

AGENDA
WYOMING CITY COUNCIL MEETING
CITY COUNCIL CHAMBERS
MONDAY, NOVEMBER 21, 2022, 7:00 P.M.

- 1) Call to Order**
- 2) Invocation** – Pastor Rob Schmidt, Christ Lutheran 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 7, 2022 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.
7:01 p.m. To Receive Comment on the Proposed Site 36 Brownfield Plan
- 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
 1. Bill Aman – Fire Inspector of the Year
 2. Audit Report by Peter Woldman of Rehmann Robson
 - b) Proclamations
- 11) Petitions and Communications**
 - a) Petitions
 - b) Communications
- 12) Reports from City Officers**
 - a) From City Council
 - b) From City Manager
- 13) Budget Amendments**
- 14) Consent Agenda**
- 15) Resolutions**
 - a) To Adopt and Proposed Elector Approval of an Amendment to the City Charter to Provide for Levy of Additional Property Tax at the May 2, 2023 Special Election to

Support Fire Services, Police and Law Enforcement Services, and First Responder Services, and to Rescind the Similarly Titled Resolution 27503, Adopted October 31, 2022

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

- b) To Accept a Proposal from Rehmann Robson LLC to Provide Financial Services and to Authorize the Mayor and City Clerk to Execute the Contract
- c) To Award the Bid for the 2023 Noel, Wykes and Longstreet Watermain Replacement Project and to Authorize the Mayor and City Clerk to Execute the Contract
- d) To Concur with Change Order Number One for the Gezon Storage Tank Rehabilitation Project
- e) To Approve Amendment Number Two to the Dehumidification Upgrade Project and to Authorize the Mayor and City Clerk to Execute the Amendment
- f) To Accept an Agreement from Donohue & Associates, Inc. to Provide Preliminary Engineering and Design Work for the Activated Sludge Blower System Project and to Authorize the Mayor and City Clerk to Execute the Contract
- g) To Concur with the Purchase of Two Speed Radar Signs and to Authorize the Purchase of an Additional Speed Radar Sign from Radarsign, LLC
- h) For Award of Bid and to Authorize the Mayor and City Clerk to Execute the Contract
 - 1. Engine Oil

17) Ordinances

- 21-22 To Amend Chapter 38 of the Code of Ordinances to Update Floodplain and Flood Related Regulations to Address Federal Flood Program Changes (Final Reading)
- 23-22 To Amend Chapter 2, Article IV, Division 8, of the Code of Ordinances to Provide for a Service Charge in Lieu of Taxes for the Union Suites at Michael Housing Project (First Reading)
- 24-22 To Amend Chapter 50, Article IX, Division 4, of the Code of Ordinances Incorporating Amendments to Michigan's Youth Tobacco Act from 2019 and 2022 (First Reading)

18) Informational Material

- a) Rebranding Project Update

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

ACT 381 BROWNFIELD PLAN

SITE 36

**300 & 301 36th St SW
Wyoming, MI**

Wyoming Brownfield Redevelopment Authority

November 2022

Prepared by

Nicole Hofert, Planning & Economic Development Director
Scott G. Smith, City Attorney
City of Wyoming

Approved by the Wyoming Brownfield Redevelopment Authority on: October 24, 2022
Approved by the Wyoming City Council on November 21, 2022

**SITE 36 BROWNFIELD PLAN
NOVEMBER 2022**

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- Attachment B Reimbursement Agreement
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- Attachment D No Further Action Letter

SITE 36 BROWNFIELD PLAN

1.0 INTRODUCTION

This Brownfield Plan (**Brownfield Plan**) was prepared by City of Wyoming (**City**) staff pursuant to the brownfield redevelopment financing act, 1996 PA 381, MCL 125,.2651 *et seq.* (**Act 381**), and approved by the City of Wyoming Brownfield Redevelopment Authority (**WBRA**) on October 24, 2022, and by the Wyoming City Council on November 21, 2022, to facilitate redevelopment of property commonly referred to as **Site 36** is located at 300 and 301 36th Street SW in Wyoming, Michigan. The 300 36th Street parcel is approximately 75 acres and located on the south side of 36th Street (**South Parcel**), and the 301 36th Street parcel is approximately 5 acres and located on the north side of 36th Street (**North Parcel**). Franklin Site 36, LLC (**Franklin**) owns the South Parcel, and the WBRA owns the North Parcel.

This Brownfield Plan describes the planned Site 36 redevelopment, including anticipated eligible activities as defined in Act 381 for both environmental and non-environmental tasks (collectively, **Eligible Activities**) associated with the redevelopment. Act 381 work plans for environmental Eligible Activities will be prepared for review and approval by the WBRA and the Michigan Department of Environment, Great Lakes, and Energy (**EGLE**), and Act 381 work plans for nonenvironmental activities will be prepared for review and approval by the WBRA and the Michigan Economic Development Corporation and/or the Michigan Strategic Fund, as applicable (collectively **MEDC**). These work plans are collectively referred to **Act 381 Work Plans**.

1.1 Proposed Redevelopment and Future Use for Each Eligible Property

A. South Parcel - 300 36th St SW, parcel # 41-17-24-201-007, owned by Franklin Site 36, LLC

The proposed development of the South Parcel will consist of development of 1 to 5 industrial sites occupied by manufacturing or other industrial uses in accordance with the following requirements. Those occupants will be accommodated by an estimated 960,000 square feet of total building space and an estimated 730,000 square feet of parking lots, walkways, loading areas, and public roadways with an estimated total investment of approximately \$128,600,000.

1. Property use will 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.
2. A single curb-cut will be constructed along the 36th Street frontage of the South Parcel.
3. An enhanced landscaped buffer will be placed 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.
4. Irrigated landscaping along 36th St will 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.
6. 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 South Parcel.
7. Buildings on the South Parcel will:
 - a. Use an architectural style that reflects a common theme or pattern that is aesthetically consistent and is compatible with surrounding properties.
 - b. Be up to 60 feet in height.
 - c. Have all walls exposed to public view from a public street or adjacent residential area comprised of brick, face brick, stone, cast stone, or other quality materials as determined by the planning commission from finished grade to roof level. Other wall surfaces will be

comprised of at least 50% high quality materials on other exposed exterior surfaces such as brick, stone, wood, or stucco.

e. Ensure loading and unloading docks or areas do not face the front yard of a building site as defined in the zoning ordinance (e.g., any part of the South Parcel 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.

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

Franklin proposes phased construction of certain infrastructure on the South Parcel. Initially, Franklin intends to clear (grubout) vegetation and construct a stub road and small parking area to improve site access. That will be followed by construction of a full public road and installation of utilities (including public water, sanitary sewer, and storm sewer) from a new access point on 36th St SW. Additional interior roadways may be constructed as needed to provide access to and circulation among individually developed sub-parcels.

Franklin intends to commence construction of the stub road and perform clearing/grubbing work in Spring 2023, with redevelopment activities associated with one or more individual parcels anticipated to commence in Fall 2023 and phasing in over a period of approximately two – three years. All development will occur only after any required site plan and other City approvals and, if that development include Eligible Activities for which reimbursements are sought, it will occur only after approval of one or more Act 381 works plans by WBRA and by EGLE and/or MEDC.

B. North Parcel - 301 36th St SW, parcel # 41-17-13-455-052, owned by Wyoming Brownfield Redevelopment Authority

The North Parcel will be redeveloped as a City owned, public social and market space across the entirety of the North Parcel using a design approved by the City Planner generally in accordance with the designs attached as Figure 2, that includes the items listed as 1 through 6 below for an estimated cost of \$4,200,000. This area will serve as a public amenity that, at times, may be used for or in support of school activities, for community events, or by one or more occupants of the property south of 36th St SW for special gatherings. It is intended to provide for a local farm or artisanal market during some seasons and otherwise as an amenity for an area of the community long in need of reinvestment and redevelopment.

1. Electrical, water and sewer connections.
2. Parking areas sufficient, not only for anticipated patrons of the market/gathering place, but to provide additional parking for Godwin Heights Public Schools athletic events.
3. Green space and landscaped areas.
4. Enclosed or semi-enclosed vendor/market structure that includes restrooms and equipment storage.
5. Drive connecting the 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.

Construction of the market/gathering place is anticipated to commence in the spring of 2023. Because the work includes environmental and non-environmental Eligible Activities work will begin only after one or more Act 381 work plans are approved by WBRA and by EGLE and MEDC.

C. QLGU; Estimated Completion

Wyoming is a qualified local governmental unit. It is estimated the development and Eligible Activities will be completed within 10 years of approval of this Brownfield Plan.

1.2 Eligible Property Information

A. Site History

Site 36 was occupied by the General Motors Metal Stamping Plant from its first construction in 1936 until it ceased operations in 2009. Primary manufacturing operations included tool and die activities, blanking, metal stamping, and assembly. Ancillary operations included storage of raw materials, hazardous and nonhazardous waste management, equipment maintenance, power generation, wastewater treatment and scrap metal handling. Though well maintained, Site 36 was contaminated due to practices common in manufacturing facilities during decades of heavy industrial use. Thunder Ventures LLC entered into a contract to acquire Site 36 and in March 2011 entered into a development agreement with WBRA. Pursuant to that agreement, Thunder Ventures completed demolition of the plant in June 2011.

In 2011, the Revitalizing Auto Communities Environmental Response (**RACER**) Trust was created pursuant to an Environmental Response Trust Consent Decree and Settlement Agreement entered by the U.S. Bankruptcy Court. RACER Trust acquired the Site 36 Property in 2011 and in June 2011 conveyed the Property to WBRA. RACER Trust performed extensive remediation of Site 36, culminating in RACER's filing of a No Further Action (NFA) Report with EGLE on February 9, 2018, seeking EGLE approval of a Non-Residential Restricted Closure under Part 201 of Michigan's natural resources and environmental protection act, 1994 PA 452, MCL 324.20101 *et seq.* (**Part 201**). On March 13, 2018, EGLE issued a letter approving the NFA Report, a copy of which is attached as **Attachment D**.

Groundwater and soil contaminants exceeding residential criteria remain on both the North Parcel and the South Parcel as part of the approved regulatory closure. Environmental restrictions associated with the closure are documented in a Declaration of Restrictive Covenant dated March 3, 2017, and recorded on August 30, 2017, with the Kent County, Michigan Register of Deeds at 20170831-0073657, a copy of which is attached as **Attachment C (DRC)**. The DRC constitutes the post-closure plan under Part 201 for Site 36 and establishes use restrictions and conditions for Site 36 current and future owners, users, and occupants. The remaining contamination present in concentrations exceeding residential cleanup criteria promulgated under Part 201 on the North Parcel and South Parcel and the restricted regulatory closure applicable to the North Parcel and South Parcel render the Site 36 Property a "facility" as defined in Part 201 and "eligible property" as defined in Act 381.

B. Current Conditions

Remaining contamination includes elevated concentrations of heavy metals, semi-volatile organic compounds (**SVOCs**), volatile organic compounds (**VOCs**), and polychlorinated biphenyls (**PCBs**) in soils and elevated concentrations of metals, VOCs, and Per- and Polyfluoroalkyl Substances (**PFAS**) in groundwater. Due to the presence of these contaminants, special measures and activities will be necessary as described in the DRC to complete the planned redevelopment. The DRC includes general conditions and restrictions that apply site-wide across the North Parcel and South Parcel, such as management of contaminated soil during redevelopment (including a combination of re-use and off-site disposal) and management of dewatering fluids generated during construction activities. The DRC requires incorporation of vapor mitigation systems into all occupied structures on the North Parcel and the South Parcel to prevent unacceptable vapor intrusion risks. The DRC also imposes certain additional specific restrictions that apply to specific areas within the South Parcel, including (i) designing and constructing subsurface utilities and stormwater retention systems to avoid infiltration and preventing utility corridors from becoming preferential migration pathways for site contaminants, (ii) maintaining and replacing barriers to infiltration of precipitation through impacted soils in a designated infiltration management area in the northwest portion of the South Parcel, and (iii) properly managing PCB-impacted soils in designated PCB restricted areas.

C. Maps and Legal Descriptions

Maps and legal descriptions of the Site 26 are attached as **Figure 1**.

D. Personal Property

There currently is no personal property on either the North Parcel or South Parcel. Personal property later placed on the South Parcel is likely to be eligible manufacturing personal property exempt from property taxation under MCL 211.9m and 211.9o. Personal property on the North Parcel will be owned by the City and therefore tax exempt. It is therefore anticipated there will be no taxable personal property on either the North Parcel or South Parcel.

2.0 Information Required by Act 381 §13(2)

2.1 Description of Costs to Be Paid for With Tax Increment Revenues

A. General Description

Eligible Activities and costs are presented on the attached **Table 1** and **Table 2**. Table 1 presents EGLE Eligible Activities and corresponding cost estimates. Table 2 presents MSF Eligible Activities and corresponding cost estimates. Each table presents these respective costs separately for the North Parcel and the South Parcel. The costs provided for the Eligible Activities are based on estimates developed by a team comprised of the owners of the South Parcel and North Parcel, Barr Engineering, Nederveld, Inc., and Wolverine Building Group.

The total estimated cost of all Eligible Activities is \$20,210,000. Of that, \$10,730,000 is for EGLE Eligible Activities and \$9,480,000 is for MSF Eligible Activities.

Of the total cost for EGLE Eligible Activities, \$10,320,488 is for the South Parcel and \$395,500 is for the North Parcel. Of the total cost for MSF Eligible Activities, \$8,145,840 is for the South Parcel and \$1,329,500 is for the North Parcel.

The lists of Eligible Activities on Tables 1 and 2 are extensive. Eligible Activities will be undertaken and reimbursements will be made for the costs of them as they are reasonably needed for the redevelopment of Site 36 and only after Act 381 work plans are approved for them by the WBRA and by EGLE and/or MEDC. All reimbursements will be in accordance with this Brownfield Plan and one or more reimbursement agreements generally in the form attached as **Attachment B**.

Tax increment revenues will be generated only from redevelopment of the South Parcel. The North Parcel is currently owned by the WBRA and will be conveyed to the City, thus remaining tax-exempt. This Brownfield Plan includes both the South Parcel and the North Parcel, as redevelopment of the entire area comprised of both parcels is considered the most effective option of restoring productive use and providing community-wide benefits of these parcels as detailed above and as provided in the Site 36 Development Contract, dated as of December 7, 2021, among WBRA, City, and Franklin.

Captured taxable value will be calculated for Site 36 as a whole based on a base tax year (2022) taxable value of \$0. In 2023, the taxable value of Site 36 is estimated to be \$2,625,000 based on Franklin's 2022 purchase of the South Parcel. The South Parcel may be split as portions are acquired and/or otherwise occupied by persons other than Franklin and new tax parcel numbers may be assigned. But the captured taxable value will continue to be determined based on the aggregate taxable value of Site 36 in its entirety.

The WBRA will not capture the entire captured taxable value. It will capture only 90% of the captured taxable value, leaving 10% to be disbursed among all units levying taxes against Site 36, including the state of Michigan, Godwin Heights Public Schools, Kent County, the Kent Intermediate School District, the Interurban Transit Partnership, and Kent District Library. This enables those taxing units will proportionally benefit from the Site 36 redevelopment even while most of the tax revenues are captured to reimburse costs of Eligible Activities. Because Site 36 has been tax exempt for the last 10 years, the taxing units' collection of 10% of the taxes ensures this Brownfield Plan and the reimbursements made pursuant to it will have an overall beneficial (not a detrimental) effect on those taxing units.

B. Estimated TIF Revenues

The attached **Table 3** includes estimates of tax increment revenue collections and reimbursements. Table 3 is based on the following assumptions intended to present very conservative projections:

1. As noted above, only 90% of the captured taxable value will be collected with 10% being disbursed to all the taxing units levying taxes against Site 36.
2. Approximately \$4,000,000 will be incurred for Eligible Activities in 2023. This will be for the Eligible Activities on the North Parcel and for the stub road and parking area on the South Parcel.
3. The remainder of the Eligible Activities will be undertaken in 2024. This assumes timing that is not likely because, as noted above, the Eligible Activities will be undertaken only when reasonably needed for Site 36 redevelopment. This also assumes all of the listed Eligible Activities will be needed and will be approved under Act 381 work plans approved by the WBRA and then by EGLE and/or MEDC. Eligible Activities will be approved and undertaken only to the extent needed for redevelopment. It also assumes the costs of the Eligible Activities will be the amounts estimated in Tables 1 and 2. Those estimates are conservative estimates that are intended to large enough to cover the cost of the associated activities as they are incurred in succeeding years so they may be greater than will be incurred.
4. The redevelopment of the South Parcel will occur over 9 years. This likely is longer than will be needed to complete redevelopment. This also provides conservative projections of available tax increment revenues.
5. Except when new development occurs, the value of the South Parcel, including all improvements will increase at a rate of 1.0% per year. Property values may increase at a greater rate.

Therefore, Table 3 presents a conservative outlook by assuming all of the listed Eligible Activities will be approved and undertaken, the costs of the Eligible Activities will be as presented, the Eligible Activities will be undertaken early (rather than as redevelopment occurs), and redevelopment will linger over nearly a decade. If some of the listed Eligible Activities are not undertaken, if the estimated costs exceed the actual costs, or if redevelopment occurs sooner than indicated in Table 3, reimbursements should be completed sooner than indicated in Table 3.

C. Use of TIF Revenues

Eligible Activities may be undertaken pursuant to multiple Act 381 work plans, on multiple sub-parcels of the South Parcel, and by multiple parties. Accordingly, there may be multiple reimbursement agreements. Available tax increment revenues may (likely will) be insufficient to pay all requests for reimbursements in any given year. Table 3 projects carryover balances of costs for Eligible Activities for which reimbursements are due.

Therefore, it is necessary to explain the manner of allocating the TIF revenues and/or to prioritize the order in which reimbursements will be made. Importantly, reimbursements will be made only from **Net Tax Increment Revenues**, to be calculated as follows.

1. Only those tax increment revenues actually remitted to the WBRA.
 - a. As indicated above only 90% of the captured taxable value will be captured with 10% of the captured taxable value being proportionally disbursed to the respective taxing units.
 - b. If tax payments are delinquent or remain unpaid, tax increment revenues will not be collected and remitted to the WBRA.
2. Tax increment revenues will not be captured from any tax levies made for debt of any taxing unit. Table 3 shows a Godwin Heights Public Schools debt levy and not subject to capture.
3. As required by Act 381, 50% of the state educational tax will be paid to the state brownfield fund. This is deducted from available tax increment revenues.
4. If, due to a property tax or special (*e.g.*, industrial facilities) tax appeal (either claiming an exemption or challenging the valuation), a refund of paid taxes is necessary that amount, plus any required payment of interest or other amounts will be deducted. If there is a property tax or special tax appeal, the WBRA, after consulting the City assessor may choose to escrow tax increment revenues in an amount that it reasonably determines may be needed to refund taxes paid if the appeal is successful.

5. If due to an audit or other circumstance, it is determined reimbursements already made from tax increment revenues were not costs of Eligible Activities or were not in accordance with an Act 381 work plan approved by the WBRA and by EGLE and/or MEDC, and some repayment is required, the WBRA may deduct the amount of that required repayment.

6. Net Tax Increment Revenues will also be net of any other amount the WBRA or City is obligated to repayment or deduct from available tax increment revenues due to a lawsuit, bankruptcy, or other situation resulting in an order from a court or governmental agency of competent jurisdiction.

The following describes the allocation/prioritization of payments from Net Tax Increment Revenues.

1. Reimbursement will first be made for the costs incurred to prepare this Brownfield Plan.
2. After the costs of prepare this Brownfield Plan are fully reimbursed the costs of preparing and obtaining reviews and approvals of one or more Act 381 work plans for Eligible Activities on the North Parcel will be reimbursed in full.
3. After the preceding costs are reimbursed in full, the costs of Eligible Activities on the North Parcel will be paid. Franklin Site 36, LLC is obligated to pay \$1,500,000 toward the costs of the redevelopment of the North Parcel as described above. The WBRA and/or City will pay the remaining costs of that redevelopment, currently estimated to cost approximately \$4,200,000. The Franklin Site 36, LLC contribution will be allocated entirely to redevelopment costs of the North Parcel that are not costs for Eligible Activities. Therefore, except for costs of the Act 381 work plan for Eligible Activities related to the North Parcel as described in the preceding subsection 2 that Franklin may pay, reimbursements related to the North Parcel will be made to the WBRA and/or City.
4. Costs of (i) preparing and obtaining reviews and approvals of one or more Act 381 work plans for Eligible Activities related to the clearing of vegetation (grubbing) and construction of the stub road and parking area on the South Parcel, and (ii) the undertaking and completing those Eligible Activities will be paid. If these costs are incurred and reimbursement is sought before the reimbursement under the preceding subsection 3 are fully made, 70% of the Net Tax Increment Revenues will be allocated to paying the reimbursements under the preceding subsection 3 until they are paid in full. The remaining 30% of Net Tax Increment Revenues will be allocated to paying the reimbursements described in this subsection until they are paid in full.
5. After the preceding reimbursements are made in full, costs of (i) preparing and obtaining reviews and approvals of Act 381 work plans for other Eligible Activities on the South Parcel, and (ii) undertaking and completing those Eligible Activities will be reimbursed Net Tax Increment Revenues in accordance with an allocation and prioritization as provided in fully approved Act 381 work plans and in any agreements (including reimbursement agreements) among the WBRA, Franklin, and other parties with an interest in those reimbursements.

No Site 36 tax increment revenues will be used to pay or reimburse the WBRA or City for any administrative costs. No Site 36 tax increment revenues will be set aside in a local site remediation revolving fund. No interest will accrue or be paid on any reimbursements.

D. Limits

The WBRA will not capture any tax increment revenues from Site 36 resulting from taxes levied in any year after 2037. The aggregate total maximum amount to be reimbursed under this Brownfield Plan is \$21,000,000.

2.2 Summary of Eligible Activities

Proposed environmental Eligible Activities consist of pre-approved/department-specific activities as defined in Act 381, including due diligence consisting of Phase I ESAs, Phase II ESAs, BEAs, supplemental site investigations including soil sampling and analysis to support design of response activities, and due care investigation and planning activities. The proposed environmental Eligible Activities also consist of implementation of response activities including vapor intrusion mitigation system design and construction; contaminated soil excavation, transportation, and onsite management

and off-site disposal; maintenance/establishment of infiltration management systems; and construction of sealed subsurface utility features, and other tasks necessary to comply with the DRC. Environmental Eligible Activities and associated costs are presented in attached Table 1, broken out separately for the North Parcel and the South Parcel.

Proposed non-environmental Eligible Activities include site preparation, public roadway, and utility construction, and other infrastructure improvements. Non-environmental Eligible Activities and associated costs are presented in attached Table 2, also broken out separately for the North Parcel and the South Parcel.

Proposed Eligible Activities (environmental and non-environmental) also include preparation and implementation of a Brownfield Plan and preparation of Act 381 Work as referenced in Tables 1 and 2. This Brownfield Plan also provides for capture of tax increment revenues for other costs permitted under Act 381.

2.3 Estimate of Captured Taxable Value and Tax Increment Revenues

The estimated captured taxable value for this redevelopment by year and in aggregate is presented in Table 3. See subsections 2.1.A and 2.1.B above for a more detailed explanation of the assumptions.

No funds will be collected for a local site remediation revolving fund or for administrative expenses.

The initial taxable value for the South Parcel is \$0. With the sale of the South Parcel to Franklin in 2022, the South Parcel will have an estimated taxable value of \$2,625,000 in 2023. The taxable value of the South Parcel in subsequent years is estimated based on an anticipated site development schedule as reflected in Table 3.

2.4 Method of Financing and Description of Advances Made by the Municipality

All tax increment revenues will be collected and disbursed as reimbursements for costs for Eligible Activities in accordance with this Brownfield Plan, any Act 381 Work Plans, and a reimbursement agreement in generally the form attached as Attachment B.

No interest will be paid on any reimbursement.

2.5 Maximum Amount of Note or Bonded Indebtedness

No notes, bonds or other indebtedness will be issued or incurred.

2.6 Duration of Brownfield Plan

This plan will have a term of 35 years. Capture of tax increment revenues will begin in 2023 and is forecasted to end in 2035. Collection of captured tax increment revenues will cease after December 31, 2037.

2.7 Estimated Impact of Tax Increment Financing on Revenues of Taxing Jurisdictions

The taxable value of the Site 36 Property has been \$0 since 2012 due to conveyance to the WBRA in 2011. Thus, there is no detrimental effect from the tax increment financing. Furthermore, although not required under Act 381, 10% of the captured taxable value will be disbursed to the taxing units that levy taxes against Site 36. The redevelopment of Site 36 will generate significant tax revenues beneficial to all taxing units.

2.8 Legal Description, Property Map, Statement of Qualifying Characteristics and Personal Property

Maps and legal descriptions are included in Figure 1. Conditions showing Site to be a facility as defined in Part 201 are provided in subsection 1.2.B above. There is no personal property and it is forecasted that no taxable personal property will be located on Site 36.

2.9 Estimates of Residents and Displacement of Individuals/Families

No individuals will be displaced. There are no residents or other site occupants.

2.10 Plan for Relocation of Displaced Persons

Not applicable. No individuals will be displaced. There are no residents or other site occupants.

2.11 Provisions for Relocation Costs

Not applicable. No individuals will be displaced. There are no residents or other site occupants.

2.12 Strategy for Compliance with Michigan's Relocation Assistance Law

Not applicable. No individuals will be displaced. There are no residents or other site occupants.

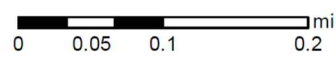
2.13 Other Material that the Authority or Governing Body Considers Pertinent

None.

Figure 1

Maps and Legal Descriptions of the Eligible Property

GIS Satellite View of Property



South Parcel Legal Description

That part of McQueen-Doyle Park No. 1, Wyoming Township, Kent County, Michigan, (now situated in the City of Wyoming), as recorded in Liber 30 of Plats, Page 10, described as: Commencing at a point on the North line of said plat 82.64 feet S 87 degrees 49 minutes 30 seconds East from the Northwest corner of said plat; thence S 87 degrees 49 minutes 30 seconds East 150.0 feet along the North line of said plat, to the East line of Lot 152 of said plat extended North; thence S 0 degrees 02 minutes 30 seconds East 165.15 feet along the East line of said Lot 152 to the Southeast corner of said Lot; thence N 87 degrees 49 minutes 30 seconds West 50 feet along the South line of Lot 152 to the Southwest corner of said Lot; thence S 0 degrees 02 minutes 30 seconds East 30.0 feet along the East line of Lot 146 of said plat; thence S 26 degrees 27 minutes 40 seconds West 111.96 feet to the Southwest corner of said Lot 146; thence S 0 degrees 02 minutes 30 seconds East 16.51 feet to the center line of Floyd Street (33 feet wide); thence N 87 degrees 49 minutes 30 seconds West 132.0 feet to the West line of McQueen-Doyle Park No. 1; thence N 0 degrees 09 minutes 30 seconds West 148.63 feet along the West line of said plat; thence S 87 degrees 49 minutes 30 seconds East 82.29 feet along the North line of Lot 148 of said plat and its Westerly extension to the Northeast corner of said Lot 148; thence N 0 degrees 02 minutes 30 seconds West 165.15 feet along the West line of Lot 150 and its Northerly extension to the place of beginning.

Also, Lot 149 of McQueen-Doyle Park No. 1 and that part of Lots 145, 153, 154 and 155 of McQueen-Doyle Park No. 1 which lies Westerly of a line which is 33 feet West of the centerline of relocated Stafford Avenue as constructed and that part of Lot 146 McQueen-Doyle Park No. 1 lying Westerly of a line which is 33 feet West of the centerline of relocated Stafford Avenue as constructed and which lies Easterly of a line described as follows: Commencing at the Southwest corner of said Lot 146; thence Northeasterly to the East line of said Lot at a point 30 feet South of the Northeast corner of said Lot.

Also, that part of vacated 40th Street lying West of relocated 40th Street and Stafford Avenue.

Also, the West 1/2 of the Northeast 1/4 of Section 24, T6N, R12W, City of Wyoming, Kent County, Michigan, EXCEPT the Conrail Railroad right of way, also excepting a strip of land 40 feet in the width lying West of and adjoining to the centerline of Buchanan Avenue for highway purposes.

Also, Except that part of the West 1/2 of the Northeast 1/4 of Section 24, T6N, R12W, City of Wyoming, Kent County, Michigan, described as: Commencing at the point of intersection of the South line of said West 1/2 of the Northeast 1/4 with the West line of Buchanan Avenue (being 40 feet distant Westerly from the centerline of Buchanan Avenue) said point being 75.28 feet N 87 degrees 49 minutes 30 seconds West from the Southeast corner of said West 1/2 of the Northeast 1/4; thence N 87 degrees 49 minutes 30 seconds West 828.27 feet along the South line of said West 1/2, of the Northeast 1/4; thence N 47 degrees 10 minutes 30 seconds E 46.67 feet to a point 33 feet distant North from the South line of the West 1/2 of the Northeast 1/4; thence S 87 degrees 49 minutes 30 seconds E 695.3 feet; thence Northeasterly 125.8 feet along a 101.8 foot radius curve to the left (the chord of which bears 117.95 feet N 56 degrees 46 minutes 24 seconds East) to said West line of Buchanan Avenue; thence South 101.4 feet along the West line of Buchanan Avenue to the place of beginning.

Also, Except that part of the West 1/2 Northeast 1/4 of Section 24, T6N, R12W, City of Wyoming, Kent County, Michigan, described as: Commencing at the Northeast corner of the West 1/2 Northeast 1/4 of said Section; thence South 33.03 feet along the East line of said West 1/2 Northeast 1/4; thence N 87 degrees 22 minutes West 40.04 feet parallel with the North line of said Section to the Place of Beginning of this description; thence N 87 degrees 22 minutes West 10.0 feet along the South line of 36th Street; thence S 43 degrees 41 minutes East 14.46 feet to a point on the West line of Buchanan Avenue which is 10.0 feet South from the Place of Beginning; thence North 10.0 feet to the Place of Beginning.

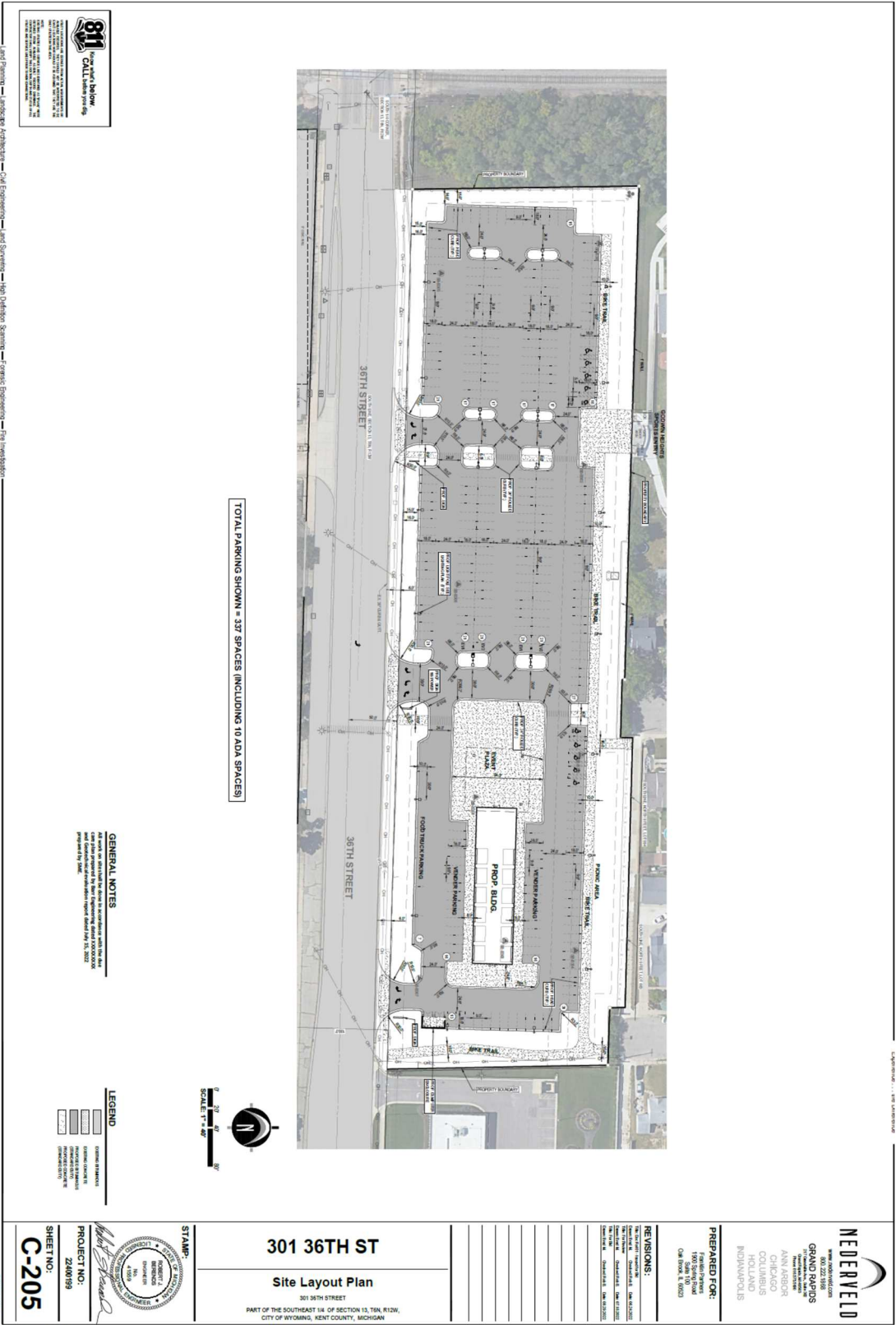
And further Excepting, all that part of the West 1/2 of the Northeast 1/4 of Section 24, T6N, R12W, City of Wyoming, Kent County, Michigan, described as: Commencing at the North 1/4 corner of said Section 24; thence S 88 degrees 04 minutes 34 seconds East 36.85 feet along the North line of said Section to a point of intersection with the East line of the CONRAIL (formerly Pennsylvania R.R. and Penn Central R.R.) right-of-way extended Northerly to said Section line; thence S 0 degrees 32 minutes 11 seconds West 33.03 feet along said Northerly extended railroad right-of-way line to a point which is 33.00 feet South (perpendicular measurement) from the North line of said Section for The Place of Beginning of this description: Thence S 88 degrees 04 minutes 34 seconds East 1239.0 feet parallel with the North line of said Section to a point which is 50.04 feet N 88 degrees 04 minutes 34 seconds West (formerly described as N 87 degrees 22 minutes West) from the East line of the West 1/2 Northeast 1/4 of said Section 24; thence S 44 degrees 23 minutes 58 seconds East 14.47 feet (formerly described as S 43 degrees 41 minutes East 14.46 feet) to the Westerly right-of-way line of Buchanan Avenue (being 40.00 feet perpendicular measurement West from the center line of said Avenue) at a point which is 43.00 feet South perpendicular measurement from the North line of said Section 24; thence S 0 degrees 43 minutes 22 seconds East 37.02 feet along said Westerly right-of-way line of Buchanan Avenue, N 44 degrees 23 minutes 58 seconds West 43.39 feet to a point which is 50.00 feet South (perpendicular measurement) from the North line of said Section 24; thence N 88 degrees 04 minutes 34 seconds West 1219.05 feet parallel with the North line of said Section to the East line of CONRAIL railroad right-of-way; thence N 0 degrees 32 minutes 11 seconds East 17.02 feet along said railroad right-of-way line to the Place of Beginning.

Also together with that part of vacated Buchanan Avenue described as, that part of the West 1/2, Northeast 1/4, Section 24, T6N, R12W, City of Wyoming, Kent County, Michigan, described as: Commencing at the NE corner of said Section 24; thence N 88 degrees 04 minutes 34 seconds West 1323 feet along the North line of said Section 24 to the center line of Buchanan Avenue (South) and also being the so called Northeast corner of said West 1/2, Northeast 1/4; thence S 0 degrees 43 minutes 22 seconds East 512.88 feet along said center line of Buchanan Avenue; thence Southerly 599.97 feet along said center line on a 22,727.58 foot radius curve to the left, the long chord of which bears S 0 degrees 02 minutes 00 seconds West 599.95 feet; thence S 0 degrees 47 minutes 23 seconds West 328.37 feet along said center line; thence N 89 degrees 12 minutes 37 seconds West 40 feet to the West right of way line of Buchanan Avenue to the Place of Beginning of this description; thence S 0 degrees 47 minutes 23 seconds West 272.03 feet along the West right of way line of said Avenue; thence Southerly 206.78 feet along said West right of way line on a 29,932.44 foot radius curve to the left, the long chord of which bears S 0 degrees 35 minutes 31 seconds West 206.78 feet; thence S 89 degrees 58 minutes 46 seconds East 5.71 feet; thence N 0 degrees 01 minutes 14 seconds East 478.78 feet to the Place of Beginning.

North Parcel Legal Description

From City of Wyoming Tax Records:

LOT 883 EX N 9 FT ALSO LOT 884 & 885 ALSO THAT PART OF LOTS 886 TO 891 INCL LYING N OF N LINE OF 36TH ST /100 FT WIDE/ ALSO LOTS 892 & 893 ALSO LOT 894 EX N 9 FT ALSO LOT 922 ALSO THAT PART OF LOT 923 LYING N OF N LINE OF 36TH ST /100 FT WIDE/ ALSO THAT PART OF VACATED PORTION OF HILLCROFT AVE /60 FT WIDE/ DESC AS - COM 249 FT N ALONG E LINE OF SD AVE FROM SW COR OF LOT 891 TH S ALONG SD E LINE TO N LINE OF 36TH ST /100 FT WIDE/ TH W ALONG SD N LINE TO W LINE OF SD VACATED AVE TH N ALONG SD W LINE TO A PT 249 FT N ALONG SD W LINE FROM SE COR OF LOT 923 TH E TO BEG ALSO THAT PART OF VACATED PORTION OF BIRCHWOOD AVE /60 FT WIDE/ DESC AS - COM AT SE COR OF LOT 885 TH N ALONG W LINE OF SD VAC AVE 122 FT TH E TO A PT ON E LINE OF SD VACATED AVE 122 FT N ALONG SD E LINE FROM SW COR OF LOT 842 TH S ALONG E LINE OF SD VACATED ST TO SW COR OF LOT 841 & TO N LINE OF 36TH ST /100 FT WIDE/ TH W ALONG SD N LINE TO W LINE OF SD VACATED ST TH N TO BEG * HOME ACRES NO.2



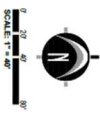
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Land Planning — Landscape Architecture — Civil Engineering — Land Surveying — High Definition Scanning — Traffic Engineering — Fire Investigation

TOTAL PARKING SHOWN = 37 SPACES (INCLUDING 10 ADA SPACES)

GENERAL NOTES
 ALL WORK ON THIS PLAN IS TO BE DONE IN ACCORDANCE WITH THE MICHIGAN DEPARTMENT OF TRANSPORTATION STANDARD SPECIFICATIONS FOR ROAD AND BRIDGE CONSTRUCTION, LATEST EDITION, AND THE MICHIGAN DEPARTMENT OF TRANSPORTATION STANDARD SPECIFICATIONS FOR UTILITIES, LATEST EDITION, AND THE MICHIGAN DEPARTMENT OF TRANSPORTATION STANDARD SPECIFICATIONS FOR SIGNALS, LATEST EDITION, AND THE MICHIGAN DEPARTMENT OF TRANSPORTATION STANDARD SPECIFICATIONS FOR TRAFFIC CONTROL DEVICES, LATEST EDITION, AND THE MICHIGAN DEPARTMENT OF TRANSPORTATION STANDARD SPECIFICATIONS FOR TRAFFIC CONTROL DEVICES, LATEST EDITION, AND THE MICHIGAN DEPARTMENT OF TRANSPORTATION STANDARD SPECIFICATIONS FOR TRAFFIC CONTROL DEVICES, LATEST EDITION.

LEGEND
 [Symbol] EXISTING STRUCTURE
 [Symbol] EXISTING CURB & GUTTER
 [Symbol] EXISTING SIDEWALK
 [Symbol] EXISTING DRIVEWAY
 [Symbol] EXISTING DRIVEWAY CURB



NEDEVELD
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 GRAND RAPIDS
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 CANTON
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 INDIANAPOLIS

PREPARED FOR:
 FISHBURNER
 1000 1/2 MI. N. W. 100
 CANTON, MI 49307

REVISIONS:
 NO. DATE BY
 1 11/15/22 JAS
 2 11/15/22 JAS
 3 11/15/22 JAS

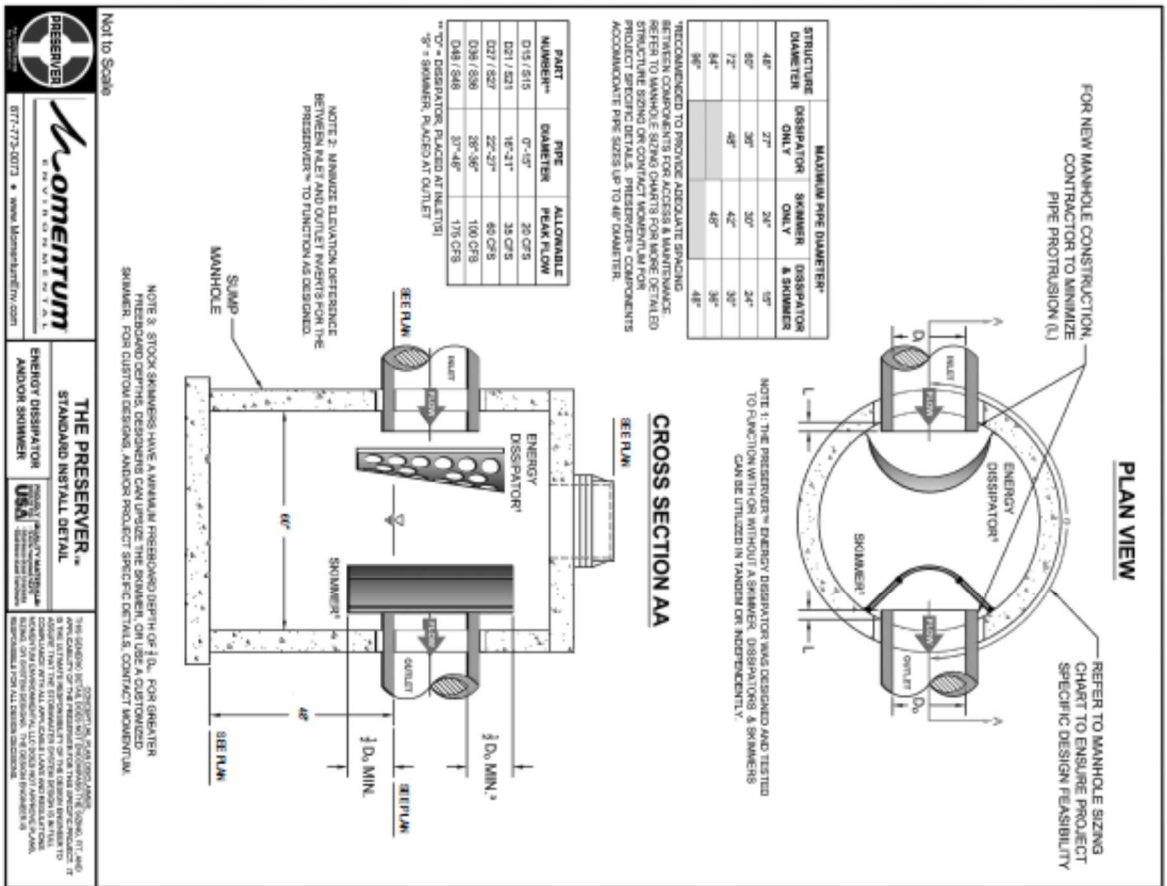
301 36TH ST
Site Layout Plan

301 36TH STREET
 PART OF THE SOUTHEAST 1/4 OF SECTION 13, T6N, R12W,
 CITY OF WYOMING, KENT COUNTY, MICHIGAN

STAMP:
 JAS
 JAS
 JAS

PROJECT NO.:
 Z240199

SHEET NO.:
C-205



**Table 1
Environmental Eligible Activities Cost Estimates**

A: South Parcel (including all 5 development parcels)

Description	Cost Estimate	Notes
Site Preparation		
Staking (including survey)	\$ 62,500	Includes field staking necessary to delineate special restricted areas identified in DRC, such as PCB restricted areas, and environmental "project areas" such as storm basin liner installs and infiltration management liner system installation. See also certain non-environmental staking activities on Table 2.
Dust Control	\$ 75,000	Due to presence of impacted soils. Assumes use of water truck and street sweeping throughout duration of site work.
"Soft costs"		
Design, survey, engineering	\$ 20,625	15% of Environmental site preparation costs
Oversight/Project management	\$ 20,625	15% of Environmental site preparation costs
Environmental Construction Management	\$ 359,738	5% of environmental and non-environmental site preparation costs plus 5% of non-environmental public infrastructure costs; these costs include preparing specific soil relocation documentation required by the DRC.
HASP	\$ 25,000	HASP to cover site prep development work
Environmental Site Prep Total	\$ 563,488	
Pre-Approved Activities per Act 381		
AAI Environmental Due Diligence and BEA	\$ 75,000	Phase I and BEA preparation for 2 of the 5 development parcels
Due Care Plan Preparations	\$ 50,000	Due Care plan preparations and modifications
Due Care Planning	\$ 75,000	Parcel-specific due care planning and assessment (excluding field sampling)
Site investigative work to support due care planning	\$ 150,000	Investigative work to support due care planning and implementation includes soil and groundwater sampling and analysis across all 5 development parcels
Pre-Approved Activities Total	\$ 350,000	
Activities required to comply with Due Care including the DRC Note: Due care planning is pre-approved, but due care implementation is not.		
Activities required to comply with Due Care Plan		
Replacement of pavement with liner system in infiltration management area	\$ 1,136,465	Replacement of deteriorating concrete surface in infiltration management area specified in the DRC with geosynthetic clay liner system (liner, soil cover over liner, and vegetation to stabilize)
Placement of liners in storm basins	\$ 429,226	Lining of stormwater retention basins in each of the 5 development parcels as required by DRC
Sealing of stormwater conveyance structures	\$ 315,000	Specialized sealing and/or booting of stormwater structures and upgrade of piping joints as necessary to seal stormwater conveyances as required to comply with DRC
Dewatering (Pumping of water due to rain or runoff or shallow groundwater)	\$ 250,000	Includes management of dewatering during utility installation inclusive of the periodic use of GAC to address possible PFAS in groundwater
VI mitigation	\$ 3,737,150	Active SSDS installed under each building on each of the 5 development parcels
Mitigation of direct contact exposures	\$ 10,500	Allowance for removal and disposal from areas delineated in DRC as above soil direct contact criteria
Mitigation of PCB exposures	\$ 500,000	Allowance for management of PCB-impacted soil in 2 discrete PCB areas should soils be disturbed or require management to accommodate property use other than in conformance with low occupancy requirements as stipulated in the DRC. Cost estimate assumes the off-site disposal of approximately 2,000 tons of soil at TSCA cell in Belleville MI. Should soils needs to be disturbed or if overlying property use other than low occupancy be applicable, establishment of TSCA-compliant cover systems appropriate to development could reduce these costs. If area is not disturbed or developed for high occupancy property use, no costs will be incurred.
"Soft costs"		
Design, survey, engineering	\$ 637,834	10% of Due Care Activities
Oversight/Project management	\$ 637,834	10% of Due Care Activities
Environmental Construction Management	\$ 293,985	5% of Due Care Activities
HASP	\$ 25,000	Focused on Due Care activities
Due Care Activities Total	\$ 7,980,000	
Environmental Response Activities		
Characterization of soil for landfill disposal	\$ 15,000	Allowance for lab work to characterize soils for disposal acceptance
Soil verification sampling	\$ 15,000	Allowance for lab work to characterize soils post-removal where necessary and appropriate
Unanticipated grossly contaminated soil or USTs/buried containers management	\$ 70,000	Allowance to address unanticipated grossly contaminated soil or USTs or other abandoned containers during site redevelopment
Environmental Response Activity Total	\$ 100,000	
Contingency		
15% of total Environmental (EGLE) amount		
Environmental Contingency Total	\$ 1,297,000	Excludes pre-approved activities
Brownfield Plan Amendment and Work Plan Preparation		
Brownfield Plan and Work Plan		
Total	\$ 30,000	

B: North Parcel¹

Description	Cost Estimate	Notes
Site Preparation		
Dust Control	\$ 10,000	Assumes use of water truck and street sweeping throughout duration of site work.
"Soft costs"		
Design, survey, engineering	\$ 1,500	15% of Environmental site preparation costs
Oversight/Project management	\$ 1,500	15% of Environmental site preparation costs
Environmental Construction Management	\$ 500	5% of environmental and non-environmental site preparation costs plus 5% of non-environmental public infrastructure costs
HASP	\$ 5,000	HASP to cover site prep development work
Environmental Site Prep Total	\$ 18,500	
Pre-Approved Activities		
Due Care Plan Preparations	\$ 10,000	Due Care plan preparations and modifications
Due Care Planning	\$ 10,000	Due care planning and assessment (excluding field sampling)
Site investigative work to support due care planning	\$ 25,000	Investigative work to support due care planning and implementation includes soil and groundwater sampling and analysis throughout the development area
Pre-Approved Activities Total	\$ 45,000	
Activities required to comply with Due Care and DRC		
		Note: Due care planning is pre-approved, but due care implementation is not.
Activities required to comply with Due Care Plan		
Sealing of stormwater conveyance structures	\$ 60,000	Specialized sealing and/or booting of stormwater structures and upgrade of piping joints as necessary to seal stormwater conveyances as required to comply with DRC
Dewatering (Pumping of water due to rain or runoff or shallow groundwater)	\$ 50,000	Includes management of dewatering during utility installation inclusive of the periodic use of GAC to address possible PFAS in groundwater issues
VI mitigation	\$ 61,500	Active SSDS installed under building
"Soft costs"		
Design, survey, engineering	\$ 17,150	10% of Due Care Activities
Oversight/Project management	\$ 17,150	10% of Due Care Activities
Environmental Construction Management	\$ 9,433	5% of Due Care Activities
HASP	\$ 5,000	Focused on Due Care activities
Due Care Activities Total	\$ 230,000	
Environmental Response Activities		
Characterization of soil for landfill disposal	\$ 5,000	Allowance for lab work to characterize soils for disposal acceptance
Soil verification sampling	\$ 5,000	Allowance for lab work to characterize soils post-removal where necessary and appropriate
Unanticipated grossly contaminated soil or USTs/buried containers management	\$ 20,000	Allowance to address unanticipated grossly contaminated soil or USTs or other abandoned containers during site redevelopment
Environmental Response Activity Total	\$ 30,000	
Contingency		
15% of total Environmental (EGLE) amount		
Environmental Contingency Total	\$ 42,000	Excludes pre-approved activities
Brownfield Plan Amendment and Work Plan Preparation		
Brownfield Plan and Work Plan		
Total	\$ 30,000	

TOTAL ENVIRONMENTAL (EGLE) TIF ESTIMATE \$ 10,730,000

¹ Costs for North Parcel are based on Wolverine Building Group proposal dated 2/8/22 and Nederveld, Inc. site plans dated 7/18/22.

**Table 2
Non-Environmental Eligible Activities Cost Estimates**

A: South Parcel (including all 5 development parcels)

Description	Cost Estimate	Notes
Demolition		
Building Demolition	\$ 26,000	Demolition of existing structures
Site Demolition	\$ 500,000	Removal of existing pavement (including crushing for re-use on-site)
Site Preparation		
Staking (including survey)	\$ 62,500	Staking of public utilities and ROW prior to installation and field delineation of restricted areas specified by the DRC. See also certain environmental staking activities on Table 1.
Geotechnical investigation	\$ 157,500	Geotech work for public infrastructure, public roadway, and for each of 5 development parcels.
Clearing/grubbing	\$ -	Assumes that no clearing/grubbing will be needed due to nature of existing surface cover.
Temporary access/security (fencing, traffic control)	\$ 100,000	Access controls assumed to be necessary for each of the 5 development parcels.
Temporary Facilities	\$ 150,000	Job site trailers and porta-johns for all development areas.
Soil Erosion control	\$ 180,000	Soil erosion controls for general construction of public and private infrastructure and environmental "project" areas such as storm basin liner installs and infiltration management liner system installation required by the DRC.
Excavation and management of unsuitable, non-indigenous and/or contaminated materials (Building Footings)	\$ 187,786	Costs for excavation and management of 5 X 5 foot trench for building foundations on all 5 development parcels. Costs assume transportation and disposal, however alternative on-site management costs such as relocation could be covered under this task as appropriate to nature of material and development plans. No costs included for replacement of footing trench soils.
Excavation and management of unsuitable, non-indigenous and/or contaminated materials (Public Utilities and Public Infrastructure)	\$ 442,244	Costs for excavation and management of soils and materials generated during installation of public utilities in ROW and on all 5 development parcels. Costs assume transportation and disposal of 50% of the estimated utility trench volume and re-use of remaining generated soils and materials in utility trench. Alternative on-site management (outside utility trench) such as relocation costs could be covered under this task as appropriate to nature of material and development plans. Costs for replacement of removed soil volumes included below.
Excavation and management of unsuitable, non-indigenous and/or contaminated materials (Private Utilities)	\$ 112,000	Costs for excavation and management of soils and materials generated during installation of private utilities on all 5 development parcels. Costs assume transportation and disposal of 50% of the estimated utility trench volume and re-use of remaining generated soils and materials in utility trench. Alternative on-site management (outside utility trench) such as relocation costs could be covered under this task as appropriate to nature of material and development plans. Costs for replacement of removed soil volumes included below.
Import additional backfill for utilities (public)	\$ 263,241	Backfill and compaction to replace soils from public utility trench that are managed outside the trench. Excludes importation of bedding soils around utility.
Import additional backfill for utilities (private)	\$ 67,000	Backfill and compaction to replace soils from private utility trench that are managed outside the trench. Excludes importation of bedding soils around utility.
Site mass balancing/grading	\$ 380,000	Costs for grading/balancing using existing material.
Solid waste removal	\$ 25,000	Removal and Disposal of commercial and industrial debris, junk, trash existing or as result of potential future illegal dumping.
"Soft costs"		
Design, survey, engineering	\$ 397,991	Assumes 15% of Site Preparation and demo costs outlined above
Oversight/Project management	\$ 397,991	Assumes 15% of Site Preparation and demo costs outlined above
Site Prep plus Demo Total	\$ 3,449,252	
Public Infrastructure		
Curb and Gutter	\$ 125,000	Public ROW only
Lighting	\$ 25,000	Public ROW only
Publicly-owned utilities (e.g. electric)	\$ 168,000	Public ROW only
Roads	\$ 525,000	Public ROW only (grading, 4.5-inch bituminous, 8-inch compacted gravel, 12-inches compacted sand)
Sanitary Sewer Mains	\$ 200,000	Public ROW and elsewhere on-site for public sanitary main installs
Sidewalks	\$ 62,500	Public ROW only
Storm water systems	\$ 945,500	Public ROW and elsewhere on-site for public stormwater main installs (Does not include parcel-specific detention. See Table 1 for stormwater system features/activities required by the DRC)
Water mains	\$ 665,000	Public ROW and elsewhere on-site for public water main installs
Landscaping	\$ 204,000	Public ROW only
"Soft Costs"		
PM/Construction Oversight	\$ 438,000	Assumed 15% of infrastructure improvement costs
Engineering & Design	\$ 150,000	Engineering and design services for Infrastructure improvements
Other	\$ 100,000	General surveying and permit application processes (permit fees excluded)
Public Infrastructure Total	\$ 3,608,000	
Contingency		
15% of total Non-Environmental (MSF) amount		
Total	\$ 1,058,588	
Brownfield Plan Amendment and Work Plan Preparation		
Brownfield Plan and Work Plan	\$ 30,000	

B: North Parcel¹

Description	Cost Estimate	Notes
Demolition		
Building Demolition	\$ -	Demolition of existing structures
Site Demolition	\$ 33,500	Removal of existing pavement (including crushing for re-use on-site). Assumes common mobilization of crusher and equipment as South Parcel site demo
Site Preparation		
Staking (including survey)	\$ 2,500	Staking of public utilities and ROW prior to installation
Geotechnical investigation	\$ 20,000	
Clearing/grubbing	\$ -	Assumes that no clearing/grubbing will be needed due to nature of existing surface cover.
Temporary access/security (fencing, traffic control)	\$ 15,000	Assumes existing fencing can be used with modest modification (i.e. gates, repairs etc.)
Temporary Facilities	\$ 3,000	Job site trailers and porta-johns for all development areas.
Soil Erosion control	\$ 11,500	Soil erosion controls for general construction of public and private infrastructure
Excavation and management of unsuitable, non-indigenous and/or contaminated materials (Building Footings)	\$ 3,296	Costs for excavation and management of 5 foot by five foot trench for building foundation. Costs assume transportation and disposal, however alternative on-site management costs such as relocation could be covered under this task as appropriate to nature of material and development plans. No costs included for replacement of footing trench soils.
Excavation and management of unsuitable, non-indigenous and/or contaminated materials (Public Utilities)	\$ 97,067	Costs for excavation and management of soils and materials generated during installation of public utilities. Costs assume transportation and disposal of 50% of the estimated utility trench volume and re-use of remaining generated soils and materials in utility trench. Alternative on-site management (outside utility trench) such as relocation costs could be covered under this task as appropriate to nature of material and development plans. Costs for replacement of removed soil volumes included below.
Import additional backfill for utilities (public)	\$ 57,778	Backfill to replace soils from public utility trench that are managed outside the trench. Excludes importation of bedding soils around utility.
Site mass balancing/grading	\$ -	
Solid waste removal	\$ 10,000	Removal and Disposal of commercial and industrial debris, junk, trash existing or as result of future illegal dumping.
"Soft costs"		
Design, survey, engineering	\$ 38,046	Assumes 15% of Site Preparation and demo costs outlined above
Oversight/Project management	\$ 38,046	Assumes 15% of Site Preparation and demo costs outlined above
Site Prep plus Demo Total	\$ 330,000	
Public Infrastructure		
Remove existing pavement, fencing, light poles and other existing items not suitable for re-use.	\$ 100,000	Public property
Curb and Gutter	\$ 72,500	Public property
Lighting	\$ 25,000	Public property
Publicly-owned utilities (e.g. electric)	\$ -	Public property
Sanitary Sewer Mains	\$ 65,000	Public property sanitary main installs
Sidewalks	\$ 25,000	Public property
Storm water systems	\$ 237,500	Public stormwater main installs
Water mains	\$ 60,000	Public water main installs
Landscaping	\$ 129,000	Public property
"Soft Costs"		
PM/Construction Oversight	\$ 107,100	Assumed 15% of infrastructure improvement costs
Engineering & Design	\$ 50,000	Engineering and design services for Infrastructure improvements
Other	\$ 20,000	General surveying and permit application processes (permit fees excluded)
Public Infrastructure Total	\$ 800,000	
Contingency		
15% of total Non-Environmental (MSF) amount		
Total	\$ 169,500	
Brownfield Plan Amendment and Work Plan Preparation		
Brownfield Plan and Work Plan	\$ 30,000	
TOTAL NON-ENVIRONMENTAL (MSF) TIF ESTIMATE	\$ 9,480,000	

¹ Costs for North Parcel are based on Wolverine Building Group proposal dated 2/8/22 and Nederveld, Inc. site plans dated 7/18/22.

**Table 3
TIF Table
Tax Capture/Reimbursement Schedule**

Tax Reimbursement Revenue Capture Schedule
 2001-2011
 Warren, Michigan
 October 20, 2021

School District	Millage Rate	Estimated Value (V) Normal Fall: \$/sq. year														
		1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
State Education Trust F	6.0000	-	15,370	15,906	16,506	17,173	17,907	18,707	19,573	20,506	21,506	22,573	23,707	24,907	26,173	27,506
School Operating Exp	11.0000	-	47,250	47,723	48,219	48,737	49,276	49,836	50,417	51,019	51,643	52,289	52,957	53,646	54,356	55,087
School Total	24.0000	-	\$ 65,000	\$ 65,630	\$ 66,630	\$ 67,860	\$ 69,323	\$ 71,023	\$ 72,860	\$ 74,836	\$ 76,957	\$ 79,219	\$ 81,623	\$ 84,173	\$ 86,873	\$ 89,719
Level Capture	Millage Rate	-	\$ 20,619	\$ 21,117	\$ 21,723	\$ 22,346	\$ 23,000	\$ 23,683	\$ 24,396	\$ 25,139	\$ 25,923	\$ 26,746	\$ 27,607	\$ 28,507	\$ 29,446	\$ 30,423
City	11.7000	-	23,619	24,117	24,723	25,346	26,000	26,683	27,396	28,139	28,923	29,746	30,607	31,507	32,446	33,423
Library	1.2000	-	5,277	5,310	5,350	5,390	5,430	5,470	5,510	5,550	5,590	5,630	5,670	5,710	5,750	5,790
Inventory Bond (Port/Hib)	4.1000	-	5,796	5,796	5,796	5,796	5,796	5,796	5,796	5,796	5,796	5,796	5,796	5,796	5,796	5,796
Inventory Absentee/Charter	4.1500	-	10,566	11,095	11,666	12,276	12,923	13,607	14,326	15,080	15,869	16,693	17,551	18,443	19,369	20,329
County Bond (Hib)	0.2000	-	2,000	2,017	2,034	2,051	2,068	2,085	2,102	2,119	2,136	2,153	2,170	2,187	2,204	2,221
County Water	0.0800	-	1,711	1,734	1,757	1,780	1,803	1,826	1,849	1,872	1,895	1,918	1,941	1,964	1,987	2,010
County Sewer (Hib)	0.0400	-	841	841	841	841	841	841	841	841	841	841	841	841	841	841
County Water/Wastewater	0.4300	-	1,119	1,130	1,141	1,152	1,163	1,174	1,185	1,196	1,207	1,218	1,229	1,240	1,251	1,262
County Sewer in Fee	0.2000	-	641	641	641	641	641	641	641	641	641	641	641	641	641	641
County Absentee/Charter	0.0600	-	328	328	328	328	328	328	328	328	328	328	328	328	328	328
County Bond/Local Education	4.4000	-	11,732	11,732	11,732	11,732	11,732	11,732	11,732	11,732	11,732	11,732	11,732	11,732	11,732	11,732
County Water/Local Education	0.2500	-	2,219	2,244	2,269	2,294	2,319	2,344	2,369	2,394	2,419	2,444	2,469	2,494	2,519	2,544
Level Total	28.0000	-	\$ 69,479	\$ 69,864	\$ 70,249	\$ 70,634	\$ 71,019	\$ 71,404	\$ 71,789	\$ 72,174	\$ 72,559	\$ 72,944	\$ 73,329	\$ 73,714	\$ 74,099	\$ 74,484
Non-Capexible Millage	Millage Rate	-	\$ 15,440	\$ 15,574	\$ 15,708	\$ 15,842	\$ 15,976	\$ 16,110	\$ 16,244	\$ 16,378	\$ 16,512	\$ 16,646	\$ 16,780	\$ 16,914	\$ 17,048	\$ 17,182
School District	5.1700	-	15,440	15,574	15,708	15,842	15,976	16,110	16,244	16,378	16,512	16,646	16,780	16,914	17,048	17,182
Non-Capexible Mill 2	0.0000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Non-Capexible Mill 3	0.0000	-	-	-	-	-	-	-	-	-	-	-	-	-	-	-
Total Non-Capexible Taxes	5.1700	-	\$ 15,440	\$ 15,574	\$ 15,708	\$ 15,842	\$ 15,976	\$ 16,110	\$ 16,244	\$ 16,378	\$ 16,512	\$ 16,646	\$ 16,780	\$ 16,914	\$ 17,048	\$ 17,182
Total Tax Reimbursement Revenue (TR) Available for Capture	-	\$ 111,979	\$ 113,794	\$ 115,609	\$ 117,424	\$ 119,239	\$ 121,054	\$ 122,869	\$ 124,684	\$ 126,499	\$ 128,314	\$ 130,129	\$ 131,944	\$ 133,759	\$ 135,574	\$ 137,389

Warren, Michigan
 October 20, 2021

For Revenue Based on Withdrawal Allocation Table
 09/23/22
 2001 2001 2001 21 20
 10/1/2022 10/1/2022 10/1/2022 10/1/2022
 10/1/2022 10/1/2022 10/1/2022 10/1/2022

Developer	Reimbursement	Proportionality	School & Local Taxes	Local Only Taxes	Total
State		\$ 9,013,290	\$ -	\$ -	\$ 9,013,290
Local		\$ 11,196,791	\$ -	\$ -	\$ 11,196,791
TOTAL		\$ 20,210,081	\$ -	\$ -	\$ 20,210,081
EDGE		\$ 10,290,000	\$ -	\$ -	\$ 10,290,000
MSE		\$ 9,920,000	\$ -	\$ -	\$ 9,920,000

Estimated Total
Years of Pledge: 23

Estimated Capital
 Alternative 1: \$ 20,210,081
 State Bonded Redevelopment \$ 1,287,006
 Local Bonded Redevelopment \$ -

	2022	2023	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	TOTAL
Total State Bonded Revenue **	\$ -	\$ 96,700	\$ 57,267	\$ 381,267	\$ 318,030	\$ 709,030	\$ 716,170	\$ 1,010,170	\$ 1,090,572	\$ 1,390,000	\$ 1,363,500	\$ 1,377,195	\$ 1,390,906	\$ 1,378,863	\$ 42,2497	\$ 10,300,085
State Bonded Redevelopment fund (50% of SET)	\$ -	\$ 7,688	\$ 7,158	\$ 47,658	\$ 40,680	\$ 88,635	\$ 89,521	\$ 1,300,211	\$ 1,311,322	\$ 1,681,750	\$ 1,704,588	\$ 1,721,142	\$ 1,735,863	\$ 1,718,863	\$ 52,875	\$ 1,287,006
State TRM Available for Redevelopment	\$ -	\$ 49,012	\$ 30,109	\$ 303,609	\$ 378,350	\$ 620,395	\$ 626,649	\$ 910,459	\$ 978,250	\$ 1,311,250	\$ 1,299,013	\$ 1,306,053	\$ 1,317,043	\$ 1,312,222	\$ 370,122	\$ 9,013,290
Total Local Redevelopment Revenue **	\$ -	\$ 61,611	\$ 62,308	\$ 414,628	\$ 418,372	\$ 770,752	\$ 779,659	\$ 1,130,639	\$ 1,141,946	\$ 1,467,416	\$ 1,480,290	\$ 1,496,911	\$ 1,511,880	\$ 1,512,800	\$ 45,747	\$ 11,196,791
91A Available for Redevelopment	\$ -	\$ -	\$ 62,308	\$ 414,628	\$ 418,372	\$ 770,752	\$ 779,659	\$ 1,130,639	\$ 1,141,946	\$ 1,467,416	\$ 1,480,290	\$ 1,496,911	\$ 1,511,880	\$ 1,512,800	\$ 45,747	\$ 11,196,791
Total State & Local TRM Available	\$ -	\$ 111,308	\$ 112,308	\$ 798,016	\$ 796,744	\$ 1,540,847	\$ 1,546,019	\$ 2,140,819	\$ 2,232,518	\$ 2,857,416	\$ 2,773,793	\$ 2,792,964	\$ 2,793,923	\$ 2,793,923	\$ 423,869	\$ 20,210,081
DEVELOPER																
EDGE		\$ 4,000,000	\$ 20,000,750	\$ 19,999,000	\$ 19,999,000	\$ 19,999,000	\$ 19,999,000	\$ 19,999,000	\$ 19,999,000	\$ 19,999,000	\$ 19,999,000	\$ 19,999,000	\$ 19,999,000	\$ 19,999,000	\$ 19,999,000	\$ 19,999,000
MSE		\$ 2,500,000	\$ 3,400,000	\$ 3,400,000	\$ 3,400,000	\$ 3,400,000	\$ 3,400,000	\$ 3,400,000	\$ 3,400,000	\$ 3,400,000	\$ 3,400,000	\$ 3,400,000	\$ 3,400,000	\$ 3,400,000	\$ 3,400,000	\$ 3,400,000
Total TRM		\$ 6,500,000	\$ 23,400,750	\$ 23,399,000	\$ 23,399,000	\$ 23,399,000	\$ 23,399,000	\$ 23,399,000	\$ 23,399,000	\$ 23,399,000	\$ 23,399,000	\$ 23,399,000	\$ 23,399,000	\$ 23,399,000	\$ 23,399,000	\$ 23,399,000
EDGE Environmental Costs ***	\$ -	\$ 2,500,000	\$ 2,500,750	\$ 2,500,000	\$ 2,500,000	\$ 2,500,000	\$ 2,500,000	\$ 2,500,000	\$ 2,500,000	\$ 2,500,000	\$ 2,500,000	\$ 2,500,000	\$ 2,500,000	\$ 2,500,000	\$ 2,500,000	\$ 2,500,000
State TRM Redevelopment	\$ -	\$ 49,012	\$ 30,109	\$ 303,609	\$ 378,350	\$ 620,395	\$ 626,649	\$ 910,459	\$ 978,250	\$ 1,311,250	\$ 1,299,013	\$ 1,306,053	\$ 1,317,043	\$ 1,312,222	\$ 370,122	\$ 9,013,290
Local TRM Redevelopment	\$ -	\$ 61,611	\$ 62,308	\$ 414,628	\$ 418,372	\$ 770,752	\$ 779,659	\$ 1,130,639	\$ 1,141,946	\$ 1,467,416	\$ 1,480,290	\$ 1,496,911	\$ 1,511,880	\$ 1,512,800	\$ 45,747	\$ 11,196,791
Total LOCAL TRM Redevelopment Balance	\$ -	\$ 123,223	\$ 92,417	\$ 719,237	\$ 736,742	\$ 1,391,147	\$ 1,406,308	\$ 2,041,098	\$ 2,082,196	\$ 2,778,666	\$ 2,779,303	\$ 2,792,964	\$ 2,793,923	\$ 2,793,923	\$ 423,869	\$ 20,210,081
EDGE Environmental Costs ***	\$ -	\$ 2,500,000	\$ 2,500,750	\$ 2,500,000	\$ 2,500,000	\$ 2,500,000	\$ 2,500,000	\$ 2,500,000	\$ 2,500,000	\$ 2,500,000	\$ 2,500,000	\$ 2,500,000	\$ 2,500,000	\$ 2,500,000	\$ 2,500,000	\$ 2,500,000
State TRM Redevelopment	\$ -	\$ 49,012	\$ 30,109	\$ 303,609	\$ 378,350	\$ 620,395	\$ 626,649	\$ 910,459	\$ 978,250	\$ 1,311,250	\$ 1,299,013	\$ 1,306,053	\$ 1,317,043	\$ 1,312,222	\$ 370,122	\$ 9,013,290
Local TRM Redevelopment	\$ -	\$ 61,611	\$ 62,308	\$ 414,628	\$ 418,372	\$ 770,752	\$ 779,659	\$ 1,130,639	\$ 1,141,946	\$ 1,467,416	\$ 1,480,290	\$ 1,496,911	\$ 1,511,880	\$ 1,512,800	\$ 45,747	\$ 11,196,791
Total LOCAL TRM Redevelopment Balance	\$ -	\$ 110,623	\$ 92,417	\$ 718,237	\$ 736,742	\$ 1,391,147	\$ 1,406,308	\$ 2,041,098	\$ 2,082,196	\$ 2,778,666	\$ 2,779,303	\$ 2,792,964	\$ 2,793,923	\$ 2,793,923	\$ 423,869	\$ 20,210,081
Local Only Cash	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Local TRM Redevelopment Balance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total Local Only TRM Redevelopment Balance	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total Annual Withdrawal Redevelopment	\$ -	\$ 112,308	\$ 112,308	\$ 798,016	\$ 796,744	\$ 1,540,847	\$ 1,546,019	\$ 2,140,819	\$ 2,232,518	\$ 2,857,416	\$ 2,773,793	\$ 2,792,964	\$ 2,793,923	\$ 2,793,923	\$ 423,869	\$ 20,210,081
LOCAL BROWNFIELD REVOLVING FUND																
LIBR Deposits *	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Local Tax Capital A	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Local Tax Capital B	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Total LIBR Capital	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

*** Up to five years of capital for LIBR Deposits after eligible withdrawal over and may be taken from EDGE & Local TRM only.
 ** Only 50% will be applied. 50% will be disbursed to taxing units on a pro rata basis.
 *** Assumed interest costs will be incurred by the end of 2024.

Attachment A

Brownfield Plan Resolutions and Public Hearing Notice

**BOARD OF DIRECTORS
CITY OF WYOMING BROWNFIELD REDEVELOPMENT AUTHORITY**

At a meeting of the Board of Directors of the Wyoming Brownfield Redevelopment Authority (**WBRA**) held at 4:00 p.m., local time, on Monday, October 24, 2022 in the [redacted] Conference Room, Wyoming City Hall, 1155 28th St SW, Wyoming, Michigan:

Board members present: _____

Board members absent: _____

Board member _____, supported by board member _____, moved approval of the following resolution:

RESOLUTION NO. _____

**RESOLUTION APPROVING AND RECOMMENDING CITY COUNCIL APPROVAL OF
BROWNFIELD PLAN FOR SITE 36**

WHEREAS:

1. **Site 36** is comprised of two parcels, the approximately 75-acre South Parcel lying south of 36th St SW, 300 36th St SW, parcel # 41-17-24-201-007, owned by Franklin Site 36, LLC and the approximately 5-acre North Parcel, across 36th St SW from the South parcel, 301 36th St SW, parcel # 41-17-13-455-052, owned by WBRA, legal descriptions and site maps for which are attached as Table 1 to the Brownfield Plan (defined below).
2. The brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 *et seq.* (**Act 381**) provides for reimbursement of costs of conducting eligible activities on eligible property from tax increment revenues captured from the development of a project on a site in accordance with a brownfield plan and, if educational taxes are to be captured, an Act 381 work plan approved by the Michigan Department of Environment, Great Lakes, and Energy and/or the Michigan Strategic Fund/Michigan Economic Development Corporation.
3. Site 36 is “eligible property” as defined in Act 381 because it is a “facility” as defined in Part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 *et seq.* (**Part 201**) due to the presence of contaminants in its soils and groundwater that exceed applicable residential criteria under Part 201.
4. A proposed brownfield plan has been prepared for Site 36 that complies with the requirements in Act 381 and provides for reimbursement of costs of conducting eligible activities on Site 36 in accordance with Act 381 that are approved in the future by this body and then subsequently approved by the EGLE and/or MSF/MEDC (the **Brownfield Plan**).

NOW, THEREFORE, BE IT RESOLVED THAT:

1. This Board makes the following determinations:
 - A. The proposed brownfield plan constitutes a public purpose under Act 381 because it provides for addressing environmental contamination to accommodate redevelopment and reuse of Site 36.
 - B. The proposed brownfield plan meets the requirements of sections 13 and 13b of Act 381, MCL 125.2263 and 125.263b.
 - C. The proposed method of financing the costs of eligible activities in the proposed brownfield plan is feasible and the WBRA has the ability to carry it out.
 - D. The proposed costs of eligible activities in the proposed brownfield plan are reasonable and necessary to carry out the purposes of Act 381.
 - E. The amount of captured taxable value (and resulting tax increment revenues) estimated in the

proposed plan are reasonable.

2. This Board approves and recommends the City Council approve the proposed plan, subject to such changes as are approved by the city attorney and city community and economic development director, following a public hearing, notice of which is given at least 10 days before the hearing as provided in Act 381.
3. All resolutions and parts of resolutions that conflict with this resolution are rescinded.

Motion Carried Yes _____
No _____

I certify that this resolution was adopted by the Board of Directors of the City of Wyoming Brownfield Redevelopment Authority at a meeting held on October 24, 2022.

Date: _____, 2022

Nicole Hofert, Secretary
City of Wyoming Brownfield Redevelopment
Authority

**CITY COUNCIL
CITY OF WYOMING, MICHIGAN**

**NOTICE OF PUBLIC HEARING
ON A
PROPOSED BROWNFIELD PLAN
FOR THE
SITE 36 PROJECT, 300 AND 301 36TH ST SW, WYOMING, MICHIGAN**

The City Council of the City of Wyoming, Michigan will hold a public hearing at 7:01 p.m. on Monday, November 21, 2022, in the City Council Chambers, Wyoming City Hall, 1155 28th St SW, Wyoming, MI 49509, before considering approval of a brownfield plan for the Site 36 Project, pursuant to the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 *et seq.* The proposed brownfield property is comprised of two parcels, the approximately 75-acre South Parcel lying south of 36th St SW, 300 36th St SW, parcel # 41-17-24-201-007, owned by Developer and the approximately 5-acre North Parcel, across 36th St SW from the South parcel, 301 36th St SW, parcel # 41-17-13-455-052, owned by City of Wyoming Brownfield Redevelopment Authority.

The proposed brownfield plan, maps and other documents related to the proposed brownfield plan are available for public inspection in the office of the Wyoming City Clerk, 1155 28th St SW, Wyoming, MI 49509 or online at: _____.

All aspects of the proposed plan are open for discussion at the public hearing. All interested persons will have the opportunity to be heard. All written communications concerning the plan will be accepted at that hearing and considered. Copies of written communications submitted to the Wyoming City Clerk by 4:30 p.m. on the day of the public hearing will be distributed to all Wyoming City Council Members before the hearing.

Kelli A. VandenBerg, City Clerk

Requirements for notice:

Not less than 10 days before the hearing on the brownfield plan, the governing body shall provide notice of the hearing to the taxing jurisdictions that levy taxes subject to capture under this act. The authority shall notify the taxing jurisdictions of the proposed brownfield plan. At that hearing, an official from a taxing jurisdiction with millage that would be subject to capture under this act has the right to be heard in regard to the adoption of the brownfield plan. Not less than 10 days before the hearing on the brownfield plan, the governing body shall provide notice of the hearing to the department if the brownfield plan involves the use of taxes levied for school operating purposes to pay for eligible activities that require the approval of a combined brownfield plan or a work plan by the department under section 13b(6)(c) and the Michigan strategic fund, or its designee, if the brownfield plan involves the use of taxes levied for school operating purposes to pay for eligible activities subject to section 13b(4).

**CITY COUNCIL
CITY OF WYOMING, MICHIGAN**

At its regular meeting held at 7:00 p.m., local time, on Monday, November 21, 2022, in the City Council Chambers, Wyoming City Hall, 1155 28th St SW, Wyoming, Michigan, the City Council of the City of Wyoming, Michigan:

Council Members present: _____

Council Members absent: _____

Council Member _____, supported by Council Member _____, moved approval of the following resolution:

RESOLUTION NO. ____

RESOLUTION APPROVING BROWNFIELD PLAN AND REIMBURSEMENT AGREEMENT FOR
SITE 36 PROJECT

WHEREAS:

1. **Site 36** is comprised of two parcels, the approximately 75-acre **South Parcel** lying south of 36th St SW, 300 36th St SW, parcel # 41-17-24-201-007, owned by Franklin Site 36, LLC (**Developer**) and the approximately 5-acre North Parcel, across 36th St SW from the South parcel, 301 36th St SW, parcel # 41-17-13-455-052, owned by City of Wyoming Brownfield Redevelopment Authority (**WBRA**).
2. The brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 *et seq.* (**Act 381**) provides for reimbursement of costs of conducting eligible activities on eligible property from tax increment revenues captured from the development of a project on a site in accordance with a brownfield plan and, if educational taxes are to be captured, an Act 381 work plan approved by the Michigan Department of Environment, Great Lakes, and Energy (**EGLE**) and/or the Michigan Strategic Fund/Michigan Economic Development Corporation (**MSF/MEDC**).
3. Site 36 is “eligible property” as defined in Act 381 because it is a “facility” as defined in Part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 *et seq.* (**Part 201**) due to the presence of contaminants in its soils and groundwater that exceed applicable residential criteria under Part 201.
4. A proposed brownfield plan, a copy of which is attached as Exhibit A, has been prepared for Site 36 that complies with the requirements in Act 381 and provides for reimbursement of costs of conducting eligible activities on Site 36 in accordance with Act 381 that are approved in the future by this body and then subsequently approved by the EGLE and/or MSF/MEDC (the **Brownfield Plan**).
5. The WBRA Board of Directors recommended that the City Council approve the Brownfield Plan on October 24, 2022.
6. The City Council held a public hearing prior to considering the Brownfield Plan, notice of which was provided as required by Act 381 and at which all aspects of the proposed brownfield plan were open for discussion.
7. The City Council considered all oral comments made at the public hearing and considered all written communications submitted before or during the public hearing.
8. The Brownfield Plan calls for a reimbursement agreement among the Developer, the WBRA, and the City which the WBRA Board of Directors approved in the form attached as an exhibit to the Brownfield Plan (the **proposed reimbursement agreement**) on October 24, 2022.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. This City Council makes the following determinations:
 - A. The Brownfield Plan constitutes a public purpose under Act 381 because it provides for addressing environmental contamination to accommodate redevelopment and reuse of Site 36.
 - B. The Brownfield Plan meets the requirements of sections 13 and 13b of Act 381, MCL 125. 2263 and 125.263b.

C. The proposed method of financing the costs of eligible activities in the Brownfield Plan is feasible and the WBRA has the ability to carry it out.

D. The proposed costs of eligible activities in the proposed plan are reasonable and necessary to carry out the purposes of Act 381 to the extent those possible eligible activities are later determined necessary or prudent to develop Site 36.

E. The amount of captured taxable value (and resulting tax increment revenues) estimated in the Brownfield Plan are reasonable.

2. The City Council approves the Brownfield Plan and the proposed reimbursement agreement and authorizes and directs all city officers, employees, boards and commissions, including the WBRA, to fully implement the approved plan and reimbursement agreement in accordance with Act 381 and their respective terms.

3. All resolutions and parts of resolutions that conflict with this resolution are rescinded.

Motion Carried Yes _____

No _____

I certify that this resolution was adopted by the City Council of the City of Wyoming, Michigan at a meeting held on November 21, 2022.

Date: November __, 2022

Kelli A. Vandenberg, City Clerk

**CITY COUNCIL RESOLUTION
EXHIBIT A
SITE 36 BROWNFIELD PLAN**

Attachment B

BROWNFIELD REIMBURSEMENT AGREEMENT **(SITE 36 PROJECT)**

This Brownfield Reimbursement Agreement (**Agreement**) is made as of November __, 2022, among the City of Wyoming, a Michigan municipal corporation (**City**) and the City of Wyoming Brownfield Redevelopment Authority, a public body corporate (**WBRA**), the address of both of which is 1155 28th St SW, Wyoming, MI 49509, Attention: Planning and Economic Development Director, with a copy to City Attorney, and Franklin Site 36, LLC, a Michigan limited liability company whose address is 1900 Spring Rd, Ste 100, Oakbrook, IL 60523-14787, Attention: Don Shoemaker, Managing Member (**Developer**).

RECITALS

A. **Site 36** is comprised of two parcels, the approximately 75-acre **South Parcel** lying south of 36th St SW, 300 36th St SW, parcel # 41-17-24-201-007, owned by Developer and the approximately 5-acre **North Parcel**, across 36th St SW from the South Parcel, 301 36th St SW, parcel # 41-17-13-455-052, owned by WBRA, legal descriptions and site maps for which are attached as Table 1 to the Brownfield Plan (defined below).

B. On October 24, 2022, WBRA recommended approval of and, on November 21, 2022, City approved a brownfield plan prepared pursuant to the brownfield redevelopment financing act, 1996 PA 381, MCL 125.2651 *et seq.* (**Act 381**), that provides for reimbursements from captured tax increment revenues generated from the sale and redevelopment of the South Parcel of costs incurred by parties for environmental and non-environmental Eligible Activities (as defined in the Brownfield Plan) undertaken pursuant to work plans approved by the Michigan Department of Environment Great Lakes and Energy (**EGLE**) and/or the Michigan Strategic Fund/Michigan Economic Development Corporation (**MSF/MEDC**) after (following recommendations from City's community and economic development director and city attorney) WBRA approval (**Act 381 Work Plans**).

C. Site 36 is "eligible property" as defined in Act 381 because it is a "facility" as defined in Part 201 of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101 *et seq.* (**Part 201**) due to the presence of contaminants in its soils and groundwater that exceed applicable residential criteria under Part 201, under the terms of a Declaration of Restrictive Covenant dated March 3, 2017, and recorded on August 30, 2017, with the Kent County, Michigan Register of Deeds at 20170831-0073657, and based on a restricted regulatory closure under Part 201 affirmed by EGLE pursuant to a No Further Action Letter dated March 13, 2018.

D. The parties are entering into this Agreement pursuant to and to implement the Brownfield Plan.

TERMS AND CONDITIONS

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

1. Reimbursements. Reimbursements to any of the parties for the costs of Eligible Activities on either the North Parcel or South Parcel shall be made in compliance with the limitations, requirements, and prioritizations in the Brownfield Plan and further subject to the following:

A. Reimbursements will be made only from **Net Tax Increment Revenues** as defined in the Brownfield Plan.

B. Reimbursements will be made only for costs of Eligible Activities undertaken in furtherance of the redevelopment of Site 36 as described in the Brownfield Plan and conducted in conformance with one or more Act 381 Work Plans.

C. Reimbursements from Net Tax Increment Revenues will be allocated and prioritized as provided in the Brownfield Plan and in accordance with this Agreement.

D. Requests for reimbursement shall include the following documentation:

1. Reference to the approved Act 381 Work Plan that includes the Eligible Activities for which reimbursement is sought.
2. A written statement detailing the costs of Eligible Activities.

3. A written explanation as to why reimbursement is appropriate under the Brownfield Plan, the Act 381 Work Plan, and this Agreement.
4. Copies of invoices from the consultants, contractors, engineers, attorneys, or others who provided services relating to the costs of Eligible Activities. Invoices for services completed for hourly rates shall include detailed time records for costs of Eligible Activities.
5. Detailed time records and pay rates for any Eligible Activities performed by Developer's personnel.
6. Copies of waivers of liens by the contractors, subcontractors, and material suppliers.
7. Copies of the contract with the contractor or supplier providing the services or supplies for which reimbursement is sought.
8. A statement from the engineer or project manager overseeing the work recommending payment.
9. Proof that the party requesting reimbursement has paid the costs for which reimbursement is sought.
10. Any other information which may be required by state authorities or reasonably required by WBRA.

F. Within 45 days of its receipt of documentation required under the preceding subsection C, WBRA shall review the reimbursement request and supporting documentation and determine whether (i) all the costs are costs for Eligible Activities (ii) all required documentation has been provided, (iii) all costs and all Eligible Activities comply with the Brownfield Plan and Act 381 Work Plan, (iv) all costs are accurately accounted for (*i.e.*, there are not mathematical errors, misplaced decimal points, omitted or duplicated line items, etc.), and (v) there are Net Tax Incremental Revenues from which to make the reimbursement in accordance with the Brownfield Plan and this Agreement.

1. If WBRA determines that the reimbursement request meets the criteria stated above, WBRA shall pay the reimbursement as provided below.
2. If WBRA believes that any part of the reimbursement request does not meet the above criteria, WBRA shall notify requesting party in writing of WBRA's determination and the reasons for that determination. The party requesting reimbursement shall have 30 days to address WBRA's determination. The party requesting reimbursement may meet with WBRA's representatives or, if the WBRA Board consents, meet with WBRA's Board to address questions WBRA's determination.
3. If WBRA and the party requesting reimbursement do not resolve the disputed request for reimbursement as provided in the preceding subsection 2, the disputed items shall be resolved by an independent knowledgeable professional chosen by mutual agreement of the parties. If WBRA and the party requesting reimbursement are unable to agree upon a knowledgeable professional, then WBRA shall choose an independent knowledgeable professional and the party requesting reimbursement shall choose an independent knowledgeable professional to review WBRA's decision. If and to the extent that the two knowledgeable professionals so selected agree that disputed items submitted in the reimbursement request properly documented and accurate costs of Eligible Activities in conformance with this Agreement and the Brownfield Plan, then Developer shall be reimbursed those costs in accordance with this Agreement. The fees for the professionals contemplated by this paragraph shall be reimbursed with Net Tax Incremental Revenues. Regardless of any other provision in this Agreement, any cost that EGLE and/or MSF/MEDC determines in its review and approval of an Act 318 work plan not to be a cost of an Eligible Activity or not in conformance with the Brownfield Plan, the Act 381 Work Plan, or Act 381 will not be reimbursed to any party.

E. Reimbursements will normally be made once annually following collection of the winter tax bill (*i.e.*, in March or April of a year following receipt of taxes levied in the preceding year).

- F. Reimbursement obligations under this Agreement will terminate upon the earliest of any of the following:
1. All Net Tax Incremental Revenues collected or to be collected in compliance with the Brownfield Plan have been expended.
 2. All costs of Eligible Activities conducted in accordance with (i) the Brownfield Plan and (ii) Act 381 Work Plans have been fully paid.

3. Expiration, termination, or abolition of the Brownfield Plan.
4. Reimbursements have been made totaling the maximum aggregate amount of reimbursements stated in the Brownfield Plan.
5. Expiration or termination of this Agreement.
6. If the obligation is to reimburse Developer, any of the following occurs:
 - a. On or before December 31, 2027, the South Parcel is not occupied by an occupant of one or more industrial facility(ies) constructed after the date of this Agreement that total at least 50,000 square feet of occupied and operational indoor area.
 - b. Developer terminates its existence or fails to file documents required to do business in Michigan.
 - c. The South Parcel is put into the control of a receiver or Developer files for bankruptcy or dissolution.

2. Indemnification. Developer shall defend, indemnify, and hold City and WBRA, and their directors, officers, employees, agents and representatives (**Indemnified Persons**) harmless from any loss, expense (including reasonable attorney fees) or liability due to demands, claims, lawsuits, actions, civil or administrative proceedings, judgments, awards, or other losses arising from injuries to persons or property as a result of the as a result of the acts or omissions of Developer, or Developer's officers, directors, employees, agents, contractors, or subcontractors related to Developer's ownership, operation, use or maintenance of the South Parcel during the term of this Agreement, except to the extent resulting from the negligence or actions of any of the Indemnified Persons.

3. Term. This Agreement shall terminate upon the earlier of (i) when all reimbursements required under this Agreement have been made, (ii) expiration of the obligation to make such reimbursements, (iii) expiration, termination or abolition of the Brownfield Plan, or (iv) December 21, 2042.

4. General Provisions.

A. A notice, request or other communication to any party pursuant to this Agreement shall be in writing and shall be deemed given when (i) delivered personally, (ii) when actually delivered by FedEx, UPS or similar delivery service, (iii) when delivered and acknowledged by e-mail, or (iv) 14 days after mailing by first class UPPS mail to another party at the addresses first set forth above, unless the other party has designated in writing a different address for the serving of notices by a notice given in compliance with this subsection.

B. This Agreement is the entire agreement between the parties as to its subject matter. It cannot be amended or modified except in writing signed by all the parties. It shall not be affected by any course of dealing and the waiver of any breach shall not constitute a waiver of any subsequent breach of the same or any other provision. The captions are for reference only and shall not affect the interpretation of this Agreement. However, the recitals are an integral part of this Agreement.

C. No delay on the part of any party in the exercise of any right or remedy shall operate as a waiver of such right or any other right; a waiver on any one occasion shall not be construed as a bar to or waiver of any subsequent breach of the same or any other provision of this Agreement on a future occasion.

D. This Agreement may be executed in any number of counterparts, each of which, when so executed and delivered, shall be deemed to be an original, but all such counterparts taken together shall constitute but one and the same Agreement.

E. This Agreement and the rights and obligations under this Agreement are unassignable and nontransferable without the consent of the other parties which shall not be unreasonably withheld, conditioned, or delayed. This Agreement shall be binding upon any successors or permitted assigns of the parties. This Agreement shall be enforceable only by the parties and no other person shall have a right to enforce any provision contained herein.

F. This Agreement and rights and obligations of the parties under this Agreement shall be governed by and interpreted under the Michigan law. To the extent permitted by law, the jurisdiction and venue for any action brought pursuant to, arising from or to enforce any provision of this Agreement shall be solely in the

state courts in Kent County, Michigan and the prevailing party in any such action shall, in addition to any other remedy, be entitled to recover its costs, including, 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 for its first accrual or first notice thereof through all appellate and collection proceedings.

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

City of Wyoming

By: _____
Sam Bolt, Mayor Pro Tem

By: _____
Kelli Vandenberg, City Clerk

Date signed: November __, 2022

Approved as to form:

Scott G. Smith, City Attorney

City of Wyoming Brownfield Redevelopment Authority

By: _____
Tom Brann, Chair

By: _____
Nicole Hofert, Secretary

Date signed: November __, 2022

Franklin Site 36 LLC

By: _____
Don Shoemaker, Manager

Date signed: November __, 2022

**Attachment C
Declaration of Restrictive Covenant**

Branch :TMI,User :TM51

Comment:

Station Id :LG2D

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12
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REC'D KENT COUNTY, MI REC.
2017 AUG 30 AM 9: 22



DECLARATION OF RESTRICTIVE COVENANT

MDEQ Reference No: RC-RRD-201-17-006
Part 201 Site Identification Number: 41000115
USEPA Site Identification Number: MID006020408
MDEQ Approval Date: March 3, 2017

This Declaration of Restrictive Covenant ("Restrictive Covenant") has been recorded with the Kent County Register of Deeds to protect public health, safety, or welfare or the environment pursuant to the applicable provisions of Part 201, entitled "Environmental Remediation," MCL 324.20101 *et seq.* ("Part 201"), of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, MCL 324.101, *et seq.* ("NREPA"), the administrative rules promulgated pursuant to Part 201, Michigan Administrative Code (MAC) R 299.5101 *et seq.*, and the Toxic Substances Control Act, 15 USC 2601 *et seq.* ("TSCA").

This Restrictive Covenant is made by the City of Wyoming Brownfield Redevelopment Authority ("WBRA"), the address of which is 1155 28th Street, Wyoming, MI 49509, the Grantor and current fee title holder of the property legally described and illustrated in Exhibit 1, commonly known as 300 and 301 36th Street SW in the City of Wyoming, Kent County, Michigan, tax identification numbers 41-17-24-201-007 and 41-17-13-455-052 (the "Property"), for the benefit of the Grantee, State of Michigan, Department of Environment Quality, the address of which is 525 West Allegan Street, P.O. Box 30473, Lansing, MI 48909-7973 ("MDEQ").

The recording of this Restrictive Covenant replaces in its entirety the Declaration of Restrictive Covenant and Access Easement dated as of June 27, 2011, and recorded with the Kent County Register of Deeds on July 19, 2011 as Document 20110719-0057582 (the "2011 Restrictive Covenant and Easement"). The 2011 Restrictive Covenant and Easement will be terminated by MDEQ and RACER Properties LLC, after the recordation of this Restrictive Covenant.

This Restrictive Covenant has been prepared and recorded (i) to prohibit or restrict activities that could result in unacceptable exposure to environmental contamination present at the Property, and (ii) to assure that the use of the Property is consistent with the exposure assumptions used to develop the nonresidential clean-up criteria under Part 201, the Low Occupancy clean-up level under TSCA, and the exposure control measures relied upon at the Property.

MPS-866946 PNC PMTTCO



Recording of this Restrictive Covenant with the Kent County Register of Deeds is designed to: (1) restrict land uses at the Property; (2) restrict exposures to groundwater on the Property; (3) provide notification that Polychlorinated Biphenyls (PCB) Remediation Waste (impacted soil) remains on the Property in the areas described and illustrated in Exhibit 2; (4) restrict use of the designated PCB Remediation Waste Areas at the Property to Low Occupancy as described and illustrated in Exhibit 2; (5) require any future work or other activities on the Property by or for the Owner to be conducted in conformance with; i) applicable MDEQ soil relocation requirements including but not limited to MCL 324.20120c and any related administrative rules, ii) applicable due care obligations under MCL 324.20107a and associated administrative rules and guidance, and iii) the Hazardous Waste Operations and Emergency Response Standard (HAZWOPER), 29 CFR, Part 1910; (6) prohibit structures from being constructed on the Property unless the Owner has assessed the potential for vapor intrusion, if any, and has taken steps to address such potential, if necessary, as may be required by applicable laws, rules and regulations; (7) require infiltration management in the designated area of the Property as described and illustrated in Exhibit 3; (8) provide notification that, as of the date of this Restrictive Covenant, impacted soil above the Part 201 non-residential direct contact criteria and particulate soil inhalation criteria remains on the Property in the locations described and illustrated in Exhibit 4, and (9) provide notification that, as of the date of this Restrictive Covenant, residual light non aqueous phase liquid ("LNAPL") potentially remains on the Property in the location described and illustrated in Exhibit 5.

The land or resource use restrictions contained in this Restrictive Covenant are based upon information available to MDEQ at the time this document was recorded and based on laws, rules and regulations in effect at the time this document was recorded. Future changes in the environmental condition of the Property, changes in the cleanup criteria or the cleanup levels included in applicable laws, rules and regulations, the discovery of environmental conditions at the Property that were not known at the time this document was recorded; or use of the Property in a manner inconsistent with the restrictions described herein, may result in the need for additional restrictions to protect the public health, safety, welfare, or the environment, or in the ability to modify restrictions while still protecting the public health, safety, and welfare, and the environment.

This Restrictive Covenant cites laws, rules and regulations in effect at the time it was recorded. To the extent those laws, rules or regulations are subsequently amended, replaced or otherwise superseded, this Amended Restrictive Covenant shall be read to incorporate those amending, replacing or otherwise superseding laws, rules and regulations in place of those currently cited herein.

Information pertaining to the environmental conditions at the Property and the response action undertaken at the Property is on file with the MDEQ, Remediation and Redevelopment Division, Grand Rapids District Office.

Based on the results of Site investigations, the Property contains hazardous substances in soils and groundwater in excess of the concentrations developed as the unrestricted residential



criteria under Section 20120a(1)(a) or (17) of NREPA, 1994 PA 451, as amended, and above TSCA High Occupancy levels per 40 CFR Part 761.3. MDEQ recommends that prospective purchasers or users of the Property undertake appropriate due diligence prior to acquiring or using this Property, and undertake appropriate actions to comply with the requirements of Section 20107a of NREPA.

Definitions

"Grantee" means the MDEQ.

"Grantor" means the WBRA, and any future title holder of the Property or some relevant sub-portion of the Property.

"MDEQ" means the Michigan Department of Environmental Quality, its successor entities, and those persons or entities acting on its behalf.

"Owner" means at any given time the then-current fee title holder(s) of the Property or any portion thereof, including the fee title holder's lessees and those persons or entities authorized to act on its behalf. Record legal title to the Property at the time this Restrictive Covenant was recorded was held by the WBRA.

"RACER" means the Revitalizing Auto Communities Environmental Response Trust ("Trust"), which on March 31, 2011 was established and assumed the rights, title, and interest of Motors Liquidation Company in and to the Property pursuant to an Environmental Response Trust Consent Decree and Settlement Agreement ("Settlement Agreement") entered by the U.S. Bankruptcy Court for the Southern District of New York on March 29, 2011, in the case of *In re Motors Liquidation Company*, et al., Debtors, Case No. 09-50026 (REG), among the Debtors, the United States of America, certain states including the State of Michigan, the Saint Regis Mohawk Tribe, and EPLET, LLC, (not individually but solely in its representative capacity as Administrative Trustee of the Trust).

"USEPA" means the United States Environmental Protection Agency, its successor entities, and those persons or entities acting on its behalf.

All other terms used in this document which are defined in Part 3 Definitions, Part 201 of NREPA, Part 201 of Michigan Administrative Rules, TSCA, or 40 CFR 761, shall have the same meaning in this document as in those statutes and rules as on the date this Restrictive Covenant is made.

Summary of Response Activities

Several environmental assessments of the Property and groundwater monitoring events were conducted between 1981 and 2017 to identify and document environmental conditions, and the



presence at the Property of substances posing an adverse environmental impact as a result of past operations.

Based on these assessments, soil was found to contain certain metals, volatile organic compounds (VOCs), polynuclear aromatic hydrocarbons (PAHs), and PCBs in several discrete areas of the Property at concentrations exceeding the corresponding Part 201 nonresidential drinking water protection, groundwater-surface water interface protection, nonresidential volatilization to indoor air inhalation, non-residential direct contact and/or nonresidential particulate soil inhalation criteria. Concentrations of PCBs found in soil also exceeded the TSCA criteria for bulk PCB Remediation Waste in High Occupancy Areas without further conditions (40 CFR 761.61(1)(4)(i)). The horizontal and vertical extent of soil conditions exceeding non-residential direct contact and particulate soil inhalation criteria were delineated in 2013. Soil remediation activities conducted in 2012 and 2015 included the removal and off-site disposal of approximately 4 to 8 feet of impacted soil in select areas; a total of approximately 5,800 tons. These areas were backfilled and restored. Post-excavation soil sampling and analyses indicate the presence of certain metals and benzo(a)pyrene exceeding Part 201 non-residential direct contact and particulate soil inhalation criteria, and PCBs exceeding the TSCA criteria for bulk PCB Remediation Waste in High Occupancy Areas, without further conditions, remain in limited areas. See Exhibit 4 for locations where soil with concentrations of specific constituents exceed Part 201 non-residential direct contact and/or particulate soil inhalation cleanup criteria. An area in the northwestern portion of the Property containing exceedances of Part 201 cleanup criteria for protection of the groundwater-surface water interface is a concern because of the proximity of the area to Cole Drain, which runs near the northwestern Property boundary.

Based on the environmental assessments and groundwater monitoring, groundwater at the Site was found to contain VOCs, PAHs, and/or metals exceeding Part 201 non-residential drinking water criteria and/or the groundwater-surface water interface criteria.

Based on past observation of LNAPL in monitoring wells at the Property, residual LNAPL, as defined in MDEQ's June 2014 Non-Aqueous Phase Liquid (NAPL) Characterization, Remediation, and Management for Petroleum Releases, RRD Resource Materials-25-2014-01, may remain on the Property. As of the date of this Restrictive Covenant there is no observable LNAPL in monitoring wells at the Property. The Potential Residual LNAPL Area is described and illustrated in Exhibit 5. This LNAPL contains mineral spirits/mineral seal oil and/or hydraulic oil. Contaminants present in the Potential Residual LNAPL Area were properly characterized and assessed, and will remain in place at the Property. The potential for the presence of residual LNAPL exists from approximately seventeen (17) to twenty-five (25) feet below ground surface (approximately from 655 to 663 feet above mean sea level, at the time this Restrictive Covenant was recorded. The restrictions provided for in this Restrictive Covenant serve to prevent unacceptable exposure to hazardous substances as a result of possible conditions created by the potential presence of residual LNAPL in soil and groundwater that may exceed the unrestricted nonresidential criteria under Section 20120a(1)(a) of NREPA.



At the time this Restrictive Covenant was recorded, RACER was pursuing a No Further Action determination for the Property from MDEQ.

NOW THEREFORE,

Declaration of Land Use or Resource Use Restrictions

Grantor as the current fee title holder of the Property hereby declares and covenants that the Property shall be subject to the following restrictions and conditions and intends that said restrictions and covenants shall run with the land, and may be enforced, as provided herein, in perpetuity against the Owner by the following entities: (1) MDEQ; (2) USEPA; (3) WBRA; and (4) RACER or its successor.

1. Land Use Prohibitions. The Owner shall not make any use and shall prohibit all uses of the Property that are not compatible or consistent with the exposure assumptions for the nonresidential cleanup criteria established pursuant to Section 324.20120a(1)(b) of NREPA, and generally described in the Description of Allowable Uses, attached hereto as Exhibit 6.

Part 201 cleanup criteria for land use-based response activities are located in the Government Documents Section of the State of Michigan Library, MCL 324.201201, *et seq.*, effective December 31, 2013, and MAC R 299.5701 – R 299.5727, also effective December 31, 2013.

The Owner shall prohibit uses of the PCB Waste Remediation Areas delineated on Exhibit 2 (soil containing less than 10 milligrams/kilogram (mg/kg or ppm) PCBs) not consistent with Low Occupancy, as defined in 40 CFR 761.3. The Owner must apply to USEPA, under 40 CFR 761.61(a), for approval to change the Low Occupancy use restriction.

2. Notification of PCB Remediation Waste. This provision provides the notification required by 40 CFR Part 761.61(a)(8)(i)(A) that PCB Remediation Waste is present on the Property. PCB Remediation Waste (soil containing less than 10 ppm) is present in two areas at the Property as delineated in Exhibit 2 (the "PCB Remediation Waste Areas"). These areas are designated Low Occupancy Areas.
3. Activities Prohibited. The Owner shall prohibit activities on the Property that may result in exposures above the nonresidential land use category and, for Low Occupancy levels for the PCB Remediation Waste Areas. These prohibited activities include:
 - a. No drinking water or irrigation wells exist on the Property at the time of the execution of this Restrictive Covenant and no drinking water or irrigation wells may be installed or used on the Property.



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- b. No groundwater extraction wells may be installed or used on the Property except for wells and devices that are part of an MDEQ-approved response activity and for short-term dewatering for construction purposes, provided the dewatering, including management and disposal of the groundwater, is conducted in accordance with all applicable environmental laws and does not cause or result in a new release, exacerbation of any pre-existing environmental condition, or any other violation of environmental laws.
- c. No contaminated soils, if any, may be relocated on the Property except as provided for under Part 201, Section 20120c, MCL 324.20120c.
- d. No "treatment", "storage", "disposal", or "release" of any Hazardous Substances, on, at, or below the Property, in a manner that would require a permit under the Resource Conservation and Recovery Act, 42 U.S.C. §§ 6901 *et seq.* ("RCRA"), or equivalent state law, except pursuant to a plan or permit approved in writing by MDEQ as provided by applicable laws, rules and regulations.
- e. No construction or occupying any structure on the Property without first completing one of the following options. Option 1: Evaluate and demonstrate to the satisfaction of MDEQ, in accordance with applicable environmental laws, rules, or regulations that no unacceptable vapor intrusion risks to human health exist in any existing or newly constructed site buildings. Option 2: With concurrence from the MDEQ, install, operate, and maintain a vapor barrier and/or mitigation system designed to eliminate the potential for subsurface vapor phase hazardous substances to migrate into any building at concentrations greater than applicable criteria. This prohibition does not apply to short-term occupancy of a building for purposes of construction, renovation, repair, or other short-term activities as long as adequate health and safety precautions are employed during these activities, and they are performed in compliance with Section 20107a of NREPA.
- If Option 2 above is selected, the Owner shall install and, until MDEQ concurs that it is no longer necessary in accordance with Option 1, thereafter maintain a vapor barrier and/or install and thereafter operate and maintain a vapor intrusion mitigation system in accordance with applicable standards and criteria at the time, for the purpose of mitigating the potential intrusion of soil vapor below any building constructed on the property after the date of this Restrictive Covenant.
- f. No removal of the existing surface cover or activities that otherwise increase infiltration in the Infiltration Management Area, which is delineated in Exhibit 3. The existing surface cover in the Infiltration Management Area shall be maintained so that the cover minimizes infiltration. New or different surface cover that is equally or more effective as the existing cover in preventing

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Infiltration may be installed if the new or different cover is approved by MDEQ. In addition, the Owner shall not construct or install subgrade utilities, structures or other features in the Infiltration Management Area unless the construction incorporates engineering controls designed to eliminate the potential for perched water to enter the utility and/or migrate along the utility corridor, or for the utility/structure/feature to release fluids that could infiltrate through the subsurface and exacerbate impacts to groundwater. The construction details for any such utility, structure or feature shall be approved by MDEQ prior to its construction.

- g. No excavation or other intrusive activity within the PCB Remediation Waste Areas unless such work is performed in compliance with 40 CFR 1910.120, and shall not result in the exposure to workers not wearing required personal protective equipment (PPE).
 - h. No disturbing or damaging any monitoring wells (if present) on the Property without the prior written approval of MDEQ. If reasonably needed to accommodate development of the Property, Grantor or the Owner may request in writing to MDEQ and RACER at the addresses provided in Paragraph 7, to relocate or remove RACER's monitoring wells. MDEQ, after considering any written comments made by RACER, may approve such a request. RACER, MDEQ, and USEPA shall be provided access by the Owner to and use of any relocated monitoring wells.
4. Removal of Pavement. If the Owner elects to remove any slabs, pavement or other impervious surface on the Property, Owner shall be responsible for any and all obligations under environmental laws arising from any such removal, alteration or disturbance, whether or not caused by, arising from or related to, an environmental condition.
 5. Contaminated Soil Management. The Owner shall manage contaminated soils, media and/or debris (if any) and all other soils located on the Property in accordance with any applicable requirements of Part 111, the Solid Waste Disposal Act, commonly referred to as the Resource Conservation and Recovery Act of 1976 (RCRA), as amended by the Hazardous and Solid Waste Amendments of 1984, 42 USC 6901 et seq., the administrative rules promulgated pursuant to Part 111 and RCRA, TSCA, and all other relevant state and federal laws, including but not limited to MCL 324.20120c.
 6. Access. The Owner shall grant MDEQ, USEPA, WBRA, and RACER the right to enter the Property at reasonable times: (1) to conduct and complete any and all response activities, together with any reasonably needed ingress and egress to the Property; and (2) for the purpose of determining and monitoring compliance with this Restrictive Covenant, including the right to take samples and, inspect any records relating thereto, and to perform any actions necessary to maintain compliance with Part 111 and Part



201, or 40 CFR 761. To the extent reasonably feasible, such entry shall occur at times and under conditions as are reasonably acceptable to the Owner and occupants of the Property and in compliance with security, safety, and other protocols of the Owner and occupants of the Property.

- 7. Notices. Any notice, demand, request, consent, approval, or communication that is required to be made or obtained under this Restrictive Covenant shall be made in writing; include a statement that the notice is being made pursuant to the requirements of this Restrictive Covenant; include the USEPA Identification Number: MID008020408; and MDEQ Reference Number: RC-RRD-201-17-006; and shall be served either personally, or sent via first class mail, postage prepaid, as follows:

For MDEQ:

Michigan Department of Environmental Quality
 Remediation and Redevelopment Division
 350 Ottawa N.W.
 Grand Rapids, MI 49503

For USEPA:

Director
 Land and Chemicals Division (DR-8J)
 U.S. Environmental Protection Agency, Region 5
 77 West Jackson Blvd.
 Chicago, IL 60604

with a copy to:

Office of Regional Counsel (C-14J)
 U.S. Environmental Protection Agency, Region 5
 77 West Jackson Blvd.
 Chicago, IL 60604

For WBRA:

City of Wyoming Brownfield Redevelopment Authority
 c/o City Manager
 1155 28th Street
 Wyoming, MI 49509

with a copy to:

City of Wyoming
 c/o City Clerk
 1155 28th Street



Wyoming, MI 49509

For RACER:

General Counsel
 RACER Trust
 500 Woodward Avenue, Suite 2650
 Detroit, MI 48226

with a copy to:

Michigan Cleanup Manager
 RACER Trust
 500 Woodward Avenue, Suite 2650
 Detroit, MI 48226

- 8. Conveyance of Property Interest. The Owner shall provide notice to the MDEQ, USEPA, WBRA, and RACER at the addresses provided in Paragraph 7, of the Owner's intent to transfer any interest in the Property at least fourteen (14) days prior to consummating the conveyance. A conveyance of title, easement, or other interest in the Property shall not be consummated by the Owner without providing the prospective grantee a copy of this Restrictive Covenant and referring the prospective grantee to MCL 324.20116. The notice required to be made under this Paragraph shall include a statement that the notice is being made pursuant to the requirements of this Restrictive Covenant. Owner shall include in any instrument conveying any interest in any portion of the Property, including, but not limited to, deeds, leases, and mortgages, a notice which is in substantially the following form:

NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO A DECLARATION OF RESTRICTIVE COVENANT DATED _____ [month, day, year], AND RECORDED WITH THE KENT COUNTY REGISTER OF DEEDS, LIBER _____, PAGE _____.

The Owner shall provide a copy of this Restrictive Covenant to all future owners, heirs, successors, lessees, easement holders, assigns, and transferees by the person transferring the interest.

- 9. Term. This Restrictive Covenant shall run with the Property and shall be binding on the Owner, and all current and future successors, lessees, easement holders, their assigns, and their authorized agents, employees, or persons acting under their direction and control.
- 10. Modification/Release/Rescission. Grantor or Owner may request in writing to MDEQ and RACER, with a copy to USEPA and WBRA at the addresses provided in Paragraph 7, modifications to, or release or rescission of, this Restrictive Covenant. This Restrictive Covenant may be modified, released or rescinded only with the written



approval of MDEQ and RACER, after considering any written comments made by USEPA and WBRA. A modification of any provision of this Restrictive Covenant concerning requirements under TSCA or RCRA or affecting the PCB Remediation Waste Areas shall require approval of USEPA and RACER, and any request for such a modification shall be made to USEPA and RACER, with copies to the MDEQ and WBRA. RACER shall approve a modification, release, or rescission of this Restrictive Covenant in support of the Property's redevelopment, unless RACER in good faith reasonably believes that by so approving, the scope of RACER's environmental obligations with respect to the Property, and the associated costs of such obligations, would expand beyond RACER's allocated "Minimum Estimated Property Funding" and "Reserve Property Funding" for the Property. Any approved modification to, or release or rescission of, this Restrictive Covenant shall be filed with the appropriate Registrar of Deeds by the Grantor or Owner and a certified copy shall be returned to MDEQ, USEPA, WBRA, and RACER, at the addresses provided Paragraph 7.

11. Compliance with this Restrictive Covenant and Applicable Due Care Obligations. The Owner shall at all times comply with the conditions and restrictions of this Restrictive Covenant and the applicable due care obligations under Section 20107a of NREPA and CERCLA, 42 U.S.C. §§ 9601, et seq. Owner shall maintain records of its applicable due care activities and shall supply copies of any records documenting such compliance upon request from MDEQ, USEPA, WBRA, or RACER.
12. Enforcement. MDEQ, USEPA, WBRA, and RACER are entitled to enforce the restrictions and covenants in this Restrictive Covenant by specific performance or other legal action in a court of competent jurisdiction against the current and subsequent Owners of all or part of the Property. All remedies available hereunder shall be in addition to any and all other remedies at law or equity.
13. Severability. If any provision of this Restrictive Covenant is held to be invalid by a court of competent jurisdiction, the invalidity of such provision shall not affect the validity of any other provisions of this Restrictive Covenant and all other provisions shall continue to remain in full force and effect.
14. Limitation on RACER's Liability. RACER's and the Administrative Trustee's liability are limited by the terms and conditions of the Settlement Agreement, which are incorporated herein by reference.
15. Authority to Execute Restrictive Covenant. The execution of this Restrictive Covenant by the WBRA was authorized by a resolution of the WBRA Board of Directors at a meeting held on June 19, 2017.
16. Miscellaneous.
 - a) Controlling Law. The interpretation and performance of this Restrictive Covenant shall be governed by the laws of the United States as to the obligations referred



to in the Settlement Agreement and the laws and regulations of the State of Michigan for all other purposes hereunder (without reference to choice of laws principles thereof). The right to enforce the conditions and restrictions in this Restrictive Covenant are in addition to other rights and remedies that may be available, including, but not limited to, administrative and judicial remedies under CERCLA or Part 201 of the NREPA.

- b) Liberal Construction. Any general rule of construction to the contrary notwithstanding, this Restrictive Covenant shall be liberally construed to affect the purpose of this Restrictive Covenant, and the policy and purpose of TSCA, RCRA, and the land use restrictions and prospective use limitations required by Part 201. If any provision of this Restrictive Covenant is found to be ambiguous, an interpretation consistent with the purpose of this Restrictive Covenant that would render the provision valid shall be favored over any interpretation that would render it invalid.
- c) Entire Agreement. This Restrictive Covenant and its attachments and appendices supersedes all prior discussions, negotiations, understandings, or agreements relating specifically to this Restrictive Covenant, all of which are merged herein.

[signature page follows]



IN WITNESS WHEREOF, WBRA has caused this Restrictive Covenant, MDEQ Reference Number: RC-RRD-201-17-006, to be executed on this 7th day of August, 2017.

CITY OF WYOMING BROWNFIELD REDEVELOPMENT AUTHORITY

By: [Signature]
Tom Brann, Chairperson

By: [Signature]
Megan Sall, Secretary

STATE OF MICHIGAN _____)
COUNTY OF KENT _____) ss.

The foregoing instrument was acknowledged before me this 7th day of August, 2017, by Tom Brann and Megan Sall, the Chairperson and Secretary, respectively of the Board of Directors of City of Wyoming Brownfield Redevelopment Authority, on behalf of said authority.

Notary Public: Jennifer R. Stowell

JENNIFER R. STOWELL
NOTARY PUBLIC - STATE OF MICHIGAN
OTTAWA COUNTY
MAY 18, 2018

My commission expires: May 18, 2018

This document is exempt from state and county transfer taxes pursuant MCL 207.505(a) and MCL 207.526(a).

Prepared by and return to:
Carl Garvey, General Counsel
RACER Trust
500 Woodward Avenue, Suite 2650
Detroit, MI 48226

When Recorded Return to: D. Padova
First American Title Insurance Company
National Commercial Services
900 Wilshire Drive, Suite 260
Troy, MI 48064
File No. NCS: 866946



EXHIBIT 1

LEGAL DESCRIPTION AND ILLUSTRATION OF PROPERTY

Land situated in the City of Wyoming, Kent County, Michigan and more particularly described as follows:

300 36th St SW – Tax identification number - 41-17-24-201-007

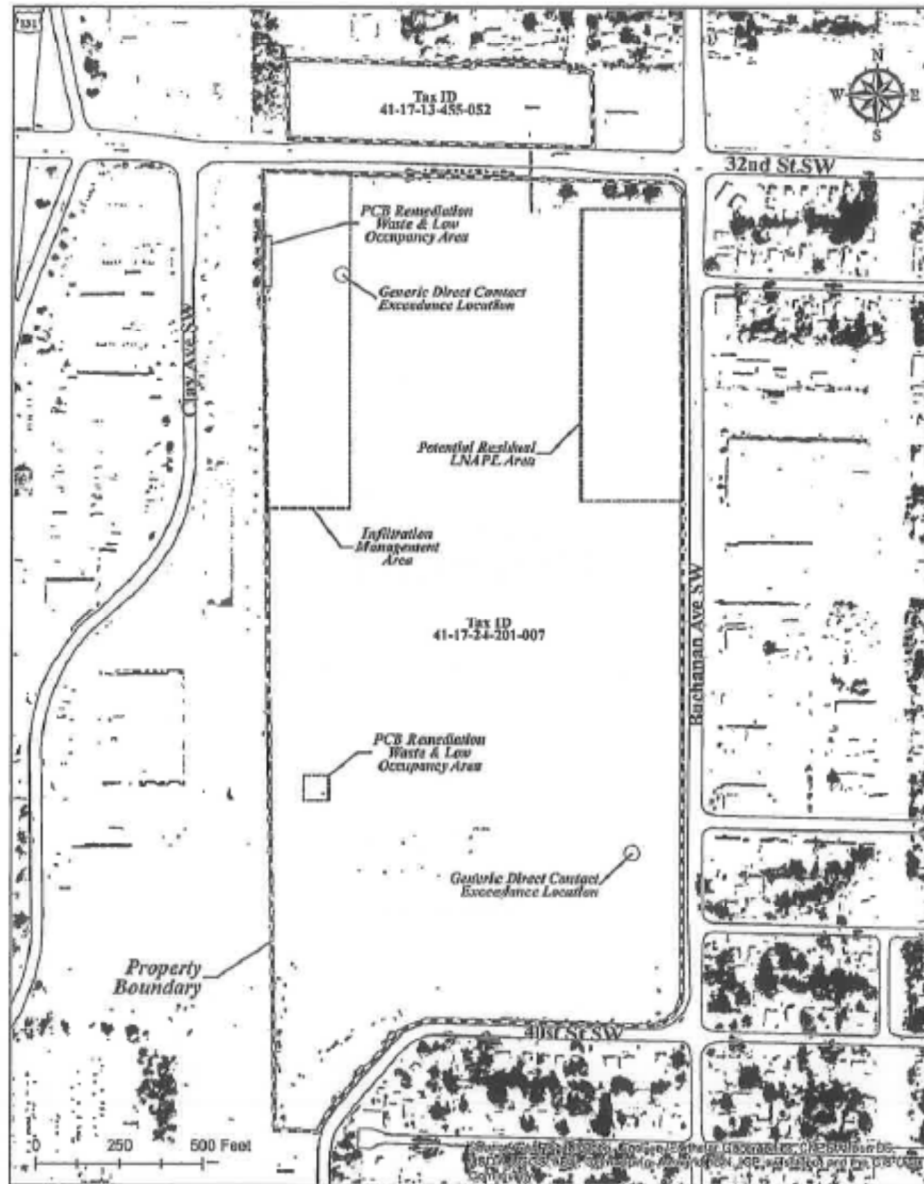
78THAT PART OF W 1/2 NE 1/4 LYING E OF E LINE OF CONRAIL RR RW / 100 FT WIDE/ & LYING S OF SLY LINE OF 36TH ST /100 FT WIDE/ EX COM AT INT OF S LINE OF NE 1/4 & W LINE OF BUCHANAN AVE / 80 FT WIDE/ TH N 87D 69M 30S W ALONG E&W 1/4 LINE 828.27 FT TH N 47D 10M 30S E 46.67 FT TO N LINE OF S 33 FT OF NE 1/4 TH S 87D 49M 30S E 695.3 FT TH NELY 125.8 FT ALONG A 101.8 FT RAD CURVE LT /LONG CHORD BEARS N 56D 46M 24S E 117.95 FT/ TO W LINE OF SD AVE TH SLY 101.4 FT TO BEG * SEC 24 T8N R12W 74.92 A. * ALSO LOTS 147 TO 152 INCL & PART OF LOTS 144 145 146 153 154 & 155 & PART OF VACATED PORTIONS OF FLOYD ST & 40TH ST & DR LYING W OF LOTS 148 & 149 ALL BEING DESC AS - COM AT NW COR OF SD PLAT TH S 87D 49M 30S E ALONG N LINE OF SD PLAT 358.58 FT TO WLY LINE OF RELOCATED STAFFORD AVE /66 FT WIDE/ TH SWLY ALONG WLY LINE OF SD AVE 37.04 FT ALONG A 165.0 FT RAD CURVE LT /LONG CHORD BEARS S 48D 52M 25S W 36.97 FT TH S 42D 26M 30S W ALONG SD WLY LINE 243.88 FT TH SWLY ALONG SD WLY LINE 117.22 FT ALONG A 290.59 FT RAD CURVE LT /LONG CHORD BEARS S 30D 53M 08S W 116.42 FT/ TO A PT 16.51 FT S 0D 02M 30S E & 0.43 FT S 87D 49M 30S E FROM SW COR OF LOT 146 TH N 87D 49M 30S W PAR WITH S LINE OF LOT 148 & SD S LINE EXT 132.43 FT TO W LINE OF SD PLAT TH N 313.78 FT M/L TO BEG * MCQUEEN DOYLE PARK NO.1*

301 36th St SW – Tax identification number - 41-17-13-455-052

411713455052 LOT 883 EX N 9 FT ALSO LOT 884 & 885 ALSO THAT PART OF LOTS 886 TO 891 INCL LYING N OF N LINE OF 36TH ST /100 FT WIDE/ ALSO LOTS 892 & 893 ALSO LOT 894 EX N 9 FT ALSO LOT 922 ALSO THAT PART OF LOT 923 LYING N OF N LINE OF 36TH ST /100 FT WIDE/ ALSO THAT PART OF VACATED PORTION OF HILLCROFT AVE /60 FT WIDE/ DESC AS - COM 249 FT N ALONG E LINE OF SD AVE FROM SW COR OF LOT 891 TH S ALONG SD E LINE TO N LINE OF 36TH ST /100 FT WIDE/ TH W ALONG SD N LINE TO W LINE OF SD VACATED AVE TH N ALONG SD W LINE TO A PT 249 FT N ALONG SD W LINE FROM SE COR OF LOT 923 TH E TO BEG ALSO THAT PART OF VACATED PORTION OF BIRCHWOOD AVE /80 FT WIDE/ DESC AS - COM AT SE COR OF LOT 885 TH N ALONG W LINE OF SD VAC AVE 122 FT TH E TO A PT ON E LINE OF SD VACATED AVE 122 FT N ALONG SD E LINE FROM SW COR OF LOT 842 TH S ALONG E LINE OF SD VACATED ST TO SW COR OF LOT 841 & TO N LINE OF 36TH ST /100 FT WIDE/ TH W ALONG SD N LINE TO W LINE OF SD VACATED ST TH. N TO BEG * HOME ACRES NO.2 SPLIT ON 07/02/2009 FROM 41-17-13-455-044, 41-17-13-455-046, 41-17-13-455-048; SPLIT/COMBINED ON 01/08/2013 FROM 41-17-13-455-050, 41-17-13-455-049, 41-17-13-455-051;

20170831-0073657

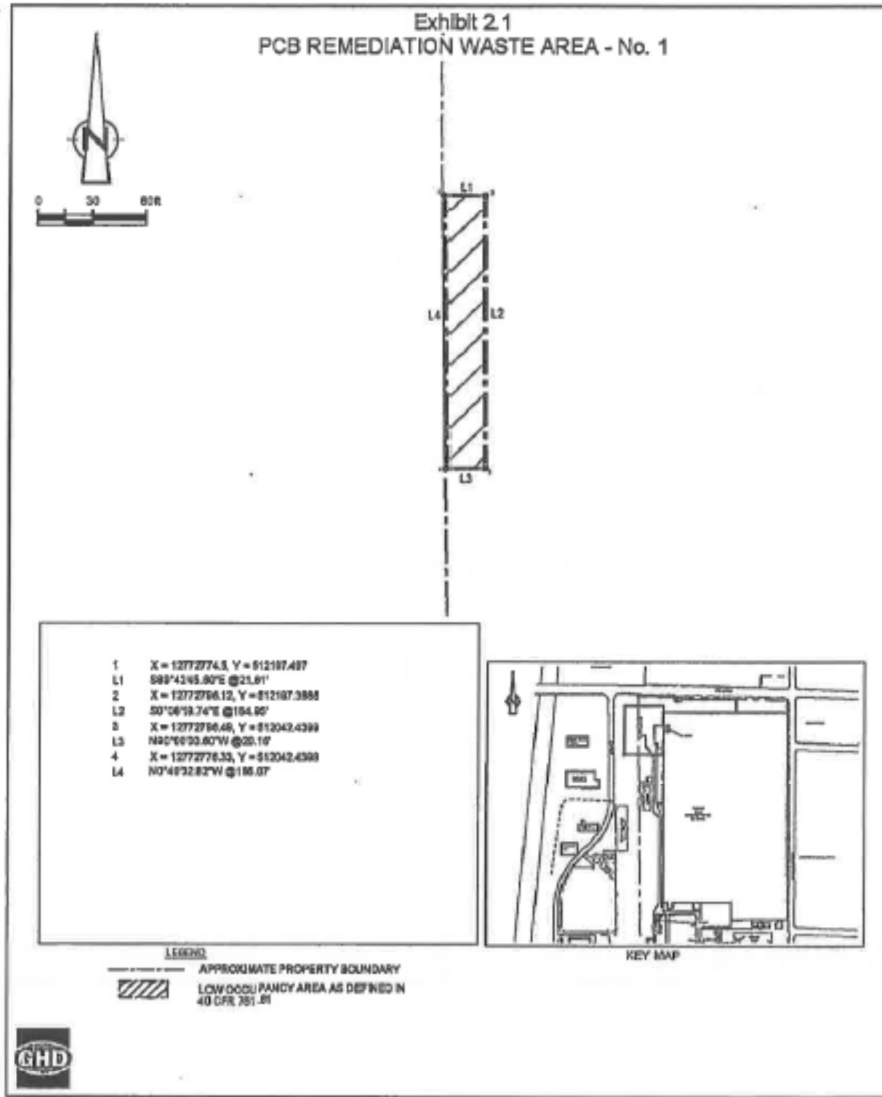
Lisa Posthusus Lyons P:14/219:58PM
Kent Cnty MI Regstr 08/31/2017 SEAL



20170831-0073657
 Lisa Posthumus Lyons P:16/213:66PM
 Kent Only MI Regstr:09/31/2017 SEAL

EXHIBIT 2

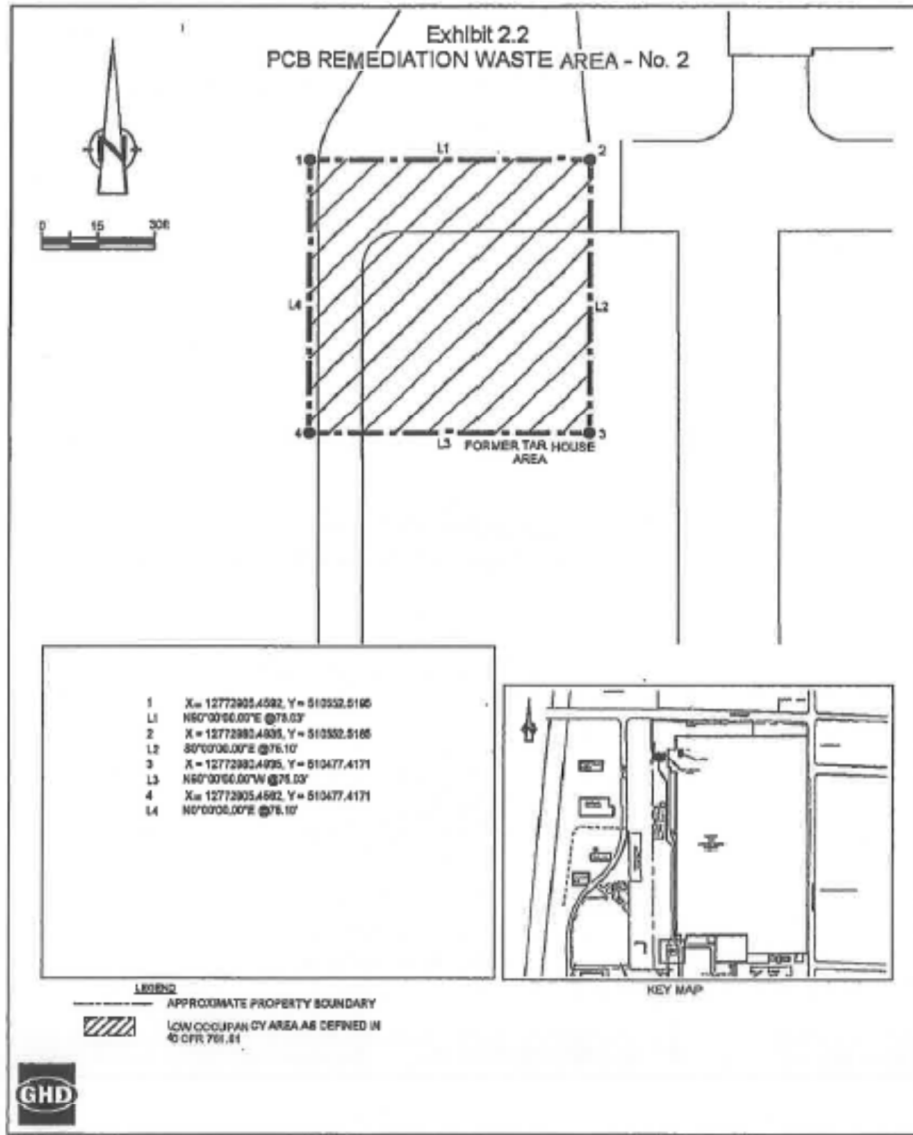
DESCRIPTION AND ILLUSTRATION OF PCB WASTE REMEDIATION AREAS





20170831-0073657

Lisa Posthumus Lyons P:16/213:SBPM
Kent Cnty MI Rgsr:08/31/2017 SEAL

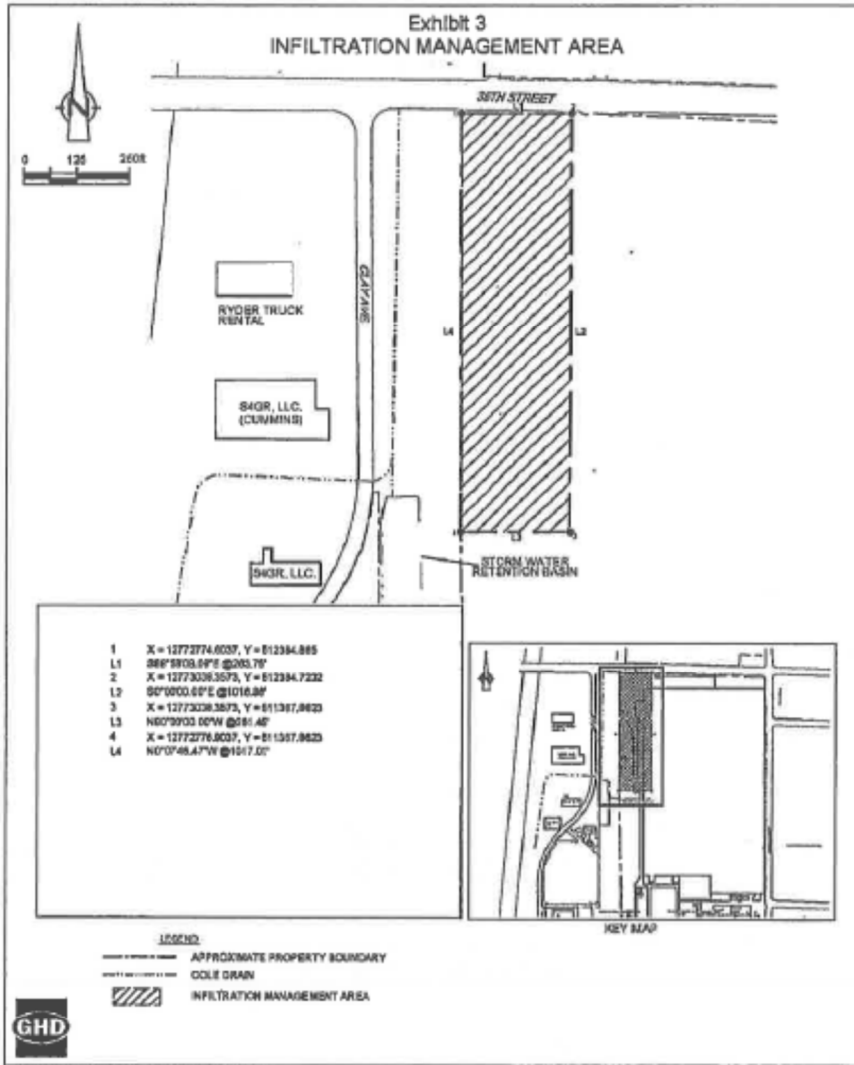




20170831-0073657
Lisa Posthuma Lyons P:17/21 3:58PM
Kent Cnty MI Restr:08/31/2017 SEAL

EXHIBIT 3

DESCRIPTION AND ILLUSTRATION
OF INFILTRATION MANAGEMENT AREA

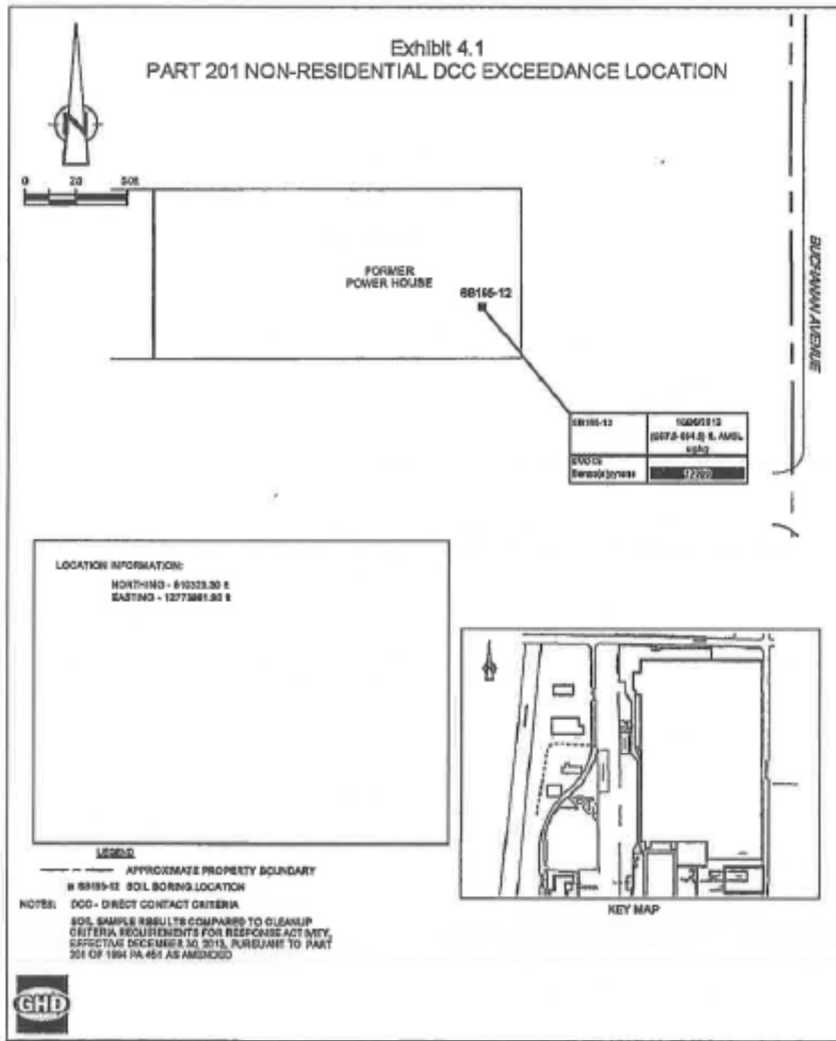




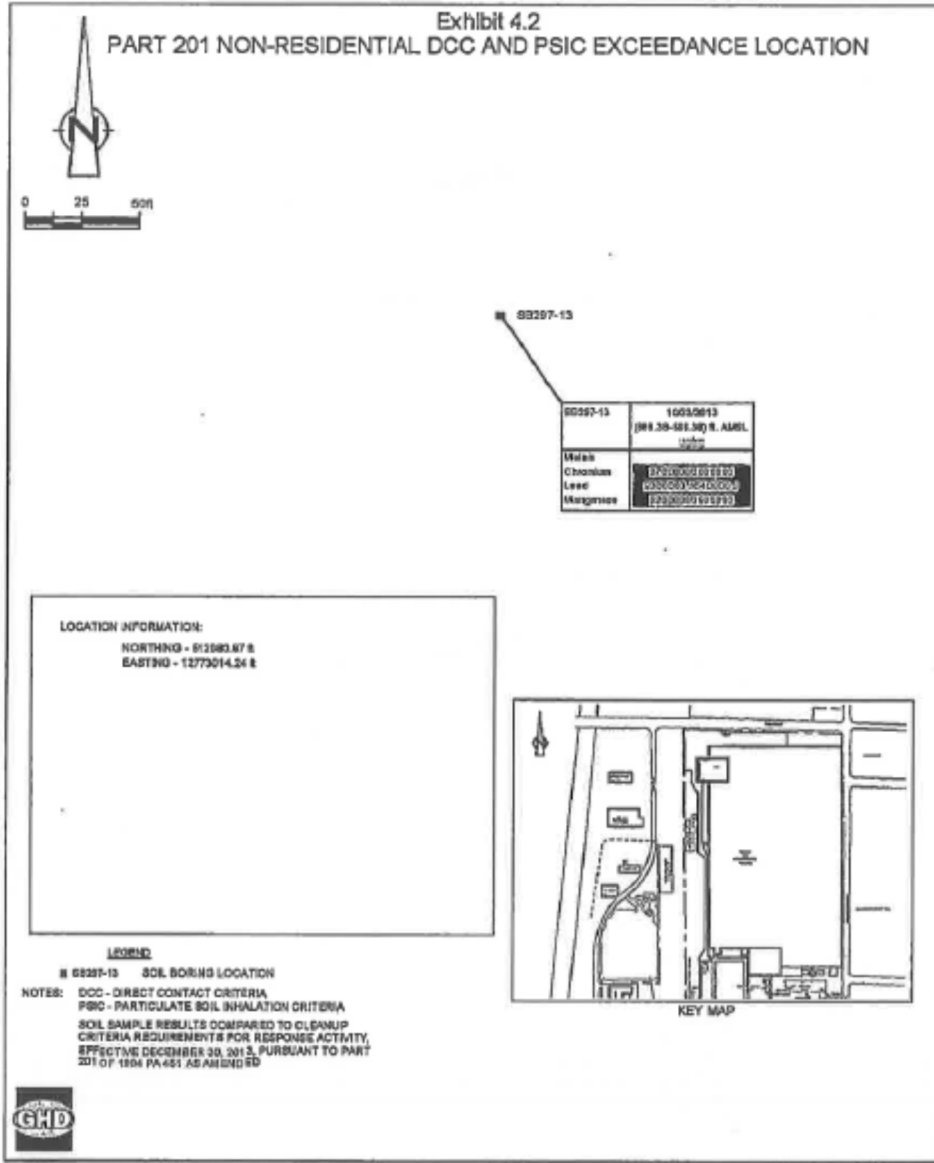
Lisa Posthuma Lyons P: 11/21 3:59PM
Kent Only RE Restr: 09/31/2017 SERL

EXHIBIT 4

SOIL SAMPLE LOCATIONS WITH CONCENTRATIONS THAT EXCEED THE PART 201
NONRESIDENTIAL SOIL DIRECT CONTACT AND/OR PARTICULATE SOIL
INHALATION CLEANUP CRITERIA




20170831-0073657
 Lisa Posthumus Lyons P:19/21 3:58PM
 Kent Cnty MI Reslr:09/31/2017 SEAL





20170831-0073657
Lisa Posthumus Lyons P:20/213:56PM
Kent City MI Restr:00/31/2017 SEAL

EXHIBIT 5

POTENTIAL RESIDUAL LNAPL

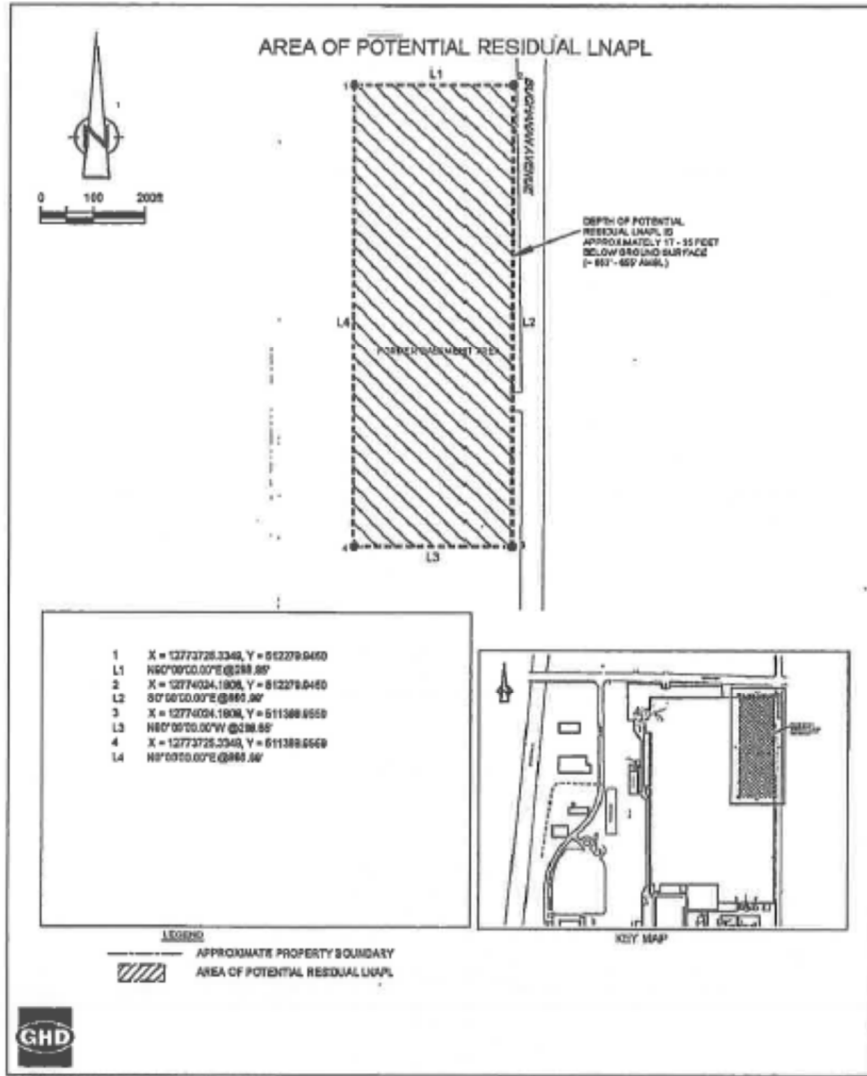




EXHIBIT 6

DESCRIPTION OF ALLOWABLE USES

Nonresidential Land Use: This land use is characterized by any use which is not residential in nature and is primarily characterized by industrial and commercial uses. Industrial uses typically involve manufacturing operations engaged in processing and manufacturing of materials or products. Other examples of industrial uses are utility companies, industrial research and development, and petroleum bulk storage. Commercial uses include any business or income-producing use such as commercial warehouses, lumber yards, retail gas stations, auto dealerships and service stations, as well as office buildings, banks, and medical/dental offices (not including hospitals). Commercial uses also include retail businesses whose principal activity is the sale of food or merchandise within an enclosed building and personal service establishments which perform services indoors such as health clubs, barber/beauty salons, photographic studios, etc.

Any residential use is specifically prohibited from the non-residential land use category. This would include the primary use of the property for human habitation and includes structures such as single family dwellings, multiple family structures, mobile homes, condominiums, and apartment buildings. Residential use is also characterized by any use which is intended to house, educate, or provide care for children, the elderly, the infirm, or other sensitive populations, and therefore could include day care centers, educational facilities, hospitals, elder care facilities, and nursing homes. The use of any accessory building or portion of an existing building as a dwelling unit permitted for a proprietor or storekeeper and their families, located in the same building as their place of occupation, or for a watchman or caretaker is also prohibited. Any authority that allows for residential use of the Property as a legal non-conforming use is also restricted per the prohibitions contained in this restrictive covenant.

Low Occupancy Area: As defined in 40 CFR 761.3, low occupancy area means any area where PCB Remediation Waste has been disposed of on-site and where occupancy for any individual not wearing dermal and respiratory protection for a calendar year is: less than 840 hours (an average of 16.8 hours per week) for non-porous surfaces and less than 335 hours (an average of 6.7 hours per week) for bulk PCB Remediation Waste. Examples could include an electrical substation or a location in an industrial facility where a worker spends small amounts of time per week (such as an unoccupied area outside a building, an electrical equipment vault, or in the non-office space in a warehouse where occupancy is transitory).

GRAPIDS 57721-12 456931v1

**Attachment D
No Further Action Letter**



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
GRAND RAPIDS DISTRICT OFFICE



C. HEIDI GREYER
DIRECTOR

March 13, 2018

RECEIVED

MAR 16 2018

GHD PLAINWELL

Mr. David Favero
Revitalizing Auto Communities Environmental Response (RACER) Trust
500 Woodward Avenue
Suite 2650
Detroit, Michigan 48226

Dear Mr. Favero:

SUBJECT: Notice of Approval of No Further Action Report for the Properties located at 300 and 301 36th Street, SW, Wyoming, Kent County, Michigan
Facility ID No.: 41000115

The Department of Environmental Quality (DEQ), Remediation and Redevelopment Division (RRD), has reviewed the No Further Action (NFA) Report submitted by RACER Trust on February 9, 2018. The NFA Report was submitted under Section 20114d of Part 201 of the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended (NREPA). Based on this review, the NFA Report has been approved.

The DEQ has determined that the remedial action described in the NFA Report satisfies the requirement of Part 201 for the limited nonresidential cleanup category as provided for in Section 20120a(1) of the NREPA. Therefore, the NFA Report is approved for the properties located at 300 and 301 36th Street, SW, Wyoming, Kent County, Michigan. The Limited-Nonresidential NFA covers all hazardous substances in all media found at the properties; and this correspondence serves as the No Further Action Letter as defined by Section 20101(1)(ee) of the NREPA.

As provided in Section 20126(4)(e) of the NREPA, a person with an approved NFA Report has an exemption to liability for the environmental contamination addressed in the NFA Report, but may be subject to liability for environmental conditions under the circumstances described in that subparagraph.

The DEQ's approval is based upon representations and information contained in the NFA Report for 300 and 301 36th Street, SW, Wyoming, Kent County, Michigan that addresses all hazardous substances in all media found at the properties.

The DEQ expresses no opinion as to other contaminants or areas beyond those identified and addressed as described in the NFA Report. The DEQ makes no warranty as to the fitness of these properties for any general or specific use, and prospective purchasers or users are advised to use due diligence prior to acquiring any interest in or using these properties. The State reserves the right to take an action against RACER Trust if it discovers at any time that any material information provided by RACER Trust in the NFA Report was false or misleading.

STATE OFFICE BUILDING • 350 OTTAWA AVENUE, NW • UNIT 10 • GRAND RAPIDS, MICHIGAN 49503-2341
www.michigan.gov/deq • (616) 356-0500

All documents and data prepared, acquired, or relied upon in connection with this NFA Report must be maintained for not less than ten years after this approval pursuant to Section 20114d(7) of the NREPA, and shall be made available to the DEQ upon request.

If you have additional questions regarding this matter, please contact, the Project Manager, Darlene Pearson, at the Grand Rapids District Office, 616-356-0023; PearsonD1@michigan.gov; or you may contact me.

Sincerely,



Abigail Hendershott
District Supervisor
Grand Rapids District Office
Remediation and Redevelopment Division
616-888-0528

cc: Ms. Jennifer Quigley, GHD
Ms. Darlene Pearson, DEQ

RESOLUTION NO. _____

RESOLUTION TO ADOPT AND PROPOSE ELECTOR APPROVAL OF AN AMENDMENT TO THE CITY CHARTER TO PROVIDE FOR LEVY OF ADDITIONAL PROPERTY TAX AT THE MAY 2, 2023 SPECIAL ELECTION TO SUPPORT FIRE SERVICES, POLICE AND LAW ENFORCEMENT SERVICES, AND FIRST RESPONDER SERVICES, AND TO RESCIND THE SIMILARLY TITLED RESOLUTION 27503, ADOPTED OCTOBER 31, 2022

WHEREAS:

1. Population growth, additional development, increased traffic, crime trends, increased demands for fire department responses, and other factors have led city leaders to conclude additional police officers and firefighters are needed to provide for the safety of city residents and property, as well as the safety of city police officers and firefighters.
2. Hiring of additional police officers and firefighters requires additional revenues.
3. Section 9.1 of the City Charter of the City of Wyoming, currently limits property taxation as follows:

Sec. 9.1. Power to tax: tax limit.

The City shall have the power to assess taxes and levy and collect rents, tolls and excises. Exclusive of any levies authorized by statute to be made beyond charter tax rate limitation, the annual ad valorem tax levy shall not exceed one-half percent of the valuation of all real and personal property subject to taxation in the City, except that an additional two-tenths of one percent, 2 mills on the dollar, may be levied for sewer, water and street improvements, but this latter shall in no way be construed as limitation on the issuance of bonds for water or sewer purposes. An additional thirty-nine thousandths (39/1000) of one percent, 0.39 mills on the dollar, or less, may be levied annually for the operation, maintenance and any other expenses for the public library in the City of Wyoming or for capital improvements in public parks in the City of Wyoming.

- (a) *Sidewalk snowplowing and maintenance levy.* The city shall have the power to levy an additional 2/100 of one percent, 0.2 mills on the dollar for the purpose of snowplowing sidewalks and to repair and construct sidewalks within the city.
 - (b) *Public transportation levy.* An additional twenty-five thousandths (25/1000) of one percent (1%), a 0.25 mills on the dollar, or less, may be levied annually for use for public transportation. (This subsection shall expire on June 30, 2000).
 - (c) *Parks, recreation and senior citizens centers levy.* An additional fifteen-hundredths of one percent, 1.5 mills on the dollar, or less, may be levied annually for use for the operation, maintenance and any other expenses for parks, recreation and senior citizens centers.
 - (d) *Fire department levy.* An additional seventy-five-thousandths of one percent, 0.75 mills on the dollar, may be levied annually for the operation, maintenance and other expenses of the Fire Department.
 - (e) *Police department levy.* An additional one hundred-twenty-five-thousandths of one percent, 1.25 mills on the dollar, may be levied annually for the operation, maintenance and other expenses of the Police Department.
 - (f) *Public Safety levy.* An additional one hundred-twenty-five thousandths of one percent, 1.25 mills on the dollar, may be levied annually for public safety for the operation, maintenance and administration of police and fire services.
4. The City Council wishes to amend the City Charter to levy an additional 1.5 mills of *ad valorem* property tax for fire services, police and law enforcement services, and first responder services for 5 years.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Section 9.1 of City Charter of the City of Wyoming, Michigan be amended by adding subsection (g) to read as follows:
 - (g) *Fire, law enforcement and first responder levy.* An additional one-hundred-fifty-thousandths of one percent, 1.50 mills on the dollar, may be levied annually for public safety including fire services, police and law enforcement services, and first responder services. (This subsection shall expire on June 30, 2028.)

2. If the proposed City Charter amendment is approved by city electors, section 9.1 of the City Charter of the City of Wyoming, Michigan would read as follows:

Sec. 9.1. Power to tax: tax limit.

The City shall have the power to assess taxes and levy and collect rents, tolls and excises. Exclusive of any levies authorized by statute to be made beyond charter tax rate limitation, the annual ad valorem tax levy shall not exceed one-half percent of the valuation of all real and personal property subject to taxation in the City, except that an additional two-tenths of one percent, 2 mills on the dollar, may be levied for sewer, water and street improvements, but this latter shall in no way be construed as limitation on the issuance of bonds for water or sewer purposes. An additional thirty-nine thousandths (39/1000) of one percent, 0.39 mills on the dollar, or less, may be levied annually for the operation, maintenance and any other expenses for the public library in the City of Wyoming or for capital improvements in public parks in the City of Wyoming.

- (a) *Sidewalk snowplowing and maintenance levy.* The city shall have the power to levy an additional 2/100 of one percent, 0.2 mills on the dollar for the purpose of snowplowing sidewalks and to repair and construct sidewalks within the city.
 - (b) *Public transportation levy.* An additional twenty-five thousandths (25/1000) of one percent (1%), a 0.25 mills on the dollar, or less, may be levied annually for use for public transportation. (This subsection shall expire on June 30, 2000).
 - (c) *Parks, recreation and senior citizens centers levy.* An additional fifteen-hundredths of one percent, 1.5 mills on the dollar, or less, may be levied annually for use for the operation, maintenance and any other expenses for parks, recreation and senior citizens centers.
 - (d) *Fire department levy.* An additional seventy-five-thousandths of one percent, 0.75 mills on the dollar, may be levied annually for the operation, maintenance and other expenses of the Fire Department.
 - (e) *Police department levy.* An additional one hundred-twenty-five-thousandths of one percent, 1.25 mills on the dollar, may be levied annually for the operation, maintenance and other expenses of the Police Department.
 - (f) *Public Safety levy.* An additional one hundred-twenty-five thousandths of one percent, 1.25 mills on the dollar, may be levied annually for public safety for the operation, maintenance and administration of police and fire services.
 - (g) *Fire, law enforcement and first responder levy.* An additional one-hundred-fifty-thousandths of one percent, 1.50 mills on the dollar, may be levied annually for public safety including fire services, police and law enforcement services, and first responder services. (This subsection shall expire on June 30, 2028.)
3. The proposal for this City Charter amendment shall be placed on the ballot for the May 2, 2023 special election as follows:

CITY OF WYOMING CHARTER AMENDMENT AUTHORIZING THE LEVY OF AN ADDITIONAL 1.50 MILLS FOR FIRE SERVICES, POLICE AND LAW ENFORCEMENT SERVICES, AND FIRST RESPONDER SERVICES BEGINNING JULY 1, 2023, UNTIL JUNE 30, 2028.

It is proposed that subsection 9.1(g) be added to the City Charter authorizing the levy of 1.50 mills on the dollar (\$1.50 per \$1,000 of taxable value) for public safety including fire services, police and law enforcement services, and first responder services, expiring on June 30, 2028 which is estimated to raise \$3,863,734.28 in the first year.

A portion of this amount (\$749.96) will be captured by the Wyoming Brownfield Redevelopment Authority and a portion of this amount (\$6,388.89) will be captured by the Wyoming Downtown Development Authority.

Shall this amendment be adopted?

4. The City Clerk and City Attorney are authorized and directed to send a copy of this resolution to the governor and to the attorney general for approval of the proposed charter amendment and ballot proposal.
5. The City Clerk and City Attorney are authorized and directed to publish the full text of the proposed charter amendment together with the existing City Charter section 9.1 in at least one edition of *The Grand Rapids*

Press and to take all other steps to ensure the proposal is placed on the ballot and notices provided as required by the City Charter; the home rule city act, 1909 PA 279, MCL 117.1 *et seq.*; the Michigan election law, 1954 PA 116, MCL 168.1 *et seq.*; and any other applicable law.

6. Resolution No. 17503, entitled “Resolution Adopting and Proposing Elector Approval of an Amendment to the City Charter to Provide for Levy of Additional Property Tax at the May 2, 2023 Special Election to Support Fire Services, Police and Law Enforcement Services and First Responder Services,” adopted October 31, 2022, is rescinded in its entirety. All other resolutions and parts of resolutions that conflict with this resolution are rescinded.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes: Councilmembers:

 No: Councilmembers:

CERTIFICATION

I certify that this Resolution was adopted by the City Council of the City of Wyoming, Michigan at a regular meeting held on November 21, 2022.

Date signed: November 22, 2022

Kelli A. VandenBerg, Wyoming City Clerk

Resolution No. _____

STAFF REPORT

Date: November 14, 2022
Subjects: Proposed Amendment to Charter §9.1 for Additional Millage Levy – Revised Ballot Question
From: Scott Smith, City Attorney
Meeting Date: November 21, 2022

RECOMMENDATION:

Adopt the “Resolution to Adopt and Propose Elector Approval of an Amendment to the City Charter to Provide for Levy of Additional Property Tax at the May 2, 2023 Special Election to Support Fire Services, Police and Law Enforcement Services, and First Responder Services, and to Rescind the Similarly Titled Resolution 27503, Adopted October 31, 2022.”

COMMUNITY, SAFETY, STEWARDSHIP:

Community – Public safety is a priority of citizens, businesses, and Council Members.

Safety – Additional police and fire personnel are needed to provide law enforcement, fire prevention and suppression, and first responder services needed in the city without undue reliance on other communities.

Stewardship – Additional funding is essential to hiring additional police and fire personnel.

BUDGET IMPACT:

If approved by the electors, the proposed City Charter amendment will provide an estimated \$3,863,734.28 of additional funding in the first year.

DISCUSSION:

This is a replacement resolution that incorporates a revised form of ballot question to address concerns raised by the attorney general’s office during its required review of the proposed charter amendment and ballot proposal. The substance remains the same.

While the original ballot question was phrased consistently with past ones, the attorney general’s office sought changes. Because there is time to make those changes without impeding needed timelines, it seemed prudent to seek City Council approval of revised language to ensure the attorney general’s and governor’s approvals of the proposed charter amendment.

The attorney general’s office has informally stated that this resolution satisfactorily addresses its previously stated concerns and assured us that, once this resolution is submitted, formal review will be expedited if we return it with additional information, including the City Clerk’s e-mail address to permit formal review letters to be promptly conveyed.

RESOLUTION NO. _____

RESOLUTION TO ACCEPT A PROPOSAL FROM REHMANN ROBSON LLC
TO PROVIDE FINANCIAL SERVICES AND TO
AUTHORIZE THE MAYOR AND CITY CLERK TO EXECUTE THE CONTRACT

WHEREAS:

1. As detailed in the attached staff report, proposals were received to provide financial services.
2. It is recommended the City Council accept the proposal received from Rehmann Robson LLC in the amounts as shown in the attached staff report.
3. Funds are budgeted in account number 101-201-20100-801000.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby accept a proposal from Rehmann Robson to provide financial 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 November 21, 2022.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:
Staff Report
Contract/Proposal

STAFF REPORT

Date: November 14, 2022

Subject: Financial Services

From: Jodi Yenchar, Finance Director

Meeting Date: November 21, 2022

RECOMMENDATION:

It is recommended City Council accept the proposal submitted for financial services from Rehman for the amount listed in the discussion section of the staff report.

COMMUNITY, SAFETY, STEWARDSHIP:

Each fiscal year, the City is required to submit an F-65 Annual Local Unit Fiscal Report to the State of Michigan and a Form 990 Return of Organization Exempt from Income Tax for the Greater Wyoming Community Resource Alliance (GWCRA). Throughout the year the City is also required to compile information regarding the acquisition, depreciation, and disposal of capital assets. In prior years, staff in the Finance Department completed the F-65 and prepared the capital assets data while the GWCRA Form 990 was completed by Vredeveld Haefner LLC, the City's contractor for accounting services. The Finance Department staff previously responsible for completing the F-65 and capital assets data are no longer with the City. Vredeveld Haefner LLC prepared the capital asset data for the fiscal year 2022 audit.

During the fiscal year 2022 audit, the Finance Department requested information from Rehmann, the City's auditor, as to any efficiencies we might be able to achieve. It was determined that these three items could be more efficiently completed by Rehmann staff as they already have all the City's financial data for audit preparation and are well versed in the requirements as they compile this information and prepare and file these reports for other clients. This will also be a cost effective and efficient option for the City as it saves significant staff time and consolidates services with one vendor, ensuring data is prepared and reported consistently across reports and fiscal years.

DISCUSSION:

The City Council previously approved the resolution and contract with Rehmann for Auditing Services on March 21, 2022. Below is the cost break down for each additional financial service.

F-65 Annual Local Unit Fiscal Report – Previously the Finance Department completed this annual report for the State of Michigan. Over the last two years, all staff familiar with the report and supporting data have separated from their employment with the City. Due to current vacancies, the Finance Department feels the most effective and efficient use of resources would be to have Rehmann file the report. Rehman has submitted a proposal that would cost the City

\$5,000 the first year to map all data fields from the audit to the report requirements along with submission and \$2,500 for future years.

GWCRA Form 990 – Vredeveld Haefner LLC has completed this in the past. Rehmann has submitted a proposal that would cost the City \$300 to \$1,500 depending on the form that is required which is determined by annual revenue. This would allow Vredeveld Haefner LLC to focus on internal auditing activities.

Capital Assets – Over the last two years, all staff familiar with the capital assets data and reporting have separated from their employment with the City. Due to current vacancies and the complexity of the capital asset process, Vredeveld Haefner LLC completed this work for the fiscal year 2022 audit which cost the City over \$20,000. This included several modifications which were required to provide the Rehmann team with the substantiation to complete their audit fieldwork. Rehmann has submitted a proposal that would cost the City \$7,500 for the first year to set up the City’s capital assets in their software and \$4,000 for future years for processing the annual asset updates in preparation for the audit. This would allow Vredeveld Haefner LLC to focus on internal auditing activities.

BUDGET IMPACT:

Sufficient funds are available in the Finance Department Professional Services account 101-201-20100-801.000.

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 St SW, Wyoming, MI 49509.

Contractor means: Rehmann Robson LLC
A Limited Liability Company
2330 East Paris Ave., S.E.
Grand Rapids, MI 49546

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: 11/14/2022.

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, City Attorney

Company

By: _____
[Signature officer, director or principal of Contractor]
Kim Lindsay, CPA, CGMA, Principal
[Typed/Printed Name & Title of Person Signing for Contractor]

Date signed: 11/14, 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. Unless otherwise approved by the City Purchasing Director or City Attorney, Contractor and its subcontractors must register on the federal System for Award Management (**SAM**) list and be in good standing.

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 City programs, benefits, and actions, including City contracts and activities that contractors or others engage in for or on behalf of City. Accordingly:

A. Contractor in (i) employment actions, (ii) soliciting, bidding or contracting with subcontractors, or (iii) soliciting, bidding or contracting 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 other reason prohibited by law that is unrelated to the ability to perform the duties of a job or position. "Sex" means sex and gender, sex or gender stereotypes, sexual orientation, gender identity (including transgender status) or expression, and pregnancy, childbirth, or a condition related to pregnancy or childbirth.

B. Contractor will comply with applicable state and federal laws, rules, regulations, and other requirements regarding discrimination and inclusion, including, without limitation, 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 all rules, regulations, orders, and guidance issued pursuant to those statutes.

C. If Contractor will engage with others on City's behalf, Contractor must (i) ensure all persons are treated 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 any engaged individuals have limited English proficiency (*i.e.*, they speak English less than very well), Contractor must use language assistance services in communications. Language assistance services complying with City's Limited English Proficiency (LEP) Plan comply with this requirement.

D. Contractor must include these requirements in subcontracts and supply contracts and reasonably enforce compliance with them.

E. Noncompliance with this provision is a material breach of this Contract that can result in (i) withholding payments to Contractor, (ii) Contract cancellation, termination, or suspension, in whole or in part, and (iii) Contractor's ineligibility for future City contracts.

F. Contractor must retain and, upon request, provide City access to and copies of all information and reports required by the requirements referred to in this provision that City or a state or federal agency determine are pertinent to ascertain compliance. If information required of Contractor is in the sole possession of another who fails or refuses to furnish it, Contractor must so certify to City.

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: \$2,000,000 Each Occurrence, \$2,000,000 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): \$2,000,000 per person \$2,000,000 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

Rehmann

November 14, 2022

Jodi Yenchar, Finance Director
Wyoming City Clerk's Office
Wyoming City Hall
1155 28th Street SW
Wyoming, MI 49509

Dear Ms. Yenchar:

We appreciate the opportunity to present the following amendment proposal to the original proposal dated February 1, 2022 to the City of Wyoming (the "City"), on behalf of Rehmann Robson LLC ("Rehmann"). We will leverage our extensive industry and technical experience to help you accomplish your goals.

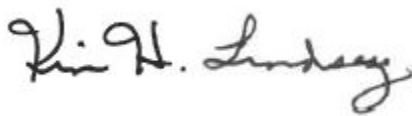
When you partner with Rehmann, here's what to expect:

- Quick, accurate responses to your questions
- Proactive discussions and planning around new legislation that may affect you
- A collaborative relationship between your team and ours

We look forward to hearing from you regarding your decision. In the meantime, please contact us with any questions. Thank you for considering Rehmann.

Sincerely,

Rehmann Robson LLC



Kim Lindsay, CPA, CGMA
Principal

YOUR INVESTMENT

Based on our discussions, the scope of the engagement and estimated fees are as follows:

SERVICES	FIRST YEAR FEES	SUBSEQUENT YEAR FEES/YEAR
F-65 initial prep	\$5,000	
F-65 annual updates		\$2,500
Community Resource Alliance 990 or 990N*	*1,500 or *300	
Capital assets initial setup	7,500	
Capital assets annual updates		4,000
TOTAL	<u>\$14,000 or \$12,800</u>	<u>\$6,500</u>

*annual fee

The fee estimate is based on anticipated cooperation from the City personnel, the assumption that unexpected circumstances will not be encountered during the engagement.

NEXT STEPS

Thank you for the opportunity to propose services to the City. We are confident Rehmann will meet and exceed your expectations. Please contact us with any questions you may have.

Kim Lindsay, CPA, CGMA | 616.975.4100 | kim.lindsay@rehmann.com

RESOLUTION NO. _____

RESOLUTION TO AWARD THE BID FOR THE
2023 NOEL, WYKES AND LONGSTREET WATERMAIN REPLACEMENT PROJECT AND
TO AUTHORIZE THE MAYOR AND CITY CLERK TO EXECUTE THE CONTRACT

WHEREAS:

1. On October 25, 2022, the City received three (3) bids for the 2023 Noel, Wykes and Longstreet Watermain Replacement Project with Wyoming Excavators, Inc. submitting the low bid of \$1,591,353.
2. The bid is \$60,188 or 3.6% below the engineer's estimate and is in the best interest of the City to perform the aforementioned work.
3. The costs for this project can be financed out of the Water and CIP Funds.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby award the 2023 Noel, Wykes and Longstreet Watermain Replacement Project to Wyoming Excavators, Inc. in the amount of \$1,591,353.
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 November 21, 2022.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Staff Report

Bid Comparison

Contract Form

Resolution No. _____

STAFF REPORT

Date: November 9, 2022

Subject: 2023 Noel, Wykes and Longstreet Watermain Replacement Project – Award of Bid

From: Jeffrey Oonk, Senior Civil Engineer

Meeting Date: November 21, 2022

RECOMMENDATION:

It is recommended the City Council award the 2023 Noel, Wykes and Longstreet Watermain Replacement Project to Wyoming Excavators, Inc. in the amount of \$1,591,353.

COMMUNITY, SAFETY, STEWARDSHIP:

Reliable watermains provide safe potable water to residents and businesses for domestic use, industrial processes, and fire protection.

DISCUSSION:

Wyoming received three (3) bids for the 2023 Noel, Wykes and Longstreet Watermain Replacement Project. The low bid was submitted by Wyoming Excavators, Inc. in the amount of \$1,591,353, which is 3.6% below the engineer's estimate of \$1,651,541.

The existing watermains in Noel Avenue, Wykes Avenue and Longstreet Avenue were constructed in the 1950s and 1960s and are near the end of their useful life. Many of the homes on these streets are served by watermains located within the backyards of the properties. This makes access for maintenance difficult or impossible. The location of the watermains also means that a watermain break could potentially damage structures like garages, sheds, pools, etc. This project will place new watermain and water services within the street right-of-way. Water meters within the homes will be moved from the back wall to the front or side near the street. The project will also include resurfacing and restoration of the street.

The total project cost is \$1,700,000 including engineering and contingencies.

BUDGET IMPACT:

Sufficient funds are available in the following accounts:

Water Fund Account No. 591-441-57300-972.573:	\$1,000,000
Water CIP Account No. 400-441-57300-972.573:	<u>\$700,000</u>
Total:	\$1,700,000

Bid Comparison

Contract ID: 2023.01
Description: Watermain Wykes Noel Longstreet Alger 26th
Location: Wykes Noel Longstreet Watermain
Projects(s): 2023.1

Rank	Bidder	Total Bid	% Over Low	% Over Est.
0	ENGINEER'S ESTIMATE	\$1,651,541.00	3.78%	0.00%
1	(_14) Wyoming Excavators, Inc.	\$1,591,353.00	0.00%	-3.64%
2	(_9) Kamminga & Roodvoets, Inc	\$1,627,823.79	2.29%	-1.43%
3	(_00220) MONTGOMERY EXCAVATING	\$1,796,745.25	12.90%	8.79%

Line	Pay Item Code	Quantity	Units	(0) ENGINEER'S ESTIMATE	(1) Wyoming Excavators, Inc.	(2) Kamminga & Roodvoets, Inc
Description				Bid Price	Bid Price	Bid Price
				Total	Total	Total
0001	1000	1	LSUM	\$80,000.00	\$78,500.00	\$80,000.00
	MOBILIZATION			\$80,000.00	\$78,500.00	\$80,000.00
0002	1002	22	Ea	\$1,000.00	\$315.00	\$315.00
	REMOVE TREES 8" TO 18"			\$22,000.00	\$6,930.00	\$6,930.00
0003	1003	2	Ea	\$1,200.00	\$895.00	\$895.00
	REMOVE TREES 19" TO 36"			\$2,400.00	\$1,790.00	\$1,790.00

Line	Pay Item Code	Quantity	Units	(0) ENGINEER'S ESTIMATE		(1) Wyoming Excavators, Inc.		(2) Kamminga & Roodvoets, Inc	
				Bid Price	Total	Bid Price	Total	Bid Price	Total
0004	1008 REMOVE CURB AND GUTTER	2,870	Ft	\$10.00	\$28,700.00	\$8.00	\$22,960.00	\$6.75	\$19,372.50
0005	1035 REMOVE SIDEWALK	1,040	Syd	\$10.00	\$10,400.00	\$9.00	\$9,360.00	\$10.00	\$10,400.00
0006	1045 REMOVE PAVEMENT	498	Syd	\$10.00	\$4,980.00	\$9.00	\$4,482.00	\$10.00	\$4,980.00
0007	1125 REMOVE EX SEWER	20	Ft	\$20.00	\$400.00	\$11.00	\$220.00	\$25.00	\$500.00
0008	1142 REMOVE EX COVER AND CASTINGS	31	Ea	\$500.00	\$15,500.00	\$165.00	\$5,115.00	\$175.00	\$5,425.00
0009	1143 REMOVE EX VALVE AND BOX	8	Ea	\$500.00	\$4,000.00	\$165.00	\$1,320.00	\$175.00	\$1,400.00
0010	1145 REMOVE EX DRAINAGE STRUCTURE	2	Ea	\$600.00	\$1,200.00	\$550.00	\$1,100.00	\$315.00	\$630.00
0011	1168 REMOVE EX HYDRANT	5	Ea	\$400.00	\$2,000.00	\$424.00	\$2,120.00	\$260.00	\$1,300.00
0012	1170 REMOVE EX WATERMAIN	150	Ft	\$15.00	\$2,250.00	\$16.00	\$2,400.00	\$13.00	\$1,950.00
0013	1216 COLD MILL - 3.5"	10,760	Syd	\$2.00	\$21,520.00	\$2.00	\$21,520.00	\$2.00	\$21,520.00
0014	1550 REMOVE CONCRETE	2,212	Syd	\$10.00	\$22,120.00	\$9.00	\$19,908.00	\$8.00	\$17,696.00
0015	4016 DRAINAGE STRUCTURE 4' DIA (CATCH BASIN)	2	Ea	\$3,000.00	\$6,000.00	\$3,564.00	\$7,128.00	\$2,915.00	\$5,830.00
0016	4030 CATCH BASIN COVER - ADA	1	Ea	\$1,000.00	\$1,000.00	\$250.00	\$250.00	\$625.00	\$625.00
0017	4031 COVER AND CASTING	21	Ea	\$700.00	\$14,700.00	\$565.00	\$11,865.00	\$525.00	\$11,025.00
0018	4032 CATCH BASIN COVER AND CASTING	5	Ea	\$800.00	\$4,000.00	\$780.00	\$3,900.00	\$625.00	\$3,125.00
0019	4033 CATCH BASIN COVER AND CASTING - DOUBLE	1	Ea	\$1,000.00	\$1,000.00	\$798.00	\$798.00	\$700.00	\$700.00

Line	Pay Item Code	Quantity	Units	(0) ENGINEER'S ESTIMATE		(1) Wyoming Excavators, Inc.		(2) Kamminga & Roodvoets, Inc	
				Bid Price	Total	Bid Price	Total	Bid Price	Total
0020	4201	20	Ft	\$100.00	\$2,000.00	\$112.00	\$2,240.00	\$90.00	\$1,800.00
	STORM SEWER 12" (0' - 14' DEPTH)								
0021	5040	8	Ea	\$4,000.00	\$32,000.00	\$4,110.00	\$32,880.00	\$3,400.00	\$27,200.00
	HYDRANT								
0022	5076	8	Ea	\$1,750.00	\$14,000.00	\$1,805.00	\$14,440.00	\$1,600.00	\$12,800.00
	VALVE 6"								
0023	5077	12	Ea	\$2,500.00	\$30,000.00	\$2,485.00	\$29,820.00	\$2,100.00	\$25,200.00
	VALVE 8"								
0024	5101	135	Ft	\$100.00	\$13,500.00	\$99.00	\$13,365.00	\$86.00	\$11,610.00
	D.I. CL 53 WATERMAIN 6"								
0025	5102	3,570	Ft	\$100.00	\$357,000.00	\$103.00	\$367,710.00	\$93.00	\$332,010.00
	D.I. CL 53 WATERMAIN 8"								
0026	5200	2	Ea	\$600.00	\$1,200.00	\$503.00	\$1,006.00	\$400.00	\$800.00
	4" D.I. WATERMAIN FITTING								
0027	5201	13	Ea	\$700.00	\$9,100.00	\$865.00	\$11,245.00	\$750.00	\$9,750.00
	6" D.I. WATERMAIN FITTING								
0028	5202	33	Ea	\$850.00	\$28,050.00	\$965.00	\$31,845.00	\$800.00	\$26,400.00
	8" D.I. WATERMAIN FITTING								
0029	5605	26	Ea	\$2,300.00	\$59,800.00	\$2,335.00	\$60,710.00	\$3,350.00	\$87,100.00
	1" WATER SERVICE, LONG SIDE								
0030	5606	48	Ea	\$1,200.00	\$57,600.00	\$1,125.00	\$54,000.00	\$1,625.00	\$78,000.00
	1" WATER SERVICE, SHORT SIDE								
0031	5607	1	Ea	\$3,500.00	\$3,500.00	\$2,876.00	\$2,876.00	\$2,900.00	\$2,900.00
	1.5" WATER SERVICE, LONG SIDE								
0032	5614	4	Ea	\$3,500.00	\$14,000.00	\$3,450.00	\$13,800.00	\$3,450.00	\$13,800.00
	WATER SERVICE STOP BOX TO METER (METER AT REAR OF HOUSE)								
0033	5614	52	Ea	\$3,500.00	\$182,000.00	\$2,650.00	\$137,800.00	\$2,650.00	\$137,800.00
	WATER SERVICE STOP BOX TO METER (RELOCATE METER)								
0034	6105	270	Cyd	\$60.00	\$16,200.00	\$36.00	\$9,720.00	\$30.00	\$8,100.00
	MISCELLANEOUS GRAVEL								

Line	Pay Item Code	Quantity	Units	(0) ENGINEER'S ESTIMATE		(1) Wyoming Excavators, Inc.		(2) Kamminga & Roodvoets, Inc	
				Bid Price	Total	Bid Price	Total	Bid Price	Total
0035	6114	3,529	Ft	\$12.00	\$42,348.00	\$11.00	\$38,819.00	\$16.00	\$56,464.00
	STREET GRADE								
0036	6143	673	Syd	\$12.00	\$8,076.00	\$11.00	\$7,403.00	\$10.00	\$6,730.00
	6" AGGREGATE BASE (CIP)								
0037	6215	1,150	Sft	\$5.00	\$5,750.00	\$7.00	\$8,050.00	\$7.00	\$8,050.00
	SIDEWALK RAMP, ADA								
0038	6217	75	Ft	\$70.00	\$5,250.00	\$59.00	\$4,425.00	\$80.00	\$6,000.00
	DETECTABLE WARNING PLATES								
0039	6240	2,870	Ft	\$22.00	\$63,140.00	\$26.00	\$74,620.00	\$27.00	\$77,490.00
	CONCRETE CURB AND GUTTER, 30"								
0040	6270	8,440	Sft	\$3.50	\$29,540.00	\$4.00	\$33,760.00	\$5.00	\$42,200.00
	CONCRETE SIDEWALK, 4"								
0041	6280	2,247	Syd	\$33.00	\$74,151.00	\$36.00	\$80,892.00	\$42.00	\$94,374.00
	CONCRETE PAVEMENT NON REINFORCED, 4"								
0042	6284	12	Syd	\$33.00	\$396.00	\$55.00	\$660.00	\$64.00	\$768.00
	CONCRETE PAVEMENT NON REINFORCED, 8"								
0043	6295	41	Ea	\$470.00	\$19,270.00	\$578.00	\$23,698.00	\$480.00	\$19,680.00
	ADJUST CASTINGS								
0044	6305	155	Ton	\$150.00	\$23,250.00	\$95.50	\$14,802.50	\$95.27	\$14,766.85
	HAND PATCHING								
0045	6354	1,002	Ton	\$100.00	\$100,200.00	\$95.00	\$95,190.00	\$94.67	\$94,859.34
	HMA MIXTURE - 5E1								
0046	6362	1,390	Ton	\$95.00	\$132,050.00	\$81.50	\$113,285.00	\$81.19	\$112,854.10
	HMA MIXTURE - 3C								
0047	7005	7,800	Syd	\$5.00	\$39,000.00	\$7.00	\$54,600.00	\$4.00	\$31,200.00
	TOP SOIL 4" SCREENED								
0048	7015	7,800	Syd	\$1.00	\$7,800.00	\$2.50	\$19,500.00	\$1.00	\$7,800.00
	CLASS A SEED HYDRO-MULCH								
0049	8010	1	LSUM	\$30,000.00	\$30,000.00	\$29,475.50	\$29,475.50	\$81,063.00	\$81,063.00
	MINOR TRAFFIC CONTROL DEVICES								
0050	8110	6	Ea	\$150.00	\$900.00	\$165.00	\$990.00	\$75.00	\$450.00
	BARRICADE TYPE III LIGHTED - FURNISHED								

Line	Pay Item Code	Quantity	Units	Description	(0) ENGINEER'S ESTIMATE		(1) Wyoming Excavators, Inc.		(2) Kamminga & Roodvoets, Inc	
					Bid Price	Total	Bid Price	Total	Bid Price	Total
0051	8111	6	Ea	BARRICADE TYPE III LIGHTED - OPERATED	\$50.00	\$300.00	\$10.00	\$60.00	\$1.00	\$6.00
0052	8115	200	Ea	42 INCH CHANNELIZING DEVICE - FURNISHED	\$25.00	\$5,000.00	\$29.00	\$5,800.00	\$12.00	\$2,400.00
0053	8116	200	Ea	42 INCH CHANNELIZING DEVICE - OPERATED	\$5.00	\$1,000.00	\$1.00	\$200.00	\$1.00	\$200.00
Bid Totals:						\$1,651,541.00		\$1,591,353.00		\$1,627,823.79

Line	Pay Item Code	Quantity	Units	(3) MONTGOMERY EXCAVATING		Bid Price	Total	Bid Price	Total	Bid Price	Total
				Bid Price	Total						
0001	1000	1	LSUM			\$62,500.00	\$62,500.00		\$0.00		\$0.00
	MOBILIZATION										
0002	1002	22	Ea			\$380.00	\$8,360.00		\$0.00		\$0.00
	REMOVE TREES 8" TO 18"										
0003	1003	2	Ea			\$1,000.00	\$2,000.00		\$0.00		\$0.00
	REMOVE TREES 19" TO 36"										
0004	1008	2,870	Ft			\$2.00	\$5,740.00		\$0.00		\$0.00
	REMOVE CURB AND GUTTER										
0005	1035	1,040	Syd			\$5.00	\$5,200.00		\$0.00		\$0.00
	REMOVE SIDEWALK										
0006	1045	498	Syd			\$10.00	\$4,980.00		\$0.00		\$0.00
	REMOVE PAVEMENT										
0007	1125	20	Ft			\$25.00	\$500.00		\$0.00		\$0.00
	REMOVE EX SEWER										
0008	1142	31	Ea			\$200.00	\$6,200.00		\$0.00		\$0.00
	REMOVE EX COVER AND CASTINGS										
0009	1143	8	Ea			\$300.00	\$2,400.00		\$0.00		\$0.00
	REMOVE EX VALVE AND BOX										
0010	1145	2	Ea			\$750.00	\$1,500.00		\$0.00		\$0.00
	REMOVE EX DRAINAGE STRUCTURE										
0011	1168	5	Ea			\$750.00	\$3,750.00		\$0.00		\$0.00
	REMOVE EX HYDRANT										
0012	1170	150	Ft			\$15.00	\$2,250.00		\$0.00		\$0.00
	REMOVE EX WATERMAIN										
0013	1216	10,760	Syd			\$4.40	\$47,344.00		\$0.00		\$0.00
	COLD MILL - 3.5"										
0014	1550	2,212	Syd			\$7.00	\$15,484.00		\$0.00		\$0.00
	REMOVE CONCRETE										
0015	4016	2	Ea			\$3,500.00	\$7,000.00		\$0.00		\$0.00
	DRAINAGE STRUCTURE 4' DIA (CATCH BASIN)										
0016	4030	1	Ea			\$560.00	\$560.00		\$0.00		\$0.00
	CATCH BASIN COVER - ADA										

Line	Pay Item Code	Quantity	Units	(3) MONTGOMERY EXCAVATING		Bid Price	Total	Bid Price	Total	Bid Price	Total
				Bid Price	Total						
0017	4031	21	Ea	\$920.00	\$19,320.00			\$0.00		\$0.00	
	COVER AND CASTING										
0018	4032	5	Ea	\$755.00	\$3,775.00			\$0.00		\$0.00	
	CATCH BASIN COVER AND CASTING										
0019	4033	1	Ea	\$1,175.00	\$1,175.00			\$0.00		\$0.00	
	CATCH BASIN COVER AND CASTING - DOUBLE										
0020	4201	20	Ft	\$70.00	\$1,400.00			\$0.00		\$0.00	
	STORM SEWER 12" (0' - 14' DEPTH)										
0021	5040	8	Ea	\$4,120.00	\$32,960.00			\$0.00		\$0.00	
	HYDRANT										
0022	5076	8	Ea	\$1,600.00	\$12,800.00			\$0.00		\$0.00	
	VALVE 6"										
0023	5077	12	Ea	\$2,175.00	\$26,100.00			\$0.00		\$0.00	
	VALVE 8"										
0024	5101	135	Ft	\$80.00	\$10,800.00			\$0.00		\$0.00	
	D.I. CL 53 WATERMAIN 6"										
0025	5102	3,570	Ft	\$110.00	\$392,700.00			\$0.00		\$0.00	
	D.I. CL 53 WATERMAIN 8"										
0026	5200	2	Ea	\$250.00	\$500.00			\$0.00		\$0.00	
	4" D.I. WATERMAIN FITTING										
0027	5201	13	Ea	\$500.00	\$6,500.00			\$0.00		\$0.00	
	6" D.I. WATERMAIN FITTING										
0028	5202	33	Ea	\$625.00	\$20,625.00			\$0.00		\$0.00	
	8" D.I. WATERMAIN FITTING										
0029	5605	26	Ea	\$3,475.00	\$90,350.00			\$0.00		\$0.00	
	1" WATER SERVICE, LONG SIDE										
0030	5606	48	Ea	\$1,400.00	\$67,200.00			\$0.00		\$0.00	
	1" WATER SERVICE, SHORT SIDE										
0031	5607	1	Ea	\$4,250.00	\$4,250.00			\$0.00		\$0.00	
	1.5" WATER SERVICE, LONG SIDE										
0032	5614	4	Ea	\$4,850.00	\$19,400.00			\$0.00		\$0.00	
	WATER SERVICE STOP BOX TO METER (METER AT REAR OF HOUSE)										

Line	Pay Item Code	Description	Quantity	Units	(3) MONTGOMERY EXCAVATING		Bid Price	Total	Bid Price	Total	Bid Price	Total
					Bid Price	Total						
0033	5614	WATER SERVICE STOP BOX TO METER (RELOCATE METER)	52	Ea	\$4,575.00	\$237,900.00			\$0.00		\$0.00	
0034	6105	MISCELLANEOUS GRAVEL	270	Cyd	\$45.00	\$12,150.00			\$0.00		\$0.00	
0035	6114	STREET GRADE	3,529	Ft	\$12.00	\$42,348.00			\$0.00		\$0.00	
0036	6143	6" AGGREGATE BASE (CIP)	673	Syd	\$8.75	\$5,888.75			\$0.00		\$0.00	
0037	6215	SIDEWALK RAMP, ADA	1,150	Sft	\$9.30	\$10,695.00			\$0.00		\$0.00	
0038	6217	DETECTABLE WARNING PLATES	75	Ft	\$75.00	\$5,625.00			\$0.00		\$0.00	
0039	6240	CONCRETE CURB AND GUTTER, 30"	2,870	Ft	\$33.30	\$95,571.00			\$0.00		\$0.00	
0040	6270	CONCRETE SIDEWALK, 4"	8,440	Sft	\$6.60	\$55,704.00			\$0.00		\$0.00	
0041	6280	CONCRETE PAVEMENT NON REINFORCED, 4"	2,247	Syd	\$44.00	\$98,868.00			\$0.00		\$0.00	
0042	6284	CONCRETE PAVEMENT NON REINFORCED, 8"	12	Syd	\$75.00	\$900.00			\$0.00		\$0.00	
0043	6295	ADJUST CASTINGS	41	Ea	\$400.00	\$16,400.00			\$0.00		\$0.00	
0044	6305	HAND PATCHING	155	Ton	\$105.00	\$16,275.00			\$0.00		\$0.00	
0045	6354	HMA MIXTURE - 5E1	1,002	Ton	\$108.75	\$108,967.50			\$0.00		\$0.00	
0046	6362	HMA MIXTURE - 3C	1,390	Ton	\$94.00	\$130,660.00			\$0.00		\$0.00	
0047	7005	TOP SOIL 4" SCREENED	7,800	Syd	\$5.25	\$40,950.00			\$0.00		\$0.00	
0048	7015	CLASS A SEED HYDRO-MULCH	7,800	Syd	\$1.20	\$9,360.00			\$0.00		\$0.00	

Line	Pay Item Code	Quantity	Units	(3) MONTGOMERY EXCAVATING		Bid Price	Total	Bid Price	Total	Bid Price	Total
				Bid Price	Total						
0049	8010	1	LSUM			\$15,000.00	\$15,000.00		\$0.00		\$0.00
	MINOR TRAFFIC CONTROL DEVICES										
0050	8110	6	Ea			\$200.00	\$1,200.00		\$0.00		\$0.00
	BARRICADE TYPE III LIGHTED - FURNISHED										
0051	8111	6	Ea			\$10.00	\$60.00		\$0.00		\$0.00
	BARRICADE TYPE III LIGHTED - OPERATED										
0052	8115	200	Ea			\$32.00	\$6,400.00		\$0.00		\$0.00
	42 INCH CHANNELIZING DEVICE - FURNISHED										
0053	8116	200	Ea			\$1.00	\$200.00		\$0.00		\$0.00
	42 INCH CHANNELIZING DEVICE - OPERATED										
Bid Totals:							\$1,796,745.25				

CONTRACT FORM

Page 1 of 2

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

City Standard Contract for 2023 NOEL, WYKES AND LONGSTREET WATERMAIN REPLACEMENT PROJECT

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

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

"City" means the City of Wyoming, a Michigan municipal corporation, of 1155 28th Street SW, Wyoming, MI 49509.

"Contractor" means:

LEGAL NAME OF COMPANY

Wyoming Excavators, Inc

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

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

Corporation

ADDRESS

9500 - 5 mile rd NE

CITY

Ada

STATE

MI

ZIP CODE

49301

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

Terms and Conditions

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

1. Contractor will provide the materials and services in accordance with the 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.

CONTRACT FORM, CONTINUED

Page 2 of 2

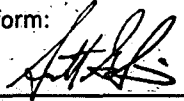
City and Contractor have signed this Contract as of the Effective Date.

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 of Bidder

NATHAN R POST
Printed Name of Bidder

Vice President
Title

Date signed: _____
OCTOBER 25, 2022

RESOLUTION NO. _____

RESOLUTION TO CONCUR WITH CHANGE ORDER NUMBER ONE FOR
THE GEZON STORAGE TANK REHABILITATION PROJECT

WHEREAS:

1. On April 4, 2022, City Council adopted Resolution number 27320 awarding the bid for painting of a 5,000,000 gallon concrete reservoir and to perform EGLE compliance repairs on four Gezon storage reservoirs to Fedewa, Inc.
2. As detailed in the attached staff report, during draining of the steel tank, deficiencies were found with a support pillar and roof beam, along with interior and exterior paint failures which required the tank to be empty to perform the repairs.
3. It is recommended the City Council concur with change order number one in the total estimated amount of \$17,200.00.
4. Funds for the repairs are available in account number 591-591-57300-986.444.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby concur with change order number one.

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 November 21, 2022.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Staff Report

Change Order #1

Resolution No. _____

STAFF REPORT

Date: November 2, 2022
Subject: Concurrence with Emergency Repairs, Storage Tank Project Change Order
From: Dan Kleinheksel, Utility Maintenance Manager
Meeting Date: November 21, 2022

RECOMMENDATION:

It is recommended the City Council accept Change Order No. 1 for Gezon water storage tank from Fedewa, Inc. and concur with the emergency repairs carried out in the total amount of \$17,200.00.

COMMUNITY, SAFETY, STEWARDSHIP:

Regular and proper upkeep of the utility plant infrastructure contributes to the prevention of untimely and costly repairs that could potentially interrupt day-to-day operations. Furthermore, the water storage painting and repairs ensure safe, reliable, and efficient water storage.

DISCUSSION:

On April 4, 2022, Fedewa, Inc. was awarded a Gezon storage tank project via Resolution No. 27320 which consisted of the rehabilitation of a concrete storage tank and EGLE compliance modifications to all four storage tanks on site. One such tank is a 5,000,000-gallon steel tank that was required to be drained to complete the EGLE compliance modifications. Upon draining the steel tank and performing an inspection, deficiencies were found with a support pillar and roof beam, along with minor interior and exterior paint failures. To maintain tank integrity and preserve life expectancy, it is prudent to make repairs while the tank is empty and in conjunction with the current project.

Therefore, a proposal was requested from Fedewa, Inc. to perform the repair work including realignment of the support pillar, straightening the roof beam, and repair of small paint failures. Fedewa, Inc. returned with a proposal to complete the repairs for a total of \$17,200.00. Because the tank was empty and the window of opportunity short, the repairs were carried out on an emergency basis on November 7, 2022. Dixon Engineering is the project engineer and oversaw the work to ensure quality and long-lasting repair.

BUDGET IMPACT:

Adequate funds exist in the Water Fund Capital Account #591-591-57300-986.444.

Section 00 63 63 - CHANGE ORDER NO. 1

Owner:	City of Wyoming, Michigan	Owner's Project No.:	
Engineer:	Dixon Engineering, Inc.	Engineer's Project No.:	22-41-19-03-21
Contractor:	Fedewa, Inc.	Contractor's Project No.:	
Project:	Gezon 5,000,000 Gallon Concrete Reservoir		
Contract Name:	Exterior Overcoat, Wet Interior Piping Repair, and Miscellaneous Repairs		
Date Issued:	November 1, 2022	Effective Date of Change Order:	November 1, 2022

The Contract is modified as follows upon execution of this Change Order:


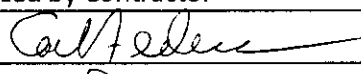
Description: **The following is for the 5,000,000 Gallon Steel Reservoir. Realign support pillar and straighten roof beam (\$11,500). Spot Coat Repair newly burned or exposed areas (\$700). Repaint all other existing rust spot areas in the wet interior (minus defined crevice lap seams) (\$3,200). Repair failed areas on the tank roof (\$1,000). Drive lift around tank and spot repair small failures on sidewalls (\$800).**

Attachments: **Proposal from Fedewa, Inc. to repair rust spots on tank of the 5,000,000 gallon steel tank. Proposal from Fedewa, Inc. to repair interior surfaces of the 5,000,000 gallon steel tank.**

Change in Contract Price

Change in Contract Times

Original Contract Price: \$ <u>190,899</u>	Original Contract Times: Substantial Completion: <u>N/A</u> Ready for final payment: <u>N/A</u>
[Increase] [Decrease] from previously approved Change Orders No. 1 to No. [Number of previous Change Order]: \$ <u>N/A</u>	[Increase] [Decrease] from previously approved Change Orders No.1 to No. [Number of previous Change Order]: Substantial Completion: <u>N/A</u> Ready for final payment: <u>N/A</u>
Contract Price prior to this Change Order: \$ <u>190,899</u>	Contract Times prior to this Change Order: Substantial Completion: <u>N/A</u> Ready for final payment: <u>N/A</u>
Increase this Change Order: \$ <u>17,200</u>	[Increase] [Decrease] this Change Order: Substantial Completion: <u>N/A</u> Ready for final payment: <u>N/A</u>
Contract Price incorporating this Change Order: \$ <u>208,099</u>	Contract Times with all approved Change Orders: Substantial Completion: <u>N/A</u> Ready for final payment: <u>N/A</u>

By: <u></u>	Recommended by Engineer (if required)	Authorized by Owner
Title: <u>Project Manager</u>		
Date: <u>November 1, 2022</u>		
By: <u></u>	Authorized by Contractor	Approved by Funding Agency (if applicable)
Title: <u>Pres</u>		
Date: <u>11-1-2022</u>		

RESOLUTION NO. _____

RESOLUTION TO APPROVE AMENDMENT NUMBER TWO TO THE
DEHUMIDIFICATION UPGRADE PROJECT AND TO AUTHORIZE THE
MAYOR AND CITY CLERK TO EXECUTE THE AMENDMENT

WHEREAS:

1. On August 17, 2020, City Council adopted Resolution number 26759 accepting a proposal from Donohue & Associates, Inc. to provide engineering services for the dehumidification upgrade project.
2. On July 19, 2021, City Council adopted Resolution number 27084 approving amendment number one for Donohue & Associates, Inc. to provide construction oversight services in the estimated amount of \$49,270.00.
3. As detailed in the attached staff report, Donohue & Associates, Inc. has provided the City with amendment number two for added project oversight costs in the total amount of \$5,500.00.
4. Funds are available in account number 591-591-57300-986.444.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby approve amendment number two.
2. The City Council does hereby authorize the Mayor and City Clerk to execute the 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 November 21, 2022.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Staff Report
Amendment

Resolution No. _____

STAFF REPORT

Date: November 7, 2022
Subject: Engineering Services Agreement Amendment No. 2
From: Dan Kleinheksel, Utility Maintenance Manager
Meeting Date: November 21, 2022

RECOMMENDATION:

It is recommended that the City Council approve Amendment No. 2 to the Engineering Services Agreement for the Dehumidification and Coatings Project with Donohue & Associates.

COMMUNITY, SAFETY, STEWARDSHIP:

The performance of construction oversight for compliance with the design drawings and specifications maximizes the value of our investment and project life expectancy. Furthermore, it provides the City with assurances of the best project outcome.

DISCUSSION:

On July 19, 2021, City Council accepted Amendment No. 1 to the Engineering Services Agreement for the Water Treatment Plant Dehumidification and Coatings Project with Donohue & Associates to provide construction oversight. Due to material shortages, equipment procurement delays, and startup challenges, the project has exceeded the intended completion date of April 28, 2022. The foresight of a prolonged project and added difficulties allowed plant staff and Donohue & Associates to work together to minimize added costs. However, these overruns have depleted the existing contract amount.

Therefore, Donohue & Associates is requesting additional funds to close out the project. The remaining work includes a final site inspection and punch list, as well as the preparation of final record drawings and the project close-out documents. The added project oversight cost requires a change of \$5,500.00 in the contract amount resulting in a total contract amount of \$137,610.00.

BUDGET IMPACT:

Adequate funds exist in the Water Treatment Plant Capital Account #591-591-57300-986.444.



**AMENDMENT NO. #2 to
ENGINEERING SERVICES AGREEMENT
Dehumidification Replacement and Upgrades (Project)
Original Agreement Executed September 15, 2020**

This Amendment is by and between:

City of Wyoming (Owner)
Water Treatment Plant
16700 New Holland
Holland, MI 49425

and

Donohue & Associates, Inc. (Donohue)
3949 Sparks Drive – Suite 105
Grand Rapids, MI 49546

Who agree to amend the original Agreement, as follows:

PART I – B. SCOPE OF SERVICES

The services have been modified to include the following additional activities related to engineering services during the construction phase of the project:

1. Additional project support has been required due to the contractor’s delay in reaching the contraction substantial completion date. Donohue has continued to support the project and has exhausted the original agreed upon compensation. Work required to be completed on the project includes:
 - a. Attend final site inspection and prepare punch list.
 - b. Certify substantial and final completion.
 - c. Prepare electronic record drawings and project close-out package (the fee includes one electronic set of record drawings and one full sized printed set).

PART III – A. COMPENSATION

Compensation for the services set forth in Part I shall be increased \$5,500.00, resulting in a total contract amount of \$137,610.00.

APPROVED FOR OWNER

By: _____
Printed Name: _____
Title: _____
Date: _____

APPROVED FOR DONOHUE

By: Craig W. Brunner
Printed Name: Craig W. Brunner
Title: President
Date: November 4, 2022

RESOLUTION NO. _____

RESOLUTION TO ACCEPT AN AGREEMENT FROM DONOHUE & ASSOCIATES, INC.
TO PROVIDE PRELIMINARY ENGINEERING AND DESIGN WORK
FOR THE ACTIVATED SLUDGE BLOWER SYSTEM PROJECT
AND TO AUTHORIZE THE MAYOR AND CITY CLERK TO EXECUTE THE CONTRACT

WHEREAS:

1. As detailed in the attached staff report, it is recommended City Council accept an agreement from Donohue & Associates, Inc. to provide preliminary engineering and design work for the activated sludge blower system project at the Clean Water Plant in the total estimated amount of \$106,000.00.
2. Funds for the project are budgeted in account number 590-590-54400-986.444.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby accept an agreement from Donohue & Associates, Inc. in the total estimated amount of \$106,000.00.
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 November 21, 2022.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Staff Report
Agreement/Contract

Resolution No. _____

STAFF REPORT

Date: November 7, 2022

Subject: Blower Replacement Preliminary Design

From: Jon Burke, Clean Water Plant Superintendent

Date of Meeting: November 21, 2022

RECOMMENDATION:

It is recommended that the City Council accept the proposal as provided by Donohue & Associates for the preliminary engineering and design work as described in the attached scope of services in the amount of \$106,000.

COMMUNITY, SAFETY, STEWARDSHIP:

The City's Clean Water Plant provides state of the art wastewater treatment services to all residents and customers of Wyoming in a cost efficient and socially equitable way. Compromised and degraded infrastructure has the potential to interrupt day-to-day operations of the plant and, therefore, it is prudent to plan for its improvement and/or replacement to avoid this.

DISCUSSION:

With City Council Resolution No. 25237 dated September 8, 2015, the Clean Water Plant entered into an agreement with Donohue & Associates to study the efficiency of the Plant's aeration system. Several recommendations were made at that time, but due to financial limitations, only part of the improvements could be implemented. Over 15,000 diffusers were replaced in the summer of 2016 and some aeration system control work was done during the summer of 2017.

Both of these changes improved the operation and efficiency of the entire aeration system but with some new options with blower technology, it is now possible to complete the project and make the system run even more efficiently than ever. Due to the age of the current equipment and the need to rebuild one of the five existing blowers earlier this year, a purchase order was issued in July of 2022 to update the study with Donohue and obtain current pricing for a potential project.

The updated study was completed recently and with the City Manager's approval, we filed the initial paperwork known as the "intent to apply" for State of Michigan State Revolving Fund (SRF) financing. This is a low interest loan program which can sometimes even be free money if the right conditions are met. There is some preliminary engineering needed and additional documents that need to be produced to meet the program requirements before the actual

application will be filed in the spring. The cost of this preliminary work as described in the attached scope of services is \$106,000.

BUDGET IMPACT:

Sufficient funding is available in the Clean Water Plant Capital Outlay account #590-590-54400-986.444.



ENGINEERING SERVICES AGREEMENT

**Activated Sludge Blower System Preliminary Design and SRF Project Plan
(Project)**

This Agreement is by and between:

City of Wyoming (City)
Wyoming Clean Water Plant
2350 Ivanrest Avenue SW
Wyoming, MI 49418

and

Donohue & Associates, Inc. (Donohue)
3949 Sparks Drive SE, Suite 105
Grand Rapids, MI 49546

Who agree as follows:

Owner hereby engages Donohue to perform the Services set forth in Part I for the compensation set forth in Part III. Donohue will be authorized to commence the Services upon execution and receipt of this Agreement from Owner. Owner and Donohue agree that this signature page, together with Parts I through IV attached, constitute the entire agreement for this Project.

Approved as to form:



Scott G. Smith, City Attorney

APPROVED FOR OWNER

By: _____

Printed Name: _____

Title: _____

Date: _____

APPROVED FOR DONOHUE

By:  _____

Printed Name: Craig W. Brunner

Title: President

Date: November 9, 2022

PART I

PROJECT DESCRIPTION/SCOPE OF SERVICES/TIMING

A. PROJECT DESCRIPTION

Donohue recently completed an update to a study of the activated sludge blower system at the City's Clean Water Plant (CWP). The study was originally completed and documented in a report dated February 24, 2016 (Report) and the update memo dated November 10, 2022 (Memo). Based on the current age of the existing blowers, favorable energy efficiency payback of new blower technology, and anticipated better operational flexibility of a different blower technology, Donohue recommends that the City proceed with a blower improvement project. This would include replacement of several existing blowers for new more energy efficient blowers, modifications to existing air distribution piping and control valves for better operational control, and the associated structural, electrical, and controls system updates to accommodate the new blowers.

None of the new blower technologies considered during the recent study update clearly stood out over the other choices considered. In addition to the energy savings offered by each of the new technologies, there are other economic and non-economic factors to consider with each type of blower technology. The preference for a particular blower type could very well come down to CWP staff preferences. These differences will further be evaluated as a part of the scope of this Agreement and a final selection of blower type will be made.

The Report also recommended an upgrade to the existing air distribution piping system which conveys the air from the blowers to the aeration basins. Currently each of the two aeration basins has one leg of air piping which conveys air to the basin. Each basin has two cells and the air piping splits to feed each cell. Air control is only available upstream of each basin, making controlling the airflow split between the two cells difficult to balance. The Report recommended adding a new dedicated air pipe to each basin so that the air to each cell of the basin can be controlled separately to gain better operation flexibility and aeration efficiency. This proposed work is described in more detail in the Report. The City has elected to also include this improvement in this Blower System Improvements project and the scope is included in this Agreement.

In order to fund the project the City has chosen to pursue project funding through the Michigan's State Revolving Fund (SRF) program because of the low interest rates and the potential for qualifying for a portion of loan forgiveness based on the energy benefits of this project. The SRF is a federal program, regulated through the US Environmental Protection Agency (USEPA) and administered by Michigan Environment, Great Lakes and Energy (EGLE). The first step in the SRF application process is the submittal of an Intent to Apply (ITA) to the SRF program. This was completed as a part of the recent Memo. For the next step in the funding process, the City is required to develop a SRF Project Plan and submit the final Project Plan to EGLE by May 1, 2023. The Project Plan requires public participation and City Council approval. Once submitted, EGLE will evaluate each of the projects submitted throughout the state and determine funding based on project priority scoring and certain criteria determining the community's economic status.

In summary the Scope of this Agreement includes the following:

- Develop a preliminary design for the replacement of existing activated sludge blowers and the addition of new air piping to each aeration basin cell.

- Utilize details from the preliminary design to develop a Project Plan for application for State Revolving Loan Funding (SRF) and assist the City in the application process.

B. SCOPE OF SERVICES

Services to be provided by Donohue for this Project under this Agreement are as follows:

Preliminary Design

Services to be provided by Donohue for the production of a Preliminary Design Report (PDR or Report) for Activated Sludge Blower System Improvements. The Report will include: (1) a Design Basis Memorandum, (2) Flow Sheets, (3) Operational Strategies, (4) Preliminary Layout Drawings, and (5) a Preliminary Opinion of Probable Construction Cost (OPCC). The improvements are described in detail in the original Report and updated in the Memo. Key elements from the Report and Memo are summarized below.

1. Working with City staff, the pros and cons of four different aeration blower models will be evaluated and a final selection of the blower type will be made. The evaluation will be made utilizing a combination of a present worth analysis of economic factors and non-economic factors.
2. Design of the replacement of existing aeration blowers and associated electrical and controls systems.
3. Design of new air piping to provide separate air feeds to each cell of the aeration basins. The concept will utilize the existing piping to feed one of the cells and a second line added to each basin to feed the other cell. The design includes new piping, control valves, and controls system upgrades to implement the control strategy.

SRF Project Plan

Basic Services to be provided by Donohue include developing DRAFT and FINAL Project Plan submittals as part of the SRF loan application process. The services include:

1. Develop Draft and Final Project Plan in accordance with Michigan Revolving Fund Project Plan Preparation Guidance including but not limited to:
 - a. Providing a project background.
 - b. Summarizing facilities condition and needs (reference asset management plan).
 - c. Review and include future wastewater flows and loadings as established by the City.
 - d. Identify project alternatives and complete alternatives analysis.
 - e. Identify selected alternatives.
 - f. Develop costs and user impacts.
 - g. Evaluate project environmental impacts and solicit environmental sign-offs.
 - h. Identify mitigation measures.
 - i. Develop public participation approach.
2. Coordinate with EGLE and the City on the document content.
3. Submit to EGLE on behalf of the City.
4. Coordinate SRF loan application with EGLE on behalf of the City.

TASK 1 – PROJECT MANAGEMENT

1. Provide a project manager who will coordinate project activities and will be the principal liaison between Donohue, the City's representative and regulatory agencies.
2. Conduct routine conference calls throughout project as needed.
3. Prepare monthly invoices and status reports.

TASK 2 – DESIGN BASIS AND PRELIMINARY DESIGN SCOPE OF SERVICES

1. Conduct a Kickoff Meeting with the City to review the draft Project Work Plan. The Project Work Plan will contain the project background, objectives, scope of services, key personnel, communication protocols, schedule, deliverables, and other information relevant to the implementation of the Project. Discuss and agree with City staff the blower manufacturers and four blower models to be further evaluated for selection. As a part of the Kickoff Meeting, conduct a site investigation to review and discuss with City staff the current status and conditions of the existing facilities.
2. Initiate the development of the Project Plan. Request needed data and information from the City.
3. Prepare base sheets of existing wastewater treatment facilities using AutoCAD. The base sheets will be used to show modifications required to the existing facilities.
4. Prepare a draft Technical Memorandum (TM) evaluating the four blower manufacturer alternatives. The TM will utilize the data from the recent Memo and provide a more detailed present worth economic evaluation of the capital and operational and maintenance costs of each blower unit. A non-economic evaluation of each blower unit will also be included.
5. Incorporate the alternatives evaluation into the Project Plan.
6. Conduct Workshop No. 1 with City staff to present and discuss the TM. A final selection of blower unit to be utilized will be decided with City staff.
7. Prepare a draft design basis memorandum for the proposed facilities. The design basis memorandum will list and describe characteristics and capacities of treatment processes and proposed manufacturers of major process equipment.
8. Select and size auxiliary equipment.
9. Develop Flow Sheets showing process equipment, process flow streams, flow isolation and flow control devices, field instrumentation. Prepare a preliminary functional description of operation and control for each unit process. Flow Sheets will include a general description of signals to the WWTP supervisory control and data acquisition (SCADA) system.
10. Prepare a conceptual site plan and conceptual layout drawings of new facilities showing plan views; major sections; building, tank, and room dimensions; major space requirements for process, electrical, I&C, and HVAC equipment as required; and size and elevation of larger diameter process piping and accessories.
11. Prepare for and conduct Workshop No. 2 with City's staff to review the design basis memorandum, conceptual layouts and flow sheets for coordinating with the City's needs. Electronic documents, in PDF format, will be provided for review in advance of the Workshop. Revise the documents in response to comments by the City.
12. Prepare Preliminary Drawings showing site plans, structure plans, mechanical plans, limited sections of key project areas, preliminary one-line diagram, and P&IDs for proposed improvements. A summary of recommended equipment vendors and materials of construction will be provided.
13. Prepare 30% OPCC.
14. Finalize draft Project Plan utilizing the information developed during the Preliminary Design. Submit to EGLE for their review and comment.
15. Coordinate with City staff the public notice and public meeting needed to solicit comments from City residents of their review of the draft Project Plan.

16. Finalize Project Plan and submit to EGLE.
17. Prepare for and conduct Workshop No. 3 with City staff to review the Draft PDR. Electronic PDF copies of all documents will be provided in advance. The PDR will include:
 - a. Design Basis Memorandum
 - b. Flow Sheets
 - c. Operation Strategies
 - d. Preliminary Layout Drawings
 - e. Preliminary 30% OPCC
18. Provide final PDR incorporating mutually-agreed-to revisions.

C. PROJECT TIMING

Donohue shall be authorized to commence the Services set forth herein upon execution of this Agreement. Dates below are based on execution of Agreement within 6 weeks of submittal to City.

1. SRF Project Plan: Completion by the EGLE submittal date of May 1, 2023.
2. Preliminary Design: Completion no later than July 1, 2023.

Donohue's services under this Agreement will be considered complete when Donohue has completed the tasks define within the Scope and submitted the final PDR.

PART II OWNER RESPONSIBILITIES

- A. In addition to other responsibilities of Owner set forth in this Agreement, Owner shall:
 1. Identify a person authorized to act as the Owner's representative to respond to questions and make decisions on behalf of Owner, accept completed documents, approve payments to Donohue, and serve as liaison with Donohue as necessary for Donohue to complete its Services.
 2. Furnish to Donohue copies of existing documents and data pertinent to Donohue's Scope of Services, including but not limited to and where applicable: design and record drawings for existing facilities; property descriptions, land use restrictions, surveys, geotechnical and environmental studies, or assessments.
 3. Owner shall be responsible for all requirements and instructions that it furnishes to Donohue pursuant to this Agreement, and for the accuracy and completeness of all reports, data, programs, and other information furnished by Owner to Donohue pursuant to this Agreement. Donohue may use and rely upon such requirements, instructions, reports, data, programs, and information in performing or furnishing services under this Agreement, subject to any express limitations or reservations provided by Owner applicable to the furnished items.

4. Provide to Donohue existing information regarding the existence and locations of utilities and underground facilities.
5. Provide Donohue safe access to premises necessary for Donohue to provide the Services.
6. Inform Donohue whenever Owner observes or becomes aware of a Hazardous Environmental Conditions, as defined in Part IV.3. of this Agreement, that may affect Donohue's Scope of Services or time for performance.

**PART III
COMPENSATION, BILLING AND PAYMENT**

- A. Compensation for the work as defined in the Scope of Services (Part I) of this Agreement shall be a lump sum of \$106,000.
- B. Donohue will bill Owner monthly, with net payment due in 30 days. The invoice will contain a calculation of the amount of lump sum due based on percentage of Project completed during the billing period.
- C. Donohue will notify Owner if Project scope changes require modifications to the above-stated contract value. Services relative to scope changes will not be initiated without written authorization from Owner.

PART IV - STANDARD TERMS AND CONDITIONS

CITY OF WYOMING, MICHIGAN

1. STANDARD OF CARE. Donohue's Services shall be performed in accordance with the standard of professional practice ordinarily exercised by the applicable profession under similar circumstances at the same time and in the locality where the Services are performed. Professional services are not subject to, and Donohue does not provide, any warranty or guarantee, express or implied. Any warranties or guarantees contained in any purchase orders, requisitions, or notices to proceed issued by Owner are void and not binding upon Donohue. Notwithstanding any other representations made elsewhere in this Agreement or in the execution of the Project, this Standard of Care shall not be modified.

2. CHANGE OF SCOPE. The Scope of Services set forth in this Agreement is based on facts known at the time of execution of this Agreement, including, if applicable, information supplied by Owner. For some projects involving conceptual or process development services, scope may not be fully definable during initial phases. As the Project progresses, facts discovered may indicate that the scope must be redefined. Donohue will promptly provide Owner with a written amendment to this Agreement to recognize such change.

3. HAZARDOUS ENVIRONMENTAL CONDITIONS. Unless expressly stated otherwise in the Scope of Services (Part I) of this Agreement, Donohue's scope of services does not include any services relating to a Hazardous Environmental Condition, including but not limited to the presence at the Project site of asbestos, mold, PCBs, petroleum, hazardous substances or any other pollutant or contaminant, as those terms are defined in pertinent federal, state, and local laws. In the event Donohue or any other party encounters a Hazardous Environmental Condition, Donohue may at its option suspend performance of services until Owner: a) retains appropriate consultants or contractors to identify and remediate or remove the Hazardous Environmental Condition; and b) warrants that the Project site is in full compliance with all applicable environmental laws.

4. SAFETY. Unless specifically included as a service to be provided under this Agreement, Donohue specifically disclaims any authority or responsibility for general job site safety, or the safety of persons (other than Donohue employees) or property.

5. DELAYS. If performance of Donohue's Services is delayed through no fault of Donohue, Donohue shall be entitled to an extension of time equal to the delay and an equitable adjustment in compensation.

6. TERMINATION/SUSPENSION. Either party may terminate this Agreement upon 30 days' written notice to the other party. Owner shall pay Donohue for all Services based on Donohue's standard hourly rates and pay for expenses incurred in accordance with Donohue's standard practice for billing for expenses. If either party defaults in its obligations under this Agreement (including Owner's obligation to make required payments), the non-defaulting party may, after giving 7 days' written notice, suspend performance under this Agreement. The non-defaulting party may not suspend performance under this Agreement if the defaulting party commences to cure such default within the 7-day notice period and completes such cure within a reasonable period of time.

7. OPINIONS OF CONSTRUCTION COST. Any opinion of construction costs prepared by Donohue is supplied for the general guidance of the Owner only. Since Donohue has no control over competitive bidding or market conditions, Donohue cannot guarantee the accuracy of such opinions as compared to contract bids or actual costs to Owner.

8. RELATIONSHIP TO CONTRACTORS. Donohue shall serve as Owner's professional representative for the Services, and may make recommendations to Owner concerning actions relating to Owner's contractors. Donohue specifically disclaims any authority to direct or supervise the means, methods, techniques, sequences or procedures of construction selected or used by Owner's contractors. Donohue neither guarantees the performance of any construction contractor nor assumes responsibility for any contractor's failure to perform in accordance with the construction contract documents.

9. CONSTRUCTION REVIEW. For projects involving construction, Owner acknowledges that under generally accepted professional practice, interpretations of construction documents in the field are normally required, and that performance of construction-related services by the design professional for the Project permits errors or omissions to be identified and corrected at comparatively low cost. Performance of construction-related professional services by a third party or the Owner risks misinterpretation or alternate interpretation of the design intent. Owner agrees to hold Donohue harmless from any claims resulting from performance of construction-related professional services by persons other than Donohue.

10. BETTERMENT. If any item or component of the Project is required due to omission from the construction documents, Donohue's liability shall be limited to the reasonable costs of correction of the construction, less the cost to the Owner if the omitted item or component had been initially included in the construction contract documents. It is intended by this provision that Donohue will not be responsible for any cost or expense that provides betterment, upgrade, or enhancement of the Project.

11. INSURANCE. Donohue will maintain Professional Liability, Commercial General Liability, Automobile, Workers' Disability Compensation, and Employer's Liability insurance coverage in amounts in accordance with legal and Donohue's business requirements. Donohue will provide Owner with copies of certificates of insurance and policies of insurance upon request. For projects involving construction, Owner will contractually require contractor to obtain and maintain builder's risk and other insurance relating to the project as is customarily provided by contractors on similar projects which insurance shall name Owner and Donohue as insureds or additional insureds and certificate holders. Donohue's coverage provided in the first sentence of this paragraph shall be excess over the contractor's primary coverage.

12. INDEMNIFICATION. To the fullest extent permitted by law, Owner and Donohue each agree to indemnify the other party and the other party's officers, directors, partners, employees, and representatives, but not defend, from and against losses, damages, and judgments arising from claims by third parties, including reasonable attorneys' fees and expenses recoverable under applicable law, but only to the extent they are found to be caused by a negligent act, error, or omission of the indemnifying party or any of the

indemnifying party's officers, directors, members, partners, agents, employees, or subconsultants in the performance of services under this Agreement. If claims, losses, damages, and judgments are found to be caused by the joint or concurrent negligence of Owner and Donohue, they shall be borne by each party in proportion to its negligence.

To the fullest extent permitted by law, Owner shall indemnify and hold harmless Donohue, its employees, agents, and representatives, and Donohue's subconsultants, from and against any loss, liability, claims and damages caused by, arising out of, or resulting from the presence at the Project site of asbestos, mold, PCBs, petroleum, hazardous substances, or any other pollutant or contaminant, as those terms are defined in pertinent federal, state, and local laws, except to the extent that the loss, liability, or damages are caused solely by the willful misconduct or negligence of Donohue, its agents or employees.

13. LIMITATIONS OF LIABILITY. No owner, shareholder, principal, employee or agent of Donohue shall have individual liability to Owner; and Owner covenants and agrees not to sue any such individual in connection with the Services under this Agreement.

Neither Donohue, Donohue's subconsultants, nor their agents or employees shall be jointly, severally or individually liable to the Owner in excess of the compensation to be paid pursuant to this Agreement or two hundred fifty thousand dollars (\$250,000), whichever is greater, by reason of any act or omission, in tort or contract, including breach of contract, breach of warranty or negligence. To the fullest extent permitted by Laws and Regulations, Owner and Donohue waive against each other, and the other's employees, officers, directors, members, insurers, partners, and consultants, any and all claims for or entitlement to special, incidental, indirect, or consequential damages arising out of, resulting from, or in any way related to this Agreement or the Project, from any cause or causes.

14. OWNERSHIP AND REUSE OF PROJECT DOCUMENTS. Upon payment to Donohue as provided by this Agreement, all documents and other deliverables, whether in paper or electronic form, prepared by Donohue in connection services provided pursuant to this Agreement shall be the property of Owner. Owner shall hold Donohue and Donohue's principals, directors, officers and employees harmless from, indemnify them for and defend them against any demands, claims, lawsuits, investigations, administrative proceedings, judgments, or awards arising from (i) any modification of those documents or deliverables by Owner or Owner's officers, employees or agents, without Donohue's prior written consent or (ii) any use of such documents and deliverables for any project other than the project that is the subject of this Agreement.

15. ELECTRONIC MEDIA. Copies of documents that may be relied upon by Owner are limited to printed copies that are signed and sealed by Donohue. Files or information in electronic media are furnished by Donohue to Owner solely for convenience of Owner. Because data stored in electronic media format can deteriorate or be modified, the Owner agrees to perform acceptance tests within 60 days. Donohue will not be responsible to correct any errors or for maintenance of documents in electronic media format after the acceptance period.

16. RECORDS RETENTION. Donohue shall retain on file, for a period of five years following completion or termination of its services, copies of contract documents, final deliverables, and accounting records related to Engineer's services under this Agreement. Upon Owner's request, Donohue shall provide a copy of maintained item to Owner at cost.

17. AMENDMENT. This Agreement, upon execution by both parties hereto, can be amended only by a written instrument signed by both parties.

18. SUCCESSORS, BENEFICIARIES AND ASSIGNEES. This Agreement shall be binding upon and inure to the benefit of the owners, administrators, executors, successors, and legal representatives of the Owner and Donohue. The rights and obligations of this Agreement cannot be assigned by either party without written permission of the other party. This Agreement shall be binding upon and inure to the benefit of any permitted assignees.

19. NO THIRD-PARTY BENEFICIARY. Nothing contained in this Agreement, nor the performance of the parties hereunder, is intended to benefit, nor shall inure to the benefit of, any third party, including Owner's construction contractors, if any.

20. STATUTE OF LIMITATION. The statute of limitations applicable to any cause of action under this Agreement shall be the statute of limitations in effect in the state of Michigan for such cause of action without applying any conflict of laws provisions.

21. DISPUTE RESOLUTION. Owner and Donohue shall provide written notice of a dispute within a reasonable time and after the event giving rise to the dispute. Owner and Donohue agree to negotiate any dispute between them in good faith for a period of 30 days following such notice. Owner and Donohue may mutually agree to submit any dispute to mediation or binding arbitration, but doing so shall not be required or a prerequisite to initiating a lawsuit to enforce this Agreement.

22. CONTROLLING LAW. This Agreement is governed by the laws of the state in which the Project is located.

23. NO WAIVER. No waiver by either party of any default by the other party in the performance of any particular section of this Agreement shall invalidate any other section of this Agreement or operate as a waiver of any future default, whether like or different in character.

24. SEVERABILITY. The various terms, provisions and covenants herein contained shall be deemed to be separate and severable, and the invalidity or unenforceability of any of them shall not affect or impair the validity or enforceability of the remainder.

25. AUTHORITY. The persons signing this Agreement warrant that they have the authority to sign as, or on behalf of, the party for whom they are signing.

26. SURVIVAL. All express representations, indemnifications and limitations of liability included in this Agreement will survive its completion or termination for any reason.

RESOLUTION NO. _____

RESOLUTION TO CONCUR WITH THE PURCHASE OF
TWO SPEED RADAR SIGNS AND TO AUTHORIZE THE PURCHASE
OF AN ADDITIONAL SPEED RADAR SIGN FROM RADARSIGN, LLC

WHEREAS:

1. As detailed in the attached staff report, it is recommended City Council concur with the purchase of two speed radar signs from Radarsign, LLC in the total amount of \$9,960.80.
2. The City was reimbursed for the two speed radar signs through a donation from General Motors Company.
3. It is also recommended City Council authorize the purchase of one additional speed radar sign from Radarsign, LLC in the total estimated amount of \$4,330.00, which will be purchased using OSHP grant funding.
4. Sufficient funds are available in the Police-OHSP Strategic Traffic Enforcement – Operating Supplies account number 101-305-31506-740.300.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby concur with the purchase of two radar signs from Radarsign, LLC in the total amount \$9,960.80.
2. The City Council does hereby authorize the purchase of an additional speed radar sign from Radarsign, LLC in the total estimated amount of \$4,330.00.
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 November 21, 2022.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Staff Report
Quote

STAFF REPORT

Date: November 15, 2022
Subject: Purchase of Speed Radar Signs
From: Lieutenant Rory Allen, Wyoming DPS Admin Services
Meeting Date: November 21, 2022

RECOMMENDATION:

It is recommended City Council concur with the purchase of two speed radar signs and accessories purchased in June 2022 from Radarsign, LLC in the total amount of \$9,960.80. The City was reimbursed for the cost of the speed radar signs through a donation from General Motors Company. It is furthermore recommended City Council authorize the purchase of one additional speed radar sign and accessories which will be purchased using the 2023 Office of Highway Safety Planning Grant.

COMMUNITY, SAFETY, STEWARDSHIP:

The Wyoming DPS has used our existing signs with positive feedback in the community. Posting the signs in areas where we receive complaints about speeders have the effect of reducing speed in that area. The signs are able to be moved as needed to address multiple locations over time.

DISCUSSION:

The Wyoming DPS Community Services Unit oversees the use of speed radar signs throughout the City. The signs purchased from Radarsign LLC are found to perform the best in the manner they are deployed throughout the City. The signs utilize radar to display an oncoming vehicles speed along with a sign stating the posted speed limit allowing drivers to see their speed compared to the posted limit. The signs can be relocated as needed throughout the City to address various speeding issues. The signs are battery-powered and come with a second battery to allow continuous use. Batteries need to be changed an average of every 30 days but can vary depending on location and weather.

Because the speed radar sign will be purchased using the OSHP grant, the State of Michigan advised the City to obtain at least three quotes. The quotes received are as follows:

TrafficLogix	\$2,972.00
TrafficLogix	\$3,397.00
Radarsign LLC	\$4,330.00
Altitude Signal, LLC	\$5,330.00
Air Traffic Solutions	\$5,096.00
Robco Supply LLC	\$5,575.00

The Wyoming DPS reviewed the quotes and found Radarsign LLC to be the lowest, complete quote. The two lower quotes did not include all accessories. Additionally, the unit from Radarsign LLC is the same unit purchased in June allowing for familiarity and ease of use for staff.

BUDGET IMPACT:

The two signs and accessories were purchased this year for \$9,960.80 which was reimbursed by a donation from the General Motors Company. The department would like to purchase one additional speed radar sign and accessories in the total amount of \$4,330.00. This expenditure will be reimbursed to the City under the 2023 OHSP grant as previously approved by the City Council on October 17, 2022, via Resolution number 27490.

Sufficient funds for the purchase of the additional speed radar sign is available in the Police-OHSP Strategic Traffic Enforcement – Operating Supplies account number 101-305-31506-740.300.



Quotation

Date: 10/26/2022

1220 Kennestone Circle
Suite 130
Marietta, GA 30066

PROPOSED BY:	
Name	Paul Kenney
Phone	(678) 965-4814 Ext. 116 M: (404) 403-9826
Email	pkenney@radarsign.com

Cloud Admin:
Phone:
Email:

PROPOSED TO / BILL TO:	SHIP TO:	
2-City of Wyoming Dept. of Public Safety	2-City of Wyoming Dept. of Public Safety	Account
2300 Dehoop Ave SW	2300 Dehoop Ave SW	Address
Wyoming, MI 49509	Wyoming, MI 49509	City, ST, Zip
616-893-7729	616-893-7729	Phone
lynnc@wyomingmi.gov	lynnc@wyomingmi.gov	Email
Officer Chad Lynn	Officer Chad Lynn	Attention

P. O. NUMBER		TERMS			
LINE #	QTY	PART #	DESCRIPTION	PRICE EACH	TOTALS
1	1	TC-400	Modular Battery Power Radar Sign - 11" Display 11" LED display area - superbright amber with est. 100,000 hour life RB034 Two 12V 20 amp hour Lithium Iron batteries, provides +/- 14 days operation AA080 AC battery charger (8-10 hours for full charge) K Band radar, meets FCC Part 15 rules, detection range up to 1200 feet RS010 24"w x 21"h YOUR SPEED faceplate with 3" lettering on one line, white reflective Battery Housing (field accessible to swap batteries), holds 2 battery packs, lock included AA044 Universal GoBracket mount accepts bolting, banding or strapping to existing poles Bashplate (provides the ultimate in vandal protection of sign) Standard timers allow up to 5 settings per day Possum Switch' allows sign to go dark for 30 minutes if assaulted with force Wi-Fi wireless transmitter, communication range up to 300 feet, No internet required	\$2,995.00	\$2,995.00
2	1	TC-400RB	Optional Red/Blue Strobe alert (1 strobe max. per TC-400)	\$90.00	\$90.00
3	4	AA044	Additional Universal Mount 'Go' Bracket	\$50.00	\$200.00
4	2	RB-034	Additional 20 Amp/Hour battery (provides +/- 7 days of operation on a full charge)	\$300.00	\$600.00
5	1	AA080	Battery Charger, Lithium Iron Phosphate Batteries (TC-400) NEW 11-1-2020	\$75.00	\$75.00
6	1	SS002	Optional: StreetSmart Data Collection Lifetime license (per sign) 35 charts, graphs, and tables included. Provides weekly, daily, hourly, and 1/2 hour data on # of vehicles, # of speeders, average speeds, peak speeds, 50th & 85th percentile & more. Extended 30 day charts included for trend analysis. No recurring fees. Required to access traffic data.	\$275.00	\$275.00
7	1	RW002	Two year warranty (includes parts & labor) Turnaround time to repair after receipt, 10 business days	Included	
8	1	SH002	Ground Shipping for TC-400	\$95.00	\$95.00

Minimum re-stock fee: 15%

* Quote valid for 30 days. Pricing does not include any international taxes, fees, or duties.

Sales Tax Rate: **0.000%** **\$0.00**

TOTAL US\$ \$4,330.00

Grand Total: \$4,330.00

TOTALS

US State sales tax must be collected unless you provide a sales tax exempt form.

Authorized Signature

Print Name/Title

Date



Certified Quality System
ISO 9001:2015



100% MUTCD Compliant
Radar Speed Signs



Proudly Engineered &
Manufactured in the USA

RESOLUTION NO. _____

RESOLUTION FOR AWARD OF BID AND TO
AUTHORIZE THE MAYOR AND CITY CLERK TO EXECUTE THE CONTRACT

WHEREAS:

1. Formal bids have been obtained on the below listed item.
2. The bids received have been reviewed and evaluated as per the attached staff report.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby award the bid for the listed item as recommended in the attached staff report and summarized below.

Item	Recommended Bidder	Cost
Engine Oil	Major Brands Oil Company	See Attached Staff Report

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 November 21, 2022.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:
Staff Report
Contract

Resolution No. _____

STAFF REPORT

DATE: November 8, 2022

SUBJECT: Bid Award – Bulk Engine Oil

FROM: Donald Roest, Fleet Services Supervisor

Date of Meeting: November 21, 2022

RECOMMENDATION:

The Public Works Department recommends that the City Council award the Bulk Engine Oil Bid to the lowest overall bidder, Major Brands Oil Company, for 5W40 and 5W20 engine oil, at the unit prices as stated on the attached bid tabulation for a one-year period.

COMMUNITY, SAFETY, STEWARDSHIP:

Fleet Services uses synthetic oils that extend maintenance intervals and reduce dependence on crude oil. Engine oil is used in the maintenance of all City vehicles and equipment. With proper maintenance intervals the changing of engine oil reduces maintenance costs and the need for major repairs on all City equipment. When bought in bulk, the cost per gallon is reduced.

DISCUSSION:

On October 25, 2022, the City Clerk received three bids for bulk engine oil out of twenty-four requests for bids that were sent out. Bids received are tabulated on the following page.

Out of the three bids received, Major Brands Oil Company submitted the lowest overall bid for bulk 5W40 oil at \$18.45 per gallon and \$11.25 for bulk 5W20 per gallon. These two oil specifications are used on most City vehicles and equipment.

The Fleet Services Division purchases approximately \$10,000.00 of engine oil a year.

BUDGET IMPACT:

Sufficient funds have been budgeted in the Motor Pool Maintenance Supply Account 661-441-58200-775.000.

City of **Wyoming** Michigan

TABULATION OF BIDS
FOR ENGINE OIL - BID # 2064
OPENED BY THE CITY CLERK ON OCTOBER 25, 2022 AT 11:00 A.M. O'CLOCK

Bidder	Synthetic bulk 5W40 per Gallon	Synthetic bulk 5W20 per Gallon
J & H Oil Company	\$17.58	\$13.87
Major Brands Oil Company	\$18.45	\$11.25
VanManen Oil Company	\$24.45	\$22.24

ENGINE OIL 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 Engine Oil 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 25, 2022 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: Major Brands Oil Company, Inc.
LEGAL NAME OF COMPANY

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

FORM OF BUSINESS and STATE IN WHICH FORMED -- e.g. partnership, corporation, limited liability company, or professional corporation and the state in which it was formed
462 W. 23rd Street

STREET ADDRESS

Holland MI 49423
CITY STATE ZIP CODE

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

Terms and Conditions

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

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

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

City of Wyoming
By: Jack A. Poll, Mayor

By: Kelli A. VandenBerg, City Clerk

Date signed: _____

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

Contractor
By: Kyle Klugenberg
Signature for Contractor

Kyle Klugenberg, Purchaser
Printed Name & Title of Person Signing

Date signed: 10/19/2022

ORDINANCE NO. 21-22

ORDINANCE TO AMEND CHAPTER 38 OF THE CODE OF ORDINANCES TO UPDATE
FLOODPLAIN AND FLOOD RELATED REGULATIONS TO ADDRESS FEDERAL
FLOOD PROGRAM CHANGES

THE CITY OF WYOMING ORDAINS:

Section 1. That Chapter 38 of the Code of Ordinances, City of Wyoming, Michigan, entitled "Floodplain Regulations" is amended to read as follows:

Chapter 38 FLOODPLAIN REGULATIONS

Sec. 38-1. Definitions.

The following words, terms, phrases, and acronyms when used in this chapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) *Addition* means any extension or increase in the floor area of a building or structure at or below the surface of the land.

(2) *Area of special flood hazard* means the land subject to a one percent or greater chance of flooding in any given year.

(3) *Building* means a structure with roof and walls built for permanent use.

(4) *Building Official* means the duly appointed building official of the City or that individual's designee(s).

(5) *DEGLE* means the Michigan Department of the Environment, Great Lakes and Energy, and any successor agency.

(6) *Development* means any manmade change to land or buildings.

(7) *FEMA* means the United State Federal Emergency Management Agency and any successor to it.

(8) *Flood* means a general and temporary condition of inundation of normally dry land areas from the overflow of waters or the unusual and rapid accumulation of runoff of surface waters.

(9) *Flood frequency* means the average frequency, statistically determined, for which it is expected that a specific flood may be equaled or exceeded.

(10) *Flood Insurance Rate Maps* or *FIRMS* means the official maps issued by FEMA and include the flood insurance rate panels issued by FEMA and listed on the index panels 26081CIND1A and 26081CIND2A, dated February 23, 2023.

(11) *Flood Insurance Study* means the FEMA flood insurance study for Kent County, Michigan, All Jurisdictions dated February 23, 2023, and any further editions of that study issued by FEMA.

(12) *Floodproofing* means a combination of structural provisions, changes or adjustments to land and buildings subject to flooding primarily for the reduction or elimination of flood damages to properties, water and sanitary facilities, buildings and contents of buildings.

(13) *Floodway* means the channel of the watercourse and those portions of the adjoining floodplains which are required to carry and discharge the regulatory flood, as determined by FEMA.

(14) *Floodway fringe* means that portion of the regulatory floodplain located outside of the floodway which may generally be considered as backwater area of the regulatory flood.

(15) *Lowest floor* means the lowest floor of the lowest area (including basement). An unfinished or flood-resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of this chapter.

(16) *Manufactured home* means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when connected to the required utilities. For floodplain management purposes, the term "manufactured

home" also includes park trailers, travel trailers and other similar vehicles placed on a site for greater than 180 consecutive days.

(17) *Manufactured home park or subdivision* means a parcel (or contiguous parcels) of land divided into two or more manufactured home lots for rent or sale.

(18) *MBC Appendix G* means Appendix G to the 2015 Michigan Building Code as approved by the Michigan Department of Licensing and Regulatory Affairs.

(19) *New construction* means construction commenced on or after August 17, 1982.

(20) *Regulatory flood* means a flood which is representative of large floods known to have occurred generally in the area and reasonably characteristic of what can be expected to occur in a particular stream. The regulatory flood generally has a frequency of 100 years determined from an analysis of floods on a particular stream and other streams in the same general area.

(21) *Regulatory flood protection elevation* means the height to which uses regulated by this chapter are required to be elevated or floodproofed.

(22) *Substantial improvement* means any repair, reconstruction or improvement of a building, the cost of which is 50 percent or more of the market value of the building prior thereto.

Sec. 38-2. Adoption and incorporation of maps and reports.

The FIRMS, the Flood Insurance Study, and MBC Appendix G are adopted, incorporated and made a part of this chapter. MBC Appendix G shall apply to all residential and non-residential construction within the 100-year floodplain.

Sec. 38-3. Scope of chapter.

This chapter shall apply to all land in the city within the boundaries of the floodway and floodway fringe areas. Uses allowed in the particular zoning district in which such land is located shall not be allowed unless allowed by this chapter in accordance with the requirements of this chapter.

Sec. 38-4. Review considerations.

The Building Official shall review applications for a special exception use in the floodway fringe area to determine if the requirements of this chapter have been met.

Sec. 38-5. Administrative duties; enforcement.

The city shall have the following administrative duties regarding enforcement of this chapter:

(1) Regulating development within the floodway or floodway fringe with regard to the National Flood Insurance Program, including:

(a) Notifying adjacent communities and DEGLE of the proposed alteration or relocation of any watercourse and submitting notification to FEMA.

(b) Verifying and recording the actual elevation in relation to the mean sea level of the lowest floor, including the basement, of all new construction, additions, or substantially improved structures within a flood hazard area fringe and, in the case of floodproofed structures, the elevation to which the structure was floodproofed.

(c) Recording certificates of floodproofing and notifying in writing applicants to whom variances are granted in the flood hazard area stating the terms of the variance, any increased danger to life and property, and the increased cost of flood insurance. A record of all variance notifications and actions shall be maintained, together with a justification for each variance.

(2) Maintaining records and maps pertaining to the National Flood Insurance Program and providing such records and maps for public inspection.

(3) Obtaining and utilizing the best available flood hazard data for purposes of administering this chapter in the absence of relevant data from FEMA.

Sec. 38-6. General standards.

The following general standards shall apply to all new construction and substantial improvements:

(1) All new construction, additions, and substantial improvements within a flood hazard area, including the placement of prefabricated buildings and mobile homes, shall be:

(a) Designed and anchored to prevent flotation, collapse or lateral movement of the structure.

(b) Constructed of materials and utility equipment resistant to flood damage.

(c) Constructed by methods and practices which minimize flood damage.

(d) Have the lowest floor, including any basement, elevated at least 1-Foot about the 100-year floodplain elevation.

(e) If there are substantial improvements, the addition, and the entire existing structure must comply with the preceding subsections (1)(a) through (1)(d).

(2) All new and replacement water supply systems shall minimize or eliminate infiltration of floodwaters into the systems.

(3) All new and replacement sanitary sewage systems shall minimize or eliminate infiltration of floodwaters into the systems and discharges from systems into floodwaters. Onsite waste disposal systems shall be located to avoid impairment to the system or contamination from the system during flooding.

(4) All public utility facilities shall be designed, constructed, and located to minimize or eliminate flood damage.

(5) Adequate drainage shall be provided to reduce exposure to flood hazards.

(6) The city planner and city engineer shall review development proposals to determine compliance with these standards and shall report such determinations to the building inspector.

(7) No property shall be divided in such a manner as to create parcels or lots which cannot be used in conformance with the requirements of this chapter.

(8) The flood-carrying capacity of any altered or relocated watercourse or floodway is designed to ensure flood-carrying capacity shall be maintained without causing any increase in the base flood elevation.

(9) Available flood hazard data from federal, state or other sources shall be reasonably utilized in meeting the standards of this chapter. Data furnished by FEMA shall take precedence over data from other sources. The building inspector shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, as criteria for requiring that new construction, substantial improvement or other developments in zone A meet the standards of this chapter.

(10) Protection of mechanical and electrical systems. New and replacement electrical equipment, heating, ventilating, air conditioning, plumbing connections, and other service equipment shall be located at 1-foot or more above the design flood elevation. Electrical wiring and outlets, switches, junction boxes and panels shall be elevated 1-foot or more above the design flood elevation, unless they conform to the provisions of the electrical part of this Code for location of such items in wet locations. Duct systems shall not be installed below the design flood elevation.

Sec. 38-7. Permitted uses in a floodway area.

The following uses shall be permitted in a floodway area if they are allowed in the zoning district and, if the applicant has provided a hydraulic analysis that properly demonstrates the use shall not increase the flood stages during the 100-year flood event:

(1) Agricultural uses.

(2) Industrial or commercial parking areas.

(3) Recreational uses.

(4) Public utility facilities.

(5) Navigational and drainage aids.

(6) Other water-related uses, subject to approval by the water resources commission of DEGLE.

(7) Residential support uses limited to lawns, gardens, parking areas and play areas.

Sec. 38-8. Special uses and conditions in a floodway area.

Uses shall be allowed in a floodway area after the owner or proposed user of the land has applied to and received permission from DEGLE to use the land for such purposes, and provided further that it meets the requirements of the zoning district and the applicant has demonstrated that the use will not cause any increase in the base flood elevation. Encroachment in a floodway area, including fill, new construction, substantial improvements, and other development shall not be allowed unless it has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels during the occurrence of the base flood discharge.

Sec. 38-9. Prohibited uses in a floodway area.

The following uses shall be prohibited in a floodway area:

- (1) Buildings intended to be residences. No substantial improvements to any existing building shall be made.
- (2) Landfill, dump or junkyard.
- (3) The storage or processing of materials which may be buoyant, flammable, explosive or otherwise injurious to public health unless all storage and processing of such materials occurs inside a building in existence on June 19, 1990, with a floor elevation at least one foot above the regulatory flood level.
- (4) Sewage disposal systems.

Sec. 38-10. Permitted uses in a floodway fringe area.

All uses allowed in the zoning district are permitted provided that they also comply with section 38-11.

Sec. 38-11. Special conditions in a floodway fringe area.

The following special conditions shall apply to the floodway fringe areas provided all necessary development permits shall have been issued by appropriate local, state and federal authorities. Where a development permit cannot be issued prior to a building permit, a letter from the issuing agency indicating intent to issue contingent only upon a building permit shall be acceptable.

- (1) All new construction, additions, and substantial improvements of residential buildings having the lowest floor, including the basement, elevated to one foot above the regulatory flood level.
- (2) All new construction and substantial improvements of nonresidential buildings having either:
 - (a) The lowest floor, including the basement, elevated to one foot above the regulatory flood level; or
 - (b) Fully enclosed areas below the lowest floor that are usable solely for parking of vehicles, building access or storage in an area other than a basement and which are subject to flooding shall be designed to automatically equalize flood forces on exterior walls by allowing for the entry and exit of floodwaters. Designs for meeting this requirement must either be certified by a registered professional engineer or architect or must meet or exceed the following minimum criteria: A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding which shall be no higher than 1-foot above grade. Openings may be equipped with screens, louvers, or other coverings or devices provided that they permit the automatic entry and exit of floodwaters.
- (3) All manufactured homes, to be placed, added on to, or substantially improved within the 100-year floodplain.
- (4) Manufactured homes, and any additions thereto, shall be anchored to resist flotation, collapse or lateral movement by providing over-the-top and frame ties in accord with the following specifications:
 - (a) Over-the-top ties shall be provided at each of the four corners of the manufactured home, with two additional ties at intermediate locations, except that on manufactured homes less than 50 feet in length, one tie per side shall be required.
 - (b) Frame ties shall be provided at each corner with five additional ties per side at intermediate locations; except that on manufactured homes less than 50 feet in length, four ties per side shall be required.
- (5) Recreational vehicles placed on sites within the 100-year floodplain must at least one of the following:
 - (a) Be on the site for fewer than 180 consecutive days;
 - (b) Be fully licensed and ready for highway use; or
 - (c) Meet the permit requirements of subsection (1) of this section and the elevation and anchoring requirements for "manufactured homes" in subsection (3) of this section.

A recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick-disconnect-type utilities and security devices, and has no permanently attached additions.

Sec. 38-12. Plans and specifications.

Before any special uses are allowed, a permit from the building inspector shall be required. The following materials shall be submitted to the building inspector, along with the request for any special use approvals:

(1) Plans in triplicate drawn to a scale of one inch equals 100 feet showing the nature, location, dimensions and elevations of the lot, existing or proposed structures, fill, storage of materials, floodproofing measures, and the relationship of the above to the location of the channel floodway and regulatory flood protection level.

(2) Plans (surface) showing elevations or contours of the ground at two-foot intervals; pertinent structures; fill or storage elevations; size, location and spatial arrangement of all proposed and existing land uses and vegetation; upstream and downstream soil types; and other pertinent information which may be required by the building inspector.

(3) Specification for building construction and materials, floodproofing, filling, dredging, grading, channel improvement, storage or materials, water supply and sanitary facilities.

Sec. 38-13. Appeals.

Any person may appeal a decision of the building official relating to the provisions of this chapter to the construction board of appeals by filing an application with the building official and paying the required application fee. No variance shall be granted for any proposed development in a floodway if any increase in flood levels would result during the base flood discharge. Variance criteria, restrictions, and considerations in MBC Appendix G shall apply and shall be followed.

Section 2. That this ordinance shall take effect on _____, 2022.

Section 3. That in codifying this ordinance, MuniCode shall keep the subsections and other nomenclature in the forms provided without editing.

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. 21-22

STAFF REPORT

Date: October 12, 2022
Subject: Updated Flood Regulations
From: Scott Smith, City Attorney
Jeff Oonk, City Engineer's Office
Meeting Date: October 17, 2022

RECOMMENDATION:

Adopt the Ordinance to Amend Chapter 38 of the Code of Ordinances to Update Floodplain and Flood Related Regulations to Address Federal Flood Program Changes.

COMMUNITY, SAFETY, STEWARDSHIP:

Community – Community is supported when development is undertaken to minimize damage during flood events.

Safety – Avoiding flood damage to buildings protects the public for adverse health and safety consequences of flooding.

Stewardship – Preventing flood damage avoids costs that arise from flooding.

BUDGET IMPACT:

The proposed amendments will not impact the budget.

DISCUSSION:

FEMA updated its flood maps. EGLE suggested other changes to the ordinance so it complies with EGLE's requirements related to flood regulations. This ordinance revision addresses those changes.

ORDINANCE NO. 23-22

ORDINANCE TO AMEND CHAPTER 2, ARTICLE IV, DIVISION 8, OF THE CODE OF
ORDINANCES TO PROVIDE FOR A SERVICE CHARGE IN LIEU OF TAXES FOR THE
UNION SUITES AT MICHAEL HOUSING PROJECT

THE CITY OF WYOMING ORDAINS:

Section 1. Amendment. That Chapter 2, Article IV, Division 8 of Code of Ordinances, City of Wyoming, Michigan, to read as follows:

DIVISION 8
TAX EXEMPTION AND SERVICE CHARGE FOR UNION SUITES AT MICHAEL
HOUSING PROJECTS

Sec. 2-310.1. Purpose.

(a) Pursuant to section 15a of the Act, MCL 125.1415a, the city may encourage the development of low- and moderate-income housing by providing a service charge in lieu of property taxes. The city is authorized by that statute to establish or change the service charge to be paid in lieu of taxes by classes of housing exempt from property taxation under that statute at an amount the city chooses, not to exceed the taxes that would be paid.

(b) The city finds that (i) housing low income persons and families is a public necessity, (ii) the city will be benefited and improved by such housing, (iii) the encouragement of the development of such housing by providing a property tax exemption for such housing is a valid public purpose, (iv) the provisions of this ordinance for tax exemption and the service charge in lieu of taxes during the period provided by this division are essential to the determination of economic feasibility of housing developments which are constructed and financed in reliance on such tax exemption, and (v) development of such housing will further related public purposes such as development of the Project to enhance the city.

(c) The Sponsor and Co-owners have offered, subject to receipt of an allocation under the LIHTC Program by the Authority and a Mortgage Loan, to acquire and construct the Project, which will then be owned and operated as detailed in the definition of the Project, to serve low income persons and families and the Co-owners have offered to pay the city on account of the Project an annual service charge for public services in lieu of all *ad valorem* property taxes.

Sec. 2-310.2. Definitions.

(a) *Act* means the State Housing Development Authority Act of 1966, 1966 PA 346, 125.1401 *et seq.*

(b) *Authority* means the Michigan State Housing Development Authority.

(c) *Annual Shelter Rent* means the total collections during an agreed annual period from or paid on behalf of all occupants of the Project for rent or occupancy charges, exclusive of Utilities charges.

(d) *Co-owner I* means Union Suites at Michael Limited Dividend Housing Association LLC.

(e) *Co-owner II* means Union Suites at Michael II Limited Dividend Housing Association LLC.

(f) *Co-owners* means Co-owner I and Co-owner II.

(g) *LIHTC Program* means the Low Income Housing Tax Credit program administered by the Authority under section 42 of the United States Internal Revenue Code of 1986, 26 USC §42.

(h) *Low income persons and families* means persons and families eligible to move into a housing project.

(i) *Mortgage Loans* means the loans that are federally-aided (as defined in section 11 of the Act) or loans or grants made or to be made by the Authority to the Sponsor and/or Other Owner for the acquisition, construction, and/or permanent financing of the Project on the Project Property and secured by mortgages on all or parts of the Project.(j) *Project* means the housing project for low income persons and families and related amenities and development located on the Project Property acquired, constructed, owned and operated by the Sponsor and Co-owners, subject to income and rent restrictions under the LIHTC Program and Mortgage Loans, to consist of a 3-unit condominium project to be acquired and constructed by the Sponsor. Co-owner I will own Condominium Units 1 and 2. Co-owner II will own Condominium Unit 3.

(1) Condominium Unit 1 includes a renovation of the existing approximately 50+ year old, 80,000 square foot office building into an adaptive reuse apartment building with 68 apartments.

(2) Condominium Unit 2 entails construction of 30 senior and family townhome units, one of which will be a single-story ADA townhome.

(3) Condominium Unit 3 will be an attached addition to Condominium Unit 1 to include 52 apartments.

(4) The combined building consisting of Condominium Units 1 and 3 will have a community room, library, workout facility, mail room, coffee café, hair salon, and leasing office for the use only of the residents of all 3 condominium units.

(5) All apartment and townhome units will be visitable units, with in-unit washer and dryer, full oven, dishwasher and garbage disposal.

(6) The Project will include on-site parking spaces to meet zoning requirements and will include construction of a shelter at the existing bus stop on Michael Ave SW.

(7) There will be 1.68 acres of open space that will be improved with a paved walking path, sitting area, and outdoor cooking area.

(8) The project will be developed generally in accordance with the site layout and building elevations prepared by Nederveld labeled "3566 Michael Avenue SW," Project No. 19400478, Sheet Nos. C-100, C-201, C-203, C-205, C-210, C-300, C-400, C-500, and L-200, Revision date 04.02.20, subject to such changes as may be (i) required by planning, zoning, construction code and other governmental permits and approvals or (ii) approved by the City Council of the city.

(k) *Project Property* means the following described approximately 7.3 acres of real property including the vacant approximately 76,362 square foot office building currently located on it:

PART SW 1/4 SE 1/4 COM AT S 1/4 COR TH N 0D 00M ALONG N&S 1/4 LINE 40 FT TH S 88D 01M 13S E PAR WITH S SEC LINE 40 FT TO BEG OF THIS DESC - TH N 0D 00M ALONG E LINE OF MICHAEL AVE 796.33 FT TO A PT 495 FT S FROM S 1/8 LINE TH S 87D 57M 59S E PAR WITH S 1/8 LINE 287.30 FT TO W LINE OF ALBERT REALTORS WYOMING PLAT TH S 0D 01M 01S W 139.60 FT TO SW COR OF LOT 30 OF SD PLAT TH N 87D 57M 59S W 15 FT TH S 0D 01M 01S W 60 FT TH S 87D 57M 59S E 15 FT TH S 0D 01M 01S W 120.95 FT TH S 87D 57M 59S E 102.5 FT TH S 0D 01M 01S W 45 FT TH S 87D 57M 59S E 102.5 FT TH S 0D 01M 01S W 423.31 FT TO N LINE OF 36TH ST TH N 88D 01M 13S W ALONG SD N LINE 437.05 FT TH S 0D 00M 7 FT TH N 88D 01M 13S W 55 FT TO BEG * SEC 14 T6N R12W

(l) *Sponsor* means Union Suites LLC and any entity that receives or assumes a Mortgage Loan for the Project on the Property.

(m) *Utilities* means charges for gas, electric, water, sanitary sewer and other utilities furnished to the Project or its occupants and paid by the Sponsor.

Sec. 2-310.3. Property Tax Exemption.

(a) Pursuant to section 15a of the Act, from the time construction of the Project begins the Project and the land on which it is located shall be exempt from *ad valorem* property taxes.

(b) This exemption shall remain in effect during the period any portion of the Mortgage Loan remains outstanding and that the Project remains subject to income and rent restrictions, but not longer than 50 years.

Sec. 2-310.4. Annual Service Charge.

(a) To the extent permitted by law, there shall be paid by the owner of each condominium unit comprising the Project to the city an annual service charge in lieu of *ad valorem* property taxes equal to 1.0% of the Annual Shelter Rent collected for that condominium unit during each operating year. The annual service charge in lieu of ad valorem property taxes to be paid during the period starting in the calendar year following the calendar year in which construction begins until the calendar year following the calendar year in which Annual Shelter Rents are first collected shall be equal to the ad valorem tax on that portion of the Project Property in the calendar year before construction of the Project began.

(b) The annual service charge in lieu of taxes for each operating year of the Project shall be payable in the same manner as general property taxes are payable to the city and distributed to the several units levying the general property tax in the same proportion as prevailed with the general property tax in the previous calendar year. The annual payment for each operating year shall be payable not later than each August 31 immediately following the conclusion of that operating year. Delinquent payments will be subject to the same interest and penalties, and shall be collectible in the same manner as provided for under the City Charter, this Code of Ordinances and the provisions of the General Property Tax Act (1893 PA 206, as amended; MCL 211.1, *et seq*).

(c) To the extent permitted by law, the amounts paid pursuant to this section shall be in addition to the amounts paid pursuant to any municipal services agreement among the Sponsor, Co-owners and the city.

(d) Regardless of the previous subsections, the service charge to be paid each year in lieu of taxes for the part of the Project that is tax exempt but is occupied by other than low income persons or families shall be equal to the full amounts of the taxes which would be paid on that portion of the Project if the Project were not tax exempt.

Sec. 2-310.5. Contractual Effect of Ordinance.

(a) To the extent not otherwise prohibited by the constitution and laws of the state of Michigan, regardless of any part of subsection 15a(5) of the Act, MCL 125.1415a(5), to the contrary, a contract between the city, the Sponsor and Co-owners, with the Authority as a third party beneficiary of the contract to provide the tax exemption and accept payments in lieu of taxes as provided in preceding sections of this division is created and effectuated by the adoption of this division of the Code of Ordinances, City of Wyoming, Michigan.

(b) The Authority, the Sponsor, and Co-owners are relying on this adoption and continued effect of this Division to determine the Project's financial feasibility and its qualification for the LIHTC Program and Mortgage Loan. The city is relying on (i) the allocation under the LIHTC Program and the making of the Mortgage Loan for the Project, and (ii) on the acquisition, construction, ownership and operation of the Project as defined in this Division.

Section 2. Effective Date. This ordinance shall take effect on _____.

Section 3. Severability. The sections and provisions of this ordinance are severable. If any section or provision of this ordinance is determined by any court of competent jurisdiction to be unconstitutional or invalid that determination shall not affect the validity of this ordinance as a whole or any section or provision of this ordinance, other than the section or provision so declared to be unconstitutional or invalid.

Section 4. Inconsistency. To the extent permitted by law, provisions of ordinances that are inconsistent with this ordinance are repealed. If such a general repealer is ruled ineffective and any provision of this ordinance is inconsistent with any provision of any other ordinance, the provision of this ordinance shall be controlling.

Section 5. Codification. This ordinance shall be codified in exactly the form provided herein without any change to capitalization of terms, change of nomenclature, or other modifications.

I certify that this ordinance was adopted by the City of Wyoming at a regular session of the City Council held on December 19, 2022.

Kelli A. VandenBerg, Wyoming City Clerk

Ordinance No. 23-22
Introduced: 11.21.2022
Adopted: 12.19.2022

STAFF REPORT

Date: November 14, 2022
Subject: Payment in Lieu of Taxes for Apartments for Union Suites at Michael Housing Project
From: Scott Smith, City Attorney
Meeting Date: November 21, 2022

RECOMMENDATION:

Approve introduction (first reading) of Ordinance No. 23-22 entitled, “Ordinance to Amend Chapter 2, Article Iv, Division 8 of the Code of Ordinances to Provide for a Service Charge in Lieu of Taxes for the Union Suites at Michael Housing Project.”

COMMUNITY, SAFETY, STEWARDSHIP:

Community – Community is enhanced by the development of housing opportunities for persons of all ages and incomes and for reuse of vacant buildings.

Safety – Well developed housing projects can enhance safe housing opportunities for seniors and others.

Stewardship – This is an amendment to a previously adopted ordinance to reflect some changes in the project needed to obtain MSHDA financing.

BUDGET IMPACT:

There is no additional tax loss resulting from this amendment to accommodate changes required by MSHDA financing.

DISCUSSION:

When the developers sought MSHDA financing, it was learned two loans would be needed and that the loans would be made to separate entities. This revised ordinance reflects that change and some corresponding changes to the description of the project.

The MSA is also being amended. The amended MSA will be provided for your consideration with the second reading of this ordinance.

ORDINANCE NO. 24-22

ORDINANCE TO AMEND CHAPTER 50, ARTICLE IX, DIVISION 4, OF THE CODE OF
ORDINANCES INCORPORATING AMENDMENTS TO MICHIGAN'S YOUTH
TOBACCO ACT FROM 2019 AND 2022

THE CITY OF WYOMING ORDAINS:

Section 1. That Chapter 50, Article IX, Division 4 of the Code of the City of Wyoming, Michigan, is amended to read as follows:

ARTICLE IX. DIVISION 4. TOBACCO, VAPOR AND ALTERNATIVE NICOTINE PRODUCTS

Sec. 50-380. Furnishing tobacco products, vapor products or alternative nicotine products to person under 21 years of age.

(1) No person shall knowingly, or upon failure to make diligent inquiry, sell, give or furnish tobacco products, vapor products, or alternative nicotine products to a person under 21 years of age, including through a vending machine. A person who violates this subsection is guilty of a misdemeanor punishable by a fine as follows:

(a) For a first offense, not more than \$100.00.

(b) For a second or subsequent offense, not more than \$500.00.

(2) Subsection (1) does not apply to the handling or transportation of tobacco products, vapor products, or alternative nicotine products by a person under 21 years of age under the terms of the person's employment.

Sec. 50-381. Prohibited conduct by persons under 21 years of age for tobacco products.

(1) A person under 21 years of age shall not do any of the following:

(a) Purchase or attempt to purchase a tobacco product.

(b) Possess or attempt to possess a tobacco product.

(c) Use a tobacco product in a public place.

(d) Present or offer to an individual a purported proof of age that is false, fraudulent, or not actually his or her own proof of age for the purpose of purchasing, attempting to purchase, possessing, or attempting to possess a vapor product or alternative nicotine product.

(2) An individual who violates subsection (1) is guilty of a misdemeanor punishable by a fine of not more than \$50.00 for each violation. Pursuant to a probation order, the court may also require an individual who violates subsection (1) to participate in a health promotion and risk reduction assessment program, if available. In addition, an individual who violates subsection (1) is subject to the following:

(a) For the first violation, the court may order the individual to do 1 of the following:

(i) Perform not more than 16 hours of community service.

(ii) Participate in a health promotion and risk reduction assessment program.

(b) For a second violation, in addition to participation in a health promotion and risk reduction assessment program, the court may order the individual to perform not more than 32 hours of community service.

(c) For a third or subsequent violation, in addition to participation in a health promotion and risk reduction assessment program, the court may order the individual to perform not more than 48 hours of community service.

(d) An individual who is ordered to participate in a health promotion and risk reduction assessment program under subsection (2) is responsible for the costs of participating in the program.

Sec. 50-382. Prohibited conduct by persons under 21 years of age for vapor products or alternative nicotine products.

(1) Subject to subsection (3), a person under 21 years of age shall not do any of the following:

(a) Purchase or attempt to purchase a vapor product or alternative nicotine product.

(b) Possess or attempt to possess a vapor product or alternative nicotine product.

(c) Use a vapor product or alternative nicotine product in a public place.

(d) Present or offer to an individual a purported proof of age that is false, fraudulent, or not actually his or her own proof of age for the purpose of purchasing, attempting to purchase, possessing, or attempting to possess a vapor product or alternative nicotine product.

(2) An individual who violates subsection (1) is responsible for a municipal civil infraction or guilty of a misdemeanor as follows:

(a) For the first violation, the individual is responsible for a civil infraction and shall be fined not more than \$50.00. The court may order the individual to participate in a health promotion and risk reduction assessment program, if available. In addition, the court may order the individual to perform not more than 16 hours of community service.

(b) For the second violation, the individual is responsible for a civil infraction and shall be fined not more than \$50.00. The court may order the individual to participate in a health promotion and risk reduction assessment program, if available. In addition, the court may order the individual to perform not more than 32 hours of community service.

(c) If a violation of subsection (1) occurs after 2 or more prior judgments, the individual is guilty of a misdemeanor punishable by a fine of not more than \$50.00 for each violation. Pursuant to a probation order, the court may also require the individual to participate in a health promotion and risk reduction assessment program, if available. In addition, the court may order the individual to perform not more than 48 hours of community service.

(3) Subsection (1) does not apply to the handling or transportation of a vapor product, or alternative nicotine product by a person under 21 years of age under the terms of the person's employment.

(4) This section does not prohibit an individual from being charged with, convicted of, or sentenced for any other violation of law that arises out of the violation of this section.

Sec. 50-383 Noninterference with right of parent or guardian.

This division does not interfere with the right of a parent or legal guardian in the rearing and management of his or her minor children or wards within the bounds of his or her own private premises.

Sec. 50-384 Definitions.

As used in this division:

- (a) "Alternative nicotine product" means a noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. Alternative nicotine product does not include a tobacco product, a vapor product, food, or a product regulated as a drug or device by the United States Food and Drug Administration under 21 USC 351 to 360fff-7.
- (b) "Person who sells vapor products or alternative nicotine products at retail" means a person whose ordinary course of business consists, in whole or in part, of the retail sale of vapor products or alternative nicotine products.
- (c) "Person who sells tobacco products at retail" means a person whose ordinary course of business consists, in whole or in part, of the retail sale of tobacco products subject to state sales tax.
- (d) "Public place" means a public street, sidewalk, or park or any area open to the general public in a publicly owned or operated building or public place of business.
- (e) "Tobacco product" means a product that contains tobacco and is intended for human consumption, including, but not limited to, a cigarette, noncigarette smoking tobacco, or smokeless tobacco, as those terms are defined in section 2 of the tobacco products tax act, 1993 PA 327, MCL 205.422, and a cigar.
- (f) "Use a tobacco product, vapor product, or alternative nicotine product" means to smoke, chew, suck, inhale, or otherwise consume a tobacco product, vapor product, or alternative nicotine product.
- (g) "Vapor product" means a noncombustible product that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine or any other substance, and the use or inhalation of which simulates smoking. Vapor product includes an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and a vapor cartridge or other container of nicotine or other substance in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. Vapor product does not include a product regulated as a drug or device by the United States Food and Drug Administration under 21 USC 351 to 360fff-7.

Secs. 50-385—50-399. Reserved.

Section 2. That this ordinance shall take effect on _____, 2023.

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

STAFF REPORT

Date: November 1, 2022
Subject: Chapter 50 Article IX Division 4 Tobacco Amendments
From: Heather Chapman, Assistant City Attorney
Scott Smith, City Attorney

Meeting Date: November 21, 2022

RECOMMENDATIONS:

Introduce the Ordinance to Amend Chapter 50, Article IX, Division 4, Section 50-380 and add Sections 50-381 through 50-384 of the Code of Ordinances for first reading.

COMMUNITY, SAFETY, STEWARDSHIP:

Community – Community is supported by updating the city’s code to reflect changes in state law regarding tobacco, tobacco products, other nicotine alternative products, and vapor products, and the exposure to persons under 21 years of age.

Safety – Safety is advanced by protecting persons under 21 years of age from tobacco, nicotine alternative products and vapor products.

Stewardship – Ensuring consistency with state law avoids costly confusion and misunderstandings.

BUDGET IMPACT:

The proposed amendments will not impact the budget.

DISCUSSION:

2019 PA17, 2019 PA18, and 2022 PA167 amended Michigan’s Youth Tobacco Act to include nicotine alternative products and vapor products and raised the legal age for acquiring and using those products from 18 years to 21 years old. This ordinance amendment will make the city ordinance compatible with state law.

The Department of Public Safety reviewed this proposed amendment and supports it.

Division 4. TOBACCO, VAPOR AND ALTERNATIVE NICOTINE PRODUCTS

Sec. 50-380. Furnishing tobacco products, vapor products or alternative nicotine products to person under 21 years of age.

(1) No person shall knowingly, or upon failure to make diligent inquiry, sell, give or furnish tobacco products, vapor products, or alternative nicotine products to a person under 21 years of age, including through a vending machine, cigarettes, cigars, chewing tobacco, tobacco snuff or tobacco in any other form to a person under 18 years of age. A person who violates this subsection is guilty of a misdemeanor punishable by a fine as follows:

(a) For a first offense, not more than \$100.00.

(b) For a second or subsequent offense, not more than \$500.00

(2) Subsection (1) does not apply to the handling or transportation of tobacco products, vapor products, or alternative nicotine products by a person under 21 years of age under the terms of the person's employment.

Sec. 50-381. Prohibited conduct by persons under 21 years of age for tobacco products.

(1) A person under 21 years of age shall not do any of the following:

(a) Purchase or attempt to purchase a tobacco product.

(b) Possess or attempt to possess a tobacco product.

(c) Use a tobacco product in a public place.

(d) Present or offer to an individual a purported proof of age that is false, fraudulent, or not actually his or her own proof of age for the purpose of purchasing, attempting to purchase, possessing, or attempting to possess a vapor product or alternative nicotine product.

(2) An individual who violates subsection (1) is guilty of a misdemeanor punishable by a fine of not more than \$50.00 for each violation. Pursuant to a probation order, the court may also require an individual who violates subsection (1) to participate in a health promotion and risk reduction assessment program, if available. In addition, an individual who violates subsection (1) is subject to the following:

(a) For the first violation, the court may order the individual to do 1 of the following:

(i) Perform not more than 16 hours of community service.

(ii) Participate in a health promotion and risk reduction assessment program.

(b) For a second violation, in addition to participation in a health promotion and risk reduction assessment program, the court may order the individual to perform not more than 32 hours of community service.

(c) For a third or subsequent violation, in addition to participation in a health promotion and risk reduction assessment program, the court may order the individual to perform not more than 48 hours of community service.

(d) An individual who is ordered to participate in a health promotion and risk reduction assessment program under subsection (2) is responsible for the costs of participating in the program.

Sec. 50-382. Prohibited conduct by persons under 21 years of age for vapor products or alternative nicotine products.

(1) Subject to subsection (3), a person under 21 years of age shall not do any of the following:

(a) Purchase or attempt to purchase a vapor product or alternative nicotine product.

(b) Possess or attempt to possess a vapor product or alternative nicotine product.

(c) Use a vapor product or alternative nicotine product in a public place.

(d) Present or offer to an individual a purported proof of age that is false, fraudulent, or not actually his or her own proof of age for the purpose of purchasing, attempting to purchase, possessing, or attempting to possess a vapor product or alternative nicotine product.

(2) An individual who violates subsection (1) is responsible for a municipal civil infraction or guilty of a misdemeanor as follows:

(a) For the first violation, the individual is responsible for a civil infraction and shall be fined not more than \$50.00. The court may order the individual to participate in a health promotion and risk reduction assessment program, if available. In addition, the court may order the individual to perform not more than 16 hours of community service.

(b) For the second violation, the individual is responsible for a civil infraction and shall be fined not more than \$50.00. The court may order the individual to participate in a health promotion and risk reduction assessment program, if available. In addition, the court may order the individual to perform not more than 32 hours of community service.

(c) If a violation of subsection (1) occurs after 2 or more prior judgments, the individual is guilty of a misdemeanor punishable by a fine of not more than \$50.00 for each violation. Pursuant to a probation order, the court may also require the individual to participate in a health promotion and risk reduction assessment program, if available. In addition, the court may order the individual to perform not more than 48 hours of community service.

(3) Subsection (1) does not apply to the handling or transportation of a vapor product, or alternative nicotine product by a person under 21 years of age under the terms of the person's employment.

(4) This section does not prohibit an individual from being charged with, convicted of, or sentenced for any other violation of law that arises out of the violation of this section.

Sec. 50-383 Noninterference with right of parent or guardian.

This division does not interfere with the right of a parent or legal guardian in the rearing and management of his or her minor children or wards within the bounds of his or her own private premises.

Sec. 50-384 Definitions.

As used in this division:

(a) "Alternative nicotine product" means a noncombustible product containing nicotine that is intended for human consumption, whether chewed, absorbed, dissolved, or ingested by any other means. Alternative nicotine product does not include a tobacco product, a vapor product, food, or a product regulated as a drug or device by the United States Food and Drug Administration under 21 USC 351 to 360ff-7.

(c) "Person who sells vapor products or alternative nicotine products at retail" means a person whose ordinary course of business consists, in whole or in part, of the retail sale of vapor products or alternative nicotine products.

(d) "Person who sells tobacco products at retail" means a person whose ordinary course of business consists, in whole or in part, of the retail sale of tobacco products subject to state sales tax.

(e) "Public place" means a public street, sidewalk, or park or any area open to the general public in a publicly owned or operated building or public place of business.

(f) "Tobacco product" means a product that contains tobacco and is intended for human consumption, including, but not limited to, a cigarette, noncigarette smoking tobacco, or smokeless tobacco, as those terms are defined in section 2 of the tobacco products tax act, 1993 PA 327, MCL 205.422, and a cigar.

(g) "Use a tobacco product, vapor product, or alternative nicotine product" means to smoke, chew, suck, inhale, or otherwise consume a tobacco product, vapor product, or alternative nicotine product.

(h) "Vapor product" means a noncombustible product that employs a heating element, power source, electronic circuit, or other electronic, chemical, or mechanical means, regardless of shape or size, that can be used to produce vapor from nicotine or any other substance, and the use or inhalation of which simulates smoking. Vapor product includes an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device and a vapor cartridge or other container of nicotine or

other substance in a solution or other form that is intended to be used with or in an electronic cigarette, electronic cigar, electronic cigarillo, electronic pipe, or similar product or device. Vapor product does not include a product regulated as a drug or device by the United States Food and Drug Administration under 21 USC 351 to 360ff-7.

(Ord. No. -22)(Ord. No. 15-00, § 1, 9-18-00)

Secs. 50-38~~51~~—50-399. Reserved.