each month.
3. Section 2.113 of the Code of Ordinances states that the days and times of regular meetings of all board and commission shall be set by City Council resolution.

NOW, THEREFORE, BE IT RESOLVED:

1. The regular day and time for meetings of the WKTV Commission shall be the first Monday of each month at 6:00 p.m. at WKTV.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried        Yes  
                                  No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on August 16, 2021.

\_\_\_\_\_  
Kelli A. VandenBerg, Wyoming City Clerk

Resolution No. \_\_\_\_\_

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

RESOLUTION TO CONFIRM SPECIAL ASSESSMENT ROLL #21-810

WHEREAS:

1. At its meeting of August 2, 2021, the city council adopted a resolution determining to proceed with the construction and installation of water services, sanitary sewer main, storm sewer, sidewalk, curbs, gutters, driveway aprons, and street improvements within the 56<sup>th</sup> Street right-of-way from Haughey Street to Division Avenue S (the "Project"), determining to specially assess a portion of the Project costs to property within Special Assessment District #21-810 comprised of the parcels listed in Exhibit A, determining to allow payment of those special assessments in 15 installments of principal plus interest at the rate of 2.9% per annum, and directing the city manager to provide for the preparation and filing of a proposed special assessment roll.
2. The city manager, in collaboration with other city staff including the city assessor caused to be prepared and filed with the city clerk proposed Special Assessment Roll #21-810.
3. At its meeting of August 16, 2021, the city council held a public hearing on proposed Special Assessment Roll #21-810, notice of which was provided to owners or other persons interested in the property in proposed Special Assessment District #21-810 by publication and mailing and in a form and substance as provided by state law and city ordinance.
4. The city council considered all objections and other comments made orally or in writing before the public hearing was closed.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Special Assessment Roll #21-810 is confirmed.
2. Any special assessment on Special Assessment Roll #21-810 may be paid in full not later than September 30, 2021 without interest.
3. Any special assessment on Special Assessment Roll #21-810 not paid in full by that date may be paid in 15 equal annual installments of principal plus interest accrued on the unpaid balance at the rate of 2.9% per annum beginning on that date.
4. The first installment be billed on October 1, 2021 and payable on October 31, 2021 and subsequent installments shall be billed on October 1 and payable on October 31 of each subsequent year.
5. The city clerk is directed to mail a notice in the form attached as Exhibit B to the owner or other person in interest in each parcel of property in Special Assessment District #21-810, according to the most recent property tax records.
6. All resolutions and parts of resolutions, insofar as they conflict with the provisions of this resolution, are rescinded.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried            Yes  
   No

I certify that this Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular meeting held on August 16, 2021.

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Kelli A. VandenBerg, Wyoming City Clerk

Resolution No. \_\_\_\_\_

**EXHIBIT A**  
**SPECIAL ASSESSMENT DISTRICT #21-810**

Address	5589 DIVISION AVE	Address	249 56TH STREET
Parcel Number	41-17-36-277-040	Parcel Number	41-17-36-256-005
Address	65 56TH STREET	Address	240 56TH STREET
Parcel Number	41-17-36-277-010	Parcel Number	41-17-36-404-045
Address	77 56TH STREET	Address	230 56TH STREET
Parcel Number	41-17-36-277-007	Parcel Number	41-17-36-404-046
Address	102 54TH STREET	Address	212 56TH STREET
Parcel Number	41-17-36-277-026	Parcel Number	41-17-36-404-017
Address	120 54TH STREET	Address	190 56TH STREET
Parcel Number	41-17-36-226-029	Parcel Number	41-17-36-426-015
Address	139 56TH STREET	Address	176 56TH STREET
Parcel Number	41-17-36-276-008	Parcel Number	41-17-36-426-002
Address	153 56TH STREET	Address	164 56TH STREET
Parcel Number	41-17-36-276-007	Parcel Number	41-17-36-426-003
Address	167 56TH STREET	Address	154 56TH STREET
Parcel Number	41-17-36-276-006	Parcel Number	41-17-36-476-023
Address	177 56TH STREET	Address	129 56TH STREET
Parcel Number	41-17-36-276-005	Parcel Number	41-17-36-226-029
Address	195 56TH STREET	Address	100 56TH STREET
Parcel Number	41-17-36-276-004	Parcel Number	41-17-36-476-030
Address	217 56TH STREET	Address	70 56TH STREET
Parcel Number	41-17-36-256-010	Parcel Number	41-17-36-476-042
Address	241 56TH STREET	Address	5611 DIVISION AVE
Parcel Number	41-17-36-256-006	Parcel Number	41-17-36-476-043

EXHIBIT B  
FORM OF NOTICE



NOTICE OF SPECIAL ASSESSMENT

On August 16, 2021, the Wyoming City Council confirmed Special Assessment Roll #21-810. Your property at \_\_\_\_\_, Wyoming, Michigan was specially assessed in the amount of \$\_\_\_\_\_ (the “Special Assessment”).

The Special Assessment may be paid in full without interest on or before September 30, 2021.

The Special Assessment may also be paid in 15 equal annual installments of principal plus accrued interest. Interest on the unpaid balance of the Special Assessment will be at the rate of 2.9% per annum beginning on October 1, 2021. Installments will be billed on October 1 of each year beginning October 1, 2021 and will be payable on October 31 of each year.

The unpaid balance of the Special Assessment plus any accrued interest may be paid in full at any time without penalty.

If you or your agent appeared in person or in writing and protested the Special Assessment at a public hearing on Special Assessment Roll #21-810, you have a right to appeal the Special Assessment to the Michigan Tax Tribunal. Any appeal must be filed within 30 days after confirmation of the special assessment roll.

Kelli A. VandenBerg, Wyoming City Clerk

## STAFF REPORT

Date: August 10, 2021  
Subject: 56<sup>th</sup> Street Special Assessment – SA Resolution #4 – Confirming Special Assessment Roll  
From: Scott Smith, City Attorney  
Meeting Date: August 16, 2021

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### **RECOMMENDATION:**

It is recommended that the City Council adopt Special Assessment Resolution #4 Confirming Special Assessment Roll #21-810.

### **COMMUNITY, SAFETY, STEWARDSHIP:**

Reliable infrastructure is critical providing safe travel within the city as well as for safe water supply and safe disposal of stormwater and sanitary sewage. It is appropriate to apportion the costs between owners of property specially benefitting from such improvements and the public at large.

### **DISCUSSION:**

Proposed improvements within and along 56<sup>th</sup> St SW between Haughey Ave SW and Division Ave S includes construction of a new street with concrete curb and gutter, new storm sewer drainage system, new sanitary sewer (Buchanan to Division), new concrete drive approaches, and new concrete sidewalks along both sides of 56th Street. The project will capture the storm water from the street with the curb and gutter, and outlet via a new storm sewer system. The street will have a short narrow “traffic choker” at the trail crossing for the Inter Urban trail to calm traffic and encourage slower speeds. Additionally, there will be a median island at Division to calm traffic and provide some street scape benefits. Along with the street improvements there will be a new sanitary sewer constructed from Buchanan Avenue to Division Avenue. Sewer laterals will be extended into each property to allow for future connection to each business/residence. Watermain is already in place in 56<sup>th</sup> Street so the project will only include water services to properties that do not currently have a service stubbed in.

As previously explained, pursuant to a long-standing City Council policy and incorporated formula, \$404,726.86 of the total project cost of \$1,103,064.50 would be specially assessed against 24 parcels specially benefitting from these improvements. The special assessments be paid in 15 installments with interest at 2.9% per annum.

### **BUDGET IMPACT:**

Project is financed out of fund 590-441-54400-972.544, 203-441-46300-972.503 and 591-441-57300-972.573. Any needed budget amendments will be proposed separately.

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

RESOLUTION TO AUTHORIZE THE CITY MANAGER TO SIGN THE KENT COUNTY  
ESSENTIAL NEEDS TASK FORCE (ENTF) GOVERNANCE MEMORANDUM OF  
UNDERSTANDING (MOU)

WHEREAS:

1. The ENTF is a collective effort of governmental agencies, non-profits, faith-based organizations, funders, and community volunteers which seek to enhance the structure of services and develop and support a sustainability model for the emergency response network providing essential basics for living (heating, food, shelter, etc.) to residents throughout Kent County.
2. The City of Wyoming is actively taking steps to address the needs of persons who are homeless in part through representation on the Steering Committee of the Greater Grand Rapids Coalition to End Homelessness, a subcommittee of the ENTF which also functions as the metropolitan Continuum of Care.
3. With the FY 2014 budget the City awarded Community Development Block Grant (CDBG) funding in support of this work qualifying the City to be a member of the ENTF Governance Committee. The City has again awarded CDBG funding, in the amount of \$5,000 in account number 256-400-17522-956.036, for the fiscal year beginning July 1, 2021.
4. The MOU as attached identifies the responsibilities within the ENTF and its subcommittees, seeking a structure that fosters transparency and recognizes roles and purpose.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council for the City of Wyoming does hereby authorize the City Manager to sign the Kent County Essential Needs Task Force Governance Memorandum of Understanding.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried        Yes  
                                  No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on August 16, 2021.

\_\_\_\_\_  
Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENT:        Memorandum of Understanding

Resolution No. \_\_\_\_\_

## STAFF REPORT

Date: August 2, 2021

Subject: Kent County Essential Needs Task Force (ENTF) Governance Memorandum of Understanding (MOU) Renewal

From: Rebecca Rynbrandt, Director of Community Services

Council Meeting Date: August 16, 2021

---

### **RECOMMENDATION:**

Staff recommends the City Council authorize the City Manager to sign the ENTF Governance MOU Renewal.

On June 21, 2021, with City Council Resolution No. 27051, the City awarded CDBG funding, in the amount of \$5,000 in account number 256-400-17522-956.036, for the fiscal year beginning July 1, 2021.

### **COMMUNITY, SAFETY, STEWARDSHIP:**

The ENTF is a collective effort of governmental agencies, non-profits, faith-based organizations, funders, and community volunteers which seek to enhance the structure of services and develop and support a sustainability model for the emergency response network providing essential basics for living (heating, food, shelter, etc.) to residents throughout Kent County.

The ENTF works toward ensuring residents live stable lives while building a stronger, more clearly defined support system that reduces poverty by working to assure essential needs of the community's most vulnerable citizens. Work groups include: Food & Nutrition, Coalition to End Homelessness (aka HUD Continuum of Care), Energy Efficiency, Transportation, and Economic & Workforce Development.

The ENTF fosters community conversations, advocates, seeks, manages and coordinates grants and other resources to align programs and services throughout the county; works to allow service organizations and residents to achieve their full potential and economic self-sufficiency.

### **DISCUSSION:**

The Community Services Department works to improve services to Wyoming's citizens by ascertaining critical areas in which Wyoming, by its population size and growing urban character, benefit through expanded involvement in Grand Rapids metropolitan discussions, to educate and redefine Wyoming's image, and work to obtain private investment, government funding, or social services for our residents.

Wyoming's active participation as a Steering Committee member of the federally designated Grand Rapids/Wyoming/Kent County Continuum of Care, also known as the Grand Rapids Area Coalition to End Homelessness, an affiliate of the Kent County Essential Needs Task Force, in the education of service demand and evaluation of needs and services related to persons and families who are homeless or at the risk of homelessness within the Wyoming is an example of this work. The City began in FY 2014, and continues in FY 2022, to award Community Development Block Grant (CDBG) funding in direct support of this work.

As a funder of the ENTF workgroup/committee, the City of Wyoming is a standing member of the ENTF Governance Committee. The ENTF was initially established in 1982. An MOU is executed to identify the roles and responsibilities of membership to the ENTF. The MOU is to be renewed annually.

**BUDGET:**

The budget is established annually as a recommendation of the CDBG Committee and as approved by the Wyoming City Council. Funds are currently budgeted.

###

Kent County Essential Needs Task Force



**MEMORANDUM OF UNDERSTANDING**

**AMONG**

**COUNTY OF KENT,  
CITY OF GRAND RAPIDS,  
CITY OF WYOMING,  
HEART OF WEST MICHIGAN UNITED WAY,  
KENT COUNTY DEPARTMENT OF HEALTH AND HUMAN SERVICES,  
WEST MICHIGAN WORKS  
AND  
THE SALVATION ARMY**

This Memorandum of Understanding (hereinafter called MOU) sets forth the terms and understanding between County of Kent (hereinafter called the County), City of Grand Rapids, City of Wyoming, Heart of West Michigan United Way (hereinafter called United Way), Kent County Department of Health and Human Services (hereinafter called DHHS), West Michigan Works, and The Salvation Army regarding activities related to assuring necessary legitimacy, structure and sustainability for an effective Essential Needs Task Force (hereinafter called the ENTF or Task Force) operating as the **Kent County Essential Needs Task Force Governance Committee** (hereinafter called the Governance Committee or Governance) through the Kent County ENTF community advisory board and Task Force Subcommittee collaboratives via their chairs and key ENTF supporters (hereinafter called Subcommittees or Leadership Committee).

**SECTION I: VISION, MISSION, GOAL AND INDICATORS**

**Vision:** We envision a bright, prosperous future where the dignity and human rights of all people in Kent County are actualized by people-centered systems that guarantee equitable access to opportunities, tools, networks, and resources to meet their current and emerging needs.

**Mission:** To advance equitable outcomes for all people in Kent County, we build relationships, foster understanding in the community, reject biased assumptions, and lead policy and process change within systems of transportation, food and nutrition, energy efficiency, economic and workforce development, and housing.

ENTF carries out the vision and mission through the following action areas:

- Data & Understanding – building knowledge of the community’s current state using data, diverse experiences, and intentional storytelling;
- Advocacy and Accountability – ensuring equitable systems by building community awareness, reviewing, questioning, and informing practices, and advocating for policy and process change;

- Community Learning – building capacity, competence, and confidence for the Task Force; provide partners and community members opportunities for personal and professional development through active participation in ENTF leadership roles;
- Connecting – supporting stakeholders in building and strengthening relationships, partnerships, and collaborative efforts.

**Indicators:** The Governance Committee will establish, with ENTF Subcommittees, indicators that show Task Force goal achievement in coordination with other appropriate community human services systems initiatives.

## **SECTION II: MEMBERSHIP**

**Governance Membership:** Kent County, cities of Grand Rapids and Wyoming, Heart of West Michigan United Way, Kent DHHS, The Salvation Army and West Michigan Works, agreed to continue working together as the ENTF Governance Committee. These organizations have been ongoing, key task force funding support sources and are closely involved in community essential service delivery issues, as described here.

- West Michigan Works!/ACSET – Serves as Kent County’s public workforce development agency, working in partnership with employers, educators, economic developers and community organizations to prepare a qualified workforce to fuel a shared economic future. Provides cash and in-kind resources to ENTF Economic & Workforce Development Subcommittees via Subcommittee leadership, in-kind operations support, fiduciary services and project funding grants. Is a key Kent County essential services advocacy agent at local, State and Federal levels.
- City of Grand Rapids – Serves as a designated conduit for state/federal housing funds. Kent County’s major urban population center influencing federal and state policy and legitimacy support. Essential Needs Task Force and Coalition to End Homelessness operations and planning funder. Local essential service governmental policy development leader.
- City of Wyoming – Major metropolitan municipality experiencing essential needs demand and service delivery evolution; serves as a municipal leader alongside the City of Grand Rapids and Kent County for program and policy. A HUD entitlement community, providing funding in support of public services and housing initiatives. Is a governmental leader in Kent County for essential service provider development focusing on suburban transition issues.
- Heart of West Michigan United Way – Provides regular designated essential service funding and in-kind ENTF operations support. Maintains lead community-based income/financial stability community resource leadership. Kent County non-profit organization focusing on education, financial security, and family stability in order to reduce poverty. Operates 2-1-1 Information/Referral and Data Base for community, including dissemination of quarterly Unmet Needs Report on range of essential human needs in the county. Designated as the ENTF Supporting Organization, as defined in Section III

- Kent County Administration and Community Action – Appropriates Current Unmet Needs / Discretionary Funds and other essential services related funding. Is the designated conduit for non-city state/federal housing funds. Provides Kent County wide Task Force legitimacy via Board of Commissioners. Assigned overall responsibility for essential services provision by Michigan law.
- Kent County Department of Health and Human Services – The largest County and State essential service categorical funding and in-kind support provider for ENTF related operations. Founder of ENTF and strong additional source of legitimacy and resources through the Kent County Board of Social Services to the Board of Commissioners.
- The Salvation Army – National philanthropic, federal and state recognized non-profit legitimizing essential services systems development. Key Kent County non-profit advocacy agent in state/federal essential service issues. Provides cash resources through federal funding (HUD) to support the structure and sustainability particularly related to the Housing CoC Subcommittee.

Governance Committee members' current, specific contributions to ENTF are identified in statements of support to ENTF operations, as defined in this MOU.

Annually, Governance Committee members will elect/reaffirm a Chair and Vice-Chair.

From time to time, the Governance Committee may identify and invite for membership additional members to enhance ENTF opportunities for success. New members will be expected to agree to this Memorandum of Understanding on behalf of their organization and commit to annual cash or in-kind support expected with membership. Such members will be added by majority vote of existing membership at a regularly scheduled meeting.

Should the Governance Committee identify a member not fulfilling its supporting role with the ENTF, after appropriate deliberation, the member may be removed by a majority vote of the Committee at a regularly scheduled meeting.

### **SECTION III: ENTF SUPPORTING ORGANIZATION: FIDUCIARY / EMPLOYER OF RECORD**

The Governance Committee recognizes that more effective achievement of its vision and mission will be accomplished with formal management support of ENTF operations. To that end, after assessment of best combination of willingness and strategic appropriateness to provide Supporting Organization services, the Governance Committee will invite that organization to provide Supporting Organization services. This MOU serves as Governance members formal recognition of the ENTF Supporting Organization. The following will serve as the basis for the relationship between the Governance Committee and the Supporting Organization:

- Heart of West Michigan United Way serves as Supporting Organization and has full support of the Governance members.
- Via this MOU, United Way agrees to support the ENTF by:

Acting as *Fiduciary* for ENTF by:

- Providing “back office” functions for ENTF, including but not limited to
  - Accounting services: Manage finances (revenues and expenses) for ENTF separately in an accounting system following generally accepted accounting principles
  - Processing ENTF invoices and bills approved and submitted by ENTF Director (or organizational designee)
  - Providing ENTF financial statements as requested by ENTF Governance Committee, at least quarterly
- Providing administrative services including:
  - Receiving and disbursing funds, as Payee, on behalf of ENTF ensuring funds are spent in accordance with specific purpose and budget (*this includes documenting all purchases that will remain the sole property of ENTF*)
  - Fulfilling all fiduciary responsibilities specified in grant contracts and agreements with government and private entity funding sources for ENTF
  - Serving as legal signatory on contracts, grants, and other legal agreements in which ENTF is party.

Acting as *Employer of Record* by:

- Providing, in consultation with the Governance Committee, ENTF Staff Supervision services, using the following as general parameters:
  - Provide ENTF staff with compensation and benefits per HWMUW policies.
  - Ensure that ENTF staff and operations will be conducted from and within HWMUW. The ENTF Director is accountable to ENTF Governance Committee for performance of duties, while United Way’s President (or alternate designated supervisor) serves as day-to-day supervisor under United Way’s personnel policies. Written review of the ENTF Director’s performance (no less than annually) will be completed by HWMUW’s President (or designated supervisor) with input from the ENTF Governance Committee chair(s).
  - As delegated by Heart of West Michigan United Way’s President, the ENTF Director is responsible for supervision of all dedicated ENTF staff and/or contract personnel, following United Way operations policy. Performance reviews of staff will be completed (no less than annually) by the ENTF Director
- Ensure effective ENTF work flow by oversight of ENTF staff, in consultation with the Governance Committee.

#### **SECTION IV: JOINT REVIEW**

The Governance Committee and the Supporting Organization will review this MOU on an annual basis and reconfirm its effectiveness or make revisions to best meet the current needs and support the goals of the Essential Needs Task Force.

#### **SECTION V: DURATION**

This MOU shall begin July 1, 2021 and end on June 30, 2022, at which time said contract shall be automatically renewed for successive one (1) year terms, unless a party delivers written notice of non-renewal to the Governance Committee not less than sixty (60) days before the expiration of the then current term. A party may revoke this agreement at any time for non-performance, subject to other conditions as listed herein.

#### **SECTION VI: INDEMNIFICATION**

Each party to this MOU shall be responsible for any liability arising from its own conduct. No party agrees to waive, defend or indemnify any other.

#### **SECTION VII: ENTIRE AGREEMENT**

This MOU represents the entire agreement among the parties and supersedes all prior negotiations, representations and agreements, whether written or oral.

#### **SECTION VIII: MODIFICATION**

Any modification of this MOU or additional obligation assumed by any partner in connection with this MOU shall be binding only if evidenced in writing and signed by all parties or their authorized representative.

#### **SECTION IX: GOVERNMENTAL IMMUNITY**

No party waives its governmental immunity by entering into this MOU, and fully retains all immunities and defenses provided by law with respect to any action based upon or occurring as a result of this MOU.

#### **SECTION X: ABSENCE OF WAIVER**

The failure of any of the parties to this MOU to insist on the performance of any of the terms and conditions of this MOU, or the waiver of any breach of such terms and conditions, shall not be construed as thereafter waiving any such terms and conditions, which shall continue and remain in full force and effect as if no such forbearance or waiver had occurred.

#### **SECTION XI: ASSIGNMENT OF RIGHTS**

The rights and obligations of all parties under this MOU are personal to those parties and may not be assigned or transferred to any other person, firm, corporation or other entity without the prior written consent of the other parties.

**SECTION XII: CONFLICT OF INTEREST**

As any potential conflict is identified, affected Governance Committee members will recuse themselves from decision making as agreed to by Committee consensus.

**SECTION XIII: APPROVAL**

We, the undersigned have read and agree with this MOU.

By: \_\_\_\_\_ Date \_\_\_\_\_  
*Jennifer James*  
County of Kent / Assistant Administrator

By: \_\_\_\_\_ Date \_\_\_\_\_  
*Connie M. Bohatch*  
City of Grand Rapids / Managing Director of Community Services

By: \_\_\_\_\_ Date \_\_\_\_\_  
*Curtis Holt*  
City of Wyoming / City Manager

By: \_\_\_\_\_ Date \_\_\_\_\_  
*Michelle VanDyke*  
Heart of West Michigan United Way / CEO

By: \_\_\_\_\_ Date \_\_\_\_\_  
*Jeanette Hensler*  
Department of Health and Human Services / Director, Grants Division,  
Bureau of Grants and Purchasing

By: \_\_\_\_\_ Date \_\_\_\_\_  
*Jacob Maas*  
West Michigan Works / CEO

By: \_\_\_\_\_ Date \_\_\_\_\_  
*Pilar Dunning*  
The Salvation Army / Social Services Director

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

RESOLUTION TO ACCEPT ASSIGNMENT OF  
PFM ASSET MANAGEMENT LLC INVESTMENT ADVISORY CONTRACT  
TO U.S. BANCORP ASSET MANAGEMENT INC, AND TO AUTHORIZE  
THE MAYOR AND CITY CLERK TO EXECUTE THE AGREEMENT

WHEREAS:

1. The City entered a contract with PFM Asset Management LLC (“PFMAM”) in 2010 for investment manager advisory services.
2. As detailed in the attached PFMAM letter, US Bank media release, and PFM frequently asked questions, PFMAM’s holding company is selling PFMAM to U.S. Bancorp Asset Management Inc (“USBAM”).
3. The investment advisory contract with PFMAM allows assignment only upon consent.
4. PFMAM is requesting the City consent to the assignment by signing and returning the attached form of consent.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council for the City of Wyoming, Michigan, does hereby consent to the deemed assignment.
2. The Mayor and City Clerk are authorized to sign the Consent to Deemed Assignment of Investment Advisory Agreement with PFM Asset Management LLC.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried        Yes  
                                  No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on August 16, 2021.

\_\_\_\_\_  
Kelli A. Vandenberg, Wyoming City Clerk

ATTACHMENTS:

Staff Report

Letter

Consent to Deemed Assignment of Investment Advisory Agreement(s)

US Bank Press Release

PFMAM FAQ

Resolution No. \_\_\_\_\_

## STAFF REPORT

Date: August 10, 2021

Subject: PFM Asset Management Investment Advisory Contract Assignment

From: Kate Balfourt, Finance Director

Meeting Date: August 16, 2021

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### **RECOMMENDATION:**

It is recommended City Council approve the assignment of the PFM Asset Management LLC investment advisory contract to U.S. Bancorp Asset Management Inc and authorize the Mayor and City Clerk to sign the associated agreement.

### **COMMUNITY, SAFETY, STEWARDSHIP:**

Community – Adequate funding is needed to enable the City to provide services. Appropriately investing City funds to maximize earnings allows for additional funding to provide these services.

Safety – City funds provide for the necessary public safety services. Using known, trusted financial advisors also helps protect those funds.

Stewardship – The City has a responsibility to use funds received in the most efficient and effective manner. By using an investment advisor, the City leverages the specialized expertise of the advisor to maximize earnings potential on City funds.

### **DISCUSSION:**

The City currently contracts with PFM Asset Management LLC (“PFMAM”) for investment advisory services for both City funds and the Retiree Health Trust. On July 23, 2021, the City was notified PFMAM is in the process of being sold to U.S. Bancorp Asset Management Inc (“USBAM”). The transaction is expected to close near the end of the year. The letter received and additional documentation have been included as an attachment to this staff report.

It is anticipated the City’s current advisor, Brian Quinn, will continue to be our advisor and according to the documentation provided there is not expected to be a material or adverse impact to the City.

Because this sale is a change in control of PFMAM, the City’s current investment advisory contract requires the City to consent to the assignment of the contract to USBAM. Therefore, it is recommended Council approve the assignment and authorize the Mayor and City Clerk to sign the agreement provided with the notice.

### **BUDGET IMPACT:**

There is no impact to the City’s budget.



July 23, 2021

Kate Balfourt, CGFM Finance Director  
City of Wyoming  
PO Box 905  
Wyoming, MI 49509-0905

**pfm**

---

213 Market Street  
Harrisburg, PA 17101  
717-232-2723

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[pfm.com](http://pfm.com)

PFM Asset Management LLC ("PFMAM") considers it a privilege to serve as your investment advisor. We are writing to you to request your authorization to continue to provide investment management services, upon completion of the transaction described below, under the investment advisory agreement(s) you have with PFMAM.

PFMAM and its affiliates are currently owned through a holding company by our senior management. The holding company has entered into a definitive agreement to sell PFMAM along with other associated entities to U.S. Bancorp Asset Management Inc. ("USBAM"), a subsidiary of U.S. Bancorp. PFMAM will become a wholly owned subsidiary of USBAM and will continue to operate as a separate registered investment advisor known as PFM Asset Management, a division of USBAM. The transaction is expected to close near the end of the year.

USBAM and PFMAM have complementary businesses, and a strong collective presence in money markets, investment-grade fixed income and multi-asset class outsourced chief investment officer ("OCIO") advisory services. We believe the enhanced resources of the investment, credit and research teams will support and strengthen the capabilities of both firms to serve government, not-for-profit, corporate, and other institutional clients. For additional details and answers to frequently asked questions, please refer to the accompanying informational materials.

When the transaction closes, the action would be treated under applicable law as a change in control of PFMAM and thus as a constructive or "deemed" assignment of your investment advisory contract. Your investment advisory contract with PFMAM allows assignment only upon your consent. Therefore, we request that you consent to the deemed assignment by signing and returning the form of consent which accompanies this letter.

Following the transmittal of this letter, PFMAM will continue our investment management of your account for your benefit with PFMAM personnel continuing to serve you. In the event that you do not give notice to PFMAM within 60 days after the date of this letter that you disapprove of the deemed assignment, you will be considered to have consented to the assignment, and your investment advisory agreement will remain in effect, with no change to its terms, both before

**CONSENT TO DEEMED ASSIGNMENT  
OF INVESTMENT ADVISORY AGREEMENT[S]  
WITH PFM ASSET MANAGEMENT LLC**

The below named Investor hereby consents to the deemed assignment of all Investment Advisory Agreements between such Investor and PFM Asset Management LLC ("PFMAM") upon the change in control of the holding company of PFMAM.

The undersigned officer is duly authorized by such Investor to execute and deliver this consent.

\_\_\_\_\_  
Name of Investor

\_\_\_\_\_  
State

\_\_\_\_\_  
Signature of Authorized Officer

\_\_\_\_\_  
Name of Authorized Officer

\_\_\_\_\_  
Title of Authorized Officer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Attest: (if required by Investor)

Approved as to form

  
\_\_\_\_\_  
Scott G. Smith, City Attorney

Date: 8/12/2021



## U.S. Bank Acquires PFM's Asset Management Business

**MINNEAPOLIS (July 8, 2021)** – U.S. Bank announced today that it has entered into a definitive agreement to purchase PFM Asset Management LLC under its subsidiary, U.S. Bancorp Asset Management. PFM Asset Management will continue to operate as a separate entity. PFM Asset Management and U.S. Bancorp Asset Management had combined assets under management and assets under administration of more than \$325 billion on March 31, 2021.

"PFM Asset Management brings a wide array of client relationships and product offerings, including local government investment pools, outsourced chief investment officer services and separately managed accounts in both fixed income and multi-asset class strategies," said Eric Thole, head of U.S. Bancorp Asset Management. "These services complement U.S. Bank's current book of business and we're thrilled to have the opportunity to increase our presence nationally and solidify U.S. Bank's position as a leading provider of investment solutions."

Thole added, "PFM Asset Management has a great reputation in the public space, and that's a testament to its talent. U.S. Bank is known for working with clients one-on-one to understand their unique needs and delivering customized, proactive solutions to help them meet their objectives. We're excited to put the variety of resources offered by U.S. Bank to work for our new colleagues and clients."

Marty Margolis, head of PFM Asset Management, said, "This sale combines the resources of two organizations who recognize the importance of providing clients with exemplary customer service; our commitment to clients will remain a priority throughout the transition. We're also very pleased that U.S. Bank aligns with our fundamental belief in creating a diverse, inclusive and ethical culture."

PFM's financial advisory business is not part of this acquisition and will continue to operate independently as the nation's leading independent financial advisor in terms of transactions and par amount. For the year ended December 31, 2020, PFM advised on 995 overall transactions totaling more than \$69.7 billion in par amount, according to Ipreo.

"PFM will continue to provide outstanding financial advisory and consulting services to state and local governments and the non-profit sector," said Dan Hartman, who currently leads PFM's financial advisory practice and will lead PFM as its president and CEO after closing.

U.S. Bancorp Asset Management is part of U.S. Bank's Wealth Management and Investment Services division, which has more than \$8.6 trillion in assets under custody and administration and \$244 billion in assets under management, globally. In addition to offering asset management products and services, it also offers global corporate trust and custody services, alternative investment, fund custody and administration services, and wealth management services.

The deal was signed on July 7, 2021 and is expected to close in fourth quarter 2021, subject to regulatory approval and satisfaction of customary closing conditions. Financial terms were not disclosed.

Piper Sandler & Co. served as strategic and financial advisor, and Dechert LLP served as legal counsel to PFM. McCarter & English served as legal counsel to PFM's financial advisory business. Jones Day served as legal counsel to U.S. Bank.

###

# Frequently Asked Questions about PFM Asset Management Client Consent

As of July 19, 2021



## Introduction and Transaction Summary

The PFM holding company has entered into a definitive agreement to sell PFM Asset Management LLC (PFMAM) along with other associated entities (PFM Fund Distributors, Inc. (PFMFD) broker-dealer entity and PFM Financial Services LLC (PFMFS) Purchase-Card marketing entity) to U.S. Bancorp Asset Management Inc. (USBAM), a subsidiary of U.S. Bancorp. PFMAM will become a wholly-owned subsidiary of USBAM and will continue to operate as a separately registered investment adviser known as PFM Asset Management, a division of USBAM. The transaction is expected to close near the end of the year. USBAM and PFMAM have complementary businesses and a strong collective presence in money markets, investment-grade fixed income and multi-asset class outsourced chief investment officer (OCIO) advisory services. We believe the enhanced resources of the investment, credit and research teams will support and strengthen the capabilities of both firms to serve government, not-for-profit, corporate, and other institutional clients.

## Overall Business Case

### Why is PFMAM being acquired by USBAM?

PFMAM continues to lead with a client first approach, and management believes the transaction to sell PFM Asset Management will best position the firm to meet client needs. PFMAM will benefit from economies of scale and resources provided by a larger platform, which

will help mitigate the growing industry challenges of access to capital for further growth, cybersecurity and technology investment. We believe this is a natural evolution for the PFMAM business and will strengthen our position within an evolving asset management arena.

## Organizational Topics

### What is the new corporate structure for PFMAM?

PFMAM will continue as a separate registered investment adviser, use the PFM Asset Management name, and become a division of U.S. Bancorp Asset Management, Inc. (USBAM), a subsidiary of U.S. Bank. Subject to regulatory approval, PFM Fund Distributors, Inc. will remain the broker-dealer affiliate of PFMAM. PFM Financial Services LLC will transition with PFMAM to continue to provide Purchase Card (P-Card) marketing services.

### Will there be any changes in the leadership of the businesses? What will they be?

After PFMAM becomes a division of USBAM, upon closing of the transaction, the majority of PFMAM

leaders and professionals will remain in place to provide investment management, client service and day-to-day administration. But, there will be some management changes. As part of an accelerated succession for Marty Margolis, Ken Schiebel, CFA, a 26-year PFM veteran, will assume Chief Investment Officer responsibilities and John Molloy, CFA, a 19-year PFM veteran, will take on other leadership and administrative responsibilities. Both will report to Eric Thole, CEO of USBAM. Marty will serve as an executive consultant to Eric Thole for an interim period after closing. In addition to Ken and John, PFMAM's regional and select functional team leaders, Lauren Brant (West), Nelson Bush (South), Stephen Faber (East), Tim Sullivan (Midwest), John Spagnola (OCIO), Michael Harris (Marketing), and Leo Karwejna

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

RESOLUTION TO AWARD A BID FOR THE  
GEZON PARK PHASE ONE DEVELOPMENT PROJECT

WHEREAS:

1. As detailed in the attached staff report, bids were received for the Gezon Park phase one development project.
2. It is recommended the City Council accept the lowest bid from Katerberg Verhage, Inc. in the amount of \$2,091,500.
3. It is further recommended that the City Council authorize an additional 13%, or \$271,895 of the bid value for construction contingency.
4. Funds for the Gezon Park development project were authorized in the FY 2022 budget in account number: 401-267-75600-975.000.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby award the general contractor bid for the Gezon Park phase one development project in the amount of \$2,091,500 and authorizes a construction contingency amount of \$271,895.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried        Yes  
                                  No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on August 16, 2021.

\_\_\_\_\_  
Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Staff Report  
Bid Proposal Form  
Low Bid Verification

Resolution No. \_\_\_\_\_

## STAFF REPORT

Date: July 27, 2021

Subject: Gezon Park Phase One Improvements Project  
Approval of Contractor (Lowest Bidder)

From: Rebecca Rynbrandt, Director of Community Services

Meeting Date: August 9, 2021 Work Session  
August 16, 2021 Regular Meeting

---

### **RECOMMENDATION:**

That the City Council award the Gezon Park Phase One Improvements Project to the lowest bidder, Katerberg Verhage, Inc., in the amount of \$2,091,500 with a related construction contingency of 13% or \$271,895.

### **COMMUNITY, SAFETY, STEWARDSHIP:**

The City of Wyoming strives to provide a safe, convenient, and pleasant living environment, with minimal burden to the taxpayer. Well-maintained park lands and recreation facilities directly impact property values, community aesthetics and the economic vitality of the city. As the City is committed to providing leisure and recreation opportunities by developing and maintaining green spaces, facilities, and programs to enrich the quality of life for the residents of the city, the improvement of Gezon Park increases our ability to equitably provide for recreation and leisure services to a significant, residentially dense geographic area of our community.

### **DISCUSSION:**

Gezon Park is a 94.04-acre parcel with entries located at 5651 Gezon Ct. to the south, and 1940 52nd Street to the north. It borders a densely populated residential area of our community which includes multi-family and single-family homes. It is across the street from the community's Health PUD, and within a quarter mile of our I-3 zoned district. The large-scale park is expected to serve as a regional recreational resource for the entire community. The City of Wyoming seeks to develop contemporary, accessible facilities with improved functional relationships related to programmed and passive uses.

On April 2, 2018, the City Council approved a master development plan for Gezon Park (Resolution #26034). On April 6, 2020 the City Council authorized staff to engage Johnson Hill Land Ethics Studio (JHLES) to develop construction plans and bid documents for the development of phase one of the new master plan. In the spring of 2021, the construction plans were completed, and bidding occurred with bids returned on Tuesday, July 13, 2021.

# City Council Adopted Master Plan (Resolution #26034)

## GEZON PARK MASTER PLAN

FEBRUARY 2018  
Approved by City Council April 2, 2018



SPLASH PAD



ADVENTURE/NATURE PLAYGROUND



OVERLOOK/GATHERING AREA

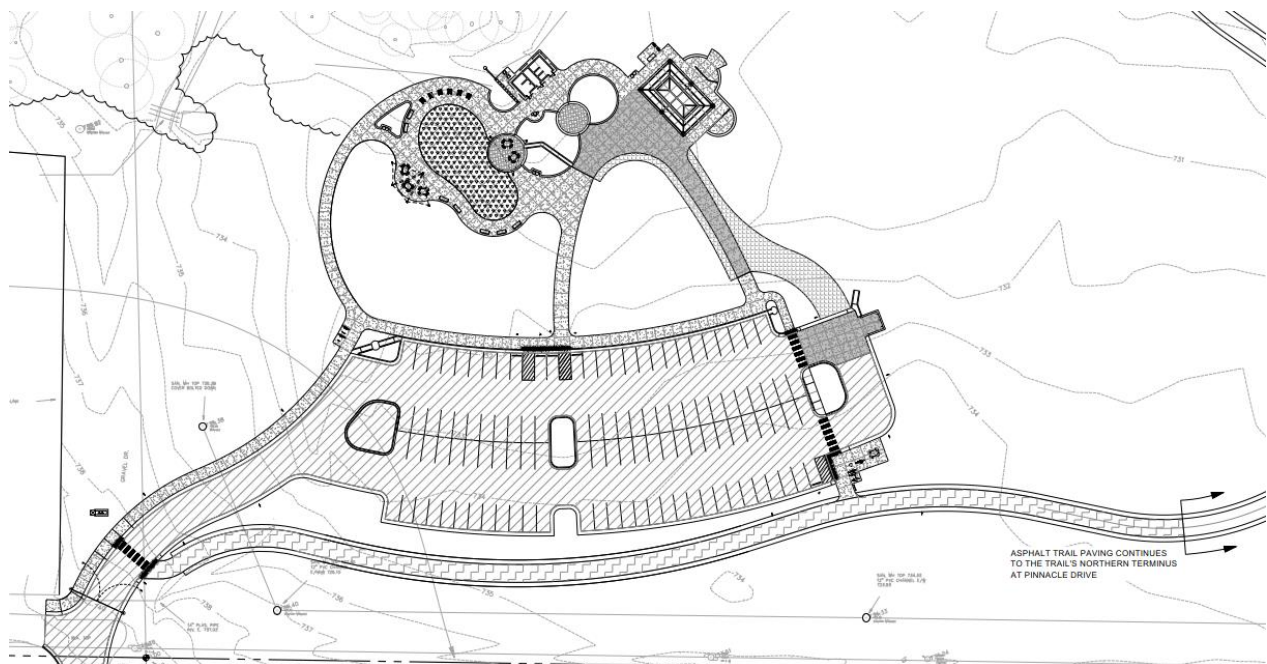


LARGE PAVILION



PLAY HILL

## Phase One Improvements



**Scope Items:** Splash pad, Restroom, Shelter, Site Lighting, Parking, Walk/Bike Path, Site furnishings, Irrigation & Landscaping.

**Bid Advertising:**

The City of Wyoming advertises bid opportunities via its website. Registered contractors, vendors, and plan review houses are notified electronically of opportunities. This includes several plan houses, such as BidClerk, Bidnet, Builders Exchange of Michigan, North America Procurement Council, Envisobidnet, and Bid Ocean which distribute bid opportunities to a wide audience. Additionally, our primary project consultant, JHLES, also distributed the bid documents throughout the construction community.

Three complete bids were received:

		<b>Katerberg VerHage</b>	<b>Miller Davis</b>	<b>Cross Construction</b>
Base Bid	Base Bid - Total Price	\$2,091,500.00	\$2,155,000.00	\$2,645,000.00
	Base Bid - Allowance No. 1	\$4,000.00	\$3,036.00	\$7,500.00

As is the case for all City projects and bid awards, City staff and consultants engaged in a review to award the contract in the best interests of the City and the project. The process of review was thorough, duly careful and diligent, and fair to all bidders.

It is recommended that the bid be awarded to the lowest bidder Katerberg Verhage. Through their recent work on the Ideal Park and Jackson Park development project, they have proven themselves to be quality general contractors.

**BUDGET IMPACT:**

This project was planned for, with a set aside of \$2.4 million approved by City Council within the FY 2022 budget, account number 401-267-75600-975.000, for general construction contractor award, and engagement of consultant services for construction inspection, administration, and project management.

**Attachments:** JHLES recommendation of bid award, Resolution, Bid

COPY

**BID/PROPOSAL FORM**

**Bid/Proposal for Gezon Park Phase One Improvements**

The proponent identified below submits the attached bid/proposal materials, including the price(s) stated on the attached bid form.

By signing this bid/proposal form, the proponent identified below represents, attests and promises, the proponent:

1. Has reviewed and is familiar with all plans and specifications, including any issued addenda and any interpretations, and any information provided at any pre-bid meeting.
2. Has reviewed, meets, and will comply with all the Standard Terms and Conditions except those specifically stated in the materials submitted with this bid/proposal form, including, without limitation, all of the applicable insurance and bonding requirements.
3. If applicable, is familiar with the Work site and Work site conditions.
4. Accepts full responsibility for its conclusions relative to the nature and probable difficulties of performing the work specified, and no additional payments will be made by the City due to unanticipated difficulties encountered in performing the actual work.

Is the bidder a:

YES

NO

Section 3 Certified Contractor?

If yes, Dunns #: \_\_\_\_\_

Are you, or the business owner related to any elected official or employee of the City?

If yes, list name and relationship: \_\_\_\_\_

Unless the specifications otherwise state, the following is provided for statistical purposes only.

Is the bidder a:

YES

NO

Woman Owned Company?

Minority Owned Company?

Proponent's Complete Business Name (If Proponent Is DBA Include Full Proponent DBA):

Katerberg Vertlage Inc.

**COPY**

**ACON ACT PREVAILING WAGE PROVISIONS**

A lump sum bid price shall be submitted for performing the work specified herein as a turnkey project. If any items, accessories or groups of items require to perform the work specified are not specifically indicated herein, it shall be the bidder's responsibility to furnish said items, accessories or groups of items, and include them in the lump sum bid price submitted.

**Allowance Price – Base Bid**

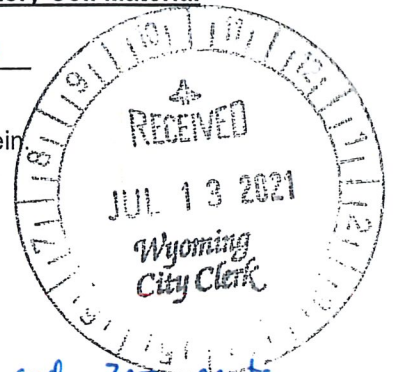
The Contractor shall supply the following Allowance Price at the time of bid opening. This Allowance shall be included in the Base Bid. These quantities shall be considered allowances for each of the items used if needed. If not encountered during construction these amounts will be backed out of the contract price. The Contractor agrees that the unit prices represent a true measure of the labor and materials required to perform the work, including all material, labor, overhead and profit for each type and unit of work called for.

**Allowance No. 1: Removal of Unsatisfactory Soils and Replacement with Satisfactory Soil Material**

Bid Quantity: 100 cubic yards @ \$ 40.00 /cubic yard Total: \$ 4,000.00

State **Total Base Bid Price** as per the plan documents and specifications included herein

\$ 2,091,500.00



**Total Base Bid Price Written in Words:**

two million ninety one thousand five hundred dollars and zero cents

Reminder: All warranties must be included with bid/proposal

**Unit Price – Base Bid**

Each Contractor shall also supply unit prices for Unit Price Items #1 and #14. The Contractor agrees that these unit prices represent a true measure of the labor and materials required to perform the work, including all material, labor, overhead and profit for each type and unit of work called for. The intent associated with the Unit Price Items is to add to or reduce the stipulated lump sum for any portion of the work that exceeds or reduces the scope of work described in the plans and specifications, as deemed necessary or desirable by the Owner. See Specification Section 012200-Nit Prices for complete information regarding each Unit Price item.

<u>Item</u>	<u>Item Description</u>	<u>Unit</u>	<u>Unit Bid Price</u>
1.	Mass rock or buried construction debris excavation	CY	@ \$ <u>50.00</u>
2.	Trench rock or buried construction debris excavation	CY	@ \$ <u>50.00</u>
3.	Erosion Control – Silt Fence	LF	@ \$ <u>3.50</u>
4.	21AA Limestone	CY	@ \$ <u>40.00</u>
5.	4" Non-Reinforced Concrete Paving	SY	@ \$ <u>55.00</u>

6.	6" Reinforced Concrete Paving	SY	@ \$ <u>75.00</u>
	<b>COPY</b> Parking Lot and Drive	SY	@ \$ <u>28.00</u>
8.	Asphalt Paving – Multi-Use Trail	SY	@ \$ <u>31.00</u>
9.	12" RCP Storm Drain Pipe	LF	@ \$ <u>45.00</u>
10.	Wabash Valley 4-Seat Fixed Table – ADA Accessible	EA	@ \$ <u>1,850.00</u>
11.	Wabash Valley 6' Bench – Splashpad	EA	@ \$ <u>1,450.00</u>
12.	Wabash Valley 6' Bench – Trail	EA	@ \$ <u>1,500.00</u>
13.	Dero Bike Rack	EA	@ \$ <u>330.00</u>
14.	Thomas Steele Adirondack Chair	EA	@ \$ <u>1,875.00</u>

Proponent's Complete Business Name (If Proponent Is DBA Include Full Proponent DBA):

Katerberg Vertage Inc.

**COPY**

**DAVIS BACON ACT PREVAILING WAGE PROVISIONS**

A lump sum bid price shall be submitted for performing the work specified herein as a turnkey project. If any items, accessories or groups of items require to perform the work specified are not specifically indicated herein, it shall be the bidder's responsibility to furnish said items, accessories or groups of items, and include them in the lump sum bid price submitted.

**Allowance Price – Bid Alternate No. 1**

The Contractor shall supply the following Allowance Price at the time of bid opening. This Allowance shall be included in the Base Bid. These quantities shall be considered allowances for each of the items used if needed. If not encountered during construction these amounts will be backed out of the contract price. The Contractor agrees that the unit prices represent a true measure of the labor and materials required to perform the work, including all material, labor, overhead and profit for each type and unit of work called for.

**Allowance No. 1: Removal of Unsatisfactory Soils and Replacement with Satisfactory Soil Material**

Bid Quantity: 100 cubic yards @ \$ 50.00 /cubic yard      Total: \$ 5,000.00

State **Total Alternate No. 1 Bid Price** as per the plan documents and specifications included herein.

\$ 2,160,000.00

**Total Alternate No. 1 Bid Price Written in Words:**

two million one hundred sixty thousand dollars and zero cents

Reminder: All warranties must be included with bid/proposal

**Unit Price – Bid Alternate No. 1**

Each Contractor shall also supply unit prices for Unit Price Items #1 and #14. The Contractor agrees that these unit prices represent a true measure of the labor and materials required to perform the work, including all material, labor, overhead and profit for each type and unit of work called for. The intent associated with the Unit Price Items is to add to or reduce the stipulated lump sum for any portion of the work that exceeds or reduces the scope of work described in the plans and specifications, as deemed necessary or desirable by the Owner. See Specification Section 012200-Nit Prices for complete information regarding each Unit Price item.

<u>Item</u>	<u>Item Description</u>	<u>Unit</u>	<u>Unit Bid Price</u>
1.	Mass rock or buried construction debris excavation	CY	@ \$ <u>55.00</u>
2.	Trench rock or buried construction debris excavation	CY	@ \$ <u>55.00</u>
3.	Erosion Control – Silt Fence	LF	@ \$ <u>3.50</u>
4.	21AA Limestone	CY	@ \$ <u>45.00</u>
5.	4" Non-Reinforced Concrete Paving	SY	@ \$ <u>58.00</u>

6.	6" Reinforced Concrete Paving	SY	@ \$ <u>79.00</u>
	<b>COPY</b> Parking Lot and Drive	SY	@ \$ <u>30.00</u>
8.	Asphalt Paving – Multi-Use Trail	SY	@ \$ <u>33.00</u>
9.	12" RCP Storm Drain Pipe	LF	@ \$ <u>50.00</u>
10.	Wabash Valley 4-Seat Fixed Table – ADA Accessible	EA	@ \$ <u>1,950.00</u>
11.	Wabash Valley 6' Bench – Splashpad	EA	@ \$ <u>1,500.00</u>
12.	Wabash Valley 6' Bench – Trail	EA	@ \$ <u>1,600.00</u>
13.	Dero Bike Rack	EA	@ \$ <u>350.00</u>
14.	Thomas Steele Adirondack Chair	EA	@ \$ <u>1,950.00</u>

Proponent's Complete Business Name (If Proponent Is DBA Include Full Proponent DBA):

Katerberg VerHage Inc.

**GEZON PARK PHASE ONE IMPROVEMENTS CONTRACT**

This Contract is made as of the Effective Date between the City of Wyoming, a Michigan municipal corporation, of 1155 28th Street SW, PO Box 905, Wyoming, MI 49509-0905 ("City") and the Contractor identified below.

**Recitals**

City requested bids/proposals for the **GEZON PARK PHASE ONE IMPROVEMENTS** contract (the "Request for Bids/Proposals" that included the bid/proposal requirements, city contract standard terms and conditions, risk allocation and insurance provisions, bonds and lien provisions, specific requirements, bid/proposal form, plans, and project or technical bid specifications) and Contractor submitted the bid/proposal by the required date of May 11, 2021 and related required materials (the "Bid") that was selected by City

"Contract Documents" means this contract, the Bid, the Request for Bids/Proposals including all materials that are part of it, the approving City Council resolution, insurance information meeting contract requirements (including any requested policies, endorsements and certificates), and any required bonds.

"Contractor" means: Katerberg Ver Hage, Inc.  
LEGAL NAME OF COMPANY

---

Corporation - Michigan  
BUSINESS NAME / D.B.A., IF DIFFERENT FROM ABOVE

---

3717 Michigan St. NE  
FORM OF BUSINESS and STATE IN WHICH FORMED - e.g. partnership, corporation, limited liability company, or professional corporation and the state in which it was formed

---

3717 Michigan St. NE  
STREET ADDRESS

---

Grand Rapids MI 49525  
CITY STATE ZIP CODE

"Effective Date" means the day after the date that (i) the Contract is approved by the City Council and (ii) the City receives all bonds, insurance documents, and other documents required from Contractor.

**Terms and Conditions**

In exchange for the consideration in and referred by this Contract, the parties agree:

1. Contractor will provide the materials and services in accordance with the Contract Documents.
2. City will pay the Contractor in accordance with the Contract Documents.
3. This is the only agreement between the parties regarding its subject matter. There are no other agreements, representations or warranties. **No terms and conditions apply other than those expressly and fully stated in the Contract Documents.** This contract can be amended only in writing signed by both City and Contractor.

City and Contractor have signed this Contract as of the Effective Date.

**City of Wyoming**

**Contractor**

By: \_\_\_\_\_  
Jack A. Poll, Mayor

By: [Signature]  
Signature for Contractor

By: \_\_\_\_\_  
Kelli A. VandenBerg, City Clerk

Joel Franken - Project Manager  
Printed Name & Title of Person Signing

Date signed: \_\_\_\_\_

Date signed: 7/20/21

Approved as to form:

[Signature]  
Scott G. Smith, City Attorney

Bid/Proposal Form Continued

COPY

Katerberg VerHage Inc.  
[Proponent's Complete Business Name]

[If Proponent is DBA Include Full Proponent DBA Here]

Joel Franken  
[Signature for proponent]

Mackey Waters  
[2nd signature for proponent]

Joel Franken Project Manager  
[Printed name and title of person signing]

Mackey Waters  
[Printed name and title of 2nd person signing]

Date signed: 7/13/21

3717 Michigan St. NE  
[Proponent's street address]

616-949-3030  
[Proponent's business phone]

Grand Rapids MI 49525  
[City] [State] [Zip]

616-295-5374  
[Cell phone number(s) of person(s) signing for proponent]

joelf@katerbergverhage.com  
[E-mail address(s) of person(s) signing for proponent]

Corporation - Michigan  
[Proponent's form of business - e.g. partnership, corporation, limited liability company, professional corporation and the state in which it was formed]

COPY



ADDENDUM #1 - BID/PROPOSAL FOR  
GEZON PARK PHASE ONE IMPROVEMENTS  
BID DUE: 11:00 AM; TUESDAY, JULY 13, 2021

ADDENDUM #1

Due to the novel coronavirus COVID-19 pandemic, emergency rules issued by the Michigan Occupational Health and Safety Administration and emergency orders issued by the Michigan Department of Health and Human Services limit in-person work, limit attendance at gatherings, require wearing masks and 6-foot distancing at gatherings, and impose other requirements. Wyoming's Mayor issued a proclamation of a local emergency under Chapter 46 of the City Code of Ordinances.

Bidders are solely responsible for ensuring delivery by the required date and time. Bids can be hand delivered to City Hall at the City Clerk's office window in the rotunda. Entry is by the doors off the parking lot on the south side of City Hall along 28<sup>th</sup> Street SW.

Until further notice bid openings will be held virtually. A City representative will open the bids and read them on camera. For those interested in observing, a link to observe by Zoom will be available on the City of Wyoming website calendar: <https://www.wyomingmi.gov/About-Wyoming/Events>.

Initial tabulations of bids will usually be posted to the city's website within 48 hours of the bid opening. These initial tabulations will be subject to more detailed reviews of the bids for compliance with bidding requirements, reference checking, and other tasks.

The Addendum shall be part of and be incorporated into this bid/proposal.  
Please complete this addendum and attach to your bid/proposal.

Katerberg VerHage, Inc.

BIDDER'S NAME

616-949-3030

BIDDER'S BUSINESS PHONE

616-295-5374

CELL PHONE OF PERSON SIGNING FOR BIDDER

joelf@katerbergverhage.com

EMAIL ADDRESS OF PERSON SIGNING FOR BIDDER

Joel Franken

PRINTED NAME OF PERSON SIGNING FOR BIDDER

[Signature]

SIGNATURE FOR BIDDER

7/13/2021

DATE SIGNED

COPY



ADDENDUM #2 - BID/PROPOSAL FOR  
GEZON PARK PHASE ONE IMPROVEMENTS  
BID DUE: 11:00 AM; TUESDAY, JULY 13, 2021

ADDENDUM #2

The bidding documents for the Gezon Park Phase One Improvements Project shall be supplemented, amended, or otherwise revised by the contents of this addendum. Addendum No. 2 consists of the following attachments:

- 1. Pre-Bid Meeting Sign-In Sheet
- 2. Questions & Comments
- 3. Consumer's Energy Electrical Service Information

The Addendum shall be part of and be incorporated into this bid/proposal.  
Please complete this addendum and attach to your bid/proposal.

Katerberg VerHage

BIDDER'S NAME

616-949-3030

BIDDER'S BUSINESS PHONE

616-295-5374

CELL PHONE OF PERSON SIGNING FOR BIDDER

joelf@katerbergverhage.com

EMAIL ADDRESS OF PERSON SIGNING FOR BIDDER

Joel Franken

PRINTED NAME OF PERSON SIGNING FOR BIDDER



SIGNATURE FOR BIDDER

7/13/2021

DATE SIGNED

COPY



**ADDENDUM #3 - BID/PROPOSAL FOR  
GEZON PARK PHASE ONE IMPROVEMENTS  
BID DUE: 11:00 AM; TUESDAY, JULY 13, 2021**

**ADDENDUM #3**

The bidding documents for the Gezon Park Phase One Improvements Project shall be supplemented, amended, or otherwise revised by the contents of this addendum.

Summary

The City of Wyoming may elect to utilize federal funding to construct all or a portion of the Gezon Park Phase One Improvements Project. If federal funds are utilized, the Davis Bacon Act Prevailing Wage Provisions will be required for this project. The City requests that bidders provide alternate pricing based on the inclusion of the Davis Bacon Act Prevailing Wage Provisions.

Addendum No. 3 modifies the bid/proposal form to include Bid Alternate No. 1, requiring bidders to submit alternate pricing based on the inclusion of the Davis Bacon Act Prevailing Wage Provisions. Specification Section 012300 – Alternates and Davis Bacon Prevailing Wage Rates and Classification have also been included as part of Addendum No. 3.

Attachments

1. Specification Section 012300 - Alternates
2. Revised Bid/Proposal Form
3. Davis Bacon Prevailing Wage Rates and Classification

The Addendum shall be part of and be incorporated into this bid/proposal.  
Please complete this addendum and attach to your bid/proposal.

*Katerberg VerHage*

BIDDER'S NAME

*616-949-3030*

BIDDER'S BUSINESS PHONE

*616-295-5374*

CELL PHONE OF PERSON SIGNING FOR BIDDER

*joel@katerbergverhage.com*

EMAIL ADDRESS OF PERSON SIGNING FOR BIDDER

*Joel Franken*

PRINTED NAME OF PERSON SIGNING FOR BIDDER

*Joel Franken*

SIGNATURE FOR BIDDER

*7/13/2021*

DATE SIGNED

COPY



**ADDENDUM #4 - BID/PROPOSAL FOR  
GEZON PARK PHASE ONE IMPROVEMENTS  
BID DUE: 11:00 AM; TUESDAY, JULY 13, 2021**

**ADDENDUM #4**

The bidding documents for the Gezon Park Phase One Improvements Project shall be supplemented, amended, or otherwise revised by the contents of this addendum.

Summary

Addendum No. 4 responds to all remaining bid period questions.

Attachments

1. Bid Period Questions & Responses
2. Shade Sail and Shelter Approved Alternate
3. Drawing Sheet L200 – Demolition Plan: South
4. Drawing Sheet L900 – Construction Details

---

The Addendum shall be part of and be incorporated into this bid/proposal.  
Please complete this addendum and attach to your bid/proposal.

Katerberg VerHage  
BIDDER'S NAME

616-949-3030  
BIDDER'S BUSINESS PHONE

616-295-5374  
CELL PHONE OF PERSON SIGNING FOR BIDDER

joelf@katerbergverhage.com  
EMAIL ADDRESS OF PERSON SIGNING FOR BIDDER

Joel Franken  
PRINTED NAME OF PERSON SIGNING FOR BIDDER

Joel Franken  
SIGNATURE FOR BIDDER

7/13/2021  
DATE SIGNED

COPY



**ADDENDUM #5 - BID/PROPOSAL FOR  
GEZON PARK PHASE ONE IMPROVEMENTS  
BID DUE: 11:00 AM; TUESDAY, JULY 13, 2021**

**ADDENDUM #5**

The bidding documents for the Gezon Park Phase One Improvements Project shall be supplemented, amended, or otherwise revised by the contents of this addendum.

Scale Corrections

The scale listed in the titleblock of the following sheets is incorrect. Please see below for the correct drawing scale:

L700 – Soil Management Plan:                      Correct Drawing Scale: 1"=30'-0"  
L710 – Seeding Plan:                                      Correct Drawing Scale: 1"=30'-0"

Seeding Rate Clarification

Seed Type #1 as listed on sheet L710 specifies a seeding rate of 10 lbs./acre. This seeding rate has been verified by the seed distributor as correct. No adjustment or modification is required.

Seed Type #2 as listed on sheet L710 specifies a seeding rate of 6-8 lbs./acre. This seeding rate is incorrect and shall be adjusted to 6-8 lbs./1,000sq.ft.

The Addendum shall be part of and be incorporated into this bid/proposal.  
Please complete this addendum and attach to your bid/proposal.

*Katerberg VerHage*

BIDDER'S NAME

616-949-3030

BIDDER'S BUSINESS PHONE

616-295-5374

CELL PHONE OF PERSON SIGNING FOR BIDDER

joelf@katerbergverhage.com

EMAIL ADDRESS OF PERSON SIGNING FOR BIDDER

Joel Franken

PRINTED NAME OF PERSON SIGNING FOR BIDDER

*Joel Franken*

SIGNATURE FOR BIDDER

7/13/2021

DATE SIGNED

COPY

BEND

A MUTUAL INSURANCE COMPANY

Bond Number 2496321

### Bid Bond

KNOW ALL BY THESE PRESENTS, That We, Katerberg VerHage Inc as Principal, and WEST BEND MUTUAL INSURANCE COMPANY, a corporation organized under the laws of the State of Wisconsin and having its principal office in Middleton, Wisconsin, in said State, as Surety, are held and firmly bound unto City of Wyoming as Owner, in the full and just sum of Five Percent ( 5 %) of amount bid for the payment whereof said Principal binds its heirs, administrators, and executors and said Surety binds itself, its successors and assigns firmly by these presents

WHEREAS, said Principal has submitted to said Owner a bid or proposal for Johnson Hill Land Ethics Studio

NOW THEREFORE, THE CONDITION OF THIS OBLIGATION IS SUCH that if within Sixty days hereof and in accordance with said proposal a contract shall be awarded to said Principal and the said Principal shall enter into a contract for said work and shall furnish bond with surety as required for its faithful performance then this obligation shall be void, otherwise remain in full force and virtue.

Signed and Sealed this 13 day of July, 2021

**Principal:**

Katerberg VerHage Inc

By: [Signature] (SEAL)

Name Typed: Joel Franken Project Manager  
Title

Witness: [Signature: Marky Waters]

**Surety:**

West Bend Mutual Insurance Company

By: [Signature] (SEAL)

Name Typed: Melanie Peters, Attorney-In-Fact  
Title

Witness: [Signature]

Agency Name: OLIVIER-VANDYK INS AGENCY

Address: 2780 44TH ST SW

WYOMING, MI 49519

Phone Number: (616) 454-0800

MICHIGAN ONLY: This policy is exempt from the filing requirements of Section 2236 of the Insurance Code of 1956, 1956 PA 218 and MCL 500.2236.

Bond No. 2496321

**POWER OF ATTORNEY**

Know all men by these Presents, That West Bend Mutual Insurance Company, a corporation having its principal office in the City of West Bend, Wisconsin does make, constitute and appoint:

Melanie Peters

lawful Attorney(s)-in-fact, to make, execute, seal and deliver for and on its behalf as surety and as its act and deed any and all bonds, undertakings and contracts of suretyship, provided that no bond or undertaking or contract of suretyship executed under this authority shall exceed in amount the sum of:  
Ten Million Dollars (\$10,000,000)

This Power of Attorney is granted and is signed and sealed by facsimile under and by the authority of the following Resolution adopted by the Board of Directors of West Bend Mutual Insurance Company at a meeting duly called and held on the 21<sup>st</sup> day of December, 1999.

*Appointment of Attorney-In-Fact. The president or any vice president, or any other officer of West Bend Mutual Insurance Company may appoint by written certificate Attorneys-In-Fact to act on behalf of the company in the execution of and attesting of bonds and undertakings and other written obligatory instruments of like nature. The signature of any officer authorized hereby and the corporate seal may be affixed by facsimile to any such power of attorney or to any certificate relating therefore and any such power of attorney or certificate bearing such facsimile signatures or facsimile seal shall be valid and binding upon the company, and any such power so executed and certified by facsimile signatures and facsimile seal shall be valid and binding upon the company in the future with respect to any bond or undertaking or other writing obligatory in nature to which it is attached. Any such appointment may be revoked, for cause, or without cause, by any said officer at any time.*

In witness whereof, the West Bend Mutual Insurance Company has caused these presents to be signed by its president undersigned and its corporate seal to be hereto duly attested by its secretary this 22nd day of September, 2017.

Attest Christopher C. Zwygart  
**Christopher C. Zwygart**  
Secretary



Kevin A. Steiner  
**Kevin A. Steiner**  
Chief Executive Officer/President

State of Wisconsin  
County of Washington

On the 22nd day of September, 2017, before me personally came Kevin A. Steiner, to me known being by duly sworn, did depose and say that he resides in the County of Washington, State of Wisconsin; that he is the President of West Bend Mutual Insurance Company, the corporation described in and which executed the above instrument; that he knows the seal of the said corporation; that the seal affixed to said instrument is such corporate seal; that it was so affixed by order of the board of directors of said corporation and that he signed his name thereto by like order.



Juli A. Benedum  
**Juli A. Benedum**  
Senior Corporate Attorney  
Notary Public, Washington Co., WI  
My Commission is Permanent

The undersigned, duly elected to the office stated below, now the incumbent in West Bend Mutual Insurance Company, a Wisconsin corporation authorized to make this certificate, Do Hereby Certify that the foregoing attached Power of Attorney remains in full force effect and has not been revoked and that the Resolution of the Board of Directors, set forth in the Power of Attorney is now in force.

Signed and sealed at West Bend, Wisconsin this 13th day of July, 2021.



Heather Dunn  
**Heather Dunn**  
Vice President – Chief Financial Officer

**Notice:** Any questions concerning this Power of Attorney may be directed to the Bond Manager at NSI, a division of West Bend Mutual Insurance Company.



COPY

## Heritage Projects and References

### Jaycee Park – Under construction

- Basketball court, play equipment, walking paths, utilities & site grading
- 1088 Gentian Dr SE, Kentwood, MI 49508  
Tiffany Smith – MCSA Group – [tas@mcsagroup.com](mailto:tas@mcsagroup.com) – 616-451-3346

### Dwight Lydell Park – Completed Spring 2021

- Walking paths, play equipment, mass earthwork, boardwalks, bridge improvements, riverbank restoration & landscaping
- 4040 Leland Ave. NE, Comstock Park, MI 49321  
Brian Mulligan – Kent County Parks – [brian.mulligan@kentcountymi.gov](mailto:brian.mulligan@kentcountymi.gov) - 616-632-7836

### Roberto Clemente Park – Completed Spring 2021

- Restroom building, play equipment, pavilion, walking paths, bioswale, utilities, site grading & landscaping
- 546 Rumsey St. SW, Grand Rapids, MI 49503  
Karie Enriquez – Grand Rapids Park and Recreation – [kenriquez@grand-rapids.mi.us](mailto:kenriquez@grand-rapids.mi.us) - 616-456-4281

### Allendale Community Park – Completed Spring 2020

- Basketball court, post tension pickleball court, parking lot, walking paths & pavilion
- 11069 68<sup>th</sup> Ave, Allendale, MI 49401  
Matt Levandoski – Prein & Newhof – [mlevandoski@preinnewhof.com](mailto:mlevandoski@preinnewhof.com) – 616-364-8491

### Ideal Park – Completed Spring 2020

- Restroom building, play equipment, pavilion, walking paths, parking lot, utilities, site grading & landscaping
- 5843 Crippen Ave SW, Grand Rapids, MI 49548  
Pam Blough – PMB – [pamb@pmbblough.com](mailto:pamb@pmbblough.com) – 616-402-2398

### Grand Haven Bicentennial Park Riverwatch – Completed Summer 2020

- Overlook plaza improvements, new sidewalks, electrical improvements, new structural retaining wall, & landscaping
- 1 S. Harbor Dr., Grand Haven, MI 49417  
Derek Gajdos – Grand Haven Public Works – [dgajdos@grandhaven.org](mailto:dgajdos@grandhaven.org) – 616-847-3493

### Jackson Park – Completed Fall 2020

- Restroom building, splash pad, play equipment, parking lot, site utilities, site grading & landscaping
- 1331 33<sup>rd</sup> St. SW, Wyoming, MI 49509  
Tiffany Smith – MCSA Group, Inc – [tas@mcsagroup.com](mailto:tas@mcsagroup.com) – 616-451-3346

**COPY**

**Completed Spring 2020**

- Restroom renovation, volleyball courts, play equipment, exercise equipment, site grading & landscaping

2531 Kalamazoo Ave SE, Grand Rapids, MI 49507

Tiffany Kline – Progressive AE – [klinet@progressiveae.com](mailto:klinet@progressiveae.com) – 616-361-2664

**Legacy Park – Completed Summer 2019**

- Restroom building, play equipment, riverbank restoration, amphitheater, walking paths & landscaping

7430 River St. SE, Ada, MI 49301

Mike Oezer – Progressive AE – [oezerm@progressiveae.com](mailto:oezerm@progressiveae.com) – 616-447-3393

**Lookout & Reservoir Park – Completed Fall 2019**

- Site grading, walking paths, utilities, site furnishings

Lookout Park – 801 Fairview Ave NE, Grand Rapids, MI 49505

Reservoir Park – 900 Fairview Ave NE, Grand Rapids, MI 49503

Katie Chase – OCBA Landscape Architects – [kchase@ocba.com](mailto:kchase@ocba.com) – 269-381-3357

## MEMO

July 20, 2021

Rebecca Rynbrandt  
Director of Community Services  
City of Wyoming  
1155 28<sup>th</sup> St. SW  
Wyoming, MI 49509

Project: Gezon Park Phase One Improvements  
Subject: Low Bid Verification

Rebecca,

We have reviewed the three received bids for the Gezon Park Phase One Improvements project for completeness. The low bidder was Katerberg VerHage with a base bid price of \$2,091,500.00. The checklist below verifies what was provided in Katerberg VerHage's bid:

Base Bid (Including Bid Allowance No. 1)	Yes
Bid Alt. No. 1 (Including Bid Allowance No. 1)	Yes
Pre-Bid Meeting Attendance	Yes
Signed Addendum No. 1	Yes
Signed Addendum No. 2	Yes
Signed Addendum No. 3	Yes
Signed Addendum No. 4	Yes
Signed Addendum No. 5	Yes
Signed Bid Proposal Form	Yes
Bid Bond	Yes
Proposed Construction Schedule	Yes
List of Sub-Contractors	Yes
Contract	No

The only noted omission was the Gezon Park Phase One Improvements Contract. After this document is signed and returned to the City all bid requirements will be complete.

Thank you,

Tyler Sprague, PLA, ASLA  
Johnson Hill Land Ethics Studio  
734-668-7416  
tsprague@jhle-studio.com

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

A RESOLUTION TO AUTHORIZE THE MAYOR AND CITY CLERK TO EXECUTE AN AGREEMENT FOR PROFESSIONAL SERVICES WITH JOHNSON HILL LAND ETHICS STUDIO FOR THE GEZON PARK DEVELOPMENT PROJECT AND AUTHORIZE THE RELATED BUDGET AMENDMENT

WHEREAS:

1. The City of Wyoming has, through citizen survey and visits to other facilities, identified areas for facility and programming improvement of Gezon Park necessary to respond to the needs of the community.
2. Following an open bid process, the City of Wyoming engaged with Johnson Hill Land Ethics Studio (JHLES) as the architectural firm for the design of the Gezon Park master plan as well as to secure professional services to obtain necessary surveys, prepare and obtain permits, and prepare construction documents (plans, specifications, and bid documents). (Resolutions numbers 25942, 26034, 26644).
3. To ensure the success of the construction of the Gezon Park Phase One Improvement project following bid award for a general contractor, it is important for us to secure professional services for construction administration and inspections services.

NOW THEREFORE, BE IT RESOLVED:

1. The Wyoming City Council authorizes the Mayor and City Clerk to execute an agreement for professional services with Johnson Hill Land Ethics Studio in the amount of \$78,425 to provide for construction administration and inspections services.
2. The Wyoming City Council authorizes the attached budget amendment for account number 401-267-75600-975.000 in an amount of \$41,820.

Moved by Councilmember:

Seconded by Councilmember:

Motion carried:       Yes  
                              No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan, at a regular session held on August 16, 2021.

---

Kelli A. VandenBerg  
Wyoming City Clerk

ATTACHMENTS:

Staff Report

Agreement

Budget Amendment

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

## STAFF REPORT

Date: July 27, 2021

Subject: Agreement for Professional Services in Connection with the 2021 Gezon Park Phase One Improvement Project

From: Rebecca Rynbrandt, Director of Community Services

Council Meeting Date: August 9, 2021 Work Session  
August 16, 2021 Regular Meeting

---

### **RECOMMENDATION:**

1. To authorize the Mayor and City Clerk to execute an agreement for professional services with Johnson Hill Land Ethics Studio in the amount of \$78,425 for construction administration and inspections for the Gezon Park Phase One Improvements Project.
2. To authorize the related budget amendment in the amount of \$41,820 increasing funds available in account 401-267-75600-975.000 for the Gezon Park Phase One Improvement Project.

### **COMMUNITY, SAFETY, STEWARDSHIP:**

Gezon Park is a 94.04-acre parcel with entries located at 5651 Gezon Ct. to the south, and 1940 52nd Street to the north. It borders a densely populated residential area of our community which includes multi-family and single-family homes. It is across the street from the community's Health PUD, and within a quarter mile of our I-3 zoned district. The large-scale park is expected to serve as a regional recreational resource for the entire community. The southernmost portion of the park has been developed as an athletic complex featuring ballfields (baseball, softball, and football). The northernmost portion has been developed with a small shelter, playground and basketball court. The interior of the park is undeveloped. This pending project will provide improvement of the central undeveloped area, increasing our ability to equitably provide for recreation and leisure services to a significant portion of our community.

### **DISCUSSION:**

#### HISTORY OF JHLES ENGAGEMENT ON PROJECT

Following a competitive bid process the City Council approved Resolution # 25942 to engage Johnson Hill Land Ethics Studio, JHLES, a landscape architectural and engineering firm, to develop a master plan for development of Gezon Park. Subsequently, the City Council approved a master development plan for Gezon Park (Resolution #26034).

It is expected that the City Council will approve a contract with Katerberg Verhage, Inc. on August 16, 2021 to provide for the construction of the Gezon Park Phase One Improvements Project. This general contractor bid is being reviewed by the City Council at the August 9<sup>th</sup> work session.

To ensure the success of the construction of the Gezon Park Phase One Improvement project, it is important for us to secure professional services for General Construction Administration and Inspections services.

As the initially approved landscape architect on the Gezon Park project, again obtained through a competitive bid process, it is in the city’s best interest to retain their continued professional services for construction project administration. Please review the attached proposal, dated June 29, 2021 from JHLES and the contract now presented dated August 17, 2021.

**BUDGET IMPACT:**

This professional services contract was planned for within the value of the FY 2022 budget set aside of \$2.4 million approved by City Council for the Gezon Park Phase One Improvement Project. Funds were planned for these professional services in account number 401-267-75600-975.000 (Library and Park Maintenance Fund). However, when expenses are combined with both the construction general contractor bid award, as well as construction contingency, an additional \$41,820 is necessary. Funds are available in the dedicated Library and Park Maintenance Fund to ensure the success of this project.

<b>BUDGET AMENDMENT CALCULATION</b>	
<b>Current Approved Project Budget</b>	\$2,400,000
Contractor Bid Award (8/16/2021)	(\$2,091,500)
Construction Contingency (8/16/2021)	(\$271,895)
<b>Net Project Account Balance If General Construction Contractor Bid Is Awarded 8/16/2021</b>	<b>\$36,605</b>
JHLES Professional Services Contract	(\$78,425)
<b>Budget Amendment Request:</b>	<b>\$41,820</b>

**ATTACHMENTS:**

- Resolution
- Contract
- Proposal
- Budget Amendment

###



**CITY PROFESSIONAL SERVICES CONTRACT STANDARD TERMS AND CONDITIONS**

1. **Applicability.** These Standard Terms and Conditions apply to all professional services contracts to which the City of Wyoming (the "City") is a party ("City Contracts") except as expressly modified in writing signed by the Mayor and City Clerk or the City Manager. By signing a City Contract or acknowledging below, the party contracting with the City ("Professional") attests it complies with and will comply with these Standard Terms and Conditions.
2. **Legal Compliance.** Professional will comply with all applicable (i) laws, rules, regulations, codes, and ordinances, (ii) license and permit requirements, and (iii) orders of any governmental agency, official or court of competent jurisdiction. This includes, for example and without limitation, complying with federal Occupational Safety and Health Administration (OSHA) and Michigan Occupational Safety and Health Act (MIOSHA) safe practices.
3. **Approvals.** Unless the City Contract or the Proposal states otherwise, Professional will, without expense to the City, obtain all permits and other approvals required to lawfully perform the services under the City Contract and, upon the City's request, will furnish copies of them to the City.
4. **Grant Compliance.** If state or federal grant funds have been identified to Professional as a source of payment for any part of the services, by signing the contract, Professional (i) represents Professional has reviewed the grant agreement and (ii) agrees to comply with any grant agreement terms and conditions that are applicable to the City Contract.
5. **Qualifications.** Professional represents and promises that:
  - A. Professional has and will maintain and any personnel Professional engages to provide services under the City Contract have and will maintain (i) any needed licenses, registrations, certifications, memberships, or other approvals needed to perform such services or work in Michigan and (ii) the experience and other qualifications stated in the Proposal.
  - B. Neither Contractor nor any subcontractor or their respective principals, owners, officers, shareholders, key employees, directors or member partners: (i) are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency; (ii) have within 3-years preceding this Contract been convicted of or have a judgment against them for fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; (iii) are presently indicted for or otherwise criminally charged by a governmental entity with commission of any of the offenses enumerated in this certification; and (iv) have within 3-years preceding this Contract had one or more public transactions terminated for cause or default.
  - C. If the City Contract is for a CDBG, federal and/or state funded project, Professional and any subcontractors are not listed on the US-HUD listing of debarred and suspended participants.
- D. Contractor and any subcontractor are not on and will remain off the Federal System for Award Management list of persons and entities ineligible for federal contracts.
- E. Neither Professional nor any subcontractor is an "Iran linked business" under Michigan's Iran Economic Sanctions Act, 2012 PA 517.
6. **Diversity and Inclusion.** Professional and subcontractors shall not discriminate against an employee or applicant for employment with respect to hiring, tenure, terms, conditions, or privileges of employment, or directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, marital status, mental or physical disability, or any other reason prohibited by law (e.g., Elliott-Larsen Civil Rights Act, 1976 PA 453, Persons with Disabilities Civil Rights Act, 1976 PA 220, and <https://www.eeoc.gov/>).
7. **Ethical Standards.** Professional and its directors, members, partners, officers and employees, as well as any parent, affiliate, or subsidiary organization or subcontractor of Professional has not engaged in and shall refrain from: (i) holding or acquiring an interest that would conflict with the City Contract; (ii) engaging in any act that creates an appearance of impropriety with respect to the award or performance of the City Contract; (iii) attempting to influence or appearing to influence any City elected or appointed officer or employee by a direct or indirect offer of anything of value; or (iv) paying or agreeing to pay any person, other than its employees and consultants, any consideration contingent upon the award of the City Contract. No owner, director, officer, member, partner or key employee of Professional and no owner, director, officer, member, partner or key employee of any parent, affiliate, or subsidiary organization or subcontractor of Professional is a spouse, parent, child, grandchild, or sibling of the mayor, city council member, or any other elected or appointed officer or board/commission member of the City except as already disclosed in writing to the City when submitting its proposal. Professional will immediately notify the City of any violation of these standards.
8. **Media Releases.** Media releases (including promotional literature and commercial advertisements) pertaining to the City Contract or a project to which it relates shall not be made without the City Manager's prior written approval and only in accordance with the written terms provided in that approval.
9. **W-9.** Professional and all its subcontractors will, before beginning work complete and return by email to the City Finance Department at [accountspayable@wyomingmi.gov](mailto:accountspayable@wyomingmi.gov) an IRS W-9 form (available at [www.IRS.gov](http://www.IRS.gov)).
10. **Document Ownership and Use.** All documents Professional generates as part of its services under the City Contract, whether in paper, electronic or other media or format, including for example and without limitation, any plans, specifications, bid documents, drawings, designs, and manuals, shall belong to the City upon the City's payment of any amounts due the Professional under the City Contract. The City will hold Professional harmless from and indemnify Professional for any liability that results from the use of those documents for any purpose or project beyond those purposes and projects for which they were provided to the City.
11. **Intellectual Property Guaranty.** Professional guarantees the sale or use of software, records or other intellectual property

provided under or used to perform the City Contract will not infringe any copyright, patent, trademark or other intellectual property rights. Professional will, without expense to the City, defend every action brought against the City or the City's officers or employees for any alleged infringement of any intellectual property rights by reason of their use as part of the City Contract and will pay all costs, damages, and profits recoverable in any such action.

12. Taxes. The City is generally exempt from federal and state taxes and a copy of its Tax Certificate of Exemption can be requested by contacting the City Finance Department.

13. Disposal. Unless the City Contract or Proposal expressly states otherwise, Professional will remove and dispose of all materials, equipment or other items demolished, removed or replaced during the work and cleanup and remove all debris resulting from the work. Disposal will comply with applicable laws, rules and regulations and Professional will retain and, upon request, provide the City copies of any required manifest or other required disposal documentation.

14. Restoration. Professional shall restore, without expense to the City, any property damaged as a result of any services under the City Contract to a condition similar to and equal to that existing before such damage. If Professional fails to make such repairs or restorations, the City, after 48-hours' notice to Professional, may do so and deduct the cost the City incurs to do so from any amounts due Professional.

15. Risk Allocation. Professional is solely responsible for (i) the means and methods of services provided under the City Contract, (ii) the conduct of its officers, employees, subcontractors and consultants, and (iii) any injuries or property damage during the Professional's performance of services under the City Contract. Professional shall hold the City and the City's officers and employees harmless from, indemnify them for, and defend them (with legal counsel reasonably acceptable to the City) against any claims made by persons other than the City for personal injuries or property damage occurring during and as a result of Professional's performance of services under the City Contract, but not for any negligence or wrongdoing of the City or the City's officers or employees.

16. Professional Responsibility. Unless the Proposal provides a higher standard of care, Professional will perform Professional's services under the City Contract consistent with the standard of practice and care of other, similar professionals performing similar services in Michigan.

17. Insurance.

<b>COMMERCIAL GENERAL LIABILITY</b>
Minimal Limits: \$1,000,000 Each Occurrence Limit \$2,000,000 General Aggregate Limit Coverage shall include the following: (A) Contractual Liability; (B) Independent Contractors Coverage; (C) Broad Form General Liability Extensions or equivalent, if not already included; (E) Deletion of all Explosion, Collapse, and Underground (EXU) Exclusions, if applicable.
<b>AUTOMOBILE LIABILITY INSURANCE</b>
Minimal Limits (hired and non-owned automobile coverage): \$1,000,000 per person \$1,000,000 per occurrence
<b>WORKERS' DISABILITY COMPENSATION</b>
Coverage shall be in accordance with applicable Michigan statutes. Waiver of subrogation, except where waiver is prohibited by law.
<b>PROFESSIONAL LIABILITY INSURANCE</b>

Professional liability insurance shall be in a minimum amount of the greater of \$250,000 or the amounts to be paid Professional for services under the City Contract.
<b>EXCESS/UMBRELLA INSURANCE</b>
Required liability limits may be obtained using an Excess-Umbrella Liability policy in addition to primary liability policy(ies). If Excess and/or Umbrella policy used to satisfy coverage limits, coverage must follow the form of the primary liability policy(ies).

Upon the City's request, Professional will provide to the City's Purchasing Department copies of certificates of insurance, policies and endorsements.

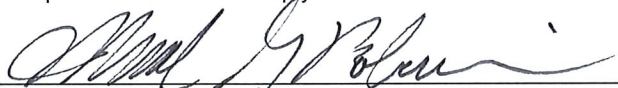
18. Records. Because the City is a public entity and because it receives funds from other governmental agencies, the City is required to retain, be able to obtain, and/or audit records related to City contracts. Professional will retain copies of all records related to the City Contract for at least 6 years after completion of the City Contract. Professional will, upon the City's request, allow inspection, auditing and copying of all retained records.

19. Assignment/Beneficiaries. Unless otherwise provided in the City Contract, (i) no right or duty of Professional under the City Contract may be assigned or delegated without the City's prior written consent and (ii) no other individuals or entities are intended to be beneficiaries of the City Contract.

20. Independent Contractor. Professional is wholly independent of the City and none of Professional's personnel shall be or be represented to be City officers or employees. Professional is solely responsible for the acts, omissions and statements of Professional's personnel. Professional is solely responsible for any compensation and benefits to be provided Professional's personnel for services or work provided under the City Contract. The City has no responsibility to supervise, compensate or insure Professional or Professional's personnel.

**ACKNOWLEDGEMENT**

Professional acknowledges receipt of these Standard Terms and Conditions and acknowledges that, unless modified by the City Contract, (i) they apply to the City Contract and (ii) Professional complies with and will comply with them.

  
[Signature]

Mark G. Robinson, President  
[Printed Name and Title of Person Signing]

Mark G. Robinson  
[Printed Name of Professional]

Date signed: 7/27/2021

**Exhibit B  
Proposal**



## PROPOSAL

June 29, 2021

### Gezon Park – Phase 1

Professional Services for Construction Administration and Observation

Scope of Work and Associated Fees

#### Overview

We have reviewed the scope of work for Construction Administration and Observation. There are two primary changes we anticipate. One, the site is quite flat and many of the proposed slopes are minimal. We expect to monitor this aspect of the work particularly closely. Second, we anticipate that the project will extend to 8 months due to labor and material issues being experienced in the construction industry. These items in particular have contributed to a slight increase in our proposed fee for Construction Administration and Observation.

#### Project Team

Johnson Hill Land Ethics Studio, Landscape Architecture, Lead Consultant

Exxel Engineering, Inc., Civil Engineering

Geotech, Inc., Electrical Engineering

Graber & Associates, LLC, Irrigation Design

#### Construction Period Services

**\$78,425.00**

This work will include:

(3.27% as a percent of the anticipated construction budget)

- Pre-construction meeting
  - Prepare agenda
  - Prepare summary report
- Review and process submittals and shop drawings
- Review and process requests for information
- Conduct progress meetings – one every two weeks
  - Anticipate 8 month construction period (14 progress meetings)
  - Prepare report and action items for each meeting
- Coordinate construction period work as performed by civil engineer, electrical engineer, and irrigation designer
- Coordinate with architect as appropriate
- Coordinate and review construction and materials testing as performed by others and as required for the project
- Review and certify payment applications
- Prepare bulletins, change directives, and change orders
- Confirm acquisition of specified products and materials
- Confirm soil organics for amended soils
- Anticipate inspections at the rate of 3 per week, with additional inspections based on specific issues or requests. Work will include inspections and reports as follows, but will not be limited to:

- Utility line installation
- Electrical lines, lighting, and associated components installation
- Irrigation installation
- Storm water lines, structures, and detention areas
- Layout staking
- Slope/grade staking
- Subgrade preparations
- Pavement base and surface sections
- Others as conditions, plans, and specifications require
- Punch List inspection and report
- Final inspection and report
- Close-out documentation

If the project is performed under Davis-Bacon requirements, the proposed fee will increase by \$6,400.00 if the City requires or requests that we assist in reviewing and processing the weekly documentation required by Davis-Bacon.

This fee quote is submitted to the City as a lump sum. The fee quotes from our consultants were submitted to us as lump sums. If the City prefers that this work be performed on a time and expense basis, please so advise and we will revise accordingly.

Expenses are included in the lump sum fee quoted above.

**Closing Statement**

Please advise regarding the form of contract amendment we will need to finalize our agreement.

We thank the City of Wyoming for the opportunity to submit this proposal and for the opportunity to continue our work with the City on Gezon Park. As Principal and President of Johnson Hill Land Ethics Studio, a corporation registered in the State of Michigan, I am duly authorized to submit this proposal on behalf of the company.

Please contact me with any questions regarding any aspect of this proposal.

Sincerely,

**Johnson Hill Land Ethics Studio**



Mark Robinson, PLA, President

Date: June 29, 2021

Accepted By: **City of Wyoming**

\_\_\_\_\_  
Name and Title

Date: \_\_\_\_\_



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

RESOLUTION TO AUTHORIZE THE PURCHASE OF  
ALLEN BRADLEY/ROCKWELL COMPONENTS FROM KENDALL ELECTRIC

WHEREAS:

1. As detailed in the attached Staff Report, it is recommended the City Council authorize the Clean Water Plant and Drinking Water Plant to make purchases of Allen Bradley/Rockwell components from Kendall Electric on an as-needed basis, up to \$35,000 annually per facility.
2. Funds for the purchase are budgeted in accounts 590-590-54300-775.000 and 591-591-55300-775.000.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby authorize the Clean Water Plant and Drinking Water Plant to make purchases of Allen Bradley/Rockwell components from Kendall Electric on an as-needed basis, up to \$35,000 annually per facility.
2. The City Council does hereby waive the provisions of Sections 2-252, 2-253, 2-254 and 2-256 of the City Code regarding publication and posting of bid notices, notification of bidders and the bid opening procedure.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried      Yes  
                                    No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on August 16, 2021.

ATTACHMENTS:  
Staff Report

\_\_\_\_\_  
Kelli A. VandenBerg, Wyoming City Clerk

Resolution No. \_\_\_\_\_

## STAFF REPORT

Date: August 2, 2021  
Subject: Allen Bradley/Rockwell Purchases  
From: Dan Kleinheksel, Utility Maintenance Manager  
Meeting Date: August 16, 2021

---

### **RECOMMENDATION:**

It is recommended that the City Council authorize the Clean Water Plant and the Drinking Water Plant to make purchases of Allen Bradley/Rockwell components from Kendall Electric on an as-needed basis, up to \$35,000 annually per facility.

### **COMMUNITY, SAFETY, STEWARDSHIP:**

Regular and proper upkeep of utility plant equipment and components contributes to the efficiency of the equipment and to the prevention of untimely and costly repair or replacement that could potentially interrupt the day-to-day operations of the Clean Water Plant and the Drinking Water Plant.

### **DISCUSSION:**

The maintenance staff at both the Clean Water Plant and the Drinking Water Plant often troubleshoot Allen Bradley/Rockwell plant process components such as PLC processors, modules, starters, and variable frequency drives throughout the year. At such time the Allen Bradley/Rockwell component cannot be repaired, the purchase of a replacement is required. Frequently, these components cost in excess of \$5,000.00 each.

Kendall Electric in Michigan is the only appointed Allen-Bradley/Rockwell Automation distributor, authorized to sell and support Allen-Bradley/Rockwell Automation products and services, in the geographic area in which Clean Water Plant and Water Treatment Plant are located. Therefore, it is recommended that the City Council authorize the Clean Water Plant and the Drinking Water plant to make purchases from Kendall Electric for Allen Bradley/Rockwell components on an as-needed basis, up to \$35,000 annually per facility.

### **BUDGET IMPACT:**

The expenses are anticipated and adequate funds exist in the following accounts: 590-590-54300-775.000 and 591-591-55300-775.000.

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

RESOLUTION TO ACCEPT A PROPOSAL FROM CUMMINS SALES AND SERVICE  
FOR A GENERATOR AFTERCOOLER LEAK REPAIR AT  
THE WATER TREATMENT PLANT AND  
TO AUTHORIZE THE MAYOR AND CITY CLERK TO EXECUTE THE CONTRACT

WHEREAS:

1. As detailed in the staff report, Cummins Sales and Service has provided a proposal for a generator aftercooler leak repair at the Water Treatment Plant at a total estimated amount of \$12,890.49.
2. It is recommended the City Council accept the proposal.
3. Funds are available in the water fund account number 591-591-55300-930.000.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby accept a proposal from Cummins Sales and Service for a generator aftercooler leak repair at the Water Treatment Plant.
2. The City Council does hereby authorize the Mayor and City Clerk to execute the contract.

Moved by Councilmember:  
Seconded by Councilmember:  
Motion Carried        Yes  
                                  No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on August 16, 2021.

\_\_\_\_\_  
Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:  
Staff Report  
Quote  
Contract

Resolution No. \_\_\_\_\_

## STAFF REPORT

Date: August 9, 2021  
Subject: Generator Repair  
From: Dan Kleinheksel, Utility Maintenance Manager  
Meeting Date: August 16, 2021

---

### RECOMMENDATION:

It is recommended the City Council award the proposal as provided by Cummins Sales and Service for generator aftercooler leak repair in the estimated amount of \$12,890.49.

### COMMUNITY, SAFETY, STEWARDSHIP:

Regular and proper upkeep of city equipment contributes to the efficiency of the equipment, and to the prevention of untimely and costly repairs or replacement that could potentially interrupt the day to day operations of the water treatment plant.

### DISCUSSION:

The water treatment plant owns and operates two Cummins 2.5 megawatt standby generators that provide backup power in the event of an outage. As discovered by plant staff and confirmed during a recent service, coolant is leaking from the engine aftercoolers of one generator. Considering the vital role of providing emergency power for the water treatment plant, it is necessary to repair the coolant leaks.

The generators have been maintained by Cummins Sales and Service for over 15 years and on December 2, 2019, Cummins Sales and Service was awarded a three-year service agreement via Resolution No. 26560. They are the original equipment manufacturer, provide OEM replacement parts, and ensure the generators will function according to specifications. Therefore, Cummins Sales and Service was asked to provide a proposal for repair of the leaking aftercooler and returned with an estimate of \$12,890.49. Due to the complexity of the generator repairs, the work is estimated for three days with two technicians.



### BUDGET IMPACT:

Adequate funds have been budgeted for and exist in the Water Fund Account #591-591-55300-930.000.



CITY STANDARD CONTRACT
CITY OF WYOMING, MICHIGAN
(MORE THAN \$8,500)

This Contract is made as of the Effective Date between City and Contractor.

City means the City of Wyoming, a Michigan municipal corporation, of 1155 28th Street SW, PO Box 905, Wyoming, MI 49509-0905.

Contractor means: Cummins Sales and Service
[Name of contracting entity]
An Indiana corporation
[State and type of entity, e.g., corporation, limited liability company, etc.]
3715 Clay SW
[Contractor's street address]
Grand Rapids, MI 49548
[Contractor's city, state & zip]

Contractor's personnel means Contractor's directors, members, partners, officers, employees, subcontractors, agents and representatives and any other individuals or entities Contractor engages to provide services under the Contract.

Effective Date means: July 20, 2021.

Goods means any parts, equipment, supplies, materials, or other items or services the City is acquiring from Contractor as itemized or stated in the Proposal.

Proposal means Contractor's proposal attached as Exhibit B.

Services means the services described and specified in the Proposal.

Standard Terms means the attached 2-page Exhibit A entitled "City Contract Standard Terms and Conditions."

TERMS AND CONDITIONS

In exchange for the consideration in and referred by this Contract, the parties agree:

- 1. Contractor will supply the Goods and Services and items as detailed in the Proposal.
2. City will pay the Contractor in accordance with the Proposal.
3. Contractor represents and warrants, except for those specifically waived or modified in this paragraph, Contractor is complying with and will comply with the Standard Terms. Waived or modified conditions are as follows:

Item #15 to read as follows:

15. Warranty. The services hereunder shall be performed in a careful, skillful and workmanlike manner by qualified and efficient workers in strict conformity with the best standards and practices and all applicable state and federal laws, regulations and permits. If Customer finds during the ninety (90) days following completion of services ("Warranty Term") that any services provided under this Agreement are defective in workmanship or do not conform with the terms set forth in the Agreement ("Non-Conforming Services"), and provides CSS notification of Non-Conforming Services within thirty (30) days following discovery by Customer, then CSS may, at CSS's sole discretion, either (a) correct or re-perform, at CSS's sole cost and expense, the Non-Conforming Services, or (b) make an equitable adjustment to the charges under the Agreement. Any services corrected or re-performed shall be subject to the remaining Warranty Term of the original warranty to the same extent as those services initially performed. If CSS fails or refuses to correct or re-perform Non-Conforming services, Customer's sole remedy shall be to correct or replace such Non-Conforming Services and CSS shall reimburse Customer within thirty (30) days after receipt of written invoice for any reasonable costs associated with such correction or replacement services. Limited warranties apply for select parts and components as defined by the respective component manufacturer's limited warranty. THE WARRANTY SET FORTH HEREIN IS THE ONLY WARRANTY APPLICABLE TO THE PARTS AND COMPONENTS AND SERVICES. THERE ARE NO OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION, NO WARRANTIES OF MERCHANTABILITY OR FOR FITNESS FOR A PARTICULAR PURPOSE. THE REMEDY PROVIDED HEREIN SHALL BE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR BREACH OF WARRANTY.

With the addition of the following:

Limitation of Liability. TO THE MAXIMUM EXTENT PERMITTED BY LAW, NEITHER PARTY SHALL BE LIABLE HEREUNDER FOR CONSEQUENTIAL, SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE OR EXEMPLARY DAMAGES (INCLUDING LOST PROFITS OR SAVINGS, LOSS OF USE, OR DOWNTIME) EVEN IF IT HAS BEEN ADVISED OF THEIR POSSIBLE EXISTENCE, EXCEPT THAT THE FOREGOING SHALL NOT RESTRICT A PARTY'S ABILITY TO RECOVER DIRECT DAMAGES FOR BREACH OF THIS AGREEMENT. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO EVENT SHALL CSS'S TOTAL AND CUMULATIVE LIABILITY EXCEED TWO MILLION DOLLARS (\$2,000,000.00). NOTHING IN THIS AGREEMENT EXCLUDES OR LIMITS LIABILITY FOR DEATH OR PERSONAL INJURY CAUSED BY A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

Item #16 to read as follows:

16. Risk Allocation. The Contractor is solely responsible for (i) the means and methods of services provided under the City Contract, (ii) the conduct of its officers, employees, subcontractors and consultants, and (iii) any injuries or property damage

resulting from the Contractor's work and activities under the Contract. The Contractor shall hold the City and the City's officers and employees harmless from and defend them against any claims made by persons other than the City for personal injuries or property damage occurring as a result of Contractor's work and activities under the Contract, but not for any negligence, gross negligence or wrong doing of the City or the City's officers or employees.

Neither party shall be liable to the other party for consequential, incidental, indirect, special, punitive or exemplary damages even if advised or otherwise aware they may occur. The preceding sentence does not preclude any claim for direct damages for a breach of this Agreement. The Contractor's liability to the City shall not exceed \$2 million, but this limitation of liability shall not affect any liability the Contractor may have to persons other than the City. Nothing in this Agreement excludes or limits the liability of either party for gross negligence or willful misconduct.

The Contractor agrees to indemnify and save the City harmless from all claims growing out of any demands of subcontractors, laborers, workers, mechanics, materialmen, and furnishers of supplies, equipment, financing, or any other goods or services, tangible or intangible. When the City so desires, the Contractor shall furnish satisfactory evidence that all obligations of the nature herein above designated have been paid discharged or waived.

Item #20 to read as follows:

20. Independent Contractor. Contractor acknowledges that Contractor is an independent contractor of the City and that Contractor is not an employee or official of the City. Contractor shall not represent, either expressly or through implication, that Contractor is an employee or official of the City. Any income taxes, self-employment taxes, social security taxes and the like are the sole responsibility of the Contractor.

Nothing contained in this Contract shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent or of partnership or of joint venture or of any association whatsoever between the parties, it being expressly understood and agreed that no provision contained in this Agreement nor any act or acts of the parties hereto shall be deemed to create any relationship between the parties other than the relationship of independent parties contracting with each other solely for the purpose of effecting the provisions of this Contract.

I understand that the indemnification and Independent Contractor provisions are requirement of all City of Wyoming Contracts. I have read the provisions and agree to the terms of these provisions.

4. If this Contract is for a public improvement project costing \$50,000 or more, performance and payment bonds in an amount equal to the Contract amount are required and must be provide before starting any of the Services.

5. This is the only agreement between the parties regarding City's acquisition of the Goods from Contractor and/or engagement of Contractor to perform the Services. There are no other agreements, representations, or warranties except as stated in the Proposal. This contract can be amended only in writing signed by both City and Contractor.

City and Contractor have signed this Contract as of the Effective Date.

CITY OF WYOMING

Cummins Sales and Service

By: \_\_\_\_\_  
Jack A. Poll, Mayor

By:   
\_\_\_\_\_  
Trey Gardner  
(Signature of the director or principal of Contractor)  
(Typed Print Name & Title of Person Signing for Contractor)

By: \_\_\_\_\_  
Kelli A. VandenBerg, City Clerk

Date signed: August 4, 2021

Date signed: \_\_\_\_\_, 20\_\_

Approved as to form  
  
\_\_\_\_\_  
Scott G. Smith, City Attorney

**EXHIBIT A**

**CITY CONTRACT STANDARD TERMS AND CONDITIONS**

1. **Applicability.** These Standard Terms and Conditions apply to the Contract unless expressly modified in writing signed by the Mayor and City Clerk or the City Manager.

2. **Legal Compliance.** Contractor will comply with applicable (i) laws, rules, regulations, codes, and ordinances, (ii) license and permit requirements, and (iii) orders of governmental agencies, officials, or courts including, for example, OSHA and MIOSHA rules and regulations.

3. **Permits and Inspections.** Unless the Contract or Proposal states otherwise, Contractor will, without expense to City, (i) obtain all licenses and permits required to lawfully perform Services under the Contract, (ii) upon City request, furnish City copies of those licenses and permits, and (iii) ensure all inspections required by local, state, and federal agencies and codes are performed.

4. **Grant Compliance.** Contractor represents and promises that, if state or federal grant funds are identified a source of payment for any part of the project, Contractor has reviewed and will comply with all applicable grant agreement terms and conditions.

5. **Qualifications.** Contractor represents and promises that:

A. Contractor has and will maintain, and Contractor's personnel have and will maintain, any needed licenses, registrations, certifications, memberships, or other approvals needed to perform the Services in Michigan.

B. Neither Contractor nor any of Contractor's personnel: (i) are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency; (ii) have within 3-years preceding this Contract been convicted of or have a judgment against them for fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public transaction or contract with a government agency; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; (iii) are presently criminally charged with committing any of the offenses enumerated in this certification; and (iv) have within 3-years preceding this Contract had one or more public transactions terminated for cause or default.

C. If the Contract is for a community development block grant, U.S. Department of Housing and Urban Development (HUD), federal and/or state funded project, Contractor and Contractor's personnel are not listed on HUD's list of debarred and suspended participants.

D. Contractor and Contractor's personnel are not on and will remain off the Federal System for Award Management list of persons and entities ineligible for federal contracts.

E. Neither Contractor nor Contractor's personnel is an "Iran linked business" under Michigan's Iran Economic Sanctions Act.

6. **Nondiscrimination and Respect.** City is committed to equity, fairness, impartiality, courtesy, respect and nondiscrimination in all programs, benefits, and actions, including in its contracts and any activities that contractors, subcontractors, consultants, or others engage in for or on behalf of City. Accordingly:

A. Contractor and Contractor's personnel in (i) employment actions, (ii) solicitation, bidding or contracts with subcontractors or consultants, or (iii) solicitation, bidding or contracts for materials, will not discriminate based on race, color, religion,

national origin, age, sex, height, weight, marital status, familial status, mental or physical disability, genetic information, or any other reason prohibited by law that is unrelated to the employee's or applicant's ability to perform the duties of a job or position. For purposes of this section, "sex" means sex and gender, sex or gender stereotypes, sexual orientation, gender identity (including transgender status) or expression, and pregnancy, childbirth or conditions related to pregnancy or childbirth. Contractor and Contractor's personnel will comply with applicable state and federal laws, rules, regulations, orders, and other requirements regarding discrimination and inclusion, including, for example, Title VI of the federal Civil Rights Act of 1964, Michigan's Elliott-Larsen Civil Rights Act, Michigan's Persons with Disabilities Civil Rights Act, the federal Age Discrimination Act of 1975, and §504 of the federal Rehabilitation Act of 1973, together with rules, regulations, orders, directives and guidance issued pursuant to those statutes.

1. Contractor will, in solicitations or advertisements for employees placed by or on behalf of Contractor, state that all qualified applicants will be considered for employment without regard to race, color, religion, height, weight, marital status, sex, age, national origin, or disability unrelated to a person's ability to perform the duties of a particular job or position.

2. Contractor will send to each labor union or representative of workers with which Contractor has a collective bargaining agreement or other contract or understanding, a notice advising the labor union or workers' representative of Contractor's commitments under this section and will post copies of that notice in conspicuous places available to employees and applicants for employment under this Contract.

B. If Contractor or Contractor's personnel will, as part of its Services, be engaging for or on behalf of City with others, Contractor will ensure that engagement (i) treats all individuals with fairness, equity, impartiality, courtesy and respect, and in a manner that does not discriminate based on race, color, religion, national origin, age, sex, height, weight, marital status, familial status, mental or physical disability, genetic information, or any other reason prohibited by law, and (ii) if that engagement includes communications with individuals with limited English proficiency (*i.e.*, those who speak English less than very well), it will use language assistance services for oral and written communications. Language assistance services in accordance with City's Limited English Proficiency Plan (part of City's Nondiscrimination Plan at <https://www.wyomingmi.gov>) will comply with this requirement.

C. Noncompliance with this section is a material breach of this Contract that can result in (i) withholding payments to Contractor until Contractor complies, (ii) Contract cancellation, termination, or suspension, in whole or in part, and/or (iii) Contractor's ineligibility to bid on or enter future contracts with City.

D. Contractor will retain and, upon City's request, provide copies of all information and reports required by all laws, rules, regulations, orders, directives and guidance referred to in this section as determined by City or a state or federal agency to be pertinent to ascertain Contractor's compliance. If requested information is exclusively possessed by another who fails or refuses to furnish it, Contractor will so certify to City.

E. Contractor must include the requirements of paragraphs A through D in all subcontracts, consultant contracts, and material

procurement and equipment leasing documents, directly or indirectly related to this Contract, and any other Contractor activities that HUD or the United States Department of Justice determine are needed to comply with this section. Contractor must take such action with respect to any subcontractor, consultant, material supplier, or equipment lessor as City deems reasonably necessary to enforce compliance with this section including sanctions for noncompliance.

7. **Ethical Standards.** Contractor and Contractor's personnel have not engaged in and will refrain from: (i) holding or acquiring an interest conflicting with this Contract; (ii) engaging in any act creating an appearance of impropriety with respect to the award or performance of this Contract; (iii) attempting or appearing to influence a City elected or appointed officer or employee by a direct or indirect offer of anything of value; or (iv) paying or agreeing to pay any person, other than Contractor's personnel, any consideration contingent upon the award of this Contract. None of Contractor's personnel is a spouse, parent, child, grandchild, or sibling of the mayor, city council member, or other City officer or City board/commission member of the City except as already disclosed in writing to City. Contractor will promptly inform City of any change in this circumstance.

8. **Media Releases.** Media releases (including promotional literature and commercial ads) pertaining to this Contract or the project to which it relates must not be made without the City Manager's prior written approval and only in accordance with the written terms provided in that approval.

9. **W-9.** Before beginning work, Contractor and subcontractors will e-mail to [accountspayable@wvomingmi.gov](mailto:accountspayable@wvomingmi.gov) a completed an IRS W-9 form.

10. **Intellectual Property.** Contractor guarantees the sale or use of the Goods or the articles, software, copies, records, or other intellectual property provided or used to perform the Services will not infringe any copyright, patent, trademark or other intellectual property rights. Contractor will, without expense to City, defend all actions against City or City's officers or employees for any alleged infringement of any intellectual property rights by reason of their sale or use as in conjunction with this Contract and will pay all costs, damages, and profits recoverable in any such action.

11. **Quality.** Unless otherwise stated in the Proposal, all Goods supplied under this Contract will be new, the best of their respective kind, and free from defects.

12. **Taxes.** City is generally exempt from federal and state taxes and a copy of supporting documents can be requested by contacting City's Finance Department.

13. **Disposal.** Unless this Contract or Proposal states otherwise, Contractor will remove and dispose of materials, equipment and other items demolished, removed or replaced during as part of the Services and cleanup and remove of all debris resulting from the Services in a manner complying with applicable law. Contractor must retain and, upon request, provide City copies of any required manifest and other disposal documentation.

14. **Restoration.** Without expense to City, Contractor will restore, property damaged while providing the Services to a condition equal to that existing before that damage. If Contractor fails to make such repairs or restoration, City may, after 48-hours' notice to Contractor, make such repairs or restoration, and deduct costs incurred from amounts due Contractor.

15. **Manufacturer Information and Warranties.** Contractor will provide City all manufacturer parts lists, assembly and maintenance information, and other documents provided by manufacturers of the Goods and ensure warranties for them are held by or assigned to City.

16. **Risk Allocation.** Contractor is solely responsible for (i) means and methods of the Services, (ii) the conduct of Contractor's personnel, and (iii) injuries or property damage occurring as a result of the Services. Contractor will hold City and City's officers and employees harmless from, indemnify them for, and defend them (with legal counsel reasonably acceptable to City) against all claims made by persons other than City as a result of the Services. Contractor will reimburse City for or pay in City's stead costs City may incur as a result of claims, demands, judgments, administrative actions, or any order to pay any amounts made or entered against City or City's officers or employees as a result of the Services.

17. **Insurance.** Contractor must obtain and maintain the following insurance:

<b>COMMERCIAL GENERAL LIABILITY</b>
Minimal Limits: \$1,000,000 Each Occurrence, \$1,000,000 Personal & Advertising Injury, \$2,000,000 General Aggregate, and \$2,000,000 Products/Completed Operations Coverage must include the following: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Contractors; (D) Broad Form General Liability Extensions or equivalent, if not already included; (E) Deletion of all Explosion, Collapse, and Underground (EXU) Exclusions, if applicable.
<b>AUTOMOBILE LIABILITY INSURANCE</b>
Minimal Limits (hired and non-owned automobile coverage): \$1,000,000 per person      \$1,000,000 per occurrence
<b>WORKERS' DISABILITY COMPENSATION</b>
Minimal Limits: \$500,000 per occurrence Coverage shall be in accordance with Michigan statutes. Waiver of subrogation, except where waiver is prohibited by law.
<b>EXCESS/UMBRELLA INSURANCE</b>
Required liability limits may be obtained using an Excess-Umbrella Liability policy in addition to primary liability policy(ies). If Excess and/or Umbrella policy to satisfy coverage limits, coverage must follow the form of the primary liability policy(ies).
<b>ADDITIONAL INSURED</b>
If this Contract is for more than \$5,000, General Commercial Liability, Automobile Liability and Excess/Umbrella Liability insurance shall include an endorsement stating the following are Additional Insureds: City and City's officers, employees, volunteers, agents, boards, and commissions. Coverage is to be primary and any City insurance will be secondary and/or excess.

Upon City request, Contractor will provide to City's Purchasing Department copies of certificates of insurance, policies and endorsements.

18. **Records.** City must retain, be able to obtain, and/or audit records related to City contracts. Contractor will retain copies of all records related to this Contract and the Services for at least 7 years after completion of this Contract. Contractor will, upon City's request, allow inspection, auditing, and copying of all retained records.

19. **Assignment/Beneficiaries.** Unless this Contract states otherwise, (i) none of Contractor's rights or duties may be assigned or delegated without City's prior written consent and (ii) no other individuals or entities are intended to be beneficiaries of this Contract.

20. **Independent Contractor.** Contractor is wholly independent of City. None of Contractor's personnel shall be or be represented to be City officers or employees. Contractor is solely responsible for acts, omissions, and statements of Contractor's personnel. Contractor is solely responsible for any compensation and benefits to be provided Contractor's personnel for the Services. City has no responsibility to supervise, compensate or insure Contractor or Contractor's personnel.

**EXHIBIT B**



Payment terms are 30 days from invoice date unless otherwise agreed upon in writing. Remit to:  
 #774494  
 4494 Solutions Center  
 Chicago, IL 60677-4004

GRAND RAPIDS MI BRANCH  
 3715 CLAY S.W.  
 GRAND RAPIDS, MI 49548-  
 (616)538-2250

INVOICE NO.  
**ESTIMATE**  
 TO PAY ONLINE LOGON TO  
 customerpayment.cummins.com

**BILL TO**

CITY OF WYOMING  
 2660 BURLINGAME AVE SW  
 WYOMING, MI 49609-2332

**OWNER**

DONALD K SHINE/WYO WATE  
 16700 NEW HOLLAND ST  
 HOLLAND, MI 49424-  
 DANIEL KLEINHEKSEL - 616 7384957

PAGE 1 OF 2  
 \*\*\* CHARGE \*\*\*

DATE	CUSTOMER ORDER NO.	DATE IN SERVICE	ENGINE MODEL	PUMP NO.	EQUIPMENT MAKE
20-JUL-2021			2700DQLA-3099		ONAN
CUSTOMER NO.	SHIP VIA	FAIL DATE	ENGINE SERIAL NO.	CPL NO.	EQUIPMENT MODEL
195424		26-OCT-2020	B03K308040		GEN SET
REF. NO.	SALESPERSON	PARTS DISP.	MILEAGE/HOURS	PUMP CODE	UNIT NO.
306253					WYOMING WATER

QUANTITY ORDERED	PRICE ORDERED	QUANTITY SHIPPED	PART NUMBER	DESCRIPTION	PRODUCT CODE	UNIT PRICE	TOTAL
OSN/MSN/VIN		B03K308040					
<b>COMPLAINT</b>							
THIS ESTIMATE FOR REPLACING LEAKING AFTERCOOLER PIPING O-RINGS ON GEN2. 3 LONG DAYS WITH 2 TECHS WILL BE REQUIRED.							
22	0	0	3035026	SEAL,O RING	CECO	3.25	71.50
24	0	0	3028291	SEAL,O RING	CECO	3.34	80.16
2	0	0	4101150	GASKET,CONNECTION	CECO	35.84	71.68
2	0	0	4006796	GASKET,CONNECTION	CECO	5.59	11.18
1	0	0	3171287	GASKET,CONNECTION	CECO	6.70	5.70
3	0	0	207515	GASKET,CONNECTION	CECO	5.95	17.85
2	0	0	3033248	SEAL,O RING	CECO	10.75	21.50
5	0	0	CC2848	ES COMP EG	FLG	70.88	354.40
1	0	0	FRT	FRT	FREIGHT	50.00	50.00

PARTS:	683.97
PARTS COVERAGE CREDIT:	0.00CR
TOTAL PARTS:	683.97
SURCHARGE TOTAL:	0.00
LABOR:	11,636.52
LABOR COVERAGE CREDIT:	0.00CR
TOTAL LABOR:	11,636.52
MISC.:	570.00
MISC. COVERAGE CREDIT:	0.00CR
TOTAL MISC.:	570.00
ELECTRONIC TOOLING FEE	50.00
HAZ WASTE DISPOSAL	100.00
ROAD MILEAGE	270.00

Completion date : 31-Jul-2021 06:38AM. Estimate expires : 30-Jul-2021 06:38AM.

Billing Inquiries? Call (877)480-6970

THERE ARE ADDITIONAL CONTRACT TERMS ON THE REVERSE SIDE OF THIS DOCUMENT, INCLUDING LIMITATION ON WARRANTIES AND REMEDIES, WHICH ARE EXPRESSLY INCORPORATED HEREIN AND WHICH PURCHASER ACKNOWLEDGES HAVE BEEN READ AND FULLY UNDERSTOOD.

AUTHORIZED BY (print name) \_\_\_\_\_ SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_



Payment terms are 30 days from invoice date unless otherwise agreed upon in writing. Remit to:  
 #774494  
 4494 Solutions Center  
 Chicago, IL 60677-4004

GRAND RAPIDS MI BRANCH  
 3715 CLAY S.W.  
 GRAND RAPIDS, MI 49548-  
 (616)538-2250

INVOICE NO.
<b>ESTIMATE</b>
TO PAY ONLINE LOGON TO <a href="http://customerpayment.cummins.com">customerpayment.cummins.com</a>

**BILL TO**

CITY OF WYOMING  
 2660 BURLINGAME AVE SW  
 WYOMING, MI 49509-2332

**OWNER**

DONALD K SHINE/WYO WATE  
 16700 NEW HOLLAND ST  
 HOLLAND, MI 49424-  
 DANIEL KLEINHEKSEL - 616 7384957

PAGE 2 OF 2

\*\*\* CHARGE \*\*\*

DATE	CUSTOMER ORDER NO.	DATE IN SERVICE	ENGINE MODEL	PUMP NO.	EQUIPMENT MAKE
20-JUL-2021			2700DQLA-3099		ONAN
CUSTOMER NO.	SHIP VIA	FAIL DATE	ENGINE SERIAL NO.	CPL NO.	EQUIPMENT MODEL
195424		26-OCT-2020	B03K308040		GEN SET
REF. NO.	SALESPERSON	PARTS DISP.	MILEAGE/HOURS	PUMP CODE	UNIT NO.
306253					WYOMING WATER

QUANTITY ORDERED	BACK ORDERED	QUANTITY SHIPPED	PART NUMBER	DESCRIPTION	UNIT PRICE	AMOUNT
			B03K308040	SHOP SUPPLIES		150.00
TAX EXEMPT NUMBERS:						
						LOCAL 0.00

Completion date : 31-Jul-2021 06:38AM. Estimate expires : 30-Jul-2021 06:38AM.

Billing Inquiries? Call (877)480-6970

THERE ARE ADDITIONAL CONTRACT TERMS ON THE REVERSE SIDE OF THIS DOCUMENT, INCLUDING LIMITATION ON WARRANTIES AND REMEDIES, WHICH ARE EXPRESSLY INCORPORATED HEREIN AND WHICH PURCHASER ACKNOWLEDGES HAVE BEEN READ AND FULLY UNDERSTOOD.

SUB TOTAL: 12,890.49  
 TOTAL TAX: 0.00  
**TOTAL AMOUNT: US \$ 12,890.49**

AUTHORIZED BY (print name) \_\_\_\_\_ SIGNATURE \_\_\_\_\_ DATE \_\_\_\_\_

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

RESOLUTION TO AWARD THE BID FOR THE 2021 56<sup>TH</sup> STREET IMPROVEMENT PROJECT (HAUGHEY AVENUE TO DIVISION AVENUE) AND TO AUTHORIZE THE MAYOR AND CITY CLERK TO EXECUTE THE CONTRACT

WHEREAS:

1. On August 10, 2021, the City received three (3) bids for the proposed 56<sup>th</sup> Street Improvements from Haughey Avenue to Division Avenue.
2. The Engineering Department recommends that the City Council award the bid to the low bidder, Diversco Construction Co., Inc. for \$1,109,325.23.
3. The total cost for this project will be financed out of Account Nos. 203-441-46300-972.503, 590-441-54400-972.544 and 591-441-57300-972.573, but a budget amendment is necessary:

Construction	\$1,109,325.23
<u>Engineering &amp; Contingencies</u>	<u>220,674.77</u>
Total Project Cost	\$1,330,000.00

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby award the 2021 56<sup>th</sup> Street Improvement Project (Haughey Avenue to Division Avenue) to Diversco Construction Co., Inc. for \$1,109,325.23.
2. The City Council does hereby authorize the Mayor and City Clerk to execute the contract.
3. The City Council does hereby approve the attached budget amendment.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried      Yes  
                                    No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on August 16, 2021.

\_\_\_\_\_  
Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Staff Report  
Bid Comparison  
Contract Form  
Budget Amendment

Resolution No. \_\_\_\_\_

## STAFF REPORT

Date: August 10, 2021  
Subject: Award of Bid for the 2021 56<sup>th</sup> Street Improvement Project  
From: Jeffrey Oonk, PE, Senior Civil Engineer  
Date of Meeting: August 16, 2021

---

### RECOMMENDATION:

It is recommended that the City Council award a bid to Diversco Construction Co., Inc. for the 2021 56<sup>th</sup> Street Improvement Project (Haughey Avenue to Division Avenue).

### COMMUNITY, SAFETY, STEWARDSHIP:

Reliable infrastructure is critical in providing safe travel within the city as well as for safe water supply and safe disposal of stormwater and sanitary sewage.

### DISCUSSION:

Wyoming received three (3) bids for the 2021 56<sup>th</sup> Street Improvement Project (Haughey Avenue to Division Avenue). The low bid was submitted by Diversco Construction Co., Inc. in the amount of \$1,109,325.23, which is 0.6% above the engineer's estimate of \$1,103,064.50.

Proposed improvements on 56th St. between Haughey Ave. and Division Ave. include construction of a new street with concrete curb and gutter, storm sewer, sanitary sewer (Buchanan to Division), concrete drive approaches, and concrete sidewalks along both sides of the street. The project will capture the storm water from the street with the curb and gutter, and outlet via a new storm sewer system. The street will have a short narrow "traffic choker" at the trail crossing for the Inter Urban Trail to calm traffic and encourage slower speeds. Additionally, there will be a median island at Division to calm traffic and provide some streetscape benefits. Along with the street improvements, there will be a new sanitary sewer constructed from Buchanan Avenue to Division Avenue. Sewer laterals will be extended into each property to allow for future connection to each business/residence. Watermain is already in place in 56th Street so the project will only include water services to properties that do not currently have a service stubbed in.

The total project cost is \$1,330,000 including engineering and contingencies.

### BUDGET IMPACT:

Sufficient funds are available in the following Funds:

203-441-46300-972.503 (Local Street)	\$985,000
590-441-54400-972.544 (Sanitary Sewer)	\$320,000
591-441-57300-972.573 (Water)	<u>\$25,000</u>
Total:	\$1,330,000

## Bid Comparison

**Contract ID:** 2021.9  
**Description:** 56th St Improvement Buchanan to Division  
**Location:** 56th St Sanitary  
**Projects(s):** 2021.9

Rank	Bidder	Total Bid	% Over Low	% Over Est.
0	ENGINEER'S ESTIMATE	\$1,103,064.50	-0.56%	0.00%
1	(02436) Diversco Construction Company, Inc.	\$1,109,325.23	0.00%	0.56%
2	(01272) Wadel Stabilization, Inc.	\$1,129,364.20	1.80%	2.38%
3	(3) GEORGETOWN CONSTRUCTION CO	\$1,333,845.50	20.23%	20.92%

Line	Pay Item Code	Quantity	Units	(0) ENGINEER'S ESTIMATE		(1) Diversco Construction Company, Inc.		(2) Wadel Stabilization, Inc.	
				Bid Price	Total	Bid Price	Total	Bid Price	Total
0001	1000	1	LSUM	\$34,850.00	\$34,850.00	\$100,300.00	\$100,300.00	\$76,000.00	\$76,000.00
	MOBILIZATION								
0002	1002	10	Ea	\$800.00	\$8,000.00	\$295.00	\$2,950.00	\$300.00	\$3,000.00
	REMOVE TREES 8" TO 18"								
0003	1003	6	Ea	\$1,250.00	\$7,500.00	\$995.00	\$5,970.00	\$1,000.00	\$6,000.00
	REMOVE TREES 19" TO 36"								
0004	1006	1	Ea	\$500.00	\$500.00	\$375.00	\$375.00	\$250.00	\$250.00
	REMOVE STUMPS 19" TO 36"								
0005	1008	590	Ft	\$8.00	\$4,720.00	\$8.00	\$4,720.00	\$5.90	\$3,481.00
	REMOVE CURB AND GUTTER								
0006	1035	62	Syd	\$10.00	\$620.00	\$8.00	\$496.00	\$9.00	\$558.00
	REMOVE SIDEWALK								
0007	1045	5,845	Syd	\$5.00	\$29,225.00	\$3.40	\$19,873.00	\$2.60	\$15,197.00
	REMOVE PAVEMENT								
0008	1055	14	Ea	\$100.00	\$1,400.00	\$105.00	\$1,470.00	\$100.00	\$1,400.00
	REMOVE, SALVAGE, AND RESET MAILBOX AND POST								
0009	1125	167	Ft	\$9.00	\$1,503.00	\$16.50	\$2,755.50	\$14.00	\$2,338.00
	REMOVE EX SEWER								
0010	1142	5	Ea	\$275.00	\$1,375.00	\$205.00	\$1,025.00	\$285.00	\$1,425.00
	REMOVE EX COVER AND CASTINGS								
0011	1143	2	Ea	\$450.00	\$900.00	\$315.00	\$630.00	\$350.00	\$700.00
	REMOVE EX VALVE AND BOX								
0012	1145	7	Ea	\$400.00	\$2,800.00	\$504.00	\$3,528.00	\$300.00	\$2,100.00
	REMOVE EX DRAINAGE STRUCTURE								
0013	1168	2	Ea	\$750.00	\$1,500.00	\$430.00	\$860.00	\$350.00	\$700.00
	REMOVE EX HYDRANT								
0014	1198	1	LSUM	\$10,000.00	\$10,000.00	\$82,055.00	\$82,055.00	\$124,350.00	\$124,350.00
	DEWATERING								

Line	Pay Item Code	Quantity	Units	(0) ENGINEER'S ESTIMATE		(1) Diversco Construction Company, Inc.		(2) Wadel Stabilization, Inc.	
				Bid Price	Total	Bid Price	Total	Bid Price	Total
0015	1550	150	Syd	\$12.00	\$1,800.00	\$10.00	\$1,500.00	\$9.00	\$1,350.00
	REMOVE CONCRETE								
0016	3200	1,223	Ft	\$145.00	\$177,335.00	\$90.75	\$110,987.25	\$131.00	\$160,213.00
	SANITARY SEWER 10" (14' - 25' DEPTH)								
0017	3275	5	Ea	\$5,000.00	\$25,000.00	\$3,520.00	\$17,600.00	\$4,310.00	\$21,550.00
	SANITARY SEWER MANHOLE 4' DIA (0' - 14' DEPTH)								
0018	3280	8	Vft	\$500.00	\$4,000.00	\$375.00	\$3,000.00	\$120.00	\$960.00
	SANITARY SEWER MANHOLE 4' DIA (OVER 14' DEPTH)								
0019	3325	12	Ea	\$150.00	\$1,800.00	\$346.00	\$4,152.00	\$520.00	\$6,240.00
	6" WYE ON 10" SANITARY SEWER								
0020	3350	12	Ea	\$100.00	\$1,200.00	\$3,275.00	\$39,300.00	\$2,395.00	\$28,740.00
	6" SANITARY LATERAL								
0021	4000	3,515	Ft	\$5.00	\$17,575.00	\$7.40	\$26,011.00	\$7.20	\$25,308.00
	6" UNDERDRAIN IN GEOTEXTILE								
0022	4031	12	Ea	\$550.00	\$6,600.00	\$415.00	\$4,980.00	\$875.00	\$10,500.00
	COVER AND CASTING								
0023	4032	13	Ea	\$500.00	\$6,500.00	\$420.00	\$5,460.00	\$900.00	\$11,700.00
	CATCH BASIN COVER AND CASTING								
0024	4056	1	Ea	\$500.00	\$500.00	\$1,240.00	\$1,240.00	\$365.00	\$365.00
	BULKHEAD EX SEWER PIPE								
0025	4065	1	Ea	\$450.00	\$450.00	\$1,060.00	\$1,060.00	\$1,200.00	\$1,200.00
	STORM SEWER CUT-IN 12" TO EX DRAINAGE STRUCTURE								
0026	4201	345	Ft	\$75.00	\$25,875.00	\$63.00	\$21,735.00	\$71.00	\$24,495.00
	STORM SEWER 12" (0' - 14' DEPTH)								
0027	4211	962	Ft	\$85.00	\$81,770.00	\$74.10	\$71,284.20	\$51.00	\$49,062.00
	STORM SEWER 15" (0' - 14' DEPTH)								
0028	4400	16	Ea	\$3,000.00	\$48,000.00	\$2,590.00	\$41,440.00	\$2,240.00	\$35,840.00
	DRAINAGE STRUCTURE 4' DIA (0' - 14' DEPTH)								
0029	5606	2	Ea	\$1,200.00	\$2,400.00	\$2,125.00	\$4,250.00	\$2,025.00	\$4,050.00
	1" WATER SERVICE, SHORT SIDE								

Line	Pay Item Code	Quantity	Units	(0) ENGINEER'S ESTIMATE		(1) Diversco Construction Company, Inc.		(2) Wadel Stabilization, Inc.	
				Bid Price	Total	Bid Price	Total	Bid Price	Total
0030	5607	3	Ea	\$2,850.00	\$8,550.00	\$4,000.00	\$12,000.00	\$5,155.00	\$15,465.00
	1.5" WATER SERVICE, LONG SIDE								
0031	5608	1	Ea	\$2,000.00	\$2,000.00	\$2,890.00	\$2,890.00	\$3,615.00	\$3,615.00
	1.5" WATER SERVICE, SHORT SIDE								
0032	6105	323	Cyd	\$30.00	\$9,690.00	\$36.00	\$11,628.00	\$30.00	\$9,690.00
	MISCELLANEOUS GRAVEL								
0033	6114	1,637	Ft	\$30.00	\$49,110.00	\$40.25	\$65,889.25	\$48.00	\$78,576.00
	STREET GRADE								
0034	6143	6,010	Syd	\$12.00	\$72,120.00	\$18.35	\$110,283.50	\$12.90	\$77,529.00
	6" AGGREGATE BASE (CIP)								
0035	6215	800	Sft	\$6.50	\$5,200.00	\$4.50	\$3,600.00	\$3.80	\$3,040.00
	SIDEWALK RAMP, ADA								
0036	6217	80	Ft	\$55.00	\$4,400.00	\$60.00	\$4,800.00	\$72.00	\$5,760.00
	DETECTABLE WARNING PLATES								
0037	6220	186	Ft	\$30.00	\$5,580.00	\$22.00	\$4,092.00	\$18.20	\$3,385.20
	CONCRETE GUTTER, 48"								
0038	6235	120	Ft	\$19.00	\$2,280.00	\$16.00	\$1,920.00	\$11.00	\$1,320.00
	CONCRETE CURB AND GUTTER, 24"								
0039	6240	3,590	Ft	\$19.00	\$68,210.00	\$12.00	\$43,080.00	\$12.00	\$43,080.00
	CONCRETE CURB AND GUTTER, 30"								
0040	6241	170	Ft	\$19.00	\$3,230.00	\$16.00	\$2,720.00	\$13.55	\$2,303.50
	CONCRETE CURB AND GUTTER, 30", ROLLED								
0041	6270	16,315	Sft	\$5.00	\$81,575.00	\$2.75	\$44,866.25	\$2.90	\$47,313.50
	CONCRETE SIDEWALK, 4"								
0042	6272	370	Sft	\$10.00	\$3,700.00	\$6.25	\$2,312.50	\$4.75	\$1,757.50
	CONCRETE SIDEWALK, 8"								
0043	6280	455	Syd	\$5.00	\$2,275.00	\$24.75	\$11,261.25	\$25.85	\$11,761.75
	CONCRETE PAVEMENT NON REINFORCED, 4"								
0044	6290	45	Syd	\$75.00	\$3,375.00	\$90.00	\$4,050.00	\$84.35	\$3,795.75
	CONCRETE PAVEMENT NON REINFORCED, COLORED, STAMPED								
0045	6295	26	Ea	\$500.00	\$13,000.00	\$675.00	\$17,550.00	\$500.00	\$13,000.00
	ADJUST CASTINGS								

Line	Pay Item Code	Quantity	Units	(0) ENGINEER'S ESTIMATE		(1) Diversco Construction Company, Inc.		(2) Wadel Stabilization, Inc.	
				Bid Price	Total	Bid Price	Total	Bid Price	Total
0046	6305 HAND PATCHING	43	Ton	\$150.00	\$6,450.00	\$136.32	\$5,861.76	\$137.00	\$5,891.00
0047	6352 HMA MIXTURE - 4E1	737	Ton	\$90.00	\$66,330.00	\$64.80	\$47,757.60	\$65.00	\$47,905.00
0048	6354 HMA MIXTURE - 5E1	642	Ton	\$90.00	\$57,780.00	\$71.76	\$46,069.92	\$72.00	\$46,224.00
0049	6399 HMA DRIVE APPROACH	35	Ton	\$110.00	\$3,850.00	\$157.00	\$5,495.00	\$157.00	\$5,495.00
0050	6430 PAVT MRKG, INLAID COLD PLASTIC, 24" CROSSWALK	50	Ft	\$10.00	\$500.00	\$15.00	\$750.00	\$15.00	\$750.00
0051	6431 PAVT MRKG, INLAID COLD PLASTIC, 24" STOP BAR	15	Ft	\$10.00	\$150.00	\$15.00	\$225.00	\$15.00	\$225.00
0052	6612 PAVT MRKG, REGULAR, 4" YELLOW	380	Ft	\$2.00	\$760.00	\$0.95	\$361.00	\$1.00	\$380.00
0053	7005 TOP SOIL 4" SCREENED	4,045	Syd	\$6.00	\$24,270.00	\$7.50	\$30,337.50	\$4.00	\$16,180.00
0054	7015 CLASS A SEED HYDRO-MULCH	4,045	Syd	\$0.70	\$2,831.50	\$0.95	\$3,842.75	\$1.00	\$4,045.00
0055	8000 FLAG CONTROL	1	LSUM	\$30,000.00	\$30,000.00	\$2,700.00	\$2,700.00	\$1,135.00	\$1,135.00
0056	8010 MINOR TRAFFIC CONTROL DEVICES	1	LSUM	\$50,000.00	\$50,000.00	\$28,475.00	\$28,475.00	\$44,650.00	\$44,650.00
0057	8110 BARRICADE TYPE III LIGHTED - FURNISHED	8	Ea	\$125.00	\$1,000.00	\$125.00	\$1,000.00	\$125.00	\$1,000.00
0058	8111 BARRICADE TYPE III LIGHTED - OPERATED	8	Ea	\$25.00	\$200.00	\$10.00	\$80.00	\$10.00	\$80.00
0059	8115 42 INCH CHANNELIZING DEVICE - FURNISHED	150	Ea	\$26.00	\$3,900.00	\$21.50	\$3,225.00	\$21.50	\$3,225.00
0060	8116 42 INCH CHANNELIZING DEVICE - OPERATED	150	Ea	\$1.00	\$150.00	\$1.00	\$150.00	\$1.00	\$150.00
0061	8120 LIGHTED ARROW TYPE A - FURNISHED	2	Ea	\$1,100.00	\$2,200.00	\$615.00	\$1,230.00	\$615.00	\$1,230.00

Line	Pay Item Code	Quantity	Units	(0) ENGINEER'S ESTIMATE		(1) Diversco Construction Company, Inc.		(2) Wadel Stabilization, Inc.	
				Bid Price	Total	Bid Price	Total	Bid Price	Total
0062	8121	2	Ea	\$100.00	\$200.00	\$100.00	\$200.00	\$100.00	\$200.00
	LIGHTED ARROW TYPE A - OPERATED								
0063	8122	3	Ea	\$3,500.00	\$10,500.00	\$1,950.00	\$5,850.00	\$1,950.00	\$5,850.00
	MESSAGE BOARD - FURNISHED								
0064	8123	3	Ea	\$500.00	\$1,500.00	\$200.00	\$600.00	\$200.00	\$600.00
	MESSAGE BOARD - OPERATED								
0065	9999	1	LSUM	\$500.00	\$500.00	\$1,165.00	\$1,165.00	\$3,685.00	\$3,685.00
	_ RELOCATE WATER SAMPLING SITE								
<b>Bid Totals:</b>				<b>\$1,103,064.50</b>		<b>\$1,109,325.23</b>		<b>\$1,129,364.20</b>	

Line	Pay Item Code	Quantity	Units	(3) GEORGETOWN CONSTRUCTION CO		Bid Price	Total	Bid Price	Total	Bid Price	Total
				Bid Price	Total						
0001	1000	1	LSUM			\$100,000.00	\$100,000.00		\$0.00		\$0.00
	MOBILIZATION										
0002	1002	10	Ea			\$750.00	\$7,500.00		\$0.00		\$0.00
	REMOVE TREES 8" TO 18"										
0003	1003	6	Ea			\$1,500.00	\$9,000.00		\$0.00		\$0.00
	REMOVE TREES 19" TO 36"										
0004	1006	1	Ea			\$500.00	\$500.00		\$0.00		\$0.00
	REMOVE STUMPS 19" TO 36"										
0005	1008	590	Ft			\$5.00	\$2,950.00		\$0.00		\$0.00
	REMOVE CURB AND GUTTER										
0006	1035	62	Syd			\$15.00	\$930.00		\$0.00		\$0.00
	REMOVE SIDEWALK										
0007	1045	5,845	Syd			\$2.00	\$11,690.00		\$0.00		\$0.00
	REMOVE PAVEMENT										
0008	1055	14	Ea			\$50.00	\$700.00		\$0.00		\$0.00
	REMOVE, SALVAGE, AND RESET MAILBOX AND POST										
0009	1125	167	Ft			\$10.00	\$1,670.00		\$0.00		\$0.00
	REMOVE EX SEWER										
0010	1142	5	Ea			\$250.00	\$1,250.00		\$0.00		\$0.00
	REMOVE EX COVER AND CASTINGS										
0011	1143	2	Ea			\$150.00	\$300.00		\$0.00		\$0.00
	REMOVE EX VALVE AND BOX										
0012	1145	7	Ea			\$500.00	\$3,500.00		\$0.00		\$0.00
	REMOVE EX DRAINAGE STRUCTURE										
0013	1168	2	Ea			\$500.00	\$1,000.00		\$0.00		\$0.00
	REMOVE EX HYDRANT										
0014	1198	1	LSUM			\$50,000.00	\$50,000.00		\$0.00		\$0.00
	DEWATERING										
0015	1550	150	Syd			\$15.00	\$2,250.00		\$0.00		\$0.00
	REMOVE CONCRETE										
0016	3200	1,223	Ft			\$200.00	\$244,600.00		\$0.00		\$0.00
	SANITARY SEWER 10" (14' - 25' DEPTH)										

Line	Pay Item Code	Quantity	Units	(3) GEORGETOWN CONSTRUCTION CO		Bid Price	Total	Bid Price	Total	Bid Price	Total
				Bid Price	Total						
0017	3275	5	Ea	\$3,500.00	\$17,500.00				\$0.00		\$0.00
	SANITARY SEWER MANHOLE 4' DIA (0' - 14' DEPTH)										
0018	3280	8	Vft	\$200.00	\$1,600.00				\$0.00		\$0.00
	SANITARY SEWER MANHOLE 4' DIA (OVER 14' DEPTH)										
0019	3325	12	Ea	\$1,000.00	\$12,000.00				\$0.00		\$0.00
	6" WYE ON 10" SANITARY SEWER										
0020	3350	12	Ea	\$3,000.00	\$36,000.00				\$0.00		\$0.00
	6" SANITARY LATERAL										
0021	4000	3,515	Ft	\$10.00	\$35,150.00				\$0.00		\$0.00
	6" UNDERDRAIN IN GEOTEXTILE										
0022	4031	12	Ea	\$500.00	\$6,000.00				\$0.00		\$0.00
	COVER AND CASTING										
0023	4032	13	Ea	\$1,000.00	\$13,000.00				\$0.00		\$0.00
	CATCH BASIN COVER AND CASTING										
0024	4056	1	Ea	\$1,000.00	\$1,000.00				\$0.00		\$0.00
	BULKHEAD EX SEWER PIPE										
0025	4065	1	Ea	\$500.00	\$500.00				\$0.00		\$0.00
	STORM SEWER CUT-IN 12" TO EX DRAINAGE STRUCTURE										
0026	4201	345	Ft	\$100.00	\$34,500.00				\$0.00		\$0.00
	STORM SEWER 12" (0' - 14' DEPTH)										
0027	4211	962	Ft	\$135.00	\$129,870.00				\$0.00		\$0.00
	STORM SEWER 15" (0' - 14' DEPTH)										
0028	4400	16	Ea	\$2,500.00	\$40,000.00				\$0.00		\$0.00
	DRAINAGE STRUCTURE 4' DIA (0' - 14' DEPTH)										
0029	5606	2	Ea	\$2,000.00	\$4,000.00				\$0.00		\$0.00
	1" WATER SERVICE, SHORT SIDE										
0030	5607	3	Ea	\$3,000.00	\$9,000.00				\$0.00		\$0.00
	1.5" WATER SERVICE, LONG SIDE										
0031	5608	1	Ea	\$2,500.00	\$2,500.00				\$0.00		\$0.00
	1.5" WATER SERVICE, SHORT SIDE										

Line	Pay Item Code	Quantity	Units	(3) GEORGETOWN CONSTRUCTION CO		Bid Price	Total	Bid Price	Total	Bid Price	Total
				Bid Price	Total						
0032	6105	323	Cyd	\$20.00	\$6,460.00			\$0.00		\$0.00	
	MISCELLANEOUS GRAVEL										
0033	6114	1,637	Ft	\$45.00	\$73,665.00			\$0.00		\$0.00	
	STREET GRADE										
0034	6143	6,010	Syd	\$12.00	\$72,120.00			\$0.00		\$0.00	
	6" AGGREGATE BASE (CIP)										
0035	6215	800	Sft	\$9.00	\$7,200.00			\$0.00		\$0.00	
	SIDEWALK RAMP, ADA										
0036	6217	80	Ft	\$65.00	\$5,200.00			\$0.00		\$0.00	
	DETECTABLE WARNING PLATES										
0037	6220	186	Ft	\$33.00	\$6,138.00			\$0.00		\$0.00	
	CONCRETE GUTTER, 48"										
0038	6235	120	Ft	\$23.00	\$2,760.00			\$0.00		\$0.00	
	CONCRETE CURB AND GUTTER, 24"										
0039	6240	3,590	Ft	\$18.00	\$64,620.00			\$0.00		\$0.00	
	CONCRETE CURB AND GUTTER, 30"										
0040	6241	170	Ft	\$25.00	\$4,250.00			\$0.00		\$0.00	
	CONCRETE CURB AND GUTTER, 30", ROLLED										
0041	6270	16,315	Sft	\$4.25	\$69,338.75			\$0.00		\$0.00	
	CONCRETE SIDEWALK, 4"										
0042	6272	370	Sft	\$8.50	\$3,145.00			\$0.00		\$0.00	
	CONCRETE SIDEWALK, 8"										
0043	6280	455	Syd	\$55.00	\$25,025.00			\$0.00		\$0.00	
	CONCRETE PAVEMENT NON REINFORCED, 4"										
0044	6290	45	Syd	\$130.00	\$5,850.00			\$0.00		\$0.00	
	CONCRETE PAVEMENT NON REINFORCED, COLORED, STAMPED										
0045	6295	26	Ea	\$100.00	\$2,600.00			\$0.00		\$0.00	
	ADJUST CASTINGS										
0046	6305	43	Ton	\$200.00	\$8,600.00			\$0.00		\$0.00	
	HAND PATCHING										
0047	6352	737	Ton	\$70.00	\$51,590.00			\$0.00		\$0.00	
	HMA MIXTURE - 4E1										

Line	Pay Item Code	Quantity	Units	(3) GEORGETOWN CONSTRUCTION CO		Bid Price	Total	Bid Price	Total	Bid Price	Total
				Bid Price	Total						
0048	6354	642	Ton			\$76.00	\$48,792.00		\$0.00		\$0.00
	HMA MIXTURE - 5E1										
0049	6399	35	Ton			\$170.00	\$5,950.00		\$0.00		\$0.00
	HMA DRIVE APPROACH										
0050	6430	50	Ft			\$16.00	\$800.00		\$0.00		\$0.00
	PAVT MRKG, INLAID COLD PLASTIC, 24" CROSSWALK										
0051	6431	15	Ft			\$16.00	\$240.00		\$0.00		\$0.00
	PAVT MRKG, INLAID COLD PLASTIC, 24" STOP BAR										
0052	6612	380	Ft			\$1.00	\$380.00		\$0.00		\$0.00
	PAVT MRKG, REGULAR, 4" YELLOW										
0053	7005	4,045	Syd			\$2.00	\$8,090.00		\$0.00		\$0.00
	TOP SOIL 4" SCREENED										
0054	7015	4,045	Syd			\$0.75	\$3,033.75		\$0.00		\$0.00
	CLASS A SEED HYDRO-MULCH										
0055	8000	1	LSUM			\$5,000.00	\$5,000.00		\$0.00		\$0.00
	FLAG CONTROL										
0056	8010	1	LSUM			\$50,000.00	\$50,000.00		\$0.00		\$0.00
	MINOR TRAFFIC CONTROL DEVICES										
0057	8110	8	Ea			\$150.00	\$1,200.00		\$0.00		\$0.00
	BARRICADE TYPE III LIGHTED - FURNISHED										
0058	8111	8	Ea			\$11.00	\$88.00		\$0.00		\$0.00
	BARRICADE TYPE III LIGHTED - OPERATED										
0059	8115	150	Ea			\$30.00	\$4,500.00		\$0.00		\$0.00
	42 INCH CHANNELIZING DEVICE - FURNISHED										
0060	8116	150	Ea			\$5.00	\$750.00		\$0.00		\$0.00
	42 INCH CHANNELIZING DEVICE - OPERATED										
0061	8120	2	Ea			\$1,000.00	\$2,000.00		\$0.00		\$0.00
	LIGHTED ARROW TYPE A - FURNISHED										
0062	8121	2	Ea			\$500.00	\$1,000.00		\$0.00		\$0.00
	LIGHTED ARROW TYPE A - OPERATED										
0063	8122	3	Ea			\$3,000.00	\$9,000.00		\$0.00		\$0.00
	MESSAGE BOARD - FURNISHED										

Line	Pay Item Code	Quantity	Units	(3) GEORGETOWN CONSTRUCTION CO					
Description				Bid Price	Total	Bid Price	Total	Bid Price	Total
0064	8123	3	Ea	\$1,000.00	\$3,000.00		\$0.00		\$0.00
MESSAGE BOARD - OPERATED									
0065	9999	1	LSUM	\$1,000.00	\$1,000.00		\$0.00		\$0.00
_RELOCATE WATER SAMPLING SITE									
<b>Bid Totals:</b>					<b>\$1,333,845.50</b>				

CONTRACT FORM

Page 1 of 2

This Contract Form must be signed by the Bidder and provided as part of the Bid submittal. If the Bidder is selected, the Contract is approved by the City Council, the City receives all bonds, insurance and other required documents, the City Mayor, Clerk and Attorney will sign this contract form. A copy will be provided to the Contractor.

City Standard Contract for 2021 56<sup>TH</sup> STREET IMPROVEMENTS – HAUGHEY AVE TO DIVISION AVE

This Contract is made as of the Effective Date between the City and the Contractor.

“Contract Documents” means the bid together with the invitation to bid, bid specifications, city standard terms and conditions, plans, instructions to bidders, bid form, any prequalification submittals filed by the bidder, and other documents comprising of or required in the bid package, City Council resolution, insurance, and any required bonds.

“City” means the City of Wyoming, a Michigan municipal corporation, of 1155 28<sup>th</sup> Street SW, Wyoming, MI 49509.

“Contractor” means:

DIVERSCO CONSTRUCTION CO., INC.  
LEGAL NAME OF COMPANY

BUSINESS NAME / D.B.A., IF DIFFERENT FROM ABOVE

CORPORATION - MICHIGAN

FORM OF BUSINESS and STATE IN WHICH FORMED – e.g. partnership, corporation, limited liability company, professional corporation and the state in which it was formed

570 MARKET AVE SW

ADDRESS

GRAND RAPIDS  
CITY

MICHIGAN  
STATE

49503  
ZIP CODE

“Effective Date” means the day after the date the Contract is approved by the City Council and the City receives all bonds, insurance documents, and other documents required from Contractor.

Terms and Conditions

In exchange for the consideration in and referred by this Contract, the parties agree:

1. Contractor will provide the materials and services in accordance with the Bid Documents.
2. City will pay the Contractor in accordance with the Bid Documents.
3. Waived or modified specifications are as follows: None
4. This is the only agreement between the parties regarding its subject matter. There are no other agreements, representations or warranties. **No terms and conditions apply other than those expressly and fully stated in the Contract Documents.** This contract can be amended only in writing signed by both City and Contractor.

**CONTRACT FORM, CONTINUED**


Page 2 of 2

City and Contractor have signed this Contract as of the Effective Date.

**City of Wyoming**

**Contractor**

By: \_\_\_\_\_  
Jack A. Poll, Mayor

By:  \_\_\_\_\_  
Signature of Bidder

By: \_\_\_\_\_  
Kelli A. Vandenberg, City Clerk

MARK A. ROBINSON  
Printed Name of Bidder

Date signed: \_\_\_\_\_

MANAGER  
Title

Approved as to form:  
  
\_\_\_\_\_  
Scott G. Smith, City Attorney

Date signed: 08-10-21

**CITY OF WYOMING BUDGET AMENDMENT**

**Date: August 16, 2021**

**Budget Amendment No. 026**

To the Wyoming City Council:

A budget amendment is requested for the following reason: To appropriate an additional \$1,305,000.00 of budgetary authority for the improvements to 56th Street per the attached resolution.

<u>Description/Account Code</u>	<u>Current</u>	<u>Increase</u>	<u>Decrease</u>	<u>Amended</u>
<b><u>Local Streets Fund</u></b>				
Public Works - Street Maintenance - Capital Outlay Local Street Construction				
203-441-46300-972.503	-	985,000.00		985,000.00
		<u>0.00</u>	<u>985,000.00</u>	
Fund Balance/Working Capital (Fund 203)		<u>0.00</u>	<u>985,000.00</u>	
<b><u>Sewer Fund</u></b>				
Public Works - Capital Outlay - Capital Outlay Sanitary Sewer				
590-441-54400-972.544	495,000.00	320,000.00		815,000.00
		<u>0.00</u>	<u>320,000.00</u>	
Fund Balance/Working Capital (Fund 590)		<u>0.00</u>	<u>320,000.00</u>	

Recommended: *Nate Buffay*  
Finance Director

*Chris A*  
City Manager

Motion by Councilmember \_\_\_\_\_, seconded by Councilmember \_\_\_\_\_ that the General Appropriations Act for Fiscal Year 2021-2022 be amended by adoption of the foregoing budget amendment.

Motion carried: Yes \_\_\_\_\_, No \_\_\_\_\_

I hereby certify that at a \_\_\_\_\_ meeting of the Wyoming City Council duly held on \_\_\_\_\_ the foregoing budget amendment was approved.

\_\_\_\_\_  
City Clerk

**CITY OF WYOMING**  
Kent County, Michigan  
Ordinance No. \_\_\_\_\_

Council member \_\_\_\_\_, supported by Council member \_\_\_\_\_, moved adoption of the following ordinance:

**AN ORDINANCE TO AMEND AND SUPPLEMENT CITY ORDINANCES TO AUTHORIZE ISSUING AND SELLING AN ADDITIONAL SERIES OF WATER SYSTEM REVENUE BONDS; TO PRESCRIBE THE FORM OF THE BONDS; TO PROVIDE FOR COLLECTION OF REVENUES TO PAY WATER SYSTEM OPERATION AND MAINTENANCE COSTS; TO SEGREGATE AND DISTRIBUTE CERTAIN WATER SYSTEM REVENUES; TO PROVIDE A RESERVE FUND, FOR RIGHTS OF THE HOLDERS OF AND FOR OTHER MATTERS RELATED TO THE ISSUANCE OF WATER SYSTEM REVENUE BONDS.**

THE CITY OF WYOMING ORDAINS:

Section 1. Definitions. Except when the context clearly indicates otherwise, the following definitions shall apply to terms used in this ordinance. Terms not defined in this section shall have the definitions provided by the Prior Ordinances (defined below).

- (a) "Act 94" means Act 94, Public Acts of Michigan, 1933, as amended.
- (b) "Authorized Officer" means any one or more of the Mayor, the City Manager or the Finance Director of the City.
- (c) "Bondholder" or "Bondholders" means the holder or holders of the Bonds.
- (d) "Bonds" as defined or used in Chapter 31 and the Prior Ordinances shall include the Series 2021 Bonds, the Outstanding Bonds, and any additional Bonds of equal standing hereafter issued.
- (e) "City" means the City of Wyoming, Kent County, Michigan.
- (f) "Code" means the Internal Revenue Code of 1986, as amended, and the rules and regulations promulgated thereunder.
- (g) "Construction Fund" shall mean the 2021 Bonds Construction Fund created pursuant to Section 13 of this Ordinance.
- (h) "Paying Agent" means the paying agent designated and serving pursuant to section 8 of this ordinance.
- (i) "Prior Bonds" means the Series 2010 Refunding Bonds, the Series 2012 Refunding Bonds, the Series 2013 Refunding Bonds, the Series 2014 Refunding Bonds and the Series 2016 Refunding Bonds.
- (j) "Prior Ordinances" means Chapter 31 of the City's Code of Ordinances, as amended and City Ordinance 10-08, 11-11, 16-13, 20-14 and 7-16 to the extent that the Bonds authorized by such ordinance remain outstanding.
- (k) "Project" means certain improvements to the City's Water System, including without limitation, improvements designed to transport water from the pump discharge/plant reservoirs to the water transmission mains, including without limitation, improvements to the piping on the water treatment plant grounds that connect the high service pumps within the plant to the transmission mains that transport water to the City and other users, improvements to piping and mains, installation of piping and mains, 36" valves in the pipe gallery and other improvements to water transmission, distribution, storage and treatment facilities, the restoration of streets, rights-of-way, easements and other property affected by the improvements and related facilities, as well as all work, equipment, and appurtenances necessary or incidental to these improvements and such other Water System improvements as the City shall determine.
- (l) "Revenues" and "Net Revenues" mean the revenues and net revenues of the System and shall be construed as defined in Section 3 of Act 94, including with respect to "Revenues," the earnings

derived from the investment of moneys in the various funds and accounts established by the Prior Ordinances and this Ordinance.

(m) "Sale Order" shall mean an order signed by the Authorized Officer with respect to the Series 2021 Bonds.

(n) "Series 2010 Refunding Bonds" means the City's Water Supply System Revenue Refunding Bonds, Series 2010, dated September 30, 2010.

(o) "Series 2012 Refunding Bonds" means the City's Water Supply System Revenue Refunding Bonds, Series 2012, dated April 16, 2012.

(p) "Series 2013 Refunding Bonds," means the City's Water Supply System Revenue Refunding Bonds, Series 2013, dated September 17, 2013.

(q) "Series 2014 Refunding Bonds" means the City's Water Supply System Revenue Refunding Bonds, Series 2014, dated October 14, 2014.

(r) "Series 2016 Bonds" means the City's Water Supply System Revenue Refunding Bonds, Series 2016, dated April 27, 2016.

(s) "Series 2021 Bonds" means the City's Water Supply System Revenue Bonds, Series 2021 issued pursuant to this ordinance.

(t) "Water System" or "System" means the entire water supply system owned and operated by the City as defined in the Prior Ordinances.

Section 2. Necessity, Approval of Plans and Specifications. It is determined to be necessary for the public health, safety, and welfare of the City to acquire and construct the Project in accordance with the plans and specifications prepared by the City's consulting engineers, which plans and specifications are hereby approved.

Section 3. Costs; Useful Life. The cost of the project is estimated to be approximately \$5,300,000, including the payment of legal, engineering, financial and other expenses, which estimate of cost is approved, and the period of usefulness of the Project is estimated to be not less than forty (40) years.

Section 4. Issuance of Bonds. Bonds of the City designated Water Supply System Revenue Bonds, Series 2021, are authorized to be issued pursuant to Act 94 in the aggregate principal amount of not to exceed \$5,300,000, as finally determined by the Authorized Officer in the Sale Order, for the purpose of paying the cost of acquiring and constructing the Project, including payment of legal, engineering, financial and other expenses incidental to the issuance of the Series 2021 Bonds. Any remaining costs of the Project shall be paid from such funds of the System as shall be determined by the City.

Section 5. Bond Terms. The Series 2021 Bonds shall be issued in fully registered form as to both principal and interest, in denominations of \$5,000 or any multiple of that amount. The Bonds shall be numbered consecutively in the order of their registration, shall be dated the date of delivery or such other date as determined by the Authorized Officer, and shall mature serially or as term bonds subject to mandatory redemption as determined by the Authorized Officer at the time of sale. The Series 2021 Bonds shall bear interest at a rate or rates, shall be payable semiannually on the dates and at the rates determined by the Authorized Officer at the time of sale. The Authorized Officer may alter the Bond terms within the parameters of this resolution as hereafter provided.

Section 6. Payment of Bonds; Pledge of Net Revenues. Principal of and interest on the Series 2021 Bonds shall be payable in lawful money of the United States to the person appearing on the Series 2021 Bond registration books as the registered owner thereof. Payment of principal of the Series 2021 Bonds shall be made at the principal office of the Paying Agent. Payment of interest on the Series 2021 Bonds shall be paid to the registered owner at the address as it appears on the registration books as of the determination date. Initially, the determination date shall be the date as of the 15<sup>th</sup> day of the month prior to the payment date for each interest payment; however, the determination date may be changed by the City to conform to market practice.

The principal of and interest on the Series 2021 Bonds, as Additional Bonds authorized by Prior Ordinances, shall be payable solely from the Net Revenues of the System and the Net Revenues of the

System are pledged to the payment of the principal of and interest on the Series 2021 Bonds. To secure the payment of the principal of and interest on the Series 2021 Bonds, there is created a statutory lien to and in favor of the Bondholders upon the Net Revenues of the System. The statutory lien on the Net Revenues securing the Series 2021 Bonds shall be a first lien of equal standing and priority with respect to the lien on the Net Revenues of the System securing such of the Prior Bonds as remain outstanding. The Net Revenues so pledged shall be and remain subject to such lien until the payment in full of the principal of and interest on the Bonds or until the Bonds are defeased.

The Series 2021 Bonds, including both principal and interest thereon, shall not be a general obligation of the City and shall not constitute an indebtedness of the City for the purpose of any debt limitations imposed by any constitutional, statutory or charter provisions.

#### Section 7. Prior Redemption.

(a) Mandatory Redemption. Principal designated as a term bond maturity by the purchaser of the Series 2021 Bonds or in the Sale Order shall be subject to mandatory redemption, in whole or in part, by lot, at par plus accrued interest, on the redemption dates and in the amounts determined at the time of sale. When term bonds are purchased by the City and delivered to the Paying Agent for cancelation or are redeemed in a manner other than by mandatory redemption, the principal amount of the term bonds affected shall be reduced by the principal amount of the Series 2021 Bonds so redeemed in the order determined by the City.

(b) Optional Redemption. The Series 2021 Bonds shall be subject to optional redemption prior to maturity as determined at the time of sale or as provided in the Sale Order.

(c) Notice of Redemption. Notice of redemption of Series 2021 Bonds shall be given by mail to the Registered Owners of the Series 2021 Bonds to be redeemed not less than 30 days prior to the date fixed for redemption, addressed to the Registered Owner at the registered address shown on the registration books of the City maintained by the Paying Agent. Series 2021 Bonds so called for redemption shall not bear interest after the date fixed for redemption, provided funds are on hand with the Paying Agent to redeem the same.

#### Section 8. Paying Agent and Registration.

(a) Appointment of Paying Agent. The Authorized Officer shall, from time to time, designate and appoint a Paying Agent, which may also act as transfer agent and bond registrar. The Authorized Officer shall also have the authority to remove the Paying Agent and to appoint a successor Paying Agent. In the event of a change in the Paying Agent, notice shall be given in writing, by certified mail, to each Registered Owner not less than 60 days prior to the next interest payment date. The Paying Agent shall keep the official books for the recordation of the Registered Owners of the Series 2021 Bonds.

(b) Book Entry Eligible: At the option of the initial purchaser of the Series 2021 Bonds, the Bonds will be issued in book-entry only form as one fully registered bond per maturity and will be registered in the name of Cede & Co., as bondholder and nominee for The Depository Trust Company ("DTC"), New York, New York; if this option is selected, DTC will act as securities depository for the Series 2021 Bonds, purchase of the Series 2021 Bonds will be made in book-entry only form, in denominations of \$5,000 or any integral multiple thereof, and purchasers will not receive certificates representing their interest in Series 2021 Bonds purchased. While the Series 2021 Bonds are held in book-entry-only form, the Series 2021 Bonds shall be transferred in accordance with the procedures established by DTC. So long as the Series 2021 Bonds are registered to DTC or another bond depository, the Paying Agent or bond registrar shall have no responsibility with respect to such transfers. The Authorized Officer shall have the authority from time to time to appoint a successor depository trustee to serve in the place of DTC. While the Series 2021 Bonds are issued in book-entry-only form the Paying Agent shall serve as paying agent only.

(c) Discontinuance of Book-Entry-Only. In the event the book-entry-only system is not selected or is discontinued, the following provisions would apply to the Bonds. Registration of the Bonds shall be recorded in the registration books of the City to be kept by the Paying Agent. Series 2021 Bonds may be transferred only by submitting the same to the Paying Agent, together with a satisfactory instrument of transfer signed by the Registered Owner or his or her legal representative duly authorized in

writing, after which a new Bond or Bonds shall be issued by the Paying Agent to the transferee (new registered owner) in denominations of \$5,000 or any integral multiple thereof, in the same aggregate principal amount as the Series 2021 Bond submitted for transfer. No transfer of Series 2021 Bonds shall be valid unless and until recorded on the bond registration books in accordance with the foregoing. The person in whose name any Series 2021 Bond is registered may for all purposes, notwithstanding any notice to the contrary, be deemed and treated by the City and the Paying Agent as the absolute owner thereof, and any payment of principal and interest on any Series 2021 Bond to the Registered Owner thereof shall constitute a valid discharge of the City's liability upon such Series 2021 Bond to the extent of such payment. No Series 2021 Bond shall be transferred less than 15 days prior to an interest payment date nor after the Bond has been called for redemption. So long as the Series 2021 Bonds are registered to DTC or another bond depository, the Paying Agent, acting as bond registrar, shall have no responsibility with respect to such transfers.

Section 9. Bond Form. The Series 2021 Bonds shall be substantially in the form attached as Exhibit A, which is incorporated by reference, with such completions, changes, and additions as may be recommended by the City's bond counsel and approved by the officers of the City signing the Series 2021 Bonds.

Section 10. Sale of Bonds. The Series 2021 Bonds shall be sold at a public sale. The Authorized Officer shall set the date and time for sale of the Series 2021 Bonds, which date shall be at least seven (7) days after the publication of the official notice of sale. The Authorized Officer shall cause notice of the sale of the Series 2021 Bonds to be published in *The Bond Buyer*, which notice shall be in such form as is approved by the Authorized Officer.

Section 11. Authorized Officer. The Authorized Officer is hereby designated, for and on behalf of the City, to do all acts and to take all necessary steps required to effectuate the sale, issuance and delivery of the Series 2021 Bonds. Notwithstanding any other provision of this Resolution, the Authorized Officer is authorized within the limitations set forth below to determine the title of the Series 2021 Bonds, maximum interest rate, interest rate or rates, amount of discount or premium, amount of maturities, principal amount, amount of good faith deposit, if any, denominations, dates of issuance, dates of maturities, interest payment dates, optional and mandatory redemption rights, and term bond options. The Authorized Officer shall have the authority to determine that up to two years of interest on the Series 2021 Bonds be capitalized. The Authorized Officer is further authorized to revise or adjust the provisions of Sections 16, 17 and 18 of this Ordinance prior to the issuance of the Series 2021 Bonds in an order signed by the Authorized Officer. The authority granted to the Authorized Officer by this Section, is subject to the following limitations:

- (a) The par amount of the Series 2021 Bonds shall not exceed \$5,300,000.
- (b) The interest rate on the Series 2021 Bonds shall not exceed five percent (5%) per annum.
- (c) The final maturity date of the Series 2021 Bonds shall not be later than twenty-one (21) years from the date of issuance of the Series 2021 Bonds.
- (d) The Series 2021 Bonds shall not be sold at a price that is less than 98% of the par value of the Series 2021 Bonds.

The Authorized Officer is hereby authorized for and on behalf of the City, without further City Council approval, to: (a) approve the circulation of a preliminary and a final Official Statement describing the Series 2021 Bonds; (b) to award the bid for the sale of the Series 2021 Bonds; (c) purchase municipal bond insurance, if considered necessary, as additional security for the bondholders; (d) apply to rating agencies for a rating on the Series 2021 Bonds; (e) make any designations or elections pursuant to the Code, including designating the bonds pursuant to section 265(b)(3) of the Code; and (f) do all other acts and take all other necessary procedures required to effectuate the sale, issuance and delivery of the Series 2021 Bonds.

Approval by the City of the matters delegated in this section or any other sections may be evidenced by execution of the Sale Order or the execution or approval of such documents by the Authorized Officer. The Authorized Officer, together with the Treasurer, the Clerk, the Deputy Clerk and the Deputy

Treasurer, or any one or more of them, are authorized to execute any documents or certificates necessary to complete the transaction, including, but not limited to, any applications, an Application for State Treasurer's Approval to Issue Long-Term Securities or any other applications or supporting documents to the Michigan Department of Treasury, applications for waivers and the submission of any supporting or related documents, any certificates, receipts, orders, agreements, instruments, security reports, a blanket letter of representations, and any certificates relating to federal or state securities laws, rules or regulations.

Section 12. Execution of Bonds. The Mayor or the Mayor Pro Tem and the Clerk or the Deputy Clerk of the City are authorized and directed to sign the Series 2021 Bonds, either manually or by facsimile signature, on behalf of the City. Upon execution, the Series 2021 Bonds shall be delivered by the Authorized Officer to the purchaser of the Series 2021 Bonds.

Section 13. Construction Fund. Except as otherwise determined by the Authorized Officer, the proceeds of the Series 2021 Bonds shall be deposited in the Construction Fund. Such moneys shall be used solely for the purpose for which the Series 2021 Bonds were issued. Any unexpected balance in the Construction Fund remaining after completion of the Improvements may be used for such purposes as allowed by law. After completion of the Improvements and disposition of remaining Series 2021 Bond proceeds, if any, pursuant to the provisions of this Section, the Construction Fund shall be closed.

Section 14. Bondholders' Rights; Receiver. The Bondholders representing in the aggregate not less than 20% of the entire principal amount thereof then outstanding, may, by suit, action, mandamus, or other proceedings, protect and enforce the statutory lien upon the Net Revenues of the System, and may, by suit, action, mandamus, or other proceedings, enforce and compel performance of all duties of the officers of the City, including the fixing of sufficient rates, the collection of Revenues, the proper segregation of the Revenues of the System and the proper application thereof. The statutory lien upon the Net Revenues, however, shall not be construed as to compel the sale of the System or any part thereof.

If there is a default in the payment of the principal of or interest on the Bonds, any court having jurisdiction in any proper action may appoint a receiver to administer and operate the System on behalf of the City and under the direction of the court, and by and with the approval of the court to perform all of the duties of the officers of the City more particularly set forth herein and in Act 94.

The Bondholders shall have all other rights and remedies given by Act 94 and law, for the payment and enforcement of the Bonds and the security therefor.

Section 15. No Free Service or Use. No free service or use of the System, or service or use of the System at less than the reasonable cost and value thereof, shall be furnished by the System to any person, firm, or corporation, public or private, or to any public agency or instrumentality, including the City.

Section 16. Rates and Charges. Rates shall be fixed and revised from time to time by the Council so as to produce amounts that are sufficient to pay the expenses of administration and the costs of operation and maintenance of the System, to provide an amount of revenues adequate for the payment of principal of and interest on the Bonds, reserve, replacement and improvement requirements and to otherwise comply with all requirements and covenants provided herein; and such that are reasonably expected to yield annual Net Revenues of the System, in the current fiscal year equal to at least 125% of the average annual debt service on the then outstanding Bonds; and promptly upon any material change in the circumstances which were not contemplated at the time such rates and charges were most recently reviewed, but not less frequently than once in each fiscal year, review the rates and charges for its services and promptly revise such rates and charges as necessary to comply with the foregoing requirement, in which case the City will be in compliance with the requirements of this Section. The rates and charges for all services and facilities rendered by the System shall be reasonable and just, taking into consideration the costs and value of the System, the cost of maintaining, repairing, and operating the System, and the amounts necessary for the retirement of all Bonds and interest accruing on all Bonds, and there shall be charged such rates and charges as shall be adequate to meet the requirement of this and the preceding sections.

Section 17. Bond Reserve Account. The Reserve Account in the Bond and Interest Redemption Fund, as established by the Prior Ordinances, shall be increased either from the proceeds of the Series 2021

Bonds, funds of the System or from a credit facility in an amount equal to the "Reserve Amount" which shall be the lesser of (a) the maximum annual principal and interest requirements on the Bonds outstanding after issuance of the Series 2021 Bonds; (b) 125% of the average annual debt service on the Bonds after issuance of the Series 2021 Bonds; or (c) an amount equal to 10% of the principal amount of the Bonds. Interest on the Bond Reserve Account must be transferred into the Redemption Fund once the Reserve Amount has been reached. All of the other provisions relative to the use of the Bond Reserve Account, its maintenance and other details relative thereto shall remain as specifically set forth in the Prior Ordinances.

No further payments need be made into the Redemption Fund after enough of the Bonds have been retired so that the funds then held in the Redemption Fund (including the Bond Reserve Account), is equal to the entire amount of principal and interest which will be payable at the time of maturity of all of the Bonds then remaining outstanding and the moneys so held shall be used solely to pay the principal of and interest on the Bonds including redemption premiums, if any, as the Bonds become due either by maturity or by redemption prior to maturity.

Section 18. Additional Bonds. Additional Bonds of equal standing and priority with any outstanding Bonds may be issued as provided in Section 31.22(2) of the Wyoming City Code of Ordinances, as amended, which reads as follows:

(2) For acquiring and constructing additions, extensions and improvements to the Water Supply System; provided that no additional bonds of equal standing and priority of lien for such purposes can be issued unless the average actual or augmented net revenues for the last 2 preceding fiscal years or the actual or augmented net revenues for the then last preceding fiscal year, if the same shall be lower than said average, shall be equal to at least 150% of the maximum amount of principal and interest thereafter maturing in any fiscal year on such additional bonds then being issued, the bonds of the issue authorized by this Chapter, and any other bonds of equal standing and priority of lien therewith until such time as the 1964 Bonds have been redeemed or defeased and thereafter then said average shall be maintained at no less than 125% of the average annual amount of principal and interest as hereinafter set forth. The actual net revenues shall be used in making the foregoing determination except, in the following situations where the augmented net revenues shall be used instead to wit:

(a) If the City shall raise the water rates at the time of authorizing such additional bonds, then the net revenues of the Water Supply System for each of the last two preceding fiscal years shall be augmented to an amount reflecting the effect of such increase had the City's water billings during such years been at the increased rates. As a condition precedent to the use thereof, there shall be filed with the City Clerk a statement which shows the annual net revenues for the 2 preceding completed operating years, and the additional augmented revenues reflecting the application of the increased rates, executed by a registered engineer appointed by the City Council.

(b) If the additions, extensions and improvements to be constructed with the proceeds of sale of such additional bonds will result in additional net revenues accruing to the Water Supply System, then the net revenues of the Water Supply System for each of the last two preceding fiscal years, as augmented by the application of increased rates as authorized in subparagraph (a) above, if such be the case, may be additionally augmented by the average annual net revenues estimated to accrue from such additions, extensions and improvements over the period for which said additional bonds are to be issued. A certificate duly executed by the present consulting engineers of the City, Black and Veatch, of Kansas City, Missouri (or such successor consulting engineer retained by the City), setting forth said estimate of net revenues together with sufficient detail justifying the same, shall be obtained as a condition precedent to using said additional net revenues as authorized by this Subsection.

It is the intent and purpose that the term "augmented net revenues" as used in this Section, shall mean the average actual net revenues of the Water Supply System for the last two preceding fiscal years, or for the last preceding fiscal year, whichever is lower,

plus additional revenues estimated pursuant to either Subsection (a) or (b) above, or both, as the case may be. No additional bonds of equal standing shall be issued pursuant to the authorization contained in this Section if the City shall then be in default in making its required payments to the Operation and Maintenance Fund or the Bond and Interest Redemption Fund.

Section 19. Defeasance. In the event cash or direct obligations of the United States or obligations the principal of and interest on which are guaranteed by the United States, or a combination thereof, the principal of and interest on which, without reinvestment, come due at times and in amounts sufficient to pay at maturity or irrevocable call for earlier optional or mandatory redemption, the principal of, premium, if any, and interest on the Series 2021 Bonds, shall be deposited in trust, this ordinance shall be defeased and the owners of the Series 2021 Bonds shall have no further rights under this ordinance except to receive payment of the principal of, premium, if any, and interest on the Series 2021 Bonds from the cash or securities deposited in trust and the interest and gains thereon and to transfer and exchange Series 2021 Bonds as provided herein.

Section 20. Contract with Bondholders. This ordinance shall constitute a contract between the City and the Bondholders from time to time, and after the issuance of any of such Series 2021 Bonds, no change, variation, or alteration of the provisions of this ordinance may be made that would lessen the security for such Series 2021 Bonds. The provisions of this ordinance shall be enforceable by appropriate proceedings taken by such Bondholder, either at law or in equity.

Section 21. Bonds Mutilated, Lost, or Destroyed. If any Bond of the Series 2021 Bonds shall become mutilated, the City, at the expense of the Bondholder, shall execute, and the Paying Agent shall authenticate and deliver, a new Bond of like tenor in exchange and substitution for the mutilated Bond, upon surrender to the Paying Agent of the mutilated Bond. If any Bond of the Series 2021 Bonds shall be lost, destroyed or stolen, evidence of the loss, destruction or theft may be submitted to the Paying Agent and, if this evidence is satisfactory to both the City and the Paying Agent and indemnity satisfactory to the Paying Agent shall be given, the City, at the expense of the owner, shall execute, and the Paying Agent shall thereupon authenticate and deliver, a new Bond of like tenor, which shall bear the statement required by Act 354, Public Acts of Michigan, 1972, as amended, or any applicable law hereafter enacted, in lieu of and in substitution for the Bond so lost, destroyed or stolen. If any such Bond of the Series 2021 Bonds shall have matured or shall be about to mature, instead of issuing a substitute Bond, the Paying Agent may pay the same without surrender thereof.

Section 22. Tax Covenant. The City shall, to the extent permitted by law, take all actions within its control necessary to maintain the exclusion of the interest on the Series 2021 Bonds from gross income for federal income tax purposes under the Code, including, but not limited to, actions relating to any required rebate of arbitrage earnings and the expenditures and investment of Series 2021 Bond proceeds and moneys deemed to be Series 2021 Bond proceeds.

Section 23. Municipal Bond Insurance. The Authorized Officer is authorized to acquire municipal bond insurance to enhance the marketability of the Series 2021 Bonds. If the City acquires municipal bond insurance from a municipal bond insurer, the Authorized Officer, the Clerk, and the Treasurer, or any one of them, are hereby authorized to take all actions, and to execute any documents, certificates, orders, applications, agreements, conditions, covenants or other instruments necessary to effectuate the issuance of the policy of bond insurance, including, but not limited to the execution of an order or agreement containing such provisions as the municipal bond insurer may require with respect to the insurance and the municipal bond insurer, which shall be binding on the City in the same manner as if contained herein. The Authorized Officer is further authorized to sign such agreements or other documents and to pay such fees as are required for the City to become a member of a mutual insurance company.

Section 24. Continuing Disclosure. The City shall provide or cause to be provided, in accordance with the requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission (a) on or prior to the last day of the sixth month after the end of the fiscal year of the City, commencing with the first fiscal year ending after the issuance of the Series 2021 Bonds, certain annual financial information and operating data, including audited financial statements for the preceding fiscal year (or if audited financial statements are not available, unaudited financial statements), generally consistent with certain

information that was contained or cross-referenced in the Official Statement relating to the Series 2021 Bonds, (b) timely notice of the occurrence of certain material events with respect to the Series 2021 Bonds, and (c) timely notice of a failure by the City to provide the required annual financial information on or before the date specified in (a) above.

Section 25. Official Statement. The Authorized Officer, the Clerk, the Treasurer, or any of them, are authorized and directed to approve, execute and deliver a Preliminary Official Statement and a final Official Statement on behalf of the City with such changes or modifications as they deem necessary in order to assure that the statements therein are true, and that it does not contain any untrue statement or material fact and does not omit a material fact necessary in order to make the statements, in light of the circumstances under which they were made, not misleading.

Section 26. Bond Counsel. Dickinson Wright PLLC, Grand Rapids, Michigan, is appointed to act as bond counsel for the Series 2021 Bonds. The City acknowledges that Dickinson Wright PLLC represents a number of financial institutions in public finance matters, including financial institutions that may potentially purchase the Bonds, and consents to Dickinson Wright PLLC's representation of the City as bond counsel and, and waives any conflict of interest arising from such representation of a financial institution or underwriter that may purchase the Bonds in other matters not involving the City. The Authorized Officer is authorized to enter into an engagement letter with bond counsel in accordance with the fees shown in the financial reports of the Municipal Advisor.

Section 27. Financial Advisor. Robert W. Baird & Co., Inc. is appointed to act as financial advisor for the Series 2021 Bonds.

Section 28. Subject to Prior Ordinances. Except to the extent supplemented or otherwise provided in this ordinance, all of the provisions and covenants provided in the Prior Ordinances shall apply to the Series 2021 Bonds.

Section 29. Publication and Recordation. This ordinance shall be published once in full in a newspaper of general circulation in the City qualified under state law to publish legal notices, and it shall be recorded in the records of the City with such recording authenticated by the signatures of the Mayor or Mayor Pro Tem and the City Clerk.

Section 30. Ordinance Subject to Michigan Law. The provisions of this ordinance are subject to the laws of the State of Michigan.

Section 31. Section Headings. The section headings in this ordinance are for convenience of reference only and are not a part of this ordinance.

Section 32. Severability. If any section, paragraph, clause or provision of this ordinance is held invalid, its invalidity shall not affect any other provisions of this ordinance.

Section 33. Effective Date. Pursuant to Section 6 of Act 94, this ordinance shall be approved on the date of its first reading and this ordinance shall be effective immediately upon its adoption.

YEAS: Council Members \_\_\_\_\_  
NAYS: Council Members \_\_\_\_\_  
ABSTAIN: Council Members \_\_\_\_\_  
ABSENT: Council Members \_\_\_\_\_

ORDINANCE DECLARED ADOPTED.

\_\_\_\_\_  
Jack A. Poll, Mayor

\_\_\_\_\_  
Kelli A. VandenBerg, Clerk

**CERTIFICATION**

As the duly qualified and acting Clerk of the City of Wyoming, Michigan I certify that this is a true and complete copy of an ordinance adopted by the City Council at a meeting held on August 16, 2021, and that notice of that meeting complied with applicable law.

August 16, 2021

\_\_\_\_\_  
Kelli A. Vandenberg, Clerk

**EXHIBIT A**

**UNITED STATES OF AMERICA  
STATE OF MICHIGAN  
COUNTY OF KENT  
CITY OF WYOMING  
WATER SUPPLY SYSTEM REVENUE  
BONDS, SERIES 2021**

**Interest Rate**                      **Maturity Date**                      **Date of Original Issue**                      **CUSIP**

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Registered Owner:

Principal Amount: \_\_\_\_\_ Dollars (\$\_\_\_\_\_)

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The City of Wyoming, Kent County, Michigan (the "City"), acknowledges it is indebted and, for value received, promises to pay to the Registered Owner specified above, or registered assigns, out of the net revenues of the Water Supply System of the City (the "System"), including all appurtenances, additions, extensions and improvements thereto after provision has been made for reasonable and necessary expenses of operation, maintenance and administration of the System (the "Net Revenues"), the Principal Amount specified above, unless prepaid prior thereto as hereinafter provided, in lawful money of the United States of America, on the Date of Maturity specified above with interest thereon from the Date of Original Issue specified above or such later date to which interest has been paid, at the Interest Rate per annum specified above, first payable on \_\_\_\_\_ 1, 20\_\_, and semiannually thereafter on the first day of \_\_\_\_\_ and \_\_\_\_\_ of each year, except as the provisions hereinafter set forth with respect to redemption of this Bond prior to maturity may become applicable hereto.

This Bond is the total authorized issue of bonds issued in accordance with the provisions of Act 94 of the Public Acts of Michigan, 1933, as amended, and Chapter 31 of the City's Code of Ordinances and City Ordinance Numbers 10-08, 11-11; 16-13, 20-14, 7-16 and \_\_\_\_\_ (the "Ordinance"), for the purpose of paying the costs of certain improvements to the City's Water System, including without limitation, improvements designed to transport water from the pump discharge/plant reservoirs to the water transmission mains, including without limitation, improvements to the piping on the water treatment plant grounds that connect the high service pumps within the plant to the transmission mains that transport water to the City and other users, improvements to piping and mains, installation of piping and mains, 36" valves in the pipe gallery and other improvements to water transmission, distribution, storage and treatment facilities, the restoration of streets, rights-of-way, easements and other property affected by the improvements and related facilities, as well as all work, equipment, and appurtenances necessary or incidental to these improvements and such other Water System improvements as the City shall determine. This Bond is a self-liquidating Bond, and is not a general obligation of the City within any constitutional or statutory limitation, but is payable, both as to principal and interest, solely from the Net Revenues of the System. The principal of and interest on this Bond are secured by a statutory lien on the Net Revenues.

The City hereby covenants and agrees to fix, and maintain at all times while any of the Bonds shall be outstanding, such rates for service furnished by the System as shall be sufficient to provide for payment of the principal of and interest upon all such Bonds as and when the same become due and payable, to maintain a bond and interest redemption fund, a bond reserve account and to provide for the payment of expenses of administration and operation and such expenses for maintenance of the System as are necessary to preserve the same in good repair and working order, and to provide for such other expenditures and funds for the System as are required by the Ordinance. The Bonds of this series shall have equal standing with the City's Water Supply System Revenue Refunding Bonds, Series 2010; Water Supply System Revenue Refunding Bonds, Series 2012; Water Supply System Revenue Refunding Bonds, Series 2013; Water Supply System Revenue Refunding Bonds, Series 2014, and Water Supply System Revenue Refunding Bonds, Series 2016. For a complete statement of the revenues from which, and the conditions under which, this Bond is payable, a statement of the conditions under which additional bonds of equal or subordinate standing may hereafter be issued, and the general covenants and provisions pursuant to which this Bond is issued, reference is made to the Ordinance.

Principal of this Bond is payable at the principal office of \_\_\_\_\_, or such other paying agent as the City may hereafter designate (the "Paying Agent") by notice mailed to the Registered Owner not less than 60 days prior to the next interest payment date. Interest on this Bond is payable to the Registered Owner of record as of the 15<sup>th</sup> day of the month preceding the payment date as shown on the registration books of the City maintained by the Paying Agent by check, draft, preauthorized debit, or electronic transfer or such other manner of payment acceptable to the Paying Agent.

Bonds maturing in the years \_\_\_\_ and \_\_\_\_ (the "Term Bonds") are subject to mandatory redemption prior to maturity in part, by lot, on each \_\_\_\_\_, at the par value thereof plus accrued interest to the redemption date as follows:

Redemption Date

Principal Amount

Term Bonds that are redeemed in a manner other than by mandatory redemption, shall reduce the principal amount of the Bond subject to mandatory redemption by the amount of the Bond so redeemed, in the order determined by the City.

Bond maturing on or before \_\_\_\_\_, \_\_\_\_\_, shall not be subject to optional redemption prior to maturity. Bonds maturing on or after \_\_\_\_\_, \_\_\_\_\_, are subject to redemption prior to maturity as a whole or in part, at the option of the City, in such order as the City shall determine, on any dates, on or after \_\_\_\_\_, \_\_\_\_\_. Bonds called for redemption shall be redeemed at the par value thereof and accrued interest to the date of redemption, without a premium.

Notice of the call of any Bonds for redemption shall be given by first class mail not less than thirty (30) days prior to the date fixed for redemption, to the Registered Owner at the registered address. Bonds called for redemption shall not bear interest after the date fixed for redemption, provided funds are on hand with the Paying Agent to redeem such Bonds. Bonds shall be called for redemption in multiples of \$5,000, and Bonds of denominations of more than \$5,000 shall be treated as representing the number of bonds obtained by dividing the denomination of the Bond by \$5,000, and such Bonds may be redeemed in part. The notice of redemption of Bonds redeemed in part shall state that upon surrender of the Bond to be redeemed, a new Bond or Bonds in aggregate principal amount equal to the unredeemed portion of the Bond surrendered shall be issued to the Registered Owner thereof. So long as the book-entry-only system remains in effect, the Paying Agent will give notice to Cede & Co., as nominee of The Depository Trust Company, a New York corporation, only and only Cede & Co. will be deemed to be a holder of the Bonds.

This Bond shall be registered in the name of the Registered Owner on the registration books kept by the Paying Agent and such registration noted hereon, and thereafter no transfer shall be valid unless made

upon the registration books and likewise noted hereon. This Bond is exchangeable at the request of the Registered Owner hereof, in person or by his attorney duly authorized in writing, at the office of the Paying Agent, but only in the manner, subject to the limitations and at his sole expense, for other bonds of an equal aggregate amount, upon surrender of this Bond to the Paying Agent. Upon such transfer, a new registered bond or bonds of the same series and the same maturity of authorized denomination will be issued to the transferee in exchange therefor.

It is hereby certified and recited that all acts, conditions and things required by law, precedent to and in the issuance of this Bond, exist and have been done and performed in regular and due time and form as required by law and that the total indebtedness of the City including this Bond, does not exceed any charter, constitutional or statutory limitation.

IN WITNESS WHEREOF, the City of Wyoming, Kent County, Michigan, by its City Council, has caused this Bond to be signed, by the manual or facsimile signatures of its Mayor and its Clerk, all as of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Jack A. Poll, Mayor

\_\_\_\_\_  
Kelli A. Vandenberg, Clerk

**CERTIFICATE OF REGISTRATION AND AUTHENTICATION**

This Bond is one of the City of Wyoming \$\_\_\_\_\_ Water Supply System Revenue Bonds, Series 2021, and has been registered in the name of the Registered Owner designated on the face thereof in the bond register maintained for the City.

Authentication Date: \_\_\_\_\_, 2021

\_\_\_\_\_  
As Paying Agent/Bond Registrar/Transfer Agent

**WRONGFUL USE OF CERTIFICATE**

Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City or its agent for registration of transfer, exchange, or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

**ASSIGNMENT**

For value received, the undersigned hereby sells, assigns and transfers unto \_\_\_\_\_

\_\_\_\_\_ (please print or type social security number or taxpayer identification number and name and address of transferee)

the within bond and all rights thereunder, and does hereby irrevocably constitute and appoint \_\_\_\_\_ attorney to transfer the within bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: \_\_\_\_\_

Signed: \_\_\_\_\_

In the presence of: \_\_\_\_\_

**Notice:** The signature to this assignment must correspond with the name as it appears upon the face of the within bond in every particular, without alteration or enlargement or any change whatever. When assignment is made by a guardian, trustee, executor or administrator, an officer of a corporation, or anyone in a representative capacity, proof of his City to act must accompany the bond.

Signature(s) must be guaranteed by an eligible guarantor institution participating in a Securities Transfer Association recognized signature guaranty program.

Signature Guaranteed: \_\_\_\_\_

## Staff Report

Date: August 12, 2021  
Subjects: Resolution of Intent to Issue Bonds  
From: John McCarter, Deputy City Manager  
Kate Balfourt, Finance Director  
Meeting Date: August 16, 2021

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### **RECOMMENDATION:**

Adopt the Resolution to Issue Revenue Bonds in the amount of \$5,300,000.

### **COMMUNITY, SAFETY, STEWARDSHIP:**

Community – Community is served by an adequate and reliable public water supply.

Safety – Upgrades to water facilities help prevent malfunctions and failures of the city water supply system components and ensure the system’s adequacy and reliability.

Stewardship – Providing financial options for funding water system improvements helps ensure the city is able to simultaneously (i) maintain operational fund balances, (ii) meet bond coverage requirements, (iii) comply with finance market expectations for well-run utility systems, (iv) mitigate water rate volatility, (v) have adequate funds to meet unexpected system needs, and (vi) undertake planned improvements.

### **BUDGET IMPACT:**

The proposed resolution will authorize the city to issue \$5.3 million in bonds, which will provide the necessary revenue to support planned water system improvements.

### **DISCUSSION:**

At the June 21, 2021 Regular City Council Meeting, City Council approved an intent to reimburse for \$5.3 million in bonds. That resolution allowed for the city to reimburse itself for project expenditures associated with projects funded by this \$5.3 million.

In the time since, staff has reviewed other funding mechanisms including cash and American Rescue Plan Act (ARPA) dollars and determined that issuing bonds is the most advantageous option for the City. The City has still not received final guidance on the American Rescue Plan Act (ARPA) but the city has until 2026 to spend this money. Understanding that the city has several other water system improvement projects upcoming, staff is recommending not utilizing this funding now and instead wait until final guidance has been issued and we can evaluate this need alongside all other potential needs. Staff also does not recommend utilizing cash, as interest rates remain low and issuing at future date will likely be costlier to the city.

A schedule of events has been attached to this Staff Report for your reference. We anticipate a bond rating from Standard & Poor’s (S&P) on September 9<sup>th</sup>, the competitive sale on September 21<sup>st</sup> and closing October 12<sup>th</sup>.

**Not to Exceed \$5,300,000**  
**City of Wyoming**  
**Water Supply System Revenue Bonds, Series 2021**

*Proposed Schedule of Events*

August 2021							September 2021							October 2021							
S	M	T	W	T	F	S	S	M	T	W	T	F	S	S	M	T	W	T	F	S	
1	2	3	4	5	6	7				1	2	3	4							1	2
8	9	10	11	12	13	14	5	6	7	8	9	10	11	3	4	5	6	7	8	9	
15	16	17	18	19	20	21	12	13	14	15	16	17	18	10	11	12	13	14	15	16	
22	23	24	25	26	27	28	19	20	21	22	23	24	25	17	18	19	20	21	22	23	
29	30	31					26	27	28	29	30			24	25	26	27	28	29	30	
														31							

<u>Date</u>	<u>Event</u>
July 29, 2021	Baird requests Schedule of Information from City.
August 6, 2021	City Returns Schedule of Information to Baird to draft the Preliminary Official Statement.
August 13, 2021	Anticipated expiration of the Referendum period.
August 13, 2021	Baird distributes draft Preliminary Official Statement to working group for comments.
August 13, 2021	Baird requests S & P rating.
August 16, 2021	City adopts Bond Authorizing Resolution.
August 26, 2021	Working group provides Baird with comments on draft of Preliminary Official Statement.
Week of August 30 <sup>th</sup>	Baird and City prepare for rating and review S & P questions.
Week of August 30 <sup>th</sup>	Baird and City have conference call with S & P.
September 8, 2021	Baird, Bond Counsel and City have due diligence conference call.
September 9, 2021	Baird receives rating from S & P.
September 10, 2021	Baird distributes electronic Preliminary Official Statement.
September 13, 2021	Notice of Sale published by Bond Counsel.
September 21, 2021	Competitive Sale at 11:00 a.m. (ET).
September 21, 2021	Baird distributes drafts of the closing letter and Final Official Statement.
September 28, 2021	Baird prints and distributes Final Official Statement.
October 12, 2021	Closing.



ORDINANCE NO. \_\_-21

ORDINANCE TO AMEND THE CODE OF ORDINANCES, CITY OF WYOMING, MICHIGAN, BY ADDING CHAPTER 23, ENTITLED "CITY INCOME TAX," TO ADOPT THE UNIFORM CITY INCOME TAX ORDINANCE BY REFERENCE, AS PROVIDED IN THE CITY INCOME TAX ACT, 1964 PA 284, WITH AN AMENDMENT TO SECTION 31 TO INCREASE THE AMOUNT OF THE EXEMPTIONS CONDITIONAL ON APPROVAL BY CITY ELECTORS AT A MAY 3, 2022 SPECIAL ELECTION

THE CITY OF WYOMING ORDAINS:

Section 1. Adoption of Uniform City Income Tax Ordinance. That the Code of Ordinances, City of Wyoming, Michigan, is amended by adding Chapter 23 to read as follows:

**CHAPTER 23 – CITY INCOME TAX**

**Sec. 23-1. – Adoption of Uniform Income Tax Ordinance.** Pursuant to the city income tax act, 1964 PA 284, MCL 141.501 through 141.787, the uniform city income tax ordinance is adopted by reference with the alternative sections provided in chapter 3 of that act. The income tax will be applicable beginning January 1, 2023.

**Sec. 23-2. – Amendment of Section 31 of Uniform Income Tax Ordinance.** As provided in section 31 of the uniform city income tax ordinance, MCL 141.631, that section is amended to read as follows:

**Sec. 31. Exemptions.**

(1) An individual taxpayer in computing his or her taxable income is allowed a deduction of \$2,000.00 for each personal and dependency exemption under the rules for determining exemptions and dependents as provided in part 1 of the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532. The taxpayer may claim his or her spouse and dependents as exemptions, but if the taxpayer and the spouse are both subject to the tax imposed by this ordinance, the number of exemptions claimed by each of them when added together shall not exceed the total number of exemptions allowed under this ordinance.

(2) If the taxpayer qualifies for an additional exemption under more than 1 of the following, an additional exemption is allowed for each of the following for which the taxpayer qualifies:

(a) A taxpayer who is a paraplegic, quadriplegic, or hemiplegic, or who is a totally or permanently disabled person as disability is defined in section 216 of title II of the social security act, 42 USC 416.

(b) A taxpayer who is blind as defined in section 504 of the income tax act of 1967, 1967 PA 281, MCL 206.504.

(c) A taxpayer who is a deaf person as defined in section 2 of the deaf persons' interpreters act, 1982 PA 204, MCL 393.502.

(d) A taxpayer who is 65 years of age or older.

**Sec. 23-3. – Text Added to City Code as Appendix.** That the text of the uniform city income tax ordinance, as amended by this ordinance, shall be attached as an appendix to the Code of Ordinances, City of Wyoming, Michigan, in exactly the form (*i.e.*, without editing by MuniCode) attached as Appendix A to this ordinance.

Section 2. Effective Date. That this ordinance shall take effect on the May 4, 2022, if the levy of a city income pursuant to this ordinance is approved by the city's electors at a special election held on May 3, 2022.

(a) The ballot proposal shall read as follows:

Shall the City of Wyoming levy a city income tax at a rate not to exceed 1.0% on corporations and resident individuals and 0.5% on nonresident individuals beginning on January 1, 2023, pursuant to the city income tax act, 1964 PA 284, as provided in the uniform city income tax ordinance adopted by the Wyoming City Council?

(b) All city officers and bodies are authorized and directed to take all actions needed under the City Charter and Michigan election law, 1954 PA 116, to hold a special election on May 3, 2022, and to place this question on the ballot at that special election.

CERTIFICATION

I certify that this ordinance was introduced by the City Council of the City of Wyoming, Michigan at its regular meeting held on August 16, 2021, and adopted by the City Council of the City of Wyoming, Michigan at its regular meeting held on September 20, 2021.

Kelli A. Vandenberg  
Wyoming City Clerk

Ordinance No. \_\_-21

## APPENDIX A

### UNIFORM CITY INCOME TAX ORDINANCE AS APPROVED BY WYOMING CITY COUNCIL

#### **Sec. 1. Uniform city income tax ordinance; short title.**

This ordinance shall be known and may be cited as the "uniform city income tax ordinance".

#### **Sec. 2. Uniform city income tax ordinance; rules of construction, definitions.**

For the purposes of this ordinance, the words, terms and phrases set forth in sections 3 to 9 and their derivations have the meaning given therein. When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, and in the singular number include the plural. "Shall" is always mandatory and not merely directory. "May" is always directory.

#### **Sec. 3. Definitions; A to D.**

- (1) "Administrator" means the official designated by the city to administer this ordinance or the duly authorized agent or representative of that official but does not mean the department of treasury.
- (2) "Business" means an enterprise, activity, profession, or undertaking of any nature conducted or ordinarily conducted for profit or gain by any person, including the operation of an unrelated business by a charitable, religious, or educational organization.
- (3) "Capital gains" and "capital losses" mean those terms as defined for federal income tax purposes.
- (4) "Department" means the department of treasury for tax years after the 1996 tax year for which a city has entered into an agreement with the department of treasury pursuant to section 9 of chapter 1. Department includes a duly authorized agent or representative of the department.

#### **Sec. 4. Definitions; C.**

- (1) "City" means the city adopting the ordinance.
- (2) "Compensation" means salary, pay or emolument given as compensation or wages for work done or services rendered, in cash or in kind, and includes but is not limited to the following: salaries, wages, bonuses, commissions, fees, tips, incentive payments, severance pay, vacation pay and sick pay.
- (3) "Corporation" means a corporation or a joint stock association organized under the laws of the United States, this state, or any other state, territory, or foreign country or dependency.

#### **Sec. 5. Definitions; D.**

- "Doing business" means the conduct of any activity with the object of gain or benefit, except that it does not include:
- (a) The solicitation of orders by a person or his representative in the city for sales of tangible personal property, which orders are sent outside the city for approval or rejection and, if approved, are filled by shipment or delivery from a point outside the city.
  - (b) The solicitation of orders by a person or his representative in the city in the name of or for the benefit of a prospective customer of a person, if orders by the customer to such person to enable the customer to fill orders resulting from the solicitation are orders described in paragraph (a).
  - (c) The mere storage of personal property in the city in a warehouse neither owned nor leased by the taxpayer.

#### **Sec. 6. Definitions; E, F.**

- (1) "Employee" means a person from whom an employer is required to withhold for either federal income or federal social security taxes.
- (2) "Employer" means an individual, partnership, association, corporation, nonprofit organization, governmental body or unit or agency including the state, or any other entity whether or not taxable under this ordinance, that employs 1 or more persons on a salary, bonus, wage, commission or other basis, whether or not the employer is in a business.
- (3) "Federal internal revenue code" means the internal revenue code of the United States in effect on the last day of the taxpayer's tax year.
- (4) "Financial institution" means a bank, industrial bank, trust company, building and loan or savings and loan association, credit union, safety and collateral deposit company, regulated investment company as defined in section 851 and the following sections of the federal internal revenue code, under whatever authority organized, and any other association, joint stock company or corporation at least 90% of whose assets consist of intangible personal

property and at least 90% of whose gross income consists of dividends or interest or other charges resulting from the use of money or credit.

**Sec. 7. Definitions; F to N.**

(1) "Fiscal year" means an accounting period of 12 months ending on any day other than December 31. Only fiscal years accepted by the internal revenue service for federal income tax purposes may be used for city tax purposes.

(2) "Net profits" means the net gain from the operation of a business, profession or enterprise, after provision for all costs and expenses incurred in the conduct thereof, determined on either a cash or accrual method, on the same basis as provided for in the federal internal revenue code for federal income tax purposes, excluding items exempted under this ordinance, but without deduction of federal and city taxes based on income and without deduction of net operating loss carry-over or capital loss carry-over sustained prior to the effective date of this tax, except that net operating losses and capital losses sustained after the effective date of this tax may be carried over to the same extent and on the same basis as under the federal internal revenue code but shall not be carried back to prior years.

**Sec. 8. Definitions; N to P.**

(1) "Nonresident" means an individual domiciled outside the city.

(2) "Person" means a natural person, partnership, fiduciary, association, corporation or other entity. When used in any provision imposing a criminal penalty, "person" as applied to an association means the parties or members thereof, and as applied to a corporation, the officers thereof.

(3) "Predominant place of employment" means that city imposing a tax under a uniform city income tax ordinance other than the city of residence, in which the employee estimates he will earn the greatest percentage of his compensation from the employer, which percentage is 25% or more.

**Sec. 9. Definitions; R to T.**

(1) "Resident" means an individual domiciled in the city. "Domicile" means a place where a person has his true, fixed and permanent home and principal establishment, to which, whenever absent therefrom, he intends to return, and domicile continues until another permanent establishment is established. If an individual, during the taxable year, being a resident becomes a nonresident or vice versa, taxable income shall be determined separately for income in each status.

(2) "Taxable year" means the calendar year, or the fiscal year, used as the basis on which net profits and other income subject to tax under this ordinance are to be computed, and in case of a return for a fractional part of a year, the period for which the return is required to be made.

(3) "Taxpayer" means a person required under this ordinance to file a return or to pay a tax.

**Sec. 11. Excise tax on incomes; rates.**

Subject to the exclusions, adjustments, exemptions, and deductions herein provided, an annual tax of 1% on corporations and resident individuals and of 1/2% on nonresident individuals for general revenue purposes and the purposes provided for in sections 11a and 11b is hereby imposed as an excise on income earned and received on and after the effective date of this ordinance. However, if the governing body of the city adopts a resolution to impose the tax at a lower rate, the tax is hereby imposed at that lower rate. If the tax is imposed at a lower rate, the rate on nonresident individuals shall not exceed 1/2 of the rate on corporations and resident individuals.

**Sec. 11a. Ordinance, resolution, or agreement to dedicate and transfer funds; purposes; commencement; amount; definitions.**

(1) For the 1993 tax year and each tax year after 1993, a city that is a qualified local unit of government, as defined by the federal facility development act, may adopt an ordinance or resolution, or may enter into an agreement with a qualified local unit of government other than the city, to dedicate and transfer funds in an amount determined pursuant to subsection (3) solely and to the extent necessary for the purposes authorized for use of the federal facility development fund created by the federal facility development act.

(2) When a city adopts an ordinance or resolution or enters into an agreement pursuant to subsection (1), the use or transfer of any funds dedicated or to be transferred shall commence and continue until any bonds, obligations, or other evidences of indebtedness for which the funds are pledged are fully paid.

(3) The amount dedicated or to be transferred by a city each year pursuant to subsection (1) shall equal the amount of withheld tax remitted by a qualified employer pursuant to section 60, as reconciled pursuant to section 61, for all qualified employees.

(4) As used in this section:

- (a) "Qualified employee" means a person who meets both of the following criteria:
  - (i) Is employed by a qualified employer.
  - (ii) His or her principal workplace is a qualified facility.
- (b) "Qualified employer" means the federal government.
- (c) "Qualified facility" and "qualified local unit of government" mean those terms as defined in the federal facility development act.

**Sec. 11b. City as qualified local unit of government; dedication and transfer of funds; purposes; use of federal data facility fund; amount; definitions.**

(1) A city that is a qualified local unit of government, as defined by the federal data facility act, may adopt an ordinance or resolution, or may enter into an agreement with a qualified local unit of government other than the city, to dedicate and transfer funds in the 1994 through 2003 tax years in an amount determined pursuant to subsection (3) solely and to the extent necessary for the purposes authorized for the use of the federal data facility fund created by the federal data facility act.

(2) If a city adopts an ordinance or resolution or enters into an agreement pursuant to subsection (1), the use or transfer of any funds dedicated or to be transferred shall commence and continue until any bonds, obligations, or other evidences of indebtedness for which the funds are pledged are fully paid or the authorized purpose is otherwise completed but not after the 2003 tax year.

(3) The amount dedicated or to be transferred by a city each year pursuant to subsection (1) shall equal the amount of withheld tax remitted by a qualified employer pursuant to section 60, as reconciled pursuant to section 61, for all qualified employees.

(4) As used in this section:

- (a) "Qualified employee" means a person who meets both of the following criteria:
  - (i) Is employed by a qualified employer.
  - (ii) His or her principal workplace is a qualified facility.
- (b) "Qualified employer" means the federal government.
- (c) "Qualified facility" and "qualified local unit of government" mean those terms as defined in the federal data facility act.

**Sec. 12. Excise tax on incomes; application to resident individuals.**

The tax shall apply on the following types of income of a resident individual to the same extent and on the same basis that the income is subject to taxation under the federal internal revenue code:

- (a) On a salary, bonus, wage, commission and other compensation.
- (b) On a distributive share of the net profits of a resident owner of an unincorporated business, profession, enterprise, undertaking or other activity, as a result of work done, services rendered and other business activities wherever conducted.
- (c) On dividends, interest, capital gains less capital losses, income from estates and trusts and net profits from rentals of real and tangible personal property.
- (d) On other income of a resident individual.

**Sec. 13. Types of nonresident income to which tax applicable; extent and basis of tax.**

The tax shall apply on the following types of income of a nonresident individual to the same extent and on the same basis that the income is subject to taxation under the federal internal revenue code:

- (a) On a salary, bonus, wage, commission, and other compensation for services rendered as an employee for work done or services performed in the city. Income that the nonresident taxpayer receives as the result of disability and after exhausting all vacation pay, holiday pay, and sick pay is not compensation for services rendered as an employee for work done or services performed in the city. Vacation pay, holiday pay, sick pay and a bonus paid by the employer are considered to have the same tax situs as the work assignment or work location and are taxable on the same ratio as the normal earnings of the employee for work actually done or services actually performed.
- (b) On a distributive share of the net profits of a nonresident owner of an unincorporated business, profession, enterprise, undertaking, or other activity, as a result of work done, services rendered, and other business activities conducted in the city.
- (c) On capital gains less capital losses from sales of, and on the net profits from rentals of, real and tangible personal property, if the capital gains arise from property located in the city.

**Sec. 14. Excise tax on incomes; taxable net profits of a corporation, definition.**

The tax shall apply on the taxable net profits of a corporation doing business in the city, being levied on such part of the taxable net profits as is earned by the corporation as a result of work done, services rendered and other business activities conducted in the city, as determined in accordance with this ordinance. "Taxable net profits of a corporation" means federal taxable income as defined in section 63 of the federal internal revenue code but taking into consideration all exclusions and adjustments provided in this ordinance. No deduction shall be allowed for:

- (a) Net operating losses and net capital losses sustained prior to the effective date of the tax.
- (b) The city income tax imposed by this ordinance.

A corporation may deduct income, war profits and excess profits taxes, imposed by a foreign country or possession of the United States, allocable to income included in taxable net income, any part of which would be allowable as a deduction in determining federal taxable income under the applicable provisions of the federal internal revenue code.

**Sec. 15. Excise tax on incomes; unincorporated business, profession; sole proprietorship, partnership.**

An unincorporated business, profession or other activity conducted by 1 or more persons subject to the tax as either a sole proprietorship or partnership shall not be taxable as such. The persons carrying on the unincorporated business, profession or other activity are liable for income tax only in their separate and individual capacities and on the following bases:

- (a) A resident proprietor or partner is taxable upon his entire distributive share of the net profits of the activity regardless of where the activity is conducted.
- (b) A nonresident proprietor or partner is taxable only upon his distributive share of the portion of the net profits of the activity which is attributable to the city under the allocation methods provided in this ordinance.
- (c) In the hands of a proprietor or partner of an unincorporated activity, the character of any item of income taxable under this ordinance is determined as if such item were realized by the individual proprietor or partner directly from the source from which it is realized by the unincorporated activity. In computing his taxable income for a taxable year, a person who is required to file a return shall include therein his taxable distributive share of the net profits for any partnership year ending within or with his taxable year.

**Sec. 16. Unincorporated business, profession, or activity; return.**

An unincorporated business, profession or other activity owned by 2 or more persons shall file an annual information return setting forth:

- (a) The entire net profit for the period covered by the return and the taxable portion of the net profit attributable to the city.
- (b) The names and addresses of the owners of the unincorporated activity and each owner's taxable distributive share of the total net profit and each nonresident owner's share of the taxable net profit attributable to the city.

**Sec. 17. Unincorporated business, profession, or activity; election to pay tax.**

At the election of an unincorporated business, profession or other activity, the entity, on behalf of the owners, may compute and pay the tax due with respect to each owner's share of the net profit of the activity after giving effect to exemptions to which each owner is entitled. This election is available to all unincorporated business entities having 2 or more owners regardless of the residence of the owners. The tax thus paid by the entity shall constitute all tax due with respect to each owner's distributive share of the net profits of the unincorporated business, profession or other activity.

If the unincorporated business, profession or other activity elects under this section to file a return and pay the tax on behalf of its owners, the election and filing are deemed to meet the requirements of this ordinance for the filing of a return for each owner who has no other income subject to the tax. However, a return is required from any such owner having taxable income other than his distributive share of the net profits of the entity. In such case the entire income subject to the tax shall be included in the return and credit taken thereon for the tax paid in his behalf by the unincorporated activity.

If the unincorporated business, profession or other activity elects to pay the tax on behalf of the owners, then the unincorporated business, profession or other activity assumes the status of a taxpayer and is liable to interest and penalty if payment is not made by the due date, in accordance with the calendar or fiscal year used by the unincorporated business, profession or other activity.

**Sec. 18. Partial business activity in city; apportionment of net profit.**

When the entire net profit of a business subject to the tax is not derived from business activities exclusively within the city, the portion of the entire net profit, earned as a result of work done, services rendered or other business activity conducted in the city, shall be determined under either section 19, sections 20 to 24, or section 25.

**Sec. 19. Partial business activity in city; separate accounting method.**

The taxpayer may petition for and the administrator may grant approval of, or the administrator may require, the separate accounting method. If such method is petitioned for the administrator may require a statement, explaining the manner in which the apportionment will be made, in sufficient detail to determine whether the net profits attributable to the city will be apportioned with reasonable accuracy.

**Sec. 20. Partial business activity in city; business allocation percentage method.**

The business allocation percentage method shall be used if such taxpayer is not granted approval to use the separate accounting method of allocation. The entire net profits of such taxpayer earned as a result of work done, services rendered or other business activity conducted in the city shall be ascertained by determining the total "in-city" percentages of property, payroll and sales. "In-city" percentages of property, payrolls and sales, separately computed, shall be determined in accordance with sections 21 to 24.

**Sec. 21. Partial business activity in city; percentage of average net book value; gross rental value of real property.**

First, the taxpayer shall ascertain the percentage which the average net book value, of the tangible personal property owned and the real property, including leasehold improvements, owned or used by it in the business and situated within the city during the taxable period, is of the average net book value of all of such property, including leasehold improvements, owned or used by the taxpayer in the business during the same period wherever situated. Real property shall include real property rented or leased by the taxpayer and the value of such property shall be deemed to be 8 times the annual gross rental thereon. "Gross rental of real property" means the actual sum of money or other consideration payable, directly or indirectly, by the taxpayer for the use or possession of real property and includes but is not limited to:

- (a) An amount payable for the use or possession of real property or any part thereof, whether designated as a fixed sum of money or as a percentage of sales, profits or otherwise.
- (b) An amount payable as additional rent or in lieu of rent such as interest, taxes, insurance, repairs or other amount required to be paid by the terms of a lease or other arrangement.

**Sec. 22. Partial business activity in city; percentage of compensation paid employees.**

Second, the taxpayer shall ascertain the percentage which the total compensation paid to employees for work done or for services performed within the city is of the total compensation paid to all the taxpayer's employees within and without the city during the period covered by the return. For allocation purposes, compensation shall be computed on the cash or accrual basis in accordance with the method used in computing the entire net income of the taxpayer.

If an employee performs services within and without the city, the following examples are not all inclusive but may serve as a guide for determining the amount to be treated as compensation for services performed within the city:

- (a) In the case of an employee compensated on a time basis, the proportion of the total amount received by him which his working time within the city is of his total working time.
- (b) In the case of an employee compensated directly on the volume of business secured by him, such as a salesman on a commission basis, the amount received by him for business attributable to his efforts in the city.
- (c) In the case of an employee compensated on other results achieved, the proportion of the total compensation received which the value of his services within the city bears to the value of all his services.

**Sec. 23. Partial business activity in city; percentage of gross revenue.**

Third, the taxpayer shall ascertain the percentage which the gross revenue of the taxpayer derived from sales made and services rendered in the city is of the total gross revenue from sales and services wherever made or rendered during the period covered by the return.

- (1) For the purposes of this section, "sales made in the city" means all sales where the goods, merchandise or property is received in the city by the purchaser, or a person or firm designated by him. In the case of delivery of goods in the city to a common or private carrier or by other means of transportation, the place at which the delivery has been completed is considered as the place at which the goods are received by the purchaser.

The following examples are not all inclusive but may serve as a guide for determining sales made in the city:

- (a) Sales to a customer in the city with shipments to a destination within the city from a location in the city or an out-of-city location are considered sales made in the city.
  - (b) Sales to a customer in the city with shipments to a destination within the city directly from the taxpayer's in-city supplier or out-of-city supplier are considered sales made in the city.
  - (c) Sales to a customer in the city with shipments directly to the customer at his regularly maintained and established out-of-city location are considered out-of-city sales.
  - (d) Sales to an out-of-city customer with shipments or deliveries to the customer's location within the city are considered sales made in the city.
  - (e) Sales to an out-of-city customer with shipments to an out-of-city destination are considered out-of-city sales.
- (2) In the case of public utilities, or businesses furnishing transportation services, "gross revenue" for the purposes of this section may be measured by such means as operating revenues, vehicle miles, revenue miles, passenger miles, ton miles, tonnage, or such other method as shall reasonably measure the proportion of gross revenue obtained in the city by such business.
- (3) In case the business of the taxpayer involves substantial business activities other than sales of goods and services such other method or methods of allocation shall be employed as shall reasonably measure the proportion of gross revenue obtained in the city by such business.

**Sec. 24. Partial business activity in city; business allocation percentage.**

Fourth, the taxpayer shall add the percentages determined in accordance with sections 21, 22 and 23 and divide the total by 3 and the result so obtained is the business allocation percentage. In determining this percentage, a factor shall be excluded from the computation only when the factor does not exist anywhere insofar as the taxpayer's business operation is concerned and, in such case, the total of the percentages shall be divided by the number of factors actually used. The business allocation percentage shall be applied to the entire net profits, wherever derived, of the taxpayer subject to the tax to determine the net profits allocable to the city.

**Sec. 25. Partial business activity in city; substitute methods.**

An alternative method of accounting shall be used if the taxpayer or the administrator demonstrates that the net profits of the taxpayer allocable to the city cannot be justly and equitably determined under the separate accounting method or the business allocation percentage method, or if undue expense to the taxpayer would result from complying therewith because of the taxpayer's manner of operations and methods of accounting. In such case the administrator, upon application of the taxpayer or upon his own initiative, may approve or specify factors or methods of determination as will effect a just, nondiscriminatory and reasonable result. Application to the administrator to substitute other factors in the formula or to use a different method to allocate net profits shall be made in writing and state the specific grounds on which the substitution of factors or use of a different method is requested and the relief sought. No specific form need be followed in making the application. Once a taxpayer has filed under a substitute method, he shall continue so to file until given permission by the administrator to change.

**Sec. 26. Capital gains and losses; determination.**

(1) Capital gains and capital losses, other than gains and losses on securities issued by the government of the United States, shall be included in income only to the extent of that portion of the gains or losses which occur after the effective date of this ordinance. In determining the amount of gain or loss, the taxpayer may use net proceeds from the sale or exchange less fair market value as of the effective date of this ordinance. The fair market value of property shall be determined by an appraisal or similar reliable evidence. The fair market value of a security shall be the last quoted price on the last business day prior to the effective date. For a security traded over the counter the last quoted price shall be the last bid price on the last business day prior to the effective date. The taxpayer may determine the gain or loss on a transaction in the same manner as for federal income tax purposes taking into account only that portion thereof which occurs after the effective date. The portion of that gain or loss includible in computing taxable income will be the same proportion of the total gain or loss as the period of time the property was held after the effective date of the ordinance bears to the total time the property was held. In any city adopting this ordinance which had a valid local income tax ordinance in effect on January 1, 1964, capital gains and losses shall be included to the extent of that portion of such gains or losses which occur after the effective date of the original city income tax ordinance.

(2) If capital losses exceed capital gains in a taxable year, the unused portion may be utilized to the same extent and on the same basis as under the federal internal revenue code.

**Sec. 27. Estates or trusts, deemed nonresidents; definitions.**

An estate or trust is not subject to tax under this ordinance, except that it shall be treated as a nonresident individual for purposes of section 11 of this ordinance to the extent income of the estate or trust described in section 13 is not includible in the return of a resident individual as "income from estates and trusts". A resident individual shall include "income from estates and trusts" in his income subject to tax under this ordinance without regard to the situs of the estate or trust. For this purpose, an "estate" means the estate of a deceased person during the period of administration or settlement and a "trust" means an inter vivos or testamentary trust created by an individual for the benefit of 1 or more persons.

**Sec. 28. Income from estates and trusts.**

(1) "Income from estates" means "income" as defined in section 643 (b) of the federal internal revenue code, properly paid, credited or distributed but not in excess of the resident individual's share of the distributable net income of the estate decreased by the amount of depreciation or depletion allowed the resident individual as a deduction under section 642 of the federal internal revenue code. The exceptions hereinafter set forth with respect to trusts are also applicable to income from estates. "Income from trusts" means the amount of "income" as defined in section 643 (b) of the federal internal revenue code, distributed or required to be distributed under sections 652 (a) or 662 (a) (1) of the federal internal revenue code, decreased by the amount of depreciation or depletion allowed the resident individual as a deduction by section 642 of the federal internal revenue code, with the following exceptions:

- (a) Dividends on stock of state and national banks and trust companies.
- (b) Interest from obligations of the United States, the states or subordinate units of government of the states.

(2) Income received by a resident individual from a fiduciary shall retain the character it held in the hands of the fiduciary. With respect to trusts where the income is taxed to the grantor or some other person under subpart E of subchapter J of the federal internal revenue code, the grantor or other person shall include in his return all items of income and deductions allowed by this ordinance.

(3) An individual shall include "income from estates and trusts" in his return in the same year as provided in the federal internal revenue code with respect to distributions of income from estates and trusts. The amount of income included in the return for the first tax year of a resident individual, with respect to estates and trusts, shall be computed as though the tax year of the estate or trust for federal income tax purposes began on the effective date of this ordinance and ended with the end of the tax year of the estate or trust for federal income tax purposes which ends next following the effective date.

**Sec. 31. Exemptions.**

(1) An individual taxpayer in computing his or her taxable income is allowed a deduction of \$2,000.00 for each personal and dependency exemption under the rules for determining exemptions and dependents as provided in part 1 of the income tax act of 1967, 1967 PA 281, MCL 206.1 to 206.532. The taxpayer may claim his or her spouse and dependents as exemptions, but if the taxpayer and the spouse are both subject to the tax imposed by this ordinance, the number of exemptions claimed by each of them when added together shall not exceed the total number of exemptions allowed under this ordinance.

(2) If the taxpayer qualifies for an additional exemption under more than 1 of the following, an additional exemption is allowed for each of the following for which the taxpayer qualifies:

- (a) A taxpayer who is a paraplegic, quadriplegic, or hemiplegic, or who is a totally or permanently disabled person as disability is defined in section 216 of title II of the social security act, 42 USC 416.
- (b) A taxpayer who is blind as defined in section 504 of the income tax act of 1967, 1967 PA 281, MCL 206.504.
- (c) A taxpayer who is a deaf person as defined in section 2 of the deaf persons' interpreters act, 1982 PA 204, MCL 393.502.
- (d) A taxpayer who is 65 years of age or older.

**Sec. 32. Payments and benefits not subject to tax.**

The following payments and benefits received by any person are not subject to the tax:

- (a) Gifts and bequests.
- (b) Proceeds of insurance, annuities, pensions and retirement benefits. Amounts received for personal injuries, sickness or disability are excluded from taxable income only to the extent provided by the federal internal revenue code.
- (c) Welfare relief, unemployment benefits including supplemental unemployment benefits, and workmen's compensation or similar payments from whatever source derived.

- (d) Amounts received by charitable, religious, educational and other similar nonprofit organizations which are exempt from taxation under the federal internal revenue code.
- (e) Amounts received by supplemental unemployment benefit trusts or pension, profit sharing and stock bonus trusts qualified and exempt under the federal internal revenue code.
- (f) Interest from obligations of the United States, the states or subordinate units of government of the states and gains or losses on the sales of obligations of the United States.
- (g) Net profits of financial institutions and insurance companies.
- (h) Amounts paid to an employee as reimbursement for expenses necessarily and actually incurred by him in the actual performance of his services and deductible as such by the employer.
- (i) Compensation received for service in the armed forces of the United States.

**Sec. 33. Deductible expenses generally.**

Ordinary, necessary, reasonable and unreimbursed expenses paid or incurred by an individual in connection with the performance by him of services as an employee may be deducted from gross income in determining income subject to the tax to the extent the expenses are applicable to income taxable under this ordinance. The expenses are limited to the following:

- (a) Expenses of travel, meals and lodging while away from home.
- (b) Expenses as an outside salesman, away from his employer's place of business.
- (c) Expenses of transportation.
- (d) Expenses under a reimbursement or other expense allowance arrangement with his employer, where the reimbursement or allowance has been included in total compensation reported.

**Sec. 34. Deductible expenses; alimony, separate maintenance payments and principal sums payable in installments, moving expenses, and payments to retirement plan or account.**

The following expenses paid or incurred by an individual may be deducted from gross income in determining income subject to tax to the extent the expenses are applicable to income taxable under this ordinance:

- (a) An individual may deduct alimony, separate maintenance payments and principal sums payable in installments, to the extent includable in the spouse's adjusted gross income under the federal internal revenue code but only to the extent deductible by the individual under the federal internal revenue code. A nonresident individual may deduct only that proportion of his alimony, separate maintenance or principal sums payable in installments that his income taxable under this ordinance bears to his total federal adjusted gross income.
- (b) An employee or self-employed individual may deduct moving expenses to the extent provided in section 217 of the federal internal revenue code.
- (c) A self-employed individual may deduct payments to a qualified retirement plan to the extent provided in section 404 of the federal internal revenue code.
- (d) An individual may deduct payments to an individual retirement account established pursuant to the employee retirement income security act of 1974, 29 U.S.C. 1001 to 1381, to the extent provided in section 219 of the internal revenue code.

**Sec. 35. Qualified taxpayer within renaissance zone; determination of deductions claimed.**

(1) Notwithstanding any other provision of this ordinance and to the extent and for the duration provided in the Michigan renaissance zone act, Act No. 376 of the Public Acts of 1996, being sections 125.2681 to 125.2696 of the Michigan Compiled Laws, for the 1997 tax year and each tax year after 1997, a qualified taxpayer may deduct from gross income in determining income subject to tax under this ordinance, to the extent a deduction is applicable to income subject to the tax under this ordinance, an amount equal to 1 of the following for the specified types of taxpayers:

- (a) For a qualified taxpayer as defined in subsection (12)(c)(i):
  - (i) Except as provided in subparagraphs (ii) and (iii), income subject to the tax that is earned or received in the tax year during the period of time that the taxpayer was a qualified taxpayer.
  - (ii) Capital gains subject to the tax that are received during the tax year during the period of time that the taxpayer was a qualified taxpayer. The deduction allowed under this subdivision shall be prorated based on the percentage of time that the asset was held by the taxpayer while the taxpayer was a qualified taxpayer.
  - (iii) Income received by the qualified taxpayer from winning an on-line lottery game sponsored by this state but only if the date on which the drawing for that game was held is after the taxpayer became a qualified taxpayer of a renaissance zone and income received by the taxpayer from winning an instant

lottery game sponsored by this state but only if the taxpayer was a qualified taxpayer of a renaissance zone on the validation date of the lottery ticket for that game.

(b) For a qualified taxpayer as defined in subsection (12)(c)(ii), the amount determined pursuant to section 14, 19, 20 to 24, or 25 of this ordinance multiplied by a fraction the numerator of which is the percentage that the average net book value of the tangible personal property owned and the real property, including leasehold improvements, owned or used by the qualified taxpayer in the business and situated within the renaissance zone during the taxable period, is of the average net book value of all such property, including leasehold improvements, owned or used by the taxpayer in the business during the same period situated in the city plus the percentage that the total compensation paid to employees for work done or for services performed within the renaissance zone is of the total compensation paid to all the taxpayer's employees within the city during the period covered by the return and the denominator of which is 2. For allocation purposes, compensation shall be computed on the cash or accrual basis in accordance with the method used in computing the entire net income of the taxpayer. Real property includes real property rented or leased by the qualified taxpayer and the value of that property is considered to be 8 times the annual gross rental on the property. "Gross rental on the property" means gross rental of real property as that term is defined in section 21 of this ordinance.

(c) For a qualified taxpayer as defined in subsection (12)(c)(iii), the amount determined pursuant to section 15 of this ordinance multiplied by a fraction the numerator of which is the percentage that the average net book value of the tangible personal property owned and the real property, including leasehold improvements, owned or used by the qualified taxpayer in the business and situated within the renaissance zone during the taxable period, is of the average net book value of all such property, including leasehold improvements, owned or used by the taxpayer in the business during the same period situated in the city plus the percentage that the total compensation paid to employees for work done or for services performed within the renaissance zone is of the total compensation paid to all the taxpayer's employees within the city during the period covered by the return and the denominator of which is 2. For allocation purposes, compensation shall be computed on the cash or accrual basis in accordance with the method used in computing the entire net income of the taxpayer. Real property includes real property rented or leased by the qualified taxpayer and the value of that property is considered to be 8 times the annual gross rental on the property. "Gross rental on the property" means gross rental of real property as that term is defined in section 21 of this ordinance.

(2) For a qualified taxpayer as defined in subsections (12)(c)(ii) and (iii), any portion of income subject to tax under this ordinance derived from illegal activity conducted in a renaissance zone shall not be used to calculate a deduction allowed under this section. For a qualified taxpayer who is an individual, any portion of income subject to tax under this ordinance derived from illegal activity conducted anywhere shall not be used to calculate the deduction allowed under this section. For a qualified taxpayer as defined in subsection (12)(c)(ii) and (iii), any portion of the taxpayer's tax liability that is attributable to business activity related to the operation of a casino, and business activity that is associated or affiliated with the operation of a casino including, but not limited to, the operation of a parking lot, hotel, motel, or retail store, shall not be used to calculate a credit under this section. As used in this subsection, "casino" means a casino regulated by this state pursuant to the Michigan gaming control and revenue act, Initiated Law of 1996, being sections 432.201 to 432.216 of the Michigan Compiled Laws.

(3) Income used to calculate a deduction under any other section of this ordinance shall not be used to calculate a deduction under this section.

(4) If a qualified taxpayer completes the residency requirements under subsection (12)(c) before the end of the tax year in which the qualified taxpayer first resided in the renaissance zone, the qualified taxpayer may claim the deduction allowed under this section for that tax year. If the qualified taxpayer completes the residency requirements under subsection (12)(c) in a tax year subsequent to the tax year in which the qualified taxpayer first resided in the renaissance zone, the following apply:

(a) If the qualified taxpayer completes the residency requirement in a tax year subsequent to the tax year in which the taxpayer first resided in the renaissance zone and before the date for filing the annual return under this ordinance for the tax year in which the taxpayer first resided in the renaissance zone, the taxpayer may claim the deduction allowed under this section for the tax year in which the taxpayer first resided in the renaissance zone.

(b) If the qualified taxpayer completes the residency requirement in a tax year subsequent to the tax year in which the taxpayer first resided in the renaissance zone and after the date for filing the annual return under this ordinance for the tax year in which the taxpayer first resided in the renaissance zone, the qualified taxpayer may claim the deduction allowed under this section for the tax year in which the residency requirement is completed on the annual return for the tax year in which the residency requirement is completed and may claim the

deduction for the tax year in which the qualified taxpayer first resided in the renaissance zone by filing an amended return for that tax year in which the qualified taxpayer first resided in the renaissance zone.

- (5) To be eligible for the deduction under this section, a taxpayer shall file an annual return under this ordinance.
- (6) A qualified taxpayer shall file a withholding form prescribed by the city with his or her employer after the date the qualified taxpayer completes the requirements under subsection (12)(c) or, at the option of the city, for taxpayers who claim to be qualified taxpayers under subsection (12)(c)(i), the taxpayer shall file a form prescribed by the city with the city after the date the taxpayer completes the requirements under subsection (12)(c)(i). If the city verifies the information on the form, the city shall issue a certificate of qualification to the taxpayer which the taxpayer shall file with his or her employer. When a taxpayer who filed a form under this subsection is no longer a qualified taxpayer under subsection (12)(c)(i), the taxpayer shall send a written notice of that change in status to the city not more than 10 days after the change in status occurs.
- (7) If the administrator finds that a taxpayer has claimed a deduction under this section to which he or she is not entitled, the taxpayer is subject to the interest and penalty provisions under this ordinance.
- (8) The deduction allowed under this section continues through the tax year in which the renaissance zone designation expires.
- (9) A net operating loss deduction allowed under this ordinance shall be calculated without regard to any deduction allowed under this section.
- (10) If a taxpayer who was a qualified taxpayer during the tax year changes status and is not a qualified taxpayer or vice versa, income subject to tax under this ordinance shall be determined separately for income in each status.
- (11) A qualified taxpayer as defined in subsection (12)(c)(i) is a resident of a renaissance zone for purposes of Act No. 376 of the Public Acts of 1996. A qualified taxpayer as defined in subsection (12)(c)(ii) or (iii) is located and conducts business in a renaissance zone for purposes of Act No. 376 of the Public Acts of 1996.
- (12) As used in this section:
  - (a) "Conducts business activity" means doing business as defined in this ordinance.
  - (b) "Domicile" means a place where a person has his or her true, fixed, and permanent home and principal establishment to which, whenever absent, he or she intends to return, and domicile continues until another permanent establishment is established.
  - (c) "Qualified taxpayer" means 1 of the following:
    - (i) A taxpayer who is an individual, a resident of the city as determined under this ordinance, and is domiciled in an area of the city that is designated a renaissance zone for a period of 183 consecutive days. A taxpayer may begin calculating the 183-day period during the 183 days immediately preceding the designation of the area as a renaissance zone. Qualified taxpayer under this subparagraph includes the estate of an individual who was a qualified taxpayer at the time of death. After a taxpayer has completed the 183-day requirement under this subparagraph, the taxpayer is considered to have been a qualified taxpayer of that renaissance zone beginning from the first day used to determine if the 183-day requirement has been met.
    - (ii) A taxpayer that is a corporation and that is located and conducts business activity in a renaissance zone in the city.
    - (iii) A person who is located in and conducts business activity as an unincorporated business, profession, or other activity in a renaissance zone and is not a qualified taxpayer under subparagraph (i) or (ii).
  - (d) "Renaissance zone" means that term as defined in Act No. 376 of the Public Acts of 1996.

#### **Sec. 40. Extension for filing annual return.**

Notwithstanding any other provision of this ordinance, a person required to make and file an annual return, quarterly return, or declaration of estimated tax that is otherwise due on or before April 15 or April 30 for each tax year under this ordinance will automatically receive an extension to file those returns and declarations if the Internal Revenue Service extends the federal income tax filing or payment due date for that same tax year for federal taxpayers. The extension under this section for a person required to make and file an annual return, quarterly return, or declaration of estimated tax under this ordinance will coincide with that extended due date established by the Internal Revenue Service for that same tax year or 15 days after the date established by the Internal Revenue Service, whichever is applicable.

#### **Sec. 41. Annual return; joint return.**

(1) Every corporation doing business in the city and every other person having income taxable under this ordinance in any year before the 1997 tax year or in any tax year after the 1996 tax year for which the city has not entered into an agreement with the department of treasury pursuant to section 9 of chapter 1, shall make and file with the city an

annual return for that year, on a form furnished or approved by the city, on or before the last day of the fourth month for the same calendar year, fiscal year, or other accounting period, that has been accepted by the internal revenue service for federal income tax purposes for the taxpayer. For tax years after the 1996 tax year and for which a city has entered into an agreement pursuant to section 9 of chapter 1, the annual return required by this subsection shall be filed with the city or the department as provided by the agreement on or before the fifteenth day of the fourth month for the same calendar year, fiscal year, or other accounting period that has been accepted by the internal revenue service for federal income tax purposes for the taxpayer.

(2) A husband and wife may file a joint return and, in such case, the tax liability is joint and several.

#### **Sec. 42. Returns; contents.**

The annual return shall set forth:

(a) The number of exemptions, place of residence, place of employment and other pertinent information as shall reasonably be required.

(b) The aggregate amount of compensation, dividends, interest, net profit from rentals, capital gains less capital losses, net profits from business and other income, subject to the tax.

(c) The total amount of the tax imposed by this ordinance.

(d) The amount of the tax previously withheld or paid.

(e) Credits provided in this ordinance.

(f) The balance of the tax due or to be refunded.

#### **Sec. 43. Payment of tax; refund; interest; allocation of payment; notice; nonobligated spouse; form; filing; release of liability; definitions.**

(1) A balance of the tax that is due the city at the time of filing an annual return shall be paid with the return unless the balance is less than \$1.00, in which case payment is not required.

(2) If the annual return reflects an overpayment of the tax, the declaration of the overpayment on the return constitutes a claim for refund. Subject to subsection (6), if the city or the department agrees that a claim is valid, the city or the department shall apply the overpayment first to a delinquent tax liability under this ordinance of the taxpayer to the city. The city shall apply any remaining overpayment against a subsequent liability under this ordinance or, at the election of the taxpayer and if indicated on the return, shall refund the overpayment. However, the city shall not pay a refund of less than \$1.00.

(3) If a valid claim for a refund of taxes, except a refund under section 61, due for the taxable year 1992 or a taxable year after 1992 is filed, interest at the rate established in section 30(3) of Act No. 122 of the Public Acts of 1941, being section 205.30 of the Michigan Compiled Laws, shall be added to the refund beginning 45 days after the claim is filed or 45 days after the date established under this ordinance for the filing of the return, whichever is later. For tax years after the 1996 tax year and for which a city has entered into an agreement pursuant to section 9 of chapter 1, a claim for refund shall be paid from money in the city income tax trust fund.

(4) For tax years after the 1995 tax year and for which a city has entered into an agreement pursuant to section 9 of chapter 1, if a taxpayer pays, when filing his or her annual return, an amount less than the sum of the declared tax liability under this act, and the declared tax liability under the income tax act of 1967, Act No. 281 of the Public Acts of 1967, being sections 206.1 to 206.532 of the Michigan Compiled Laws, and there is no indication of the allocation of payment between the tax liabilities against which the payment should be applied, the amount paid shall first be applied against the taxpayer's tax liability under this act and any remaining amount of payment shall be applied to the taxpayer's tax liability under Act No. 281 of the Public Acts of 1967. The taxpayer's designation of a payee on a payment is not a dispositive determination of the allocation of that payment under this subsection.

(5) If the claim for refund is reflected on a joint tax return, the administrator shall allocate to each joint taxpayer his or her share of the refund. The amount allocated to each taxpayer shall be applied to his or her respective liabilities under this ordinance.

(6) If the administrator or the department determines that all or a portion of a refund claimed on a joint tax return is subject to application to a liability of an obligated spouse, the administrator or the department shall notify the joint taxpayers by first class mail sent to the address shown on the joint return. The notice shall be accompanied by a nonobligated spouse allocation form. The notice shall state all of the following:

(a) That all or a portion of the refund claimed by the joint taxpayers is subject to interception to satisfy a liability or liabilities of 1 or both spouses.

(b) The nature of the liability and the name of the obligated spouse or spouses.

(c) That a nonobligated spouse may claim his or her share of the refund by filing a nonobligated spouse allocation form with the city or the department not more than 30 days after the date the notice was mailed.

- (d) A statement of the penalties under subsection (9).
- (7) A nonobligated spouse who wishes to claim his or her share of a tax refund shall file with the city or the department a nonobligated spouse allocation form. The nonobligated spouse allocation form shall be in a form specified by the administrator or the department and shall require the spouses to state the amount of income or other tax base and all adjustments to the income or other tax base, including all subtractions, additions, deductions, credits, and exemptions, stated on the joint tax return that is the basis for the claimed refund, and an allocation of those amounts between the obligated and nonobligated spouse. In allocating these amounts, all of the following apply:
- (a) Individual income shall be allocated to the spouse who earned the income. Joint income shall be allocated equally between the spouses.
  - (b) Each spouse shall be allocated the personal exemptions he or she would be entitled to claim if separate federal returns had been filed, except that dependency exemptions shall be prorated according to the relative income of the spouses.
  - (c) Adjustments resulting from a business shall be allocated to the spouse who claimed income from the business.
  - (d) Ownership of other assets relevant to the allocation shall be disclosed upon request of the administrator or the department.
- (8) A nonobligated spouse allocation form shall be signed by both joint taxpayers. However, the form may be submitted without the signature of the obligated spouse if his or her signature cannot be obtained. The nonobligated spouse shall certify that he or she has made a good faith effort to obtain the signature of the obligated spouse and shall state the reason that the signature was not obtained.
- (9) A person who knowingly makes a false statement on a nonobligated spouse allocation form is subject to a penalty of \$25.00 or 25% of the excessive claim for his or her share of the refund, whichever is greater, and other penalties as provided in this ordinance.
- (10) A nonobligated spouse to whom the administrator or the department has sent a notice under subsection (6), who fails to file a nonobligated spouse allocation form within 30 days after the date the notice was mailed, shall be barred from commencing any action against the city or the department to recover an amount withheld to satisfy a liability of the obligated spouse to which a joint tax refund is applied under this section. The payment by the city or the department of any amount applied to a liability of a taxpayer under this section shall release the department or the city and the administrator from all liability to the obligated spouse, the nonobligated spouse, and any other person having or claiming any interest in the amount paid. A payment by the department of treasury under this subsection shall be made from the city income tax trust fund created in section 5 of chapter 1.
- (11) As used in this section:
- (a) "Nonobligated spouse" means a person who has filed a joint city income tax return and who is not liable for an obligation of his or her spouse described in this ordinance.
  - (b) "Obligated spouse" means a person who has filed a joint city income tax return and who is liable for an obligation described in this ordinance for which his or her spouse is not liable.

#### **Sec. 44. Federal income tax return; eliminations.**

Where total income, total deductions, net profits, or other figures are derived from the taxpayer's federal income tax return, any item of income not subject to the city income tax and unallowable deductions shall be eliminated in determining net income subject to the city tax. The fact that a taxpayer is not required to file a federal income tax return does not relieve him from filing a city tax return.

#### **Sec. 45. Net profits; consolidated returns.**

For the purpose of determining net profit allocable to the city under this ordinance, a corporate taxpayer may elect to file a consolidated return including subsidiaries whose voting stock is more than 50% owned by the taxpayer, if such return will more properly reflect the net profits and activities of the taxpayer in the city. The city may require a consolidated return if necessary to properly determine net profits of the taxpayer allocable to the city.

#### **Sec. 46. Amended return; change of method of accounting.**

An amended return shall be filed with the city or the department, on a form obtainable from the city or the department, if necessary to report additional income and pay an additional tax due, or to claim a refund of tax overpaid. Within 90 days after final determination of a federal tax liability that also affects the computation of a taxpayer's city income tax liability, the taxpayer shall prepare and file with the city or the department an amended city income tax return showing income subject to the city tax based upon the final determination of federal income

tax liability, and pay any additional tax shown due on the return or make a claim for refund of an overpayment. A taxpayer shall not change the method of accounting or apportionment of net profits after the due date for filing the original return or any extensions for the filing of the original return.

**Sec. 51. Withholding of tax by employer; voluntary withholding by certain employers; employer as trustee; failure or refusal to deduct and withhold tax; liability; discharge.**

(1) An employer doing business or maintaining an establishment within the city shall withhold from each payment to the employer's employees on and after the effective date of this ordinance the tax on their compensation subject to the tax, after giving effect to exemptions, as follows:

(a) Residents.

(i) At a rate equal to the rate set by ordinance to be levied against resident individuals under this ordinance, but not to exceed 3%, of all compensation paid to the employee who is a resident of the city, if the employee is not subject to withholding in any other city levying the tax.

(ii) At a rate equal to the difference in the percentage rate of tax on resident individuals as set by ordinance to be levied under this ordinance less the percentage rate of tax levied by any other city in which the employee works, on all compensation earned by the resident in another city.

(b) Nonresidents. At a rate equal to the rate set by ordinance to be levied under this ordinance on nonresidents but not to exceed 50% of the percentage rate imposed on resident individuals of the compensation paid to the employee for work done or services performed in the city designated by the employee as the employee's predominant place of employment. The withholding rate shall be applied to the percentage of the employee's total compensation equal to the employee's estimated percentage of work to be done or services to be performed in the city for that employer, but no withholding shall be required if the estimated percentage of work is less than 25%.

(2) An employer withholding the tax is deemed to hold the tax as a trustee for the city.

(3) An employer who is required to withhold and who fails or refuses to deduct and withhold is liable for the payment of the amount required to be withheld. The liability shall be discharged upon payment of the tax by the employee but the employer is not relieved of penalties and interest provided in this ordinance for this failure or refusal.

(4) An employer that voluntarily registers to withhold taxes in accordance with section 6 of chapter 1 shall withhold from all employees who are residents of that city based on the form required to be filed by each employee under section 54 on their compensation subject to tax, after giving effect to exemptions as provided under subsection (1)(a). If an employer no longer wishes to voluntarily withhold taxes under section 6 of chapter 1, the employer shall file a written notice with the city, and with the administrator if the administrator is not the city, indicating that the employer will no longer voluntarily withhold taxes from employees who are residents of that city.

**Sec. 52. Tax withheld; payments or persons excepted.**

Employers shall not withhold any tax from the following payments or persons:

(a) Compensation paid to domestic help.

(b) Compensation paid to a person who is not an employee, including an independent contractor.

(c) An amount allowed and paid to an employee as reimbursement for expenses necessarily and actually incurred by the employee in the actual performance of his or her services, and that is deductible by the employer.

(d) A qualified taxpayer. "Qualified taxpayer" means that term as defined in section 35(12)(c)(i).

**Sec. 53. Tax withheld; payment by employee or employer.**

If the tax is not withheld, an employee is not excused from filing a return and paying the tax on his compensation. If the tax is withheld but an employer fails to pay the tax to the city, the employee is not liable for the tax so withheld.

**Sec. 54. Tax withheld; exemptions claimed; percentage of work done at predominant place of employment; qualified taxpayer within renaissance zone.**

An employee with compensation subject to tax shall file with his or her employer a form on which the employee states the number of exemptions claimed, the city of residence, the predominant place of employment, whether or not the employee claims status as a qualified taxpayer of a renaissance zone, and the percentage of work done or services performed in the predominant place of employment. The percentage shall be expressed as "less than 25%", "40%", "60%", "80%", or "100%". The employer shall retain the form, rely on the information on the form for withholding purposes unless directed by the city to withhold on another basis, and, if the employee claims status as a qualified taxpayer based on residency in a renaissance zone, the employer shall forward a copy of the form to the

city. If information submitted by the employee is not believed to be true, correct, and complete, the city shall be advised. As used in this section, "renaissance zone" means that term as defined in section 35.

**Sec. 55. Tax withheld; revised form; time for filing; qualified taxpayer within renaissance zone.**

(1) Except as provided in subsection (2), an employee shall file with his or her employer a revised form within 10 days after the number of exemptions decreases when a change in residence from or to a taxing city occurs. The employee may file a revised form when the number of exemptions increases. An employee shall file a revised form by December 1 of each year, if his or her predominant place of employment, estimate of the percentage of work done or services to be rendered in the city, or status as a qualified taxpayer of a renaissance zone will change for the ensuing year. Revised withholding certificates shall not be given retroactive effect.

(2) An employee shall file a revised form with his or her employer within 10 days after the employee completes the residency requirements under section 35(12), and when a change of status occurs from resident of a renaissance zone to nonresident of a renaissance zone. The employer shall forward a copy of a revised form filed under this subsection to the city.

(3) As used in this section, "renaissance zone" means that term as defined in section 35.

**Sec. 56. Refusal by employee to furnish withholding certificate; withholding by employer; report.**

If an employee refuses to furnish a withholding certificate upon the request of his or her employer, the employer shall withhold a percentage of the employee's total compensation equal to the percentage rate of tax on resident individuals as set by ordinance to be levied under this ordinance, and report and pay the withholding on the basis of the best information in the possession of the employer.

**Sec. 57. Tax withheld; withholding tables; first compensation taxable.**

(1) The city shall provide withholding tables establishing the amounts to be withheld for various tax rates, wage brackets, numbers of exemptions and pay periods. An employer who uses the tables fully discharges his duty to withhold. An employer may elect not to use the tables, in which case to discharge fully his duty to withhold he shall withhold the applicable per cent of taxable compensation after provision for exemptions.

(2) The first compensation paid an employee on or after the effective date of the tax levy is subject to withholding on either of the following bases at the option of the employer:

(a) On the full amount of compensation paid.

(b) On the proportion of compensation paid for work done or services performed on or after the effective date of the levy.

**Sec. 58. Tax withheld; overwithheld tax, refund.**

If an employer withholds more than the apparent tax liability of an employee due to an increase in the number of exemptions claimed during the year, or due to the actual percentage of work performed in the city by a nonresident being less than the estimated percentage, or due to a change of residence during the year to or from a taxing city, or due to any reason other than the employer's error, the employer shall neither refund the excess to the employee nor offset the excess by under-withholding in a subsequent period. The employee shall claim his refund from the city on his annual return.

**Sec. 59. Tax withheld; correction of error, refund.**

Correction of an over or an under-withholding as a result of an employer's error shall be made as follows:

(a) If the error is discovered in the same quarter in which it is made, the employer shall make the necessary adjustment on a subsequent pay and include only the corrected amount on the quarterly return.

(b) If the error is discovered in a subsequent quarter of the same calendar year, the employer shall make the necessary adjustment on a subsequent pay and report it as an adjustment on the quarterly return.

(c) If the error is discovered in the following calendar year, or if the employer-employee relationship has terminated, the procedure shall be as follows:

(i) The employee or former employee shall apply to the city for a refund in case of an over-withholding. Upon proper verification the city shall refund to him the amount of the over-withholding.

(ii) If a deficiency is discovered, the employer shall notify the city and the employee or former employee, who shall pay the city the additional tax due in his annual return.

**Sec. 60. Tax withheld; return; payment; electronic funds transfer.**

(1) Except as provided in subsection (2), an employer shall file a return, furnished by or obtainable on request from the city, and pay to the city the full amount of the tax withheld on or before the last day of the month following the close of each calendar quarter, except that if during any calendar month other than the last month of a calendar quarter the amount withheld exceeds \$100.00, the employer shall deposit the amount withheld with the city treasurer before the end of the next calendar month.

(2) For tax years after the 1996 tax year and for which a city has entered into an agreement pursuant to section 9 of chapter 1, an employer shall file a return and pay the tax withheld for each calendar month on or before the fifteenth day of the month to the department following the close of each calendar month by means of an electronic funds transfer method approved by the state commissioner of revenue.

**Sec. 61. Tax withheld; reconciliation of quarterly returns; deficiencies; refunds; information returns; cessation of business.**

(1) An employer shall file with the city or the department a reconciliation of quarterly returns on or before the last day of February following each calendar year in which the employer has withheld from an employee's compensation. A deficiency is due when the reconciliation is filed. If the employer made monthly or quarterly or both, payments in excess of the amount withheld from an employee's compensation, the city or the department upon proper verification shall refund the excess to the employer.

(2) In addition to the reconciliation the employer shall file with the city or the department an information return for each employee from whom the city income tax has been withheld and each employee subject to withholding under this ordinance, setting forth his or her name, address and social security number, the total amount of compensation paid him or her during the year, and the amount of city income tax withheld from him or her. The information return shall be on a copy of the federal W-2 form or on a form furnished or approved by the city or the department. A copy of the information return shall be furnished to the employee.

(3) Except as provided in subsection (4), if an employer goes out of business or otherwise ceases to be an employer, reconciliation forms and the information return forms shall be filed with the city by the date the final withholding return and payment are due.

(4) For tax years after the 1996 tax year and for which a city has entered into an agreement pursuant to section 9 of chapter 1, if an employer goes out of business or otherwise ceases to be an employer, reconciliation forms and the information return forms shall be filed with the department within 30 days after the employer goes out of business or ceases to be an employer.

**Sec. 62. Declaration of estimated tax; filing; form; time; exceptions.**

(1) A person who anticipates taxable income from which the city income tax will not be withheld with the city or the department shall file a declaration of estimated tax on a form furnished by or obtainable on request from the city or from the department if the city has entered into an agreement pursuant to section 9 of chapter 1. A calendar year taxpayer shall file a declaration on or before each April 30 or for tax years after the 1996 tax year and for which a city has entered into an agreement with the department of treasury pursuant to section 9 of chapter 1, on or before each April 15. A taxpayer on a fiscal year basis or other accounting period shall file with the department a declaration within 4 months after the beginning of each fiscal year or other accounting period.

(2) If a taxpayer has not previously been required to file, the declaration shall be filed on or before the first date for making a quarterly payment that occurs after the taxpayer becomes subject to the requirement to file a declaration. A taxpayer shall file a declaration for the same calendar year, fiscal year, or other accounting period that has been accepted by the federal internal revenue service for federal income tax purposes. A declaration by an individual or unincorporated entity is not required if the total estimated tax, less any credits applicable to the tax, does not exceed \$100.00. A declaration by a corporation is not required if the total estimated tax, less any credits applicable to the tax, does not exceed \$250.00. A declaration by or on behalf of an estate or trust is not required.

**Sec. 63. Declaration of estimated tax not withheld; computation; payment; installments.**

(1) A taxpayer's annual return for the preceding year may be used as the basis for computing a declaration of estimated tax for the current year, or the taxpayer may use the same figures used for estimating federal income tax adjusted to exclude any income or deductions not taxable or permissible under this ordinance.

(2) Except as otherwise provided, the estimated tax may be paid in full with the declaration or in 4 equal installments on or before the last day of the fourth, sixth, ninth, and thirteenth months after the beginning of the taxpayer's taxable year. For tax years after the 1996 tax year and for which a city has entered into an agreement

pursuant to section 9 of chapter 1, the estimated tax shall be paid in 4 equal installments on or before the fifteenth day of the fourth, sixth, ninth, and thirteenth months after the beginning of the taxpayer's taxable year.

(3) An amended declaration may be filed when making a quarterly payment, and the unpaid balance shown due shall be paid in equal installments over the remaining payment dates.

**Sec. 64. Annual return; filing; extension of time; failure to file; penalty.**

(1) The filing of a declaration of estimated tax does not excuse the taxpayer from filing an annual return even though there is no change in the declared tax liability. An annual return shall be filed with the city by the end of the fourth month or for tax years after the 1996 tax year and for which a city has entered into an agreement pursuant to section 9 of chapter 1, filed with the department on or before the fifteenth day of the fourth month of the year following that for which the declaration was filed. Upon written request of a taxpayer the administrator or the department may extend the time for filing the annual return for not to exceed 6 months. The administrator or the department may require a tentative return and payment of the estimated tax.

(2) A penalty or interest shall not be assessed if the return is filed and the final tax paid within the extended time and all other filing and payment requirements of this ordinance are satisfied, and the estimated tax paid equals 70% or more of the tax shown due on the final return or 70% or more of the tax shown due on the taxpayer's return for the immediately preceding taxable year.

**Sec. 64a. Sale of business or stock of goods or quitting business; liability for tax; escrow by purchaser; release to purchaser of known tax liability; failure to comply with escrow requirements; liability of corporation officers.**

(1) If a person liable for the tax imposed under this ordinance sells a business or the stock of goods of a business or quits a business, the person shall make a final return to the city or the department within 15 days after the date the business or stock of goods is sold or the person quits the business. The purchaser or succeeding purchasers, if any, who purchase a going or closed business or stock of goods of a going or closed business shall escrow sufficient money to cover the amount of taxes, interest, and penalties that may be due and unpaid until the former owner produces a receipt from the administrator that shows that the taxes due have been paid, or a certificate that states that taxes are not due. If the owner provides a written waiver of confidentiality, the administrator may release to a purchaser a business's known tax liability for the purposes of establishing an escrow account for the payment of taxes. If the purchaser or succeeding purchasers of a business or stock of goods of a business fail to comply with the escrow requirements of this subsection, the purchaser is personally liable for the payment of the taxes, interest, and penalties accrued and unpaid by the business of the former owner. The purchaser's or succeeding purchaser's personal liability is limited to the fair market value of the business less the amount of any proceeds applied to balances due on secured interests that are superior to any lien provided for in this ordinance.

(2) If a corporation that is liable for the tax imposed under this ordinance fails for any reason to file the required returns or to pay the tax due, any officers of the corporation that have control or supervision of, or who are charged with the responsibility for, making the returns or payments are personally liable for the failure to file or pay. The signature of any corporate officer on a return or negotiable instrument submitted in payment of a tax is prima facie evidence of the officer's responsibility for making the returns and payments. The dissolution of a corporation does not discharge an officer's liability for a prior failure of the corporation to make a return or remit a tax due. The sum due for a liability may be assessed and collected under this ordinance.

**Sec. 65. Credit for city income tax paid another city.**

An individual who is a resident of the city and received net profits from a business, profession or rental of real or tangible personal property, gains from the sale or exchange of real or tangible personal property, or salaries, wages, commissions or other compensation for work done or services performed or rendered, in each case outside the city, and is subject to and has paid an income tax on this income to another municipality, shall be allowed a credit against the city income tax for the amount paid to the other municipality. The credit shall not exceed the amount of taxes which would be assessed under this ordinance on the same amount of income of a nonresident.

**Sec. 66. Fractional part of a cent or dollar.**

In withholding the tax due under this ordinance, a fractional part of a cent shall be disregarded unless it amounts to 1/2 cent or more, in which case it shall be increased to 1 cent. For tax years after the 1996 tax year in paying the tax due under this ordinance if any amount other than a whole dollar amount is used, the administrator, or the department shall disregard the fractional part of the dollar unless the fractional part amounts to 1/2 dollar or more, in which case the amount shall be increased by \$1.00.

**Sec. 71. Rules and regulations; adoption; enforcement; forms; collection of tax.**

(1) The administrator may adopt, amend, and repeal rules and regulations relating to the administration and enforcement of this ordinance subject to the approval of the city governing body. The rules and regulations, amendments, and repeals, after approval by the city governing body, shall become effective when published in the official newspaper of the city.

(2) The administrator shall enforce this ordinance and the rules and regulations approved as provided in subsection (1). The administrator or the department shall prepare, adopt, and make available to taxpayers, employers, and other persons all forms necessary for compliance with this ordinance.

(3) For tax years before the 1997 tax year and for tax years after the 1996 tax year and for which a city has not entered into an agreement pursuant to section 9 of chapter 1, the city treasurer shall collect all taxes and payments due under this ordinance and deposit them in a designated city depository. For tax years after the 1996 tax year and for which a city has entered into an agreement pursuant to section 9 of chapter 1, the department shall collect taxes and payments due under this ordinance and deposit them in the city income tax trust fund established in section 5 of chapter 1.

**Sec. 72. Special ruling; appeal to income tax board of review.**

A taxpayer or employer desiring a special ruling on a matter pertaining to this ordinance or rules and regulations shall submit in writing to the administrator all the facts involved and the ruling sought. A taxpayer or employer aggrieved by a special ruling may appeal the special ruling in writing to the income tax board of review within 30 days.

**Sec. 73. Examination of books and records; witnesses; additional provisions relating to dispute resolution; protest to notice of intent to assess tax.**

(1) If a taxpayer or employer fails or refuses to make a return or payment as required, in whole or in part, or if the administrator or the department has reason to believe that a return made does not supply sufficient information for an accurate determination of the amount of tax due, the administrator or the department may obtain information on which to base an assessment of the tax. The administrator or the department may examine the books, papers, and records of any person, employer, taxpayer, or agent or representative of any person, employer, or taxpayer or audit the accounts of any person, employer, or taxpayer or any other records pertaining to the tax, to verify the accuracy and completeness of a return filed, or, if no return was filed, to ascertain the tax, withholding, penalties, or interest due under this ordinance.

(2) The administrator or the department may examine any person, under oath, concerning income which was or should have been reported for taxation under this ordinance, and for this purpose may compel the production of books, papers, and records and the attendance of all parties before him or her, whether as parties or witnesses, if he or she believes those persons have knowledge of the income. In addition, for tax years after the 1996 tax year and for which a city has entered into an agreement with the department of treasury pursuant to section 9 of chapter 1, all of the following apply to implement this section:

(a) The department of treasury shall send to the taxpayer or employer a letter of inquiry stating, in a courteous and unthreatening manner, the department's opinion that the taxpayer or employer needs to furnish further information or owes taxes to the city, and the reason for that opinion. A letter of inquiry shall also explain the procedure by which the taxpayer or employer may initiate communication with the department to resolve any dispute. A letter of inquiry may be served on the taxpayer in any manner determined appropriate by the department of treasury. This subdivision does not apply in any of the following circumstances:

(i) The taxpayer or employer files a return that shows a tax due and fails to pay that tax.

(ii) The deficiency resulted from an audit of the taxpayer's or employer's books and records by the city or the department.

(iii) The taxpayer or employer otherwise affirmatively admits that a tax is due and owing.

(b) If the dispute is not resolved within 30 days after the department of treasury sends the taxpayer or employer a letter of inquiry or if a letter of inquiry is not required under subdivision (a), the department, after determining the amount of tax due from a taxpayer or employer, shall give notice to the taxpayer or employer of the department of treasury's notice of intent to assess the tax. The notice shall include all of the following:

(i) The amount of the tax the department of treasury claims the taxpayer or employer owes.

(ii) The reason for the deficiency.

(iii) A statement advising the taxpayer or employer of his or her right to file a protest and to a hearing with the department of treasury.

(3) A taxpayer or employer has 30 days after receipt of a notice of intent to assess within which to file a written protest with the department of treasury. If a written protest is received, the department of treasury shall give the taxpayer or employer or duly authorized representative of the taxpayer or employer an opportunity to be heard and present evidence and arguments in his or her behalf.

(4) If a protest to the notice of intent to assess the tax under subsection (2) is determined by the department of treasury to be a frivolous protest or a desire by the taxpayer or employer to delay or impede the administration of the tax under this ordinance, a penalty of \$25.00 or 25% of the amount of tax under protest, whichever is greater, shall be added to the tax.

**Sec. 74. Information confidential; divulgence, penalty, discharge from employment.**

(1) Information gained by the administrator, city treasurer or any other city official, agent or employee as a result of a return, investigation, hearing or verification required or authorized by this ordinance is confidential, except for official purposes in connection with the administration of the ordinance and except in accordance with a proper judicial order.

(2) Any person who divulges this confidential information, except for official purposes, is guilty of a misdemeanor and subject to a fine not exceeding \$500.00 or imprisonment for a period not exceeding 90 days, or both, for each offense. In addition, an employee of the city who divulges this confidential information is subject to discharge for misconduct.

**Sec. 80. Waiver of interest or penalties during extension.**

Notwithstanding any other provision of this ordinance, for any return or declaration of estimated tax that was originally due on April 15 or April 30 under this ordinance and that is subsequently filed or remitted at a later date in accordance with section 40, all interest and penalties for the failure to file or remit for that extended period shall be waived.

**Sec. 82. Payment of tax; interest; "adjusted prime rate" defined; penalty for delay; waiver of penalty for reasonable cause.**

(1) All taxes imposed in a taxable year before the 1992 taxable year on a taxpayer and money withheld by an employer under this ordinance and remaining unpaid after the taxes or money withheld are due bear interest from the due date at the rate of 1/2 of 1% per month until paid. For the 1992 taxable year and each subsequent taxable year before the 1997 taxable year, all taxes imposed on a taxpayer and money withheld by an employer under this ordinance and remaining unpaid after the taxes or money withheld are due bear interest from the due date at the current monthly rate of 1 percentage point above the adjusted prime rate per annum per month until the tax or money is paid. For taxable years after the 1996 taxable year, if the amount of a tax paid is less than the amount that should have been paid or an excessive claim for credit has been made, the deficiency and interest on the deficiency at the current monthly interest rate of 1 percentage point above the adjusted prime rate per annum from the time the tax was due, and until paid, are due and payable after a final assessment as provided in section 85. A deficiency in an estimated payment required by this ordinance shall be treated in the same manner as a tax due and is subject to the same current monthly interest rate of 1 percentage point above the adjusted prime rate per annum from the time the payment was due, until paid. The term "adjusted prime rate" means the average predominant prime rate quoted by not less than 3 commercial banks to large businesses, as determined by the department of treasury. For tax years before the 1997 tax year, the adjusted prime rate is to be based on the average prime rate charged by not less than 3 commercial banks during the 12-month period ending on September 30. One percentage point shall be added to the adjusted prime rate, and the resulting sum shall be divided by 12 to establish the current monthly interest rate. The resulting current monthly interest rate based on the 12-month period ending September 30 becomes effective on January 1 of the following year. For tax years after the 1996 tax year, "adjusted prime rate" means that term as defined in and determined under section 23(2) of Act No. 122 of the Public Acts of 1941, being section 205.23 of the Michigan Compiled Laws.

(2) A person who fails to file a return, pay the tax, or remit withholding, when due, is liable, in addition to the interest, to a penalty of 1% of the amount of the unpaid tax for each month or fraction of a month, not to exceed a total penalty of 25% of the unpaid tax. If a return is filed or remittance is paid after the time specified and it is shown to the satisfaction of the city or the department that the failure was due to reasonable cause and not to willful neglect, the penalty shall be waived by the administrator or the department. If the total interest or interest and penalty to be assessed is less than \$2.00, the administrator or the department shall instead assess \$2.00.

(3) Except as provided in subsection (4), if any part of the deficiency or an excessive claim for credit is due to negligence, but without intent to defraud, a penalty of \$10.00 or 10% of the total amount of the deficiency in the tax,

whichever is greater, plus interest as provided in subsection (1), shall be added. The penalty becomes due and payable after a final assessment is issued as provided in section 85. If a taxpayer subject to a penalty under this subsection demonstrates to the satisfaction of the administrator or the department that the deficiency or excess claim for credit was due to reasonable cause, the administrator or the department shall waive the penalty.

(4) If any part of the deficiency or an excessive claim for credit is due to intentional disregard of this ordinance, but without intent to defraud, a penalty of \$25.00 or 25% of the total amount of the deficiency in the tax, whichever is greater, plus interest as provided in subsection (1), shall be added. The penalty becomes due and payable after a final assessment is issued as provided in section 85. If a penalty is imposed under this subsection and the taxpayer subject to the penalty successfully disputes the penalty, the administrator or the department shall not impose a penalty prescribed by subsection (3) to the tax otherwise due.

(5) If any part of the deficiency or an excessive claim for credit is due to fraudulent intent to evade the tax imposed under this ordinance, or to obtain a refund for a fraudulent claim, a penalty of 100% of the deficiency, plus interest as provided in subsection (1), shall be added. The penalty becomes due and payable after a final assessment is issued as provided in section 85 .

**Sec. 83. Additional tax assessment; when interest and penalty not imposed.**

(1) Interest or a penalty shall not be imposed on an additional tax assessment if, within 90 days from final determination of a federal tax liability which also affects the computation of the taxpayer's city income tax liability, the taxpayer prepares and files an amended city income tax return showing income subject to the city tax based upon the final determination of federal income tax liability, and pays the additional tax shown due thereon or makes claim for refund of an overpayment. Interest shall not be allowed on a refund of the city income tax resulting from a final determination of federal tax liability.

(2) Interest and a penalty shall not be imposed for underestimating the tax if the total amount of tax withheld and paid by declaration, equals at least 70% or more of the tax shown due on the final return or 70% or more of the tax shown on the taxpayer's return for the preceding taxable year.

(3) An employee shall not be penalized because of the failure of his employer to report or pay tax withheld from the employee when the employer has in fact withheld the proper amount of tax.

**Sec. 84. Due and unpaid assessment; determination; procedure.**

(1) For tax years before the 1997 tax year and for tax years after the 1996 tax year and for which a city has not entered into an agreement pursuant to section 9 of chapter 1, if the administrator determines that a taxpayer or an employer subject to the provisions of this ordinance has failed to pay the full amount of the tax due or tax withheld, he or she shall issue a proposed assessment showing the amount due and unpaid, together with interest and penalties that may have accrued thereon. The proposed assessment shall be served upon the taxpayer or employer in person or by registered or certified mail to the last known address of the taxpayer or employer. Proof of mailing the proposed assessment is prima facie evidence of a receipt of the proposed assessment by the addressee.

(2) A taxpayer or employer has 30 days after receipt of a proposed assessment within which to file a written protest with the administrator or 30 days after receipt of a notice of intent to assess from the department of treasury to file a written protest with the department of treasury, who shall then give the taxpayer or employer or his or her duly authorized representative an opportunity to be heard and present evidence and arguments in his or her behalf.

**Sec. 85. Final assessment; protest.**

(1) After the hearing as provided in section 84, the administrator or the department shall issue a final assessment setting forth the total amount found due in the proposed assessment or notice of intent to assess and any adjustment he or she may have made as a result of the protest. The final assessment shall be served in the same manner as a proposed assessment or notice of intent to assess. Proof of mailing of the final assessment is prima facie evidence of receipt of the final assessment by the addressee.

(2) If a protest under section 73(3) or 84(2) is not filed in respect to a proposed assessment or notice of intent to assess, a taxpayer or employer is considered to have received a final assessment 30 days after receipt of the proposed assessment.

**Sec. 86. Failure to pay tax; demand; recovery; prosecution.**

If an employer or taxpayer files a return showing the amount of tax or withholding due the city or the department, but fails to pay the amount to the city or the department, the administrator or the department is not required to issue a proposed assessment, notice of intent to assess, or a final assessment. The administrator or the department shall issue a 10-day demand for payment and if no payment or satisfactory evidence of payment is made in the 10 days

the administrator or the department may recover the tax with interest and penalties in the name of the city in any court of competent jurisdiction as other debts are recoverable, or prosecute for violation of this ordinance under section 99, or both.

**Sec. 86a. Authority to impose a lien for taxes.**

(1) Notwithstanding section 86, a city that has a population of more than 600,000 may recover the tax with interest and penalties without a judgment or order from a court of competent jurisdiction by imposing a lien as provided under this section. However, the city's authority to impose a lien under this section only applies to property owned by a natural person and wages, or other income, that are reported on a federal W-2 or 1099 form. A lien imposed pursuant to this section is a lien in favor of the city against all property and rights of property, both real and personal, tangible and intangible, owned at the time the lien attaches, or afterwards acquired by any person liable for the tax, to secure the payment of the tax. The lien shall attach to the property from and after the date that any report or return on which the tax is levied is required to be filed and shall continue for 7 years after the date of attachment. The lien may be extended for another 7 years by refiling under subsection (2) if the refiling is done within 6 months prior to the expiration date of the original 7-year period.

(2) The lien imposed by this section shall take precedence over all other liens and encumbrances, except bona fide liens recorded before the date the lien under this ordinance is recorded. However, bona fide liens recorded before the lien under this ordinance is recorded shall take precedence only to the extent of disbursements made under a financing arrangement before the forty-sixth day after the date of the tax lien recording or before the person making the disbursements had actual knowledge of a tax lien recording under this ordinance, whichever is earlier. A lien shall be recorded and discharged in the same manner required for a state tax lien under the state tax lien registration act, 1968 PA 203, MCL 211.681 to 211.687.

(3) A purchaser or succeeding purchaser of property, from a taxpayer in other than the ordinary course of business, against which a lien has been properly recorded as provided under subsection (2) is personally liable for the unpaid taxes that are due on the lien. The purchaser's liability is limited to the value of the property less any proceeds that were applied to balances due on secured interests which are superior to the lien recorded under subsection (2).

**Sec. 86b. Demand for payment; warrant; levy on property; refusal or failure to surrender property; personal liability; effect of levy on salary or wages; service of warrant-notice levy.**

(1) Notwithstanding section 86, a city that has a population of more than 600,000 may cause a demand to be made on a taxpayer for the payment of a tax due under this ordinance. However, the city's authority to cause a demand for payment under this section only applies to property owned by a natural person and wages, or other income, that are reported on a federal W-2 or 1099 form. If the liability remains unpaid for 10 days after the demand and proceedings are not taken to review the liability, a warrant may be issued. Except as provided in this section, the city, through any officer or agent or person authorized to serve process or through authorized employees, may levy on all property and rights to property, real and personal, tangible and intangible, belonging to the taxpayer or on which a lien is provided by law for the amount of the deficiency, and sell the real and personal property of the taxpayer found within the state for the payment of the amount due, the cost of executing the warrant, and the additional penalties and interest. Except as provided in subsection (6), the officer or agent or person serving the warrant shall proceed upon the warrant in all respects and in the same manner as prescribed by law in respect to executions issued against property upon judgments by a court of record. A city, through its authorized representative, may bid for and purchase any property sold pursuant to this section.

(2) A person that refuses or fails to surrender any property or rights to property subject to levy, upon demand by the city, is personally liable to the city in a sum equal to the value of the property or rights not surrendered, but not exceeding the amount due for which the levy was made, together with costs and interest on the sum at the rate provided in section 82 from the date of the levy. Any amount, other than costs, recovered under this subsection shall be credited against the liability for the collection of which the levy was made.

(3) In addition to the personal liability imposed by subsection (2), if a person required to surrender property or rights to property fails or refuses to surrender the property or rights to property without reasonable cause, the person shall be liable for a penalty equal to 50% of the amount recoverable under subsection (2), none of which penalty shall be credited against the liability for the collection of which the levy was made.

(4) A person in possession of, or obligated with respect to, property or property rights subject to levy and upon which a levy has been made who, upon demand of the city, surrenders the property or rights to property or discharges the obligation to the city or who pays a liability under subsection (1) shall have that obligation to a person delinquent in payment of a tax reduced in an amount equal to the property or rights to property surrendered or amounts paid to the city.

(5) Property described in section 6334 of the internal revenue code of 1986, 26 USC 6334, is exempt from levy under this section for an unpaid tax. The effect of a levy on salary or wages shall be continuous from the date the levy is first made until the liability out of which the levy arose is satisfied.

(6) A warrant notice of levy may be served by certified mail, return receipt requested, on any person in possession of, or obligated with respect to, property and rights to property, real and personal, tangible and intangible, belonging to the taxpayer or on which a lien is provided by law. The date of delivery on the receipt shall be the date the levy is made. A person may, upon written notice to the department, on behalf of the city, have all notices of levy sent to 1 designated office.

**Sec. 86c. Recording release of a lien; conditions for filing; release of levy; conditions for service; reimbursement of fee; certificate of withdrawal; release of levy.**

(1) If a city that has a population of more than 600,000 files for recording a lien imposed pursuant to this ordinance against property or rights of property to satisfy a tax liability and the city determines that the tax liability out of which the lien arose is satisfied, the city shall file for recording a release regarding the property or rights of property in the same manner required for a state tax lien under the state tax lien registration act, 1968 PA 203, MCL 211.681 to 211.687, not more than 20 business days after funds to satisfy the tax liability out of which the lien arose have been applied to the taxpayer's account.

(2) If the city files for recording a lien imposed pursuant to this ordinance against property or rights of property to satisfy a tax liability and upon request the city determines that the taxpayer named on the recorded lien does not have any interest in certain properties owned by another person, the city shall file for recording a certificate of nonattachment regarding the property or rights of property, in the same manner as required for a state tax lien under the state tax lien registration act, 1968 PA 203, MCL 211.681 to 211.687, with all due haste but not more than 5 business days after the city determines that the lien is recorded or filed against property or rights of property to which the city does not have a lien interest under section 86a. The city shall clearly indicate on the certificate of nonattachment that the taxpayer named on the recorded lien does not have any interest in the property or rights of property of the other person.

(3) If a warrant or warrant-notice of levy is issued and served upon a person to levy on property or rights of property to satisfy a tax liability and the city determines that the tax liability out of which the warrant or warrant-notice of levy arose is satisfied, the city shall serve a release of levy regarding the property or rights of property on the person that was served the warrant or warrant-notice of levy not more than 10 business days after funds to satisfy the tax liability out of which the warrant or warrant-notice of levy arose have been applied to the taxpayer's account.

(4) If a warrant or warrant-notice of levy is issued and served upon a person to levy on property or rights of property to satisfy a tax liability and the city determines that the property or rights of property are not subject to levy under section 86a, the city shall serve a release of levy regarding the property or rights of property on the person that was served the warrant or warrant-notice of levy with all due haste but not more than 5 business days after the city determines that the property or rights of property are not subject to levy under section 86a, the city shall clearly indicate on the release of levy that the property or rights of property were not subject to levy under section 86a.

(5) If a person is required to pay a fee to the city, a bank, or other financial institution as the result of an erroneous recording or filing of a lien as described in subsection (2), or an erroneous issuance and service of a warrant or warrant-notice of levy as described in subsection (4), the city shall reimburse the fee to that person.

(6) If the city receives money to satisfy a tax liability or liabilities or receives information that would cancel that tax liability or those liabilities and subsequently files a lien for recording specifying that tax liability or those liabilities, the city, upon request and upon a determination by the city that the lien was filed and recorded in error, with all due haste, but not more than 5 business days after the city determines that it has erroneously filed a lien for recording, shall file for recording a certificate of withdrawal for that tax liability or those liabilities which were satisfied which states that the recorded lien for that tax liability or those liabilities was filed in error.

(7) If the city receives money to satisfy a tax liability or liabilities or receives information that would cancel that tax liability or those liabilities and subsequently issues a warrant or warrant-notice of levy specifying that liability or those liabilities pursuant to this ordinance, upon request and upon a determination by the city that the warrant or warrant-notice of levy was issued in error, with all due haste, but not more than 5 business days after the department determines that it has erroneously issued a warrant or warrant-notice of levy, the city shall issue a release of levy for that tax liability or those liabilities which were satisfied which states that the levy for that tax liability or those liabilities was issued in error.

**Sec. 87. Jeopardy assessment; procedure.**

(1) If the administrator or the department believes that collection of the tax withheld from an employee's compensation as imposed under this ordinance will be jeopardized by delay, the administrator or the department of treasury, whether or not the time otherwise prescribed by the ordinance for making the return and paying or depositing the tax has expired, shall immediately assess the tax and interest and additions provided by the ordinance. The tax, interest, and additions shall become immediately due and payable and the administrator or the department of treasury shall make an immediate notice and demand for payment, notwithstanding when the withheld tax is otherwise due and payable.

(2) If the administrator or the department finds that a person liable for the tax administered under this ordinance intends quickly to depart from the city or to remove property from this city, to conceal the person or the person's property in the city, or to do any other act tending to render wholly or partly ineffectual proceedings to collect the tax unless proceedings are brought without delay, the administrator or the department of treasury shall give notice of the findings to the person, together with a demand for an immediate return and immediate payment of the tax. A warrant or warrant-notice of levy may issue immediately upon issuance of a jeopardy assessment. When the warrant or warrant-notice is issued, the tax shall become immediately due and payable. If the person is not in default in making a return or paying a tax prescribed by this ordinance, and furnishes evidence satisfactory to the administrator or the department of treasury that the return will be filed and the tax to which the finding relates will be paid, then the tax shall not be payable before the time otherwise fixed for payment.

**Sec. 88. Statute of limitations; waiver; payment of tax.**

(1) Except in case of fraud, failure to file a return, failure to comply with the withholding provisions of this ordinance, or omission of substantial portions of income subject to the tax, an additional assessment shall not be made after 4 years from the date the return was due, including extensions, or from the date the return was filed, or the tax was paid, whichever is later. An omission of more than 25% of gross income is considered a substantial omission of income. Under this section a declaration of estimated tax is not considered a return.

(2) If the federal internal revenue service and a taxpayer execute a waiver of the federal statute of limitations, as to a taxable year, the expiration of the period within which an additional assessment may be made by the administrator or the department or a claim for refund filed by the taxpayer for such taxable year for city income tax purposes shall be 6 months from the date of expiration of the waiver.

**Sec. 89. Statute of limitations; refund.**

(1) Except as otherwise provided in this ordinance, a tax erroneously paid shall not be refunded unless a claim for refund is made within 4 years from the date the payment was made or the original final return was due, including extensions, whichever is later, unless the administrator or the department and the taxpayer mutually agree to extend the time for assessment or refund. Under this section a declaration of estimated tax is not considered a return. Upon denial of a refund a taxpayer may follow the same procedure for appeal as provided in the case of a deficiency assessment.

(2) A tax deficiency as finally determined and interest or penalties thereon shall be paid within 30 days after receipt of a final assessment if no appeal is made.

**Sec. 91. Income tax board of review; appointment of city residents; selection of officers; adoption, filing, inspection, and copies of rules of procedure; quorum; conflict of interests; record of transactions and proceedings; availability of record and other writings to public; conducting business at public hearing; notice of hearing.**

(1) The governing body of the city shall appoint an income tax board of review consisting of 3 residents of the city who are not city officials or city employees.

(2) The board shall select a chairperson, secretary, and other officers as the board considers necessary and shall adopt rules governing the procedure for hearings and other procedures. The rules shall be filed in the office of the city clerk and shall be available for inspection by an interested person. A copy of the rules shall be furnished on request to an interested person.

(3) A majority of the board members shall constitute a quorum for an action by or hearing before the board, or for any other purpose. A member of the board shall not act on a matter in which the member has a financial interest other than the common public interest. A record shall be kept of the board's transactions and proceedings. The record and any other writing prepared, owned, used, in the possession of, or retained by the board of review in the

performance of an official function shall be made available to the public in compliance with Act No. 442 of the Public Acts of 1976.

(4) The business which the board may perform shall be conducted at a public hearing of the commission held in compliance with Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws. Public notice of the time, date, and place of the hearing shall be given in the manner required by Act No. 267 of the Public Acts of 1976.

**Sec. 92. Income tax board of review; notice of appeal; transcript; hearing; confidential tax data; payment of deficiency or refund.**

(1) A taxpayer or employer may file a written notice of appeal with the secretary of the income tax board of review not more than 30 days after receipt by the taxpayer or employer of a final assessment, denial in whole or part of a claim for refund, decision, order, or special ruling of the administrator or the department. Upon receipt of the notice of appeal, the income tax board of review shall notify the administrator or the department, who shall forward within 15 days to the income tax board of review a certified transcript of all actions and findings taken by the administrator or the department that relate to the matter under appeal. The appellant or his or her duly authorized representative may inspect the transcript.

(2) The income tax board of review shall grant the appellant a hearing at which the appellant or his or her duly authorized representative and the administrator or the department have an opportunity to present evidence that relates to the matter under appeal. After conclusion of the hearing, the income tax board of review by a majority vote of its 3 members shall affirm, reverse, or modify the final assessment, denial, decision, or order under appeal and furnish a copy of the decision to the appellant and to the administrator or the department.

(3) The provisions of this ordinance as to the confidential character of tax data are applicable to proceedings pending before or submitted to the income tax board of review.

(4) A tax deficiency or refund and any interest or penalties on a deficiency or refund shall be paid not more than 30 days after receipt by the taxpayer or employer or by the city or the department of notice of determination by the income tax board of review if no further appeal is made.

**Sec. 93. Appeal to state tax commissioner or tax tribunal; procedure.**

(1) A taxpayer, employer, or other person aggrieved by a rule adopted by the administrator may file a timely appeal to the state commissioner of revenue in the form and manner prescribed by the commissioner.

(2) A taxpayer or employer aggrieved by a final assessment, denial, decision, or order of the income tax board of review other than a decision under subsection (1), may appeal the assessment, denial, decision, or order to the tax tribunal not more than 35 days after the final assessment, denial, decision, or order was issued. The uncontested portion of a final assessment, order, or decision shall be paid as a prerequisite to appeal. An appeal under this subsection shall be perfected as provided under the tax tribunal act, Act No. 186 of the Public Acts of 1973, being sections 205.701 to 205.779 of the Michigan Compiled Laws, and rules promulgated under that act for the tax tribunal.

(3) Not more than 35 days after a final order of the tax tribunal, the taxpayer, employer, or other person shall pay the city the taxes, interest, and penalty found due to the city or the department, and the city or the department shall refund to the taxpayer, employer, or other person any amount found to have been overpaid by the taxpayer, employer, or other person.

**Sec. 94. Appeal to court of appeals or supreme court; procedure.**

(1) If a taxpayer, employer, other person, or the city or the department is aggrieved by a decision of the tax tribunal, the aggrieved party may take an appeal by right from a decision of the tax tribunal to the court of appeals. The appeal shall be taken on the record made before the tax tribunal. The taxpayer, employer, other person, city, or department may take further appeal to the supreme court in accordance with the court rules provided for appeals to the supreme court.

(2) An assessment is final, conclusive, and not subject to further challenge after 90 days after the issuance of the final assessment, decision, or order of the administrator or the department, and a person is not entitled to a refund of any tax, interest, or penalty paid pursuant to an assessment unless the aggrieved person has appealed the assessment in the manner provided by this ordinance.

**Sec. 95. Payment to taxpayer from city general fund or city income tax trust fund.**

For tax years before the 1997 tax year and for tax years after the 1996 tax year and for which a city has not entered into an agreement pursuant to section 9 of chapter 1, if a taxpayer is found by a decision on an appeal entitled to

recover any sum paid and further appeal has not been taken within the time permitted, the sum shall be paid from the general fund of the city. For tax years after the 1996 tax year and for which a city has entered into an agreement pursuant to section 9 of chapter 1, if a taxpayer is found by a decision on an appeal to be entitled to recover any sum paid and further appeal has not been taken within the time permitted, the sum shall be paid from the city income tax trust fund established in section 5 of chapter 1.

**Sec. 99. Violations; misdemeanor; penalties.**

Each of the following violations of this ordinance is a misdemeanor and is punishable, in addition to the interest and penalties provided under the ordinance, by a fine not exceeding \$500.00, or imprisonment for a period not exceeding 90 days, or both:

- (a) Willful failure, neglect or refusal to file a return required by the ordinance.
- (b) Willful failure, neglect or refusal to pay the tax, penalty or interest imposed by the ordinance.
- (c) Willful failure of an employer or person to withhold or pay to the city a tax as required by the ordinance.
- (d) Refusal to permit the city or an agent or employee appointed by the administrator in writing to examine the books, records and papers of a person subject to the ordinance.
- (e) Knowingly filing an incomplete, false, or fraudulent return.
- (f) Attempting to do or doing anything whatever in order to avoid full disclosure of the amount of income or to avoid the payment of any or all of the tax.

V4

## MEMORANDUM

**DATE:** August 11, 2021

**TO:** Curtis Holt, City Manager

**FROM:** Nicole Hofert, Director of Planning and Economic Development

**RE:** Consumers Energy Foundation Grant

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Wyoming's Planning and Economic Development staff submitted a letter of interest for the 2021 Consumers Energy Prosperity Awards back in June. The award is administered by the Consumers Energy Foundation and is intended to support the organization's Neighborhood Revitalization and Arts and Culture priorities.

The submitted request was for \$250,000 to fund a new Burton Street Art and Culture District that will include the purchase and installation of public art that strengthens community bonds, spurs new investment, and preserves and celebrates the predominately Hispanic neighborhood's cultural identity.

This week staff learned that the initial proposal has been shortlisted and we have been invited to submit a full proposal. The full proposal is due later this month and it is expected that award notifications will occur in October.

Staff looks forward to joining with you in presenting this information at the August 16, 2021 City Council Meeting.

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