

AGENDA
WYOMING CITY COUNCIL MEETING
CITY COUNCIL CHAMBERS
MONDAY, DECEMBER 6, 2021, 7:00 P.M.

- 1) Call to Order**
- 2) Invocation** – Pastor Cynthia Palmer, Grand Rapids First 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 November 15, 2021 Regular Meeting
- 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.
- 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
21-18 Sale of City Property via Quit Claim Deed at 1155 28th Street SW (MDOT)
- 13) Budget Amendments**
 - a) Budget Amendment No. 45 – To Appropriate \$373,242.00 of Additional Budgetary Authority to Provide Funding for Indigent Defense Attorney Services Performed by the Kent County Office of the Defender and Conflict Counsel and Recognize the State Grant Revenue Received to Date
 - b) Budget Amendment No. 46 – To Appropriate \$19,150.00 of Additional Budgetary Authority to Provide Funding for Additional Overtime Payments Required by FLSA

14) Consent Agenda

- a) Of Appreciation to Margaret Cartwright for Her Service as a Member of the Tree Commission for the City of Wyoming
- b) To Set Meeting Days and Times for the City of Wyoming Boards and Commissions
- c) To Establish and Change Certain Regular City Council Meeting Dates in the 2022 Calendar Year

15) Resolutions

- d) To Amend a Portion of the City of Wyoming Fee Schedule
- e) To Authorize the City Manager to Execute an Employment Agreement with the Director of Information Technology
- f) To Approve City Employment for a Relative of an Appointive Official
- g) To Approve and Adopt a Multi-Product Resolution for Treasury Management Services with Fifth Third Bank
- h) To Grant Preliminary Plat Tentative Approval for Rivertown Valley Plat Phases 7-9
- i) To Approve City Manager Authorization of National Opioid Settlement on Behalf of the City of Wyoming

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

- j) To Approve and Authorize Signing a Fund Advance Agreement
- k) To Approve and Authorize Signing a Site 36 Development Contract
- l) To Approve Engagement of Dickinson Wright PLLC for Property Tax Appeal Legal Services
- m) To Authorize the Mayor and City Clerk to Execute an Agreement for Surveying Services
- n) To Accept a Proposal from Materials Testing Consultants, Inc. for Engineering Testing Services and to Authorize the Mayor and City Clerk to Execute the Contract
- o) To Accept a Proposal from Land Matters, Inc. for Property and Right-of-Way Acquisition Services and to Authorize the Mayor and City Clerk to Execute the Contract
- p) To Authorize the Purchase of Two Generator/Light Tower Combination Units
- q) To Authorize an Emergency Repair Payment to Plummer's Environmental Services, Inc. and to Approve the Attached Budget Amendment (Budget Amendment No. 47)
- r) To Accept a Proposal from Agile Safety to Provide Fall Protection Systems on Five Ground Storage Tanks and to Authorize the Mayor and City Clerk to Execute the Contract
- s) To Authorize the Purchase of Tires
- t) To Award the Bid for Towing and Storage of Vehicles to Merl's Towing Services, Inc. and to Authorize the Mayor and City Clerk to Execute the Contract
- u) To Authorize Entering into an Agreement with Flock Safety for the Purchase of License Plate and Vehicle Recognition Cameras and to Authorize the City Manager to Execute the Agreement
- v) To Authorize the Purchase of Public Safety Uniforms
- w) To Accept a Quote from SHI for an Annual Subscription of Sophos Advanced Endpoint Detection and to Authorize the City Manager to Accept Future Renewals

17) Ordinances

- 26-21 To Amend Chapter 90 of the Code of Ordinances by Amending Article 11, Division 4, Section 90-1410 (4.0) and Table 90-1410 (Final Reading)

1-22 To Amend Section 90-32 of the Code of Ordinances by Adding Subsection (132) to Rezone 2777 28th St SW and from B-2 to I-1 (First Reading)

18) Informational Material

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

City of **Wyoming** Michigan

December 6, 2021

City Manager | 1155 28th St SW, Wyoming, MI 49509
616.530.7272 | Fax 616.261.7103 | wyomingmi.gov

Wyoming City Council
Wyoming, Michigan

City Manager's Report No. 21-18

Subject: Sale of City Property via Quit Claim Deed at
1155 28th Street, SW

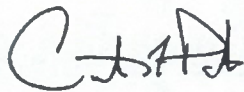
Councilmembers:

Michigan Department of Transportation (MDOT), has a proposed project to resurface 28th Street in 2022. As part of the project, MDOT will upgrade sidewalk ramps to current standards. With the ramp reconstruction, MDOT will encroach on the City of Wyoming property during the construction process and has submitted the attached Consent to Construct/Reconstruct Sidewalk form for the acquisition of a temporary construction easement. The attached Consent to Construct/Reconstruct Sidewalk form from MDOT grants right to encroach on 22 square feet of City Hall property for the reconstruction of the sidewalk ramp at 1155 28th Street, SW.

Grantor:	City of Wyoming
Grantee:	Michigan Department of Transportation (MDOT)
Address:	1155 28 th Street, SW
Size:	22 SF
Consideration:	\$300

It is recommended that the City Council approve the Consent to Construct/Reconstruct Sidewalk, which has been approved as to form by the City Attorney.

Respectfully submitted,



Curtis L. Holt
City Manager

Attachments: Good Faith Offer
Consent to Construct/Reconstruct Sidewalk form



CITY COUNCIL

Sheldon DeKryger John Fitzgerald Kent Vanderwood Marissa Postler Robert Postema Sam Bolt
Jack A. Poll, Mayor



STATE OF MICHIGAN
DEPARTMENT OF TRANSPORTATION
LANSING

GRETCHEN WHITMER
GOVERNOR

PAUL C. AJEGBA
DIRECTOR

Good Faith Written Offer Letter
November 16, 2021

City of Wyoming
1155 28th St. SW
Wyoming, MI 49509

CS: 41062 JN: 200585 Parcel: 613

To whom it may concern:

The Michigan Department of Transportation (MDOT) has found it necessary to acquire temporary property rights (Consent to Construct Sidewalk) to your properties located at 1155 28th St. SW, Wyoming, Michigan 49509 for a road project involving cold milling, resurfacing and sidewalk ramp improvements to comply with ADA requirements. In accordance with state laws and federal regulations governing the purchase of property by MDOT, known as the Eminent Domain process, this letter is our written Good Faith Offer to purchase this property right.

MDOT has reviewed your property as it relates to the needs for the project and has prepared a Market Data Study to determine fair market value at \$11.00.

We are offering to pay you a total of \$300.00. This constitutes our written Good Faith Offer, which represents payment for this property right (legal description on the attached Consent to Construct Sidewalk).

Enclosed is a copy of the Market Data Study upon which our Good Faith Offer is based. Please review all the materials carefully. If we missed anything that you believe to be significant to the amount of money you should be paid, please let us know, in writing, within 30 calendar days of the date of this letter. We are also available to discuss this offer with you to ensure that you understand all the documentation and that we answer whatever questions you may have related to this Good Faith Offer and the Eminent Domain process. MDOT will review any items you identify in your written response and let you know if we will make any changes to our Good Faith Offer.

The Good Faith Written Offer we are making is for temporary property rights for all individuals and entities that may have a property interest in the parcel. If there is more than one person or entity with an interest in the property, you can decide among yourselves how the proceeds of sale should be divided, or you can request a court to decide how to divide the payment.

If you agree and are willing to accept our offer, please sign, date, and return this Good Faith Offer as well as the enclosed Consent to Construct Sidewalk and W-9 documents. Your signature on this Good Faith Offer Letter and the Consent to Construct Sidewalk form needs to be witnessed by someone and the witness needs to also sign and date the form. We will also need the enclosed W-9 executed to register and issue your payment.

Thank you in advance for your consideration of our Good Faith Written Offer and for your cooperation with MDOT. Please note that this offer is valid only until 12-16-2021, after which time MDOT may pursue an eminent domain case if we have not reached an agreement. If you have any questions about the project, this Good Faith Written Offer, your rights as a property owner, or any other issues, please contact me at 616-250-0672.

Sincerely,



India Heard (Property Analyst)

Enclosures

Acceptance of Good Faith Written Offer

We, the undersigned owners, accept the Michigan Department of Transportation's (MDOT's) Good Faith Written Offer of \$300.00 for the property rights detailed in the Consent to Construct Sidewalk document and presented in MDOT's Good Faith Written Offer letter dated 11-16-2021. We agree to the terms of the Consent to Construct Sidewalk:

Witness:	Date:	Property Owners:	Date:
_____	_____	_____	_____
_____	_____	_____	_____
_____	_____	_____	_____

CONTROL SECTION 41062	JOB NO. 200585	PARCEL 613	NAME City of Wyoming
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CONSENT TO CONSTRUCT/RECONSTRUCT SIDEWALK

MDOT 0640C (11/18)

TO THE MICHIGAN DEPARTMENT OF TRANSPORTATION
*This information required by Act 286, P.A. of 1964, in order to
 grant Michigan Department of Transportation access to property.*

For the sum of \$300.00 (Three Hundred Dollars -----)

the grantors City of Wyoming

1155 28th St. Wyoming, MI 49509

grant to the Michigan Department of Transportation, whose address is 425 W. Ottawa, P.O. Box 30050, Lansing, MI 48909, consent to construct sidewalk including, but not limited to, the right to any drainage structure replacement or repair, the right to remove trees, shrubs, and vegetation as necessary in the judgment of the Michigan Department of Transportation and the right of temporary occupancy by public utilities upon a parcel of land situated in the City _____ of Wyoming _____.

City/Township
 County of Kent _____ State of Michigan, described as:

Consent to remove, grade, and replace the existing sidewalk located along the Southeasterly corner of the following described property, adjacent to Highway M-11 (28th Street SW), and shown on the attached sketch.

The land described above for grading purposes contains 22 square feet, more or less.

The Michigan Department of Transportation is required to comply with a portion of the American with Disabilities Act (ADA), as mandated by the federal government, as it pertains to pedestrian sidewalk crossing ramps at intersections.

Property Tax Description: N 65 FT OF S 891 FT OF E 60 FT OF W 310 FT OF SW 1/4 SE 1/4 ALSO N 166 FT OF S 826 FT OF W 310 FT OF SW 1/4 SE 1/4 ALSO W 330 FT OF S 660 FT OF SW 1/4 SE 1/4 EX COM 50 FT N & 33 FT E FROM SW COR THERE OF TH N 20 FT TH SELY TO A PT 20 FT E FROM BEG TH W TO BEG & EX COM AT S 1/4 COR TH N 0D 39M 41S W 660.0 FT TH S 88D 43M 37S E 33.02 FT TO BEG OF THIS DESC - TH S 88D 43M 37S E 8.0 FT TH S 0D 39M 41S E 216.97 FT TH S 88D 43M 37S E 6.0 FT TH S 0D 39M 41S E 387.0 FT TH N 44D 41 M 43S W 20.13 FT TH N 0D 39M 41S W 589.97 FT TO BEG OF EXCEPTION ALSO N 200 FT OF S 250 FT OF E 120 FT OF W 450 FT OF SE 1/4 SEC 11 T6N R12W 6.81 A. ALSO S 80 FT OF LOT 10* LINGER PLAT (41-17-11-451-027)
 1155 28th Street SW, Wyoming, MI 49509

This consent is effective from date of signature until 11-15-2022

Signed this _____ day of _____, 20____

X _____
 Grantor - _____
 Title - _____

X _____
 Grantor - _____
 Title - _____

X _____
 Grantor - _____
 Title - _____

X _____
 Grantor - _____
 Title - _____

MDOT reserved its rights to bring federal or state cost recovery actions against the present owners, and any other potentially responsible parties, arising out of release of hazardous substances on the property.

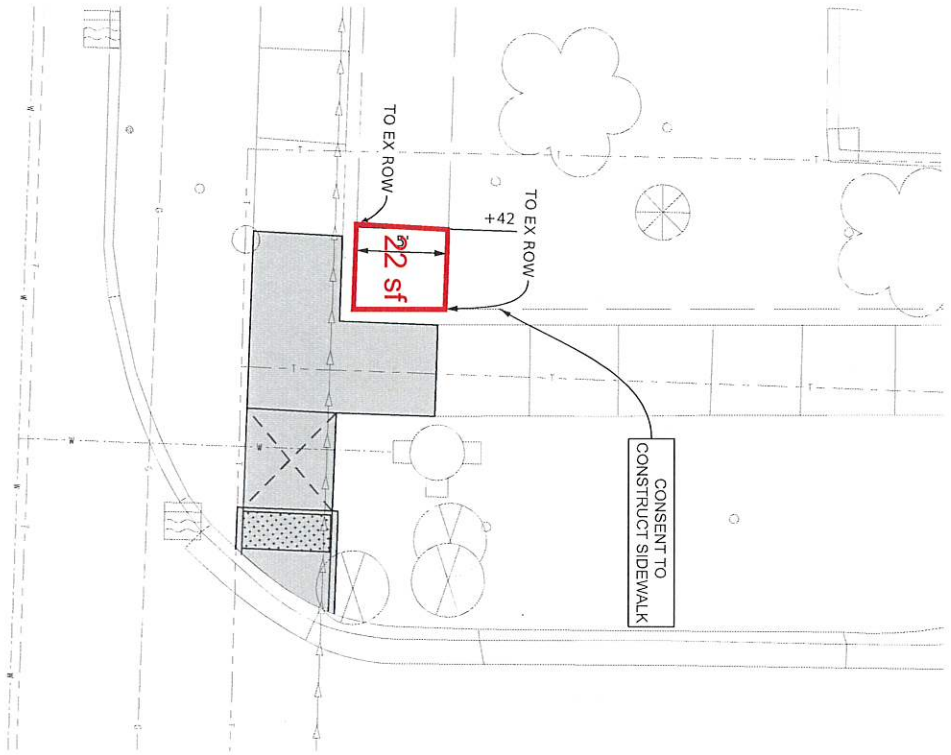
PROPERTY TAX CODE 41-17-11-451-027		STATIONING N/A	
CONTROL SECTION 41062	PARCEL 613	NAME City of Wyoming	
JOB NO 200585	FEDERAL ITEM NO N/A	FEDERAL PROJECT N/A	

41-17-11-451-027
 City of Wyoming
 1155 28 St SW

613

DONCASTER AVE

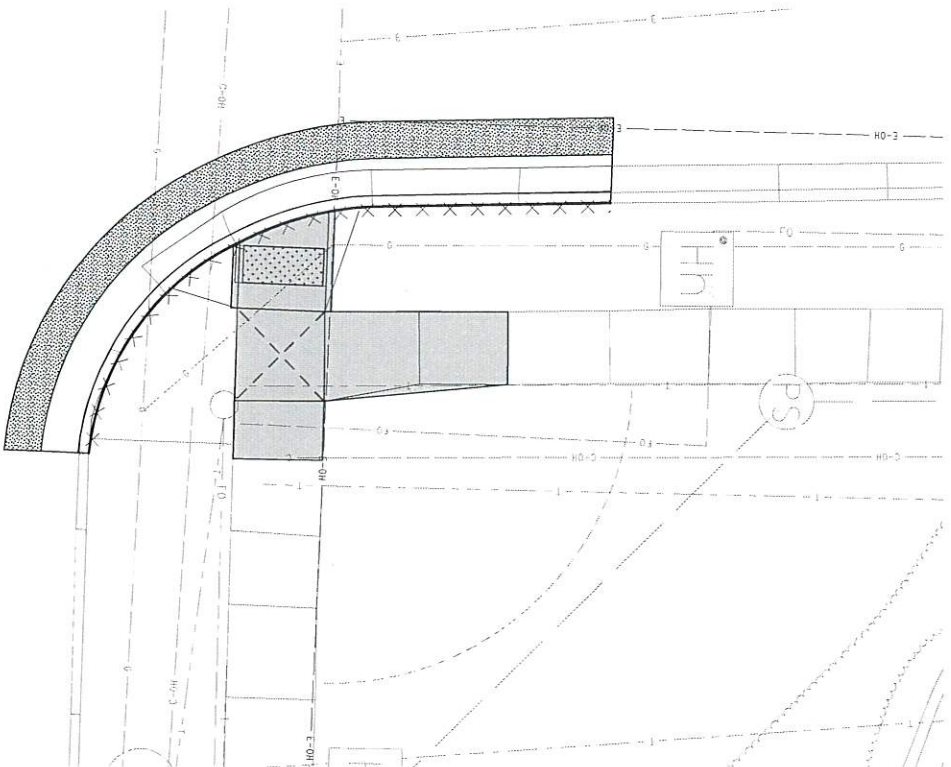
JENKINS AVE



M-11/28TH ST

M-11/28TH ST

M-11/28TH ST



M-11/28TH ST

MDOT
 Michigan Department of Transportation
 FILE: 210817_M11_DETGR017.dgn



DATE: 08/24/21
 DESIGN UNIT: WILSON
 TSC: GRAND RAPIDS

CS: 41062
 JN: 210817A

DETAIL GRADES
 M-11 FROM CHURCH AVE TO US-131
 NW DONCASTER AVE & NE JENKINS AVE ADA RAMPS

DRAWING SHEET
 M-11 SECT 1
 DETGRD 017



OFFICE MEMORANDUM

DATE: November 16, 2021
TO: File - Parcel
FROM: India Heard
Region Real Estate Agent
Grand Rapids Region
SUBJECT: Control Section 41061, Job # 200585, Parcel 613

This parcel of land has been valued based upon comparable sales of similar land within the area with the following value established:

	Actual Amt.	Rounded
SIDEWALK CONSENT AREA 22 SF x \$5.00 / SF x 10% =	\$11.00	\$300.00

TOTAL = \$300.00

To efficiently expedite the project and to forestall additional cost to the project, the acquisition agent has been authorized to offer the owner the following:

\$ 300.00 Sidewalk Consent Rights

Total: \$ 300.00

Region Real Estate Agent

CITY OF WYOMING BUDGET AMENDMENT

Date: December 6, 2021

Budget Amendment No. 046

To the Wyoming City Council:

A budget amendment is requested for the following reason: To appropriate \$19,150.00 of additional budgetary authority to provide funding for additional overtime payments required by FLSA.

<u>Description/Account Code</u>	<u>Current</u>	<u>Increase</u>	<u>Decrease</u>	<u>Amended</u>
<u>General Fund</u>				
District Court - District Court - Overtime Salaries				
101-136-13600-708.000	5,000.00	75.00		5,075.00
City Clerk - City Clerk - Overtime Salaries				
101-215-21500-708.000	-	75.00		75.00
Police - Administration Services - Salaries-Uniform Overtime				
101-305-30500-709.000	45,000.00	750.00		45,750.00
Police - Detective Bureau - Salaries-Uniform Overtime				
101-305-31000-709.000	105,000.00	2,200.00		107,200.00
Police - Forensic Science Unit - Salaries-Overtime				
101-305-31200-708.000	15,000.00	375.00		15,375.00
Police - Patrol - Salaries-Uniform Overtime				
101-305-31500-709.000	440,000.00	7,400.00		447,400.00
Fire - Prevention - Salaries-Uniform Overtime				
101-337-34100-709.000	10,000.00	250.00		10,250.00
Fund Balance/Working Capital (Fund 101)		-	11,125.00	
<u>Major Streets Fund</u>				
Public Works - Street Maintenance - Salaries-Overtime				
202-441-46300-708.000	23,000.00	1,600.00		24,600.00
Public Works - Traffic Services - Salaries-Overtime				
202-441-47400-708.000	11,000.00	500.00		11,500.00
Fund Balance/Working Capital (Fund 202)		-	2,100.00	
<u>Local Streets Fund</u>				
Public Works - Traffic Services - Salaries-Overtime				
203-441-47400-708.000	1,000.00	300.00		1,300.00
Fund Balance/Working Capital (Fund 203)		-	300.00	

CITY OF WYOMING BUDGET AMENDMENT

Date: December 6, 2021

Budget Amendment No. 046

<u>Description/Account Code</u>	<u>Current</u>	<u>Increase</u>	<u>Decrease</u>	<u>Amended</u>
<u>Parks & Recreation Fund</u>				
Parks and Recreation - Administration - Salaries-Overtime				
208-752-75200-708.000	600.00	50.00		650.00
Parks and Recreation - Facility - Salaries-Overtime				
208-752-75600-708.000	32,000.00	2,000.00		34,000.00
Fund Balance/Working Capital (Fund 208)		-	2,050.00	
<u>Capital Improvement Fund</u>				
Public Works - Administration - Salaries-Overtime				
400-441-17500-708.000	50,000.00	1,125.00		51,125.00
Fund Balance/Working Capital (Fund 400)		-	1,125.00	
<u>Sewer Fund</u>				
Wastewater Utility - Treatment - Salaries-Overtime				
590-590-54300-708.000	105,800.00	1,650.00		107,450.00
Wastewater Utility - Treatment-Lab Services - Salaries-Overtime				
590-590-54310-708.000	17,000.00	400.00		17,400.00
Fund Balance/Working Capital (Fund 590)		-	\$2,050	
<u>Water Fund</u>				
Water Utility - T & D-Pipeline to Gezon - Salaries-Overtime				
591-591-56300-708.000	5,000.00	400.00		5,400.00
Fund Balance/Working Capital (Fund 591)		\$ -	\$ 400.00	

Recommended: *Kate Barton*
Senior Accountant

C. J. Hobbs
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 MARGARET CARTWRIGHT FOR HER SERVICE
AS A MEMBER OF THE TREE COMMISSION
FOR THE CITY OF WYOMING

WHEREAS:

1. Margaret Cartwright has served faithfully and effectively as a member of the Tree Commission since June 19, 2017.

NOW, THEREFORE, BE IT RESOLVED:

1. Councilmembers and citizens of the City of Wyoming wish to express their deep appreciation to Margaret Cartwright for her dedicated service as a member of the Tree 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 December 6, 2021.

Kelli A. Vandenberg, Wyoming City Clerk

RESOLUTION NO. _____

RESOLUTION TO SET MEETING DAYS AND TIMES FOR THE
CITY OF WYOMING BOARDS AND COMMISSIONS

WHEREAS:

1. Section 2.113 of the City Code of Ordinances states that days and times of board and commission meetings shall be set by City Council resolution.

NOW, THEREFORE, BE IT RESOLVED:

1. Wyoming City Council does hereby set the days and times for the Wyoming Boards and Commissions as listed on the attached schedule.

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 December 6, 2021.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENT:

2022 Boards & Commissions Calendar

Resolution No. _____

CITY OF WYOMING
BOARDS - COMMISSIONS - COMMITTEES
2022 MEETING SCHEDULE

BOARD OF REVIEW	
Tuesday, March 8, 12:00 p.m.– 3:00 p.m.	City Hall - 1155 28 th Street SW
Monday, March 14, 9:00 a.m. – 12:00 p.m. & 1:00 p.m. - 4:00 p.m.	
Tuesday, March 15, 1:00 p.m. – 4:00 p.m. & 6:00 p.m. – 9:00 p.m.	
Thursday, March 17, 9:00 a.m. – 12:00 p.m.	
Tuesday, July 19, 2:00 p.m. – 5:00 p.m.	
Tuesday, December 13, 2:00 p.m. – 5:00 p.m.	
BUILDING AUTHORITY	
At the call of the Chair	City Hall - 1155 28 th Street SW
COMMUNITY DEVELOPMENT COMMITTEE	
At the call of the Chair	City Hall - 1155 28 th Street SW
COMMUNITY ENRICHMENT COMMISSION	
7:00 p.m. on the 3 rd Tuesday of each month (no meeting in June, July, and August)	City Hall - 1155 28 th Street SW
CONSTRUCTION BOARD OF APPEALS	
3:00 p.m. on the 2 nd Monday of each month at the call of the Chair	City Hall - 1155 28 th Street SW
DOWNTOWN DEVELOPMENT AUTHORITY	
7:30 a.m. on the 2 nd Tuesday of January, April, July, and October	City Hall - 1155 28 th Street SW
ECONOMIC DEVELOPMENT CORPORATION AND BROWNFIELD REDEVELOPMENT AUTHORITY	
4:00 p.m. on the 4 th Monday: January, April, July, and October	City Hall - 1155 28 th Street SW
ELECTION COMMISSION	
At the call of the City Clerk	City Hall - 1155 28 th Street SW
GREATER WYOMING COMMUNITY RESOURCE ALLIANCE	
9:00 a.m. on the 4 th Tuesday of each month	City Hall - 1155 28 th Street SW
HEALTH INSURANCE TRUST BOARD	
3:00 p.m. on the 3 rd Monday of each month	City Hall - 1155 28 th Street SW
HISTORICAL COMMISSION	
6:30 p.m. on the 3 rd Wednesday of each month (no meeting in December)	Wyoming Public Library - 3350 Michael SW
HOUSING BOARD OF APPEALS	
7:00 p.m. on the 1 st Thursday of each month at the call of the Chair	City Hall - 1155 28 th Street SW
HOUSING COMMISSION	
1:00 p.m. on the 3 rd Tuesday: January 18, March 15, May 17, August 16, October 18, December 20	Housing Commission - Westwood Apartments 2450 36 th Street SW
OFFICERS COMPENSATION COMMISSION	
In every odd-numbered year at the call of the Chair	City Hall - 1155 28 th Street SW
PARKS AND RECREATION COMMISSION	
7:00 p.m. on the 2 nd Wednesday of each month (no meeting in July & Aug.)	City Hall - 1155 28 th Street SW
PLANNING COMMISSION	
7:00 p.m. on the 3 rd Tuesday of each month	City Hall - 1155 28 th Street SW
RETIREMENT BOARD	
3:00 p.m. on the 3 rd Monday of each month	City Hall - 1155 28 th Street SW
TREE COMMISSION	
12:30 p.m. on the 2 nd Monday of each month	City Hall – 1155 28 th Street SW
WATER SYSTEM ADVISORY COUNCIL	
4:00 p.m. on the 1 st Wednesday: February 2, May 4, August 3, November 2	City Hall – 1155 28 th Street SW
WKTU COMMISSION	
6:00 p.m. on the 1 st Monday of each month	WKTU - 5261 Clyde Park Avenue SW
ZONING BOARD OF APPEALS	
1:30 p.m. on the 1 st and 3 rd Monday of each month	City Hall - 1155 28 th Street SW

** NOTICE GIVEN PURSUANT TO PUBLIC ACT 267, OF 1976, AS AMENDED, BEING MCL 15.261
For further information regarding a scheduled meeting, contact the office of the City Clerk at 1155 28th St. SW, Wyoming, MI 49509-0905. Phone 616-530-7296.

RESOLUTION NO. _____

RESOLUTION TO ESTABLISH AND CHANGE CERTAIN REGULAR CITY COUNCIL
MEETING DATES IN THE 2022 CALENDAR YEAR

WHEREAS:

1. Public Act 267 of 1976 requires that the meeting dates of the City Council be publicly posted, listing the dates, times and places of all the regularly scheduled meetings for the 2022 calendar year.
2. On certain regularly scheduled meeting dates in 2022, the City and the Nation will celebrate holidays which conflict with the regular schedule.
3. It is deemed advisable to adjust the regular meeting schedule to accommodate holiday scheduling.

NOW, THEREFORE, BE IT RESOLVED:

1. That the regular meetings of the Wyoming City Council will be held on the first and third Mondays at 7:00 p.m., except in July, when the first meeting shall be on Tuesday, July 5 and September, when the first meeting shall be on Tuesday, September 6.
2. That the work sessions of the City Council shall be held on the second Monday of each month at 5:30 p.m.
3. That committee of the whole meetings of the City Council shall be called as needed.
4. That all dates for regular and work session meetings of the Wyoming City Council be as described on the attached schedules.

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 December 6, 2021.

Kelli A. VandenBerg, Wyoming City Clerk

Resolution No. _____

**SCHEDULED MEETING DATES OF THE WYOMING CITY COUNCIL
REGULAR COUNCIL MEETINGS FOR THE YEAR 2022**

ALL MEETINGS BEGIN AT 7:00 PM AND ARE HELD IN THE WYOMING CITY HALL
LOCATED AT 1155 28TH ST SW, WYOMING, MICHIGAN IN THE CITY COUNCIL
CHAMBERS.

THE COMPLETE ADDRESS OF WYOMING CITY HALL IS 1155 28TH STREET SW,
P.O. BOX 905, WYOMING, MICHIGAN 49509-0905.

REGULAR COUNCIL MEETING DATES

MONDAY, JANUARY 3, 2022
MONDAY, JANUARY 17, 2022

MONDAY, FEBRUARY 7, 2022
MONDAY, FEBRUARY 21, 2022

MONDAY, MARCH 7, 2022
MONDAY, MARCH 21, 2022

MONDAY, APRIL 4, 2022
MONDAY, APRIL 18, 2022

MONDAY, MAY 2, 2022
MONDAY, MAY 16, 2022

MONDAY, JUNE 6, 2022
MONDAY, JUNE 20, 2022

*** **TUESDAY, JULY 5, 2022** ***
MONDAY, JULY 18, 2022

MONDAY, AUGUST 1, 2022
MONDAY, AUGUST 15, 2022

*** **TUESDAY, SEPTEMBER 6, 2022** ***
MONDAY, SEPTEMBER 19, 2022

MONDAY, OCTOBER 3, 2022
MONDAY, OCTOBER 17, 2022

MONDAY, NOVEMBER 7, 2022
MONDAY, NOVEMBER 21, 2022

MONDAY, DECEMBER 5, 2022
MONDAY, DECEMBER 19, 2022

**SCHEDULED WORK SESSION MEETING DATES OF THE
WYOMING CITY COUNCIL FOR THE YEAR 2022**

ALL MEETINGS BEGIN AT 5:30 PM AND ARE HELD IN THE WYOMING CITY HALL
LOCATED AT 1155 28TH ST SW, WYOMING, MICHIGAN IN THE CITY COUNCIL
CHAMBERS.

THE COMPLETE ADDRESS OF WYOMING CITY HALL IS 1155 28TH STREET SW,
P.O. BOX 905, WYOMING, MICHIGAN 49509-0905.

WORK SESSION MEETING DATES

MONDAY, JANUARY 10, 2022

MONDAY, FEBRUARY 14, 2022

MONDAY, MARCH 14, 2022

MONDAY, APRIL 11, 2022

MONDAY, MAY 9, 2022

MONDAY, JUNE 13, 2022

MONDAY, JULY 11, 2022

MONDAY, AUGUST 8, 2022

MONDAY, SEPTEMBER 12, 2022

MONDAY, OCTOBER 10, 2022

MONDAY, NOVEMBER 14, 2022

MONDAY, DECEMBER 12, 2022

RESOLUTION NO. _____

RESOLUTION TO AMEND A PORTION OF THE
CITY OF WYOMING FEE SCHEDULE

WHEREAS:

1. The City of Wyoming establishes by resolution certain fees.
2. From time-to-time information related to fees is reviewed to ensure they cover related costs.
3. Section X of the existing Fee Schedule is in need of amendment.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council of the City of Wyoming hereby adopts the attached revision to Section X - Utilities effective January 01, 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 December 6, 2021.

Kelli A. Vandenberg, Wyoming City Clerk

ATTACHMENT:

Proposed Fee Schedule

Wyoming CWP Surcharge Limits and Rates (new rates effective Jan 1, each year)

Parameter	Limit	2019	2020	2021	2022	2023
	mg/L	\$/lb	\$/lb	\$/lb	\$/lb	\$/lb
BOD	460	0.158	0.166	0.174	0.182	0.19
O/G	91	0.126	0.122	0.118	0.114	0.11
Phos	12	1.59	2.38	3.18	3.97	4.76
TSS	260	0.196	0.232	0.268	0.304	0.34
Ammonia	32	0.14	0.28	0.42	0.56	0.7
		Expired is RED		Current is Blue		

ALL CHANGES ARE IN BOLD

X - UTILITIES

These fees will be effective as of **January 01, 2022**

WASTEWATER PENALTIES

Concentration Level	Primary, Secondary and Tertiary Pollutants Average Quarterly Flow, gpd			
	0-10,000 Gals/Day*	10,000- 50,000 Gals/Day*	50,000- 100,000 Gals/Day*	>100,000 Gals/Day*
0-Limit (x)	No penalty	No penalty	No penalty	No penalty
>1(x) - 2(x)	\$56.87	\$113.74	\$170.64	\$227.51
>2(x) - 3(x)	113.74	227.51	341.26	455.02
>3(x) - 4(x)	170.64	341.26	511.90	682.53
>4(x)	284.38	568.77	853.16	1,000.00**

(x) Individual limits as listed in Sections 86-292 (b) (1) (b) and 86-292 (b) (2) (b) and 86-292 (b) (3) (b), General Maximum Limits for Primary, Secondary and Tertiary Toxic Pollutants.

pH	pH Penalty Average Quarterly Flow, gpd			
	0-10,000 Gals/Day*	10,000- 50,000 Gals/Day*	50,000- 100,000 Gals/Day*	>100,000 Gals/Day*
5.0 - 10.5	No penalty	No penalty	No penalty	No penalty
4.0 - 4.9	\$17.08	\$ 34.14	\$51.20	\$68.27
3.0 - 3.9	45.50	91.00	136.51	182.01
0 - 2.9	85.32	170.64	341.26	853.16
10.6 – 10.9	17.08	34.14	51.20	68.27
11.0 - 11.9	45.50	91.00	136.51	182.01
≥ 12.0	85.32	170.64	341.26	853.16

*Based on average day for previous quarter

** Maximum penalty allowed by law

TREATED GROUNDWATER DISCHARGE

The following fees for treated groundwater discharges to the POTW are established:

(1) Permit fee, per permit issuance	199.07
(2) Inspection fee, per inspection	170.64

WASTEWATER SURCHARGE RATES

BOD	Up to 460 mg/L	> 460 mg/L
Rate/lb.	\$0.00	\$0.182
SS	Up to 260 mg/L	> 260 mg/L
Rate/lb.	\$0.00	\$0.304
Phosphorus	Up to 12 mg/L	> 12 mg/L
Rate/lb.	\$0.00	\$3.970
Oil and Grease	Up to 91 mg/L	> 91 mg/L
Rate/lb.	\$0.00	\$0.114
Ammonia	Up to 32 mg/L	> 32 mg/L
Rate/lb.	\$0.00	\$0.560

WATER METER INSTALLATIONS

Water Meters*:

Meter Size	Charge
5/8 inch	\$ 224.09
1 inch	298.04

*For water meters larger than 1 inch, actual cost plus 10% will be charged.

WATER SERVICE INSTALLATIONS

The Public Works Department performs service installations to the water distribution system. Fees for 1-, 1.5-, and 2-inch installations must be paid in full at the Utility Billing Office before work can be done. Costing as indicated below, or actual charges based on Testing and Chlorinating hourly rates noted in Section IV plus additional equipment at current Act 51 rates plus actual material costs plus any additional necessary contracted work as billed by Public Works. A minimum of three working days' notice is necessary to ensure Miss Dig can mark all utilities prior to work being performed.

Water Service Installation to Stop Box (no excavation and/or restoration)

For water service installation work only, the following fees apply. Fee includes labor, equipment, and materials necessary to tap and install a water service up to and including the curb stop and stop box. Charges associated with excavating, dewatering, restoration, traffic control, or any other work necessary to provide access to the watermain is the responsibility of the requesting party and may be subject to other permitting and inspection fees.

1"	900.00
1.5"	1,400.00
2"	1,750.00
>2"	Testing and Chlorinating hourly rates noted in Section IV plus additional equipment at current Act 51 rates plus actual material cost plus any additional necessary contracted work.

Water Service Installation to Stop Box (requiring excavation and/or restoration)

For water service installation work requiring excavation, installation, and restoration, the following fees apply. Fee includes labor, equipment, and materials necessary to tap and install a water service up to and including the curb stop and stop box. This fee includes any costs associated with excavating, dewatering, boring, restoration, traffic control, or any other work necessary to provide access to the watermain and restore the excavated area to its original status.

1"	4,000.00
1.5"	4,250.00
2"	5,000.00
>2"	Testing and Chlorinating hourly rates noted in Section IV plus additional equipment at current Act 51 rates plus actual material cost plus any additional necessary contracted work.

Water System Development Charge
by tap size

1 inch	1,308.18
1 ½ inch	4,174.82
2 inch	5,221.36
3 inch	11,728.14
4 inch	31,237.13
6 inch	78,058.68
8 inch	104,074.40
12 inch	148,939.40

Sewer System Development Charge
by water tap size

1 inch	1,301.36
1 ½ inch	4,166.84
2 inch	5,192.92
3 inch	11,687.18
4 inch	31,119.95
6 inch	77,831.17
8 inch	103,770.70
12 inch	155,649.80

WATER SERVICE

Quarterly Ready-to-Serve Charge applicable to all customers with public water service. Ready-to-Serve Charge will be assessed whether or not the water meter is installed and whether or not water is being used. The ready-to-serve is not charged if the water lateral is capped because of destruction or demolition of the structure served by the lateral or for specific cases as decided by the Director of Utilities.

Water Meter Size	Charges
5/8 inch	\$ 24.37
1 inch	49.98
1 1/2 inch	107.25
2 inch	165.77
3 inch	287.65
4 inch	537.52
6 inch	1,107.19
8 inch	1,863.63

Water commodity rate (in addition to Readiness to Serve Charge):
Quantity steps applicable rate, per 100 cubic feet: \$1.50

SEWER SERVICE

Quarterly Ready-to-Serve Charge applicable to all customers with public sewer service. Ready-to-Serve Charge will be assessed whether or not sewer is being used. The ready-to-serve is not charged if the sewer lateral is capped because of destruction or demolition of the structure served by the lateral or for specific cases as decided by the Director of Utilities.

Water Meter Size	Charges
5/8 inch or no meter	\$ 18.23
1 inch	31.82
1 1/2 inch	59.06
2 inch	86.23
3 inch	208.68
4 inch	344.75
6 inch	684.82
8 inch	1,024.92
12 inch	1,574.59

Sanitary Sewer commodity rate (in addition to Readiness to Serve Charge):
per 100 cubic feet (hereinafter referred to as billing unit) of water use per quarter: \$3.13

Residential sewer billing units shall be determined by using 1.15 times the water use for the winter quarter which is hereby defined as any 3 months between November 1 and April 30. However, when the winter quarter use is less than 10 billing units, then 10 billing units shall be used. Provided, however, that in no case shall the billing units for sewer be greater than the total water use for any particular quarter.

Effective July 1, 2021, the minimum charge per quarter for those residential sewer users not served by the City's water system shall be \$50.08 plus the applicable Ready to Serve Charge.

LATE CHARGE

A penalty of 10% of current charges for water and sewer will be added to any bill paid after the due date on the bill.

Customers with sewer only service shall have a service charge of 1 ½ percent per month assessed on the unpaid balance for that delinquent portion of their bill which becomes a lien placed on the property tax roll.

FIRE SPRINKLER CONNECTION

(per year charge applicable to unmetered connections):

4 inch and smaller connections to City main	\$ 164.96
6 inch connection to City main	519.88
8 inch connection to City main	883.88
10 inch connection to City main	1,820.08
12 inch connection to City main	2,959.88

MISCELLANEOUS FEES

Cash deposit for Section 86.43(4)	150.00
Collection Cost Recovery Fee	40.00
Deposit for Hydrant Backflow Preventor	500.00
Water Construction Fee (60 days)	75.00
Pool Filling Permit:	
Homeowner and contractor	75.00
Miscellaneous Hydrant Usage:	
Used one day	75.00
Used after first day	75.00
Plus metered usage at current water rate, plus 100%	
Unauthorized hydrant use, penalty of	500.00
Unauthorized water use, penalty of	500.00

NPDES Permit Treated Groundwater

The permit fee for treated groundwater discharge shall be
\$.08 per 100 cubic feet.

WASTE HAULERS

The following fees for waste haulers permitted to discharge to the POTW are established. Fees shall be assessed quarterly.

Leachate haulers Treatment Fee, per 100 cubic feet discharged \$8.98

Miscellaneous waste haulers including septage haulers:
(to be paid in advance) \$80.47 per 1000 gallons per load, or fraction thereof

RESOLUTION NO. _____

RESOLUTION TO AUTHORIZE THE CITY MANAGER
TO EXECUTE AN EMPLOYMENT AGREEMENT
WITH THE DIRECTOR OF INFORMATION TECHNOLOGY

WHEREAS:

1. Section 4.7 of the City Charter allows the City Manager to "...exercise his judgment in the appointment or employment of officers and employees in the administrative service."
2. The City Manager desires to appoint Paul Gerndt as the Director of Information Technology and recommends City Council approve the employment agreement the City Manager has negotiated.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Manager is authorized to execute an employment agreement with the Director of Information Technology.
2. The City Manager is authorized to approve future amendments to the agreement that are generally equivalent to the existing City of Wyoming bargaining agreements.

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 December 6, 2021.

ATTACHMENT:
Employment Agreement

Kelli A. VandenBerg, Wyoming City Clerk

CITY OF WYOMING
EMPLOYMENT AGREEMENT – DIRECTOR OF INFORMATION TECHNOLOGY

This Employment Agreement with Paul Gerhardt Gerndt IV is made as of December 7, 2021, was approved by the City Council on December 6, 2021, and is to be effective at 5:01 P.M. on January 10, 2022, between the City of Wyoming, a municipal corporation of 1155 28th St SW, Wyoming, MI 49509 (**City**), and Paul Gerhardt Gerndt IV, an individual whose current home address is as provided on the employment application (**Employee**).

1. TERM. City employs and appoints Employee as its Director of Information Technology effective at 5:01 P.M. on January 10, 2022. Employee acknowledges that the Director of Information Technology serves at the pleasure of the City Manager, who may terminate Employee's employment and appointment for any reason at any time, as provided by City Charter and City Code.

2. PERFORMANCE. Employee shall perform the duties of Director of Information Technology in a competent and professional manner and as set forth in the City Charter, City Code, established policies and regulations of the City, and the laws of the State of Michigan. A job description has been provided to Employee that the City may periodically revise with notice to Employee. Employee shall report to and be supervised by the City Manager.

3. SERVICE DATE. Employee's date of service with the City shall be August 21, 1996. Employee will be credited with all earned benefits from Employee's date of service and shall accumulate benefits uninterrupted after the effective date of this Agreement.

4. COMPENSATION. Employee's salary shall be established by the City Manager in accordance with the annual budget authorization, the City Charter, and the City Code, and paid in accordance with City payroll procedures.

5. BENEFITS. Employee shall be provided the same health insurance plan (including employee contribution and opt-out option), dental, vision, and life insurance plans, defined benefit pension plan, retiree health, holidays, vacation, sick leave, sick leave incentive, bereavement leave, educational benefits, longevity pay, and payout of accrued benefits upon separation from employment as provided to department head employees in the Administrative and Supervisory Association unless otherwise stated in this Agreement.

A. In addition to the benefits listed above, upon the effective time and date of this agreement, the Employee shall be credited an additional 24 hours of vacation, after which time the Administrative and Supervisory Association department head vacation schedule shall apply.

6. TERMINATION. This agreement and Employee's employment pursuant to it may be terminated as follows:

A. By Employee's resignation: Employee shall give written notice of Employee's resignation at least 30 days before its effective date. If Employee fails to do so, regardless of any other provision of this agreement, City will have no obligation to pay Employee for accumulated sick leave or vacation time or any other accrued benefits, the amount of which City shall be entitled to retain as liquidated damages for the costs it will incur as a result of such sudden resignation.

B. By the City Manager because Employee (i) failed to substantially perform Employee's job duties (ii) committed misfeasance, malfeasance, or nonfeasance in Employee's position, (iii) engaged in criminal misconduct, (iv) is convicted of any felony, (v) is convicted of a misdemeanor involving bodily harm or dishonesty, or (vi) performed a deliberate wrongful act: In such circumstances, regardless of any other provision of this agreement, City will have no obligation to pay Employee for accumulated sick leave or vacation time or any other accrued benefits.

C. By the City Manager, other than as provided in subsection B of this section: If such action is taken, City shall pay Employee, in addition to any other amounts to which Employee is entitled under this agreement, an amount equal to 6 months of Employee's base salary. That severance pay will be paid to Employee over a 6-month period by checks issued on regular City paydays and will have appropriate amounts withheld. Employee's insurance (health, dental, vision and life) shall continue to be paid by City for the same period. However, if Employee secures another position of equal or greater pay during the 6-month period, City's obligation to make severance payments and continue insurance will cease. If Employee takes another position at less pay during the 6-month period, City's obligation will be limited to the difference in pay for the balance of the 6-month period. "Another position" includes employment, self-employment, independent contracting, or compensation from any source. This severance pay and benefits will be paid to Employee only if Employee signs a waiver and release of all claims in a form satisfactory to City.

D. Upon termination of Employee's employment, Employee shall arrange for the immediate and orderly transfer of Employee's office and City-owned personal property, records, documents, and other items in

Employee's possession. Employee shall also resign from any other positions to which Employee was assigned or appointed due to Employee's employment by City. Employee agrees that when Employee's employment ends, Employee must pay any expenses or other amounts that Employee may owe to City at that time. Employee authorizes City to deduct any amount owed from any wage or benefit payments that may be due to Employee.

E. Nothing in this agreement shall prevent, limit, or otherwise interfere with City's right to terminate the services of Employee at any time and for any reason, subject only to the provisions set forth in this section. Nothing in this agreement shall prevent, limit, or otherwise interfere with the right of Employee to resign at any time from Employee's position with City, subject only to the provisions in this section.

7. SCOPE AND AMENDMENTS. This Agreement is made in accordance with the provisions of the City Charter and City Code and is the sole agreement of the parties regarding Employee's employment by City. Except as otherwise specifically stated in this agreement, this agreement supersedes and replaces all other representations and agreements whether oral or written. By way of illustration and not limitation, any prior agreement or promises, and any collective bargaining agreements, have no application to Employee or to the employment relationship between Employee and City. This agreement may not be modified orally, but only by an agreement in writing signed by the parties.

8. SEVERABILITY. The invalidity or unenforceability of any term in this agreement shall not affect the validity or enforceability of any other term in this agreement. If any term in this agreement is determined to be invalid, unenforceable, or over broad in any respect, that term shall nevertheless be enforceable to the fullest extent permitted by law.

9. APPLICABLE LAW. This agreement is to be interpreted, enforced, and performed under Michigan law.

10. ASSIGNMENT. Neither party may assign its rights, duties, or interests in this agreement without the prior written consent of the other party.

11. JURISDICTION AND VENUE. To the extent permitted by law, jurisdiction and venue for any action brought pursuant to or to enforce this agreement shall be solely in the state courts in Kent County, Michigan.

12. BINDING. This agreement shall be binding upon the parties and their heirs, subrogates, successors, and assigns.

13. SHORTENED LIMITATIONS PERIOD. Employee agrees that any lawsuit or claim against City arising out of Employee's employment or termination of employment (including, but not limited to, claims arising under state, federal or local civil rights laws) must be brought within the following time limits or be forever barred: (a) for lawsuits requiring a Notice of Right to Sue from the Equal Employment Opportunity Commission, within 90 days after the EEOC issues that notice; or (b) for all other lawsuits, within (i) 180 days of the event(s) giving rise to the claim, or (ii) the time limits specified by statute, whichever is shorter. Employee waives any statute of limitations that exceeds this time limit.

City of Wyoming

Paul Gerhardt Gerndt IV

By: _____
Curtis L. Holt, City Manager

Date signed: _____, 2021

Date signed: _____, 2021

RESOLUTION NO. _____

RESOLUTION TO APPROVE CITY EMPLOYMENT
FOR A RELATIVE OF AN APPOINTIVE OFFICAL

WHEREAS:

1. The 62A District Court received an application from Rylee Vandenberg to serve as a deputy court clerk for the 62A District Court, and Rylee has met the requirements and qualifications for this position.
2. Rylee Vandenberg’s mother, Kelli Vandenberg, serves as the City of Wyoming’s Clerk, an appointed official for the City of Wyoming.
3. Under Section 5.13 of the City Charter, relatives of elective or appointive officials may hold an appointive office or employment during the terms of office of those elective or appointive officers only if the City Council unanimously determines it is in the best interests of the City for them to do so.

NOW, THEREFORE, BE IT RESOLVED:

1. It is in the best interest of the City for Rylee Vandenberg to serve as a deputy court clerk for the 62A District Court.

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 December 6, 2021.

Kelli A. Vandenberg, Wyoming City Clerk

ATTACHMENTS:

City Charter Sec. 5.13

Resolution No. _____

Sec. 5.13. - Antinepotism.

Unless the Commission shall, by unanimous vote, which vote shall be recorded as part of its official proceedings, determine that the best interests of the city shall be served, the following relatives of any elective or appointive officer are disqualified from holding any appointive office or employment during the term for which said elective or appointive officer was elected or appointed: spouse, child, parent, grandchild, grandparent, brother, sister, half-brother, half-sister, or the spouses of any of them. All relationships shall include those arising from adoption. This section shall in no way disqualify such relatives or their spouses who are bona fide appointive officers or employees of the city at the time of the election of any elective official.

RESOLUTION NO. _____

RESOLUTION TO APPROVE AND ADOPT A MULTI-PRODUCT RESOLUTION FOR
TREASURY MANAGEMENT SERVICES WITH FIFTH THIRD BANK

WHEREAS:

1. On June 16, 2014, the City Council of the City of Wyoming adopted Resolution #24840, approving and authorizing treasury management services with Fifth Third Bank and naming the titles of authorized persons to be signatory for financial transactions.
2. Due to staffing changes, this document has been periodically changed to reflect the appropriate city personnel who are authorized to make financial transactions with Fifth Third Bank on the City's behalf.
3. Most recently, on September 3, 2019, the City Council of the City of Wyoming adopted Resolution #26478, updating the names of city personnel authorized to make financial transactions with Fifth Third Bank.
4. It is necessary to update the account resolutions certificate and rescind Resolution #26478.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council approves and adopts the attached "Multi-Product Resolution" with Fifth Third Bank.
2. Resolution #26478 is rescinded.

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 December 6, 2021.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENT:

Multi-Product Resolution

Resolution No. _____



FIFTH THIRD BANK

**38 Fountain Square Plaza
Cincinnati, Ohio 45263**

Multi-Product Resolution

IMPORTANT INFORMATION ABOUT THIS RESOLUTION

Fifth Third Bank, National Association, or an affiliate of Fifth Third Bancorp (collectively, "Bank"), has agreed to provide one or more services for your "Entity" (Company, Corporation, Partnership, Organization, Government, Trust and/or Plan). The purpose of this MULTI-PRODUCT RESOLUTION is to identify the name(s) and title(s) of the individual(s) who is/are authorized to enter into agreements with the Bank on behalf of the Entity, take action or provide direction on behalf of the Entity, and who may appoint others who can act on behalf of the Entity to provide direction to the Bank to perform the applicable services identified in the signed agreement.

The resolution should identify by name and title the individual(s) who is/are authorized to carry out the functions set forth in the chosen category of authorities. Entity may select, by checking the appropriate box on Exhibit A, one or more persons to carry out one or more of the authorities described herein.

OPTIONS:

- If Entity is opening a deposit account and treasury management services that will be managed by a property manager or other fiduciary and wish to authorize such manager/fiduciary to take action on the Entity's behalf, Entity must check the **Manager-Managed** option and provide the name of the Manager. Bank may require additional documentation from the Manager.
- If Entity is acting on behalf of one or more entities in which Entity directly or indirectly owns an equity interest (each, an "Affiliate"), Entity must check the **Affiliate** option and provide the requisite Affiliate information on Exhibit B.
- If Entity will use any of the Bank's online channels, whether through the Bank's online platform Fifth Third Direct, or otherwise, for online banking needs, Entity must check the **Channel Administrator** option, establish Channel Administrators, elect or waive Dual Administration Control, and provide the requisite Channel Administrator information on Exhibit C.

CHANGES:

Entity may in the future add or replace the individual(s) who is/are authorized to enter into agreements with the Bank and/or provide direction to Bank by supplying a new MULTI-PRODUCT RESOLUTION or other applicable documentation to supersede the most recent MULTI-PRODUCT RESOLUTION.

Please retain a copy of the documentation that you supply to the Bank and this page for your files.

Multi-Product Resolution

Effective _____ the named persons on the attached Exhibit A is/are duly authorized representatives of [Name of Entity] (“Entity”) and hold the title(s) set forth opposite his or her respective name, said authorized representative(s) is/are authorized to act on behalf of this Entity, and any Affiliates if applicable, as an “Authorized Person” in transactions with Fifth Third Bank, National Association, or an affiliate of Fifth Third Bancorp (collectively, “Bank”), with the authority designated on Exhibit A and detailed in the following resolutions:

Section I. (DDA/TM) DEPOSIT ACCOUNTS & OTHER TREASURY MANAGEMENT SERVICES:

RESOLVED, that the Bank is hereby designated as an authorized depository of this Entity and that one or more checking, savings or other deposit accounts (“Accounts”) be opened and maintained with the Bank in the name of the Entity.

RESOLVED, that the opening and maintaining of the Accounts, all transactions in connection with the Accounts and all related services will be governed by written agreements provided by the Bank, and by such rules, regulations and policies as the Bank shall from time to time establish.

RESOLVED, this Entity is authorized to obtain banking services from the Bank including treasury management, the sale or purchase of foreign currencies, and to enter into such agreements and documentation for such services as are required by the Bank from time to time, including a Master Treasury Management Agreement, Online Channel Access Agreement, Schedules to the Online Channel Access Agreement, Signature Card, Terms and Conditions for various banking services, and Commercial Account Rules (“Banking Agreements”), each of which, when accepted or signed by an Authorized Person described below is approved and authorized in all respects.

RESOLVED, that the Entity is authorized to incur and repay indebtedness, grant or give security, and incur and perform related liabilities and obligations to the Bank in connection with the banking services obtained by the Entity under the relevant Banking Agreements, including, without limiting the foregoing, with respect to: (a) transactions executed for the Entity by the Bank and (b) import and export services for letters of credit as provided in the terms and conditions for such import and export services and related reimbursement, financing and security or collateral arrangements.

RESOLVED, that the Entity is authorized to enter into, execute and deliver to the Bank applications, documents, notes and agreements reflecting or evidencing such indebtedness, security, liabilities and obligations including those related to letters of credit, confirmation and payment services, reimbursement arrangements and related loans, lines of credit or similar financing arrangements, and security and collateralization arrangements, and a note or notes, security, pledge or similar agreement evidencing or securing such arrangements (“Banking Services Financing Agreements”), each of which, when submitted, accepted or signed by an Authorized Person is authorized and approved in all respects.

RESOLVED: that any of the Authorized Persons as designated on Exhibit A, acting alone or together with other Authorized Persons, is authorized to act for the Entity, and any Affiliates if joined to the Banking Services Agreements or Commercial Card Service Agreement, and in its name to do any of the following:

Section 1.1. Accounts and Agreements. Open or close any deposit or other Account and execute on behalf of the Entity signature cards (and designate persons with check signing authority), application forms, authorization, set-up and other documentation and agreements with the Bank with respect to the Accounts and any services related to the Accounts including each of the Banking Agreements and Banking Services Financing Agreements;

Section 1.2. Payment Instructions. Issue, and designate persons with the authority to issue written, telephonic, electronic, internet-based or oral instructions and payment orders for the transfer or payment of funds of the Entity on deposit with the Bank (or at any other financial institution) including by wire transfer, automated clearing house debit, book transfer and other physical and electronic means;

Section 1.3. Foreign Currency Transactions. Agree to buy or sell foreign currencies via spot contracts, execute on behalf of the Entity confirmation of such spot transactions, and deliver such currencies as required under the spot transactions to the Bank, including by wire transfer, automated clearing house debit, book transfer and other physical and electronic means;

Section 1.4. Implementation and Setup. Select the services the Entity will obtain from the Bank and instruct the Bank on service options and features desired by the Entity, and the set-up, implementation and security procedures relating to the services selected.

Section 1.5. Manager Managed Option [Check and Complete ONLY If Applicable]

[DO NOT CHECK IF ENTITY IS THE MANAGER; ONLY CHECK IF ENTITY IS NAMING A MANAGER]

RESOLVED FURTHER: that [INSERT NAME OF MANAGER]

and its subsidiaries, and their respective successors **are appointed as agents of the Entity** to act on behalf of the Entity with respect to all matters authorized in these DDA/TM Resolutions set forth above including to manage Entity's Accounts and services including the authority to establish Accounts, and execute and act as agents under the Banking Agreements, and make deposits to, withdrawals from and otherwise deal with such Accounts and to obtain and use Fifth Third Bank treasury management services on behalf of Entity, and to appoint individuals to act as their authorized representatives and as Authorized Persons for such services.

Section II. (COM CARD) COMMERCIAL CARD:

RESOLVED, that this Entity desires to obtain financial accommodations from the Bank, including the use of a number of the Bank's Commercial Cards (the "Commercial Cards") by the officers and agents of this Entity.

RESOLVED, that this Entity agrees to assume responsibility for the use of each and every one of the Commercial Cards and to pay the Bank for all indebtedness incurred by the use of such Commercial Cards.

RESOLVED, that at any of the Authorized Persons as designated on Exhibit A acting alone or together with other Authorized Persons, be and hereby are authorized to act for and in the name of this Entity, and any Affiliates if joined to the Banking Services Agreements or Commercial Card Service Agreement, to (i) apply to the Bank for the issuance of such Commercial Cards, (ii) enter into and execute the Commercial Card Service Agreement and such application forms, agreements and documents to pay and provide security for payment of all indebtedness incurred by use of such Commercial Cards, whether authorized or unauthorized, as the Bank may require in accordance with the terms and conditions of the Commercial Card Service Agreement, and (iii) to obtain and forward Commercial Cards to those officers or agents it designates from time to time to receive and use a card.

Section III. AFFILIATED SERVICES OPTION [If checked, Entity must complete Exhibit B, as applicable]

[CHECK ONLY IF THE FOLLOWING IS APPLICABLE]

RESOLVED, that Entity owns directly or indirectly an equity interest in each of the entities listed on Exhibit B to these resolutions (each, an "Affiliate") and Entity resolves that each such Affiliate may join the Banking Agreements, Commercial Card Service Agreement or other agreement with the Bank as a customer and as permitted by Bank from time to time; and

- Signor is duly authorized under the governing documents and resolutions of each Affiliate to give this certification to the Bank; and
- these resolutions are a true copy of resolutions adopted by the governing body of each Affiliate;
- that such resolutions are now in full force and effect and are pursuant to each the governing documents of each Affiliate; and
- each of the Authorized Persons on Exhibit A and Exhibit B (as specified for such Affiliate) is authorized to act on behalf of an Affiliate to the same extent as any Authorized Person on Exhibit A is permitted to act on behalf of Entity.

Section IV. (LOAN/LEASING) LENDING, LEASING, LETTER OF CREDIT, RATE MANAGEMENT AGREEMENTS, GRANTING SECURITY INTEREST:

RESOLVED, that any of the Authorized Person(s) designated on Exhibit A, acting alone or together with other Authorized Person(s), is/are hereby authorized to act for and in the name of the Entity to: (i) borrow or lease, and designate persons with the authority to borrow or lease, from time to time on behalf of this Entity from the Bank such sums of money or property (as applicable), for such times and upon such terms as may seem advisable to such Authorized Person(s) or his or her designee(s); (ii) request advances, pay fees and perform any function related to the purpose of borrowing or leasing, and, in connection therewith, to issue, and designate persons with the authority to issue, written, telephonic, electronic, internet-based or oral instructions; (iii) sign and deliver on behalf of this Entity (a) credit and loan agreements, notes, leases, and any other documentation in connection with borrowing or leasing, including, without limitation, agreements providing defined remedies (e.g., confessions of judgment), (b) any documentation for the purpose of obtaining letters of credit, and (c) any documentation for the purpose of pledging, mortgaging, deeding or granting liens upon all or any of the assets of this Entity as security for such loans or leases under such terms and conditions as may seem advisable to such officer(s); (iv) sign and deliver on behalf of this Entity any ISDA Master Agreements and any other rate management agreements entered into to govern transactions intended to

hedge risks associated with changes in interest rates and any and all documents related to such rate management transactions; (v) endorse in the name of this Entity and to negotiate to the Bank all or any of the notes, bills receivable, accounts receivable and assets of this Entity upon such terms as may seem advisable to such Authorized Person(s); and (vi) in connection with any of the foregoing, sign and deliver to the Bank renewals, extensions, amendments, modifications, refinancings, consolidations, substitutions or the like.

RESOLVED, that the Authorized Person(s) designated on Exhibit A, acting alone or together with other Authorized Person(s), is/are hereby authorized to guarantee, on behalf of the Entity, the payment of the debts, loans, leases, or other indebtedness of another, for such times and for such sums of money, and upon such terms as may seem advisable to such Authorized Person(s); to sign and deliver on behalf of this Entity, guarantee agreements or other documents therefor; and to pledge, mortgage, deed or grant liens upon all or any of the assets of this Entity as security for such guarantees or as security for the obligations of others under such terms and conditions as may seem advisable to such Authorized Person(s).

Section V. (FRM) FINANCIAL RISK MANAGEMENT PRODUCTS: FOREIGN EXCHANGE OR COMMODITIES OR INTEREST RATE SWAP:

RESOLVED, that this Entity is authorized to enter into, for any and all purposes, the following transactions with the Bank: foreign exchange transactions (including, without limitation, the purchase of spot contracts, contracts for forward or future delivery of currency and options), derivative instruments of any kind based on changes in the prices, rates or values of interest rates, commodities or currencies (including, without limitation, swaps, puts, calls, collars, caps, floors and options), participations in risk associated with any of the foregoing derivative instruments and any other transactions otherwise authorized by the Entity (each a "Transaction" and, together, the "Transactions").

RESOLVED, that any Authorized Person(s), designated in Exhibit A is/are hereby authorized to act for and in the name of the Entity to:

- i. Open one or more accounts in the name of the Entity with the Bank for the purpose of entering into Transactions and to execute in the name of the Entity and deliver to the Bank (i) any agreement or document (including, without limitations, any ISDA Master Agreement, foreign exchange trading agreement, master give-up agreement (including any schedule(s) thereto, addenda thereof or any required or necessary credit support document(s)) and confirmation of any Transaction) that may be necessary or appropriate in connection with any Transaction and (ii) any amendment or revision to any such agreement or document.
- ii. Buy, sell and trade and agree to buy, sell and trade Transactions, on margin or otherwise, which power to sell includes the power to take "short" positions;
- iii. Effect and receive payment and delivery in performance of Transactions and any obligations undertaken in connection therewith;
- iv. Grant, transfer, pledge or otherwise hypothecate a security interest in or lien in any property (including any money or securities) belonging to or under control of the Entity as security for any obligation arising in connection with any Transaction.

- v. Receive and promptly comply with any request or demand for additional margin, any notice of intention to liquidate, and any notice or demand of any other nature;
- vi. Receive and acquiesce in the correctness of notices of Transactions, statements of account and other records and documents relating to the Entity's Transactions with the Bank; and
- vii. Borrow funds from the Bank or its affiliate to finance any Transactions effected through or with the Bank, and the satisfaction of each and every obligation of the Entity in connection with the account(s) and the Transactions effected therein.

Section VI. (IS) INSTITUTIONAL SERVICES: TRUST, AGENCY, INVESTMENT MANAGEMENT, CUSTODIAL SERVICES, RETIREMENT PLAN, OR NONQUALIFIED PLAN SERVICES

RESOLVED, that any Authorized Person(s) designated in Exhibit A is/are hereby authorized to act for and in the name of the Entity to enter into and execute the applicable agreement(s) and other documents or instructions with the Bank as may be required from time to time to provide trustee services, agency, investment management, investment advisory, custodial services, qualified retirement plan and/or nonqualified plan services.

Section VII. (SECURITIES) BROKERAGE/SECURITIES

RESOLVED, that any Authorized Person(s) designated in Exhibit A is/are hereby authorized to act for and in the name of the Entity to open and maintain one or more accounts on behalf of the Entity with any affiliated broker-dealer of the Bank for the purpose of transacting in the following securities (without limiting the generality of such, however): securities owned, issued or guaranteed by a public or private sector entity, including U.S. Government Securities, Federal Agency Securities, Federally Sponsored Securities, Foreign Sovereign Debt Instruments, Emerging Markets Instruments, Eurobonds, all manner of Money Market Instruments, issued or unissued, including Repurchase and Reverse Repurchase Agreements, corporate fixed income securities, municipal securities and all manner of other securities, and options thereon ("Securities"), Securities further include, without limitation, shares, stocks, bonds, debentures, notes, script, participation certificates, subscription rights, options, warrants, certificates of deposit, mortgages, evidences of indebtedness, commercial paper, certificates of indebtedness and certificates of interest of any and every kind and nature whatsoever, secured or unsecured.

This authorization **[CHOOSE ONE]**:

shall

shall not

include the opening of margin accounts.

Section VIII. CHANNEL ADMINISTRATOR OPTION [If checked, Entity must complete Exhibit C]

[CHECK ONLY IF THE FOLLOWING IS APPLICABLE]

RESOLVED, that as Entity and Bank have or will enter into an Online Channel Access Agreement (“OCA”) or another Bank agreement governing the use of Fifth Third Direct and other access channels (“Access Agreement”), the following person(s) designated below is/are hereby authorized and designated as the Channel Administrator(s) within such Access Channel(s), which includes Fifth Third Direct and other websites or portals, with all of the authority and duties as contemplated and permitted under the OCA, Banking Agreements, Banking Services Financing Agreements, Commercial Card Service Agreement or other agreements with Bank, as applicable. Each Channel Administrator shall also be deemed an Authorized Person, with broad authority to manage user access and delegate authority rights with respect to Account and services. Entity has designated its initial Channel Administrator(s) on Exhibit C hereto and elected or waived whether to enable “Dual Administration Control” whereby two (2) Channel Administrators are required to establish a User (as defined in the OCA).

Section IX. UNIVERSAL RESOLUTIONS [APPLICABLE TO (AND ADOPTED WITH), EACH OF THE PRECEDING SECTIONS I-VIII]:

RESOLVED, that the resolutions set forth herein and the authority hereby conferred is in addition to that conferred by any other resolution heretofore or hereafter delivered by this Entity to the Bank and shall continue in full force and effect until the Bank shall have received, and have had a reasonable opportunity to act upon, notice in writing, certified by an authorized representative of this Entity, of the revocation hereof by a resolution duly adopted by the governing body of this Entity. Any such revocation shall be effective only as to credit which is extended or committed by the Bank, or actions which are taken by this Entity pursuant to the resolutions contained herein, subsequent to the Bank's receipt of, and reasonable opportunity to act upon, such notice and shall not affect any acts by Authorized Person(s) performed prior thereto.

RESOLVED, that the Authorized Person(s) are hereby authorized to designate and advise the Bank of the identity of persons (including officers and employees of this Entity or its service providers) who have some or all of the authority of an Authorized Person with respect to one or more Accounts of the Entity Banking Agreements entered into by Entity or services utilized by the Entity, and limitations on the scope of such authority, if any, including a person or persons who will serve as administrator or service administrator with respect to a service or services obtained by the Entity (and any Affiliate, as applicable) and have authority to: manage the service on behalf of the Entity (and Affiliate); select and administer security and operating procedures; designate persons as authorized users of a service; and, enable and administer user identification codes, passwords and other identification data.

RESOLVED, that the Authorized Person(s), and any persons designated by the same in accordance with the foregoing resolutions, is/are hereby authorized to take such other actions as may be necessary or desirable to carry out the intent of the foregoing.

RESOLVED, that any and all transactions by or on behalf of this Entity with the Bank and all agreements, applications, documents and authorizations executed and delivered on behalf of this Entity to the

Bank prior to the adoption of this resolution (whether involving deposits, withdrawals, borrowings, guarantees, leases or otherwise) be and the same are in all respects ratified, approved, and confirmed.

RESOLVED, that the Bank is authorized to rely in good faith on any telephonic or other oral communication which shall be received by it from anyone reasonably believed by the Bank to be one of the Authorized Person(s) (including any Channel Administrator) until new instructions are received in writing from an Authorized Person of Entity and Bank has had a reasonable time to act on such instructions.

BE IT FURTHER RESOLVED that The United States Electronic Signatures in Global and National Commerce Act, P.L. 106-229 (the "E-Sign Act") applies to the fullest extent possible to this document. The Entity represents, warrants and covenants that the electronic signatures submitted by the Entity to Bank on this document are created using software and processes that create valid, enforceable, and effective electronic signatures in compliance with the E-Sign Act and all applicable state laws including applicable Uniform Electronic Transactions Act(s). All questions regarding the validity of the electronic signatures on this document shall be governed by the E-Sign Act or, to the extent applicable, by the laws of the State of Ohio, including the Ohio Uniform Transactions Act, OHIO REV. CODE ANN. § 1306.01-23., et seq.

SIGNATURE PAGE TO FOLLOW

SIGNATURE PAGE OF MULTI-PRODUCT RESOLUTION

I, _____ (Name of Person signing below),
The _____ (Title of Person signing below) of
_____ (Name of Entity),
a _____ (Type of Entity)

duly organized and existing under the laws of the State or Country [if not US] of

hereby certify that:

- the above is a true copy of the resolutions adopted by the governing body of this Entity, and
- such resolutions are now in full force and effect as of the date set forth below, having been adopted pursuant to the Entity's governing documents and not rescinded.

Signature:

Print Name:

Date:

Note: The person providing the above certification may only authorize themselves as the sole Authorized Person if the Entity is owned, directly or indirectly, by a single owner.



Exhibit A

AUTHORIZED PERSONS FOR ENTITY AND AFFILIATES BASED ON PRODUCT

Name of Authorized Person	Title of Authorized Person	DDA/TM	Com Card	Lease/ Loan	FRM	IS	Securities

Exhibit A Page of



Exhibit B

AUTHORIZED PERSONS PER AFFILIATE BASED ON PRODUCT

Name of Affiliate	Name of Authorized Person*	Title of Authorized Person	DDA/TM	Com Card	Lease/ Loan	FRM	IS	Securities

* Add name of Authorized Person only if in addition to those listed in Exhibit A.

Exhibit B Page of



EXHIBIT C

ESTABLISHMENT OF CHANNEL ADMINISTRATOR(S)

Establishment of Channel Administrator(s) [if applicable]

Entity hereby establishes the individuals named below as the Channel Administrator(s) for Entity pursuant to the forgoing resolutions as of the date set forth above. Entity understands that while only two (2) Channel Administrators may be established here, Entity may enable additional Channel Administrator(s) through the Fifth Third Direct Portal.

Entity acknowledges that Bank has strongly recommended enabling Dual Administration Control. With respect to Dual Administration Control, Entity has elected as follows **[CHOOSE ONE]**:

Enable or,

Waive Enabling.

Entity acknowledges the risks associated with choosing not to enable Dual Administration Control and having only one Channel Administrator, and accepts all responsibility for any fraud/losses that occur relating to inappropriate or unauthorized use of the Fifth Third Direct or other Access Channels, or the Channel Administrator User ID.

	Channel Administrator Name	Email Address	Phone Number
1.			
2.			

RESOLUTION NO. _____

RESOLUTION TO GRANT PRELIMINARY PLAT TENTATIVE APPROVAL FOR
RIVERTOWN VALLEY PLAT PHASES 7-9

WHEREAS:

1. The City of Wyoming strives to provide quality housing throughout the community. The proposed Phases 7-9 will provide 77 residential lots to complement this endeavor.
2. The development of Rivertown Valley Plat 7-9 (also known as “The Reserve at Rivertown, Phases 7-9” and “Rivertown Valley Phase 7-9”) is a continuation of the TMGB Wilson project.
3. The proposed subdivision will integrate into the existing subdivision.
4. The Planning Commission recommended preliminary plat tentative approval of the proposed subdivision at its November 16, 2021 meeting subject to certain conditions.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Preliminary Plat Tentative Approval for Rivertown Valley Plat Phases 7-9 (also known as “The Reserve at Rivertown, Phase 7-9” and “Rivertown Valley Phase 7-9”) is granted subject to the following 8 conditions to be met before final approval of this preliminary plat:
 - 1) Lot 277 must be a minimum of 10,000 sf.
 - 2) Developer shall clarify construction timeframe for common amenities (clubhouse, open park area, tennis courts, trails).
 - 3) Developer shall identify any wetland areas throughout all phases.
 - 4) Phase 7 Comments:
 - i. Developer shall extend sanitary sewer to plat boundary to serve neighboring parcel. Locate between lots 264 and 265.
 - ii. Plat shall identify public storm easements (lots 259, 256, 245, 246).
 - 5) Phase 8:
 - i. Developer shall identify trail route and necessary easements (lots 277? 278?).
 - ii. Developer shall identify any easements between lots to access trail.
 - 6) Phase 9:
 - i. Developer shall identify public easement between lots 301,302. Identify as storm easement.
 - ii. Clarify north-south easement along east plat boundary.
 - 7) Addressing must follow city number for east/west and north/south streets.

8) Fire hydrants not shown. Must meet city requirements for spacing and locations.

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 December 6, 2021.

Kelli A. VandenBerg, Wyoming City Clerk

Resolution No. _____

November 30, 2021

Ms. Kelli A. Vandenberg
City Clerk
Wyoming, MI

Subject: Request for Preliminary Plat- Tentative Approval for Rivertown Valley Phase Phases 7-9 located near the southeast corner of Wilson Ave SW and 56th ST SW (Section 32) (TMGB Wilson, LLC).

Recommendation: To approve the subject plat request.

Dear Ms. Vandenberg,

The above referenced request was reviewed by the Wyoming Planning Commission at its regular meeting on November 16, 2021. A motion was made by Zapata, supported by Van Duren, to approve the request for Preliminary Plat Tentative Approval for Rivertown Valley Phases 7-9 subject to conditions 1-8 and recommend the same to City Council. The motion passed unanimously.

A detailed review of the request is available in the attached Planning Commission minutes and supportive materials. Following please find some general information.

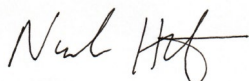
The petitioner proposes 77 lots developed to R-1 Residential standards (10,000 sq. ft. minimum lot size). The plat is part of the larger Rivertown Valley development.

The platting of property is a three step review by both the Planning Commission and City Council. The first step is Preliminary Plat – Tentative Approval which authorizes the basic lot sizes, orientation and street layout, with preliminary engineering. Preliminary Plat- Tentative Approval was granted by Planning Commission on November 16, 2021.

The second step is Preliminary Plat – Final Approval which provides full engineering detail for the construction of the plat.

The third step is Final Plat Approval, which generally occurs after the plat is completed with the City accepting the development.

Respectfully submitted,



community • safety • stewardship

CITY COUNCIL

Sheldon DeKryger

John Fitzgerald

Kent Vanderwood

Marissa Postler

Robert Postema

Sam Bolt

Jack A. Poll, Mayor

Nicole Hofert, Director
Department of Planning and Economic Development

Cc: Curtis Holt, City Manager

AGENDA ITEM NO. 3

Request for Preliminary Plat – Tentative Approval for Rivertown Valley (aka, The Reserve at Rivertown) Phases 7-9. The properties are generally located near the southeast corner of Wilson Avenue SW and 56th Street SW on parcels 41-17-32-300-063, 41-17-32-456-008, and 41-17-32-456-009 (Section 32) (TMGB Wilson, LLC).

Hofert explained that the plat areas are agricultural fields and outlined the various uses of the surrounding land.

This request is for Phases 7-9 of a larger project. This phase includes a large section north of Reserve Drive and three cul de sacs south of Reserve Drive.

Hofert explained that the platting of property is a three-step review by both the Planning Commission and City Council. The first step is Preliminary Plat – Tentative Approval which authorizes the basic lot sizes, orientation, and street layout, with preliminary engineering.

The second step is Preliminary Plat – Final Approval which provides full engineering detail for the construction of the plat.

The third step is Final Plat Approval, which generally occurs after the plat is completed with the City accepting the development.

Hofert said that phases 7-9 include 77 lots all developed to R-1 standards as dictated in the approved Overall Development Plan.

Hofert explained that the Development Review Team recommends the Planning Commission grant Preliminary Plat- Tentative Approval for Rivertown Valley Phases 7-9 and recommends the same to the City Council subject to conditions 1-8 below:

- 1.) Lot 277 must be a minimum of 10,000 sf.
- 2.) Developer shall clarify construction timeframe for common amenities (clubhouse, open park area, tennis courts, trails).
- 3.) Developer shall identify any wetland areas throughout all phases.
- 4.) Phase 7 Comments:

- a) Developer shall extend sanitary sewer to plat boundary to serve neighboring parcel. Locate between lots 264 and 265.
 - b) Plat shall identify public storm easements (lots 259, 256, 245, 246).
- 5.) Phase 8:
- a) Developer shall identify trail route and necessary easements (lots 277? 278?).
 - b) Developer shall identify any easements between lots to access trail.
- 6.) Phase 9:
- a) Developer shall identify public easement between lots 301,302. Identify as storm easement.
 - b) Clarify north-south easement along east plat boundary.
- 7.) Addressing must follow city number for east/west and north/south streets.
- 8.) Fire hydrants not shown. Must meet city requirements for spacing and locations.

Micele opened the public hearing at 7:33pm.

Larry Kuipers, 3770 56th St SW, Wyoming, MI, introduced himself and stated that he owns property North of lots 264 and 265. He wanted to know if the tree line that extends East will remain as a buffer.

Micele closed the public hearing at 7:34 pm.

Jeff Paulson, Hurley & Stewart, 2800 S 11th St, Kalamazoo, MI, introduced himself and gave some background information on the project. Paulson explained that he has no problems with the conditions listed and will work to address them. Paulson explained that regarding phase 7, specifically lots 264 and 265, on the North edge there is drainage that is required so they will clear up to the property line/ditch but will try to save the trees as much as possible. He didn't feel that many of the trees would be able to be saved though because of the drainage work that is required. Paulson stated that he is available for any other questions.

A motion was entered by Zapata, supported by VanDuren, to grant Preliminary Plat- Tentative Approval for Rivertown Valley Phases 7-9 and recommend the same to the City Council subject to conditions 1-8.

Goodheart stated that since this approval is only good for a year he asked if phase 7-9 will be fully constructed next year.

Paulson stated that they are in the process of completing final design drawings for phases 7-9 and plan to submit them in December and the intent is to construct all of these next year.

Weller asked about the tree line on the North side of lots 264 and 265 and asked the engineer what type of drainage will be used.

Paulson stated that there would be a ditch or swail along the North property line, and some locations would have catch basins and storms sewers to bring the water back to the cul de sac for drainage.

Weller asked that the trees not be removed if possible.

A vote on the motion carried unanimously

AGENDA ITEM NO. 4

Learning & Growth

Chair Micele talked to the Commissioners about the new learning and growth agenda item. Micele and vice-chair VanDuren explained that this will be a standing agenda item that will provide the commissioners topics of interest related to planning and zoning for continuing education. They indicated that this could begin in January.

The meeting concluded with a roundtable of comments from all commissioners.

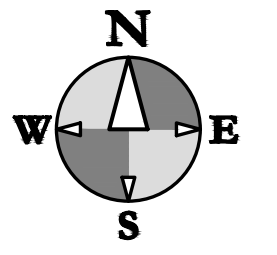
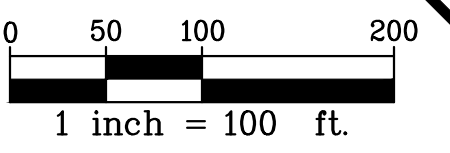
Commissioners generally wished everyone a Happy Thanksgiving.

ADJOURNMENT

The meeting was adjourned at 7:52 pm.

Audrey Zapata, Secretary
Wyoming Planning Commission

Ashley Dent, Recording Secretary



SITE DATA

ADDRESS:
5972 WILSON AVE SW
WYOMING, MI 49418

ZONING:
ZONING: PUD

SETBACKS/LOT SIZE
MINIMUM SETBACK REQUIREMENTS:
FRONT: 35 FEET
SIDE: 8 FEET / 20 FEET
REAR: 35 FEET
MINIMUM LOT SIZE: 10,000 SQ FEET (75' MIN LOT WIDTH)

FLOODPLAIN
SITE IS NOT LOCATED IN FLOODPLAIN. SEE FEMA MAP 260110010C.

SANITARY SEWER
PROPOSED SUBDIVISION WILL BE SERVED BY PUBLIC SANITARY SEWER.

WATER
THE PROPOSED SUBDIVISION WILL BE SERVED BY PUBLIC WATER MAIN.

STREETS
ALL STREETS WILL BE PUBLIC WITH MOUNTABLE CONCRETE CURB AND GUTTER AND ASPHALT SURFACE, WIDTH TO BE 33' BACK TO BACK IN A 60' R.O.W.

STREET LIGHTING
STREET LIGHTING WILL BE PROVIDED BY THE DEVELOPER IN A MANNER CONSISTENT WITH PREVIOUS PHASES OF THE PLAT.

PRIVATE UTILITIES
PRIVATE UTILITIES SUCH AS GAS, ELECTRIC, CABLE TV, ETC., SHALL BE LOCATED IN THE 10' WIDE PRIVATE EASEMENTS INDICATED WHICH ARE LOCATED OUTSIDE OF AND IMMEDIATELY ADJACENT TO THE R.O.W. ALL UTILITIES SHALL BE INSTALLED UNDERGROUND.

PROPRIETOR
TMGB WILSON, LLC
2380 HEALTH DRIVE SW, SUITE 210
WYOMING, MI 49519
(616) 248-3566

ENGINEER & SURVEYOR
HURLEY & STEWART, LLC
2800 SOUTH 11TH STREET
KALAMAZOO, MI 49009
(269) 552-4960

RIVERTOWN VALLEY NO 7 DESCRIPTION

PART OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 32, TOWN 06 NORTH, RANGE 12 WEST, CITY OF WYOMING, COUNTY OF KENT, STATE OF MICHIGAN, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE CENTER OF SECTION 32, TOWN 06 NORTH, RANGE 12 WEST; THENCE ALONG THE NORTH AND SOUTH QUARTER LINE OF SAID SECTION AND THE WEST LINE OF RIVERTOWN VALLEY I, IN LIBER 116 OF PLATS ON PAGES 34-39, KENT COUNTY RECORDS, SOUTH 00 DEGREES 41 MINUTES 53 SECONDS EAST - 659.72 FEET; TO THE NORTH LINE OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER AS MONUMENTED, AND THE POINT OF BEGINNING; THENCE CONTINUING ALONG SAID NORTH AND SOUTH QUARTER LINE, SOUTH 00 DEGREES 41 MINUTES 53 SECONDS EAST 659.57 FEET TO THE NORTH LINE OF THE SOUTH HALF OF THE SOUTHWEST QUARTER OF SECTION 32; THENCE ALONG SAID NORTH LINE, NORTH 89 DEGREES 11 MINUTES 36 SECONDS WEST 425.69 FEET; THENCE NORTH 21 DEGREES 56 MINUTES 38 SECONDS WEST 46.91 FEET; THENCE NORTHWESTERLY 11.69 FEET ALONG THE ARC OF A 220.00 FOOT RADIUS CURVE TO THE RIGHT, THE CHORD OF WHICH BEARS NORTH 20 DEGREES 25 MINUTES 18 SECONDS WEST 11.69 FEET; DELTA ANGLE, BEING 03 DEGREES 02 MINUTES 39 SECONDS; THENCE SOUTH 71 DEGREES 06 MINUTES 02 SECONDS WEST 60.00 FEET; THENCE SOUTH 68 DEGREES 03 MINUTES 22 SECONDS WEST 132.22 FEET; THENCE NORTH 21 DEGREES 56 MINUTES 38 SECONDS WEST 63.50 FEET; THENCE SOUTH 78 DEGREES 40 MINUTES 45 SECONDS WEST 131.45 FEET; THENCE SOUTH 72 DEGREES 14 MINUTES 54 SECONDS WEST 60.33 FEET; THENCE SOUTH 77 DEGREES 17 MINUTES 56 SECONDS WEST 130.07 FEET; THENCE NORTH 21 DEGREES 56 MINUTES 38 SECONDS WEST 9.10 FEET; THENCE NORTH 00 DEGREES 41 MINUTES 53 SECONDS WEST 687.67 FEET TO THE NORTH LINE OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER; THENCE ALONG SAID NORTH LINE, SOUTH 89 DEGREES 15 MINUTES 56 SECONDS EAST 975.25 FEET TO THE NORTH AND SOUTH QUARTER LINE AND THE POINT OF BEGINNING. PARCEL CONTAINS 14.63± ACRES (637,298± SQUARE FEET) SUBJECT TO EASEMENTS AND RESTRICTIONS APPARENT AND OF RECORD.

RIVERTOWN VALLEY NO 8 DESCRIPTION

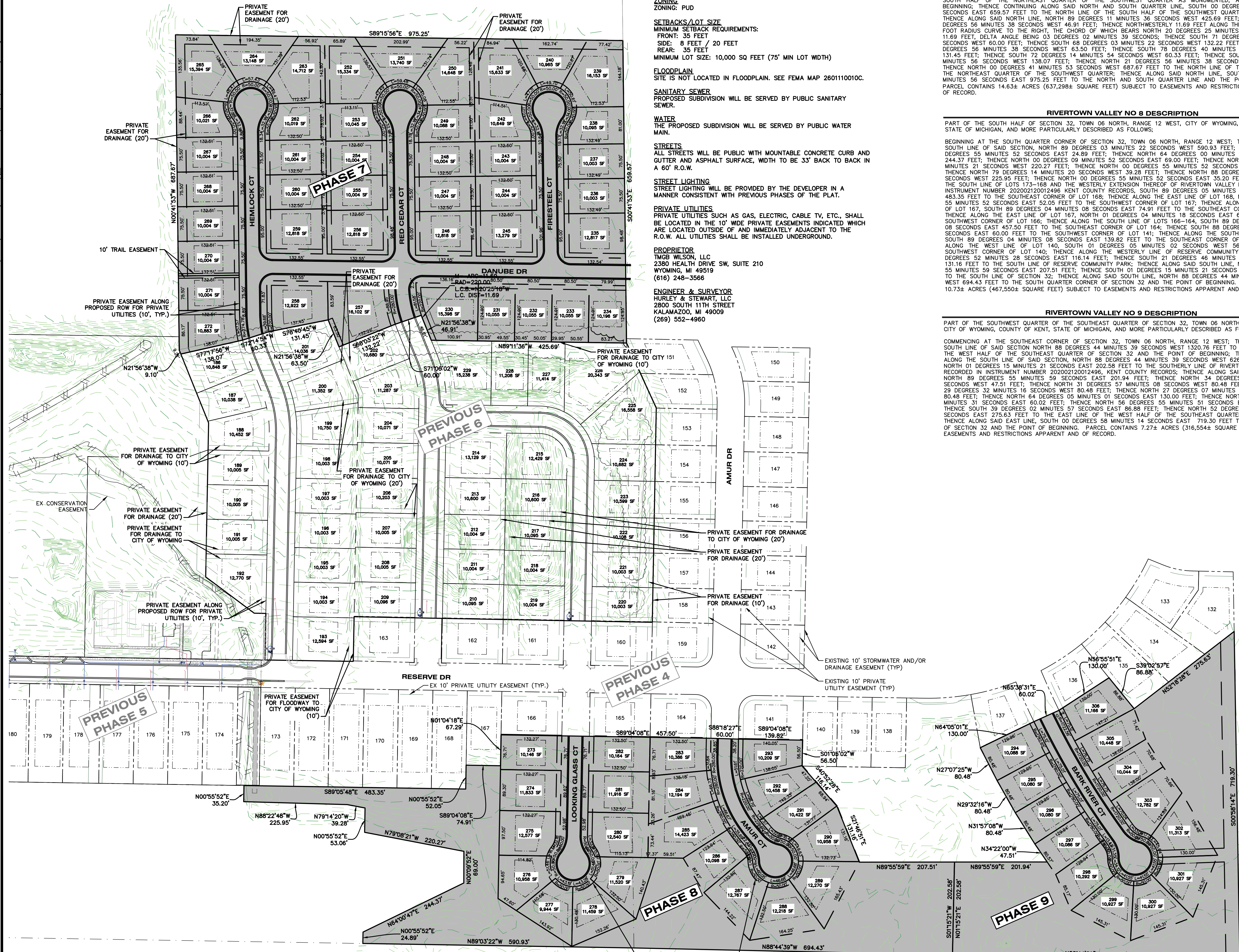
PART OF THE SOUTH HALF OF SECTION 32, TOWN 06 NORTH, RANGE 12 WEST, CITY OF WYOMING, COUNTY OF KENT, STATE OF MICHIGAN, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTH QUARTER CORNER OF SECTION 32, TOWN 06 NORTH, RANGE 12 WEST; THENCE ALONG THE SOUTH LINE OF SAID SECTION, NORTH 89 DEGREES 03 MINUTES 22 SECONDS WEST 590.33 FEET; THENCE NORTH 00 DEGREES 55 MINUTES 52 SECONDS EAST 24.89 FEET; THENCE NORTH 64 DEGREES 00 MINUTES 47 SECONDS EAST 244.37 FEET; THENCE NORTH 00 DEGREES 09 MINUTES 52 SECONDS EAST 69.00 FEET; THENCE NORTH 79 DEGREES 08 MINUTES 21 SECONDS WEST 220.27 FEET; THENCE NORTH 00 DEGREES 55 MINUTES 52 SECONDS EAST 53.06 FEET; THENCE NORTH 79 DEGREES 14 MINUTES 20 SECONDS WEST 39.28 FEET; THENCE NORTH 89 DEGREES 22 MINUTES 48 SECONDS WEST 225.95 FEET; THENCE NORTH 00 DEGREES 55 MINUTES 52 SECONDS EAST 35.20 FEET; THENCE ALONG THE SOUTH LINE OF LOTS 173-168 AND THE WESTERLY EXTENSION THEREOF OF RIVERTOWN VALLEY IV AS RECORDED IN INSTRUMENT NUMBER 202002120012496 KENT COUNTY RECORDS, SOUTH 89 DEGREES 05 MINUTES 48 SECONDS EAST 483.35 FEET TO THE SOUTHEAST CORNER OF LOT 168; THENCE ALONG THE EAST LINE OF LOT 168, NORTH 00 DEGREES 55 MINUTES 52 SECONDS EAST 52.05 FEET TO THE SOUTHWEST CORNER OF LOT 167; THENCE ALONG THE SOUTH LINE OF LOT 167, SOUTH 89 DEGREES 04 MINUTES 08 SECONDS EAST 74.91 FEET TO THE SOUTHWEST CORNER OF LOT 167; THENCE ALONG THE EAST LINE OF LOT 167, NORTH 01 DEGREES 03 MINUTES 18 SECONDS EAST 67.29 FEET TO THE SOUTHWEST CORNER OF LOT 166; THENCE ALONG THE SOUTH LINE OF LOTS 166-164, SOUTH 89 DEGREES 04 MINUTES 08 SECONDS EAST 457.50 FEET TO THE SOUTHWEST CORNER OF LOT 164; THENCE SOUTH 88 DEGREES 18 MINUTES 27 SECONDS EAST 60.00 FEET TO THE SOUTHWEST CORNER OF LOT 141; THENCE ALONG THE SOUTH LINE OF LOT 141, SOUTH 89 DEGREES 04 MINUTES 08 SECONDS EAST 139.82 FEET TO THE SOUTHWEST CORNER OF LOT 141; THENCE ALONG THE WEST LINE OF LOT 140, SOUTH 01 DEGREES 05 MINUTES 02 SECONDS WEST 56.50 FEET TO THE SOUTHWEST CORNER OF LOT 140; THENCE ALONG THE WESTERLY LINE OF RESERVE COMMUNITY PARK, SOUTH 40 DEGREES 52 MINUTES 28 SECONDS EAST 116.14 FEET; THENCE SOUTH 21 DEGREES 46 MINUTES 51 SECONDS EAST 131.16 FEET TO THE SOUTH LINE OF RESERVE COMMUNITY PARK; THENCE ALONG SAID SOUTH LINE, NORTH 89 DEGREES 55 MINUTES 59 SECONDS EAST 207.51 FEET; THENCE SOUTH 01 DEGREES 15 MINUTES 21 SECONDS WEST 202.58 FEET TO THE SOUTH LINE OF SECTION 32; THENCE ALONG SAID SOUTH LINE, NORTH 88 DEGREES 44 MINUTES 39 SECONDS WEST 694.43 FEET TO THE SOUTH QUARTER CORNER OF SECTION 32 AND THE POINT OF BEGINNING. PARCEL CONTAINS 10.73± ACRES (467,550± SQUARE FEET) SUBJECT TO EASEMENTS AND RESTRICTIONS APPARENT AND OF RECORD.

RIVERTOWN VALLEY NO 9 DESCRIPTION

PART OF THE SOUTHWEST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 32, TOWN 06 NORTH, RANGE 12 WEST, CITY OF WYOMING, COUNTY OF KENT, STATE OF MICHIGAN, AND MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE SOUTHWEST CORNER OF SECTION 32, TOWN 06 NORTH, RANGE 12 WEST; THENCE ALONG THE SOUTH LINE OF SAID SECTION NORTH 88 DEGREES 44 MINUTES 39 SECONDS WEST 1320.76 FEET TO THE EAST LINE OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 32 AND THE POINT OF BEGINNING; THENCE CONTINUING ALONG THE SOUTH LINE OF SAID SECTION, NORTH 88 DEGREES 44 MINUTES 39 SECONDS WEST 626.33 FEET; THENCE NORTH 01 DEGREES 15 MINUTES 21 SECONDS EAST 202.58 FEET TO THE SOUTHERLY LINE OF RIVERTOWN VALLEY IV AS RECORDED IN INSTRUMENT NUMBER 202002120012496, KENT COUNTY RECORDS; THENCE ALONG SAID SOUTHERLY LINE, NORTH 89 DEGREES 55 MINUTES 59 SECONDS EAST 201.94 FEET; THENCE NORTH 34 DEGREES 22 MINUTES 00 SECONDS WEST 47.51 FEET; THENCE NORTH 31 DEGREES 57 MINUTES 08 SECONDS WEST 80.48 FEET; THENCE NORTH 29 DEGREES 32 MINUTES 16 SECONDS WEST 80.48 FEET; THENCE NORTH 27 DEGREES 07 MINUTES 25 SECONDS WEST 80.48 FEET; THENCE NORTH 64 DEGREES 05 MINUTES 01 SECONDS EAST 130.00 FEET; THENCE NORTH 65 DEGREES 38 MINUTES 31 SECONDS EAST 60.02 FEET; THENCE NORTH 56 DEGREES 55 MINUTES 51 SECONDS EAST 130.00 FEET; THENCE SOUTH 39 DEGREES 02 MINUTES 57 SECONDS EAST 86.88 FEET; THENCE NORTH 52 DEGREES 18 MINUTES 28 SECONDS EAST 275.63 FEET TO THE EAST LINE OF THE WEST HALF OF THE SOUTHWEST QUARTER OF SECTION 32; THENCE ALONG SAID EAST LINE, SOUTH 00 DEGREES 58 MINUTES 14 SECONDS EAST 719.30 FEET TO THE SOUTH LINE OF SECTION 32 AND THE POINT OF BEGINNING. PARCEL CONTAINS 7.27± ACRES (316,554± SQUARE FEET) SUBJECT TO EASEMENTS AND RESTRICTIONS APPARENT AND OF RECORD.



ALL UTILITIES AS SHOWN ARE APPROXIMATE LOCATIONS DERIVED FROM ACTUAL MEASUREMENTS AND AVAILABLE RECORDS. THEY SHOULD NOT BE INTERPRETED TO BE EXACT LOCATION NOR SHOULD IT BE ASSUMED THAT THEY ARE THE ONLY UTILITIES IN THE AREA.

FIELD WORK PERFORMED BY:
HURLEY & STEWART, LLC

Job No.: 20-112P P.M./J.P.P. Drft./T.A.P. O.A./Q.C. 10/14/21
ISSUED FOR REVISIONS: 10/14/21
PRELIMINARY PLAT TENTATIVE

PRELIMINARY PLAT
RIVERTOWN VALLEY - PHASES 7-9
TMGB WILSON, LLC

Sheet Title:
Project:
Client:

10/14/21
Sheet
C-1

hurley & Stewart, llc
2800 s. 11th street
kalamazoo, michigan 49009
269.552.4960 fax 269.552.4961
www.hurleystewart.com

hurley & Stewart

DRAWING LOCATION: 11-100-112P (Rivertown Valley - Phases 7-9) FINAL DRAWINGS/Preiminary Plat/C-1 Preliminary Plat.dwg LAST SAVED BY: PAULSON ON 10/13/2021

RESOLUTION NO. _____

RESOLUTION TO APPROVE CITY MANAGER AUTHORIZATION OF NATIONAL
OPIOID SETTLEMENT ON BEHALF OF THE CITY OF WYOMING

WHEREAS:

1. Two proposed nationwide settlement agreements have been reached that would resolve certain opioid litigation.
2. The proposed settlements require payments of billions of dollars to abate the opioid epidemic.
3. The City of Wyoming has registered as a political subdivision to be a possible recipient of a portion of these settlements.
4. The City Attorney recommends authorizing the City Manager to sign any documents needed to finalize payments from these settlements.
5. There is no monetary charge for registration or participation in these settlements.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Manager is authorized to sign all documents related to and to take all steps needed to implement the National Opioid Settlement on behalf of the City.
2. All resolutions and parts of resolutions are, to the extent conflict with this Resolution, 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 December 6, 2021.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENT:

Staff Report

Resolution No. _____

STAFF REPORT

Date: December 1, 2021
Subject: City Manager authorization of National Opioid Settlement
From: Scott Smith, City Attorney
Meeting Date: December 6, 2021

BACKGROUND:

After years of negotiations, two proposed nationwide settlement agreements have been reached that would resolve certain opioid litigation brought by states and local political subdivisions against the three largest pharmaceutical distributors.

The proposed settlements require payments of billions of dollars to abate the opioid epidemic. Approximately \$22.7 billion is earmarked for use by participating states and subdivisions to remediate and abate the impacts of the opioid crisis.

The City of Wyoming has registered as a political subdivision to be a possible recipient of a portion of this settlement. The city is not guaranteed any compensation; it also does not cost the city anything to register and participate in this settlement.

The City Attorney recommends authorizing the City Manager to sign any documents needed to finalize payments from these settlements and to take any steps needed to implement the National Opioid Settlement on behalf of the City.

RECOMMENDATION:

Adopt the Resolution Approving City Manager Authorization of National Opioid Settlement on Behalf of the City of Wyoming.

BUDGET IMPACT:

The resolution has no budget impact.

RESOLUTION NO. _____

RESOLUTION TO APPROVE AND AUTHORIZE SIGNING A FUND ADVANCE AGREEMENT

WHEREAS:

1. City staff presented a city center vision that entails construction of additional dwelling units and commercial space on the remainder of former Studio 28 property, described in Exhibit A (the **Property**), possible construction of a parking structure on that property, possible 28th St SW improvements, and linking that property via two pedestrian bridges over 28th St SW (one near 28 W Place and Hook Ave SW, and one further east, but west of Clyde Park Ave SW) and a system of existing and yet to be constructed pathways to make walking and bicycling connections to Pinery Park, City Hall, the 62-A District Court Building, Wyoming Senior Center, Wyoming Police Building, Grace Christian University, and other residences, neighborhoods, restaurants, retailers, and other businesses located in that general vicinity (together, the “City Center Project”).
2. The Wyoming Brownfield Redevelopment Authority (the “WBRA”) wishes to support and encourage that effort by, among other measures, acquiring the Property for reconveyance to a developer selected by the WBRA and City pursuant to a proposed Purchase Agreement generally in the form attached as part of Exhibit A.
3. While the WBRA Board and the City Council anticipate funds becoming available for purchase of the Property from proceeds from the sale of other property owned by the WBRA, those funds likely will not be available to timely close on the purchase of the Property.
4. Under section 11 of the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2661, the City may advance funds to the WBRA, and the City is willing to do so in accordance with the terms of the proposed Fund Advance Agreement generally in the form attached as Exhibit A (the “Fund Advance Agreement”).

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The City Council enthusiastically supports the proposed City Center Project, agreeing that it (i) is a project strongly supported by citizens, (ii) is consistent with the City’s recently approved Wyoming [Re]Imagined Master Plan, (iii) will create a sense of place and identity, (iv) continues to enhance a diverse housing base, (v) will bring new jobs to the city center area, (vi) will make it easier for residents and visitors to access neighborhoods, public amenities, public services, and businesses, (vii) better provides for gathering and social spaces, and (viii) will catalyze and enhance private redevelopment within the city center area.
2. The Fund Advance Agreement is approved in generally the forms attached as Exhibits A, subject to such changes as are approved by the Mayor, City Manager, and City Attorney and the Mayor and City Clerk are authorized and directed to sign that agreement on the City’s behalf of the WBRA. All City officers and employees are authorized and directed to take all actions needed to implement those agreements according to their terms.
3. All resolutions and parts of resolutions that conflict with 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 of the City of Wyoming, Michigan at a regular meeting held on December 6, 2021.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Staff Report
Exhibit A

Resolution No. _____

STAFF REPORT

Date: November 30, 2021
Subjects: Fund Advance Agreement
From: Curtis Holt, City Manager, and Scott Smith, City Attorney
Meeting Date: December 6, 2021

RECOMMENDATION:

Adopt the Resolution Approving and Authorizing Signing of Fund Advance Agreement.

COMMUNITY, SAFETY, STEWARDSHIP:

Community – Our community will be improved with the creation of a city center with improved pedestrian and cycling access to key community amenities, with additional affordable and market-rate housing units, additional commercial space, and additional gathering and social spaces.

Safety – Improvements to and over 28th St SW will improve pedestrian and bicycling safety.

Stewardship – Stewardship is advanced when the city collaborates with private and public entities to take advantage of what may be once in a generation confluence of available property, funds, and other opportunities to advance a key city vision.

BUDGET IMPACT:

Funds will come from the general fund balance, which will be reimbursed with interest at the rate of 1.5% per annum when the Wyoming Brownfield Redevelopment Authority (WBRA) has the funds to do so from the sale of Site 36, from the resale of the former Studio 28 property, or under other circumstances.

DISCUSSION:

During a recent City Council work session, staff envisioned a city center with dwelling units and commercial space on the remaining former Studio 28 property (the “Property”), possible construction of a parking structure on the Property, possible 28th St SW improvements, and linking the Property via two pedestrian bridges over 28th St SW (one near 28 W Place and Hook Ave SW, and one further east, but west of Clyde Park Ave SW) and a system of existing and yet to be constructed pathways to make walking and bicycling connections to Pinery Park, City Hall, the 62-A District Court Building, Wyoming Senior Center, Wyoming Police Building, Grace Christian University, and other residences, neighborhoods, restaurants, retailers, and other businesses located in that general vicinity (together, the “City Center Project”). One step in that Project is the redevelopment of the Property which is now available. The anticipated developer of that property is not yet ready to acquire it so the WBRA will acquire it for resale to that developer within the next couple years.

While the WBRA anticipates the sale of Site 36 will generate funds sufficient to acquire the Property, that sale has not been completed. In addition, it is anticipated resale of the Property will generate funds sufficient to repay purchase price and associated costs to purchase the Property. Either of these funding sources should repay this fund advance. (Any additional funds may be used in furthering other parts of the City Center Project.) Therefore, the City would temporarily advance funds to address the WBRA’s cash flow constraint.

EXHIBIT A TO RESOLUTION
FUND ADVANCE AGREEMENT

This Fund Advance Agreement is made as of December 7, 2021, between the City of Wyoming, a Michigan municipal corporation (**City**), and the Wyoming Brownfield Redevelopment Authority, a Michigan public body corporate (**WBRA**), both of 1155 28th St SW, Wyoming, MI 49509.

RECITALS

- A. City and WBRA have a vision for a city center that entails construction of additional dwelling units and commercial space on the remainder of former Studio 28 property, described in Exhibit A (the **Property**), and linking that property via two pedestrian bridges over 28th St SW (one near 28 W Place and Hook Ave SW and one further east, but west of Clyde Park Ave SW) and a system of existing and yet to be constructed pathways to make walking and bicycling connections to Pinery Park, City Hall, the 62-A District Court Building, Wyoming Senior Center, Wyoming Police Building, Grace Christian University, and other residences, neighborhoods, restaurants, retailers, and other businesses located in that general vicinity.
- B. To aid in that project, WBRA wishes to acquire the Property for reconveyance to a developer selected by WBRA and City.
- C. While WBRA anticipates funds becoming available with the sale of other property owned by WBRA, those funds likely will not be available to timely close on the purchase of the Property.
- D. Section 11 of the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2661, authorized City to advance funds to WBRA, and City wishes to do so in accordance with the terms of this Agreement.

TERMS AND CONDITIONS

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

1. Advance. By December 20, 2021, City shall advance to WBRA up to \$2,100,000 in funds (**Advanced Funds**) for use in purchasing the Property pursuant to a Purchase Agreement between WBRA and the Seller of the Property under a Purchase Agreement generally in the form attached as Exhibit A, subject to such changes as are approved by the city manager, city attorney, and city planning and economic development director (**Purchase Agreement**).
2. Repayment. WBRA shall repay the Advanced Funds when (i) WBRA receives proceeds from the resale of the Property to a developer under terms acceptable to the WBRA Board and City Council, (ii) WBRA receives proceeds from the sale of Site 36, or (iii) WBRA receives other funds that could be used to repay the Advanced Funds. If the funds from any one of these sources is insufficient to repay the Advanced Funds in full or WBRA will receive such funds in more than one payment, WBRA may use funds from more than one of the sources and shall repay the Advanced Funds as it receives the funds to do so from any or all those sources. WBRA shall also pay interest on the Advanced Funds at the rate of 1.5% per annum on the unpaid balance commencing January 1, 2022, for each month or part of a month that it remains unpaid.
3. Property Resale and Use. WBRA shall resell the property for its redevelopment in accordance with an agreement for its resale and redevelopment that is also approved by the City Council. Unless otherwise approved by the City Council, that agreement shall provide for construction of commercial spaces on the bottom story of 4 to 5 story buildings the second and upper stories of which are residential dwelling units with an appropriate mix of market rate rental units or owner-occupied condominiums with the possible construction of a parking structure to reduce the land area occupied by parking and increase the land area available for outdoor gathering, open and/or green spaces. That agreement may also provide for economic development incentives and/or public-private ventures if approved by the City Council and the WBRA Board.
4. General Provisions.
 - A. This Agreement constitutes the entire agreement between the parties with respect to its subject matter. It supersedes all other agreements between the parties regarding its subject matter. Any waiver, alteration or modification of this Agreement will not be valid unless in writing signed by both parties.

B. The captions are only for reference and shall not affect its interpretation. However, the recitals are an integral part of this Agreement.

C. If further documentation is reasonably needed to effectuate the provisions and intent of this Agreement, each party shall sign and deliver such further documents as reasonably needed without undue delay or conditions.

The parties have signed this Agreement as of the date first written above.

JACKSON ENTERTAINMENT, LLC

**WYOMING BROWNFIELD REDEVELOPMENT
AUTHORITY**

By: _____
Jack A. Poll, Mayor

By: _____
Tom Brann, Chair

By: _____
Kelli A. VandenBerg, City Clerk

By: _____
Nicole Hofert, Acting Secretary

Dated signed: December __, 2021

Date signed: December __, 2021

Approved as to form:

Scott G. Smith, City Attorney

EXHIBIT A TO FUND ADVANCE AGREEMENT

PURCHASE AGREEMENT

This Purchase Agreement is made as of _____, 2021 (**Effective Date**), between Jackson Entertainment, LLC, a Michigan limited liability company, and Loeks Theatres, Inc., a Michigan corporation, both of 2121 Celebration Dr NE, Grand Rapids, MI 49525 (collectively, **Seller**), and the Wyoming Brownfield Redevelopment Authority, a Michigan public body corporate of 1155 28th St SW, Wyoming, MI 49509 (**WBRA**).

RECITALS

A. Seller owns or controls the real property parcels described as follows (collectively, the **Property**) on the real property tax records of the city of Wyoming (**City**):

1345 28th West Pl SW, PP# 41-17-14-126-028, approximately 1.36 acres, described as:

PART OF NW 1/4 COM AT N 1/4 COR TH N 88D 11M 47S W ALONG N SEC LINE 1164.13 FT TH S 1D 48M 13S W 75.82 FT TO SLY LINE OF 28TH ST TH ELY ALONG SD SLY LINE 114.66 FT ON A 34442.95 FT RAD CURVE TO LT /LONG CHORD BEARS S 88D 44M 45S E 114.66 FT/ TH S 88D 44M 45S E 75.42 FT TO BEG OF THIS DESC - TH S 45D 24M 35S W 68.49 FT TH SELY 377.39 FT ALONG A 263.50 FT RAD CURVE TO LT /LONG CHORD BEARS S 41D 38M 42S E 345.98 FT/ TO E LINE OF W 1827 FT OF NW 1/4 TH N ALONG SD E LINE 132.72 FT TH E PERP TO W SEC LINE 40.0 FT TH N PAR WITH W SEC LINE 120.0 FT TH W 40.0 FT TO E LINE OF W 1827 FT OF NW 1/4 TH N ALONG SD E LINE TO S LINE OF 28TH ST TH W ALONG SD S LINE TO BEG * SEC 14 T6N R12W.

1410 28th West Pl SW, PP# 41-17-14-126-027, approximately 2.35 acres, described as:

PART OF NW 1/4 COM AT NW COR OF SEC TH S 88D 11M 47S E ALONG N SEC LINE 827.0 FT TH S 0D 24M 13S E 74.12 FT TO S LINE OF 28TH ST TH S 87D 34M 15S E ALONG SD S LINE 49.17 FT TH ELY 430.48 FT ALONG A 34442.95 FT RAD CURVE TO LT /LONG CHORD BEARS S 87D 56M 14S E 430.48 FT/ TO BEG OF THIS DESC - TH ELY 151.20 FT ALONG A 34442.95 FT RAD CURVE TO LT /LONG CHORD BEARS S 88D 25M 15S E 151.20 FT/ TH S 44D 35M 25S E 87.57 FT TH SELY 493.78 FT ALONG A 343.50 FT RAD CURVE TO LT /LONG CHORD BEARS S 43D 18M 15S E 452.35 FT/ TO E LINE W 1827 FT OF NW 1/4 TH S 0D 24M 13S E ALONG SD E LINE 1.00 FT TH N 88D 20M 01S W 520.41 FT TH N 0D 24M 13S W 381.59 FT TO BEG * SEC 14 T6N R12W.

1440 28th St SW, PP# 41-17-14-126-025, approximately 2.21 acres, described as:

PART OF NW 1/4 COM AT NW COR OF SEC TH S 88D 11M 47S E ALONG N SEC LINE 827.0 FT TH S 0D 24M 13S E 74.12 FT TO S LINE OF 28TH ST & TO BEG OF THIS DESC - TH S 87D 34M 15S E ALONG SD S LINE 49.17 FT TH ELY 201.95 FT ALONG A 34442.95 FT RAD CURVE TO LT /LONG CHORD BEARS S 87D 44M 49S E 201.95 FT/ TH S 0D 24M 13S W 382.51 FT TH N 88D 20M 01S W 251.0 FT TH N 0D 24M 13S W 385.23 FT TO BEG * SEC 14 T6N R12W.

B. WBRA wishes to acquire the Property for use by a developer selected by WBRA and City for redevelopment consistent with City's recently approved Wyoming [Re]Imagined Master Plan.

TERMS AND CONDITIONS

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

1. Sale and Purchase. Seller agrees to sell, and WBRA agrees to purchase the Property as provided in this Agreement.

2. Price and Deposit. WBRA will pay Seller the **Purchase Price** of \$2,000,000 for the Property. If WBRA closes on the purchase no later than December 31, 2021, the Purchase Price shall be \$1,962,000.

A. Within 7 days after the Effective Date, WBRA will deposit with the Title Company (defined below) \$5,000.00 as an initial earnest money deposit (**Initial Deposit**).

B. Provided that this Agreement has not been terminated in accordance with subsection 3.B or subsection 3.C of this Agreement, then within 3 City business days after the expiration of the Contingency Period (defined below), WBRA shall deposit with the Title Company \$50,000.00 as an additional earnest money deposit (**Additional Deposit**, and together with the Initial Deposit, the **Deposit**).

C. The Deposit shall be refunded to WBRA, disbursed to Seller or credited toward the Purchase Price at Closing (defined below), in accordance with the terms and conditions of this Agreement.

3. Title and Condition.

A. At the Closing, Seller will convey or cause to be conveyed such title to the Property as shall enable the Title Company to issue an ALTA owner's policy of title insurance, without standard exceptions, covering the Property in the full amount of the Purchase Price (subject only to the Permitted Exceptions in accordance with subsection 3.B hereof) (the **Title Policy**) by a covenant deed, subject to the Permitted Exceptions, to WBRA or another party, as WBRA may direct.

B. WBRA is responsible for any survey and assurance of title WBRA wishes to obtain for the Property. Seller shall have no responsibility to provide any portion of the cost of either the survey or assurance of title, except as set forth in Section 6 hereof.

1. Within 3 City business days after the Effective Date, Seller will deliver any existing surveys, title policies, environmental reports, and similar reports, studies and materials to City's city attorney, to the extent in Seller's actual possession or control, which shall be without representation or warranty.

2. Within 3 City business days after the Effective Date, WBRA will order a commitment for an ALTA owner's title insurance policy (**Title Commitment**) from Transnation Title Agency, 921 Division Ave N, Grand Rapids, MI 49503 (**Title Company**). WBRA may, if it wishes, order an update to any existing survey or a new ALTA survey of the Property from a surveyor WBRA chooses (**Survey**).

3. On or before December 20, 2021, WBRA will notify Seller in writing of any conditions revealed in the Title Commitment or the Survey that WBRA believes would prevent conveyance of title as described in subsection 3.A or which would, in WBRA's sole judgment, impair or frustrate the WBRA's intended use of the Property. Any matter identified in the Title Commitment or Survey to which the WBRA does not timely object shall be deemed to be permitted exceptions to the status of Seller's title (the **Permitted Exceptions**).

4. If WBRA timely objects to any matter identified in the Title Commitment or Survey, then Seller shall have 10 days after the notice provided in subsection 3.B. to provide WBRA with notice of Seller's election to either cure or not cure such objections. If Seller fails to deliver such notice within such 10-day period, then Seller shall be deemed to have declined to cure such objections. If Seller elects to cure any such objections, then Seller shall use commercially reasonable efforts to correct, remedy, insure over (by procuring appropriate endorsement to the Title Policy) or otherwise cure such matters on or prior to the Closing. If, despite Seller's efforts, Seller is unable to cure any such matters prior, WBRA may either (i) waive its concerns and continue with the transaction as provided in this Agreement and accept a conveyance of the Property subject to such matters (in which case such matters shall be Permitted Exceptions), or (ii) terminate this Agreement.

5. If Seller elects not to cure any such objections, then, prior to the expiration of the Contingency Period, WBRA may either (i) waive its concerns and continue with the transaction as provided in this Agreement and accept a conveyance of the Property subject to such matters (in which case such matters shall be Permitted Exceptions), or (ii) terminate this Agreement. If WBRA fails to timely terminate this Agreement in the manner provided in this subsection 3.B.5, then WBRA's rights to terminate on account of any title or survey matter shall be deemed waived by WBRA.

6. If WBRA terminates this Agreement under subsection 3.B.4 or 3.B.5, the Title Company shall return the Initial Deposit to WBRA and neither party will have any further obligations under this Agreement except for such obligations as expressly survive the expiration or termination of this Agreement.

7. Regardless of any provisions other provisions of this Agreement, Seller shall, in all events (regardless of whether same are identified by WBRA as objections under subsection 3.B.3), be obligated to cure or remove prior to Closing, as a condition to WBRA's obligation to close, each of the following: (1) any liens securing Seller's existing financing against the Property; (2) any other monetary liens created by an act or omission of Seller, including liens securing any other mortgage or deed of trust financing obtained by Seller at any time prior to the Closing; (3) any tax liens for delinquent taxes relating to Seller's failure to pay an applicable tax; (4) any mechanics', contractors' or material suppliers' liens arising from work or improvements at the Property by, or on behalf of, Seller; (5) any lis pendens

or similar filing with respect to pending litigation affecting the Property, judgment liens against Seller or any of Seller's affiliates and/or any other involuntary liens against Seller or any of Seller's affiliates; and (6) any encumbrances voluntarily executed (and affecting title to the Property) by Seller after the Effective Date.

C. Except as otherwise expressly stated in this Agreement, the Property will be conveyed in an "as is, where is" condition, without any warranties, express or implied, as to its condition or its suitability for any use or purpose and, more particularly, without any representations as to the presence or absence of any materials or substances regulated under applicable laws, rules, or regulations, including any environmental requirements. WBRA may undertake its own investigations of the Property to determine whether the Property is suitable for WBRA's intended use. Except as expressly stated in this Agreement, Seller makes no representation or warranty as to the truth, accuracy or completeness of any materials, data or information delivered by Seller to WBRA in connection with the transaction contemplated by this Agreement. WBRA acknowledges and agrees that all materials, data and information delivered by Seller to WBRA in connection with this transaction are provided to WBRA as a convenience only (except for materials Seller is required to provide under applicable law, such as, for example, Part 201 of the Natural Resources and Environmental Protection Act, MCL 324.20101 *et seq.*) and that any reliance on or use of such materials, data or information by WBRA shall be at the sole risk of WBRA, except as expressly stated in this Agreement.

1. After the Effective Date, WBRA or WBRA's designated agents (including agents of WBRA's designated grantee) and contractors may, subject to the requirements of subsection 3.C.2, enter upon the Property to undertake such investigations as WBRA determines to be necessary or prudent, including for example and without limitation, any surveys, environmental investigations, and geotechnical borings or investigations.

a. All persons entering upon the Property for such purposes shall do so at their own risk.

b. All persons entering upon the Property for such purposes shall be insured with not less than \$1,000,000.00 of general commercial liability insurance and automotive insurance for any property damage or personal injuries that may arise as a result of any of their acts or omissions while on the Property.

c. WBRA will hold Seller harmless from, indemnify Seller for, and defend Seller against any claims, demands, and judicial or administrative actions resulting from activities undertaken by persons on WBRA's behalf under this subsection 3.C, and notwithstanding anything to the contrary in this Agreement such obligation to defend, indemnity and hold harmless Seller shall survive Closing or any termination of this Agreement.

d. Before persons performing the investigations for WBRA under this subsection 3.C leave the Property, any boring holes or other damages to the Property occurring as a result of activities under this subsection shall be fully repaired and the Property restored to the condition it was in before that entry, and notwithstanding anything to the contrary in this Agreement such obligation to repair and restore the Property shall survive Closing or any termination of this Agreement.

2. During the Contingency Period, WBRA or WBRA's designated agents (including agents of WBRA's designated grantee) and contractors may perform environmental site assessments (**ESAs**) of the Property. If WBRA elects to perform ESAs, WBRA shall promptly provide Seller with a copy of the written reports. If WBRA does not complete ESAs and/or fails to provide Seller with any required ESA report during the Contingency Period, WBRA shall be considered to have waived any objection to the environmental condition of the Property.

3. If WBRA concludes, in WBRA's sole discretion, that any condition or circumstance revealed during investigations undertaken under this subsection 3.C make the Property unsuitable for WBRA's intended use, in WBRA's sole judgment, WBRA may, by written notice to Seller on or before December 20, 2021 (**Contingency Period**), terminate this Agreement.

4. If WBRA terminates this Agreement under subsection 3.C.3, Title Company shall return the Initial Deposit to WBRA and neither party will have any further obligations under this Agreement, except for such obligations as expressly survive the expiration or termination of this Agreement. If WBRA does

not terminate this Agreement under subsection 3.C.3, the Initial Deposit shall become non-refundable to WBRA, except as otherwise set forth herein, but shall remain applicable to the Purchase Price at Closing, and WBRA shall be obligated to make the Additional Deposit as required pursuant to Section 2 hereof. Upon the City making the Additional Deposit, the Additional Deposit shall be immediately non-refundable to WBRA except as otherwise set forth herein but shall remain applicable to the Purchase Price at Closing.

4. Taxes, Assessments, and Utilities.

A. Seller will pay all real and personal property taxes assessed against Property or personal property located at the Property that are billed in 2021 or before. WBRA will pay all real and personal property taxes assessed against Property or personal property located at the Property that are billed after the closing. Notwithstanding the foregoing, all real and personal property taxes assessed against Property or personal property located at the Property that are due and payable in the year of the Closing shall be prorated between the WBRA and Seller on a calendar year basis, using the most recently available tax rates and assessed value of the Property.

B. Seller will pay all special assessments assessed against the Property before the Effective Date.

C. Seller will pay all amounts due for any water, sanitary sewer, communications, electric, gas, or other utilities services provided to the Property on or before the Closing.

5. Closing. The closing of the transaction contemplated by this Agreement (**Closing**) shall occur as follows:

A. Unless this Agreement is terminated earlier as provided in subsections 3.B or 3.C or unless WBRA decides to close prior to the end of the Contingency Period, Closing must occur on or before December 31, 2021. If WBRA fails to close as provided in this subsection 5.A.1, then Seller may retain the Deposit as liquidated damages as its sole remedy for WBRA's failure to close the transaction as provided in this Agreement. Notwithstanding the foregoing, if WBRA obtains a Phase I Environmental Site Assessment on or before the expiration of the Contingency Period that identifies recognized environmental conditions that warrant a Phase II Environmental Site Assessment, the Contingency Period may be extended by Buyer for an additional period not to exceed 60 days (**Extended Contingency Period**) and the Closing shall be extended until on or before tenth (10th) day after the expiration of the Extended Contingency Period. If the Phase II Environmental Site Assessment identifies contamination at the Property above applicable criteria and the Property meets the definition of a "facility" under Part 201 of 1994 PA 451, WBRA may, by written notice to Seller on or before the expiration of the Extended Contingency Period. If the Phase II Environmental Site Assessment is promptly ordered (*i.e.*, not later than December 23, 2021) and due to weather (*e.g.*, severe cold, or heavy ice or snow cover) or other circumstances beyond WBRA's reasonable control, that assessment cannot be completed within the additional 60 days, the Extended Contingency Period will, upon notice to Seller, be extended an additional 30 days.

B. The Closing shall be held in escrow through the Title Company, or at an office of the Title Company, or such other place as the parties agree.

C. At Closing, Seller shall execute and deliver to WBRA or such other party as WBRA may designate: (i) the covenant deed conveying title to the Property as provided in this Agreement, subject only Permitted Exceptions; (ii) a vendor's affidavit as required by the Title Company to issue its title policy to WBRA or the designated grantee at Closing without standard exceptions that can be removed with a vendor's affidavit, (however, WBRA, at its sole cost and expense, shall be responsible for obtaining any survey sufficient to delete the standard survey exception) (iii) a non-foreign affidavit; (iv) a settlement statement prepared on the Title Company's standard form showing all prorations and adjustments contemplated by this Agreement; (v) a resolution of Seller authorizing the sale transaction contemplated by this Agreement; and (vi) such other documents as may be reasonably requested by the Title Company to close the transaction contemplated by this Agreement. At Closing, WBRA or the designated grantee shall deliver to Seller: (i) the Purchase Price, less the Deposit and Additional Deposit (if any) and subject to the prorations and adjustments contemplated by this Agreement; (ii) a settlement statement prepared on the Title Company's standard form showing all prorations and adjustments contemplated by this Agreement; and (iii) such other documents as may be reasonably requested by the Title Company to close the transaction contemplated by this Agreement.

6. Closing Expenses and Adjustments.

A. Seller shall pay (i) the premium for the Title Policy to be issued to WBRA or the designated grantee at Closing in the amount of the Purchase Price, (ii) all state and local transfer taxes, and (iii) one-half of all search and exam fees, closing and escrow charges payable to the Title Company.

B. WBRA or the designated grantee shall pay (i) one-half of all search and exam fees, closing and escrow charges payable to the Title Company, (ii) the cost of any lender's title insurance policy, (iii) the cost of any endorsements to the Title Policy, and (iv) recording fees associated with the conveyance of the Property.

C. Other adjustments shall be made for taxes, special assessments, utility fees, the Deposit, and any Additional Deposit as provided in this Agreement. Both the Deposit and the Additional Deposit (if any) shall be credited against the Purchase Price due at Closing.

D. Each party shall be responsible for its respective legal, consultant, and advisory fees.

E. Seller and WBRA each represent that no real estate broker participated in this transaction and no commission or other brokerage fees are due. The parties shall indemnify, defend, and hold one another harmless from any liability, cost, expense or damage (including without limitation all legal costs and attorneys' fees) caused to or incurred by the other party as a result of any breach of this representation.

7. Possession. Possession of the Property shall be delivered at Closing.

8. Representations and Warranties.

A. Seller represents and warrants to the best of its current, actual knowledge to WBRA the following, as of the date first written above, which representations and warranties will continue to be true and accurate as of the Closing:

1. Except as disclosed in the Title Commitment, there are no instruments, agreements, or other documents that give any person any rights, title, or interest in any part of the Property or promise to give any other persons any rights, title, or interest in any part of the Property. Seller has not made any agreement that is binding on Seller or the Property to sell any of the Property to any party other than WBRA. Seller has not granted to any party an option to purchase and has not leased or committed to lease the Property, which is enforceable or exercisable now, or at any time in the future.

2. The signing and delivery of this Agreement, the consummation of the transaction provided for in this Agreement, and compliance with the terms of this Agreement will not conflict with, or result in a breach of, any other agreement of Seller or any judgment, order or decree of any court having jurisdiction over the Property. This Agreement and all documents signed by or to be signed by Seller in connection with this Agreement are, or when executed will be, legal, valid, and binding instruments enforceable against Seller in accordance with their respective terms and conditions.

3. To the best of Seller's current, actual knowledge and except as may be disclosed in a Phase I or Phase II Environmental Site Assessment of the Property, there is no pending or threatened litigation, proceeding, lien, or governmental investigation relating to the Property, and Seller has received no notice of any pending or threatened condemnation action affecting the Property, and Seller has received no such notice that any condemnation action is contemplated by any governmental authority.

B. WBRA represents and warrants to the best of its current, actual knowledge to Seller the following, as of the date first written above, which representations and warranties will continue to be true and accurate as of the Closing:

1. WBRA has, or prior to the Closing will have, duly and properly taken all actions required to be taken by or on the part of WBRA to authorize the execution, delivery, and carrying out of this Agreement.

2. WBRA is not a party to any contract, settlement, judicial order, or other agreement of any kind which would prohibit or otherwise restrict its ability to perform its obligations under and complete this transaction.

9. Assignment and Benefit.

A. Neither party may assign this Agreement or any of its rights, duties, or obligations under this Agreement without the other party's prior written consent. However, WBRA may direct that the Property be conveyed

to another party designated by WBRA. But such designation, if made, will not relieve WBRA of any duties or obligations under this Agreement, unless Seller first consents in writing.

B. This Agreement is binding on the parties and their permitted successors and assigns. But no other parties are intended beneficiaries of this Agreement.

10. Law and Jurisdiction. This Agreement was made in Kent County, Michigan and will be governed by Michigan law. Jurisdiction and venue for any action brought pursuant to or to enforce any provision of this Agreement will be solely in the state courts in Kent County Michigan. To the extent not prohibited by law, the prevailing party in any such action will, in addition to any other remedies, be entitled to recover actual costs to investigate, bring, maintain or defend any such action from its first accrual or first notice thereof through all appellate and collection proceedings, including without limitation, actual reasonable attorney fees, expert fees, filing fees, discovery costs, and other costs resulting from such action.

11. Notices. Notices required by this Agreement must be written and must be (i) delivered personally. (ii) delivered by USPS certified mail, return receipt requested, or (iii) delivered by UPS, FedEx or another national courier service. If acknowledged by the receiving party, notices may instead be made by e-mail. Notices shall be addressed and delivered to the following:

To Seller:

J.D. Loeks
Jackson Entertainment LLC
2121 Celebration Dr NE
Grand Rapids, MI 49525
jd@bystudioc.com

With a copy to:

Eric R. Starck
Miller Johnson
45 Ottawa Ave NW, Ste 1100
PO Box 306
Grand Rapids, MI 49501-0306
starcke@millerjohnson.com

To WBRA:

Nicole Hofert, Planning & Economic
Development Director
City of Wyoming
1155 28th St SW
Wyoming, MI 49509-0905
hofertn@wyomingmi.gov

With a copy to:

Scott Smith, City Attorney
City of Wyoming
1155 28th St SW
Wyoming, MI 49509-0905
smithsg@wyomingmi.gov

12. General Provisions.

A. This Agreement constitutes the entire agreement between the parties with respect to its subject matter. It supersedes all other agreements between the parties regarding its subject matter. Any waiver, alteration or modification of this Agreement will not be valid unless in writing signed by both parties.

B. Both parties had input into the drafting of this Agreement and had the advice of legal counsel before signing it. Therefore, this Agreement shall be construed as mutually drafted. The captions are only for reference and shall not affect its interpretation. However, the recitals are an integral part of this Agreement.

C. If further documentation is reasonably needed to effectuate the provisions and intent of this Agreement, each party shall sign and deliver such further documents as are reasonably needed without undue delay or conditions.

D. This Agreement may be signed in one or more counterparts, all of which will be considered one and the same agreement and will become effective when one or more counterparts have been signed by each of the parties and delivered to the other party. Signatures on this Agreement, as well as on any other documents to be executed under this Agreement, may be delivered by facsimile or electronic mail in lieu of an original signature, and the parties will treat facsimile signatures and electronic mail signatures as original signatures, and be bound by this provision. However, the deed shall be originally signed and in recordable form when delivered to WBRA.

E. Time is of the essence of this Agreement and each of its provisions.

F. In the event of a default under this Agreement by WBRA which continues uncured for a period of 10 days following written notice thereof from Seller, Seller shall be permitted to terminate this Agreement in which case the Deposit shall be disbursed to Seller as liquidated damages as Seller' sole and exclusive

remedy. In the event of a default under this Agreement by Seller which continues uncured for a period of 10 days following written notice thereof from WBRA, WBRA may (i) terminate this Agreement in which case the Deposit shall be disbursed to WBRA and no further relief will be provided WBRA, or WBRA may seek specific performance and if WBRA is unable to obtain specific performance, WBRA will be entitled to recover its reasonable, out of pocket expenses incurred in connection with this transaction.

The parties have signed this Agreement as of the date first written above.

JACKSON ENTERTAINMENT, LLC

WYOMING BROWNFIELD REDEVELOPMENT AUTHORITY

By: _____
J.D. Loeks, _____

By: _____
Tom Brann, Chair

Date signed: _____, 2021

By: _____
Nicole Hofert, Acting Secretary

LOEKS THEATRES, INC.

Date signed: _____, 2021

By: _____
J.D. Loeks, _____

Approved as to form:

Dated signed: _____, 2021

Scott G. Smith, City Attorney

RESOLUTION NO. ____
RESOLUTION TO APPROVE AND AUTHORIZE SIGNING A SITE 36
DEVELOPMENT CONTRACT

WHEREAS:

1. Since 2011, the Wyoming Brownfield Redevelopment Authority (**WBRA**) has owned the former GM Stamping Plant site lying along 36th St SW between Buchanan Ave SW on the east and the railroad tracks on the west that is more particularly described in the proposed Site 36 Development Contract attached as Exhibit A (**Development Contract**).
2. Franklin Partners, LLC (**Purchaser**) wishes to purchase the portion of that property as described in the Development Contract for the purchase price and under the terms provided in the Development Contract.
3. City of Wyoming (**City**) approval of the Development Contract is needed pursuant to the terms of the WBRA's acquisition of that property and because certain acts may be required of the City in conjunction with its development by Purchaser, so the City is also a party to the Development Contract.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Development Contract is approved in generally the form attached as Exhibit A, subject to such changes as are approved by the Mayor, City Manager and City Attorney and the Mayor and City Clerk are authorized and directed to sign the Development Contract on behalf of the City. All WBRA and City officers and employees are authorized and directed to take all actions needed to implement the Development Contract.
2. All resolutions and parts of resolutions that conflict with 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 of the City of Wyoming, Michigan, at a regular meeting held on December 6, 2021.

Kelli A. Vandenberg, Wyoming City Clerk

ATTACHMENTS:
Staff Report
Exhibit A

Resolution No. _____

STAFF REPORT

Date: December 2, 2021
Subjects: Site 36 Development Contract
From: Curtis Holt, City Manager, and Scott Smith, City Attorney
Meeting Date: December 6, 2021

RECOMMENDATION:

Adopt the Resolution Approving and Authorizing Signing of Site 36 Development Contract.

COMMUNITY, SAFETY, STEWARDSHIP:

Community – Our community will be improved with the redevelopment of Site 36.

Safety – Site 36's redevelopment will continue to provide for environmentally responsible reuse of the site.

Stewardship – Site 36 redevelopment will add tax base and employment opportunities, as well as possibly catalyzing improvements to other property in its vicinity.

BUDGET IMPACT:

The sale will generate funds to reimburse the City and Wyoming Brownfield Redevelopment Authority (WBRA) for costs already incurred related to Site 36 and providing funding for other economic development opportunities.

DISCUSSION:

The purchaser is a new entity established by owners of Franklin Partners, LLC with which the city and WBRA have worked to sell and redevelop Site 36. The city and Franklin Partners have successfully collaborated on other projects.

The development will provide for industrial use of the part of the site south of 36th St SW. The portion of Site 36 lying north of 36th St SW will continue to be publicly owned and be developed as public market and gathering place with parking to accommodate overflow at Godwin Heights school events.

As you know, Wyoming started working on redevelopment of this site in 2009 when GM began planning for closure of the metal stamping plant that once occupied it. The WBRA acquired the site in 2011.

EXHIBIT A TO RESOLUTION

SITE 36 DEVELOPMENT CONTRACT

This Site 36 Development Contract is made as of December 7, 2021, among the Wyoming Brownfield Redevelopment Authority, a Michigan public body corporate (“**WBRA**”), the City of Wyoming, a Michigan municipal corporation (“**City**”), both of 1155 28th St SW, PO Box 905, Wyoming, MI 49509-0905, and Franklin Site 36, LLC, a Michigan limited liability company, with local offices at 99 Monroe Ave NW, Suite 102, Grand Rapids, MI 49503 (“**FS36**”).

RECITALS

- A. FS36 seeks to acquire the Property from WBRA (with City’s consent) for its development, occupancy and use in accordance with this Contract.
- B. WBRA with City’s consent wishes to convey the Property to FS36 for its development, occupancy and use in accordance with this Contract.

TERMS AND CONDITIONS

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

Article I

Definitions and Interpretation

1.1 Definitions. The following definitions apply to this Contract.

- A. *Act 381* means the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 *et seq.*
- B. *BEA* means a baseline environmental assessment and any related due care plan prepared and, if needed or desirable, filed in accordance with Part 201.
- C. *Brownfield plan/work plan* means an amendment to WBRA’s brownfield plan and a work plan to provide for the capture and use of tax increment revenue, including state and local educational taxes, under Act 381 to support the development of the Project on the Property.
- D. *City Code* means the Code of Ordinances, City of Wyoming, Michigan accessible at: https://library.municode.com/mi/wyoming/codes/code_of_ordinances.
- E. *City Council* means the City Council of City.
- F. *City Manager* means the duly appointed City Manager of City.
- G. *City personnel* means City officers, employees, City Council members, board members, planning commissioners, volunteers, consultants, and other City agents.
- H. *City Planner* means City’s Director of Planning and Economic Development.
- I. *Contract Date* means the date written in the first line of this Contract.
- J. *County* means Kent County, Michigan.
- K. *DEGLE* means the Michigan Department of the Environment, Great Lakes, and Energy, formerly known as “*Department of Environmental Quality*”), and any successor agency.
- L. *Deposit* means the deposit made by FS36 under section 2.2.

M. *Development incentives* means tax increment financing, DEGLE grants or loans, EDA grant or other federal, state or local incentives listed in article III that FS36, WBRA and City agree are needed for the viable development of a particular Property user's development.

N. *EDA* means the Economic Development Administration, United States Department of Commerce.

O. *Environmental Laws* means all federal and state environmental laws including but not limited to the Federal Water Pollution Control Act (33 USC §1251 *et seq.*), Resource Conservation & Recovery Act (42 USC §6901 *et seq.*), Safe Drinking Water Act (42 USC §300f-j-26), Toxic Substances Control Act (42 USC §7401 *et seq.*), Comprehensive Environmental Response, Compensation and Liability Act (42 USC §9601 *et seq.*), Emergency Planning and Community Right to Know Act (42 USC §1101 *et seq.*), the Michigan Natural Resources and Environmental Protection Act (MCL §324.101 *et seq.*) and any statutes that replace them, together with all rules and regulations promulgated under such statutes.

P. *EPA* means the United States Environmental Protection Agency.

Q. *Existing survey* means the 6-sheet survey of the Property last revised June 13, 2011, prepared by Mark Roosien of Roosien & Associates, prepared for Stuart Farber of Thunder Ventures LLC, project number 110019, a copy of which is attached as Exhibit A.

R. *FS36 personnel* means FS36's members, officers, directors, employees, consultants, and contractors.

S. *MSF/MEDC* means the Michigan Strategic Fund and Michigan Economic Development Corporation, and any other bodies or agencies (other than DEGLE) dealing with economic development incentives and the approval of brownfield work plans in order to capture certain tax increment revenues.

T. *New survey* means any additional survey of the Property obtained as provided in section 2.4.

U. *NFA Letter* means the letter from DEGLE to David Favero of the RACER Trust, dated March 13, 2018, providing notice of approval of the NFA Report, a copy of which FS36 acknowledges receiving.

V. *NFA Report* means the No Further Action Report filed by RACER for the Property on February 9, 2018.

W. *North Parcel* means the property lying north of 36th St SW identified on the Survey as Parcel 1.

X. *Part 201* means part 201 of the Michigan Natural Resources and Environmental Protection Act, MCL §324.20101 *et seq.* and any rules and regulations promulgated under that statute and any guidelines, memos and other documents issued by DEGLE in its interpretation and administration of that statute.

Y. *Project* means the development of the Property and construction of one or more buildings and appurtenances to accommodate one or more industrial operations as provided in Article IV of this Contract. The Project also includes construction and installation of the public/private social and market space on the North Parcel as generally depicted on the drawing entitled "36th Street Marketplace Conceptual Draft Layout," dated 11.16.2021, attached as Exhibit C.

Z. *Property* means the real property the address of which is 300 36th St SW, that lies along 36th St SW, within an area generally having 36th St SW as its northern boundary, Buchanan Ave SW as its eastern boundary, 40th St SW and Stafford Ave SW as its southern boundary, and railroad tracks as its western boundary and is depicted and more particularly described as "Parcel 3" on the existing survey attached **Exhibit A** (that does not include the North Parcel or property or west of the railroad track). **WBRA will convey to City prior to closing an easement for utility and right-of-way purposes along the east boundary** as depicted and described on the attached **Exhibit B**.

AA. *Purchase Price* means the purchase price of for the Property as provided in section 2.1.

BB. *Restrictive Covenant* means the Declaration of Restrictive Covenant recorded with the County Register of Deeds on August 30, 2017, at 20170831-0073657, a copy of which FS36 acknowledges receiving.

CC. *Title commitment* means commitment number #331408GRS Revision No. 1 for issuance of an owner's policy of title insurance with standard exceptions with respect to the Property in the amount of the Purchase Price issued by the title company, dated 11/4/2021, a copy of which FS36 acknowledges

receiving. FS36 may pay for and obtain documents for any upgrade in title insurance. WBRA and City will cooperate in needed documents that address concerns within WBRA's or City's purview.

DD. *Title company* means Transnation Title Agency of Michigan, 921 Division Ave N, Grand Rapids, MI 49503.

EE. *WBRA Board* means the Board of Directors of the WBRA.

FF. *WBRA personnel* means the WBRA Board, City personnel serving WBRA, and WBRA's contractors and consultants.

GG. *Zoning Ordinance* means Chapter 90 of the City Code accessible at <https://www.wyomingmi.gov/Portals/0/Documents/Departments/Planning%20Community%20Development/Adopted%20Zoning%20Ordinance%20April%2019%202016%20%28amended%201-17%29%20%282%29.pdf>.

1.2 Rules for Interpretation. The following apply to interpretation of this Contract.

A. Reference to an officer or other individual by a title or position, includes any superior, designee or successor of that individual. Reference to a governmental agency or office includes any successor agency and office whether that occurs by legislation, executive order, reorganization, or other means.

C This Contract is the entire agreement among the parties regarding its subject. It supersedes and replaces any prior agreement. This Contract may be amended or modified only in writing signed by all parties after City Council and WBRA Board approvals.

D. This contract was made in Kent County, Michigan and is to be interpreted under Michigan law.

E. Article and section headings are only for reference and shall not affect interpretation of this Contract. The Exhibits are integral parts of this Contract.

Article II Conveyance

2.1 Purchase Terms. FS36 agrees to purchase from WBRA and WBRA agrees to sell to FS36 the Property for the Purchase Price of \$5,250,000, payable in full at closing, subject to the other terms and conditions of this Contract.

2.2 Deposit. FS36 will, within 7 calendar days after signing this Contract, deposit with the title company a \$250,000 Deposit, to be credited against the Purchase Price at closing. The Deposit may be retained by WBRA or must be returned by WBRA to FS36 as otherwise provided in this Contract.

2.3 Title. WBRA will convey title to the Property to FS36 by a covenant deed similar to that conveying title to WBRA, subject to all easements, restrictive covenants and other encumbrances of record disclosed in the title commitment and not objected to or accepted by FS36 as provided in this Contract.

A. FS36 shall until December 14 to object in writing to WBRA's attorney to any conditions or exceptions listed in the title commitment that FS36 finds unacceptable. WBRA shall have 14 days to address those objections or decline to do so. If WBRA is unable to or declines to address those objections in 14 days, FS36 may either (i) terminate this Contract and the Deposit will be returned to FS36, or (ii) decide to close without having its concerns addressed.

B. At closing, WBRA will pay the premium for a title insurance policy for the Property in accordance with the title commitment subject to any changes that result from addressing any objections made by FS36 and addressed by WBRA as provided above. The parties will arrange for a mark-up of the title commitment to be provided at closing with a title policy provided thereafter in accordance with standard title company practice.

2.4 Survey. WBRA provided FS36 the existing survey which FS36 has reviewed. FS36 will have until December 28 to obtain any new survey of the Property it wishes to obtain. Any new survey FS36 obtains must also be certified to WBRA and City. If FS36 does not obtain a new survey, FS36 will be deemed to accept the existing survey of the Property despite any changes in the Property that may have occurred after the date of the existing survey.

A. If a new survey discloses encroachments or other conditions objectionable to FS36, FS36 must notify WBRA in writing of those objections within 3 days after FS36 receives the new survey. If FS36 does not do so, the survey conditions shown in the existing survey and any new survey will be deemed acceptable.

B. If FS36 objects to survey conditions under subsection A, WBRA will have 14 days after receiving FS36's written objections to address them in a manner acceptable to FS36. If WBRA does not do so, FS36 may terminate this Contract and, within 14 days after receiving FS36's written termination under this provision, the title company will return the Deposit to FS36 as FS36's sole remedy. If FS36 does not terminate this Contract, it will be deemed to have accepted those conditions.

2.5 Property Condition.

A. For more than 5 years, FS36 worked with City and WBRA to market and develop the Property. Therefore, FS36 is aware of the Property's prior uses and the Property's history. FS36 is aware that demolition of that automotive stamping plant that once occupied the Property left in place subsurface parts of the foundation. Environmental remediation was undertaken but some hazardous substances remain on or under the Property. FS36 representatives have copies of the NFA Report, the NFA Letter and the Restrictive Covenant. The Property is a "facility" as defined in Part 201, and is subject to the Restrictive Covenant and can only be used for "non-residential uses" as defined in and provided in the Restrictive Covenant.

B. Neither WBRA nor City (including WBRA personnel and City personnel) make any representation or warranties as to the condition of the Property or as to the Property's fitness or suitability for any use or purpose. Neither City nor WBRA will have any obligation to address the condition of the Property. The Property will be conveyed in an "as is," "where is," and "with all faults" condition. After closing on its purchase of the Property, FS36 will have no recourse against City, City personnel, WBRA, or WBRA personnel due to any condition of the Property whether open and obvious, hidden, latent, or otherwise.

C. WBRA and City urge FS36 to obtain a BEA and undertake any other inspections and testing of the Property FS36 deems necessary or prudent to undertake as provided in section 2.6.

2.6 Inspections and Diligence. FS36 will have a contingency period of 30 days to address any pre-closing issues related to the Property, use of the Property, and other matters prior to closing.

A. FS36 will have 30 days after the Contract Date to complete any inspections, investigations, testing, or other examination of the Property it wishes to make. This includes, for example and without limitation, any (i) environmental investigation, sampling and testing, (ii) soil borings or other soil samples for structural support or other purposes, (iii) analysis for utilities available to the Property, (iv) vapor intrusion analysis, (v) reviews of DEGLE, EPA or other governmental agency files, and (vi) subsurface investigation.

1. If, because of the due diligence undertaken under this subsection, FS36 determines the Property is not suitable for its intended use, FS36 may notify WBRA in writing within that 30 days of its decision to terminate this Contract and, within 14 days after WBRA receives FS36's written termination, the title company will return the Deposit to FS36 as FS36's sole remedy.

2. If FS36 does not terminate this Contract as provided in this subsection, FS36 will be deemed to accept the Property's condition as fit and suitable for construction and occupancy of the Project.

B. FS36 will have 30 days after the Contract Date to address any zoning, site plan, curb cut, soil erosion, and similar issues FS36 deems necessary to address before closing. If FS36 is unable to address them to FS36's satisfaction, FS36 may within that 30 days, notify WBRA in writing the FS36 is terminating this Contract and, within 14 days after WBRA receives FS36's written termination, the title company will return the Deposit to FS36 as FS36's sole remedy. If FS36 does not terminate this Contract as provided in this subsection, it will be deemed to have waived any approvals as a precondition to closing.

C. FS36 personnel may during the 30-day contingency period provided in subsections A and B enter on the Property to undertake the respective due diligence provided for in those subsections.

1. Entry and activity upon the Property by FS36 personnel must (i) comply with the Restrictive Covenant and the Environmental Laws, (ii) not unreasonably damage the Property, and (iii) not be inconsistent with the environmental measures in place on the Property, including any remaining

monitoring wells in its proximity. FS36 must promptly return the Property to substantially its original condition upon completion of such inspections and tests, on an ongoing basis, and must repair all damage to the Property caused by FS36 personnel.

2. FS36 will hold WBRA, WBRA personnel, City, and City personnel harmless from, indemnify them for, and defend (with legal counsel reasonably acceptable to City) against any claim, demand, lawsuit, administrative proceeding, judgment, award, cost, liability or loss arising from any injury or property damage occurring during or as a result of acts or omissions of FS36 personnel in the exercise of FS36's rights under this section. FS36's indemnity obligation under this subsection will survive any termination or rescission of this Agreement and the closing.

3. FS36 represents it has and promises to maintain liability insurance in minimum coverage amounts of \$1,000,000 per occurrence and \$3,000,000 in the aggregate that covers its indemnity obligations under subsection B. Upon the WBRA's or City's request, FS36 will provide the WBRA and City copies of certificates of insurance, endorsements, and policies showing the coverage to be in place.

D. City and WBRA will reasonably cooperate with FS36 as FS36 exercises its rights under this section by facilitating needed meetings, confirming FS36's rights under this Contract to seek permits and other approvals regarding the Property and Project, providing information about the Property and City infrastructure in its proximity, and undertaking other efforts to reasonably facilitate and expedite FS36's action under this section.

2.7 Closing.

A. Closing will be held in the Wyoming City Hall, 1155 28th St SW, Wyoming, Michigan or such other place or manner as the parties agree within 45 days after expiration of the contingency period provided in section 2.6 or within 10 days after FS36 notifies WBRA of its desire to close earlier, subject expiration of the contingency, title, survey, and other periods set forth in this Contract.

B. FS36 will take possession of the Property at closing.

C. Each of the parties represents that it has not engaged a broker, and, to the best of its knowledge, no commission or other fee is due a broker because of this transaction.

D. WBRA and FS36 will each pay one-half of any costs of closing that are not otherwise allocated by this Contract.

E. If FS36 fails to close on the purchase of the Property as provided in this Contract except due to default by City or WBRA, WBRA may retain the Deposit as its sole remedy.

2.8 Taxes and Utilities.

A. No tax proration is needed. Because it is owned by WBRA, the Property is currently exempt from property taxes and there are no outstanding special assessments against the Property. FS36 will pay all real and personal property taxes levied against the property or any improvements to or personal property located on the Property after the closing.

B. WBRA will pay all bills for water or sanitary sewer service provided through the end of the month of the closing. After closing, FS36 will pay any connection fees, inspection fees, extension costs, or other expenses needed to provide water and sanitary service to or within the Property.

C. Storm water drainage from the Property can be addressed by connections to City's storm water system without any assessment or cost except the cost to make those connections.

2.9 Representations and Promises.

A. WBRA and City represent to and promise FS36 the following as of the Contract Date and the closing date:

1. Signing and delivery of this Contract was authorized by the WBRA Board and the City Council.
2. Signing and delivering this Contract, consummation of the transactions provided for in this Contract, and compliance with this Contract's terms will not conflict with or result in a breach of any

other obligation of either of them, or any judgment, order or decree of any court having jurisdiction over either of them or the Property.

3. This Contract and all documents signed or to be signed by either of them in connection with this Contract are, or when signed will be, legal, valid, and binding documents enforceable against them in accordance with their respective terms and conditions.

4. Neither of them is aware of any pending or threatened litigation, proceeding, lien, or governmental investigation relating to the Property, of any contemplated or pending condemnation action affecting the Property.

5. Neither of them is aware of a violation of any federal, state, or local statute, law, ordinance, regulation, order, or ruling affecting the Property, including without limitation Environmental Laws and the Restrictive Covenant, and the WBRA has complied with and through the closing will comply with its obligations under the Restrictive Covenant.

6. Neither of them has made any binding agreement to sell the Property to anyone other than FS36 and neither of them has granted to another party an option to purchase the Property that is enforceable or exercisable now or in the future.

7. Except for obligations under the Restrictive Covenant, there are no leases, licenses, or occupancy agreements and no maintenance or other contracts relating to the Property and no agreements regarding limitations or obligations associated with the use of the Property except this Contract, the NFA Letter, the NFA Report, and the Restrictive Covenant.

B. FS36 represents to and promises WBRA and City the following as of the Contract Date and the closing date:

1. FS36 is a limited liability company duly organized and validity existing under Michigan law.

2. Signing and delivering this Contract is fully authorized by FS36's members.

3. Signing and delivering this Contract, consummation of the transactions provided for in this Contract, and compliance with this Contract's terms will not conflict with or result in a breach of any other obligation FS36 has, or any judgment, order or decree of any court having jurisdiction over FS36.

4. This Contract and all documents signed or to be signed by FS36 in connection with this Contract are, or when signed will be, legal, valid, and binding documents enforceable against FS36 in accordance with their respective terms and conditions.

5. FS36 has the experience and expertise to acquire, construct, use and operate the Project on the Property in accordance with the terms of this Contract, the Restrictive Covenant, applicable Environmental Laws and other applicable laws, rules and regulations, including for example and not for limitation, any applicable City Code provisions.

Article III Development Incentives

3.1 Need for Incentives. As described above, (i) the Property is a facility as defined in Part 201 so environmental assessments are required in conjunction with its acquisition, (ii) the Restrictive Covenant imposes obligations for soil and groundwater management, for vapor intrusion management, and for other precautions, (iii) City and WBRA desire to accommodate parking for Godwin Heights High School and other community events on the North Parcel, and (iv) other factors result in development challenges.

3.2 Incentives. As Property users are identified and their development needs determined, the users or FS36 may pursue one or more development incentives, as applicable. City and WBRA will consider requests for development incentives on a case-by-case basis in accordance with the discretion they each have under the laws, rules, and regulations applicable to the development incentives. To be informative but not for purposes of limitation, City and WBRA represent the following as the policy considerations normally applied to requests for development incentives within the City's jurisdiction:

- A. The development incentives must be reasonably needed to accommodate or incentivize the user's development. They must also be reasonably compatible.
- B. Consequently, for example, tax abatements and tax increment financing may be incompatible, especially if any of the taxing units are to benefit from the Project. Tax abatements under 1976 PA 198 may be considered for real property improvements, provided City and the tax abatement applicant can agree on terms of an accompanying agreement that may include provisions allowing for recovery of the abated tax amounts in certain events such as, for example, discontinuing business operations, vacating the property, and failing to meet certain valuation or employment numbers.
- C. Tax increment financing normally is provided with in accordance with:
 - 1. MSF/MEDC and/or DEGLE approval of one or more brownfield plans/work plans. Only those activities and costs determined to be eligible for state educational and local school operating tax capture and reimbursement are funded with tax increment revenues. No "local TIF only" reimbursements are made.
 - 2. Be limited to reimbursement from 50% of the captured tax increment revenues with the remaining 50% (including state educational and local school operating tax capture) being disbursed among the taxing units.
 - 3. The tax capture period is limited to 20 or fewer years.
 - 4. Reimbursements or other payments from tax increment revenues do not exceed 10% of the total cost of the intended user's development.
- D. DEGLE brownfield grants and loans may be sought for eligible components of the Project. WBRA and City will require guarantees and assurance of repayment in a form acceptable to the City attorney.

Article IV
Development and Use

4.1 Use of Property. The requirements and limitations set forth in subsections A – F below apply to development and use of the Property and, the requirements and limitations set forth in subsection G below apply to the North Parcel:

- A. Property use shall be limited to industrial (preferably manufacturing) operations with appropriate office space and other support functions as approved by the City Manager. Standalone warehousing or distribution operations and industrial operations with excess smoke, noise, or truck traffic will not be approved. All site uses, all buildings, and all other site improvements must comply with all applicable laws, rules and regulations, including for example and without limitation, Environmental Laws, construction and building codes, the City Code, and the Zoning Ordinance.
- B. Only a single curb-cut will be allowed along the 36th Street frontage of the Property.
- C. An enhanced landscaped buffer must be constructed along the Buchanan St and 40th St frontages consisting of an irrigated, undulating, 4-foot-high berm of a design approved by the City Planner with a minimum of 3 trees per 50 lineal feet of a species and size approved by the City Planner.
- D. Irrigated landscaping along 36th St must complement the building(s) design(s) and be approved by the City Planner with at least 2 trees per 50 lineal feet of a species approved by the City Planner.
- E. The site layout will place (and appropriately disperse) buildings, loading/unloading areas, drives, curb openings, and parking areas in a manner to (i) minimize light, noise, and other nuisances to property in the vicinity, (ii) to avoid the appearance of a cluster of buildings surrounded by sea of asphalt, (iii) to break up the visual impact of the building mass, and (iv) otherwise provide for a reasonable transition to land uses surrounding the Property.
- F. Buildings on the Property must comply with:
 - 1. Use an architectural style that reflects a common theme or pattern that is aesthetically consistent and is compatible with surrounding properties.
 - 2. May be up to 60 feet in height.

3. All walls exposed to public view from a public street or adjacent residential area shall be constructed of brick, face brick, stone, cast stone, or other quality materials as determined by the planning commission from finished grade to roof level.

4. Other wall surfaces must be constructed with at least 50% high quality materials on other exposed exterior surfaces such as brick, stone, wood, or stucco.

5. Loading and unloading docks or areas shall not face the front yard of a building site as defined in the zoning ordinance (e.g., any part of the Property facing 36th St SW, Buchanan Ave SW, Stafford Ave SW, 40th St SW, or any interior street). All loading dock areas shall be adequately screened from any adjoining streets with all screening to be included in the site design.

G. Not later than December 31, 2022 (unless due to events reasonably beyond FS36's control despite its reasonable best efforts, construction cannot be completed by that date), FS36 will complete construction of a public/private social and market space across the entirety of the North Parcel using a design approved by the City Planner that is in accordance with the sketch, entitled "36th Street Marketplace Conceptual Draft Layout," dated 11.16.2021, attached as Exhibit C, that includes the items listed as 1 through 6 below, and FS36 will pay up to \$1,500,000 of the cost with any amounts over that funded by City or WBRA. Funds that one or more of the parties obtain or allocate for purposes of the redevelopment described in this subsection G may, among other sources, include development incentives, provided that those development incentives are approved for those purposes. FS36 will have access to the North Property to undertake planning and construction of those improvements including, without limitation for performing environmental due diligence activities on the North Parcel as FS36 elects, in its sole discretion.

1. Electrical, water and sewer connections.

2. Parking areas.

3. Green space and landscaped areas.

4. Enclosed or semi-enclosed vendor/market structure that includes restrooms and equipment storage.

5. Drive connecting from the 36th St entrance to the Godwin Heights athletic field gate.

6. Irrigated landscaping and a minimum 2 trees per 50 lineal feet along the 36th St frontage.

It is anticipated this area will serve as a public amenity and as an amenity to the development on the Property. At times it may be used exclusively by the school for or in support of school activities, by residents for block parties or similar gatherings, for community events, or by one or more Property occupants for special gatherings.

H. An enhanced 36th St pedestrian crossing will be constructed.

Article V Remedies

5.1 Available Remedies. If this Contract designates a remedy as exclusive, that is the only remedy available to a party. Otherwise, remedies are cumulative and may be exercised together or separately, simultaneously or sequentially, and the exercise of one or more remedies will not preclude the subsequent exercise of other remedies. Some legal remedies may be inadequate, so equitable remedies are more appropriate. The parties agree that a breach of this Contract causes irreparable harm to non-breaching parties.

5.2 Jurisdiction and Venue. To the extent permitted by law, jurisdiction and venue for any action brought pursuant to, arising from or to enforce any provision of this Contract are solely in the state courts in Kent County, Michigan.

5.3 Cost Recovery. To the extent not prohibited by law, in any action brought pursuant to, arising from or to enforce any provision of this Contract, the prevailing party(ies) will, in addition to any other remedy (except an exclusive remedy provided by this Contract), be entitled to recover its costs, including, for example and without limitation, actual, reasonable filing fees, legal fees, expert fees, discovery expenses

and other costs incurred to investigate, bring, maintain or defend any such action from its first accrual or first notice thereof through all appellate and collection proceedings.

5.4 Pre-suit Process. The parties want to resolve disputes without involving a court and agree to follow a pre-court process.

A. A party believing itself aggrieved (the “aggrieved party”) shall submit to the other party (the “responding party”) a written explanation of and information supporting the aggrieved party’s position.

B. Within 14 days (or a longer time if the parties agree) of its receipt of the aggrieved party’s statement, the responding party shall submit to the aggrieved party a written statement of and supporting information for the responding party’s position.

C. Within 21 days after the aggrieved party’s receipt of the responding party’s statement, representatives of the parties shall meet to discuss a resolution of their respective concerns.

D. If that meeting is unsuccessful and the parties believe subsequent meetings may be beneficial, the parties may schedule additional meetings and, if they wish to do so, may agree upon a neutral party to help facilitate such meetings.

E. However, when, after the initial meeting, either party determines additional meetings are unlikely to lead to an acceptable resolution, that party shall communicate that determination to the other party and the parties will then have all remedies available at law or in equity.

F. This provision shall not prohibit any party from initiating litigation where failure to do so would result in loss of a claim for any reason, such as non-compliance with a statute of limitations.

Article VI General Provisions

6.1 Designated Representatives. City and WBRA designate Nicole Hofert, Director of Planning and Economic Development, and, if she is unavailable, City Manager Curtis Holt, as their representative for notices and other communications pursuant to this Contract. FS36 designates Don Shoemaker as its representative for notices and other communications pursuant to this Contract.

6.2 Governmental Discretion.

A. Nothing in this Contract in any way limits the exercise of discretion by City, City personnel, WBRA, and WBRA personnel. All those officials and bodies are to exercise such discretion in the best interests of City, WBRA, and general public as provided under applicable laws, rules, regulations, City Charter or City Code, or City policies with respect to giving any approvals that may be required under this Contract or for the construction or operation of the Project. In their review of any such requests for approvals they shall all act with the care required of them as they perform their duties under those laws, rules, regulations, City Charter, City Code, or City policies.

B. Nothing in this Contract requires City or WBRA to expend funds or undertake in-kind services.

6.3 Notices.

A. Notices will be complete when delivered by personal delivery, by courier or delivery service (such as UPS, FedEx or other service) or by certified mail, return receipt requested to the parties' respective designated representatives at the addresses first written above. If any party refuses to accept delivery when presented, delivery shall be deemed to have occurred at the time of such refusal.

B. Alternatively notice may be provided by e-mail to the parties' respective designated representatives and will be deemed completed when acknowledged by the recipient.

6.4 Assignment and Benefit. No party may assign this Contract or any rights, duties, or obligations under this Contract without the prior written consent of all other parties following action by their respective governing bodies. Such consent will not be unreasonably withheld, delayed, or conditioned. This Contract will be binding on the parties and their permitted successors and assigns. However, no other parties are intended to benefit from or be beneficiaries of this Contract.

6.5 Further Documents. If further documentation is reasonably needed to effectuate the provisions and intent of this Contract, each party will sign and deliver reasonably needed further documents without undue delay or conditions.

6.6 Recording. A copy of this Contract or a memorandum of this Contract may be recorded with the Kent County Register of Deeds by and at the expense of any party wishing to do so. If requested by any party, the other parties will cooperate in preparing and signing such memorandum for recording in a form reasonably acceptable to all parties.

The parties have signed this Contract as of the date first written above.

CITY OF WYOMING BROWNFIELD
REDEVELOPMENT AUTHORITY

STATE OF MICHIGAN
COUNTY OF KENT

By: _____
Tom Brann, Chair

Acknowledged before me on _____, 2021,
by Tom Brann and Nicole Hofert, known to me as
the Chair and Secretary, respectively, of the City
of Wyoming Brownfield Redevelopment Authority.

By: _____
Nicole Hofert, Secretary

_____, Notary Public
Kent County, Michigan
Acting in Kent County, Michigan
My commission expires: _____

CITY OF WYOMING

STATE OF MICHIGAN
COUNTY OF KENT

By: _____
Jack A. Poll, Mayor

Acknowledged before me on _____, 2021,
by Jack A. Poll and Kelli A. Vandenberg, known to
me as the Mayor and City Clerk, respectively, of
the City of Wyoming, Michigan.

By: _____
Kelli A. Vandenberg, City Clerk

_____, Notary Public
Kent County, Michigan
Acting in Kent County, Michigan
My commission expires: _____

Approved as to form:

Scott G. Smith, City Attorney

FRANKLIN SITE 26, LLC

STATE OF _____
COUNTY OF _____

By: _____
Donald J. Shoemaker, Manager

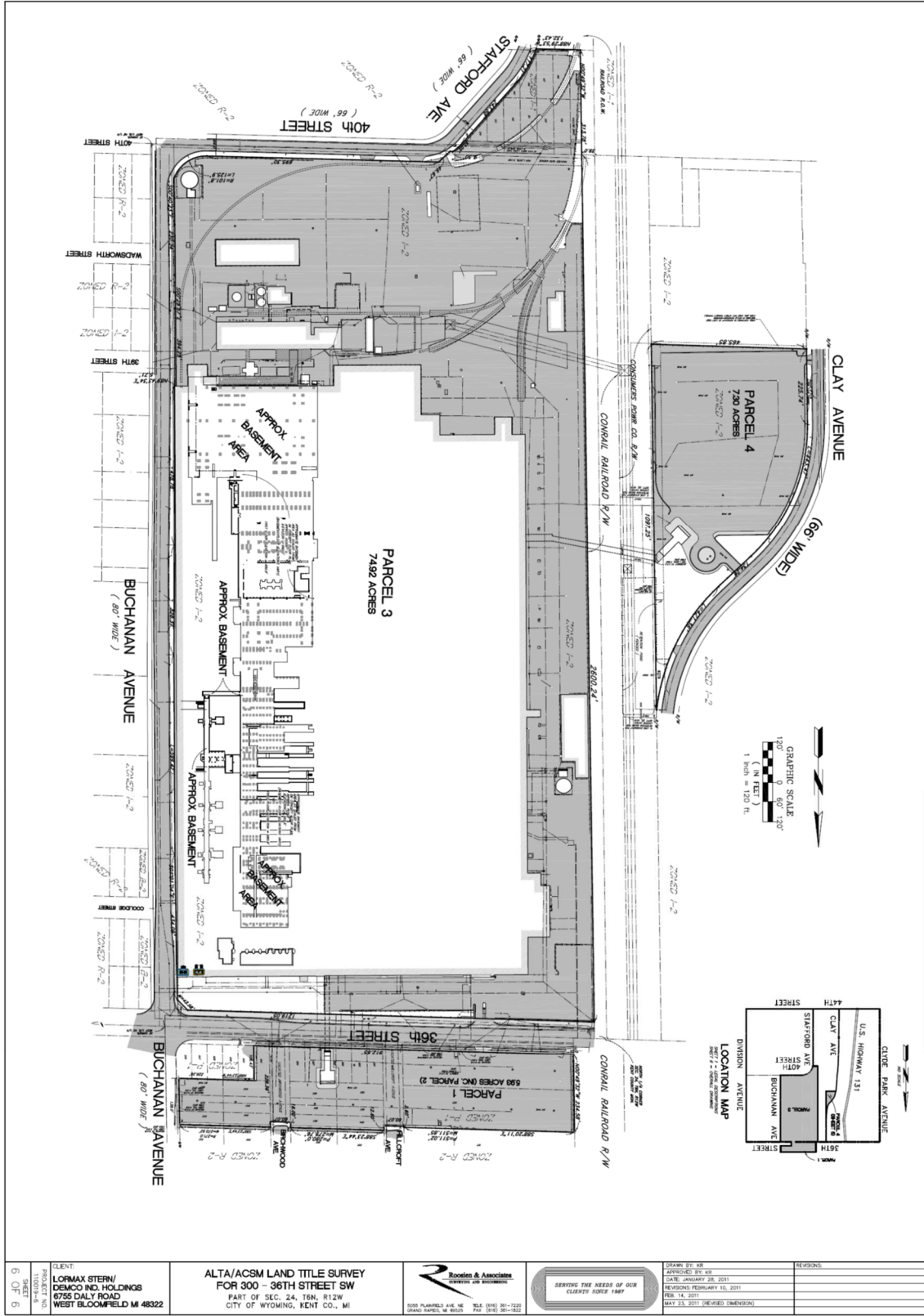
Acknowledged before me on _____, 2021,
by Donald J. Shoemaker, known to me as the
Manager of Franklin Site 36, LLC.

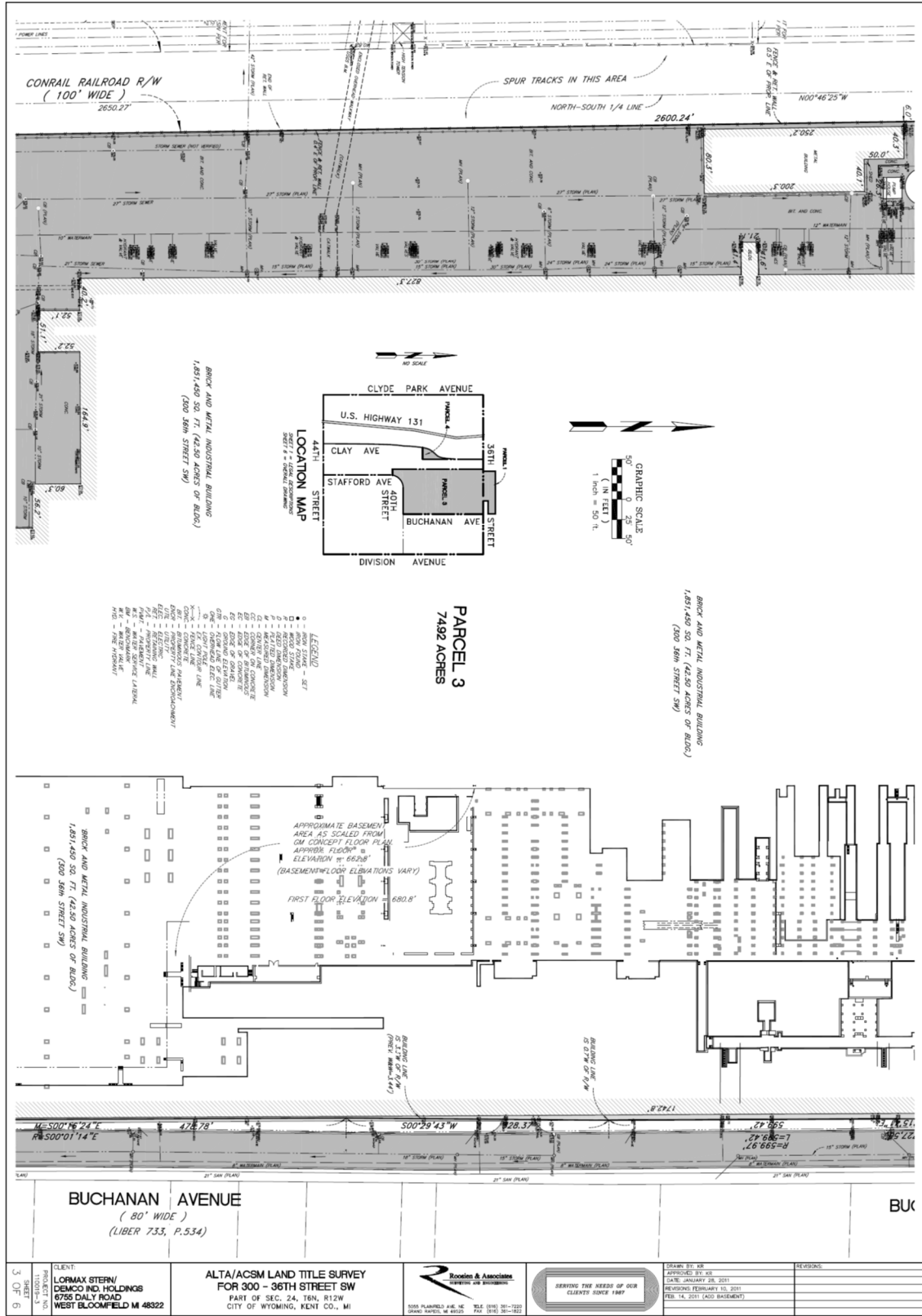
_____, Notary Public
_____ County, _____
Acting in _____ County, _____
My commission expires: _____

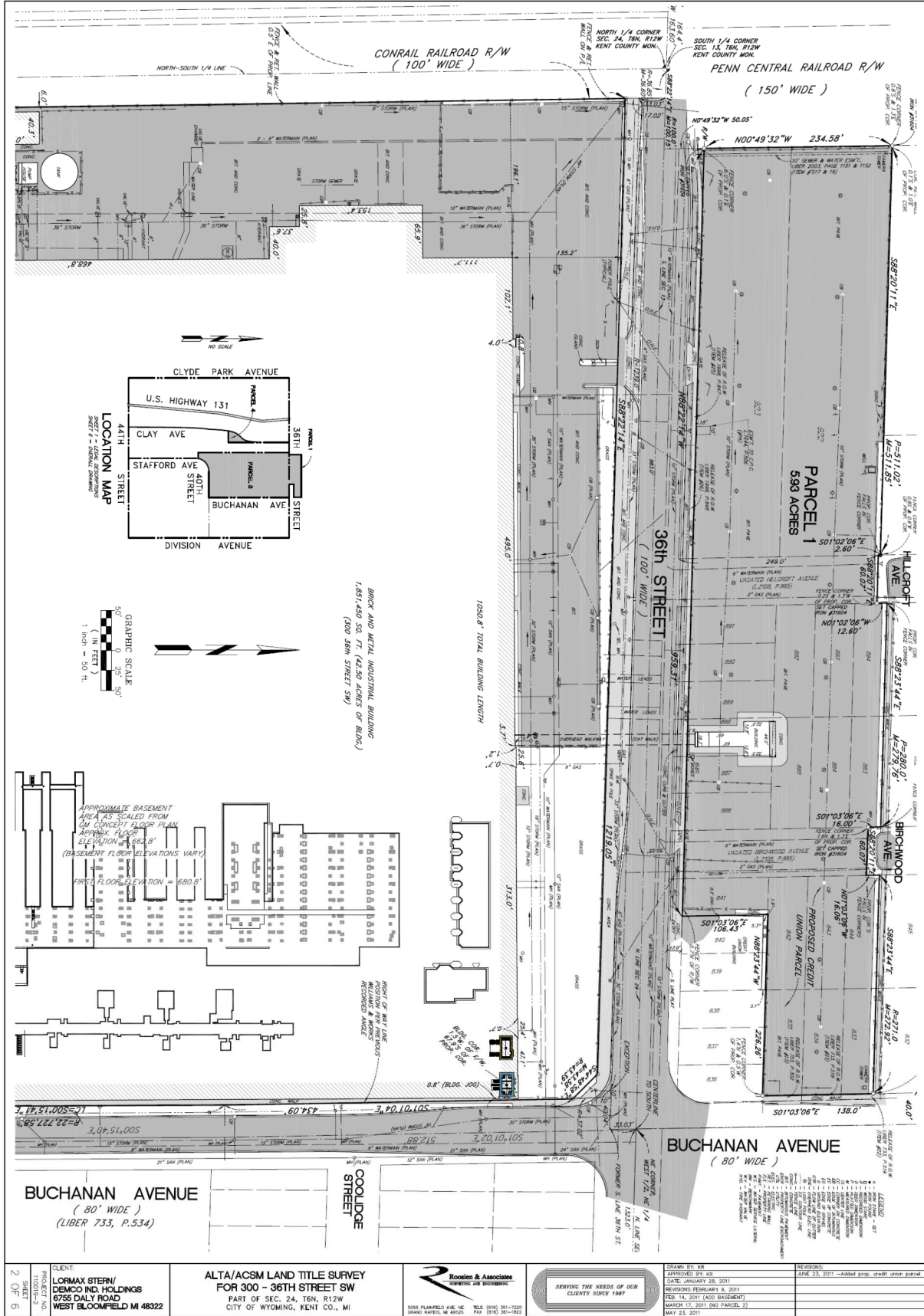
No state or county transfer taxes are due because no interest is conveyed by this document.

Drafted by:
Scott G. Smith
Wyoming City Attorney
1155 28th Street SW
PO Box 905
Wyoming, MI 49509-0905

When recorded, return to:
Kelli A. Vandenberg
Wyoming City Clerk
1155 28th Street SW
PO Box 905
Wyoming, MI 49509-0905







CLIENT
 LORMAX STERN/
 DEMCO IND. HOLDINGS
 6755 DAILY ROAD
 WEST BLOOMFIELD MI 48322

ALTA/ACSM LAND TITLE SURVEY
 FOR 300 - 36TH STREET SW
 PART OF SEC. 24, T10N, R12W
 CITY OF WYOMING, KENT CO., MI

Roeders & Associates
 SURVEYING AND ENGINEERING
 5005 PLAINFIELD AVE. NE SUITE 6100 261-7200
 GRAND RAPIDS, MI 49508 (616) 949-8822

SEVING THE NEEDS OF OUR
 CLIENTS SINCE 1887

DRAWN BY: KSR
 APPROVED BY: KSR
 14 FEB. JANUARY 28, 2011
 REVISIONS FEBRUARY 9, 2011
 FEB. 14, 2011 (LAND BACKGROUND)
 MARCH 15, 2011 (NO. 36TH PARCEL 2)
 MAY 23, 2011

REVISIONS
 JUNE 23, 2011 - Added prop. owner under parcel

**EXHIBIT B
EASEMENT DEPICTION AND DESCRIPTION**

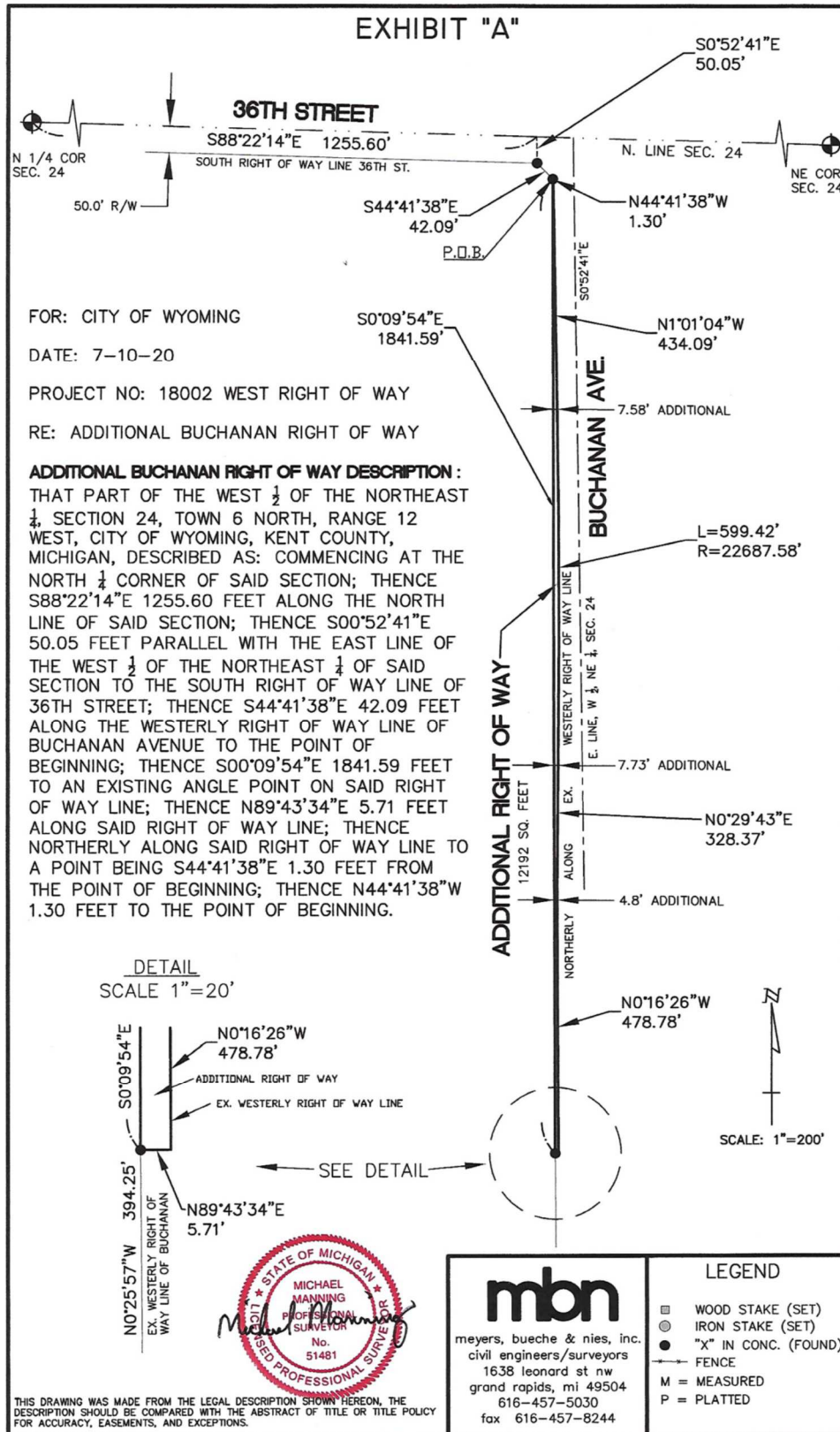
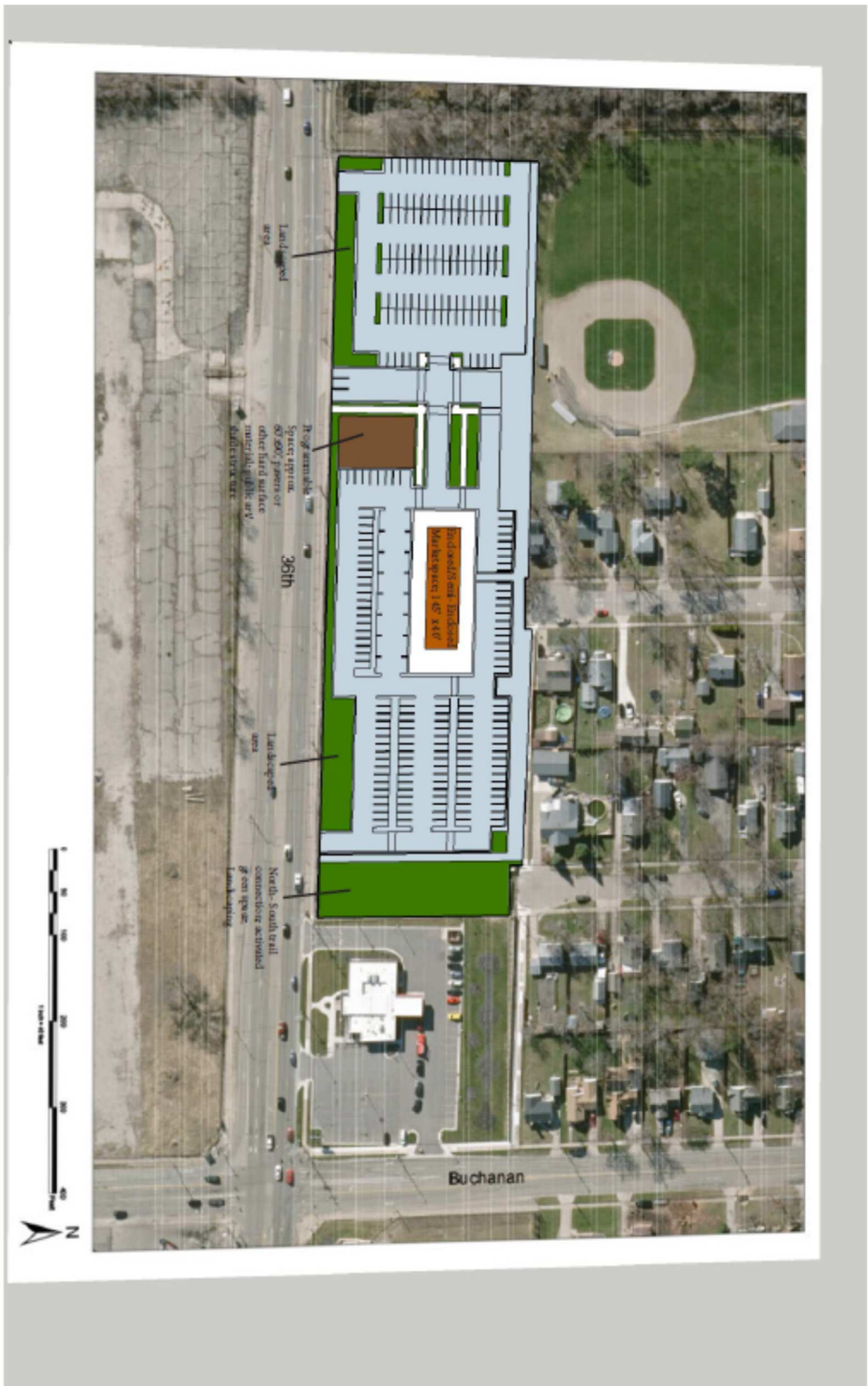


EXHIBIT C
SKETCH OF NORTH SIDE WORK



36th Street Marketplace
Conceptual Draft Layout
11.16.2021

RESOLUTION NO. _____

RESOLUTION TO APPROVE ENGAGEMENT OF DICKINSON WRIGHT
PLLC FOR PROPERTY TAX APPEAL LEGAL SERVICES

WHEREAS:

1. Wyoming Hospitality Inc. appealed to the Michigan Tax Tribunal (MTT) the 2019 and 2020 taxable values for the Hampton Inn - 755 54th St SW, in the City.
2. Fair property taxation requires taxable values to be in appropriate relation to the true cash value of the property subject to constitutional and statutory limitations.
3. The hearing on that matter is scheduled to begin January 18, 2022.
4. The City Attorney recommends retaining Dickinson Wright PLLC for that representation knowing the City Assessor has successfully worked with that firm.
5. Funds in the Assessing-Professional Services fund – 101-209-200900-801.000 – are sufficient to pay the anticipated costs.

NOW, THEREFORE, BE IT RESOLVED:

1. The engagement of Dickinson Wright PLLC at the rate of \$250 per hour is approved and the City Manager is authorized and directed to sign an engagement letter on behalf of the City.
2. All resolutions and parts of resolutions are, to the extent conflict with this Resolution, 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 session held on December 6, 2021.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Staff Report

Appraisal Services Contract

Resolution No. _____

STAFF REPORT

Date: December 1, 2021
Subject: Engaging co-counsel for Wyoming Hospitality property tax appeal
From: Scott Smith, City Attorney
Meeting Date: December 6, 2021

BACKGROUND:

Wyoming Hospitality Inc., owner of the Hampton Inn property on 755 54th St SW in the city, filed a 2020 property tax appeal with the Michigan Tax Tribunal (MTT).

To adequately defend this appeal and protect its assessments of other hotel properties, the city engaged Doug Adams of Adams & Associates for valuation consultation, preparation of an appraisal report, and preparing for and testifying at the MTT hearing. This appraiser has significant expertise in hotel valuations and is a capable witness in hearings.

The hearing on that matter is scheduled to begin January 18, 2022. Preparation for that hearing will begin in December 2021 during which there are several other matters requiring significant attention, including the Site 36 and City Center transactions and a revised MIDC grant application. Heather Chapman, our new assistant city attorney, will begin work on January 4, 2022. During January 2022 she will be immediately working on ordinance prosecution matters. For a variety of reasons, that transition will require my extensive involvement. In addition, during the week of the MTT hearing, Ms. Chapman has been called for jury duty in Calhoun County.

Therefore, we need some additional attorney resources to commit to the MTT matter. Assessor Engerson has worked with Dickinson Wright PLLC in the past. They have submitted a proposal to represent the city at a rate of \$250 per hour, estimating that work on the hearing tasks identified above would total in a range between \$5,000 and \$12,000, depending on the length of the hearing, whether post-hearing briefs are filed and other matters.

RECOMMENDATION:

Adopt the Resolution Approving Engagement of Dickinson Wright PLLC for Tax Appeal Legal Services.

COMMUNITY, SAFETY, STEWARDSHIP:

Community – Defense of the tax appeal will help the city ensure property tax assessments are fair for all.

Safety – The resolution will have no impact on safety.

Stewardship – Defense of tax appeals preserves property tax base for the city and other taxing units.

BUDGET IMPACT:

The Assessor's professional services fund has adequate funds to pay for these services.



123 W. ALLEGAN STREET, SUITE 900
LANSING, MI 48933-1816
TELEPHONE: (517) 371-1730
FACSIMILE: (844) 670-6009
<http://www.dickinsonwright.com>

RYAN M. SHANNON
RShannon@dickinsonwright.com
(517) 487-4719

December 1, 2021

VIA E-MAIL

Scott G. Smith
City Attorney, City of Wyoming
1155 28th St. SW, PO Box 905
Wyoming, MI 49509-0905
smithsg@wyomingmi.gov

Re: Retention between Dickinson Wright PLLC and City of Wyoming

Dear Mr. Smith,

Scope of Engagement. This letter will confirm the terms of our agreement to provide the City of Wyoming assistance and legal representation in connection with the tax appeal filed by Wyoming Hospitality, Inc. (MTT Docket No. 20-000509).

Staffing and Rates. I will serve as the supervising and responsible member at the rate of \$250 an hour. We will assign other members, associates, and paralegals, as needs suggest, at rates not to exceed my own. The firm reserves the right to review and increase rates annually.

Billing. We will submit statements on a monthly basis for time and disbursements. Remittance within 30 days is expected. Third-party invoices in excess of \$1000 will be sent directly to the City for payment.

Dickinson Wright's Standard Terms of Engagement are attached and made a part of this retention. To the extent of any conflict between the Standard Terms of Engagement and this letter, this letter shall control. Please countersign (or have the appropriate official countersign) this letter and return it to me to confirm our retention under the above and incorporated terms and conditions.

Sincerely,

DICKINSON WRIGHT PLLC

A handwritten signature in cursive script, appearing to read "R-M Shannon", is written over a horizontal line.

Ryan M. Shannon

Accepted:

By: _____
City of Wyoming

Printed name: _____

Date: December ____, 2021

Dickinson Wright PLLC
Standard Terms of Engagement

We are pleased that you have retained Dickinson Wright PLLC to provide legal services. Below are the standard terms of engagement in relation to any matter on which you retain us, unless otherwise set forth in your engagement letter and subject always to applicable rules of professional conduct. Please review this document carefully and retain it with your files. If you have any questions about how our legal services will be provided, how you will be billed, the scope of our representation or any other matter related to our representation of you, please contact a member of the Firm promptly.

1. *The Scope of Our Services.* Our engagement letter to you sets forth the specific matter for which representation will be provided and the scope of our services. The services we will provide to you may be varied by agreement during the course of the matter. Our services will not include advice on tax-related issues unless and to the extent specifically requested by you and included in the scope of our representation.

At times we may be called upon to express opinions of law or anticipated outcomes. Such opinions are limited by our knowledge of the facts at the time the opinion is rendered, the present state of the law and, at times, factors that are unknown or beyond our control. Although we will use our best professional judgment, we cannot guarantee the outcome of any matter.

2. *Primary Attorney.* The primary attorney(s) responsible for your client relationship with the Firm may, in the exercise of his/her/their professional judgment, involve other attorneys (including other members or associates), paralegals or non-legal professionals possessing special knowledge or experience to improve efficiency.

Our invoices for services may reflect time and professional services rendered by attorneys or other legal personnel associated with the Firm's international or other affiliate(s). Such attorneys, who are licensed in other jurisdictions, are consulted and serve as legal advisors to the Firm based on their licensed status in such jurisdictions and expertise in particular legal specialties.

3. *The Client.* Dickinson Wright PLLC will provide representation for only the person(s) or entity identified in our engagement letter. In matters related to corporations, partnerships and other entities, unless otherwise agreed in writing, our representation does not extend to officers, directors, employees, shareholders, partners, members or other individuals. Additionally, unless otherwise agreed in writing, our representation of an entity does not extend to its affiliates (such as parent, sister or subsidiary corporations).

4. *Client Responsibilities.* The client agrees to pay our statements for services and expenses as provided below. In addition, the client agrees to be candid and cooperative with us and keep us informed with complete and accurate factual information, documents, communications, and other material relevant to the subject matter of our representation or otherwise reasonably requested by us. The client also agrees to make any necessary business and strategy decisions in a timely manner.

Because we need to be able to contact the client at all times regarding the representation, the client agrees to inform us, in writing, of any changes in the client's name, address, telephone number, contact person, email address, state of incorporation, and other relevant information regarding the client or its business. Whenever we need instructions or authorization to proceed with legal work on the client's behalf, we will contact the client at the most recent business address we have received. If the client affiliates with, acquires, is acquired by, or merges with another client, it will provide us with sufficient notice to permit us to withdraw as its lawyers if we determine that such affiliation, acquisition, or merger creates a conflict of interest, or that it is not in the best interests of the firm to represent the new entity.

5. *Basis of Our Charges.* Unless other arrangements are made, our billing for legal services will be on a per-hour basis. Our standard hourly rates will apply in the absence of any other agreement, and details of the hourly rates for the attorneys working on your matter(s) are available upon request. Our hourly rates are subject to periodic reviews and adjustments, and we reserve the right to revise our hourly rates in accordance with such general Firm reviews.

The Rules of Professional Conduct generally permit a law firm to consider the following factors in addition to regular hourly rates: the novelty and difficulty of the question involved; the skill requisite to perform the legal services; the likelihood that acceptance of a particular matter will preclude other representation; the fee customarily charged in the locality for similar services; the risk assumed by the firm in performing certain types of work, and the amount involved and results obtained. Time limitations imposed by the client or by other circumstances may also be considered in determining an appropriate fee. We reserve the right to consider all of these factors and submit a billing or billings in excess of the hourly rates quoted above.

We are often asked to provide estimates regarding the cost of our representation on a given matter. We are pleased to provide such estimates when, in our professional judgment, they can be made. Unless we agree in writing to perform a specific project for a fixed fee, an estimate will not represent a maximum, minimum or agreed charge.

6. Reimbursement of Costs and Expenses. In addition to our hourly fees, we may incur costs and disbursements on your behalf for which you will be obligated to reimburse us. It is our Firm policy to submit invoices for costs and disbursements charged by third parties in excess of \$1,500 to you for direct payment. Costs and disbursements of third parties incurred by the Firm on your behalf are billed without any administrative add-on. Costs incurred internally on your behalf are generally charged at predetermined standard rates: \$0.20 per copy, \$2.00 per first page, \$1.00 per subsequent pages for faxes and \$10.00 per month for each gigabyte of data stored in our litigation support document database. Computerized legal research (CALR) charges are billed at our legal research providers' standard retail rates. Please note, however, that the Firm pays for CALR on an annual Firm-wide, fixed-fee basis. Long distance phone charges are billed at tariff rates.

7. Frequency of Billing. We will bill you monthly for time and disbursements. Remittance within 30 days is expected. We reserve the right to impose a charge of 1% per month on accounts which are not paid within such 30-day period. If you have any questions on any invoice, please raise them with the member primarily responsible for the matter as soon as possible. If any portion or element of an invoice is questioned, the remainder of the invoice is to be paid within 30 days.

8. Retainers. Unless otherwise set forth in the engagement letter, it is understood that Dickinson Wright PLLC may withdraw amounts from the retainer at any time as may be necessary to satisfy outstanding invoices. If at any time the retainer proves insufficient to cover past due invoices or falls below the agreed amount, you will be called upon to replenish the retainer amount. Any unused portion of the retainer remaining after all legal services have been paid for will be refunded.

9. Conflicts of Interest. Conflicts of interest are a concern for Dickinson Wright PLLC and the clients we represent. We attempt to identify actual and potential conflicts at the outset of any engagement and may request that you sign a conflict waiver before we accept an engagement from you. Occasionally, other clients or prospective clients may ask us to seek a conflict waiver from you so that we can accept an engagement on their behalf. Please do not take such a request to mean that we will represent you less zealously; rather, that we take our professional responsibilities to all clients and prospective clients very seriously.

Unfortunately, conflicts sometimes arise or become apparent after work begins on an engagement. When that happens, we will do our best to address and resolve the situation in the manner that is consistent with our professional responsibilities.

We will not represent any other client on any matter on which we are representing you unless we have your express agreement that we may do so and where permitted to do so by the applicable jurisdiction's Rules of Professional Conduct.

We may also act generally for another client which, for you, is a market competitor.

10. Liability Insurance Coverage. It is your responsibility to ascertain whether you are covered by any relevant insurance in respect of either liability or legal expenses. If so, you are responsible to notify your insurer(s) of the claim or potential claim and our involvement as soon as possible. It is also your responsibility to inform us if you believe that you have insurance coverage for the specific matter for which we have been retained.

11. Termination of Representation. You may terminate our representation at any time, with or without reason. We have a right to discontinue providing services under certain circumstances, such as your failure to fulfill your financial obligations to us. Your termination of our representation in no way relieves you of the obligation to pay for legal services that have been provided prior to the time of termination and that are necessitated to make an orderly transfer of our file materials.

Upon termination of our representation for any reason, we will return your papers, documents and other property to you upon receipt of your request for them. We may, and likely will, retain a copy of the materials returned to you. If you have outstanding invoices owing to the Firm, we may have the right to retain your documents if they are properly subject to a lien.

At such time as we have completed the scope of work for which we have been retained, we will consider our representation to have ended. If you later retain us to perform further or additional work, our future representation will be subject to the terms of and understanding set forth herein, unless other terms and conditions are expressly agreed to.

12. Records Retention. Subject to paragraph 11 above, any materials belonging to you will be returned to you at the conclusion of the engagement. Following the engagement, in accordance with Firm policies, applicable law and the applicable jurisdiction's Rules of Professional Conduct regarding ownership of files and file retention, we will retain our files relating to this matter for a period of years, after which time the files may be destroyed. We will make reasonable efforts to notify you prior to the destruction of any files. A reasonable charge may be imposed for any special requests pertaining to disposition or handling of our files.

13. E-Mail and Cellular Phone Authorization. Dickinson Wright PLLC is able to communicate with clients via electronic mail over the internet ("e-mail"), and many of our attorneys utilize cellular phones. With e-mail, current technology cannot eliminate the risk that confidences and/or secrets otherwise protected by attorney/client privilege may be viewed by unauthorized third parties and the privilege thereby lost. As to both means of communication, sensitive, confidential and proprietary materials of the client may be intercepted by unauthorized third parties. Please be advised that in connection with the use of e-mail and cellular phones, (a) there is the risk of the loss of the attorney/client privilege and that sensitive, confidential or proprietary material may be inadvertently disclosed to unauthorized third parties; (b) the Firm standard for e-mail encryption is Transport Layer Security (TLS) protocol; and (c) you have the right to specifically direct Dickinson Wright PLLC not to send the client sensitive, confidential or proprietary materials via e-mail or to utilize a cellular phone when communicating.

Unless you specifically provide direction to the contrary, your acceptance of our engagement letter will indicate your review of this policy statement on the use of e-mail and cellular phones and will specifically authorize Dickinson Wright PLLC to utilize e-mail, to send information over the internet to communicate with you and with third parties, and to utilize cellular phones. By engaging our Firm, you agree to assume the risk of inadvertent disclosure and the risk of the loss of attorney/client privilege as it relates to information being transmitted. You retain the right to direct Dickinson Wright PLLC not to send specific items of information via the internet, by e-mail or over a cellular phone. This authorization shall remain in effect until revoked in writing.

14. Post-Engagement Matters. The client is engaging the firm to provide legal services in connection with a specific matter. After completion of the matter, changes may occur in the applicable laws or regulations that could impact the client's future rights and liabilities. Unless the client engages us after the completion of the matter to provide additional legal advice on issues arising from the matter, the firm has no continuing obligation to advise the company on such issues or on future legal developments, including monitoring renewal or notice dates or similar deadline that may arise with respect to the matter.

15. Entire Agreement. The engagement letter and these Standard Terms of Representation constitute the entire understanding and agreement between the client identified in the engagement letter (the client) and this firm regarding our representation of the client in the matter described in the engagement letter. Unless otherwise agreed, they supersede any prior understandings and agreements, written or oral, and any billing requirements, outside counsel guidelines, or letters submitted to us. If any provision of the engagement letter or these Standard Terms of Representation is held by a court or other arbitrator to be invalid, void or unenforceable, the remainder of the provisions shall remain in full force and effect. The client should review this document carefully and contact us promptly with any questions. The client should retain this document in its file.

16. Privacy. Dickinson Wright PLLC (the Firm) has a long-standing commitment to safeguarding information entrusted to us, including all personal data obtained during the course of business. We will use this personal data for purposes related to the scope of our services. If you would like to discontinue communication or have your personal data removed from our systems once our engagement has ended, please contact the Firm.

Please feel free to contact the attorney at the Firm responsible for the matters you have engaged us to address on your behalf if you have any questions regarding this policy.

RESOLUTION NO. _____

RESOLUTION TO AUTHORIZE THE MAYOR AND CITY CLERK TO
EXECUTE AN AGREEMENT FOR SURVEYING SERVICES

WHEREAS:

1. The City of Wyoming utilizes the surveying services of a professional surveying firm for the development and construction of City street and utility projects.
2. The City requested proposals to perform surveying services from local surveying firms to perform preliminary surveying services and construction staking.
3. On November 4, 2021, the City received two (2) responses to its request for proposals with Meyers, Bueche and Nies, Inc. (MBN, Inc.) submitting a very qualified and competitive proposal.
4. MBN, Inc. has performed said services for the City over the past several years and is very familiar with the City's requirements and procedures.
5. It is in the best interest of the City of Wyoming to accept the proposal from Meyers Bueche and Nies, Inc. for Surveying Services for 2022, 2023, and 2024.
6. Funds are budgeted every year in various accounts for this activity.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby accept a proposal from Meyers, Bueche and Nies, Inc. for Surveying Services.
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 December 6, 2021.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENT:
Professional Services Contract

Resolution No. _____

CITY OF
Wyoming
MICHIGAN

PROFESSIONAL SERVICES CONTRACT
CITY OF WYOMING, MICHIGAN
(OVER \$8,500)

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

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

Professional means: Meyers, Bueche & Nies, Inc.
[Name of contracting entity]
A Michigan corporation
[State and type of entity, e.g., corporation, limited liability company, etc.]
1750 3 Mile Road NW
[Professional's street address]
Grand Rapids, MI 49544
[Professional's city, state & zip]

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

Deliverables means the work products of Professional's services as detailed in the Proposal, such as plans, specifications, bid documents, estimates, reports, opinions, recommendations, pleadings, and legal documents, real estate documents, etc.

Effective Date means: November 3, 2021.

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

Proposal means Professional'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. Professional will perform the Services and provide the deliverables as detailed in the Proposal.
2. City will pay the Professional in accordance with the Proposal.
3. Professional represents and warrants, except for those specifically waived or modified in this paragraph, Professional is complying with and will comply with the Standard Terms. Waived or modified conditions are as follows:

None.

[Identify those the City Attorney has agreed may be waived or the City attorney approved modifications or write "None."]

4. This is the only agreement between the parties regarding City's engagement of Professional 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 Professional.

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

CITY OF WYOMING

By: _____
Jack A. Poll, Mayor

By: _____
Kelli A. VandenBerg, City Clerk

Date signed: _____, 20__

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

Meyers, Bueche & Nies, Inc.

By: Brad Meyers
[Signature officer, director or principal of Professional]
Brad Meyers, President
[Typed/Printed Name & Title of Person Signing for Professional]

Date signed: 11/11, 2021

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.** Professional 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.
3. **Grant Compliance.** Professional represents and promises that, if state or federal grant funds are identified a source of payment for any part of the project, Professional has reviewed and will comply with all applicable grant agreement terms and conditions.
5. **Qualifications.** Professional represents and promises that:
 - A. Professional has and will maintain, and Professional's personnel have and will maintain, any needed licenses, registrations, certifications, memberships, or other approvals needed to perform the Services in Michigan.
 - B. Neither Professional nor any of Professional'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, Professional and Professional's personnel are not listed on HUD's list of debarred and suspended participants.
 - D. The successful bidder, its subcontractors and their respective personnel must register in the federal System for Award Management (SAM) list and be in good standing (*i.e.*, not suspended or debarred from receiving federal funds).
 - E. Neither Professional nor Professional'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 Professional, Professional's personnel, contractors engage in for or on behalf of City. Accordingly:
 - A. Professional and Professional'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. Professional and Professional'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. Professional will, in solicitations or advertisements for employees placed by or on behalf of Professional, 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. Professional will send to each labor union or representative of workers with which Professional has a collective bargaining agreement or other contract or understanding, a notice advising the labor union or workers' representative of Professional'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 Professional or Professional's personnel will, as part of its Services, be engaging for or on behalf of City with others, Professional 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 Professional until Professional complies, (ii) Contract cancellation, termination, or suspension, in whole or in part, and/or (iii) Professional's ineligibility to bid on or enter future contracts with City.
 - D. Professional 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 Professional's compliance. If requested information is exclusively possessed by another who fails or refuses to furnish it, Professional will so certify to City.
 - E. Professional 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 Professional activities that HUD or the United States Department of Justice determine are needed to comply with this section. Professional 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. Professional and Professional'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 Professional's personnel, any consideration contingent upon the award of this Contract. None of Professional'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. Professional 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 Professional will e-mail to accountspayable@wyomingmi.gov a completed an IRS W-9 form.

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 City upon City's payment of any amounts due Professional under the City Contract. City will hold Professional harmless from and indemnify Professional for any liability resulting from the use of those documents for a purpose or project beyond the purposes and projects for which they were provided to City.

11. Intellectual Property. Professional guarantees the sale or use of software, copies, records, or other intellectual property provided or used to perform the Services and all deliverables will not infringe any copyright, patent, trademark or other intellectual property rights. Professional 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 use as in conjunction with this Contract and will pay all costs, damages, and profits recoverable in any such action.

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. 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.

14. Risk Allocation. Professional is solely responsible for (i) means and methods of the Services, (ii) the conduct of Professional's personnel, and (iii) injuries or property damage occurring as a result of the Services. Professional 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. Professional 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.

15. Insurance. Professional must obtain and maintain the following insurance:

COMMERCIAL GENERAL LIABILITY
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 Professionals; (D) Broad Form General Liability Extensions or equivalent, if not already included; (E) Deletion of all Explosion, Collapse, and Underground (EXU) Exclusions, if applicable.
AUTOMOBILE LIABILITY INSURANCE
Minimal Limits (hired and non-owned automobile coverage): \$1,000,000 per person \$1,000,000 per occurrence
WORKERS' DISABILITY COMPENSATION
Minimal Limits: \$500,000 per occurrence Coverage shall be in accordance with Michigan statutes. Waiver of subrogation, except where waiver is prohibited by law.
EXCESS/UMBRELLA INSURANCE
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).
PROFESSIONAL LIABILITY INSURANCE
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.
ADDITIONAL INSUREDS
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, Professional will provide to City's Purchasing Department copies of certificates of insurance, policies and endorsements.

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

17. Assignment/Beneficiaries. Unless this Contract states otherwise, (i) none of Professional'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.

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

EXHIBIT B

Unit Price Sheet

(Submit prices in separate envelope provided.)

1. Preliminary Survey Field Work:
 - a. 100 foot right-of-way 2.50 per lineal ft.
 - b. 80 foot right-of-way 2.35 per lineal ft.
 - c. 66 & 60 foot right-of-way 2.15 per lineal ft.
 - d. Cross-country easement 1.90 per lineal ft.
 - e. Open area < one acre 0.010 per square ft.
> one acre 300.00 per acre
2. Preliminary Survey Plotting:
 - a. 100 foot right-of-way 1.50 per lineal ft.
 - b. 80 foot right-of-way 1.40 per lineal ft.
 - c. 66 foot or less right-of-way 1.15 per lineal ft.
 - d. Cross-country 1.15 per lineal ft.
3. Grid Section Field Work and Plotting:
 - a. > 1 Acre 0.01 per square ft.
 - b. < 1 Acre 0.015 per square ft.
4. Reestablishing Lot Corner: 85.00 hourly
5. Construction Staking:
 - a. 2-person crew 85.00 hourly
 - b. 3-person crew 99.50 hourly
 - c. Office calculations 49.50 hourly

Date: 11/03/21

Contact Person: Bradley E. Meyers, President

Company Name: Meyers, Bueche & Nies, Inc.

Company Address: 1750 3 Mile Road, NW

Grand Rapids, MI 49514

Phone No.: (616) 457-5030

RESOLUTION NO. _____

RESOLUTION TO ACCEPT A PROPOSAL FROM MATERIALS TESTING
CONSULTANTS, INC. FOR ENGINEERING TESTING SERVICES AND TO AUTHORIZE
THE MAYOR AND CITY CLERK TO EXECUTE THE CONTRACT

WHEREAS:

1. The City of Wyoming utilizes the engineering testing services of a professional laboratory for the testing of materials associated with the development and construction of City street and utility projects.
2. The City requested proposals to perform engineering testing services from local testing firms to perform laboratory testing for preliminary engineering and construction material testing.
3. On November 4, 2021, the City received three (3) responses to its request for proposals with Materials Testing Consultants, Inc. (MTC) submitting a very qualified and competitive proposal.
4. MTC has performed said services for the City over the past several years and is very familiar with the City's requirements and procedures.
5. It is in the best interest of the City of Wyoming to accept the proposal with Materials Testing Consultants, Inc. to perform the City of Wyoming's Engineering Testing Services for 2022, 2023, and 2024.
6. Funds are budgeted every year in various accounts for this activity.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby accept a proposal from Materials Testing Consultants, Inc. for Engineering Testing Services.
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 December 6, 2021.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENT:
Professional Services Contract

Resolution No. _____

CITY OF
Wyoming
MICHIGAN

PROFESSIONAL SERVICES CONTRACT
CITY OF WYOMING, MICHIGAN
(OVER \$8,500)

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

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

Professional means: Materials Testing Consultants, Inc.
[Name of contracting entity]
A Michigan corporation
[State and type of entity, e.g., corporation, limited liability company, etc.]
693 Plymouth Ave NE
[Professional's street address]
Grand Rapids, MI 49505
[Professional's city, state & zip]

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

Deliverables means the work products of Professional's services as detailed in the Proposal, such as plans, specifications, bid documents, estimates, reports, opinions, recommendations, pleadings, and legal documents, real estate documents, etc.

Effective Date means: November 2, 2021.

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

Proposal means Professional'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. Professional will perform the Services and provide the deliverables as detailed in the Proposal.
2. City will pay the Professional in accordance with the Proposal.
3. Professional represents and warrants, except for those specifically waived or modified in this paragraph, Professional is complying with and will comply with the Standard Terms. Waived or modified conditions are as follows:

None.

[Identify those the City Attorney has agreed may be waived or the City attorney approved modifications or write "None."]

4. This is the only agreement between the parties regarding City's engagement of Professional 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 Professional.

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

CITY OF WYOMING

By: _____
Jack A. Poll, Mayor

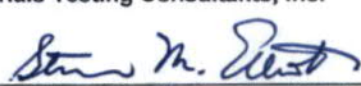
By: _____
Kelli A. VandenBerg, City Clerk

Date signed: _____, 20__

Approved as to form:


Scott G. Smith, City Attorney

Materials Testing Consultants, Inc.

By: 

[Signature officer, director or principal of Professional]
Steven Elliott, P.E., President
[Typed/Printed Name & Title of Person Signing for Professional]

Date signed: November 17, 2021

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.** Professional 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.
3. **Grant Compliance.** Professional represents and promises that, if state or federal grant funds are identified a source of payment for any part of the project, Professional has reviewed and will comply with all applicable grant agreement terms and conditions.
5. **Qualifications.** Professional represents and promises that:
 - A. Professional has and will maintain, and Professional's personnel have and will maintain, any needed licenses, registrations, certifications, memberships, or other approvals needed to perform the Services in Michigan.
 - B. Neither Professional nor any of Professional'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, Professional and Professional's personnel are not listed on HUD's list of debarred and suspended participants.
 - D. The successful bidder, its subcontractors and their respective personnel must register in the federal System for Award Management (SAM) list and be in good standing (*i.e.*, not suspended or debarred from receiving federal funds).
 - E. Neither Professional nor Professional'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 Professional, Professional's personnel, contractors engage in for or on behalf of City. Accordingly:
 - A. Professional and Professional'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. Professional and Professional'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. Professional will, in solicitations or advertisements for employees placed by or on behalf of Professional, 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. Professional will send to each labor union or representative of workers with which Professional has a collective bargaining agreement or other contract or understanding, a notice advising the labor union or workers' representative of Professional'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 Professional or Professional's personnel will, as part of its Services, be engaging for or on behalf of City with others, Professional 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 Professional until Professional complies, (ii) Contract cancellation, termination, or suspension, in whole or in part, and/or (iii) Professional's ineligibility to bid on or enter future contracts with City.
 - D. Professional 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 Professional's compliance. If requested information is exclusively possessed by another who fails or refuses to furnish it, Professional will so certify to City.
 - E. Professional 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 Professional activities that HUD or the United States Department of Justice determine are needed to comply with this section. Professional 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. Professional and Professional'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 Professional's personnel, any consideration contingent upon the award of this Contract. None of Professional'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. Professional 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 Professional will e-mail to accountspayable@wyomingmi.gov a completed an IRS W-9 form.

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 City upon City's payment of any amounts due Professional under the City Contract. City will hold Professional harmless from and indemnify Professional for any liability resulting from the use of those documents for a purpose or project beyond the purposes and projects for which they were provided to City.

11. Intellectual Property. Professional guarantees the sale or use of software, copies, records, or other intellectual property provided or used to perform the Services and all deliverables will not infringe any copyright, patent, trademark or other intellectual property rights. Professional 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 use as in conjunction with this Contract and will pay all costs, damages, and profits recoverable in any such action.

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. 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.

14. Risk Allocation. Professional is solely responsible for (i) means and methods of the Services, (ii) the conduct of Professional's personnel, and (iii) injuries or property damage occurring as a result of the Services. Professional 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. Professional 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.

15. Insurance. Professional must obtain and maintain the following insurance:

COMMERCIAL GENERAL LIABILITY
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 Professionals; (D) Broad Form General Liability Extensions or equivalent, if not already included; (E) Deletion of all Explosion, Collapse, and Underground (EXU) Exclusions, if applicable.
AUTOMOBILE LIABILITY INSURANCE
Minimal Limits (hired and non-owned automobile coverage): \$1,000,000 per person \$1,000,000 per occurrence
WORKERS' DISABILITY COMPENSATION
Minimal Limits: \$500,000 per occurrence Coverage shall be in accordance with Michigan statutes. Waiver of subrogation, except where waiver is prohibited by law.
EXCESS/UMBRELLA INSURANCE
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).
PROFESSIONAL LIABILITY INSURANCE
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.
ADDITIONAL INSURED
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, Professional will provide to City's Purchasing Department copies of certificates of insurance, policies and endorsements.

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

17. Assignment/Beneficiaries. Unless this Contract states otherwise, (i) none of Professional'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.

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

EXHIBIT B

2022 – 2024 ENGINEERING TESTING SERVICES

City of Wyoming

1. Mobilization
 - Mobilization for soil borings or coring only, one Mobilization per project truck or trailer mounted rig only. \$500.00 /lump
2. Soil Borings
 - Auger Borings \$13.00 / foot
 - Hollow Stem Auger Borings (Split spoon)
 - * less than 50 blows per foot \$15.00 / foot
 - * 50 blows per foot or greater \$24.00 / foot
3. 3-Point Proctor (Standard or Modified) \$115.00 / each
4. 5-Point Proctor (Standard or Modified) \$150.00 / each
5. Aggregate Sieve Analysis (including loss by wash) \$130.00 / each
6. Topsoil Analysis
 - ph and Organic content \$120.00 / each
 - Organic content only \$90.00 / each
7. Batch Plant Inspection
 - Concrete (technician) \$60.00 / hour
 - Asphalt (technician) \$60.00 / hour

(Asphalt extractions performed at plant will not be paid separately.)
8. Breaking Concrete cylinders (including curing & cylinder molds) \$17.00 / each
9. Cores (see coring note below)
 - Concrete \$15.00 / inch
 - Asphalt \$13.00 / inch

(includes all costs, except mobilization, if applicable)
10. Penetration on Asphalt Cement (A.C.) Samples \$85.00 / each
11. Asphalt Extraction \$320 / each
(including gradation of aggregate & percent crushed)
12. Penetration on Recovered Asphalt Cement \$250.00 / each

- | | | |
|-----|---|-------------------------|
| 13. | Marshall Control Points (set of 3) | <u>\$90.00</u> / each |
| 14. | Mileage | <u>No Charge</u> / mile |
| 15. | Labor Cost | |
| | • Principal Engineer | <u>\$145.00</u> / hour |
| | • Project Inspector (includes vehicle and necessary equipment | <u>\$80.00</u> / hour |
| | • Density Person (includes Troxler, Michigan Cone, Etc.) | <u>\$65.00</u> / hour |
| | • Other | |
| | <u>See attached Fee Schedule</u> | _____ / hour |
| | _____ | _____ / hour |
| | _____ | _____ / hour |
| 16. | Overnight/Weekend Work – Rate Increase | _____ /%Incr |

Note: The City shall obtain all samples. All prices above are to include pickup from the City of Wyoming Public Works building and delivery for testing at a lab.

We offer to provide service free of vehicle mileage charge and to provide sample pickup at a City of Wyoming designated pickup location. We anticipate most sample pickups can be coordinated with our normal service visits to other projects in the locality with minimal expense.

Date: <u>11-2-2021</u>	Contact Person:	<u>Tim Lautenbach, PE</u>
	Company Name:	<u>Materials Testing Consultants, Inc.</u>
	Company Address:	<u>693 Plymouth Avenue, NE</u>
		<u>Grand Rapids, MI 49503</u>
	Phone No.:	<u>(616) 456-5469</u>
	Email:	<u>tlautenbach@mtc-test.com</u>

FOR OTHER SERVICES, USE ATTACHED FEE SCHEDULE

RATES INCLUDED HEREIN ARE APPLICABLE 2022 THROUGH 2024

Coring Note: Billing thickness includes entire pavement section to be cored, a minimum of 18 inches. Coring cost does not include traffic control; traffic control cost will vary on each project from none to a two-man flagging crew. Any necessary traffic control will be billed separately per project.



FEE SCHEDULE

PERSONNEL

Principal	\$195/hr	Field/Lab/SST Manager	\$120/hr
Sr. Project Manager	\$170/hr	SST Technician III	\$110/hr
Project Manager	\$150/hr	SST Technician II	\$100/hr
Sr. Proj Eng/Geol/Env Professional	\$145/hr	SST Technician I	\$90/hr
Project Eng/Geol/Env Professional	\$130/hr	Technician IV	\$95/hr
Asst Proj Eng/Geol/Env Professional	\$120/hr	Technician III	\$85/hr
Sr. Staff Eng/Geol/Env Professional	\$115/hr	Technician II	\$65/hr
Staff Eng/Geol/Env Professional	\$100/hr	Technician I	\$60/hr
		Project Assistant	\$55/hr

Minimum charge for field assignment is four hours per trip. Overtime is 1.3 times regular rate. Overtime is time worked prior to 8:00 a.m. or after 4:30 p.m., in excess of eight hours per day, Saturdays, Sundays or holidays. Chargeable time includes travel (portal to portal), time on-site, and required office time. Review of field and laboratory reports is mandatory practice and will be charged at the appropriate level required.

OTHER

Mileage	\$0.80/mile	Per diem - meals (overnight assignments)	\$60/day
Vehicle (Local Use)	\$50/day	Direct reimbursable expenses	Cost + 15%

EQUIPMENT

Geo-Environmental

	<u>Per Day</u>
Bailer	\$20/ea
Earth Resistivity	\$375
Four Gas Monitor	\$90
GPS	\$130
Ground Penetrating Radar (GPR)	\$700
Electromagnetic Locating Tool	\$140
TEXAMe Pressuremeter	\$3200/wk
Low Flow Pump	\$400
Photo-Ionization Detector	\$160
Slope Inclinator	\$380
Turbidity Meter	\$60
Water Level Meter	\$50
Vane Shear Test Apparatus	\$120
Plate Load Test Equipment	\$600

SST

Anchor Bolt Pull Off Tester	\$200
Infrared Camera	\$150
Magnetic Particle Equipment	\$75
SFRM Cohesion/Adhesion Kit	\$50/ea
Skidmore® Bolt Tension Calibrator	\$130
Torque Multiplier	\$100
Torque Wrench	\$85
Ultrasonic Equipment	\$150
UT Thickness Gauge	\$150
Positector Paint Thickness Gauge (Metal Substrates)	\$80
Positector Paint Thickness Gauge (Non-Metal Substrates)	\$200

CMT

	<u>Per Day</u>
Avongard Crack Monitor	\$50/ea
Coring Machine	\$180
Bit Charge	\$7/in
Concrete Surface Moisture Gauge	\$120
Dynamic/Static Cone Penetrometer	\$35
Hand Auger	\$30
Floor Profiler	\$250
Floor Moisture Vapor Kit	\$55/ea
Load Cell	\$300
Maturity/Temperature Sensor	\$110
Nuclear Density Gauge	\$60
Pile Echo Tester	\$170
Portable Beam Flexural Strength	\$150
Positest Adhesion Tester	\$200
Adhesion Dolly	\$10/ea
Relative Humidity Kit, F2170	\$120/plug
Roughness	\$200
Slip Resistance	\$200
Schmidt Hammer	\$180
Windsor Probe	\$150
Windsor Probe Charge Set	\$70/set

Asbestos

Air Sampling Equipment	\$75
Bulk Sampling Equipment	\$65

Safety

Traffic Sign	\$50
Arrowboard	\$150
Safety Cone	\$8



FEE SCHEDULE

LABORATORY

For special testing where a specific rate is not provided herein, fees will be based on hourly rate of \$200.00/hour

<u>Geotechnical</u>	<u>Per Test</u>	<u>Aggregates</u>	<u>Per Test</u>
Proctor – granular, D1557, D698	\$185	Sieve Analysis and LBW, C136, C117, MTM 108, 109	\$170
Proctor – cohesive, D1557, D698	\$215	Deleterious Materials, MTM 110	\$115
Proctor – method C, 6" mold, add	\$80	Percent Crushed, MTM 117	\$75
Maximum Index Density, D4253	\$250	Soundness, C88	\$800
Minimum Index Density, D4254	\$200	L.A. Abrasion, C131	\$500
Sieve Analysis and LBW, D6913, D1140	\$170	Specific Gravity + Absorption, C127	\$260
Grain Size Distribution, Hydrometer, D422	\$225	Specific Gravity + Absorption, C128	\$290
Specific Gravity, D854	\$125	Unit Weight, dry-rodded, C29	\$200
Atterberg Limits, D4318	\$110	Organic Impurities In Fine Aggregate, C40	\$170
Soil pH, D4972	\$70	Sand Equivalent Value, D2419	\$450
Organic Content/Loss on Ignition, D2974	\$120	Fine Aggregate Angularity, MTM 118	\$175
California Bearing Ratio (per pt), D1883	\$410	Angularity Index, C1252	\$175
Total Porosity, D854, D2216, D7263	\$150	Flat and Elongated Particles, D4791	\$145
Density & Moisture, D2216, D7263	\$50	<u>Concrete</u>	<u>Per Test</u>
Natural Moisture, D2216	\$25	Concrete Compression, per cylinder, C39	\$19
Unconfined Compression, D2166	\$90	Cylinder Molds (cyls. not molded by MTC)	\$3.50
Shelby Tube - Visual Classification, D2488	\$80	Saw Cutting of Cylinders	\$20
Shelby Tube - Extrusion, D2488	\$50	Core Compression (including saw cut), C42	\$75
Direct Shear (up to 3 pts), D3080	\$800	Shotcrete cores (cut/comp. or spare), C1140	\$95
Triaxial UU (1 point), D2850	\$320	Splitting Tensile Strength, C496	\$95
Triaxial CU (up to 3 pts), D4767	\$1500	Beam Flexure, C293, C78	\$100
Triaxial CD (up to 3 pts), D7181	\$1900	Shrinkage Test (3 specimens), C157 mod	\$500
Laboratory Vane Shear, D4648	\$125	Concrete Core Absorption	\$100
Consolidation, D2435, Method B	\$685	Alkali Silica Reactivity (ASR), C1567, C1260	\$750
Permeability – Constant Head, D2434	\$300	<u>Bituminous Mixtures</u>	<u>Per Test</u>
Permeability – Fall. Head, EM 1110-IV-1906	\$320	Marshall Stability and Flow, per plug, D6927	\$200
Permeability – Flex Wall, D5084	\$500	Bulk Specific Gravity, per plug/core, D2726	\$125
Remolding of Samples, add	\$95	Molding Marshall Plugs, per plug, D6926	\$90
Soil Resistivity, G187	\$300	Theoretical Maximum Density (Rice), D2041	\$230
Paint Filter Test, EPA 9096B	\$170	Molding Gyrotory Plugs, per plug, D6926	\$170
Thermal Resistivity, D5334	\$900	Moisture Content, D1461	\$90
<u>Rock Core</u>	<u>Per Test</u>	Preparation of Bituminous Core	\$30
Rock Hardness by Rebound Hammer (10 Strikes), D5873	\$200	Mix Verification (extraction, sieve, LBW, crush), MTM 326, 108, 109, 117	\$390
Unconfined Compression, D7012	\$235	Core Thickness, per core, D3549	\$40
Unconfined Compression w/ Strain, D7012	\$380	<u>Steel</u>	<u>Per Test</u>
Unconfined Comp. w/ Poisson Ratio, D7012	\$550	Fireproofing Density Test, AWCI Manual 12-A	\$80
Slake Durability Index, D4644	\$250	Side Bends – Machine/bend, E190	\$200
Point Load Strength, D5731	\$140	Face/Root Bends – Machine/bend, E190	\$200
Indirect Tensile (per pt), D3967	\$85	Tensile < 1" dia., A370	\$175
<u>Masonry</u>	<u>Per Test</u>	Tensile > 1" dia., A370	\$210
Grout Prism Compression, per prism, C1019	\$90	Stress/Strain Curves Tensile	\$60
Hyd. Cement Cube Compression, per cube, C109	\$30	Elongation, Reduction in Area, A370	\$80
Linear Shrinkage Concrete Block, set of 3, C426	\$700	Jack Calibration	\$600
Comp. of Concrete Block Prisms, per block, C1314	\$300	<u>Pipe</u>	<u>Per Test</u>
Moisture, Absorption, Net Area of Concrete Block, per block, C140	\$175	ABS Truss Pipe Test, 8" – 15" dia., D2880	\$230
Compression of Concrete Block, per block, C140	\$185	PVC Pipe Test, 6" – 8" dia., D3034	\$270
Brick Compressive Strength, Absorption, Saturation, IRA, Efflorescence, set of 15, C67	\$900		



FEE SCHEDULE

TEST DRILLING SERVICES

<u>Mob/Demob:</u>	<u>Air Knife/Vacuum Excavator</u>	<u>CME45/CME55Track/ Geoprobe 7822/8620</u>	<u>Acker Renegade Track</u>	<u>Sonic Geoprobe/ Marshmaster/ 2060CPT</u>
Within 30 mile radius	\$500.00	\$650.00	\$750.00	\$1000.00
Outside 30 mile radius/mile/one-way	\$17.00	\$22.00	\$25.00	\$35.00

Test Drilling:

HSA/Rotary, Normal soil conditions (N<50), 5 ft interval SPT	\$17.50/l.f.
HSA/Rotary, Difficult soil conditions (N>49, rubble or cobbles), 5 ft interval SPT	\$28/l.f.
HSA/Rotary, Drilling surcharge for 50 to 75 ft depth	\$19/l.f.
HSA/Rotary, Drilling surcharge for 75 to 100 ft depth	\$24/l.f.
All-terrain drill rig daily premium	\$400/day
NX Rock Coring, D2113	\$80/l.f.
Rock Core Setup Fee	\$350
Extra SPT samples, D1586	\$35/ea
Undisturbed thin-walled samples (Shelby tubes), D1587	\$80/attempt
Drilling through concrete or brick at surface (less than 10" thick)	\$20/in
Grout boring closed	\$10/l.f.
Well/Piezometer construction (not including material)	\$11/l.f.
Locking Protective Cover	\$180/ea
Flush Locking Protective Cover	\$200/ea
Steam Cleaner rental	\$220/day
55-gallon Drum (disposal not included)	\$100/ea
Bagged Materials (sand, bentonite, cement)	\$18/bag
Per Diem (lodging and meals, 2-man crew)	\$270/day
Crew Daily Travel, 50 Mile Radius	\$120/day

Drill crew rate per hour for special testing, borehole grouting, monitoring well construction, access, on-site setup, site clean-up, standby, water hauling or steam cleaning:

<u>Skid Steer (Per Day)</u>	<u>Air Knife/Vacuum Excavator</u>	<u>CME45/CME55Track/ Geoprobe 7822/8220</u>	<u>Acker Renegade Track</u>	<u>Sonic Geoprobe/ Marshmaster/ 2060CPT</u>
\$400.00	\$300.00	\$350.00	\$400.00	\$500.00

Drill crew access time may be charged if soft ground conditions, wooded areas, or other site conditions/restraints are encountered.

RESOLUTION NO. _____

RESOLUTION TO ACCEPT A PROPOSAL FROM LAND MATTERS, INC. FOR
PROPERTY AND RIGHT-OF-WAY ACQUISITION SERVICES AND TO
AUTHORIZE THE MAYOR AND CITY CLERK TO EXECUTE THE CONTRACT

WHEREAS:

1. The City of Wyoming periodically acquires properties or portions of properties for right-of-way and other miscellaneous reasons.
2. The City requested proposals to perform property and right-of-way acquisition services from local firms to provide these services.
3. On November 4, 2021, the City received one (1) response to its request for proposals with Land Matters, Inc. submitting a very qualified and competitive proposal.
4. Land Matters, Inc. has performed said services for the City over the past several years and is very familiar with the City's requirements and procedures.
5. It is in the best interest of the City of Wyoming to accept the proposal with Land Matters, Inc. to perform the City of Wyoming's Property and Right-of-way Acquisition Services for 2022, 2023, and 2024.
6. Funds are budgeted every year in various accounts for this activity.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby accept a proposal from Land Matters, Inc. for Property and Right-of-way Acquisition Services.
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 December 6, 2021.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENT:
Professional Services Contract

Resolution No. _____

CITY OF
Wyoming
MICHIGAN

PROFESSIONAL SERVICES CONTRACT
CITY OF WYOMING, MICHIGAN
(OVER \$8,500)

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

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

Professional means: Land Matters, Inc.
[Name of contracting entity]
A Michigan corporation
[State and type of entity, e.g., corporation, limited liability company, etc.]
11230 Tallmadge Woods Drive
[Professional's street address]
Grand Rapids, MI 49534
[Professional's city, state & zip]

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

Deliverables means the work products of Professional's services as detailed in the Proposal, such as plans, specifications, bid documents, estimates, reports, opinions, recommendations, pleadings, and legal documents, real estate documents, etc.

Effective Date means: November 3, 2021.

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

Proposal means Professional'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. Professional will perform the Services and provide the deliverables as detailed in the Proposal.
2. City will pay the Professional in accordance with the Proposal.
3. Professional represents and warrants, except for those specifically waived or modified in this paragraph, Professional is complying with and will comply with the Standard Terms. Waived or modified conditions are as follows:

None.

[Identify those the City Attorney has agreed may be waived or the City attorney approved modifications or write "None."]

4. This is the only agreement between the parties regarding City's engagement of Professional 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 Professional.

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

CITY OF WYOMING

By: _____
Jack A. Poll, Mayor

By: _____
Kelli A. Vandenberg, City Clerk

Date signed: _____, 20__

Approved as to form:



Scott G. Smith, City Attorney

Land Matters, Inc.

By: Deborah S. Poeder

[Signature officer, director or principal of Professional]
President

[Typed/Printed Name & Title of Person Signing for Professional]

Date signed: November 15, 2021

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.** Professional 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.
3. **Grant Compliance.** Professional represents and promises that, if state or federal grant funds are identified a source of payment for any part of the project, Professional has reviewed and will comply with all applicable grant agreement terms and conditions.
5. **Qualifications.** Professional represents and promises that:
 - A. Professional has and will maintain, and Professional's personnel have and will maintain, any needed licenses, registrations, certifications, memberships, or other approvals needed to perform the Services in Michigan.
 - B. Neither Professional nor any of Professional'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, Professional and Professional's personnel are not listed on HUD's list of debarred and suspended participants.
 - D. The successful bidder, its subcontractors and their respective personnel must register in the federal System for Award Management (SAM) list and be in good standing (i.e., not suspended or debarred from receiving federal funds).
 - E. Neither Professional nor Professional'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 Professional, Professional's personnel, contractors engage in for or on behalf of City. Accordingly:
 - A. Professional and Professional'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. Professional and Professional'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. Professional will, in solicitations or advertisements for employees placed by or on behalf of Professional, 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. Professional will send to each labor union or representative of workers with which Professional has a collective bargaining agreement or other contract or understanding, a notice advising the labor union or workers' representative of Professional'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 Professional or Professional's personnel will, as part of its Services, be engaging for or on behalf of City with others, Professional 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 Professional until Professional complies, (ii) Contract cancellation, termination, or suspension, in whole or in part, and/or (iii) Professional's ineligibility to bid on or enter future contracts with City.
 - D. Professional 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 Professional's compliance. If requested information is exclusively possessed by another who fails or refuses to furnish it, Professional will so certify to City.
 - E. Professional 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 Professional activities that HUD or the United States Department of Justice determine are needed to comply with this section. Professional 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. Professional and Professional'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 Professional's personnel, any consideration contingent upon the award of this Contract. None of Professional'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. Professional 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 Professional will e-mail to accountspayable@wyomingmi.gov a completed an IRS W-9 form.

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 City upon City's payment of any amounts due Professional under the City Contract. City will hold Professional harmless from and indemnify Professional for any liability resulting from the use of those documents for a purpose or project beyond the purposes and projects for which they were provided to City.

11. Intellectual Property. Professional guarantees the sale or use of software, copies, records, or other intellectual property provided or used to perform the Services and all deliverables will not infringe any copyright, patent, trademark or other intellectual property rights. Professional 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 use as in conjunction with this Contract and will pay all costs, damages, and profits recoverable in any such action.

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. 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.

14. Risk Allocation. Professional is solely responsible for (i) means and methods of the Services, (ii) the conduct of Professional's personnel, and (iii) injuries or property damage occurring as a result of the Services. Professional 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. Professional 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.

15. Insurance. Professional must obtain and maintain the following insurance:

COMMERCIAL GENERAL LIABILITY
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 Professionals; (D) Broad Form General Liability Extensions or equivalent, if not already included; (E) Deletion of all Explosion, Collapse, and Underground (EXU) Exclusions, if applicable.
AUTOMOBILE LIABILITY INSURANCE
Minimal Limits (hired and non-owned automobile coverage): \$1,000,000 per person \$1,000,000 per occurrence
WORKERS' DISABILITY COMPENSATION
Minimal Limits: \$500,000 per occurrence Coverage shall be in accordance with Michigan statutes. Waiver of subrogation, except where waiver is prohibited by law.
EXCESS/UMBRELLA INSURANCE
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).
PROFESSIONAL LIABILITY INSURANCE
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.
ADDITIONAL INSURED
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, Professional will provide to City's Purchasing Department copies of certificates of insurance, policies and endorsements.

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

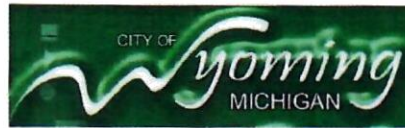
17. Assignment/Beneficiaries. Unless this Contract states otherwise, (i) none of Professional's rights or duties may be assigned or delegated without City's prior written consent and (ii) no other individuals or entities are intended to be beneficiaries of this Contract.

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

EXHIBIT B

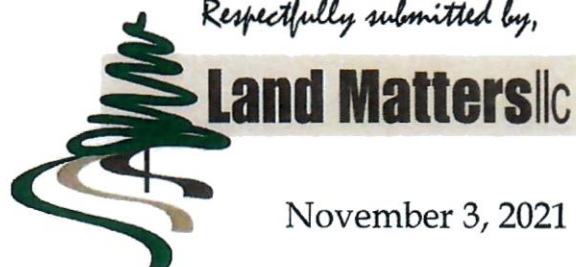
*Proposal for
Property & Right-of-Way
Acquisition Services,
January 1, 2022 - December 31, 2024*

Submitted to the



Engineering Department
2660 Burlingame Avenue
Wyoming, MI 49509

Respectfully submitted by,



November 3, 2021

Business Organization

1. Name, Address, and Location

Land Matters LLC
11230 Tallmadge Woods Drive
Grand Rapids, MI 49534
(616)791-9805 phone
(616)791-9815 fax
Website: www.landmattersllc.com
Email: dpoeder@landmattersllc.com

2. License

Land Matters is a woman owned business licensed to operate and practice in the State of Michigan. Our Federal ID Number is 20-2932054. Deborah Poeder, President of Land Matters is a Real Estate Broker, License Number 6505359652.

3. Scope of Services that may be subcontracted

Land Matters enjoys a good working relationship with many specialized sub consultants who may be called upon, contingent on authorization and approval from the City of Wyoming. Such services may include the specific items such as asbestos testing and parking lot studies as listed in the Request for Proposals.

We typically rely on the preparation of certified legal descriptions by a licensed professional surveyor. Land Matters can assist with the preparation of any necessary exhibits for presentation purposes. If a certified exhibit map is required by a professional surveyor that would typically be subcontracted to the surveyor that prepared the legal description.

Appraisals and appraisal reviews are obtained when MDOT standards require the same. For example, if an estimated good faith offer exceeds \$10,000, or if the property owner demands a written appraisal, Land Matters would contract, upon concurrence with the City of Wyoming, with a state approved and qualified appraiser to prepare any necessary value of part taken or before and after appraisals. On large projects with multi-zoned properties and estimated compensation amounts that are high, we may recommend that a state approved qualified appraiser prepare a formal market study. On a typical acquisition with no federal funding, Land Matters prepares estimates of value based on available City and County records. Appraisers that we have used and may recommend include Maturen & Associates, R.S. Thomas & Associates, Genzink Appraisal Company, VanNoord & Associates, and others.

Services for disposal of improvements and salvage values, pending the specific issues, are areas which we may perform or seek a qualified sub consultant. We have worked for MDOT to coordinate and oversee demolitions of various homes and businesses throughout the State. Our work included coordination of asbestos testing and reporting, utility disconnects and permits. This experience can be used to assist the City of Wyoming if the need arises.

Scope of Services that Land Matters will perform

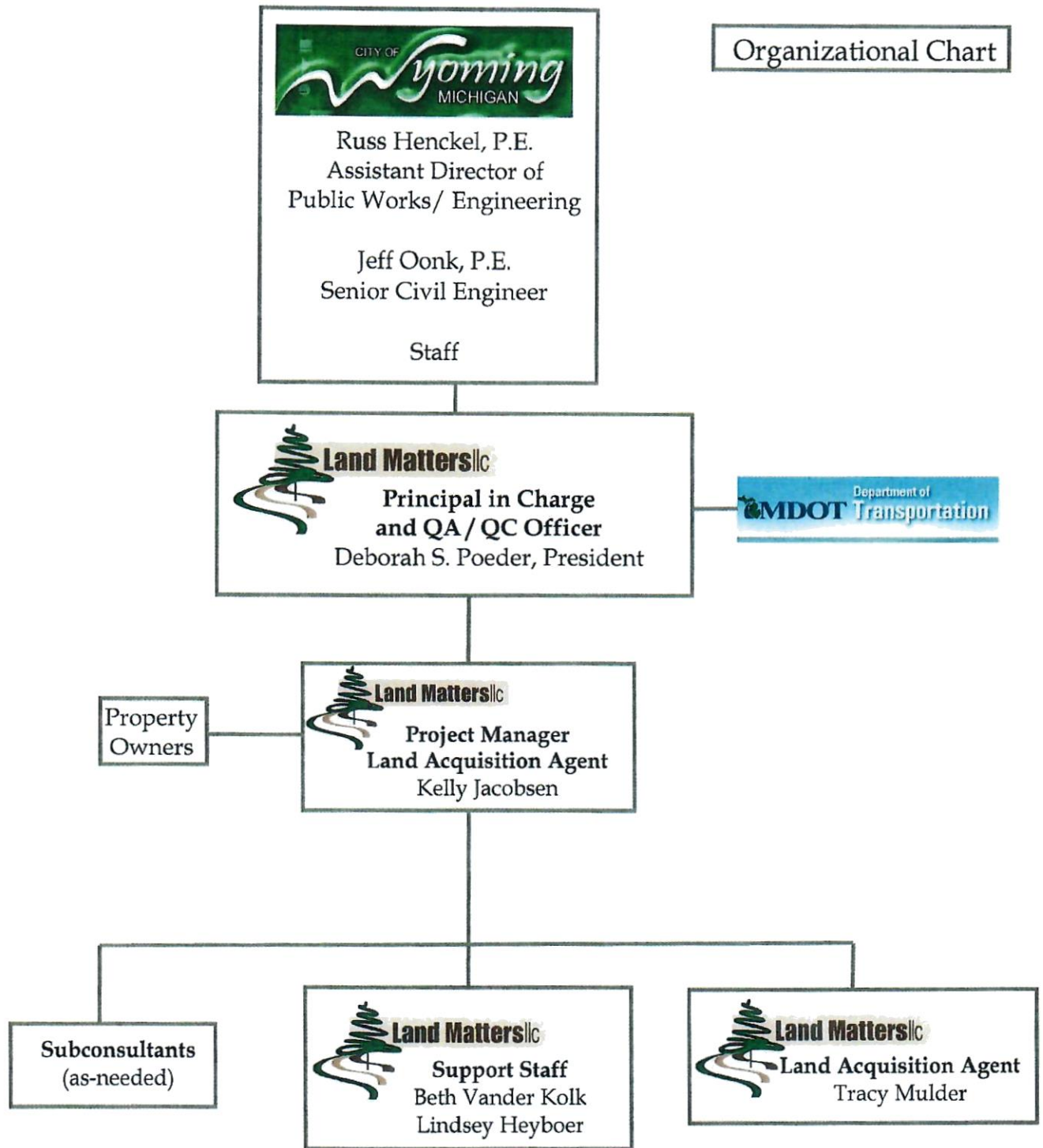
With a Real Estate Broker, Real Estate Salespersons, Limited Appraiser, and Professional Engineer on staff, Land Matters typically provides all services necessary for property and right-of-way acquisition services, including the following specific items list in the Request for Proposal:

- Public meetings
- Obtain and review title commitments or title reports
- Right-of-Way estimates
- Conduct title searches
- Review/recommend revised parking log design
- Prepare parcel exhibit and legal description of take
- Preliminary interviews of property owners
- Market studies where applicable
- Appraisal problem analysis
- Obtain Appraisal and Appraisal reviews
- Negotiations and Acquisitions
- Preparation of legal documents for real property or easement conveyance
- Conduct closings
- Relocation plans
- Relocation determinations, assistance, and advisory services
- Inventory of improvements that are required
- Disposal of improvements, salvage values
- Asbestos testing
- Land inventory of apparent excess property
- Maintain an approved Quality Assurance Program

4. Organizational Chart

An Organizational Chart proposed for the City of Wyoming property and right-of-way acquisition services is included on the following page.

Organizational Chart



Principal in Charge and Point of Contact:
Deborah S. Poeder, President
Land Matters
11230 Tallmadge Woods Drive
Grand Rapids, MI 49534
616.791.9805 phone
616.791.9815 fax
616.446-1178 cell
dpoeder@landmattersllc.com

Management Summary

1. Land Matters Management Structure

Deborah S. Poeder is the Owner and President of Land Matters, a woman owned business. Professional services delivered to our clients and all day-to-day operations are under her direct management and supervision. She is the Principal in Charge for all property and right-of-way acquisition projects.

Kelly Jacobsen, a licensed Real Estate Salesperson, is a Project Manager and Land Acquisition Agent. She manages specific projects, including the coordination of all right-of-way tasks and negotiations necessary to accomplish the work. She reviews all titlework, provides mapping and easement analysis.

Tracy Mulder is a Land Acquisition Agent and a licensed Real Estate Salesperson. She can perform the coordination of all right-of-way tasks, property owner communications and negotiations necessary. She will assist the Project Manager, if needed.

Beth Vander Kolk and Lindsey Heyboer will coordinate title work, prepare various easement and right-of-way acquisition documents, and keep files in accordance with MDOT requirements.

All staff members are familiar with all projects, allowing and enabling teamwork when necessary.

2. **Individuals that will perform the work for the City of Wyoming**

Principal in Charge: Deborah S. Poeder, President

Quality Control & Quality Assurance Officer: Deborah S. Poeder

Project Manager: Kelly Jacobsen

Land Acquisition Agents: Deborah S. Poeder
Kelly Jacobsen
Tracy Mulder

Support Staff: Beth Vander Kolk
Lindsey Heyboer

3. **Key employees responsible for the work**

The Principal in Charge and Quality Control & Quality Assurance Officer will be Deborah S. Poeder. She will be the point of contact for any new acquisition work and directly involved with all phases of the property and right-of-way acquisition process. She will assist the Project Manager with property owners and meetings, estimates of compensation and Good Faith Offers, legal document final review, coordination of sub consultants and schedules, and overall project direction and review.

She will also be the direct contact for any requested MDOT reviews for MDOT right-of-way certification.

The Project Manager and Land Acquisition Agent proposed for the City of Wyoming is Kelly Jacobsen. She has worked hand in hand with the City of Wyoming under our recent contract for Property and Right-of-Way Acquisition Services. City staff is very familiar with, and has worked closely with, Kelly.

She has an extensive background in engineering, easement and right-of-way acquisition, public relations, and negotiations, and will be working directly with the City of Wyoming and negotiating with property owners to acquire property and right-of-way in a fair and just manner. Specific tasks will include public and individual meetings, negotiations, review of titlework and legal descriptions, document preparation, compensation review, preparation of good faith offers and purchase agreements for incidental items and closing of transactions with and approval of final payments to property owners.

Land Acquisition Agent Tracy Mulder will support the Project Manager, when needed. She has successfully performed easement and right-of-way acquisitions, public relations, and negotiations, and can also perform negotiations with property owners to acquire property and right-of-way in a fair and just manner.

The Support Staff proposed for the City of Wyoming project are Beth Vander Kolk and Lindsey Heyboer. They will assist in the collection of necessary data, preparation of project summaries and updates throughout the process, drafting of legal documents for review, payment requests, and recording of deeds. They will also be responsible to assure files are kept in accordance with City and MDOT requirements.

Prior Experience

Land Matters has provided land acquisition services for private and public underground utilities, roads and intersections, trails, pedestrian sidewalks and pathways, bridges, railroads, and airports for locally and grant funded projects. All acquisition work for the City of Wyoming will be done in conformance with all applicable local, state, and federal guidelines, and all property owners will be treated with integrity and respect.

Land Matters is approved by and has an excellent working relationship with the Michigan Department of Transportation (MDOT). We have an "As-Needed Contract for Real Estate Acquisition & Relocation Services" as well as an "Indefinite Services for Real Estate Services" with MDOT. We are knowledgeable in the requirements and have much experience with MDOT and federally funded projects and are highly capable to complete the necessary tasks to acquire the right-of-way and easements. Land Matters is approved as a land acquisition agent by MDOT and has consistently met all applicable right-of-way certification requirements. A Real Estate Broker license is also held by the owner of Land Matters, and this is highly recommended by the State for all state and federally funded projects.

We handle all necessary components to meet federal and state guidelines to ensure timely acquisitions consistent with funding requirements. Services typically provided during the acquisition process by Land Matters include:

- Estimates for acquisition costs for use in project planning
- Review of engineering plans & drawings
- Review of and coordination of titlework to ensure clear title
- Coordination of survey, legal description & mapping work
- Review of legal descriptions and maps
- Coordination of necessary appraisals and legal services
- Land valuations, recommendations, and project budgeting
- Legal document preparation
- Offers, negotiations & property settlements
- Mortgage releases as necessary
- Attachment "B" Right-of-Way Certification

Quality Assurance and Quality Control is also an integral part of the service provided.

Land Matters has appreciated and enjoyed a good working relationship with the City of Wyoming and has performed the following necessary property and right-of-way acquisition services in the City of Wyoming. A very brief description of each is included.

2011

- Gezon Parkway - Acquisition of Joint Driveway Easement between two commercial establishments to improve traffic flow and ingress/egress. Coordinated Titlework and Survey Exhibit Maps.
- 36th & Michael - Acquisition of clear vision corner, including consent of tenant. Coordinated Titlework and Survey Exhibit Maps.
- 54th & Clyde Park - Acquisition of a Highway Easement and Temporary Permit for construction from a commercial establishment. Coordinated Titlework and Survey Exhibit Maps. Prepared Estimate of Just Compensation.

2012

- Division Avenue, Southbound at 54th - Acquisition of a Highway, Sidewalk and Utility Easement from a gas station. Coordinated Titlework and Survey Exhibit Maps.
- 44th Watermain - Acquisition of three Watermain Easements from a large residential complex and a commercial property. Coordinated Titlework and Survey Exhibit Maps.

2013

- Wrenwood Street - Acquisition of Quit Claim Deed for Highway Purposes. Coordinated Survey Exhibit Maps.
- Bike Trail, Division Avenue - Coordinated an Amendment to License for a new trail crossing Consumers Energy property. Also acquired a Non-Motorized Trail Easement from a commercial establishment. Prepared an Agreement for Incidental Items as well as Estimate of Just Compensation. Coordinated Titlework and Survey Exhibit Maps.
- Division Avenue, 54th to 60th - Acquisition of four Easements for Highway, Sidewalk, Public & Private Utilities and Vegetation Management, including Bus Rapid Transit purposes for one of the parcels. Acquisition of fourteen Warranty Deeds for public right of way purposes. Coordinated sign replacements for all affected parcels and acquired estimates for sign relocation on behalf of the City of Wyoming. Project also included acquisition of Temporary Permits and preparation of Estimates of Just Compensation for all parcels. Prepared Consent to Easement and Warranty Deed documents as well as Agreements for Incidental Items for several parcels as needed. Coordinated Titlework, Survey Exhibit Maps, Appraisals and Review Appraisals for all properties.

2014

- Storm Sewer and Public Easement - Met with affected property owners who were experiencing storm water flooding problems. Also met with Wyoming Staff to review all the issues, which resulted in a change in scope from the original project. Acquired a Storm Sewer Easement.

2015

- Clyde Park Resurfacing - Coordinated property acquisition with both City of Wyoming and City of Grand Rapids. Coordinated Titlework. This project is still in progress and will likely include a Warranty Deed for Highway Purposes and a Temporary Permit for construction purposes from commercial properties in Wyoming and may include either Warranty Deeds or Highway Easements for three properties in the City of Grand Rapids.

2016

- 28 West Place, Phase I - Included acquisition of two Deeds and one Easement for Highway, Sidewalk, Public & Private Utilities and Vegetation Management. Acquisition of Watermain Easements, Utility Easements and Temporary Permits as needed. Coordinated appraisals and review appraisals. Prepared Estimates of Just Compensation for all parcels and Consent to Easement document as needed.
- 36th and Buchanan - Obtain two Non-Motorized Trail Easements and Temporary Permits necessary for the extension of the existing Non-Motorized Trail system. Prepared necessary Estimate of Just Compensation documents and coordinated Titlework and Survey Exhibit Maps.
- Buchanan Bike Trail - Acquisition of seven Non-Motorized Trail Easements along Buchanan Avenue. Also, coordinated with Consumers Energy for necessary License Agreement. Included preparation of Estimate of Just Compensation and obtaining Consent to Easement documents from mortgage companies as needed. Also, coordinated landscaping quotes and Agreement for Incidental Items for various properties. Coordinated Titlework and Survey Exhibit Maps.

2017

- 56th Street - Ivanrest to Byron Center - Acquisition of fourteen Warranty Deeds for public right of way purposes and one Easement for Highway, Sidewalk, Public & Private Utilities and Vegetation Management. Coordinated sign replacements for affected parcels and acquired estimates for sign relocation on behalf of the City of Wyoming. Project also included acquisition of Temporary Permits and preparation of Estimates of Just Compensation for all parcels. Prepared Consent to Easement and Warranty Deed documents as well as Agreements for Incidental Items for several parcels as needed. Coordinated Titlework, Survey Exhibit Maps, Appraisals and Review Appraisals for all properties.
- 32nd and Buchanan - Acquisition of Warranty Deed for public right of way purposes. Coordinated landscaping quote and prepared Agreement for Incidental Items and Estimate of Just Compensation. Coordinated Titlework and Survey Exhibit Maps.
- DeHoop Avenue Non-Motorized Trail - Acquisition of three Non-Motorized Trail Easements along DeHoop Avenue near 28th Street. Coordinated landscaping quotes, Agreements for Incidental Items and Estimates of Just Compensation.
- Reith Riley - Coordinated sale of City surplus property to Reith-Riley, including retaining Easement rights across property.

2018

- 54th Street Improvements - Acquisition of four Warranty Deeds for public right of way purposes. Coordinated sign relocation/replacement for an affected business on behalf of the City of Wyoming. Project also included acquisition of Temporary Permits and preparation of Estimates of Just Compensation for various parcels. Coordinated Titlework, Survey Exhibit Maps, Appraisals and Review Appraisals for all properties.
- Interurban Trail - Coordinate License Agreement with Consumers Energy and METC. Included multiple meetings and on-site walk through with Consumers Energy. Discussions with various neighbors as well as obtaining signed Trail Acknowledgement documents from neighbors with existing license agreements with Consumers Energy.
- Denwood Avenue Improvements - Met with affected property owner at the end of Denwood Avenue to discuss possible cul-de-sac options or Utility Easement options. Coordinated signature of Utility Easement, Estimate of Just Compensation, Titlework and Survey Exhibit Maps as necessary.
- Various projects - Worked on various "clean-up" projects for the City, including obtaining Easements which were necessary as part of the Bayberry Flooding Improvement project, and sale of surplus property on Beckie Court and Wrenwood Street.

2019

- Hook Tower - Coordinate with Appraiser and Surveyor for the Hook Tower property exchange.
- Clyde Park Watermain - Obtain additional Right-of-Way from needed for the reconstruction of the Clyde Park Watermain.
- 228 44th Street - Discussions with adjacent property owner regarding purchasing the surplus property.
- Byron Center at 44th Street - Negotiations with Church for Warranty Deed and Temporary Grading Permit, necessary for the reconstruction of Byron Center Avenue from Knollview Street to 44th Street.
- 2485 Palm Dale - Coordination with Surveyor to split surplus property with adjacent property owners. Preparing Quit Claim Deeds, negotiations with adjacent property owners and executing Quit Claim Deeds.
- Parkview Elementary Utilities - Order title work and coordinate Easements with Surveyor and City Attorney.

2020

- 54th Street Improvements from US-131 to Clyde Park - Coordination of Appraisal for Chili's, Meijer and Chick-Fil-A. Obtained Temporary Grading permits from all three properties.
- 1944 44th Street - Prepared and obtained signed Quit Claim Deed to sell City owned surplus property.

2021

- Penny Lane Storm Sewer - Onsite meetings and negotiations with two property owners for Storm Sewer Easements.
- Rivertown Valley Phase 5 - Coordinate signatures needed for Utility Easement, Non-Motorized Trail Easement and Warranty Deed.
- Cherry Ridge ROW - Coordinate sale of surplus property to adjoining property owner.
- 56th Street (Haughey to Division) - Meetings with 5 affected property owners and obtaining Temporary Grading Permits. Also coordinated Tree Valuations for loss of landscaping as a part of the project.
- Watermain Transmission Line - Construction of 54" water supply transmission main. Property owner outreach is underway.
- Plaster Creek Blvd. - Work with the City of Grand Rapids and private landowner to obtain necessary Non-Motorized Trail Easements, Warranty Deed and Watermain Easements. Project is still underway.
- Eastern Avenue - Working to obtain Non-Motorized Trail Easements on 5 properties, necessary for the Eastern Avenue Improvement project.

All work for the above projects was under the supervision of Russ Henkel, P.E., Assistant Director of Public Works - Engineering, and Jeff Oonk, Senior Civil Engineer, phone (616)530-7254.

Successful work on the above projects done directly for the City of Wyoming is the most applicable and best prior experience as City Staff knows us and our work.

Other clients that we regularly work for on an ongoing basis and their contact information is as follows:

Mr. Brett Laughlin, P.E.
Ottawa County Road Commission
(616)842-5400
Email: balaughlin@ottawacorc.com

Ms. Christine Barfuss
City of Grand Rapids
(616)456-3842
Email: cbarfuss@grand-rapids.mi.us

Quality Control and Quality Assurance

Deborah S. Poeder, Owner and President of Land Matters is the Quality Control and Quality Assurance Control Officer. Our Quality Control and Quality Assurance process is crucial to the satisfactory completion of each project. Land Matters follows an unprecedented property and right-of-way acquisition process. At the onset of each project, a complete review of the plans, project requirements, funding, and other issues are reviewed with the client, project managers and support staff. A right-of-way checklist is contained in each project folder and updated throughout the duration of each project. Summary sheets specific to each project are reviewed at weekly staff meetings along with any issues, schedules, and deadlines that must be adhered to. Legal documents and Good Faith Offers are drafted and reviewed by Managers, and a final quality review is done by the QA / QC Officer.

Land Matters not only provides a quality review of our own work, but our experience allows us to provide a review of work by others, i.e., legal descriptions, clouded title, engineering plans, and survey drawings.

Communication is open and outstanding with the management and staff at Land Matters. Good sense, practical guidelines, and respect are common factors, and each staff member takes pride in the quality of his or her work. Communications will be maintained with the City of Wyoming staff on a regular basis. Land Matters appreciates and welcomes any and all comments, criticisms, or compliments at any time and will respond in a prompt manner.

Insurance

Included in the back of this Proposal is our Certificate of Liability Insurance. The insurance requirements were not listed in the Request for Proposals, and if the City of Wyoming requires any other insurance or limits, Land Matters is willing and able to obtain additional insurance to comply with said requirements.

Fee Schedule

Shown on the following page is the proposed Land Matters Hourly Rate Schedule. The hourly rates listed include labor, overhead, and profit. Please note that we have minimally modified our rate schedule with the City of Wyoming since 2010. These rates will be used the term of the As-Needed Contract with the City of Wyoming.



11230
Tallmadge Woods
Drive
Grand Rapids
MI 49534
Phone:
616 791 9805
Fax:
616 791 9815

2022-2024 HOURLY RATE SCHEDULE

Hourly Rates

Principal in Charge	\$ 115.00
Project Manager/Land Acquisition Agent	\$ 82.50 - \$ 94.50
Support Staff	\$ 73.00

Out-of-Pocket Expenses:

Mileage	Federal Rate (currently \$0.56/ mile)
Copies	\$0.23 /legal \$0.15 /letter
Plotter Copies	\$ 2.50 - \$ 5.00
Title Commitments and Subconsultants	At cost
Recording Fees, Postage, etc.	At cost

Statement of Agreement

Land Matters has reviewed the Request for Proposals and Services and is qualified to perform the property and right-of-way acquisitions for the City of Wyoming. All work to be performed by Land Matters will be consistent with local, state, and federal land acquisition requirements.

Respectfully submitted,

Deborah S. Poeder

President

RESOLUTION NO. _____

RESOLUTION TO AUTHORIZE THE PURCHASE OF
TWO GENERATOR/LIGHT TOWER COMBINATION UNITS

WHEREAS:

1. As detailed in the attached staff report, it is recommended the City Council authorize the purchase of two generator/light tower combination units from Coffman Electrical Equipment Company using the US Government Services Administration (GSA) contract in the total estimated amount of \$21,970.96.
2. Funds for the purchase are budgeted in the Solid Waste Disposal, Capital Outlay Improvements Other Than Building account number 230-441-44300-978.000 and Water Fund, Capital Outlay Equipment account number 591-441-57300-987.000.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council authorize the purchase of two generator/light tower combination units from Coffman Electrical Equipment Company.
2. The Wyoming 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 December 6, 2021.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Staff Report
Contract

STAFF REPORT

Date: November 15, 2021

Subject: Purchase of Two Generator/Light Tower Units

From: Aaron Vis, Assistant Director of Public Works

Date of Meeting: December 6, 2021

RECOMMENDATION:

The Public Works Department recommends the City Council authorize the purchase of two generator/light tower combination units from Coffman Electrical Equipment Company using US Government Services Administration (GSA) contract #GS-07F-6044P, for a total of \$21,970.96.

COMMUNITY, SAFETY, STEWARDSHIP:

These generator/light tower combination units will be utilized at the Yard Waste site during evening hours in the fall when additional lighting is needed, as well as be available for power and light for large-scale emergency watermain repairs. These units will provide a safer environment for residents utilizing the yard waste site and for City staff completing emergency repairs. Additionally, these units will be purchased using existing GSA contracts, ensuring competitive pricing.

DISCUSSION:

The City Yard Waste site experiences a significant increase in use by residents during the fall season. The area is congested and, during the evening hours, is difficult to navigate safely in the dark. Existing lights are not effective when the pile gets large, and, last year, several generator/light tower units had to be rented for the fall season. These performed very well and provided a much safer environment; however, these units cost approximately \$3,000 for a one-month rental.

During large watermain breaks, or other water/sewer emergencies requiring overnight work, Public Services staff have needed supplementary lighting to ensure a safe working environment. Additionally, some work requires prolonged use of power for tools or pumps that current equipment is not able to provide.

The purchase of two generator/light tower combination units are expected to alleviate the lighting issues at the Yard Waste site and provide additional power and light for water/sewer emergencies. Additionally, these units will be available for other emergencies throughout the year that could occur within the City.

Coffman Electrical Equipment Company, a local supplier of electrical products, provided pricing using GSA contract #GS-07F-6044P for two units in the amount of \$21,970.96. Due to supply chain issues these units are not expected to arrive until January of 2022.

BUDGET IMPACT:

Sufficient funds have been budgeted in the Solid Waste Disposal, Capital Outlay Improvements Other Than Building Account 230-441-44300-978.000 and Water Fund, Capital Outlay Equipment Account 591-441-57300-987.000.

ATTACHMENT:

Contract

MLT6SK

METAL HALIDE LIGHT TOWER

GENERAC | **MOBILE**

SPECIFICATIONS

ENGINE SYSTEM

- Kubota® D1005
- Diesel fueled
- EPA Tier 4
- 3 cylinder
- 1.0 L displacement
- Liquid cooled
- Power @ 1,800 rpm – HP (kW):
 - Prime: 11.7 (8.72)
 - Standby: 13.1 (9.77)

Fuel System

- Polyethylene tank – 39.9 gal (151.04 L) usable fuel volume
- Fuel consumption – gal/hr (L/hr):
 - 100% load: 0.67 (2.54)*
- Exterior fill port diameter: 3.5 in (88.9 mm)

Cooling System

- Air filter: Dry type cartridge
- Capable of operating at 120°F (49°C) ambient

Lubrication System

- Oil filter: Full flow, spin-on type
- 1,000-hr service interval**

**Results based on engine manufacturer and field test data after 100-hour engine break-in period and may vary based on factors including age and maintenance of equipment, environmental conditions and fuel density. Consult the Owner's Manual for fuel and maintenance recommendations.*

***To achieve maximum service interval, replacement of oil filter after 50-hour break-in period is required. Consult Owner's Manual for required oil filter model number.*

GENERATOR

- 60 Hz engine/generator
- Marathon Electric® brushless
- Up to 6 kW output
- 120/240 VAC, 50/25 A
- ± 6% capacitor voltage regulation

CONTROLS

- External, illuminated control panel with sealed switches
- 4-position key activated switch (off, run, glow, start)
- Digital hour meter
- Automatic low oil pressure/high temperature shutdown system



CITY OF
Wyoming
MICHIGAN

CITY PURCHASING CONTRACT
CITY OF WYOMING, MICHIGAN
(MORE THAN \$7,500)

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

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

"Effective Date" means: November 11, 2021.

"Items" means the parts, equipment, or other items the City is purchasing from the Supplier as itemized in the Proposal.

"Proposal" means the Supplier's proposal attached as Exhibit B and includes any City-issued plans and specifications on which the supplier's proposal is based.

"Standard Terms and Conditions" means the attached single page Exhibit A entitled "City Purchasing Standard Terms and Conditions."

"Supplier" means: Coffman Electrical Equipment Co.
[Name of supplying entity]
A Michigan corporation
[State and type of entity, e.g., corporation, limited liability company, etc.]
3300 Jefferson Ave SE
[Supplier's street address]
Grand Rapids, MI 49548
[Supplier's city, state & zip]

TERMS AND CONDITIONS

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

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

None.

[Identify those the City Attorney has agreed may be waived or the City attorney approved modifications or write "None."]

4. This is the only agreement between the parties regarding the Purchase that is the subject of the Proposal and there are no other agreements, representations or warranties except as are stated in the Proposal. This contract can be amended only in writing signed by both City and Supplier.

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

CITY OF WYOMING

Coffman Electrical Equipment Co.

By: _____
Jack A. Poll, Mayor

By: Richard Coffman
[Signature officer, director or principal of Supplier]
Richard Coffman, President
[Typed/Printed Name & Title of Person Signing for Supplier]

By: _____
Kelli A. VandenBerg, City Clerk

Date signed: 11-17, 2021

Date signed: _____, 20__

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

CITY PURCHASING STANDARD TERMS AND CONDITIONS

1. **Applicability.** Except as modified in writing signed by either the Mayor and City Clerk or the City Manager, these Standard Terms and Conditions (**these Terms**) apply to City of Wyoming (**City**) purchases of parts, equipment or other goods that do not involve any services from the supplier identified on the face of the contract (**Supplier**). By signing the contract Supplier attests it complies and will comply with these Terms.

2. **Legal Compliance.** Supplier 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.

3. **Qualifications.** Supplier represents and promises that:

A. Neither Supplier nor Supplier's principals, owners, officers, shareholders, key employees, directors, members or partners (i) is debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency; (ii) has within 3-years preceding this contract been convicted of or had a judgment against it/him/her for fraud or a criminal offense connected with obtaining or attempting to obtain a public contract, for violating antitrust statutes, or for embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; (iii) is presently charged with any of the preceding offenses; or (iv) has within 3-years preceding this contract had a public transaction terminated for cause or default.

B. The successful bidder, its subcontractors and their respective personnel must register in the federal System for Award Management (**SAM**) list and be in good standing (*i.e.*, not suspended or debarred from receiving federal funds).

C. Supplier is not an "Iran linked business" under Michigan's Iran Economic Sanctions Act, 2012 PA 517.

4. **Nondiscrimination and Respect.** City is committed to equity, fairness, impartiality, courtesy, respect and nondiscrimination in all programs, benefits, and actions, including in its contracts with suppliers. Accordingly:

A. Supplier and Supplier's personnel in (i) employment actions, or (ii) 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 unrelated to the ability to perform the duties of a job or position or supply the materials. 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. Supplier and Supplier'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.

1. Supplier will, in solicitations or advertisements for employees placed by or on behalf of Supplier, 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. Supplier will send to each labor union or representative of workers with which Supplier has a collective bargaining agreement or other contract or understanding, a notice advising the labor union or workers' representative of Supplier'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. Noncompliance with this section is a material breach of this Contract that can result in (i) withholding payments to Supplier until Supplier complies, (ii) Contract cancellation, termination, or suspension, in whole or in part, and/or (iii) Supplier's ineligibility to bid on or enter future City contracts.

C. Supplier will retain and, when requested, 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 Supplier's compliance. If requested information is exclusively possessed by another who fails or refuses to furnish it, Supplier will so certify to City.

E. Supplier must include the requirements of paragraphs A through C in all material procurement and equipment leasing documents, directly or indirectly related to this Contract. Supplier must take any action affecting any material supplier or equipment lessor as City deems reasonably necessary to comply with this section including sanctions for noncompliance.

5. **Ethical Standards.** Supplier and its directors, members, partners, officers and employees, and any Supplier parent, affiliate, or subsidiary has not engaged in and will not: (i) engage in an act creating an appearance of impropriety with respect to this contract; (ii) attempt or appear to influence an elected or appointed City officer or employee by a direct or indirect offer of anything of value; or (iii) pay or agree to pay any person, other than its employees and consultants, any consideration contingent upon the award of this contract. No owner, director, officer, member, partner or key employee of Supplier of any Supplier parent, affiliate, or subsidiary is a spouse, parent, child, grandchild, or sibling of the mayor, city council member, or another City officer or board/commission member except as already disclosed in writing to City. Supplier will immediately notify City of any change in this statement.

6. **Intellectual Property.** Supplier guarantees the sale and City use of articles, software, copies, records or other intellectual property provided by the Purchase will not infringe any copyright, patent, trademark or other intellectual property rights. Supplier will, without expense to City, defend all actions against City or City's officers or employees for alleged infringement of intellectual property rights because of their sale or use and will pay all amounts recoverable in any such action.

7. **Quality.** Unless otherwise stated in the Supplier's proposal, all materials and items supplied will be new, the best of their respective kind, and free from defects.

8. **Taxes.** City is generally exempt from federal and state taxes. A copy of its tax certificate of exemption can be requested by contacting the City Finance Department.

9. **Manufacturer Information/Warranties.** Supplier will provide City all manufacturer parts lists, assembly or maintenance

information, and other documents provided by the manufacturer for all items provided under the Purchase and shall ensure any warranties for such items are held by City.

10. Records. City is a public entity receiving funds from other governmental agencies, and must retain, be able to obtain, and/or audit records related to City purchases. Supplier will retain all records related to this contract for at least 6 years and will, upon City's request, provide copies of and allow City to audit all retained records.

11. Assignment/Beneficiaries. Unless otherwise provided in writing, (i) no right or duty of Supplier under the Purchase 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.

12. Independence. Supplier is independent of City and none of Supplier's personnel shall be or be represented to be City officers or employees. Supplier is solely responsible for the acts, omissions and statements of Supplier's personnel.

**Exhibit B
Proposal**



Quote No.
111121g1

3300 Jefferson Avenue, S.E.
Grand Rapids, MI 49548
P: 616.452.8708
800.852.7699
F. 616.452.1337
E-Mail: customerservice@steadypower.com

- Serving America For Over 65 Years
- General Services Administration Contractor
- Expert Sales and Application Assistance
- Load Banks
- Mobile Light Towers
- Transfer Switches
- Mobile and Standby Generators
- UPS Systems
- Docking Stations and Cables

To: [City of Wyoming](#)
1155 28th ST SW
Wyoming, MI 49509
avis@wyomingmi.gov
[616-530-7264](tel:616-530-7264)

Project: Light Towers

Date: November 11, 2021

We are pleased to quote you on the following material:

QUANTITY	DESCRIPTION	NET
2	Generac Mobile Diesel Light Tower @ \$9394.32 ea model # MLT6SK Kubota D1005 diesel engine Marathon 6kw brushless generator injection molded enclosure 23ft vertical mast with (4) 1100 watt metal halide light fixtures single axle DOT trailer with outriggers 39.9 gallon fuel tank installed accessories:	\$ 18,788.64
2	PowerZone Digital controller @ \$615.62 ea	\$ 1,231.24
2	engine coolant heater @ \$99.45 ea	\$ 198.90
2	heated fuel filter @ \$138.28 ea	\$ 276.56
2	60/40 engine coolant @ \$30.31 ea	\$ 60.62
1	freight to 49509 (no off loading)	\$ 1,415.00
	current lead time- end of Jan 2022	
This quote reflects GSA pricing		
	20541074	
	Does not include Federal, State, Local taxes unless shown	TOTAL: \$ 21,970.96
F.O.B. 49509	TERMS Net 30 Days	BY: Greg Seifried
QUOTATION EXPIRES 30 days	SHIPMENT AFTER RELEASE OF ORDER End of Jan 2022	ACCEPTED BY:

GSA CONTRACT: GS-07F-6044P TAX ID: 38-2112404 DUNS: 017077215 CAGE CODE: 0KL03
EXPIRATION DATE: 31-Aug-24

RESOLUTION NO. _____

RESOLUTION TO AUTHORIZE AN EMERGENCY REPAIR PAYMENT TO
PLUMMER'S ENVIRONMENTAL SERVICES, INC. AND TO APPROVE
THE ATTACHED BUDGET AMENDMENT

WHEREAS:

1. As detailed in the attached staff report, it is recommended the City Council authorize emergency repair payment of \$14,451.25 to Plummer's Environmental Services, Inc. for a sewer force main break.
2. Funds for the repairs will require approval of the attached budget amendment.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby authorize emergency repair payment to Plummer's Environmental Services, Inc. for a sewer force main break.
2. 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 December 6, 2021.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:
Budget Amendment
Staff Report
Invoice

Resolution No. _____

CITY OF WYOMING BUDGET AMENDMENT

Date: December 6, 2021

Budget Amendment No. 047

To the Wyoming City Council:

A budget amendment is requested for the following reason: To appropriate \$14,500.00 of additional budgetary authority to provide funding for the Wilson Ave forcemain repairs as per the attached resolution.

<u>Description/Account Code</u>	<u>Current</u>	<u>Increase</u>	<u>Decrease</u>	<u>Amended</u>
<u>Sewer Fund</u>				
Public Works - Transmission - Repairs and Maintenance				
590-441-54200-930.000	373,947.20	14,500.00		388,447.20
Fund Balance/Working Capital (Fund 590)		-	14,500.00	

Recommended: *Wade Bayford*
Senior Accountant

City Manager
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

STAFF REPORT

Date: November 30, 2021

Subject: Authorize Payment for Emergency Sanitary Sewer Repair

From: Aaron Vis, Assistant Director of Public Works - Maintenance

Date of Meeting: December 6, 2021

RECOMMENDATION:

It is recommended that the City Council authorize emergency repair payment of \$14,451.25 to Plummers Environmental Services, Inc. associated with the recent Wilson Avenue sanitary sewer force main break.

COMMUNITY, SAFETY, STEWARDSHIP:

Emergency repair of the sanitary sewer was necessary to restore normal operations as quickly as possible and minimize the amount of sewage that could enter the street and environment. Plummers Environmental Services, Inc. has an existing emergency contract with the City and was utilized so that sanitary sewer service was not disrupted for City residents.

DISCUSSION:

On Sunday, November 21, 2021, at approximately 3:30 PM, an 8” sanitary sewer force main broke beneath southbound Wilson Avenue, near the Costco entrance. Upon discovery, staff initiated efforts to minimize the amount of sewage that was released onto the street and into the environment. Plummers Environmental Services, Inc. was retained and actively pumped out sewage from the wet well throughout the night and until repairs were complete so that the lift station pumps did not need to be used. This waste was transported to a designated discharge manhole nearby. City staff had the force main repaired and operational by 1 PM on Monday. Wilson Avenue was repaired with a permanent asphalt patch and completely opened to all traffic by the following Tuesday at 4 PM. No additional maintenance should be needed next spring.

This force main was constructed in 1996 and experienced a similar break in 2018. Due to these events, staff will be evaluating this force main and recommending a repair strategy to prevent future breaks.

The attached invoice details the Plummer’s Environmental Services Inc. expenses for this emergency assistance and totals \$14,451.25.



BUDGET IMPACT:

Sufficient funds are available in the sewer fund account number 590-441-54200-930.000 pending a budget amendment, which accompanies this request.

ATTACHMENT:

Plummer's Environmental Services Inc. Invoice



Invoice

10075 Sedroc Industrial Drive
 Byron Center, MI 49315
 Phone # 616-877-3930
 Fax # 616-877-3937

Terms
 Net 30

Date
 11/22/2021

Invoice #
 21145258

Bill to:

City of Wyoming
 2660 Burlingame Ave. SW
 Wyoming, MI 49509

Service Location:

Wilson Ave & Costco
 Wyoming, MI

OK TO PAY ✓ S.S. SWM

P.O. No.

Manifest No.

Work ordered by: Shimo

Service D...	Description	Units	U/M	Unit Price	Extended Price
11/22/2021	Maintained the lift station flow due to a broken pipe. The City of Wyoming turned pipes off so sewage wouldn't leak out of the broken pipe. Decanted water into the tanker and utilized other tankers to transport waste water to the designated discharge location.	13.78	hr	350.00	4,823.00 ✓
	Emergency call-out fee	1	emer...	350.00	350.00 ✓
	Used vacotor to vacuum from lift station and then off load into the tanker to complete the bypass of the station while the line was repaired. Disposed of all waste water onsite in designated location.	8.87	hr	350.00	3,104.50 ✓
	Pumped waste water from vacotor and transported to designated discharge location.	21.45	hr	275.00	5,898.75 ✓
	Emergency call-out fee	1	emer...	275.00	275.00 ✓
				Total	\$14,451.25

We gladly accept credit cards. A 2.9% surcharge will be applied to transactions paid using this payment method. Based on invoice date and terms, there will be a 1.5% interest charge per month on past due invoices.



EPA NO. MIK 111229563 / MICHIGAN LICENSE NO. 640-2
 Industrial and Commercial - 24 hour Answering Service
 10075 Sedroc Industrial Drive Byron Center, MI 49315
 Phone: (616) 877-3930 or 1-800-878-3996
www.plummersenvironmental.com

Work Order # 21145259

Onsite Start:	5:24 PM Nov 21st 2021	Onsite End:	7:30 AM Nov 22nd 2021
Customer Name:		Customer Address:	
Onsite Contact Name:		Service Location:	
Manifest #:		Onsite Contact Phone #:	
Down Time (hr):	0.00	PO #:	
Field Operator	Daryl Henney	Explain:	
		Waste Type	

Work Description:

Vacuumed off a vector loaded one load delivered on Wilson to the south of Costco's parking lot loaded 7000 gallons and I was relieved by Jeremy

Equipment:				
Description	Equipment	Mobilization Type	Qty	UOM
Vac Tanker	T-156	Two Way Mobilization	14.10	HR
Tractors	090	No Mobilization	14.10	HR

Labor:				
Description	Contact	Mobilization Type	Qty	UOM
Field Operator	Daryl Henney	No Mobilization	14.10	HR

Work Order Authorization:
 I acknowledge completion of the described work which has been done to my (the customer's) satisfaction.

X _____

Signature: NO ONE AVAILABLE FOR SIGNATURE

RESOLUTION NO. _____

RESOLUTION TO ACCEPT A PROPOSAL FROM AGILE SAFETY TO PROVIDE FALL PROTECTION SYSTEMS ON FIVE GROUND STORAGE TANKS AND TO AUTHORIZE THE MAYOR AND CITY CLERK TO EXECUTE THE CONTRACT

WHEREAS:

1. It is recommended the City Council accept the proposal from Agile Safety to provide fall protection systems for five storage tanks in the total estimated amount of \$38,889.00.
2. Funds for the project are available in the Water Fund Account, 591-591-55300-930.000.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby accept the proposal from Agile Safety to provide fall protection systems for five storage tanks in the total estimated amount of \$38,889.00.
2. The City Council does hereby authorize the Mayor and City Clerk to execute the contract.
3. 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 December 6, 2021.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Staff Report
Contract
Quote

Resolution No. _____

STAFF REPORT

Date: November 30, 2021
Subject: Ground Storage Tank Fall Protection
From: Dan Kleinheksel, Utility Maintenance Manager
Meeting Date: December 6, 2021

RECOMMENDATION:

It is recommended the City Council accept the proposal from Agile Safety to provide fall protection for five ground storage tanks in the total estimated amount of \$38,889.00.

COMMUNITY, SAFETY, STEWARDSHIP:

Fall protection is essential for the safety of utility plant staff as well as contractors and inspectors accessing the ground storage tanks. Additionally, partnering with Agile Safety has resulted in a tailored installation at a significantly reduced cost.

DISCUSSION:

The Water Treatment Plant utilizes seven ground storage tanks to store up to 37,500,000 gallons of clean, fresh potable water. The tanks require periodic maintenance and repair as well as EGLE required inspections. Of the seven ground storage tanks, five do not have fall protection to safely access and traverse the top of the tanks.

The installation of three fall protection systems was included in bid specifications for a ground storage rehabilitation project in early 2021. However, the fall protection design specified by Dixon Engineering was proprietary to DN Tanks and therefore was unable to be competitively bid. The pricing DN Tanks provided for fall protection on three tanks totaled \$59,600.00. Considering the cost was much higher than anticipated by plant staff and Dixon Engineering, it was prudent to explore an alternative solution.

Therefore, Agile Safety was contacted for an alternate fall protection design and proposal. After making site visits to review the tanks and meeting with plant staff for input, Agile Safety provided a proposal for the installation of cable-type fall protection systems with ladder guardrails on five tanks. Additionally, Agile safety engaged with LH Consulting, LLC to certify the fall protection design.

The proposal provided by Agile Safety is for complete fall protection systems installed for the total estimated amount of \$38,889.00. Considering the cost for five tanks is considerably lower than the original cost from DN Tanks for three ground storage tanks, it is recommended the City Council accept the proposal from Agile Safety.

BUDGET IMPACT:

Adequate funds exist in the Water Fund Account #591-591-55300-930.000.

CITY OF
Wyoming
MICHIGAN

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: Agile Safety, LLC
(Name of contracting entity)
A Michigan limited liability company
(State and type of entity, e.g., corporation, limited liability company, etc.)
850 Bridge Street NW
(Contractor's street address)
Grand Rapids, MI 49504
(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: November 24, 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:

None
(Identify those the City Attorney has agreed may be waived or the City attorney approved modifications or write "None.")

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

Agile Safety, LLC

By: _____
Jack A. Poll, Mayor

By: Elizabeth C. Burdette
(Signature officer, director or principal of Contractor)
Elizabeth C. Burdette
(Typed/Printed Name & Title of Person Signing for Contractor)

By: _____
Kelli A. VandenBerg, City Clerk

Date signed: 11/30/21, 20__

Date signed: _____, 20__

Approved as to form: [Signature]

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. The successful bidder, its subcontractors and their respective personnel must register in the federal System for Award Management (SAM) list and be in good standing (i.e., not suspended or debarred from receiving federal funds).

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@wyomingmi.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:

COMMERCIAL GENERAL LIABILITY
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.
AUTOMOBILE LIABILITY INSURANCE
Minimal Limits (hired and non-owned automobile coverage): \$1,000,000 per person \$1,000,000 per occurrence
WORKERS' DISABILITY COMPENSATION
Minimal Limits: \$500,000 per occurrence Coverage shall be in accordance with Michigan statutes. Waiver of subrogation, except where waiver is prohibited by law.
EXCESS/UMBRELLA INSURANCE
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).
ADDITIONAL INSURED
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



LH Consulting, LLC

8239 Freska Dr., NE • Comstock Park, MI 49321-8577

Phone: 616.822.0409 • lhulst.lhc@gmail.com

November 29, 2021

Mr. Brandon Burnette
Agile Safety
850 Bridge Street, NW
Grand Rapids, MI 49504

RE: Fall Arrest
Wyoming Water Treatment Facilities
New Holland Street, Holland, Michigan
Gezon Parkway, Wyoming, Michigan

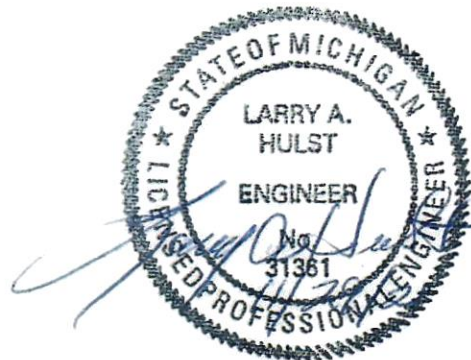
Dear Brandon:

A fall arrest system is proposed to be installed on a total of five concrete water tanks at the facilities noted above. The installation consists of installing a railing on either side of the existing access ladder. A cross arm tie will be wrapped around the circumference of the concrete crown at the top center of the tanks, held from slipping up with a hold down bracket. A steel cable will be attached to the cross arm tie and to a bracket at the access railing, extending up the tank top. A self-retracting lifeline can be attached to the cable. An arresting force of 5500 pounds was utilized to evaluate the existing concrete and reinforcing as described in original design documents.

Two sketches are attached to clarify the installation.

Respectfully Submitted:

Larry A. Hulst, PE





850 Bridge Street NW
Grand Rapids, MI 49504 USA

616.301.1402 phone
616.301.1403 fax
800.836.1880 toll free
www.agilesafety.com

Equipment and Services
for a Safe and Healthy Workplace

SALES QUOTE

Date 11/24/2021
Quote # 22947

BILL TO:

Wyoming Water Treatment Plant (591)
Attn: Accounts Payable
16700 New Holland
Holland, MI 49424

SHIP TO:

Wyoming Water Treatment Plant (591)
Attn: Dan Kleinhecksel
16700 New Holland
Holland, MI 49424

Reference / PO#	Terms	FOB	Delivery	Shipping Terms	Validity	Rep	
Wyoming Tanks	Net 30	Ship Point		Prepaid & Add	12/20/2021	LAKE	
Part Number - Description				Qty	U/M	Price	Total
Wyoming Water Tanks (5 total tanks included)				1		38,889.00	38,889.00T
INCLUDES QTY TOTALS OF THE ITEMS BELOW:							
SRC Standard Railing, Galvanized - 10 Ft				10		0.00	0.00T
Floor Mount for Guardrail				20		0.00	0.00T
Self Closing Safety Gate 30-36"				5		0.00	0.00T
10ft Galvanized Toeboard				10		0.00	0.00T
AS10-30001C - Safety Rail Retaining Pin				20		0.00	0.00T
17ft Coated Cross Arm Strap				5		0.00	0.00T
40ft Coated Cross Arm Strap				2		0.00	0.00T
Brackets to be used to secure cross arm strap at top of tank				20		0.00	0.00T
3/8th Cable Grab Economy				5		0.00	0.00T
100ft Stainless Steel Cable				4		0.00	0.00T
150ft Stainless Steel Cable				1		0.00	0.00T
Set of Hardware per tank				5		0.00	0.00T
ASUS-3-HN110C - 100' Self-Retracting Lifeline, Steel Cable, Includes Aluminum Carabiner and Steel Load Indicator Hook				2		0.00	0.00T
Ladder Climbing System with Galvanized Cable, 8ft extended upper bracket, Wire Grab (1 complete set per tank)				3		0.00	0.00T
1" x 3' Shock Absorbing Lanyard				4		0.00	0.00T
Series 1 Harness, PT Chest, TB Legs, 3-D (size: M-L)				2		0.00	0.00T
AS37-3014C - Series 1 Harness, PT Chest, TB Legs, 3-D (size: XL-2XL)				2		0.00	0.00T
18" Extension Lanyard with Web Loop End				4		0.00	0.00T
18" Positioning Lanyard				4		0.00	0.00T
Saf -T-Lok Sleeve (extra for current Saf-T-Lok system)				2		0.00	0.00T

Account Notes

Shipping Acct

<p>Ian Fannesbeck Sales Representative Cell - (616) 560-4943 Email - Ian@agilesafety.com</p>	Subtotal
	Sales Tax (0.0%)
	Total



850 Bridge Street NW
Grand Rapids, MI 49504 USA

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Equipment and Services
for a Safe and Healthy Workplace

SALES QUOTE

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Attn: Accounts Payable
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Holland, MI 49424

SHIP TO:

Wyoming Water Treatment Plant (591)
Attn: Dan Kleinhecksel
16700 New Holland
Holland, MI 49424

Reference / PO#	Terms	FOB	Delivery	Shipping Terms	Validity	Rep	
Wyoming Tanks	Net 30	Ship Point		Prepaid & Add	12/20/2021	LAKE	
Part Number - Description				Qty	U/M	Price	Total
Installation of five tanks will include two men scheduled for a few days. Install guard railing, gates, restraint cable and anchorage at top of tank. Install pricing is based on one mobilization for all five tanks at the same time.				5		0.00	0.00T
Engineering Services				5		0.00	0.00T
Shipping & Handling Charges FOB Shipping Point				1		0.00	0.00T
Please note quote is dependent on a letter from a PE that states the center of the top of the tank can withstand Fall Protection limits. The quote is dependent on the ability to secure some bolting into the tank surface.							

Account Notes

Shipping Acct

Ian Foncesbeck Sales Representative Cell - (616) 560-4943 Email - Ian@agilesafety.com	Subtotal	\$38,889.00
	Sales Tax (0.0%)	\$0.00
	Total	\$38,889.00

RESOLUTION NO. _____

RESOLUTION TO AUTHORIZE THE PURCHASE OF TIRES

WHEREAS:

1. As detailed in the attached staff report, it is recommended the City Council authorize the purchase of tires from Best One Fleet Service using the State of Michigan MIDEAL contract.
2. It is estimated the City will purchase an estimated \$50,000 annually for tires.
3. Funds for the purchase are budgeted in the Motor Pool Maintenance Supplies account number 661-441-58200-775.000.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council authorize the purchase of tires from Best One Fleet Service using the MIDEAL contract.
2. The Wyoming 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 December 6, 2021.

Kelli A. Vandenberg, Wyoming City Clerk

ATTACHMENTS:

Staff Report
Contract

STAFF REPORT

Date: November 18, 2021
Subject: Tire Purchases
From: Ted Seil, Fleet Services Supervisor
Meeting Date: December 6, 2021

RECOMMENDATION:

It is recommended that the City Council authorize the purchase of tires through Best One Fleet Service of Byron Center utilizing the State of Michigan MIDEAL Purchasing Program Contract # 190000000369 and # 190000000371.

COMMUNITY, SAFETY, STEWARDSHIP:

Worn and damaged tires are replaced on all City vehicles and equipment when they have reached the end of their useful life. Utilizing cooperative purchasing agreements such as the MIDEAL program provides the best pricing for the City.

DISCUSSION:

Fleet Services primarily utilizes Goodyear, Bridgestone or Firestone products as standard tires on City vehicles and equipment. These products are available utilizing the State of Michigan MIDEAL Purchasing Program. Goodyear Tires can be purchased through any authorized Goodyear tire dealer using Contract # 190000000369. Bridgestone or Firestone Tires can be purchased through any authorized Bridgestone or Firestone dealer using Contract # 190000000371. Best One Tire is an authorized dealer for Goodyear, Bridgestone and Firestone. In addition, Best One Tire is a member of the National Association of State Procurement Officials which is recognized by the State of Michigan Department of Technology, Management and Budget and allows them to provide municipal pricing on other brands of tires which the City uses in a lesser volume.

The City spends approximately \$50,000.00 annually on tire purchases.

BUDGET IMPACT:

Sufficient funds have been budgeted in the Motor Pool Maintenance Supplies Account 661-441-58200-775.000.

CITY OF
Wyoming
MICHIGAN

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: Best-One Fleet Service of Byron Center
(Name of contracting entity)
An Ohio corporation
(State and type of entity, e.g., corporation, limited liability company, etc.)
1101 73rd St SW
(Contractor's street address)
Byron Center, MI 498315
(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: November 1, 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. Links for MiDEAL contracts as stated in proposal are: 190000000371_651459_7.pdf (michigan.gov) and 190000000369_648960_7.pdf (michigan.gov)

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:

None

(Identify those the City Attorney has agreed may be waived or the City attorney approved modifications or write "None.")

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

Best-One Fleet Service of Byron Center

By: _____
Jack A. Poll, Mayor

By: James E. Jones, Jr
(Signature officer, director or principal of Contractor)
James E. Jones, Jr
(Typed/Printed Name & Title of Person Signing for Contractor)

By: _____
Kelli A. Vandenberg, City Clerk

Date signed: 11-10, 2021

Date signed: _____, 20__

Approved as to form:

Scott G. Smith
Scott G. Smith, City Attorney

CITY OF
Wyoming
MICHIGAN

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. The successful bidder, its subcontractors and their respective personnel must register in the federal System for Award Management (SAM) list and be in good standing (i.e., not suspended or debarred from receiving federal funds).
 - 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.
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COMMERCIAL GENERAL LIABILITY	
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.	
AUTOMOBILE LIABILITY INSURANCE	
Minimal Limits (hired and non-owned automobile coverage): \$1,000,000 per person \$1,000,000 per occurrence	
WORKERS' DISABILITY COMPENSATION	
Minimal Limits: \$500,000 per occurrence	
Coverage shall be in accordance with Michigan statutes. Waiver of subrogation, except where waiver is prohibited by law.	
EXCESS/UMBRELLA INSURANCE	
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).	
ADDITIONAL INSURED	
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



Quote By: John Ronda

Quote for: City of Wyoming

Date: 11/1/21

As a member of National Association of State Procurement Officials buying group for Michigan government agencies all tire pricing will go through the net state programs established by Bridgestone/Firestone MIDEAL Contract # 1900000371, and Goodyear Contract # 1900000369. All other brands of tires will be priced and manufactures government pricing when available.

We will honor this agreement until December 2025.

Best One will provide 24-hour emergency road service 365 days a year, City emergency vehicles are given priority status for all calls.

Quote By

RESOLUTION NO. _____

RESOLUTION TO AWARD THE BID FOR TOWING AND STORAGE OF VEHICLES
TO MERL'S TOWING SERVICES, INC. AND TO AUTHORIZE THE MAYOR
AND CITY CLERK TO EXECUTE THE CONTRACT

WHEREAS:

1. It is recommended the City Council award the bid for a three-year contract for towing and storage of vehicles to Merl's Towing Service, Inc.
2. It is estimated \$15,000 - \$18,000 will be spent over the three-year contract.
3. Funds are available in the Impounds and Towing account number 101-305-31500-962.000.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby award the bid for a three-year contract for towing and storage of vehicles to Merl's Towing Service, Inc.
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 December 6, 2021.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Staff Report
Proposal
Contract

Resolution No. _____

STAFF REPORT

Date: November 30, 2021
Subject: Towing and Storage of Vehicles
From: Deputy Director Kip Snyder
Meeting Date: December 6, 2021

RECOMMENDATION:

I respectfully recommend the City Council award the proposal for a three-year contract for towing and storage of vehicles to the sole bidder, Merl's Towing Service, Inc.

COMMUNITY, SAFETY, STEWARDSHIP:

The towing and storage of vehicles through towing companies provides a method to ensure that vehicles are towed and stored utilizing an equitable, secure, and environmentally appropriate method. The terms of the bid are largely a continuation of our current agreement with the bidder as it relates to services provided. The performance of the bidder over the past contract period has proven effective and efficient. The bid includes price increases of approximately 8% over the previous contract period.

DISCUSSION:

On October 4, 2021, the City Clerk published a notice to bidders regarding the towing and storage of vehicles on behalf of the City of Wyoming. The notice was sent to 45 prospective bidders. On October 19, 2021, the City received one bid from Merl's Towing Service, Inc. This was the only bid received during the acceptance period.

Most incurred costs to the City are associated with towing and storage related to vehicles towed as evidence of crimes or serious/fatal accidents that require vehicles to be held for police investigation. Most others are city owned vehicles towed due to crashes or mechanical failure. Other tows are for circumstances in which the City incurs no cost as it becomes the responsibility of the registered owner. In cases of unclaimed abandoned vehicles, after appropriate legal processes, Merl's sells the vehicle at auction, recovers their towing and storage costs, and sends remaining funds to the city. We then forward that to the state, which deposits the funds into the state unclaimed property fund.

BUDGET IMPACT:

Because the need for towing and storage is variable, we must estimate future costs based on past needs. Based on expenditures last two fiscal years and thus far this year, we can expect to spend approximately \$15,000-\$18,000 over the three-year period covered in this bid. Payments for these costs come from the Impounds and Towing account number 101-305-31500-962.000.

Attachments:
Bid Tabulation Sheet
Bid Proposal

YEAR ONE

January 1, 2022 - December 31, 2022



* SEE ADDENDUM

Service Call	Mileage	Storage Fees (No storage charge shall be levied for the first calendar day or any part thereof.)		Heated Inside	
		Outside		Police Evidence Vehicles Only	
		Daily Storage Fee	Charged to Vehicle Owner	Daily Storage Fee	Charged to Vehicle Owner
* ACCIDENT AND/OR MOTORIST IMPOUND * MOTORIST ASSEST TOWS MLF Cost Per Tow	Within the City Limits Per Loaded Mile	Clean Up Charge	Police Evidence Vehicles Only	Police Evidence Vehicles Only	Over 20 Vehicles
60.00	Per Loaded Mile	Accidents Only	Charged to Vehicle Owner	Charged to Vehicle Owner	
* Light Duty Towing (less than 10,000 lbs.) GVWR * MOTORIST IMPOUND	4.50	* 25.00 MLE	* 45.00 MLE	60.00 MLE	60.00 MLE
Medium Duty Towing (10,000 - 22,500 lbs.) GVWR * MOTORIST IMPOUND	4.50				
Heavy Duty Towing (22,500 lbs. or greater) GVWR * MOTORIST IMPOUND	ADDENDUM				
Four Wheel Drive Towing	4.50				
60.00	4.50				
* RECOVERY Off-Road Towing	4.50				
100.00	4.50				

List any additional charges for:

Dolly Services: 45.00

Winching Services: * 50.00

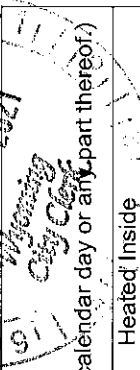
*Towing and Storage Charges for vehicles in excess of 1 ton models are to be at the Contractor's rates as registered with and approved by the MPSC and shall be posted in a prominent location for public viewing at all the Contractor's places of business and will be provided to the City of Wyoming at no charge.

MERIS TOWING SERVICE INC dba MERIS TOWING'S SERVICE
E.B.T. INC. dba GRAUD RAPIDS TOWING

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

YEAR THREE
January 1, 2024 – December 31, 2024

SEE ADDENDUM



Service Call	Cost Per Tow	Mileage		Clean Up Charge	Storage Fees (No storage charge shall be levied for the first calendar day or any part thereof.)		
		Within the City Limits	Outside the City Limits		Outside		Heated/ Inside
					Daily Storage Fee	Charged to Vehicle Owner	
* ACCIDENT AND/OR MOTORIST ASSIST TOWING	145.00	5.00	5.00	* 25.00	51.00	66.00	66.00
* Light Duty Towing (less than 10,000 lbs.) G.V.W.R.	70.00	5.00	5.00	SEE ADDENDUM	51.00 MLF	66.00 MLF	66.00
* Medium Duty Towing (10,001 - 22,500 lbs.) G.V.W.R.				SEE ADDENDUM	MLF	MLF	MLF
* Heavy Duty Towing (22,501 lbs. or greater) G.V.W.R.				SEE ADDENDUM	MLF	MLF	MLF
Four Wheel Drive Towing	145.00	5.00	5.00				
RECOVERY/ Off-Road Towing	145.00	5.00	5.00				

List any additional charges for:

Dolly Services: 55.00

Winching Services: * 60.00

*Towing and Storage Charges for vehicles in excess of 1 ton models are to be at the Contractor's rates as registered with and approved by the MPSC and shall be posted in a prominent location for public viewing at all the Contractor's places of business and will be provided to the City of Wyoming at no charge.

MERL'S TOWING SERVICE DBA MERL'S TOWING SERVICE

Proponent's Complete Business Name (If Proponent Is DBA Include Full Proponent DBA) E.B.T. INC. GRAND RAPIDS TOWING

CONTRACT FORM

This Contract Form on the next page must be completed and signed by the Contractor and provided as part of the Bid submittal. If the Contractor 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.

TOWING AND STORAGE OF VEHICLES 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 Towing and Storage of Vehicles 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 October 19, 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:

	LEGAL NAME OF COMPANY
	BUSINESS NAME / D.B.A., IF DIFFERENT FROM ABOVE
	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
	STREET ADDRESS
	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.
4. This provision shall apply to towing and storage charges for a vehicle Merl's tows and holds at Merl's lot that is described in subsection A:
5. If it appears that extended storage of a vehicle will be necessary and space opens in Wyoming's storage area, Wyoming and Merl's may cooperate in relocating one or more vehicles to an open space in the Wyoming storage area to relieve Merl's of continued costs related to storing a vehicle for an extended period.

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

City of Wyoming

By: _____
Jack A. Poll, Mayor

By: _____
Kelli A. Vandenberg, City Clerk

Date signed: _____

Approved as to form:

Scott G. Smith, City Attorney

Contractor

By: _____
Signature for Contractor

Printed Name & Title of Person Signing

Date signed: _____

RESOLUTION NO. _____

RESOLUTION TO AUTHORIZE ENTERING INTO AN AGREEMENT WITH FLOCK SAFETY FOR THE PURCHASE OF LICENSE PLATE AND VEHICLE RECOGNITION CAMERAS AND TO AUTHORIZE THE CITY MANAGER TO EXECUTE THE AGREEMENT

WHEREAS:

1. As detailed in the attached staff report, it is recommended the City Council authorize entering into an agreement with Flock Safety for the purchase and service of twelve (12) license plate and vehicle recognition cameras for a total estimated cost of \$30,000.
2. After the first year, there is an annual \$30,000 fee for hardware and software maintenance.
3. Funds for the purchase are available from the American Rescue Plan Act (ARPA).

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby authorize entering into an agreement with Flock Safety for the purchase and service of twelve (12) license plate and vehicle recognition cameras
2. The City Council does hereby authorize an annual \$30,000 fee for hardware and software maintenance.
3. 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 December 6, 2021.

ATTACHMENTS:

Staff Report

Service Agreement

Kelli A. VandenBerg, Wyoming City Clerk

Resolution No. _____

STAFF REPORT

Date: December 1, 2021
Subject: Flock Safety License Plate Reader Cameras
From: Captain Eric Wiler
Meeting Date: December 6, 2021

RECOMMENDATION:

It is recommended the City Council approve the purchase of twelve (12) license plate and vehicle recognition cameras from Flock Safety for the total purchase price of \$33,000 (\$2,500 per camera and a one-time \$250 implementation fee per camera). After the first year, there is an annual \$30,000 fee for hardware and software maintenance (\$2,500 per camera).

COMMUNITY, SAFETY, STEWARDSHIP:

Like many cities around the country, the City of Wyoming has experienced an increase in violent crime. Although homicides for 2021 are down from an all-time high in 2020, we are still experiencing a significant increase in shooting incidents. To date, there have been 48 shots fired complaints and 24 shootings where a person was struck by a bullet.

Quickly obtaining leads in any criminal investigation increases the probability of identifying suspects and solving the case. By utilizing stationary license plate and vehicle recognition cameras from Flock Safety, the City of Wyoming will be able to enhance our efforts to reduce the violent crime and increase safety for our community. As the camera system only records the exterior of the vehicle and the license plate, it provides objective, unbiased evidence to investigators. The Flock Safety license plate and vehicle recognition cameras require no infrastructure as the cameras use LTE and solar power.

DISCUSSION:

Persons associated with violent crimes are not confined to jurisdictional boundaries and often travel to or from the City of Wyoming in a vehicle. The ability to collaborate with other law enforcement agencies to increase our investigative abilities is crucial to providing a safer community. The Kent County Sheriff's Office will be receiving 25 Flock Safety cameras and, to capitalize on our ability to collaborate with them, Flock Safety cameras would be considered a sole source.

Flock Safety license plate and vehicle recognition cameras do NOT record the interior of a vehicle and are not used for traffic enforcement. Additionally, it is not facial recognition software. Recordings are only stored for 30 days unless a vehicle is identified as a suspect in a criminal complaint and saved by investigators.

BUDGET IMPACT:

This purchase will be made by using \$33,000.00 from the American Rescue Plan Act (ARPA).

Attachments:
Services Agreement Order Form

flock safety

FLOCK GROUP INC. SERVICES AGREEMENT ORDER FORM

This Order Form together with the Terms (as defined herein) describe the relationship between Flock Group Inc. (“**Flock**”) and the customer identified below (“**Customer**”) (each of Flock and Customer, a “**Party**”). This order form (“**Order Form**”) hereby incorporates and includes the “GOVERNMENT AGENCY CUSTOMER AGREEMENT” attached (the “**Terms**”) which describe and set forth the general legal terms governing the relationship (collectively, the “**Agreement**”). The Terms contain, among other things, warranty disclaimers, liability limitations and use limitations.

The Agreement will become effective when this Order Form is executed by both Parties (the “**Effective Date**”).

Customer: City of Wyoming	Contact Name: Curtis Holt
Address: 1155 28th St SW Wyoming, Michigan 49509	Phone: (616) 530-7272 E-Mail: curtis.holt@wyomingmi.gov
Expected Payment Method:	Billing Contact: (if different than above)

Initial Term: 24.00 Renewal Term: 24 Months	Pilot period: First 60 days of Initial Term; option to cancel contract at no cost. Initial Term invoice due after Pilot period. Billing Term: Annual payment due Net 30 per terms and conditions
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Name	Price	QTY	Subtotal
Flock Falcon Camera	\$2,500.00	12.00	\$30,000.00
Implementation Fee	\$250.00	12.00	\$3,000.00

(Includes one-time fees)

Year 1 Total: \$33,000.00
Recurring Total: \$30,000.00

flock safety

By executing this Order Form, Customer represents and warrants that it has read and agrees all of the terms and conditions contained in the Terms attached. The Parties have executed this Agreement as of the dates set forth below.

Flock Group Inc	Customer:
By: Name: Title: Date:	By: Name: Title: Date:

GOVERNMENT AGENCY AGREEMENT

This Government Agency Agreement (this “**Agreement**”) is entered into by and between Flock Group, Inc. with a place of business at 1170 Howell Mill Rd NW Suite 210, Atlanta, GA 30318 (“**Flock**”) and the police department or government agency identified in the signature block below (“**Agency**”) (each a “**Party**,” and together, the “**Parties**”).

RECITALS

WHEREAS, Flock offers a software and hardware solution for automatic license plate detection through Flock’s technology platform (the “**Flock Service**”), and upon detection, the Flock Service creates images and recordings of suspect vehicles (“**Footage**”) and can provide notifications to Agency upon the instructions of Non-Agency End User (“**Notifications**”);

WHEREAS, Agency desires to purchase, use and/or have installed access to the Flock Service on existing cameras, provided by Agency, or Flock provided Hardware (as defined below) in order to create, view, search and archive Footage and receive Notifications, including those from non-Agency users of the Flock System (where there is an investigative purpose) such as schools, neighborhood homeowners associations, businesses, and individual users;

WHEREAS, because Footage is stored for no longer than (thirty) 30 days in compliance with Flock’s records retention policy, Agency is responsible for extracting, downloading and archiving Footage from the Flock System on its own storage devices for auditing for prosecutorial/administrative purposes; and

WHEREAS, Flock desires to provide Agency the Flock Service and any access thereto, subject to the terms and conditions of this Agreement, solely for the purpose of crime awareness and prevention by police departments and archiving for evidence gathering (“**Purpose**”).

AGREEMENT

NOW, THEREFORE, Flock and Agency agree as follows and further agree to incorporate the Recitals into this Agreement.

1. DEFINITIONS

Certain capitalized terms, not otherwise defined herein, have the meanings set forth or cross-referenced in this Section 1.

1.1 “**Agency Data**” will mean the data, media and content provided by Agency through the Services. For the avoidance of doubt, the Agency Data will include the Footage.

1.2. “**Agency Hardware** ” shall mean the third-party camera owned or provided by Agency and any other physical elements that interact with the Embedded Software and the Web Interface to provide the Services. The term “**Agency Hardware** ” excludes the Embedded Software

1.3 “**Authorized End User(s)**” shall mean any individual employees, agents, or contractors of Agency accessing or using the Services through the Web Interface, under the rights granted to Agency pursuant to this Agreement.

1.4 “**Documentation**” will mean text and/or graphical documentation, whether in electronic or printed format, that describe the features, functions and operation of the Services which are provided by Flock to Agency in accordance with the terms of this Agreement.

1.5 “**Embedded Software**” will mean the software and/or firmware embedded or preinstalled on the Agency Hardware.

1.6 “**Flock IP**” will mean the Services, the Documentation, the Embedded Software, the Installation Services, and any and all intellectual property therein or otherwise provided to Agency and/or its Authorized End Users in connection with the foregoing.

1.7 “**Footage**” means still images captured by the Agency Hardware in the course of and provided via the Services.

1.8 “**Hardware**” or “**Flock Hardware**” shall mean the Flock cameras or device, pole, clamps, solar panel, installation components, and any other physical elements that interact with the Embedded Software and the Web Interface to provide the Flock Services. The term “**Hardware**” excludes the Embedded Software.

1.9 “**Implementation Fee(s)**” means the monetary fees associated with the Installation Services, as defined in Section 1.9 below.

1.10 “**Installation Services**” means the services provided by Flock including any applicable installation of Embedded Software on Agency Hardware.

1.11 “**Services**” or “**Flock Services**” means the provision, via the Web Interface, of Flock’s software application for automatic license plate detection, searching image records, and sharing Footage.

1.12 “**Support Services**” shall mean Monitoring Services, as defined in Section 2.8 below.

1.13 “**Unit(s)**” shall mean the Agency Hardware together with the Embedded Software.

1.14 “**Usage Fee**” means the subscription fees to be paid by the Agency for ongoing access to Services.

1.15 “**Web Interface**” means the website(s) or application(s) through which Agency and its Authorized End Users can access the Services in accordance with the terms of this Agreement.

2. SERVICES AND SUPPORT

2.1 **Provision of Access.** Subject to the terms of this Agreement, Flock hereby grants to Agency a non-exclusive, non-transferable right to access the features and functions of the Services via the Web Interface during the Service Term (as defined in Section 6.1 below), solely for the Authorized End Users. The Footage will be available for Agency’s designated administrator, listed on the Order Form, and any Authorized End Users to access via the Web Interface for thirty (30) days. Authorized End Users will be required to sign up for an account and select a password and username (“**User ID**”). Flock will also provide Agency with the Documentation to be used in accessing and using the Services. Agency shall be responsible for all acts and omissions of Authorized End Users, and any act or omission by an Authorized End User which, if undertaken by Agency, would constitute a breach of this Agreement, shall be deemed a breach of this Agreement by Agency. Agency shall undertake reasonable efforts to make all Authorized End Users aware of the provisions of this Agreement as applicable to such Authorized End User’s use of the Services, and shall cause Authorized End Users to comply with such provisions. Flock may use the services of one or more third parties to deliver any part of the Services, including without limitation using a third party to host the Web Interface which makes the Services available to Agency and Authorized End Users. **WARRANTIES PROVIDED BY SAID THIRD PARTY SERVICE PROVIDERS ARE THE AGENCY’S SOLE AND EXCLUSIVE REMEDY AND FLOCK’S SOLE AND EXCLUSIVE LIABILITY WITH REGARD TO SUCH THIRD-PARTY SERVICES, INCLUDING WITHOUT LIMITATION HOSTING THE WEB INTERFACE.** Agency agrees to comply with any acceptable use policies and other terms of any third-party service provider that are provided or otherwise made available to Agency from time to time.

2.2 **Embedded Software License.** Subject to all terms of this Agreement, Flock grants Agency a limited, non-exclusive, non-transferable, non-sublicensable (except to the Authorized End Users), revocable right to use the Embedded Software as installed on the Hardware or Agency Hardware; in each case, solely as necessary for Agency to use the Services.

2.3 **Documentation License.** Subject to the terms of this Agreement, Flock hereby grants to Agency a non-exclusive, non-transferable right and license to use the Documentation during the Service Term to Agency’s in connection with its use of the Services as contemplated herein, and under Section 2.4 below.

2.4 **Usage Restrictions.** The purpose for usage of the Unit, Documentation, Services, support, and Flock IP are solely to facilitate gathering evidence that could be used in a lawful criminal investigation by the appropriate government agency and not for tracking activities that the system is not designed to capture (“**Permitted Purpose**”). Agency will not, and will not permit any Authorized End Users to, (i) copy or duplicate any of the Flock IP; (ii) decompile, disassemble, reverse engineer or otherwise attempt to obtain or perceive the source code from which any software component of any of the Flock IP is compiled or interpreted, or apply any other process or procedure to derive the source code of any software included in the Flock IP, or attempt to do any of the foregoing, and Agency acknowledges that nothing in this Agreement will be construed to grant Agency any right to obtain or use such source code; (iii) modify, alter, tamper with or repair any of the Flock IP, or create any derivative product from any of the foregoing, or attempt to do any of the foregoing, except with the prior written consent of Flock; (iv) interfere or attempt to interfere in any manner with the functionality or proper working of any of the Flock IP; (v) remove, obscure, or alter any notice of any intellectual property or proprietary right appearing on or contained within any of the Services or Flock IP; (vi) use the Services, support, Unit, Documentation or the Flock IP for anything other than

the Permitted Purpose; or (vii) assign, sublicense, sell, resell, lease, rent or otherwise transfer or convey, or pledge as security or otherwise encumber, Agency's rights under Sections 2.1, 2.2, or 2.3.

2.5 Retained Rights; Ownership. As between the Parties, subject to the rights granted in this Agreement, Flock and its licensors retain all right, title and interest in and to the Flock IP and its components, and Agency acknowledges that it neither owns nor acquires any additional rights in and to the foregoing not expressly granted by this Agreement. Agency further acknowledges that Flock retains the right to use the foregoing for any purpose in Flock's sole discretion. There are no implied rights.

2.6 Suspension. Notwithstanding anything to the contrary in this Agreement, Flock may temporarily suspend Agency's and any Authorized End User's access to any portion or all of the Flock IP if (i) Flock reasonably determines that (a) there is a threat or attack on any of the Flock IP; (b) Agency's or any Authorized End User's use of the Flock IP disrupts or poses a security risk to the Flock IP or any other Agency or vendor of Flock; (c) Agency or any Authorized End User is/are using the Flock IP for fraudulent or illegal activities; (d) Flock's provision of the Services to Agency or any Authorized End User is prohibited by applicable law; (e) any vendor of Flock has suspended or terminated Flock's access to or use of any third party services or products required to enable Agency to access the Flock IP; or (f) Agency has violated any term of this provision, including, but not limited to, utilizing the Services for anything other than the Permitted Purpose (each such suspension, in accordance with this Section 2.6, a "**Service Suspension**"). Flock will make commercially reasonable efforts, circumstances permitting, to provide written notice of any Service Suspension to Agency (including notices sent to Flock's registered email address) and to provide updates regarding resumption of access to the Flock IP following any Service Suspension. Flock will use commercially reasonable efforts to resume providing access to the Service as soon as reasonably possible after the event giving rise to the Service Suspension is cured. Flock will have no liability for any damage, liabilities, losses (including any loss of data or profits) or any other consequences that Agency or any Authorized End User may incur as a result of a Service Suspension. To the extent that the Service Suspension is not caused by Agency's direct actions or by the actions of parties associated with the Agency, the expiration of the Term will be tolled by the duration of any suspension (for any continuous suspension lasting at least one full day) prorated for the proportion of cameras on the Agency's account that have been impacted.

2.7 Installation Services.

2.7.1 Designated Locations. For installation of Flock Hardware, prior to performing the physical installation of the Units, Flock shall advise Agency on the location and positioning of the Units for optimal license plate image capture, as conditions and location allow. Flock and Agency must mutually agree on the location (mounting site or pole), position and angle of the Units (each Unit location so designated by Agency, a "**Designated Location**"). Flock shall have no liability to Agency resulting from any poor performance, functionality or Footage resulting from or otherwise relating to the Designated Locations or delay in installation due to Agency's delay in identifying the choices for the Designated Locations, in ordering and/or having the Designated Location ready for installation including having all electrical work preinstalled and permits ready. Designated Locations that are suggested by Flock and accepted by Agency without alteration will be known as Flock Designated Locations. After a deployment plan with Designated Locations and equipment has been agreed upon by both Flock and the Agency, any subsequent changes to the deployment plan ("**Reinstalls**") driven by Agency's request will incur a charge for Flock's then-current list price for Reinstalls, as listed in the then-current Reinstall Policy (available at <https://www.flocksafety.com/reinstall-fee-schedule>) and any equipment charges. These changes include but are not limited to camera re-positioning, adjusting of camera mounting, re-angling, removing foliage, camera replacement, changes to heights of poles, regardless of whether the need for Reinstalls related to vandalism, weather, theft, lack of criminal activity in view, and the like.

2.7.2 Agency Installation Obligations. Agency agrees to allow Flock and its agents reasonable access in and near the Designated Locations at all reasonable times upon reasonable notice for the purpose of performing the installation work. The “**Agency Installation Obligations**” include, to the extent required by the deployment plan, but are not limited to electrical work to provide a reliable source of 120V AC power that follow Flock guidelines and comply with local regulations if adequate solar exposure is not available. Agency is solely responsible for (i) any permits or associated costs, and managing the permitting process; (ii) any federal, state or local taxes including property, license, privilege, sales, use, excise, gross receipts or other similar taxes which may now or hereafter become applicable to, measured by or imposed upon or with respect to the installation of the Hardware, its use, or (iii) any other supplementary cost for services performed in connection with installation of the Hardware, including but not limited to contractor licensing, engineered drawings, rental of specialized equipment or vehicles, third-party personnel (i.e. Traffic Control Officers, Electricians, State DOT-approved poles, etc.), such costs to be approved by the Agency. In the event that a Designated Location for a Unit requires permits, Flock will provide the Agency with a temporary alternate location for installation pending the permitting process. Once the required permits are obtained, Flock will relocate the Units from the temporary alternate location to the permitted location at no additional cost. Flock will provide options to supply power at each Designated Location. If Agency refuses alternative power supply options, Agency agrees and understands that Agency will not be subject to any reimbursement, tolling, or credit for any suspension period of Flock Services due to low solar. Flock will make all reasonable efforts within their control to minimize suspension of Flock Services. Any fees payable to Flock exclude the foregoing. Without being obligated or taking any responsibility for the foregoing, Flock may pay and invoice related costs to Agency if Agency did not address them prior to the execution of this Agreement or a third party requires Flock to pay. Agency represents and warrants that it has all necessary right title and authority and hereby authorizes Flock to install the Hardware at the Designated Locations and to make any necessary inspections or tests in connection with such installation. Flock is not responsible for installation of Agency Hardware.

2.7.3 Flock’s Obligations. Installation of any Flock Hardware shall be installed in a workmanlike manner in accordance with Flock’s standard installation procedures, and the installation will be completed within a reasonable time from the time that the Designated Locations are selected by Agency. Following the initial installation of the Hardware and any subsequent Reinstalls or maintenance operations, Flock’s obligation to perform installation work shall cease; however, Flock will continue to monitor the performance of the Units for the length of the Term and will receive access to the Footage for a period of three (3) business days after the initial installation in order to monitor performance and provide any necessary maintenance solely as a measure of quality control. Agency can opt out of Flock’s access to Footage after the initial installation which would waive Flock’s responsibility to ensure such action was successful. Agency understands and agrees that the Flock Services will not function without the Hardware. Labor

may be provided by Flock or a third party. Flock is not obligated to install, reinstall, or provide physical maintenance to Agency Hardware.

2.7.4 *Security Interest.* Flock Hardware shall remain the personal property of Flock and will be removed upon the termination or expiration of this Agreement. Agency agrees to perform all acts which may be necessary to assure the retention of title of the Hardware by Flock. Should Agency default in any payment for the Flock Services or any part thereof or offer to sell or auction the Hardware, then Agency authorizes and empowers Flock to remove the Hardware or any part thereof. Such removal, if made by Flock, shall not be deemed a waiver of Flock's rights to any damages Flock may sustain as a result of Agency's default and Flock shall have the right to enforce any other legal remedy or right. In the event of natural expiration of this Agreement, Flock shall remove Flock Hardware at no additional cost to Agency.

2.8 **Hazardous Conditions.** Unless otherwise stated in the Agreement, Flock's price for its services under this Agreement does not contemplate work in any areas that contain hazardous materials, or other hazardous conditions, including, without limit, asbestos, lead, toxic or flammable substances. In the event any such hazardous materials are discovered in the designated locations in which Flock is to perform services under this Agreement, Flock shall have the right to cease work immediately in the area affected until such materials are removed or rendered harmless. Any additional expenses incurred by Flock as a result of the discovery or presence of hazardous material or hazardous conditions shall be the responsibility of Agency and shall be paid promptly upon billing.

2.9 **Support Services.** Subject to the payment of fees, Flock shall monitor the performance and functionality of Flock Services and may, from time to time, advise Agency on changes to the Flock Services, Installation Services, or the Designated Locations which may improve the performance or functionality of the Services or may improve the quality of the Footage. The work, its timing, and the fees payable relating to such work shall be agreed by the Parties prior to any alterations to or changes of the Services or the Designated Locations ("**Monitoring Services**"). Subject to the terms hereof, Flock will provide Agency with reasonable technical and on-site support and maintenance services ("**On-Site Services**") in-person or by email at hello@flocksafety.com. Flock will use commercially reasonable efforts to respond to requests for support. If Agency chooses to self-install Hardware or install Hardware on a mobile location, Flock shall make reasonable commercial efforts to provide On-Site Services, if permissible. Agency shall not be entitled to reimbursement, tolling, or credit for any lapse in Services associated with the Unit malfunction due to installation on mobile locations (i.e. trailers). Agency waives any warranties hereunder for any self-installed Hardware, and Flock shall not be liable for failure to respond to any maintenance requests for self-installed Hardware.

Agency shall be subject to Reinstall Fees for re-positioning Units on mobile locations, or subsequent installation on Flock or other stationary poles.

2.10 Special Terms. From time to time, Flock may offer certain “Special Terms” related to guarantees, service and support which are indicated in the proposal and on the order form and will become part of this Agreement, upon Agency’s consent. To the extent that any terms of this agreement are inconsistent or conflict with the Special Terms, the Special Terms shall control.

2.10 Changes to Platform. Flock Safety may, in its sole discretion, make any changes to any system or platform that it deems necessary or useful to (i) maintain or enhance (a) the quality or delivery of Flock Safety’s products or services to its Agency s, (b) the competitive strength of, or market for, Flock Safety’s products or services, (c) such platform or system’s cost efficiency or performance, or (ii) to comply with applicable law.

3. RESTRICTIONS AND RESPONSIBILITIES

3.1 Agency Obligations. Upon creation of a User ID, Agency agrees to provide Flock with accurate, complete, and updated registration information. Agency may not select as its User ID a name that Agency does not have the right to use, or another person’s name with the intent to impersonate that person. Agency may not transfer its account to anyone else without prior written permission of Flock. Agency will not share its account or password with anyone, and must protect the security of its account and password. Agency is responsible for any activity associated with its account. Agency shall be responsible for obtaining and maintaining any equipment and ancillary services needed to connect to, access or otherwise use the Services. Agency will, at its own expense, provide assistance to Flock, including, but not limited to, by means of access to, and use of, Agency facilities, as well as by means of assistance from Agency personnel, to the limited extent any of the foregoing may be reasonably necessary to enable Flock to perform its obligations hereunder, including, without limitation, any obligations with respect to Support Services or any Installation Services.

3.2 Agency Representations and Warranties. Agency represents, covenants, and warrants that Agency will use the Services only in compliance with this Agreement and all applicable laws and regulations, including but not limited to any laws relating to the recording or sharing of video, photo, or audio content. To the extent allowed by the governing law of the state mentioned in Section 10.6, or if no state is mentioned in Section 10.6, by the law of the State of Michigan, Agency hereby agrees to indemnify and hold harmless Flock against any damages, losses, liabilities, settlements and expenses, including without limitation costs and attorneys’ fees, in connection with any claim or action that arises from an alleged violation of the foregoing, Agency’s installation obligations, or otherwise from Agency’s use of the Services, Flock Hardware, Agency Hardware and any Embedded Software, including any claim that such actions violate any applicable law or third party right. Although Flock has no obligation to monitor Agency’s use of the Services, Flock may do so and may prohibit any use of the Services it believes may be (or alleged to be) in violation of the foregoing.

4. CONFIDENTIALITY; AGENCY DATA

4.1 Confidentiality. This provision is subject to any obligations under FOIA and state-specific Public Records Acts. Each Party (the “*Receiving Party*”) understands that the other Party (the “*Disclosing Party*”) has disclosed or may disclose business, technical or financial information relating to the Disclosing Party’s business (hereinafter referred to as “*Proprietary Information*” of the Disclosing Party). Proprietary Information of Flock includes non-public information regarding features, functionality and performance of the Services. Proprietary Information of Agency includes non-public data provided by Agency to Flock or collected by Flock via the Unit, including the Footage, to enable the provision of the Services, which includes but is not limited to geolocation information and environmental data collected by sensors built into the Units (“*Agency Data*”). The Receiving Party agrees: (i) to take the same security precautions to protect against disclosure or unauthorized use of such Proprietary Information that the party takes with its own proprietary information, but in no event will a party apply less than reasonable precautions to protect such Proprietary Information, and (ii) not to use (except in performance of the Services or as otherwise permitted herein) or divulge to any third person any such Proprietary Information. Flock’s use of the Proprietary Information may include processing the Proprietary Information to send Agency alerts, such as when a car exits Agency’s neighborhood, or to analyze the data collected to identify motion or other events. The Disclosing Party agrees that the foregoing shall not apply with respect to any information that the Receiving Party can document (a)

is or becomes generally available to the public, or (b) was in its possession or known by it prior to receipt from the Disclosing Party, or (c) was rightfully disclosed to it without restriction by a third party, or (d) was independently developed without use of any Proprietary Information of the Disclosing Party. Nothing in this Agreement will prevent the Receiving Party from disclosing the Proprietary Information pursuant to any judicial or governmental order, provided that the Receiving Party gives the Disclosing Party reasonable prior notice of such disclosure to contest such order. For clarity, Flock may access, use, preserve and/or disclose the Footage to law enforcement authorities, government officials, and/or third parties, if legally required to do so or if Flock has a good faith belief that such access, use, preservation or disclosure is reasonably necessary to: (a) comply with a legal process or request; (b) enforce this Agreement, including investigation of any potential violation thereof; (c) detect, prevent or otherwise address security, fraud or technical issues; or (d) protect the rights, property or safety of Flock, its users, a third party, or the public as required or permitted by law, including respond to an emergency situation. Agency hereby expressly grants Flock a non-exclusive, worldwide, perpetual, royalty-free right and license (during and after the term hereof) to disclose the Agency Data (inclusive of any Footage) to enable law enforcement monitoring against law enforcement hotlists as well as provide Footage search access to law enforcement for investigative purposes only. Flock may store deleted Footage in order to comply with certain legal obligations but such retained Footage will not be retrievable without a valid court order.

4.2 Agency Data. Agency and Non-Agency End User Data. As between Flock and Agency, all right, title and interest in the Agency Data and Non-Agency End User Data, belong to and are retained solely by Agency. Agency hereby grants to Flock a limited, non-exclusive, royalty-free, worldwide license to use the Agency Data and Non-Agency End User Data and perform all acts with respect to the Agency Data and Non-Agency End User Data as may be necessary for Flock to provide the Flock Services to Agency, including without limitation the Support Services set forth in Section 2.9 above, and a non-exclusive, perpetual, irrevocable, worldwide, royalty-free, fully paid license to use, reproduce, modify and distribute the Agency Data and Non-Agency End User Data as a part of the Aggregated Data (as defined in Section 4.4 below). As between Flock and Agency, Agency is solely responsible for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Agency Data and Non-Agency End User Data. As between Agency and Non-Agency End Users that have prescribed access of Footage to Agency, each of Agency and Non-Agency End Users will share all right, title and interest in the Non-Agency End User Data. This Agreement does not by itself make any Non-Agency End User Data the sole property or the Proprietary Information of Agency. Flock will automatically delete Footage older than thirty (30) days. Agency has a thirty (30) day window to view, save and/or transmit Footage to the relevant government agency prior to its deletion.

4.3 Feedback. If Agency provides any suggestions, ideas, enhancement requests, feedback, recommendations or other information relating to the subject matter hereunder, Agency hereby assigns (and will cause its agents and representatives to assign) to Flock all right, title and interest (including intellectual property rights) with respect to or resulting from any of the foregoing.

4.4 Aggregated Data. Notwithstanding anything in this Agreement to the contrary, Flock shall have the right to collect and analyze data that does not refer to or identify Agency or any individuals or de-identifies such data and other information relating to the provision, use and performance of various aspects of the Services and related systems and technologies (including, without limitation, information concerning Agency Data and data derived therefrom). For the sake of clarity, Aggregated Data is compiled anonymous data which has been stripped of any personal identifying information. Agency acknowledges that Flock will be compiling anonymized and/or aggregated data based on Agency Data and Non-Agency End User Data input into the Services (the "**Aggregated Data**"). Agency hereby grants Flock a non-exclusive, worldwide, perpetual, royalty-free right and license (during and after the Service Term hereof) to (i) use and distribute such Aggregated Data to improve and enhance the Services and for other marketing, development, diagnostic and corrective purposes, other Flock offerings, and crime prevention efforts, and (ii) disclose the Agency Data and Non-Agency End User Data (both inclusive of any Footage) to enable law enforcement monitoring against law enforcement hotlists as well as provide Footage search access to law enforcement for investigative purposes only. No rights or licenses are granted except as expressly set forth herein.

5. PAYMENT OF FEES

5.1a Wing Fees. For Wing products, the Agency will pay Flock the first Usage Fee and the Implementation Fee (as described on the Order Form, together the "**Initial Fees**") as set forth on the Order Form on or before the 30th day following the Effective Date of this Agreement. Flock shall have no liability resulting from any delay by the Agency in installing the Embedded Software on the Agency Hardware. If applicable, Agency shall pay the ongoing

Usage Fees set forth on the Order Form with such Usage Fees due and payable thirty (30) days in advance of each payment period. All payments will be made by either ACH, check, or credit card.

5.1b Falcon Fees. For Falcon products, Agency will pay Flock the first Usage Fee, the Implementation Fee and any fee for Hardware (as described on the Order Form, together the "Initial Fees") as set forth on the Order Form on or before the 30th day following receipt of invoice, after successful validation of the Units. Flock is not obligated to commence the Installation Services unless and until the Initial Fees have been made and shall have no liability resulting from any delay related thereto. Agency shall pay the ongoing Usage Fees set forth on the Order Form with such Usage Fees due and payable thirty (30) days in advance of each payment period. All payments will be made by either ACH, check, or credit card.

5.2 Changes to Fees. Flock reserves the right to change the Fees or applicable charges and to institute new charges and Fees at the end of the Initial Term or any Renewal Term, upon sixty (60) days' notice prior to the end of such Initial Term or Renewal Term (as applicable) to Agency (which may be sent by email). If Agency believes that Flock has billed Agency incorrectly, Agency must contact Flock no later than sixty (60) days after the closing date on the first billing statement in which the error or problem appeared, in order to receive an adjustment or credit. Inquiries should be directed to Flock's Agency support department. Agency acknowledges and agrees that a failure to contact Flock within this sixty (60) day period will serve as a waiver of any claim Agency may have had as a result of such billing error.

5.3 Invoicing, Late Fees; Taxes. Flock may choose to bill through an invoice, in which case, full payment for invoices issued in any given month must be received by Flock thirty (30) days after the mailing date of the invoice. Unpaid amounts are subject to a finance charge of 1.5% per month on any outstanding balance, or the maximum permitted by law, whichever is lower, plus all expenses of collection, and may result in immediate termination of Service. Agency shall be responsible for all taxes associated with Services other than U.S. taxes based on Flock's net income.

6. TERM AND TERMINATION

6.1a Wing Term. Subject to earlier termination as provided below, the initial term of this Agreement shall be for the period of time set forth on the Order Form (the "**Initial Term**"). The Term shall commence upon execution of this Agreement. *Following the Initial Term, unless otherwise indicated on the Order Form, this Agreement will automatically renew for successive renewal terms of the greater of one year or the length set forth on the Order Form* (each, a "**Renewal Term**", and together with the Initial Term, the "**Service Term**") *unless either party gives the other party notice of non-renewal at least thirty (30) days prior to the end of the then-current term.*

6.1b Falcon Term. Subject to earlier termination as provided below, the initial term of this Agreement shall be for the period of time set forth on the Order Form (the "**Initial Term**"). The Term shall commence upon successful installation and validation of the first installation and validation of the Unit. For Agencies who purchase ten (10) or more Units, in the event that only a portion of the Units are installed at the first installation with additional Units to be installed at a later date, Usage Fees shall be calculated on a pro rata basis corresponding to the then-installed Units. Agencies will be invoiced for the additional Units immediately upon installation of the remaining Units. *Following the Initial Term, unless otherwise indicated on the Order Form, this Agreement will automatically renew for successive renewal terms for the greater of one year and the length set forth on the Order Form* (each, a "**Renewal Term**", and together with the Initial Term, the "**Service Term**") *unless either party gives the other party notice of non-renewal at least thirty (30) days prior to the end of the then-current term.*

6.2 Termination for Convenience. At any time during the agreed upon Term, an Agency not fully satisfied with the service may self-elect to terminate this Agreement for convenience. Termination for convenience will result in a one-time fee of \$500 per Falcon Camera (Flock Hardware). Upon termination for convenience, a refund will be provided for Falcon Cameras, prorated for any fees for the remaining Term length set forth previously. Agency will remain liable to pay the full outstanding fees for any Wing product on the effective date of termination of that Order Form. Flock will invoice, and Agency will pay, any unbilled fees and any unpaid fees covering the remainder of the term of that Order Form had it not been terminated. Termination for convenience of the Agreement by the Agency will be effective immediately. Flock will provide advanced written notice and remove all Flock Hardware at Flock's own convenience, within a commercially reasonable period of time upon termination.

6.3 Termination. In the event of any material breach of this Agreement, the non-breaching party may terminate this Agreement prior to the end of the Service Term by giving thirty (30) days prior written notice to the breaching party; provided, however, that this Agreement will not terminate if the breaching party has cured the breach prior to the

expiration of such thirty (30) day period. Either party may terminate this Agreement, without notice, (i) upon the institution by or against the other party of insolvency, receivership or bankruptcy proceedings, (ii) upon the other party's making an assignment for the benefit of creditors, or (iii) upon the other party's dissolution or ceasing to do business. Upon termination for Flock's material breach, Flock will refund to Agency a pro-rata portion of the pre-paid Fees for Services not received due to such termination.

6.5 No-Fee Term. For the Term of this Agreement, Flock will provide Agency with complimentary access to 'hot-list' alerts, which may include 'hot tags', stolen vehicles, Amber Alerts, etc. ("**No-Fee Term**"). In the event a Non-Agency End User grants Agency access to Footage and/or Notifications from a Non-Agency End User Unit, Agency will have access to Non-Agency End User Footage and/or Notifications until deletion, subject to the thirty (30) day retention policy. Non-Agency End Users and Flock may, in their sole discretion, leave access open. The No-Fee Term will survive the Term of this Agreement. Flock, in its sole discretion, can determine not to provide additional No-Fee Terms or can impose a price per No-Fee Term upon thirty (30) days' notice. Agency may terminate any No-Fee Term or access to future No-Fee Terms upon thirty (30) days' notice.

6.6 Survival. The following Sections will survive termination: 2.4, 2.5, 3, 4, 5 (with respect to any accrued rights to payment), 5.4, 6.5, 7.4, 8.1, 8.2, 8.3, 8.4, 9.1 and 10.5.

7. REMEDY; WARRANTY AND DISCLAIMER

7.1 Remedy. Upon a malfunction or failure of Flock Hardware or Embedded Software (a "**Defect**"), Agency must first make commercially reasonable efforts to address the problem by contacting Flock's technical support as described in Section 2.9 above. If such efforts do not correct the Defect, Flock shall, or shall instruct one of its contractors to repair or replace the Flock Hardware or Embedded Software suffering from the Defect. Flock reserves the right in their sole discretion to refuse or delay replacement or its choice of remedy for a Defect until after it has inspected and tested the affected Unit provided that such inspection and test shall occur within seventy-two (72) hours after Agency notifies the Flock of a Defect. In the event of a Defect, Flock will repair or replace the defective Unit at no additional cost. In the event that a Unit is lost, stolen, or damaged, Flock agrees to replace the Unit at a fee according to the then-current Reinstall Policy (<https://www.flocksafety.com/reinstall-fee-schedule>). Agency shall not be required to replace subsequently lost, damaged or stolen Units, however, Agency understands and agrees that functionality, including Footage, will be materially affected due to such subsequently lost, damaged or stolen units and that Flock will have no liability to Agency regarding such affected functionality nor shall the Usage Fee or Implementation Fees owed be impacted. Flock is under no obligation to replace or repair Agency Hardware.

7.2 Exclusions. Flock will not provide the remedy described in Section 7.1 above if any of the following exclusions apply: (a) misuse of the Flock Hardware, Agency Hardware or Embedded Software in any manner, including operation of the Flock Hardware, Agency Hardware or Embedded Software in any way that does not strictly comply with any applicable specifications, documentation, or other restrictions on use provided by Flock or the Agency Hardware manufacturer; (b) damage, alteration, or modification of the Agency Hardware, Flock Hardware or Embedded Software in any way which would cause Agency Hardware, Flock Hardware or Embedded Software to malfunction; or (c) combination of the Agency Hardware or Embedded Software with software, Agency Hardware or other technology that was not expressly authorized by Flock.

7.3 Warranty. Flock shall use reasonable efforts consistent with prevailing industry standards to maintain the Services in a manner which minimizes errors and interruptions in the Services and shall perform the Installation Services in a professional and workmanlike manner. Upon completion of any installation or repair, Flock shall clean and leave the area in good condition. Services may be temporarily unavailable for scheduled maintenance or for unscheduled emergency maintenance, either by Flock or by third-party providers, or because of other causes beyond Flock's reasonable control, but Flock shall use reasonable efforts to provide advance notice in writing or by e-mail of any scheduled service disruption.

7.4 Disclaimer. THE REMEDY DESCRIBED IN SECTION 7.1 ABOVE IS AGENCY'S SOLE REMEDY, AND FLOCK'S SOLE LIABILITY, WITH RESPECT TO DEFECTIVE EMBEDDED SOFTWARE. THE FLOCK DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED OR ERROR FREE; NOR DOES IT MAKE ANY WARRANTY AS TO THE RESULTS THAT MAY BE OBTAINED FROM USE OF THE SERVICES. EXCEPT AS EXPRESSLY SET FORTH IN THIS SECTION, THE SERVICES ARE PROVIDED "AS IS" AND FLOCK DISCLAIMS ALL WARRANTIES, EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR

PURPOSE AND NON-INFRINGEMENT. THIS DISCLAIMER OF SECTION 7.4 ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE MENTIONED IN SECTION 10.6, OR IF NO STATE IS MENTIONED IN SECTION 10.6, BY THE LAW OF THE STATE OF MICHIGAN.

7.5 **Insurance.** Flock and Agency will each maintain commercial general liability policies with policy limits reasonably commensurate with the magnitude of their business risk. Certificates of Insurance will be provided upon request.

7.6 **Force Majeure.** Flock Safety is not responsible nor liable for any delays or failures in performance from any cause beyond its control, including, but not limited to acts of God, changes to law or regulations, embargoes, war, terrorist acts, acts or omissions of third-party technology providers, riots, fires, earthquakes, floods, power blackouts, strikes, weather conditions or acts of hackers, internet service providers or any other third party or acts or omissions of Agency or any Authorized End User.

8. LIMITATION OF LIABILITY; NO FEE TERM; INDEMNITY

8.1 **Limitation of Liability.** NOTWITHSTANDING ANYTHING TO THE CONTRARY, FLOCK AND ITS SUPPLIERS (INCLUDING BUT NOT LIMITED TO ALL HARDWARE AND TECHNOLOGY SUPPLIERS), OFFICERS, AFFILIATES, REPRESENTATIVES, CONTRACTORS AND EMPLOYEES SHALL NOT BE RESPONSIBLE OR LIABLE WITH RESPECT TO ANY SUBJECT MATTER OF THIS AGREEMENT OR TERMS AND CONDITIONS RELATED THERETO UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY, PRODUCT LIABILITY, OR OTHER THEORY: (A) FOR ERROR OR INTERRUPTION OF USE OR FOR LOSS OR INACCURACY, INCOMPLETENESS OR CORRUPTION OF DATA OR FOOTAGE OR COST OF PROCUREMENT OF SUBSTITUTE GOODS, SERVICES OR TECHNOLOGY OR LOSS OF BUSINESS; (B) FOR ANY INDIRECT, EXEMPLARY, INCIDENTAL, SPECIAL OR CONSEQUENTIAL DAMAGES; (C) FOR ANY MATTER BEYOND FLOCK'S ACTUAL KNOWLEDGE OR REASONABLE CONTROL INCLUDING REPEAT CRIMINAL ACTIVITY OR INABILITY TO CAPTURE FOOTAGE OR IDENTIFY AND/OR CORRELATE A LICENSE PLATE WITH THE FBI DATABASE; (D) FOR ANY PUBLIC DISCLOSURE OF PROPRIETARY INFORMATION MADE IN GOOD FAITH; (E) FOR CRIME PREVENTION; OR (F) FOR ANY AMOUNTS THAT, TOGETHER WITH AMOUNTS ASSOCIATED WITH ALL OTHER CLAIMS, EXCEED THE FEES PAID AND/OR PAYABLE BY AGENCY TO FLOCK FOR THE SERVICES UNDER THIS AGREEMENT IN THE TWELVE (12) MONTHS PRIOR TO THE ACT OR OMISSION THAT GAVE RISE TO THE LIABILITY, IN EACH CASE, WHETHER OR NOT FLOCK HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. IN THE EVENT OF AN EMERGENCY, AGENCY SHOULD CONTACT 911 AND SHOULD NOT RELY ON THE SERVICES. THIS LIMITATION OF LIABILITY OF SECTION 8 ONLY APPLIES TO THE EXTENT ALLOWED BY THE GOVERNING LAW OF THE STATE MENTIONED IN SECTION 10.6, OR IF NO STATE IS MENTIONED IN SECTION 10.6, BY THE LAW OF THE STATE OF MICHIGAN.

8.2 **Additional No-Fee Term Requirements.** IN NO EVENT SHALL FLOCK'S AGGREGATE LIABILITY, IF ANY, ARISING OUT OF OR IN ANY WAY RELATED TO THE COMPLIMENTARY NO-FEE TERM AS DESCRIBED IN SECTION 6.5 EXCEED \$100, WITHOUT REGARD TO WHETHER SUCH CLAIM IS BASED IN CONTRACT, TORT (INCLUDING NEGLIGENCE), PRODUCT LIABILITY OR OTHERWISE. Except for Flock's willful acts, Agency agrees to pay for Flock's attorneys' fees to defend Flock for any alleged or actual claims arising out of or in any way related to the No-Fee Term.

8.3 **Responsibility.** Each Party to this Agreement shall assume the responsibility and liability for the acts and omissions of its own employees, deputies, officers, or agents, in connection with the performance of their official duties under this Agreement. Each Party to this Agreement shall be liable (if at all) only for the torts of its own officers, agents, or employees that occur within the scope of their official duties. Agency will not pursue any claims or actions against Flock's suppliers.

9. RECORD RETENTION

9.1 **Data Preservation.** The Agency agrees to store Agency Data and Non-Agency End User Data in compliance with all applicable local, state and federal laws, regulations, policies and ordinances and their associated record retention schedules. As part of Agency's consideration for paid access and no-fee access to the Flock System, to the

extent that Flock is required by local, state or federal law to store the Agency Data or the Non-Agency End User Data, Agency agrees to preserve and securely store this data on Flock's behalf so that Flock can delete the data from its servers and, should Flock be legally compelled by judicial or government order, Flock may retrieve the data from Agency upon demand.

10. MISCELLANEOUS

10.1 Severability. If any provision of this Agreement is found to be unenforceable or invalid, that provision will be limited or eliminated to the minimum extent necessary so that this Agreement will otherwise remain in full force and effect and enforceable.

10.2 Assignment. This Agreement is not assignable, transferable or sublicensable by Agency except with Flock's prior written consent. Flock may transfer and assign any of its rights and obligations, in whole or in part, under this Agreement without consent.

10.3 Entire Agreement. This Agreement, together with the Order Form(s), the then-current Reinstall Policy (<https://www.flocksafety.com/reinstall-fee-schedule>), and Deployment Plan(s), are the complete and exclusive statement of the mutual understanding of the parties and supersedes and cancels all previous written and oral agreements, communications and other understandings relating to the subject matter of this Agreement, and that all waivers and modifications must be in a writing signed by both parties, except as otherwise provided herein. None of Agency's purchase orders, authorizations or similar documents will alter the terms of this Agreement, and any such conflicting terms are expressly rejected.

10.4 Relationship. No agency, partnership, joint venture, or employment is created as a result of this Agreement and Agency does not have any authority of any kind to bind Flock in any respect whatsoever.

10.5 Costs and Attorneys' Fees. In any action or proceeding to enforce rights under this Agreement, the prevailing party will be entitled to recover costs and attorneys' fees.

10.6 Governing Law; Venue. This Agreement shall be governed by the laws of the State of Michigan without regard to its conflict of laws provisions. To the extent that the arbitration language below does not apply, the federal

and state courts sitting in the State of Michigan will have proper and exclusive jurisdiction and venue with respect to any disputes arising from or related to the subject matter of this Agreement. The parties agree that the United Nations Convention for the International Sale of Goods is excluded in its entirety from this Agreement. Any dispute arising out of, in connection with, or in relation to this agreement or the making of validity thereof or its interpretation or any breach thereof shall be determined and settled by arbitration in Michigan by a sole arbitrator pursuant to the rules and regulations then obtaining of the American Arbitration Association and any award rendered therein shall be final and conclusive upon the parties, and a judgment thereon may be entered in the highest court of the forum, state or federal, having jurisdiction. The service of any notice, process, motion or other document in connection with an arbitration award under this agreement or for the enforcement of an arbitration award hereunder may be effectuated by either personal service or by certified or registered mail to the respective addresses provided herein.

10.7 Publicity. Pursuant to section 10.7 of the Government Agency Agreement, Flock will not use Agency's logos, trademarks, or service marks. However, Flock may state that Agency is a customer and use Agency's name on customer lists.

10.8 Export. Agency may not remove or export from the United States or allow the export or re-export of the Flock IP or anything related thereto, or any direct product thereof in violation of any restrictions, laws or regulations of the United States Department of Commerce, the United States Department of Treasury Office of Foreign Assets Control, or any other United States or foreign agency or authority. As defined in FAR section 2.101, the Services, the Hardware, the Embedded Software and Documentation are "commercial items" and according to DFAR section 252.2277014(a)(1) and (5) are deemed to be "commercial computer software" and "commercial computer software documentation." Consistent with DFAR section 227.7202 and FAR section 12.212, any use, modification, reproduction, release, performance, display, or disclosure of such commercial software or commercial software documentation by the U.S. Government will be governed solely by the terms of this Agreement and will be prohibited except to the extent expressly permitted by the terms of this Agreement.

10.9 Headings. The headings are merely for organization and should not be construed as adding meaning to the Agreement or interpreting the associated Sections.

10.10 **Counterparts.** This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

10.11 **Authority.** Each of the below signers of this Agreement represent that they understand this Agreement and have the authority to sign on behalf of and bind the organizations and individuals they are representing.

10.12 **Notices.** All notices under this Agreement will be in writing and will be deemed to have been duly given when received, if personally delivered; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; the day after it is sent, if sent for next day delivery by recognized overnight delivery service; and upon receipt, if sent by certified or registered mail, return receipt requested.

flock safety

EXHIBIT A

Statement of Work

Installation of Flock Camera on existing pole or Flock-supplied pole if required

RESOLUTION NO. _____

RESOLUTION TO AUTHORIZE THE PURCHASE OF PUBLIC SAFETY UNIFORMS

WHEREAS:

1. On February 4, 2019, City Council adopted Resolution number 26281 awarding a three year bid for public safety uniforms to Phoenix Safety Outfitters in the amounts as shown on the attached tabulation sheet.
2. As detailed in the attached staff report, Phoenix Safety Outfitters has submitted a proposal to extend their current bid pricing with a 3% increase through December 31, 2022.
3. It is recommended the City Council accept the proposal.
4. It is estimated the City will spend approximately \$127,325 for the purchase of public safety uniforms.
5. Funds for the purchase are budgeted in various departmental accounts with the appropriate account being charged at the time of purchase.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does authorize the purchase of public safety uniforms from Phoenix Safety Supply.
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 December 6, 2021.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Staff Report
Tabulation Sheet
Contract
Proposal

Resolution No. _____

STAFF REPORT

Date: November 16, 2021
Subject: Public Safety Uniforms
From: Captain Timothy Pols
Meeting Date: December 6, 2021

RECOMMENDATION:

It is recommended the City Council accept a proposal from Phoenix Safety Outfitters to extend their current bid for public safety uniforms for an additional year at a 3% increase.

COMMUNITY, SAFETY, STEWARDSHIP:

Public safety uniforms are a regular and significant expense for the Public Safety Department. On January 8, 2019, Phoenix Safety Outfitters submitted a competitive bid that filled our specific uniform requirements with competitive pricing and service. Phoenix Safety Outfitters has a local representative that travels to our facilities with a fully supplied van, in which officers and firefighters can be measured on site.

A professional uniform presentation by our public safety personnel is a symbol of our core values of Honor, Duty, Courage, & Trust. It is a statement to the public that we are approachable and ready to serve them.

DISCUSSION:

Resolution number 26281 was approved by the City Council on February 4, 2019 awarding the bid for public safety uniforms to Phoenix Safety Outfitters through December 31, 2021. As shown on the attached proposal, Phoenix Safety Outfitters has offered to extend their bid for an additional one year at a 3% increase. It is recommended the City Council accept the proposal.

It is estimated the City will spend \$127,325 for the purchase of public safety uniforms. This includes an estimated \$58,600 for Public Safety-Police and \$68,725 for Public Safety-Fire. Funding for uniforms is established in recurring budget lines in the Police & Fire budgets. The estimated annual uniform costs and the account that these purchases will be made from are as follows:

Police	
Admin: 101-305-30500-744.000	\$4,800
Detectives: 101-305-31000-744.000	\$8,000
FSU: 101-305-31200-744.000	\$1,800
Patrol: 101-305-31500-744.000	\$44,000
Total	\$58,600

Fire	
Admin: 101-337-33700-744.000	\$1,000
Fire Fighting: 101-337-33900-744.000/744.001	\$38,000
Prevention: 101-337-33900-744.000	\$1,125
Dual Trained: 101-305-33901-744.000/744.001	\$19,000
Paid on Call: 101-337-33902-744.000/744.001	\$9,600
Total	\$68,725

Attachments:
Proposal
Tabulation Sheet
Contract

CITY OF
Wyoming
MICHIGAN

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 1465 28th Street SW, PO Box 905, Wyoming, MI 49509-0905.

Contractor means:

Phoenix Safety Outfitters
(Name of contracting entity)
A Otto LLC
(State and type of entity, e.g., corporation, limited liability company, etc.)
8706 Carter Rd #1
(Contractor's street address)
Freeland MI 48623
(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: 1-1, 2022

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:

N/A

(Identify those the City Attorney has agreed may be waived or the City attorney approved modifications or write "None.")

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

By: _____
Jack A. Poll, Mayor

By: _____
Kelli A. Vandenberg, City Clerk

Date signed: _____, 20__

Approved as to form:

Scott G. Smith
Scott G. Smith, City Attorney

Phoenix Safety Outfitters
(Contractor's name)

By: [Signature]
(Signature officer, director or principal of Contractor)
Dennis Grayson, Managing Member
(Typed/Printed Name & Title of Person Signing for Contractor)

Date signed: 1-1, 2022

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@wyomingmi.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:

COMMERCIAL GENERAL LIABILITY
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.
AUTOMOBILE LIABILITY INSURANCE
Minimal Limits (hired and non-owned automobile coverage): \$1,000,000 per person \$1,000,000 per occurrence
WORKERS' DISABILITY COMPENSATION
Minimal Limits: \$500,000 per occurrence Coverage shall be in accordance with Michigan statutes. Waiver of subrogation, except where waiver is prohibited by law.
EXCESS/UMBRELLA INSURANCE
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).
ADDITIONAL INSURED
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

Galligan, Rhonda

From: Matt Dumond <mdumond@phoenixoutfitters.com>
Sent: Tuesday, November 9, 2021 7:47 AM
To: Jackson, Laura
Subject: Police Department Uniform Contract

Laura

To summarize our conversation regarding extension of the Police Department Uniform Contract. We would be happy to extend this for another year with a 3% increase on all items. We have been told to expect annual price increases of 3%-7% on all items, from all manufacturers, in the upcoming year. That is the rationale for a 3% increase.

If you have any questions please let me know



Matt Dumond

Account Manager | PHOENIX Safety Outfitters

📞 [\(616\)299-0217](tel:(616)299-0217) ✉️ mdumond@phoenixoutfitters.com

📍 1619 Commerce Road - Springfield, OH 45504

RESOLUTION NO. _____

RESOLUTION TO ACCEPT A QUOTE FROM SHI FOR AN ANNUAL SUBSCRIPTION OF SOPHOS ADVANCED ENDPOINT DETECTION AND TO AUTHORIZE THE CITY MANAGER TO ACCEPT FUTURE RENEWALS

WHEREAS:

1. As detailed in the attached staff report, maintenance and support agreements are necessary for software applications and computer systems.
2. It is recommended the City Council accept a quote from SHI for an annual subscription of Sophos advanced endpoint detection in the amount of \$20,652.00.
3. It is also recommended the City Council authorize the City Manager to acknowledge acceptance of future renewals in accordance with budget authorization.
4. Funds are available in the 101-267-26700-806.000 account.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby accept a quote from SHI for an annual subscription of Sophos advanced endpoint detection.
2. The City Council authorizes the City Manager to acknowledge acceptance of future renewals in accordance with budget authorization.

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 December 6, 2021.

ATTACHMENTS:
 Staff Report
 Quote
 Contract

 Kelli A. VandenBerg, Wyoming City Clerk

Resolution No. _____

STAFF REPORT

Date: November 30, 2021

Subject: Annual Antivirus/Ransomware Product Renewal

From: Pat Firestone, Director of Information Technology

Meeting Date: December 6, 2021

RECOMMENDATION:

It is recommended that the City Council authorize to purchase from SHI, for an annual subscription of Sophos advanced endpoint detection in the amount of \$20,652 and to allow annual renewals upon examining acceptable terms, cost increases or reductions in service.

COMMUNITY, SAFETY, STEWARDSHIP:

Community - Information Technology staff continues to standardize and update software, hardware, infrastructure technology, and vendor support agreements on a regular basis. This renewal (and upgrade) continues to keep the City of Wyoming current with the latest hardware, software, and infrastructure providing reliable and faster response times for employee technology tasks and preventing obsolescence.

Stewardship – Evaluating our annual vendor support agreements provides stewardship of resources, by ensuring the City of Wyoming is getting competitive pricing and value at the desired level of support.

DISCUSSION:

The City of Wyoming has used Antivirus products for years to protect the City of Wyoming's investment in computing equipment and to help secure the City's data. We are improving our Cyber Security posture by upgrading our current Sophos subscription to a new, more powerful product that Sophos is offering, known as Central Intercept X Advanced with XDR.

We are currently using two products to accomplish what this new subscription will do, more affectively as managing one product will be easier and more efficient. This subscription will protect all of the City's computers for a year and includes continuous upgrades, helpful reporting and technical support if needed. It is our recommendation to purchase this subscription from SHI as the low quoting vendor for \$20,652.00.

BUDGET IMPACT:

Funding for this purchase is budgeted and available from the following funds:
101-267-26700-806.000 –Information Technology - Software Services.



Pricing Proposal
Quotation #: 21127734
Created On: 10/13/2021
Valid Until: 12/29/2021

City of Wyoming

Inside Account Manager

Lisa Sunday
1155 28th St. SW
Wyoming, MI 49509
United States
Phone: (616) 249-3424
Fax:
Email: sundayl@wyomingmi.gov

Anthony Maragoudakis
290 Davidson Ave
Somerset, NJ 08873
Phone: 1-800-527-6389 ext 5553576
Fax:
Email: Anthony_Maragoudakis@shi.com

All Prices are in US Dollar (USD)

Product	Qty	Your Price	Total
1 Sophos Central Intercept X Advanced with XDR - 200-499 Users - 12 Months - Renewal - Government Sophos - Part#: CAE11GTAA Contract Name: Open Market Contract #: Open Market Coverage Term: 12/6/2021 – 12/5/2022 Note: Start Date: 12/6/2021 End Date: 12/5/2022 (Replacing existing License D524871686 for 400 CEP 12/6/2020 12/5/2021)	400	\$51.63	\$20,652.00
		Total	\$20,652.00

Additional Comments

SHI SPIN: #143012572
SHI-GS SPIN (For Texas customers ONLY): #143028315
For E-rate SPI orders, applicant shall be responsible for payment of any outstanding or ineligible costs if USAC rejects reimbursement claim in whole or in part.

Hardware items on this quote may be updated to reflect changes due to industry wide constraints and fluctuations.

Thank you for choosing SHI International Corp! The pricing offered on this quote proposal is valid through the expiration date listed above. To ensure the best level of service, please provide End User Name, Phone Number, Email Address and applicable Contract Number when submitting a Purchase Order. For any additional information including Hardware, Software and Services Contracts, please contact an SHI Inside Sales Representative at (888) 744-4084. SHI International Corp. is 100% Minority Owned, Woman Owned Business. TAX ID# 22-3009648; DUNS# 61-1429481; CCR# 61-243957G; CAGE 1HTF0

The products offered under this proposal are Open Market and resold in accordance with the terms and conditions at [SHI Online Customer Resale Terms and Conditions](#).

SHI Online Customer Resale Terms and Conditions

Unless a resale agreement currently exists between Reseller and Customer, these terms (the "Terms") shall constitute the entire understanding between SHI and the firm ("Customer") ordering the software, hardware, or third party services (collectively "Products") under the ordering document ("Order"). Issuance of an Order shall be deemed Customer's acceptance of these terms. If a resale agreement currently exists between SHI and Customer, the Order shall be subject to the terms and conditions of that resale agreement in lieu of these Terms.

"SHI" means one of the following, depending on which SHI office receives the Order:

- If the Order is received by SHI International Corp.:
"SHI" means SHI International Corp., a New Jersey corporation with offices at 290 Davidson Ave., Somerset, NJ 08873.
- If the Order is received by SHI/Government Solutions, Inc.:
"SHI" means SHI Government Solutions, Inc., a Texas corporation with offices at 3828 Pecana Trail Austin, TX 78749.
- If the Order is received by StrataScale Solutions, LLC:
"SHI" means StrataScale Solutions, LLC, a Delaware Limited Liability Company with offices at 3828 Pecana Trail Austin, TX 78749
- If the Order is received by SHI Canada ULC:
"SHI" means SHI Canada ULC, a Canadian corporation with offices at 895 Don Mills Road, Tower II, Suite 400, Toronto, Ontario M3C 1W3.
- If the Order is received by SHI Corporation UK Limited:
"SHI" means SHI Corporation UK Limited, with offices at 3rd Floor, 401 Grafton Gate, Milton Keynes, Buckinghamshire, England MK9 1AQ.
- If the Order is received by SHI Global IT Solutions Ireland Ltd:
"SHI" means SHI Global IT Solutions Ireland Ltd, with offices at Pembroke House, 28 - 32 Pembroke Street Upper, Dublin 2, Ireland.
- If the Order is received by SHI International SAS:
"SHI" means SHI International SAS, with offices at 22-24, rue du Gouverneur Général Eboué 92130 Issy Les Moulineaux, Paris, France
- If the Order is received by SHI International Corp Hong Kong Limited:
"SHI" means SHI Hong Kong, with offices at Suite 601, 6/F, New World Tower, 16-18 Queen's Road Central, Central, HK Hong Kong

- If the Order is received by SHI Singapore Solutions Pte. Ltd:
"SHI" means SHI Singapore Solutions Pte. Ltd, with offices at One Raffles Place, #20-61 Tower 2, Suite 2032, Singapore 048616
- If the Order is received by SHI International Corp Australia Pty. Ltd:
"SHI" means SHI International Corp Australia Pty. Ltd. with offices at Level 23, 52 Martin Place Sydney, NSW 2000 Australia

The invoice shall be paid ("paid" being defined as "issuance of payment from Customer's Accounts Payable Department") net thirty days after Customer's receipt of a valid invoice at the remit-to address referenced in the Order ("Payment Due Date"). Any invoice or portion thereof that is subject to a good faith dispute will not be paid; in such case, Customer will promptly notify SHI of any rejected invoice or portion thereof, with reasons for such rejection. The rejected costs, adjusted to the extent as mutually agreed to, shall then be paid within ten days after resolution of the reason for rejection ("Resolution Payment Due Date"). Customer will pay any federal, state, and local sales, use, withholding tax, duties or similar taxes imposed or based on the sale of Products under this Agreement. When SHI is authorized to collect such taxes they will be separately stated on SHI's invoices and reported and paid to appropriate governmental authorities by SHI. SHI shall charge interest at the rate of 1.5% per month (or the maximum rate that as is permitted by applicable laws, if less) from the Payment Due Date or Resolution Due Date, as the case may be, to the date payment is received by SHI.

Products shipped to Customer's facilities shall be packaged in such a manner as to preclude all reasonably anticipated in-transit damage and in accordance with commercial standards. All shipments of Products will be clearly labeled with the shipping address stated on the order, the applicable PO number, recipient's name and if applicable, building and room number. Shipment terms are FOB Destination, freight pre-paid and added.

Product returns are subject to SHI's return policy, which is found at www.shi.com/returnpolicy.

SHI warrants that SHI will maintain all necessary local, state, and federal licenses and certifications that may be required in order to legally deliver the Product described in the PO and has all rights, approvals, and/or authorizations necessary to provide the Products. SHI is a value added reseller ("VAR") of Product, not the original equipment manufacturer or licensor ("OEM"), and therefore disclaims any warranty responsibility regarding Product provided under this Order. SHI shall forward the end user warranties to Customer which are provided to SHI from the OEM of the Product, and to the extent granted by the OEM, Customer shall be the beneficiary of the OEM's warranties. SHI is not a party to any warranty terms between Customer and OEM and Customer agrees to look solely to the OEM for satisfaction of any and all warranty claims related to that OEM's Product. EXCEPT AS OTHERWISE PROVIDED IN THIS

ORDER, SHI HEREBY DISCLAIMS ALL OTHER WARRANTIES, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE, WARRANTY OF NONINFRINGEMENT, OR ANY WARRANTY RELATING TO THIRD PARTY SERVICES. THE DISCLAIMER CONTAINED IN THIS PARAGRAPH DOES NOT AFFECT THE TERMS OF ANY WARRANTY PROVIDED BY AN OEM.

Software Products resold under this Order, as well as related maintenance or support services, will be governed by either the license agreement between Customer and the OEM or, if no such agreement exists, the OEM's standard license and support agreements, which SHI shall forward to Customer at the time of delivery of the Products, when provided to SHI by the OEM. SHI is not a party to any such terms between Customer and OEM and Customer agrees to look solely to the OEM for satisfaction of any and all license and support claims or obligations related to that OEM's Product.

As a Value Added Reseller of Products and third party services, SHI disclaims any indemnification responsibility regarding Product provided under the Order. Customer agrees to look solely to the OEM for satisfaction of any and all indemnification claims related to that OEM's Product.

NEITHER PARTY WILL BE LIABLE FOR ANY SPECIAL, PUNITIVE, INDIRECT, INCIDENTAL OR CONSEQUENTIAL DAMAGES INCLUDING, BUT NOT LIMITED TO, LOSS OF OR DAMAGE TO DATA, LOSS OF ANTICIPATED REVENUE OR PROFITS, WORK STOPPAGE OR IMPAIRMENT OF OTHER ASSETS, WHETHER OR NOT FORESEEABLE AND WHETHER OR NOT A PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. EITHER PARTY'S TOTAL CUMULATIVE LIABILITY TO THE OTHER IN CONNECTION WITH THESE TERMS OR AN ORDER, WHETHER IN CONTRACT, TORT OR OTHER THEORY, WILL NOT EXCEED THE TOTAL AMOUNT OF FEES ACTUALLY PAID OR PAYABLE BY CUSTOMER TO SHI UNDER THE ORDERS RECEIVED FOR THE YEAR PREVIOUS TO THE INCIDENT WHICH GAVE CAUSE FOR SUCH LIABILITY. CUSTOMER ACKNOWLEDGES THAT SUCH AMOUNT REFLECTS THE ALLOCATION OF RISK SET FORTH IN THESE TERMS AND THAT SHI WOULD NOT ENTER INTO THIS AGREEMENT WITHOUT THESE LIMITATIONS ON ITS LIABILITY.

Provided the Order or some part thereof has not been designated "non-cancellable" or "non-returnable" by SHI, Customer shall have the right to cancel or postpone, in whole or in part, the Order, without penalty, provided that notice of such cancellation or postponement is received by SHI prior to shipment of the ordered Products. If Customer cancels the Order following shipment of the Products but prior to delivery, Customer shall pay all freight and handling charges for shipment and return shipment of such Products to SHI. Notwithstanding the foregoing, any such cancellations shall be subject to charges imposed by the OEM associated with cancellation.

Neither party may assign, subcontract, or transfer the Order, or any part thereof, without the other party's prior written consent, and any such assignment or transfer without such consent shall be null and void.

Neither party shall be liable to the other for any failure or delay in performing its obligations hereunder, or for any loss or damage resulting therefrom, due to: (1) acts of God or public enemy, acts of government, riots, terrorism, fires, floods, strikes, lock outs, epidemics, act or failure to act by the other party, or unusually severe weather affecting Customer, SHI or its subcontractors, or (2) causes beyond their reasonable control and which are not foreseeable (each a "Force Majeure Event"). In the event of any such Force Majeure Event, the date of delivery or performance shall be extended for a period equal to the time lost by reason of the delay. The party experiencing the delay shall be prompt in restoring normal conditions, establishing new schedules and resuming operations as soon as the event causing the failure or delay has ceased. SHI shall notify Customer promptly of any such delay and shall specify the effect on the Product as soon as practical.

Any failure by either party to insist upon observance or performance by the other of the provisions of these Terms shall not be deemed a "course of dealing" waiver of any such provision or a waiver of the right of the parties to enforce any and all provisions in the future.

Should any of these Terms be declared unenforceable in law for whatever reason, all other terms and conditions shall survive and the unenforceable provision(s) will be severed from these Terms and the balance of the terms and conditions shall be binding on both parties as if the severed provision(s) had never existed, unless performance thereof is rendered legally impractical and no longer fulfills the intentions the Order.

- If the Order is received by SHI International Corp, SHI Government Solutions, Inc., StrataScale Solutions, LLC, SHI International Corp Hong Kong Limited, or SHI Singapore Solutions Pte. Ltd: The Order, and any claims or disputes arising out of or relating thereto shall be interpreted in accordance with the laws of the State of New Jersey, without regard to: (1) conflict of law principles; (2) the United Nations Convention on Contracts for the International Sale of Goods; and, (3) the Uniform Computer Information Transactions Act ("UCITA"). The parties hereby consent to the exclusive jurisdiction and venue of the federal and state courts of the State of New Jersey.

- If the Order is received by SHI Canada ULC: The Order, and any claims or disputes arising out of or relating thereto shall be interpreted in accordance with the laws of the province of British Columbia and those laws of Canada applicable therein, without regard to choice of law provisions or the United Nations Convention on Contracts for the International Sale of Goods and the parties hereby irrevocably submit to the exclusive jurisdiction and venue of the Superior Court of Justice for the province of British Columbia.
- If the Order is received by SHI Corporation UK Limited: The Order, and any claims or disputes arising out of or relating thereto shall be interpreted in accordance with the laws of England and Wales without regard to the United Nations Convention on Contracts for the International Sale of Goods and the parties hereby irrevocably submit to the exclusive jurisdiction and venue of the English courts. Products supplied to SHI Corporation UK Limited are subject to UK VAT by means of a reverse charge (ex VAT invoice for non-UK based suppliers) pursuant to Article 44 in EU VAT Directive 2006/112 for electronic shipment, licensing or services.
- If the Order is received by SHI Global IT Solutions Ireland Ltd: The Order, and any claims or disputes arising out of or relating thereto shall be interpreted in accordance with Irish law without regard to the United Nations Convention on Contracts for the International Sale of Goods and the parties hereby irrevocably submit to the exclusive jurisdiction and venue of the Irish courts. Products supplied to SHI Global IT Solutions Ireland Ltd are subject to Irish VAT by means of a reverse charge (ex VAT invoice for non-Ireland based suppliers) pursuant to Article 44 in EU VAT Directive 2006/112 for electronic shipment, licensing or services.
- If the Order is received by SHI International SAS: The Order, and any claims or disputes arising out of or relating thereto shall be interpreted in accordance with French law without regard to the United Nations Convention on Contracts for the International Sale of Goods, and the parties hereby irrevocably submit to the exclusive jurisdiction of the Courts of Paris, unless otherwise required by law.
- If the Order is received by SHI International Corp Australia Pty. Ltd: The Order, and any claims or disputes arising out of or relating thereto shall be interpreted in accordance with the laws of New South Wales, without regard to the United Nations Convention on Contracts for the International Sale of Goods and the parties hereby irrevocably submit to the exclusive jurisdiction and venue of the courts of New South Wales.

If any claim or dispute arising hereunder is not resolved through such negotiations within thirty days following written presentment, either Party may, upon giving the other Party at least ten days prior written notice, initiate litigation submitting such claims or disputes for decision by a court of competent jurisdiction within the appropriate above, in accordance with the rules of that court and laws of that jurisdiction. Either Party may, at its option and at any time during the dispute resolution process, seek injunctive relief (including, but not limited to preliminary injunctive relief). Each party irrevocably waives its rights to trial by jury in any action or proceeding arising out of or relating to the Order or these Terms.

The prevailing party in any litigation arising out of or relating to the Order or these Terms shall be entitled to recover its expenses, costs of litigation (including, without limitation, clerk,

paralegal, and expert witness costs), and reasonable attorneys' fees from the losing party, whether or not otherwise specifically awardable under any law or court rule.

Export of Products by Customer is subject to applicable US export regulations and Customer shall be solely responsible for compliance thereof.

These Terms shall constitute the entire agreement between the parties with respect to the subject matter of the Orders. These Terms and any Order shall not be modified or rescinded, except by a writing signed by SHI and Customer. These Terms supersede all contemporaneous and prior oral and written communications, understandings and agreements of the Parties with respect to the subject matter of these Terms. This Agreement shall govern and supersede any preprinted terms and conditions stated on or attached to any Order, which are null and void with respect to these Terms and the Order.

ORDINANCE NO. 26-21

ORDINANCE TO AMEND CHAPTER 90 OF THE CODE OF ORDINANCES
BY AMENDING ARTICLE 11, DIVISION 4, SECTION 90-1410 (4.0)
AND TABLE 90-1410

THE CITY OF WYOMING ORDAINS:

Section 1. That Chapter 90, Article 11, Division 4, Section 90-1410 (4.0) and Table 90-1410 of the Code of Ordinances, City of Wyoming, Michigan is amended to read as shown on the attached Exhibit A.

Section 2. This ordinance shall take effect on _____, 2021.

I certify that this ordinance was adopted by the City of Wyoming at a regular session of the City Council held on _____, 2021.

Kelli A. Vandenberg
Wyoming City Clerk

Ordinance No. 26-21

CONTEXT AREA AND USE STANDARDS : 90-1410 CORRIDOR EDGE AREA (CE)

90-1410 CORRIDOR EDGE AREA

The following standards apply to the Corridor Edge Area:

1.0 Permitted Building Types

Refer to Division 6 for Building Type requirements.

- A. Retail Building
- B. Live/Work Building
- C. Apartment
- D. Rowhouse
- E. Two-family House
- F. Civic Building

2.0 Permitted Uses

- A. Refer to Table 90-1410 for Land Uses permitted in this Area for each Building Type that is permitted in the Area that are as follows:
 - Permitted by right (P)
 - Permitted by right in Division Avenue Form Based Code Area only (P^D)
 - Permitted by right, on floors two and above (P\$)
 - Permitted by right and only allowed on first floor (P#)
 - Permitted by Special Land Use Permit (S)
 - Uses indicated with a blank cell are not permitted in this Area.

3.0 Building Height by Context Area

- A. Number of stories for buildings is regulated by Context Area.
- B. Each Building Type has requirements for the height (in feet) of building stories. Refer to Division 6 for Building Type Standards.
- C. Building Height for all buildings:
 - Minimum: No minimum
 - Maximum: Three (3) stories, 45 feet
 - Retail Building: One (1) story building required

4.0 Special Land Uses

The following are specific standards for Special Land Uses in the CE Area. See Division 2 for Special Land Use general review and approval procedures and Section 90-508 of the City of Wyoming Zoning Ordinance for specific standards for Special Land Uses.

- A. Automobile sales. Permitted on Division Avenue Corridor only.
- B. Car wash. Permitted on Division Avenue Corridor only.
- C. College or university.
- D. Dance hall/nightclub.
- E. Drive-through establishments. Drive through entries shall take access from secondary frontages.
- F. Funeral homes or mortuaries.
- G. Open air business.
- H. Parking structures. Parking structure entries shall take access from a Street, and not an Avenue, per Division 8, Thoroughfare Standards.
- I. Pool hall/billiards.
- J. Secondhand businesses.
- K. Self-storage facilities. These facilities are only permitted along Division Avenue, south of 56th Street. They are not permitted on corner lots.
- L. Light Industrial/ Maker's Spaces. Single tenant buildings shall not exceed 10,000sf. Multi-tenant buildings shall not exceed 30,000sf. Permitted on Division Avenue corridor only.

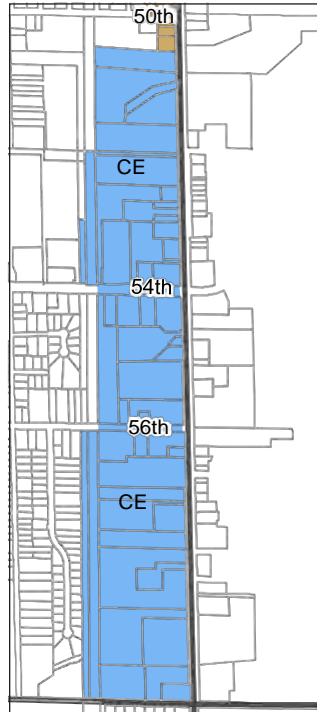
CORRIDOR EDGE AREA DESCRIPTION:

Corridor Edge Area (CE): The Corridor Edge Area represents a district which transitions from more urban areas to the existing development pattern of the City. This Area promotes retail and residential uses with building placement that is more consistent with existing City development patterns and includes the flexibility of locating limited parking in the front of retail buildings that front on 28th Street, Division Avenue, and Burton Street.

CORRIDOR EDGE AREA KEY MAP (28TH STREET):



CORRIDOR EDGE AREA KEY MAP (DIVISION AVE): SECTION 1: 50TH ST. TO 60TH ST.



CORRIDOR EDGE AREA KEY MAP (BURTON STREET):



CONTEXT AREA AND USE STANDARDS : 90-1410 CORRIDOR EDGE AREA (CE)

TABLE 90-1410 CORRIDOR EDGE AREA (CE)

Specific Use	Mixed Use Building	Zero Lot Line Building	Retail Building	Live/Work Building	Apartment	Rowhouse	Two-Family House	Single-Family House	Civic Building
Accessory uses			P	P	P	P			P
Any use in retail sales of 20,000 square feet or more			P						
Apparel shop			P	P					
Art, including art work, art supplies and framing materials			P	P					
Automobile gasoline/convenience store			P ^D						
Automobile repair and service entirely within an enclosed building, except body shops, painting and refinishing, automobile washes, automobile gasoline and automobile service stations			P ^D						
Automobile sales			S ^D						
Automobile, motorcycle, trailer, recreational vehicle or boat showrooms			P ^D						
Baked goods			P	P					
Bank and financial institution			P						
Barbershop				P	P#				
Beauty shop				P	P#				
Bowling alley			P						
Bus transfer station			P						P
Business office			P ^D	P					
Business service establishments			P ^D	P					
Car wash			S ^D						
College or university			S						S
Commercial greenhouse			P						
Community center			P						
Convalescent or nursing homes					P				
Dance hall/nightclub			S						
Delicatessen			P	P					
Drive-through establishments			S						
Drugstore			P	P					
Dry cleaning establishment (per 90-401B (5) (c))			P						
Eating and drinking establishments (without drive-through service)			P	P					
Flower shop			P	P					
Funeral homes or mortuaries			S						

P = Permitted use. P^D = Permitted in Division Avenue Form Based Code Area only. P\$ = Permitted use on floors two and above. P# = Permitted use on first floor only. S = Special Land Use. S^D = Special Land Use Permitted in Division Avenue only. Blank cell = Use not permitted.

CONTEXT AREA AND USE STANDARDS : 90-1410 CORRIDOR EDGE AREA (CE)

TABLE 90-1410 CORRIDOR EDGE AREA (CE) (CONTINUED)

Specific Use	Mixed Use Building	Zero Lot Line Building	Retail Building	Live/Work Building	Apartment	Rowhouse	Two-Family House	Single-Family House	Civic Building
General merchandise store			P	P					
Grocery			P	P					
Hardware store, paint and wallpaper			P	P					
Health and fitness					P#				
Hotel					P				
Indoor skating rink			P						
Indoor theater			P						
Light Industrial/ Maker's Spaces			S ^D	S ^D					
Medical office			P	P					
Microbrewery, small distiller			P						
Multiple family dwellings				P	P				
Municipal uses									P
Nursery schools, day nurseries, and dependent care facilities for seven or more people				P	P#				
Open air business			S						
Outdoor eating and drinking establishments having table service when part of an indoor eating and drinking establishment			P						
Parking structures			S						
Photographic studio			P	P					
Pool hall/billiards			P						
Printing and publishing				P					
Professional office			P	P					
Religious or social service assembly									P
Secondhand business			S						
Self-service laundry and dry cleaning									
Self storage facilities			S ^D						
Single-family detached dwelling									
State licensed residential facility									
Two-family dwellings/rowhouses						P	P		
Veterinary hospitals and clinics, excluding outdoor use of property for exercise yards or pens			P						

P = Permitted use. P^D = Permitted in Division Avenue Form Based Code Area only. P\$ = Permitted use on floors two and above. P# = Permitted use on first floor only. S = Special Land Use. S^D = Special Land Use Permitted in Division Avenue only. Blank cell = Use not permitted.



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i	Introduction	1	Title, Purpose & Scope	2	Applicability & Procedures	3	General Provisions	4	Context Areas & Use	5	Subdivision & Access	6	Building Types
7	Private Frontages	8	Thoroughfare Guidelines	9	Off-Street Parking	10	Sign Standards	11	FBC Definitions	City of Wyoming Zoning Ordinance			

October 26, 2021

Ms. Kelli A. VandenBerg
City Clerk
Wyoming, MI

Subject: Request to amend Form Based Code Article 11, Division 4, 90-1410 (4.0) Corridor Edge Area Special Land Uses and Table 90-1410 Corridor Edge Area (CE) (Wyoming Planning)

Recommendation: To approve the subject Zoning Ordinance amendment.

Dear Ms. VandenBerg,

The above referenced request was reviewed by the Wyoming Planning Commission at its regular meeting on October 19, 2021. A motion was made by Hegyi, supported by Weller, to recommend to the City Council adoption of the proposed Article 11, Division 4 text amendments. The motion passed unanimously.

A detailed review of the request is available in the attached Planning Commission minutes and supportive materials. Following please find some general information.

The City of Wyoming restricts where light industrial uses are permitted in the city. Currently the zoning code does not specifically allow for “Maker’s Spaces” in any zoning district. Light industrial uses are permitted in I-1, I-2 and I-3 zone districts. Staff gets frequent requests to locate smaller scale light industrial in the city. Often these requests include proposals that feature “Maker’s Spaces.”

Division Avenue, beginning just a few parcels south of 50th Street SW, is zoned Corridor Edge. The parcels in this area are unique in that they are much deeper than other parcels along Division Avenue. The character of this area is industrial or heavy commercial. These parcels are well suited to be developed into light industrial buildings which will add needed jobs to the corridor. Research and discussions with local realtors, developers and industrial users has highlighted a need for smaller scale industrial. This includes buildings that are under 30,000 sf. Additionally the need for spaces 10,000 sf and under was also identified. This text amendment will permit I-1 and Maker’s Space uses in buildings not to exceed 30,000sf in size with no user being permitted a space over 10,000sf in the Corridor Edge area on Division Avenue.

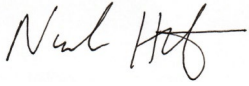
During the public hearing no members of the public spoke on the proposed ordinance. The proposed zoning code text amendment is attached.

community • safety • stewardship

CITY COUNCIL

Sheldon DeKryger John Fitzgerald Kent Vanderwood Marissa Postler Robert Postema Sam Bolt
Jack A. Poll, Mayor

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Nicole Hofert". The signature is written in a cursive style with a long horizontal stroke extending from the end.

Nicole Hofert, Director
Department of Planning and Economic Development

Cc: Curtis Holt, City Manager

Goodheart asked how long the denial lasts.

Hofert stated that denials are for 6 months unless there is a substantive change to what is being proposed. If there is an ordinance change the applicant could re-apply under the new ordinance.

Weller stated that he is in support of the denial and that customer pickup parking spaces would be better suited for that location.

A vote on the motion passed unanimously.

A motion was entered by Arnoys, supported by Zapata to deny site plan approval.

A vote on the motion passed unanimously.

AGENDA ITEM NO. 2

Request to amend Article 11, Division 4, Section 90-1410 (4.0) Corridor Edge Area Special Land Uses and Table 90-1410 (Wyoming Planning Staff).

Hofert presented some background information explaining that the City of Wyoming restricts where light industrial uses are permitted in the city. Currently the zoning code does not specifically allow for “Maker’s Spaces” in any zoning district. Light industrial uses are permitted in I-1, I-2 and I-3 zone districts. Staff gets frequent requests to locate smaller scale light industrial in the city. Often these requests include proposals that feature “Maker’s Spaces.”

Hofert shared that a Maker’s Space can be defined as a space where products and goods can be made. A maker’s space can also be a collective space in which people with shared interests, especially in computing or technology, can gather to work on projects while sharing ideas, equipment, and knowledge.

The proposed makers spaces will allow for I-1 light industrial uses to be enjoyed. This could include assembly, fabrication, manufacture of foods, metals, leather, glass tool and die shops; and metal-working machine shops.

Hofert explained that Division Avenue, beginning just a few parcels south of 50th Street SW, is zoned Corridor Edge. The parcels in this area are unique in that they are much deeper than other parcels along Division Avenue. The character of this area is industrial or heavy commercial. These parcels are well suited to be developed into light industrial buildings which will add needed jobs to the corridor. Research and discussions with local realtors, developers and industrial users has highlighted a need for smaller scale industrial. This includes buildings that are under 30,000 sf. Additionally the need for spaces 10,000 sf and under was also identified.

Hofert presented that staff recommends approval of the amendment. The ordinance permits, with Special Use Approval, light industrial/maker's space districts in a limited capacity on Division Avenue in the Corridor Edge District.

Hofert explained that the Development Review Team recommends that Planning Commission adopt the recommended *Article 11, Division 4, 90-1410 (4.0) Corridor Edge Area Special Land Uses and Table 90-1410 Corridor Edge Area (CE)* text amendments and recommend the same to Council.

Micele opened the public comment at 7:28 PM. There was no public comment and the public hearing was closed.

A motion was entered by Hegyi, supported by Weller, to adopt the recommended *Article 11, Division 4, 90-1410 (4.0) Corridor Edge Area Special Land Uses and Table 90-1410 Corridor Edge Area (CE)* text amendments and recommend the same to City Council.

A vote on the motion passed unanimously.

AGENDA ITEM NO. 3

Request to approve a site plan for the Behler-Young Company at 4900 and 5000 Clyde Park Avenue SW (Section 25) (Behler-Young Company).

Meagher explained that currently the site is home to Behler-Young's existing 115,310 square foot facility and outlined the various uses of the surrounding land.

Meagher stated that the Behler-Young Company is proposing to construct a 98,780 square foot building addition to the south elevation of their existing facility. This addition would be constructed at 5000 Clyde Park Avenue, the adjacent parcel to the south of the existing Behler-Young Company that is currently vacant. The building expansion will provide additional warehousing and office space. Current facility distribution volume is not expected to change with proposed addition.

Meagher shared that the applicant is requesting a reduction of minimum required parking at the site. Due to the sizes of the existing facility and proposed building addition, the site would require 189 total parking spaces. The applicant is requesting to instead provide 122 spaces. At its existing facility, the applicant only utilizes 60 parking spaces at 100% attendance. Following the building addition, the applicant is expecting an additional 12 spaces to be utilized for a total of 72 spaces at 100% attendance. Therefore, it is expected that 50 of the total 122 spaces provided will serve as surplus when at 100% attendance. Staff is supportive of the proposed parking reduction.

CONTEXT AREA AND USE STANDARDS : 90-1410 CORRIDOR EDGE AREA (CE)

90-1410 CORRIDOR EDGE AREA

The following standards apply to the Corridor Edge Area:

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 - Permitted by right and only allowed on first floor (P#)
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- B. Car wash. Permitted on Division Avenue Corridor only.
- C. College or university.
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- G. Open air business.
- H. Parking structures. Parking structure entries shall take access from a Street, and not an Avenue, per Division 8, Thoroughfare Standards.
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- J. Secondhand businesses.
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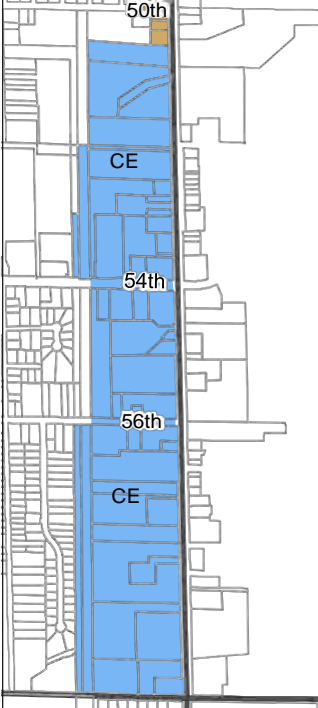
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CORRIDOR EDGE AREA KEY MAP (28TH STREET):



CORRIDOR EDGE AREA KEY MAP (DIVISION AVE): SECTION 1: 50TH ST. TO 60TH ST.



CORRIDOR EDGE AREA KEY MAP (BURTON STREET):



L. Light Industrial/Maker's Spaces. Single tenant buildings shall not exceed 10,000 square feet. Multi-tenant buildings shall not exceed 30,000 square feet. Permitted on Division Avenue corridor only.

CONTEXT AREA AND USE STANDARDS : 90-1410 CORRIDOR EDGE AREA (CE)

TABLE 90-1410 CORRIDOR EDGE AREA (CE)

Specific Use	Mixed Use Building	Zero Lot Line Building	Retail Building	Live/Work Building	Apartment	Rowhouse	Two-Family House	Single-Family House	Civic Building
Accessory uses			P	P	P	P			P
Any use in retail sales of 20,000 square feet or more			P						
Apparel shop			P	P					
Art, including art work, art supplies and framing materials			P	P					
Automobile gasoline/convenience store			P ^D						
Automobile repair and service entirely within an enclosed building, except body shops, painting and refinishing, automobile washes, automobile gasoline and automobile service stations			P ^D						
Automobile sales			S ^D						
Automobile, motorcycle, trailer, recreational vehicle or boat showrooms			P ^D						
Baked goods			P	P					
Bank and financial institution			P						
Barbershop				P	P#				
Beauty shop				P	P#				
Bowling alley			P						
Bus transfer station			P						P
Business office			P ^D	P					
Business service establishments			P ^D	P					
Car wash			S ^D						
College or university			S						S
Commercial greenhouse			P						
Community center			P						
Convalescent or nursing homes					P				
Dance hall/nightclub			S						
Delicatessen			P	P					
Drive-through establishments			S						
Drugstore			P	P					
Dry cleaning establishment (per 90-401B (5) (c))			P						
Eating and drinking establishments (without drive-through service)			P	P					
Flower shop			P	P					

P = Permitted use. P^D = Permitted in Division Avenue Form Based Code Area only. P\$ = Permitted use on floors two and above. P# = Permitted use on first floor only. S = Special Land Use. S^D = Special Land Use Permitted in Division Avenue only. Blank cell = Use not permitted.

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CONTEXT AREA AND USE STANDARDS : 90-1410 CORRIDOR EDGE AREA (CE)

TABLE 90-1410 CORRIDOR EDGE AREA (CE) (CONTINUED)

Specific Use	Mixed Use Building	Zero Lot Line Building	Retail Building	Live/Work Building	Apartment	Rowhouse	Two-Family House	Single-Family House	Civic Building
Funeral homes or mortuaries			S						
General merchandise store			P	P					
Grocery			P	P					
Hardware store, paint and wallpaper			P	P					
Health and fitness					P#				
Hotel					P				
Indoor skating rink			P						
Indoor theater			P						
Medical office			P	P					
Microbrewery, small distiller			P						
Multiple family dwellings				P	P				
Municipal uses									P
Nursery schools, day nurseries, and dependent care facilities for seven or more people				P	P#				
Open air business			S						
Outdoor eating and drinking establishments having table service when part of an indoor eating and drinking establishment			P						
Parking structures			S						
Photographic studio			P	P					
Pool hall/billiards			P						
Printing and publishing				P					
Professional office			P	P					
Religious or social service assembly									P
Secondhand business			S						
Self-service laundry and dry cleaning									
Self storage facilities			S ^D						
Single-family detached dwelling									
State licensed residential facility									
Two-family dwellings/rowhouses						P	P		
Veterinary hospitals and clinics, excluding outdoor use of property for exercise yards or pens			P						

P = Permitted use. P^D = Permitted in Division Avenue Form Based Code Area only. P\$ = Permitted use on floors two and above. P# = Permitted use on first floor only. S = Special Land Use. S^D = Special Land Use Permitted in Division Avenue only. Blank cell = Use not permitted.

Light Industrial/Maker's Spaces S_D S_D



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i	Introduction	1	Title, Purpose & Scope	2	Applicability & Procedures	3	General Provisions	4	Context Areas & Use	5	Subdivision & Access	6	Building Types
7	Private Frontages	8	Thoroughfare Guidelines	9	Off-Street Parking	10	Sign Standards	11	FBC Definitions	City of Wyoming Zoning Ordinance			

ORDINANCE NO. 1-22

ORDINANCE TO AMEND SECTION 90-32 OF THE CODE OF ORDINANCES BY
ADDING SUBSECTION (132) TO REZONE 2777 28th ST SW AND FROM B-2 TO I-1

THE CITY OF WYOMING ORDAINS:

Section 1. That Section 90-32 of the Code of the City of Wyoming is amended by adding subsection (132) to read as follows:

(132) To rezone the following described property at 2777 28th St SW (PP# 41-17-36-101-048) from B-2 General Business District to I-1 Light Industrial District

DESCRIPTION:

THAT PART OF THE SOUTHEAST OF SECTION 9, T.6N, R.12W CITY OF 14
OF SECTION 9, T.6N, R.12W CITY OF WYOMING, KENT COUNTY,
MICHIGAN, DESCRIBED AS: COMMENCING AT THE SOUTH 14 CORNER;
THENCE EAST ALONG THE SOUTH LINE 232.1 FEET; THENCE NORTH
450 FEET; THENCE WEST 230.24 FEET TO THE NORTH-SOUTH LINE;
THENCE 14 LINE; THENCE SOUTH 450 FEET TO THE PLACE OF
BEGINNING.

Section 2. This ordinance shall take effect on _____, 2022.

I certify that this ordinance was adopted by the City of Wyoming at a regular session of the City Council held on _____, 2022.

Kelli A. VandenBerg
Wyoming City Clerk

Ordinance No. 1-22

November 30, 2021

Ms. Kelli A. VandenBerg
City Clerk
Wyoming, MI

Subject: Request for rezoning from B-2 General Business to I-1 Light Industrial at 2777 28th St SW (Section 09) (Borgman Ford)

Recommendation: To approve the subject rezoning request.

Dear Ms. VandenBerg,

The above referenced request was reviewed by the Wyoming Planning Commission at its regular meeting on November 16, 2021. A motion was made by Hegyi, supported by VanDuren, to approve the request for rezoning 2777 28th St SW from B-2 General Business to I-1 Light Industrial and recommend the same to City Council. The motion passed unanimously.

A detailed review of the request is available in the attached Planning Commission minutes and supportive materials. Following please find some general information.

Borgman Ford proposes to rezone the parcel at 2777 28th St SW to a I-1 Light Industrial zone district to permit for a new truck repair facility to built. The facility would provide an office space, storage space for repair parts, and 8 service stalls for large vehicles including school buses, construction vehicles, box trucks, and larger service vans to be repaired. Semi- tractor trailers are not planned to be serviced at the facility. The developer provided a conceptual site plan for reference only.

Staff recommended approval of the request due to its compatibility with the surrounding area and alignment with city's vision for the corridor. The rezoning of is supported by the future land use map.

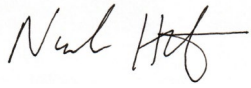
Planning Commissioners agreed that the requested rezone was in alignment with the city's adopted master plan and future land use map. One Grandville resident spoke during the meeting and inquired about the site layout, potential noise and potential access to the neighborhood. The developer confirmed that there would be no access to the neighborhood.

community • safety • stewardship

CITY COUNCIL

Sheldon DeKryger John Fitzgerald Kent Vanderwood Marissa Postler Robert Postema Sam Bolt
Jack A. Poll, Mayor

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Nicole Hofert". The signature is written in a cursive style with a long horizontal stroke extending to the right.

Nicole Hofert, Director
Department of Planning and Economic Development

Cc: Curtis Holt, City Manager

A motion was made by Arnoys, seconded by Hegyi, to grant site plan approval subject to conditions 1-11.

Goodheart asked about the easement on the site plan that allows shared egress/ingress between the site and the property to the South and if that easement has been recorded.

Witte confirmed that there is a separate easement that has been recorded for egress/ingress on the south side of the property.

Goodheart inquired about condition #6 and asked if developer could show where the greenspace will be located.

Witte stated that the greenspace is not defined on the plan, but he will work with the City to make sure it is addressed.

Goodheart asked staff if the amount of greenspace on the plan is adequate.

Meagher confirmed that the amount of greenspace on the plan is adequate.

Witte stated that since the site is a parking lot, there will be more total greenspace after construction than what is currently on site.

A vote on the motion carried unanimously.

AGENDA ITEM NO. 2

Request to approve a rezoning from B-2 General Business to I-1 Light Industrial at 2777 28th Street SW (Section 09) (Borgman Ford).

Meagher explained that the site is currently vacant and outlined the various uses of the surrounding land.

Meagher said that the applicant proposes to rezone the site from B-2 General Business to I-1 Light Industrial to allow for a new truck repair facility to be constructed. The prospective facility would provide an office space, storage space for repair parts, and 8 service stalls for large vehicles including school buses, construction vehicles, box trucks, and larger service vans to be repaired. Semi- tractor trailers are not planned to be serviced at the facility.

Meagher explained that the applicant has submitted a conceptual site plan for discussion and reference purposes only. If a rezoning at the site is approved, the proposed truck repair facility use would need to return to Planning Commission for special use and site plan approval.

Meagher explained that unlike other zoning procedures such as special use approval, site plan

review, or planned unit development, ordinance amendments and rezonings are legislative decisions, not tied to specific standards listed in the ordinance. However, certain factors are commonly considered with respect to rezonings, including:

a. *Consistency with the adopted master plan;*

The City's Master Plan, Wyoming [re] Imagined was adopted in 2021. The future land use map identifies for this portion of the 28th Street Corridor to be planned for Corridor Commercial and Business Park uses. The proposed rezoning would remain consistent with this vision.

b. *Compatibility of the allowed uses with existing and future land uses;*

The proposed I-1 zoning designation would be consistent with the existing and desired future land uses. The properties located across 28th Street to the south are currently zoned I-1, and the uses permitted under I-1 zoning align with Corridor Commercial and Business Park future land use designations.

c. *Capability of the property to be served by public services;*

The property can be served by public utilities.

d. *Ability of the property to be used as currently zoned; and*

Truck repair facilities are not permitted in the B-2 zoning district and are only permitted in I-1 and I-2 districts. The proposed rezoning to I-1 would allow for more intensive uses to be enjoyed on this 2 acre site without impacting the overall commercial/light industrial identity of this section of the 28th Street Corridor.

e. *Appropriateness of all uses allowed within the proposed district at the property location.*

It is expected that all uses permitted within the I-1 zoning district would be considered appropriate along this portion of the 28th Street corridor. The properties located to the south are already zoned I-1, and a number of I-1 uses are permitted in both I-1 and B-2 districts.

Meagher stated that the Development Review Team recommends that the Planning Commission recommend to City Council approval of the rezoning request for 2777 28th Street SW from B-2 General Business to I-1 Light Industrial.

Micele opened the public hearing at 7:21 pm.

Cherie Ringnalda, 2832 Lee St SW, Grandville, MI, had concerns regarding her rear address of 2813 27th St SW, Grandville, MI, and would like to keep that street quiet.

The public hearing was closed at 7:23 pm.

Richard Craig, 25 Division Ave S #222, Grand Rapids, MI, introduced himself as the architect and stated that there is about a 100 ft rear yard setback being proposed and stated that he is available for questions.

A motion was made by Hegyi, supported by VanDuren to recommend to City Council approval of the rezoning request for 2777 28th Street SW from B-2 General Business to I-1 Light Industrial.

Weller stated that he thinks the developer should consider a masonry front if the developer comes back for site plan review, he felt that this would keep up with the character of the area.

Micele asked if semis will also be serviced at the facility.

The architect confirmed that semis would not be serviced at this facility.

Goodheart asked if there was an easement to the residential street behind the property.

Craig stated that the survey does not show an easement.

Goodheart asked if it has been proposed to use the residential street in the rear as an access drive.

Craig confirmed that there is no plan to propose a drive off of the residential street.

Arnoys asked if all repairs would occur inside the building.

Craig stated that the site plan shows that work on larger vehicles would be inside the building toward 28th ST.

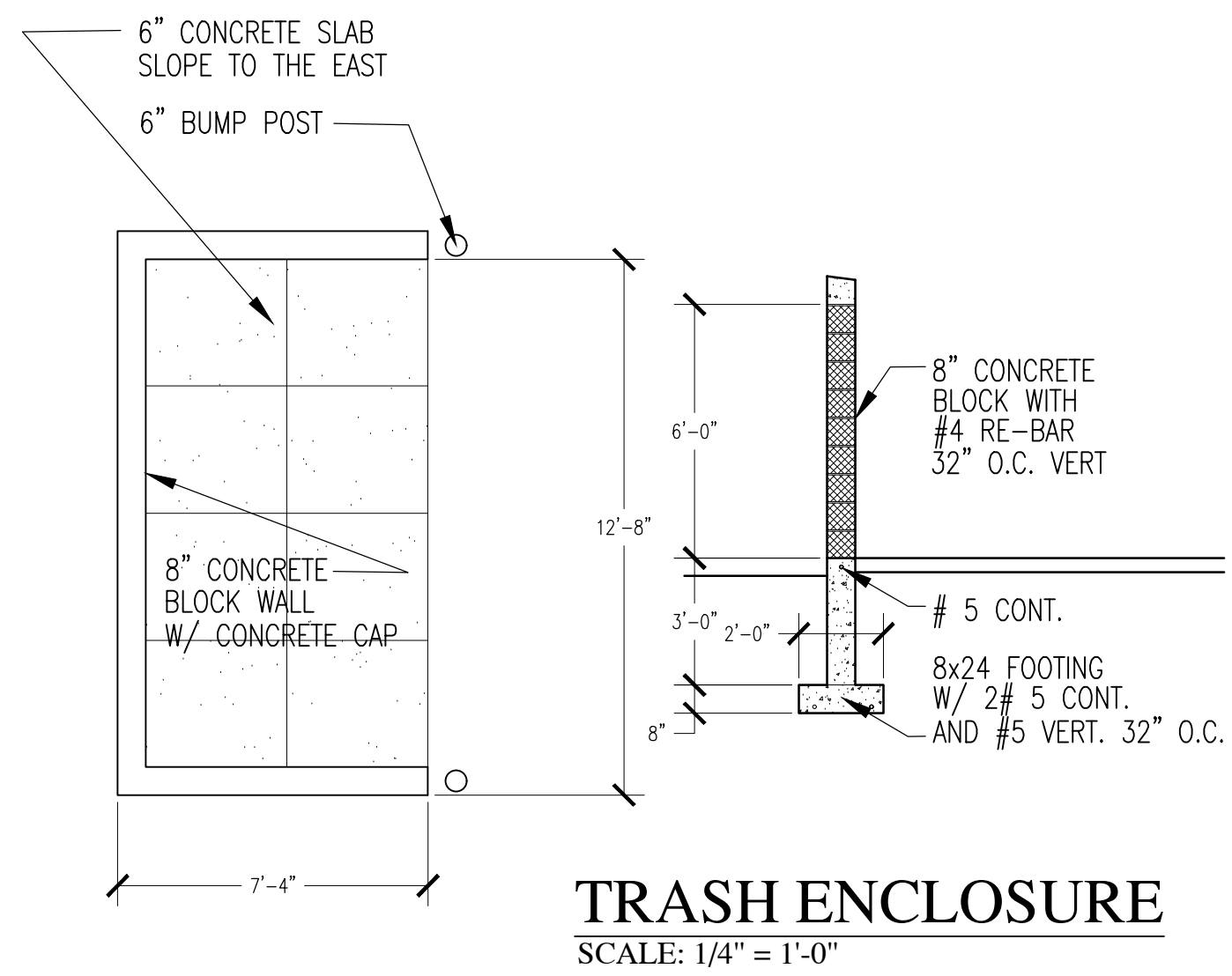
Hofert commented that in the I-1 district all work has to be contained inside the building and no work is permitted to be performed outside.

Hofert also explained that this parcel has no access to the rear residential street.

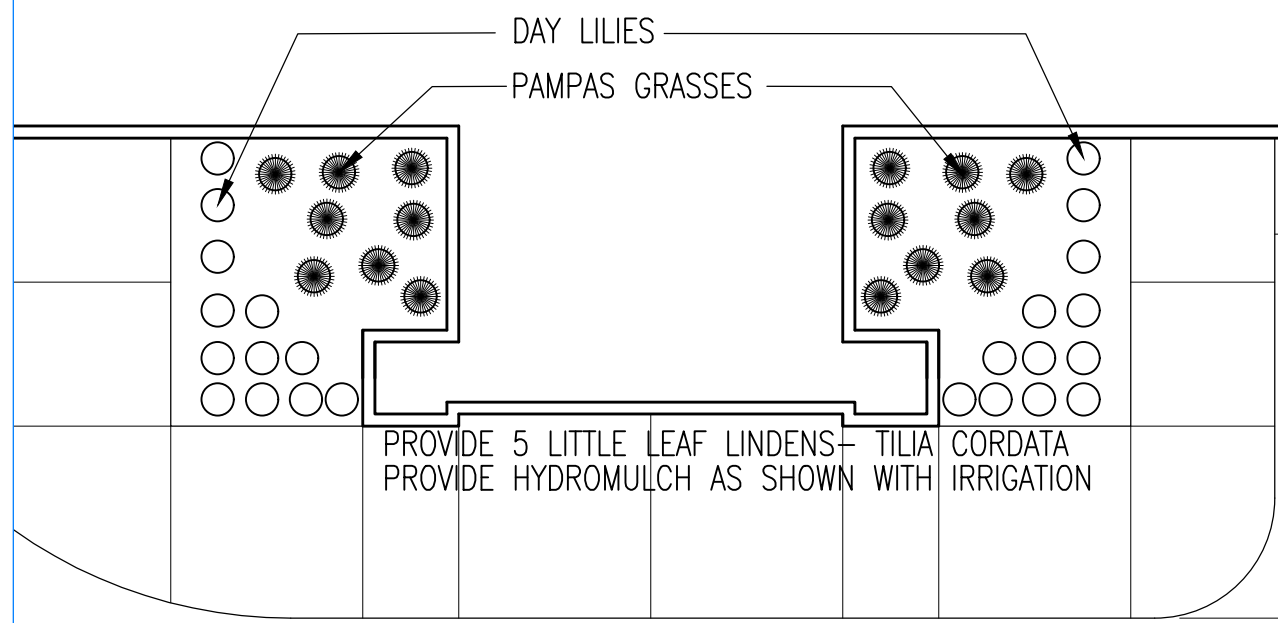
Weller commented on the size of the overhead doors saying that they should be taller since work will be performed on larger vehicles.

Craig stated that all of the details regarding the building have not been finalized but if the rezoning is approved, he will finalize specific details with the owner.

A vote on the motion carried unanimously.



TRASH ENCLOSURE
SCALE: 1/4" = 1'-0"



LANDSCAPE PLAN

SCALE: 1/8" = 1'-0"

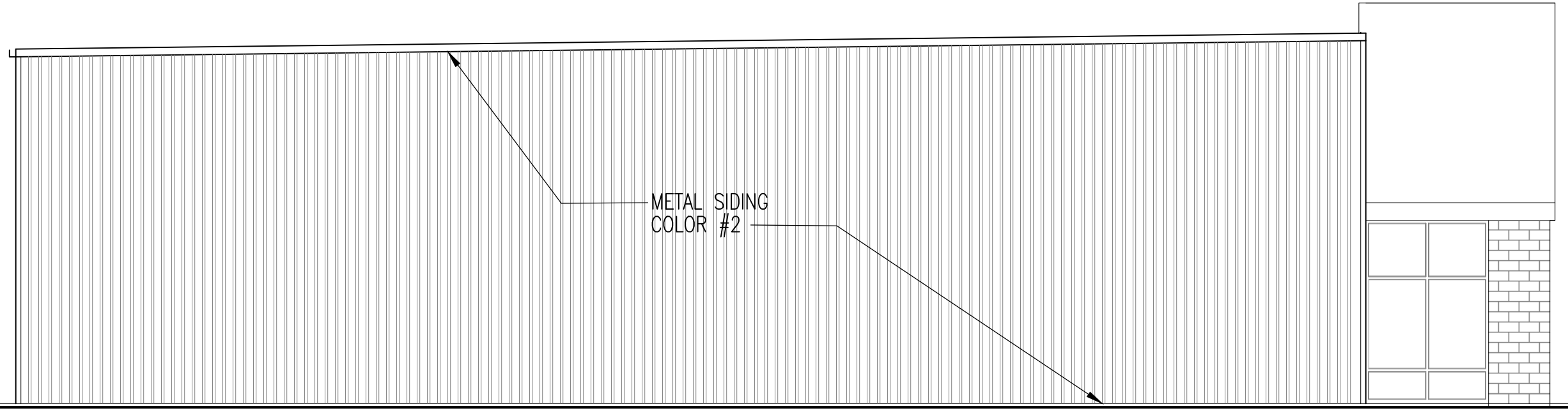
SITE DATA

DESCRIPTION OF PROPERTY PER TITLE COMMITMENT NO. 2004040930 ISSUED BY TRANSNATION TITLE COMPANY, DATED MARCH 25, 2004

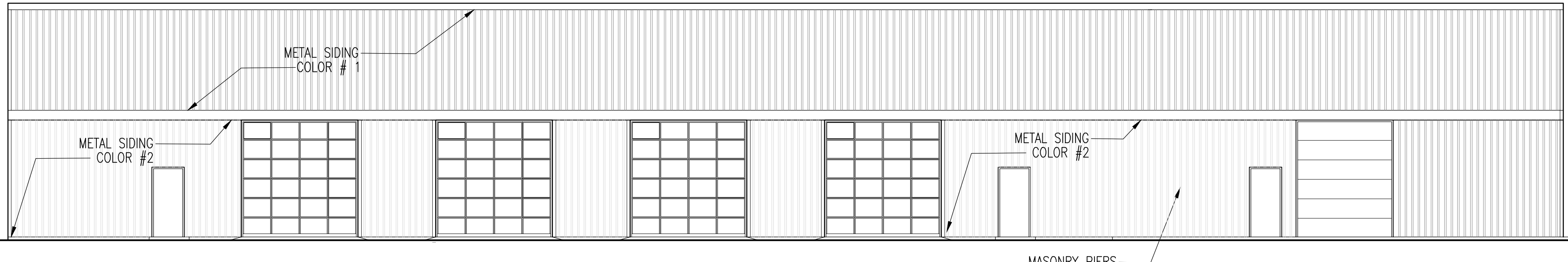
THAT PART OF THE SOUTHEAST 1/4 OF SECTION 9, T.6N, R.12W CITY OF WYOMING, KENT COUNTY, MICHIGAN, DESCRIBED AS: COMMENCING AT THE SOUTH 1/4 CORNER; THENCE EAST ALONG THE SOUTH LINE 232.1 FEET; THENCE NORTH 450 FEET; THENCE WEST 230.24 FEET TO THE NORTH-SOUTH 1/4 LINE; THENCE SOUTH 450 FEET TO THE PLACE OF BEGINNING.

- TOTAL SITE AREA: 92,096 S.F.
- PROPOSED BUILDING: 14,100 S.F. 25' HIGH
- FRONT YARD SETBACK: 91 FEET
- EAST SIDE SETBACK: 10 FEET
- WEST SIDE SETBACK: 61 FEET
- REAR YARD SETBACK: 259 FEET

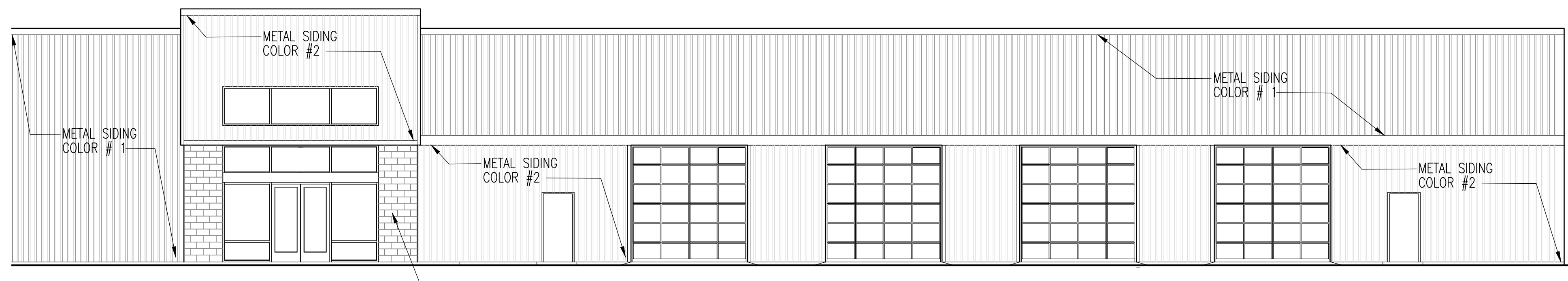
- TOTAL PARKING SPACES: 33
 - 12 STANDARD SPACES- 9x18
 - 1 BARRIER FREE SPACE 12x18
 - 20 LARGE VEHICLE SPACES 12x30
- ZONING REQUIREMENT- PARKING: TWO FOR EACH STALL = 16 TOTAL
ONE FOR EACH EMPLOYEE = 10
26 REQUIRED



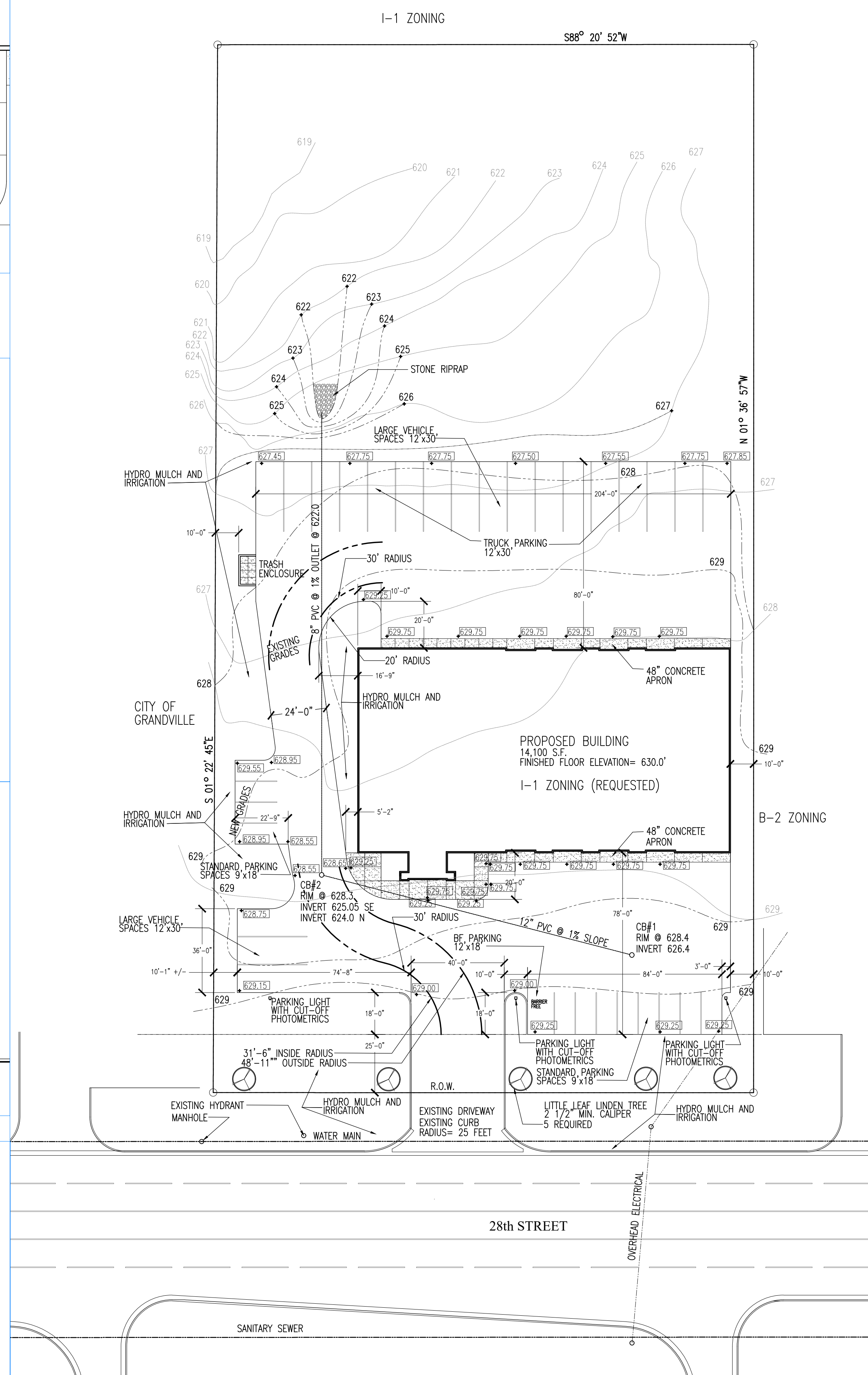
WEST ELEVATION (EAST SIM.)
SCALE: 1/8" = 1'-0"



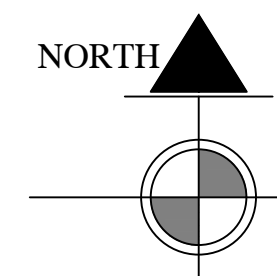
NORTH ELEVATION
SCALE: 1/8" = 1'-0"



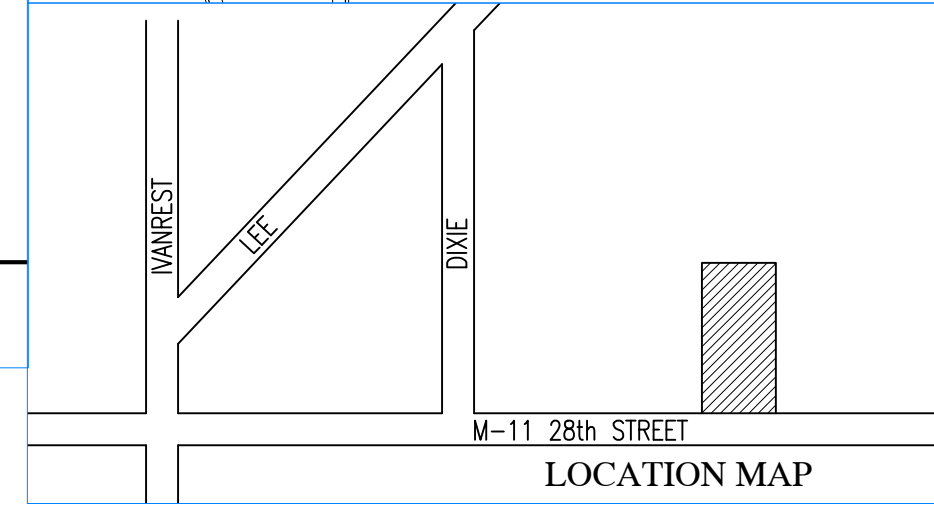
SOUTH ELEVATION
SCALE: 1/8" = 1'-0"



I-1 ZONING
S88° 20' 52"W



SITE PLAN
SCALE: 1" = 30'



LOCATION MAP

ISSUED FOR:	
DATE:	
ISSUED FOR:	Re-Zoning
DATE:	10/12/2021

Borgman Truck Facility
Michigan
Wyoming

25 S. DIVISION, SUITE 22
Grand Rapids, MI 49503
Telephone 616-774-2313
Fax 616-774-8822

CRAIG
Architecture + Interior Design + Facility Management

DESIGNED BY: _____
PROJECT DATE: _____
All rights reserved. These drawings remain the property of Craig Architecture + Interior Design, Inc. and are for use only as authorized by the Architect only.

SHEET
A-100

FILE
XXXX-X