

AGENDA
WYOMING CITY COUNCIL MEETING
CITY COUNCIL CHAMBERS
MONDAY, DECEMBER 18, 2023, 7:00 P.M.

1) Call to Order

2) Invocation – Pastor Wayne Ondersma, The Pier 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 December 4, 2023 Regular Meeting

7) Approval of Agenda

8) Public Hearings

If you wish to speak to an item during a public hearing you are welcome to do so. It is important to note this is not an opportunity for dialog or debate; this is an opportunity to provide comment to the City Council. Comments made during a public hearing may become part of the meeting's permanent record. Upon approaching the podium, please begin by providing your name and address. There is a 3 minute limit per person.

9) Public Comment on Agenda Items

This public comment period is reserved for comment on agenda items only. If you wish to speak about an item that is not on the agenda, please hold your comments until the acknowledgement of visitors at the end of the meeting. It is important to note this is not an opportunity for dialog or debate; this is an opportunity to provide comment to the City Council. Upon approaching the podium, please begin by providing your name and address. There is a 3 minute limit per person.

10) Presentations and Proclamations

a) Presentations

1. Parks and Recreation 5-Year Master Plan

b) Proclamations

11) Petitions and Communications

a) Petitions

b) Communications

12) Reports from City Officers

a) From City Council

b) From City Manager

23-17 Acceptance of a Utilities Easement for 1862 RW Berends Drive, SW (Koetje Investors – Chateau, LLC)

13) Budget Amendments

14) Consent Agenda

All items under this section are considered to be routine and will be enacted by one motion with no discussion. If discussion is desired by a Councilmember, that member may request removal from the Consent Agenda.

a) Of Appreciation to Pamela Brenzing for Her Service as a Member of the Board of Review for the City of Wyoming

b) To Confirm the Appointment of Robert Christian as an Alternate Citizen Member of the Board of Review for the City of Wyoming

c) To Appoint David Dishaw as a Member of the Officers Compensation Commission for the City of Wyoming

- d) To Appoint Karen Francois as a Member of the Tree Commission for the City of Wyoming
- e) To Appoint Meagan Roche as a Member of the Tree Commission for the City of Wyoming
- f) To Appoint John Shay as the Legislative Coordinator for the City of Wyoming to the Michigan Municipal League Local Officials Legislative Coordinator Program
- g) To Appoint Patrick Waterman to the Kent County Waste-To-Energy Advisory Committee
- h) To Reappoint Members to Boards, Commissions, and Committees for the City of Wyoming
- i) To Confirm the Reappointment of Gregory King as a Member of the Economic Development Corporation and Brownfield Redevelopment Authority for the City of Wyoming
- j) To Reappoint Robert Postema as a Representative of the City of Wyoming on the Interurban Transit Partnership Board

15) Resolutions

- k) To Authorize the Treasurer to Impose a Property Tax Collection Fee Pursuant to MCL 211.44(7) to Recover Costs Incurred for Tax Payments Made by Checks with Non-Sufficient Funds
- l) To Consent to the 1st Amendment of the Purchase and Development Agreement with Magnus Capital Partners, LLC

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

- m) To Authorize the Purchase of Communication Equipment (Budget Amendment No. 42)
- n) To Concur with the Emergency Repair of a Rooftop Air Conditioner
- o) To Authorize the Purchase of Laboratory Supplies
- p) To Accept a Quote for the Purchase of UV Emergency Bypass Flap Gates for the Clean Water Plant
- q) To Accept a Quote from Ferguson Enterprises, LLC D/B/A Ferguson Waterworks for Water Meters, Strainers, and Meter Equipment
- r) For Award of Bid
 - 1. CWP Coating Project

17) Ordinances

- 16-23 To Amend Chapter 86, Article III, of the Code of Ordinances to Update the City's Sanitary Sewer Use Requirements (Final Reading)

18) Informational Material

19) Acknowledgment of Visitors

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

20) Closed Session (Property Acquisition)

21) Adjournment

The City of Wyoming, including the City Council, is committed to ensuring all persons have access to all its programs, services, and activities, including any public meetings. The City Council will coordinate with city staff to ensure the City Council fulfills that commitment for its programs, services, and activities, including public meetings. Accommodations to enable virtual meeting attendance and participation can usually be made if a request is received at least 5 hours before the meeting time. Other accommodations may require more time.

Special Accommodations – Persons with impairments or disabilities needing accommodations to participate in the meeting or persons who need language interpretation services may contact the city clerk at either Clerk_info@wyomingmi.gov or 616.530.7296 at least 36 hours before the meeting to make arrangements for appropriate accommodation.

Acomodaciones Especiales – Personas que deseen asistir a esta reunión y necesitan acomodación para participar, como servicios de interpretación, deben comunicarse con la Oficina del Administrador de la Ciudad al 616.530.7296 o Clerk_info@wyomingmi.gov al menos 36 horas antes de la reunión para hacer arreglos para el alojamiento apropiado.

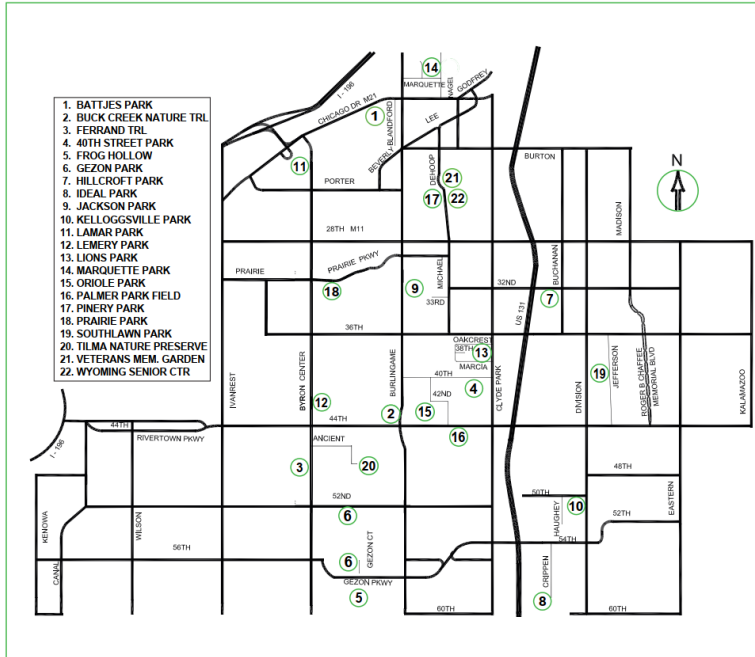


FLEIS&VANDENBRINK
DESIGN. BUILD. OPERATE.

CITY OF WYOMING 5-YEAR PARK & RECREATION PLAN



INTRODUCTION



The intent of a community park and recreation plan is to create an inventory of existing facilities and resources, identify community recreation and open space needs, and set a plan of action for a five-year period. This high-level overview plan is also referred to as a five-year recreation plan.



ESTABLISHING ELIGIBILITY



As a prerequisite submitting MDNR grant applications (due Apr. 1), a community must have an approved 5-year recreation plan on file with the Michigan Department of Natural Resources by Feb. 1 of that respective year.



PLAN CONTENT



City of Dearborn Heights
Wayne County, MI

5-YEAR PARKS &
RECREATION PLAN
2022 – 2026

February 2022



PREPARED BY:



Offices in Michigan & Indiana // 2960 Lucerne Drive SE, Grand Rapids, MI 49546 // P: 616.977.1000 F: 616.977.1005

Required Plan Content

- A. Community Description – update census data
- B. Administrative Structure
- C. Description of the Planning Process
- D. Recreation Inventory/Resource Inventory
- E. Goals & Objectives
- F. Action Program, Capital Improvement Schedule and Rationale



TIMETABLE



2023

Gather public input, conduct inventory and develop draft plan.
Draft plan available for 30-day review (advertise availability).
Advertise public hearing (at least one week before the hearing).
Public hearing.
Public meeting for adoption of the plan by the highest governing body.

By Feb.1, 2024

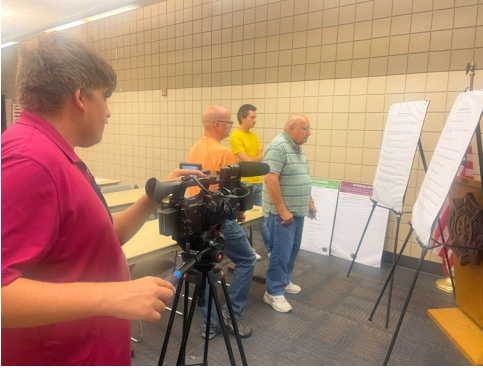
Submit plan to DNR and county and regional planning commissions.

Dec. 31, 2028

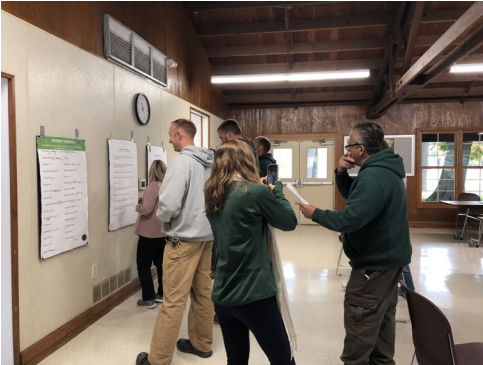
Plan expires.



EARLY PUBLIC INPUT



You must solicit early public input from your community before preparing your draft plan. The means of soliciting that input should take place within a year of plan adoption by the governing body. It is important to involve the public early in the process before the draft plan is written.



- Community Online Survey – over 650 respondents
- Community Workshops – September 21 & 26
- Recreation Dept. staff luncheon
- Meeting with sports volunteer organizations
- Public input at regularly scheduled parks events
- Meetings with parks staff and city committees



WHAT WE HAVE HEARD

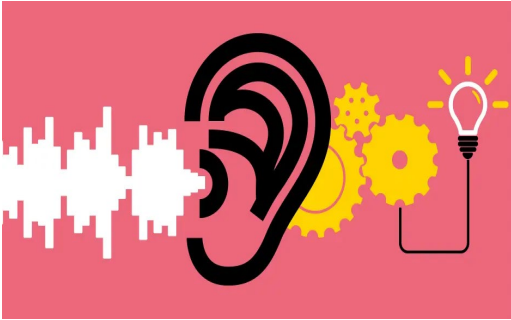


Recommended Actions

- A general statement can be made that the majority of the properties currently operated as park facilities in the City have basic facilities such as paved parking areas, paved walks and restroom facilities. There is in some areas however a lack of additional ADA accessible walks that connect various park facilities to each other are a concern regarding ADA accessibility at the other City owned parks.
- Marquette park has been identified as a priority park for implementation of a recently completed master plan. The park is located in the northern region of the city, surrounded by an ethnically diverse, dense residential neighborhood and adjacent to industrial properties. Plaster Creek flows through the northeast corner of the park and generally serves the city residents attending the Godfrey Lee Public School district. While serving as a neighborhood park, its competitive soccer facilities support the overall city's recreation program. It currently houses the city's only dog park, the Grand Rapids Rifle and Pistol Club, and the City of Wyoming's community garden facility, a partnership program with UCOM.



WHAT WE HAVE HEARD (CON'T)



- Responses on desired recreational facilities varied but key items identified included pickleball court development, improvement to playgrounds and passive activities such as walking trails/pathways and support facilities such as restroom and pavilions. The key may be to focus on recreational facilities that have multi-generational appeal and meeting the needs of the widest age group as possible.
- Improvements to restroom facilities was highly identified as well. Renovations to improve ADA accessibility and to provide heated restrooms to better serve residents for all four seasons was cited consistently in the surveys.

WHAT WE HAVE HEARD (CON'T)



- A strong emphasis was stressed in the community survey respondents that the City should equally focus on maintenance of existing park facilities as well as new facility development. Budgetary considerations and alternatives on best management practices to reduce maintenance costs need to continually be evaluated and explored.
- Improving park safety with the addition of security cameras and additional area lighting was also identified as a priority.

WHAT WE HAVE HEARD (CON'T)

- Continually improving and expanding park programs and events also received high marks in the community input process. Parks and Recreation facilities and programs are powerful engines of economic activity, and they contribute to higher real estate values, tourism, and economic development. More and more, communities are identified by the quality of the parks and programs as the place to live, work and play. Parks are community builders!



ACTION PLAN

- The action program is the section of the plan where you identify how you intend to meet or work toward meeting your goals and objectives over the next five years.
- A capital improvement schedule for park development projects is not required but may be useful for planning purposes and may include the type of improvement, the estimated cost, funding sources and a schedule of construction.



DRAFT CAPITAL IMPROVEMENTS (CIP)



Capital Improvement Schedule

Table 7.1 - Capital Improvement Schedule				
Year	Project	Est. Cost	Justification	Funding Source
2024	Marquette Park Improvements Phase 1– Restroom building, playground equipment, futsal court, pathways, parking, lighting, landscaping, and associated site work	\$950,000	Goals 1-5	\$300,000 MNRTF \$300,000 Local Match \$350,000 Donations/Foundation
2025	Restroom Building Improvements w/heat – various locations	\$600,000	Goals 1,2,4,7,8	\$300,000 MNRTF \$300,000 Local Match
2026	Pickleball Court Improvements Pinery Park	\$500,000	Goals 1,2,4,7,8	\$300,000 MNRTF \$200,000 Local Match
2027	Misc. Trailway Improvements	\$400,000	Goals 3,7,8,9	\$275,000 MNRTF or MDOT TAP Program \$125,000 Local Match Donations/Foundation
2028	Marquette Park Improvements Phase 2–, splash pad, shelter, basketball court, community garden, parking, lighting, landscaping, and associated site work	\$950,000	Goals 1-5	\$300,000 MNRTF \$300,000 Local Match \$350,000 Donations/Foundation
2028	Recreation Plan Update	\$40,000	Goal 22	\$40,000 local

Abbreviations

MDNR - Michigan Department of Natural Resources
LWCF - Land and Water Conservation Fund
TAP -Transportation Alternatives Program

MDOT – Michigan Department of Transportation
MNRTF- Michigan Natural Resources Trust Fund



NEXT STEPS



- Draft Plan – 30-day public review period
- Amend draft plan based on additional public comment
- Schedule final public hearing – late Dec. 2023 or early Jan. 2024
- Adoption by community’s highest elected board – January 2024
- Submittal to MDNR through MiGrants site by Feb. 1, 2024.



City of Wyoming

Mission

Our mission at the City of Wyoming is simple: Community, safety, stewardship.

Vision

A diverse, strong and authentic community where all individuals have the opportunity to thrive.





QUESTIONS?



December 18, 2023

Wyoming City Council
Wyoming, Michigan

City Manager's Report No. 23-17

Subject: Acceptance of a Utilities Easement for 1862 RW Berends Drive, SW (Koetje Investors – Chateau, LLC)

Councilmembers:

Koetje Investors – Chateau, LLC, owner of 1862 RW Berends Drive, SW, has submitted the following described Utilities Easement. The Utilities Easement conveys rights to construct watermain and sanitary sewer. The easement areas are shown on the attached Exhibit A.

Grantor:	Koetje Investors – Chateau, LLC
Parcels:	41-17-27-201-032
Right-of-way Size	6,500 sf – Watermain 2,674 sf – Sanitary Sewer
Consideration:	\$1.00

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

Respectfully submitted,



John Shay
City Manager

Attachments: Utilities Easement
Exhibit A

community • safety • stewardship

CITY COUNCIL

Robert Arnoys Tommy Brann Sheldon DeKryger **Kent Vanderwood, Mayor** Renee Hill Marissa Postler Robert Postema

**CITY OF WYOMING
UTILITY EASEMENT**

Permanent Parcel No. 41-17-27-201-032

The Grantor, **KOETJE INVESTORS – CHATEAU, LLC**, a Michigan limited liability company, whose address is 1860 RW Berends Drive SW, Wyoming, MI 49519-4954,

DOES HEREBY GRANT AND CONVEY TO

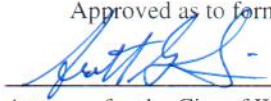
CITY OF WYOMING, a Michigan Municipal Corporation whose address is 1155-28th Street, SW, Wyoming, Michigan 49509, an **easement** and right of way for **sanitary sewer and watermain** purposes, including the right to enter upon the real property at any time and to construct, repair and maintain underground sewers and watermains across, through and under said real property hereinafter described together with the right to excavate and refill ditches and/or trenches for the location of said sewers and watermains and the further right to remove trees, bushes, undergrowth, and other obstructions interfering with the location, construction and maintenance of said sewers or watermains in, over an upon said real property located in the City of Wyoming, County of Kent, State of Michigan, described as follows:

See Exhibit “A” attached hereto for Legal Description

for the full consideration of **One Dollar (\$1.00)**

Grantor shall not construct any buildings or permanent structures upon said easement.

DATED: 12/12/2023

Approved as to form:


Attorney for the City of Wyoming

GRANTOR:

KOETJE INVESTORS - CHATEAU, LLC

By: John L. Koetje
John L. Koetje, Manager

STATE OF MICHIGAN
COUNTY OF KENT

On November 27, 2023, before me, a Notary Public, in and for said County, personally appeared John L. Koetje, Manager of Koetje Investors - Chateau, LLC, a Michigan limited liability company, to me known to be the same person described in and who executed the within instrument, who acknowledged the same to be the free act and deed of said limited liability company.

This Instrument Drafted By:

Brent M. Feyen

Exxel Engineering, Inc.

5252 Clyde Park Ave, SW

Grand Rapids, MI 49509

Jonathan P. Male
* Jonathan P. Male Notary Public

Kent County, Michigan

My commission expires: 6/18/2027

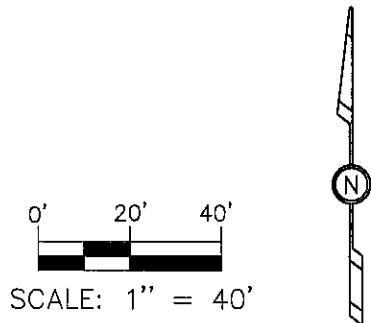
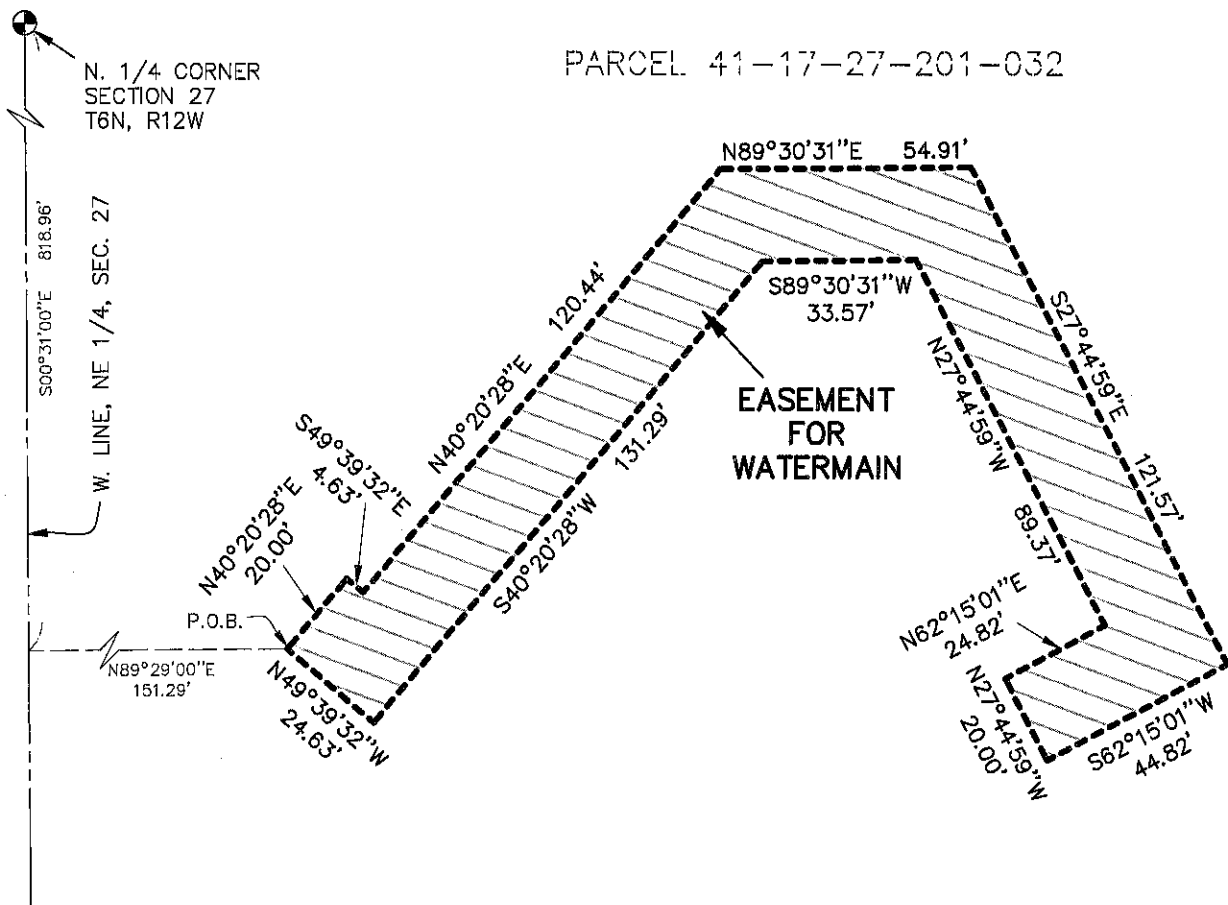
Acting in the County of Kent

EXHIBIT A

PAGE 1 OF 2

Description:

Part of the NE 1/4 of Section 27, T6N, R12W, City of Wyoming, Kent County, Michigan, described as: Commencing at the North 1/4 Corner of said Section 27; thence S00°31'00"E 818.96 feet along the West line of the NE 1/4 of said Section 27; thence N89°29'00"E 151.29 feet to the PLACE OF BEGINNING of this description; thence N40°20'28"E 20.00 feet; thence S49°39'32"E 4.63 feet; thence N40°20'28"E 120.44 feet; thence N89°30'31"E 54.91 feet; thence S27°44'59"E 121.57 feet; thence S62°15'01"W 44.82 feet; thence N27°44'59"W 20.00 feet; thence N62°15'01"E 24.82 feet; thence N27°44'59"W 89.37 feet; thence S89°30'31"W 33.57 feet; thence S40°20'28"W 131.29 feet; thence N49°39'32"W 24.63 feet to the Place of Beginning.



Prepared by:
 Exxel Engineering, Inc.
 5252 Clyde Park Ave., SW
 Grand Rapids, MI 49509

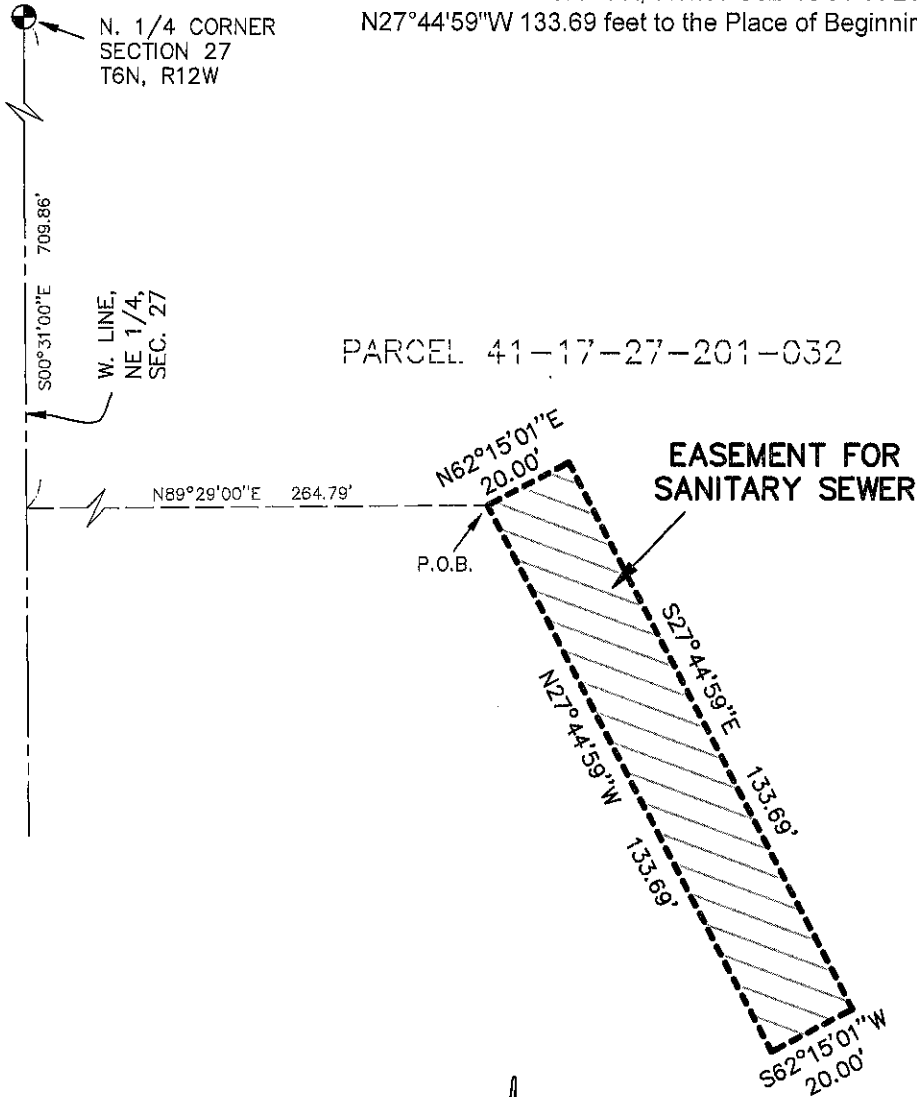
RE: Deerview Apt.
 132098E 11/13/2023 kv

EXHIBIT A

PAGE 2 OF 2

Description:

Part of the NE 1/4 of Section 27, T6N, R12W, City of Wyoming, Kent County, Michigan, described as: Commencing at the North 1/4 Corner of said Section 27; thence S00°31'00"E 709.86 feet along the West line of the NE 1/4 of said Section 27; thence N89°29'00"E 264.79 feet to the PLACE OF BEGINNING of this description; thence N62°15'01"E 20.00 feet; thence S27°44'59"E 133.69 feet; thence S62°15'01"W 20.00 feet; thence N27°44'59"W 133.69 feet to the Place of Beginning.



Prepared by:
Exxel Engineering, Inc.
5252 Clyde Park Ave., SW
Grand Rapids, MI 49509

RE: Deerview Apt.
132098E 11/13/2023 kv

RESOLUTION NO. _____

RESOLUTION OF APPRECIATION TO PAMELA BRENZING
FOR HER SERVICE AS A MEMBER OF THE BOARD OF REVIEW
FOR THE CITY OF WYOMING

WHEREAS:

1. Pamela Brenzing has served faithfully and effectively as a member of the Board of Review since November 16, 2020.

NOW, THEREFORE, BE IT RESOLVED:

1. Councilmembers and citizens of the City of Wyoming wish to express their deep appreciation to Pamela Brenzing for her dedicated service as a member of the Board of Review.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on December 18, 2023.

Kelli A. VandenBerg, Wyoming City Clerk

RESOLUTION NO. _____

RESOLUTION TO CONFIRM THE APPOINTMENT OF ROBERT CHRISTIAN
AS AN ALTERNATE CITIZEN MEMBER OF THE BOARD OF REVIEW
FOR THE CITY OF WYOMING

WHEREAS:

1. Robert Christian has submitted an application requesting appointment to the Board of Review for the City of Wyoming.
2. A vacancy exists in the position of Alternate Citizen on the Board of Review for the City of Wyoming.
3. It is the desire of the City Council that Robert Christian be appointed to a regular term ending January 31, 2025.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council for the City of Wyoming, Michigan, does hereby confirm the appointment of Robert Christian as an Alternate Citizen member of the Board of Review for the regular term ending January 31, 2025.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on December 18, 2023.

Kelli A. VandenBerg, Wyoming City Clerk

RESOLUTION NO. _____

RESOLUTION TO APPOINT DAVID DISHAW AS A MEMBER
OF THE OFFICERS COMPENSATION COMMISSION
FOR THE CITY OF WYOMING

WHEREAS:

1. David Dishaw has submitted an application requesting appointment to the Officers Compensation Commission for the City of Wyoming.
2. A vacancy exists in an unexpired term ending June 30, 2030, on the Officers Compensation Commission.
3. It is the desire of Mayor Kent Vanderwood that David Dishaw be appointed to serve on the Officers Compensation Commission for the City of Wyoming.

NOW, THEREFORE, BE IT RESOLVED:

1. That the City Council for the City of Wyoming, Michigan, does hereby confirm the appointment of David Dishaw to the Officers Compensation Commission for the City of Wyoming for a term expiring June 30, 2030.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on December 18, 2023.

Kelli A. VandenBerg, Wyoming City Clerk

Resolution No. _____

RESOLUTION NO. _____

RESOLUTION TO APPOINT KAREN FRANCOIS AS A MEMBER OF THE
TREE COMMISSION FOR THE CITY OF WYOMING

WHEREAS:

1. Karen Francois has submitted an application requesting appointment to the Tree Commission for the City of Wyoming.
2. A vacancy exists in a term ending June 30, 2026.
3. Mayor Kent Vanderwood has recommended that Karen Francois be appointed as a member of the Tree Commission for the City of Wyoming.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council for the City of Wyoming, Michigan, does hereby confirm the appointment of Karen Francois to the Wyoming Tree Commission for the term ending June 30, 2026.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on December 18, 2023.

Kelli A. VandenBerg, Wyoming City Clerk

RESOLUTION NO. _____

RESOLUTION TO APPOINT MEAGAN ROCHE AS A MEMBER OF THE
TREE COMMISSION FOR THE CITY OF WYOMING

WHEREAS:

1. Meagan Roche has submitted an application requesting appointment to the Tree Commission for the City of Wyoming.
2. A vacancy exists in a term ending June 30, 2025.
3. Mayor Kent Vanderwood has recommended that Meagan Roche be appointed as a member of the Tree Commission for the City of Wyoming.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council for the City of Wyoming, Michigan, does hereby confirm the appointment of Meagan Roche to the Wyoming Tree Commission for the term ending June 30, 2025.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on December 18, 2023.

Kelli A. VandenBerg, Wyoming City Clerk

RESOLUTION NO. _____

RESOLUTION TO APPOINT JOHN SHAY
AS THE LEGISLATIVE COORDINATOR FOR THE CITY OF WYOMING
TO THE MICHIGAN MUNICIPAL LEAGUE LOCAL OFFICIALS
LEGISLATIVE COORDINATOR PROGRAM

WHEREAS:

1. The Michigan Municipal League has a Local Officials Legislative Coordinator Program.
2. It is the desire of the Wyoming City Council to appoint City Manager John Shay to replace City Manager Curtis Holt as the Legislative Coordinator to the Michigan Municipal League.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council for the City of Wyoming, Michigan, does hereby appoint City Manager John Shay as Legislative Coordinator for the City of Wyoming to the Michigan Municipal League Local Officials Legislative Coordinator Program, and notice of this resolution be provided to the Michigan Municipal League.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on December 18, 2023.

Kelli A. VandenBerg, Wyoming City Clerk

Resolution No. _____

RESOLUTION NO. _____

RESOLUTION TO APPOINT PATRICK WATERMAN TO THE
KENT COUNTY WASTE-TO-ENERGY ADVISORY COMMITTEE

WHEREAS:

1. The City of Wyoming is entitled to representation on the Kent County Waste-to-Energy Advisory Committee.
2. It is the desire of the Wyoming City Council to appoint Deputy City Manager Patrick Waterman as a Wyoming representative to the Kent County Waste-to-Energy Advisory Committee.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council for the City of Wyoming, Michigan, does hereby appoint Deputy City Manager Patrick Waterman as a member of the Kent County Waste-to-Energy Advisory Committee as the City's representative for 2024.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on December 18, 2023.

Kelli A. VandenBerg, Wyoming City Clerk

RESOLUTION NO. _____

RESOLUTION TO REAPPOINT MEMBERS TO BOARDS, COMMISSIONS, AND
COMMITTEES FOR THE CITY OF WYOMING

WHEREAS:

1. It is the desire of the City Council that members are reappointed to serve on certain Boards, Commissions, and Committees for the City of Wyoming.

NOW, THEREFORE, BE IT RESOLVED:

1. That the City Council for the City of Wyoming, Michigan, does hereby reappoint the following named persons to serve on certain Boards, Commissions, and Committees for the City of Wyoming for the terms so stated.

<u>BOARD, COMMISSION OR COMMITTEE</u>	<u>TERM ENDING</u>
<u>Board of Review</u> Matthew Buist	01/31/2027
<u>Greater Wyoming Community Resource Alliance</u> Gabriela De La Vega Robert O’Callaghan	01/01/2027 01/01/2027

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

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on December 18, 2023.

Kelli A. VandenBerg, Wyoming City Clerk

RESOLUTION NO. _____

RESOLUTION TO CONFIRM THE REAPPOINTMENT OF GREGORY KING
AS A MEMBER OF THE ECONOMIC DEVELOPMENT CORPORATION AND
BROWNFIELD REDEVELOPMENT AUTHORITY FOR THE CITY OF WYOMING

WHEREAS:

1. The term of office for Gregory King expires on February 13, 2024.
2. Mayor Kent Vanderwood has recommended the reappointment of Gregory King as a member of the Economic Development Corporation and Brownfield Redevelopment Authority.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council of the City of Wyoming, Michigan does hereby confirm the reappointment of Gregory King as a member of the Economic Development Corporation and Brownfield Redevelopment Authority for the City of Wyoming, Michigan for the regular term ending February 13, 2030.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on December 18, 2023.

Kelli A. Vandenberg, Wyoming City Clerk

RESOLUTION NO. _____

RESOLUTION TO REAPPOINT ROBERT POSTEMA AS A REPRESENTATIVE OF THE
CITY OF WYOMING ON THE INTERURBAN TRANSIT PARTNERSHIP BOARD

WHEREAS:

1. The term of Robert Postema as a Wyoming representative on the Interurban Transit Partnership Board, expires on December 31, 2023.
2. It is the desire of the Wyoming City Council to reappoint Robert Postema as a Wyoming representative to the Interurban Transit Partnership Board.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council for the City of Wyoming, Michigan, does hereby designate Robert Postema as a representative of the City of Wyoming on the Interurban Transit Partnership Board for a two-year term expiring December 31, 2025.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on December 18, 2023.

Kelli A. VandenBerg, Wyoming City Clerk

RESOLUTION NO. _____

RESOLUTION TO AUTHORIZE THE TREASURER TO IMPOSE A PROPERTY TAX COLLECTION FEE PURSUANT TO MCL 211.44(7) TO RECOVER COSTS INCURRED FOR TAX PAYMENTS MADE BY CHECKS WITH NON-SUFFICIENT FUNDS

WHEREAS:

1. In the regular course of the collection of property taxes, the City incurs fees for checks submitted for payment of taxes but returned for non-sufficient funds (“NSF Fees”).
2. The NSF fees incurred in the collection of taxes become a lien on the property pursuant to section 9.14 of the Wyoming City Charter, and pursuant to the General Property Tax Act, at MCL 211.40, which states in relevant part that the tax lien “for unpaid taxes *and for all interest and charges on those amounts*, shall continue until paid.”
3. Pursuant to MCL 211.44(7), the City may authorize by resolution the imposition of a property tax collection fee, which authorization is valid for all levies that become a lien after the resolution is adopted.

NOW, THEREFORE, IT IS RESOLVED THAT:

1. The Treasurer is authorized, on behalf of the City and in accordance with the terms of this Resolution, to add a collection fee to the tax bill in the amount designated by the City of Wyoming fee schedule or the fee assessed by our financial institution, whichever is greater.
2. The collection fee shall be added to the tax roll on the parcel for which the returned check was submitted as payment for taxes and added to subsequent tax bills until collected.
3. The Mayor and City staff are authorized to take such actions as are reasonably necessary to effectuate this Resolution.
4. The Resolution shall become effective immediately.
5. All resolutions and parts of resolutions in conflict herewith are, to the extent of such conflict, repealed.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on December 18, 2023.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Resolution No. _____

STAFF REPORT

Date: November 20, 2023
Subject: Resolution to Impose Collection Fee
From: Traci Shaffer, Treasurer
Meeting Date: December 18, 2023

RECOMMENDATION:

It is recommended that the City Council approve a resolution allowing the City Treasurer to assess a fee on tax bills to recover costs incurred for tax payments returned unpaid by the originating financial institution.

COMMUNITY, SAFETY, STEWARDSHIP:

The Treasurer's Office is responsible for the timely collection and distribution of property taxes for all City parcels. Careful and responsible management of tax related funds is essential to the operations of our City departments, local schools, County and other local services.

DISCUSSION:

Occasionally, payments submitted for taxes are returned unpaid by the originating financial organization due to non-sufficient funds, closed or frozen accounts. When this happens, the City incurs expenses in the form of fees assessed by our financial institution and staff time allotted to re-issue statements and adjust tax distributions accordingly.

Currently, returned payment fees for other types of payments are added directly to the original account, (Utility Bill, Inspections Invoice, etc). This results in a statement clearly indicating the original charges, returned payment and associated fees.

This resolution would allow us to re-issue a tax bill clearly indicating the balance due and including the imposed fee. Adding the fee directly to the tax bill aids in tracking these fees and successfully collecting the full amount.

BUDGET IMPACT:

The fees associated will credit the general fund and there will be no negative impact to our budget.

12/18/23

Comm & Econ Dev/City Atty

RESOLUTION NO. ____

RESOLUTION TO CONSENT TO THE 1st AMENDMENT OF THE PURCHASE AND DEVELOPMENT AGREEMENT WITH MAGNUS CAPITAL PARTNERS, LLC

WHEREAS:

1. The City Council strongly supports a city center vision to create a Wyoming downtown that will include, among much other development, the private construction additional dwelling units and commercial space within 4- or 5-story buildings on the remainder of former Studio 28 property acquired by the Wyoming Brownfield Redevelopment Authority (WBRA).
2. Toward that end, the City Council approved the advancement of funds to the WBRA for its acquisition of the remainder of the former Studio 28 property and pursuant to the agreement advancing those funds, the City Council's consent is needed for the resale of that property.
3. Magnus Capital Partners, LLC, the developer of the adjoining Hōm Flats development and owner of the adjoining Wyoming Village shopping center property, has entered into a May 31, 2022, Purchase and Development Agreement to acquire that property.
4. Due to delays in finalizing plans for the pedestrian/bicycling bridge over 28th St SW that affect that property, the interplay between that property and other property Magnus controls, and the desire to have a brownfield plan and Act 381 work plan in place before closing, a delay of up to one year for closing on the sale of the property is in the best interests of all the parties, including the City.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The City Council consents the 1st Amendment to the Purchase and Development Agreement ("1st Amendment") to extend the closing deadline to December 31, 2024, and all associated delays in repayments of advanced City funds.
2. The Mayor and City Clerk are authorized and directed to sign the 1st Amendment in the form submitted with this resolution subject to such changes as are approved by the City attorney.
3. All City officers and employees are authorized and directed to take all actions needed to implement those agreements according to their terms.
4. All resolutions and parts of resolutions that conflict with this resolution are rescinded.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes

 No

I certify that this resolution was adopted by the City Council of the City of Wyoming, Michigan at a regular meeting held on December 18, 2023.

Kelli A. VandenBerg, Wyoming City Clerk

Exhibit A: Fund Advance Agreement

ATTACHMENTS:

Staff Report

Amendment

Resolution No. _____

EXHIBIT A TO RESOLUTION
FUND ADVANCE AGREEMENT

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

RECITALS

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

TERMS AND CONDITIONS

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

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

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

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

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

JACKSON ENTERTAINMENT, LLC

**WYOMING BROWNFIELD REDEVELOPMENT
AUTHORITY**

By: _____
Jack A. Poll, Mayor

By: _____
Tom Brann, Chair

By: _____
Kelli A. Vandenberg, City Clerk

By: _____
Nicole Hofert, Acting Secretary

Dated signed: December __, 2021

Date signed: December __, 2021

Approved as to form:

Scott G. Smith, City Attorney

EXHIBIT A TO FUND ADVANCE AGREEMENT

PURCHASE AGREEMENT

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

RECITALS

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

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

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

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

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

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

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

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

TERMS AND CONDITIONS

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

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

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

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

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

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

3. Title and Condition.

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

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

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

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

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

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

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

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

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

or material suppliers' liens arising from work or improvements at the Property by, or on behalf of, Seller; (5) any lis pendens or similar filing with respect to pending litigation affecting the Property, judgment liens against Seller or any of Seller's affiliates and/or any other involuntary liens against Seller or any of Seller's affiliates; and (6) any encumbrances voluntarily executed (and affecting title to the Property) by Seller after the Effective Date.

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

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

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

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

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

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

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

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

4. If WBRA terminates this Agreement under subsection 3.C.3, Title Company shall return the Initial Deposit to WBRA and neither party will have any further obligations under this Agreement, except for

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

4. Taxes, Assessments, and Utilities.

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

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

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

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

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

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

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

and (iii) such other documents as may be reasonably requested by the Title Company to close the transaction contemplated by this Agreement.

6. Closing Expenses and Adjustments.

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

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

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

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

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

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

8. Representations and Warranties.

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

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

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

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

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

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

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

9. Assignment and Benefit.

A. Neither party may assign this Agreement or any of its rights, duties, or obligations under this Agreement without the other party's prior written consent. However, WBRA may direct that the Property be conveyed to another party designated by WBRA. But such designation, if made, will not relieve WBRA of any duties or obligations under this Agreement, unless Seller first consents in writing.

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

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

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

To Seller:

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

With a copy to:

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

To WBRA:

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

With a copy to:

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

12. General Provisions.

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

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

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

D. This Agreement may be signed in one or more counterparts, all of which will be considered one and the same agreement and will become effective when one or more counterparts have been signed by each of the parties and delivered to the other party. Signatures on this Agreement, as well as on any other documents to be executed under this Agreement, may be delivered by facsimile or electronic mail in lieu

of an original signature, and the parties will treat facsimile signatures and electronic mail signatures as original signatures, and be bound by this provision. However, the deed shall be originally signed and in recordable form when delivered to WBRA.

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

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

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

JACKSON ENTERTAINMENT, LLC

**WYOMING BROWNFIELD REDEVELOPMENT
AUTHORITY**

By: _____
J.D. Loeks, _____

By: _____
Tom Brann, Chair

Date signed: _____, 2021

By: _____
Nicole Hofert, Acting Secretary

LOEKS THEATRES, INC.

Date signed: _____, 2021

By: _____
J.D. Loeks, _____

Approved as to form:

Dated signed: _____, 2021

Scott G. Smith, City Attorney

STAFF REPORT

Date: December 11, 2023
Subjects: Extending Closing Deadline for HōmFlats Phase 3 Property
From: Scott Smith, City Attorney
Nicole Hofert, Planning & Economic Development Director
Meeting Date: December 18, 2023

RECOMMENDATION:

Adopt the Resolution Consenting to 1st Amendment to Purchase and Development Agreement with Magnus Capital Partners, LLC.

COMMUNITY, SAFETY, STEWARDSHIP:

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

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

Stewardship – Stewardship is advanced when the city collaborates with private and public entities invest and participate in accomplishing this city vision.

BUDGET IMPACT:

This will delay the return to the Wyoming Brownfield Redevelopment Authority (WBRA) the funds it invested to acquire the property and repayment to the city.

DISCUSSION:

The WBRA acquired the remaining former Studio 28 property in December 2021 to resell for development consistent with the city center project vision, essentially for construction of 4- to 5-story buildings occupied by retail and other commercial uses on their ground floors and mixed-income residential units on their other floors. Magnus plans just such a development as phase 3 of its Hōm Flats development. Because of delays in finalizing the design of the pedestrian/bicycling bridge over 28th Street that will affect the development of the subject property, Magnus' efforts to acquire adjoining property, and a desire to have an approved brownfield plan and Act 381 work plan in place prior to closing (to maximize captured tax increment revenues), an extension of the closing deadline for one year until December 31, 2024, is in the parties' best interests.

The City Council's consent to the Purchase and Development Agreement was required by the fund advance agreements between the city and WBRA pursuant to which the city advanced the WBRA the funds the WBRA used to acquire this property and for Magnus' acquisition of the Wyoming Village Mall. Therefore, the City Council's consent to the extended closing deadline is also required.

1ST AMENDMENT TO PURCHASE AND DEVELOPMENT AGREEMENT

This is a 1st Amendment dated as of December __, 2023, to the Purchase and Development Agreement is made as of May 31, 2022 (the "**Original Agreement**"), between the Wyoming Brownfield Redevelopment Authority, a Michigan public body corporate of 1155 28th St SW, Wyoming, MI 49509 ("**Seller**") and Magnus Capital Partners LLC, a Delaware limited liability company now of 220 Lyon St NW, Ste 500, Grand Rapids, MI 49503 ("**Purchaser**") and adds the consent of the City of Wyoming, a Michigan municipal corporation of 1155 28th St SW, Wyoming, MI 49509 ("**City**") as a party due to the need for the City to consent to delayed repayment of funds loaned by the City to the Seller for the Seller's purchase of the **Property** as described in the Original Agreement.

RECITALS

- A. The closing deadline in the Original Agreement is December 31, 2023.
- B. Due to Purchaser's acquisition of adjoining property, the City's delay in finalizing plans to construct a pedestrian/bicycling bridge over 28th St SW at its intersection with 28W Place that will affect the development of the Property, and the desire for an approved brownfield plan and Act 381 work plan before that property is conveyed, the parties believe a delay in the closing is in their mutual best interest.

TERMS AND CONDITIONS

Because it is in their acknowledged mutual interests, the parties agree to amend the Original Agreement as follows:

- 1. The Outside Closing Date as set forth in section 5.A of the Original Agreement is extended one year to December 31, 2024.
- 2. All other provisions of the Original Agreement remain in full effect and unmodified by this 1st Amendment.

MAGNUS CAPITAL PARTNERS, LLC

WYOMING BROWNFIELD REDEVELOPMENT AUTHORITY

By: _____
Vishal Arora, Authorized Signatory

By: _____
Tom Brann, Chair

Date signed: _____, 2023

By: _____
Nicole Hofert, Secretary

Date signed: _____, 2023


CITY CONSENT

The City of Wyoming consents to this 1st Amendment and to the delayed repayment of funds to the City of Wyoming under the fund advance agreements between the City and Seller.

CITY OF WYOMING

Approved as to form:

By: _____
Kent Vanderwood, Mayor



Scott G. Smith; City Attorney

By: _____
Kelli A. VandenBerg, City Clerk

Date signed: _____, 2023

RESOLUTION NO. _____

RESOLUTION TO AUTHORIZE THE PURCHASE OF COMMUNICATION EQUIPMENT

WHEREAS:

1. As detailed in the attached staff report, it is recommended City Council accept a quote from Safeware, Inc. for communication equipment for the confined space rescue team using the State of Michigan (MiDEAL) contract pricing in the total estimated amount of \$13,967.19.
2. A budget amendment is required.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council authorizes the purchase of communication equipment in the total estimated amount of \$13,967.19.
2. The City Council approves the budget amendment.
3. The City Council waives the provisions of Sections 2-252, 2-253, 2-254 and 2-256 of the City Code regarding publication and posting of bid notices, notification of bidders and the bid opening procedure.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on December 18, 2023.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Budget Amendment

Staff Report

Quote

Resolution No. _____

CITY OF WYOMING BUDGET AMENDMENT

Date: December 18, 2023

Budget Amendment No. 042

To the Wyoming City Council:

A budget amendment is requested to appropriate an additional \$20,340 of budgetary authority for the purchase of confined space standby and rescue equipment

<u>Description/Account Code</u>	<u>Current</u>	<u>Increase</u>	<u>Decrease</u>	<u>Amended</u>
<u>General Fund</u>				
Fire - Fighting - Operating Supplies				
101-337-33900-740.000	\$ 84,813.00	\$ 20,340.00		\$ 105,153.00
Fund Balance/Working Capital (Fund 101)		\$ -	\$ 20,340.00	

Recommended: Jodi Venchar Finance Director John M City Manager

Motion by Councilmember _____, seconded by Councilmember _____ that the General Appropriations Act for Fiscal Year 2023-2024 be amended by adoption of the foregoing budget amendment.

Motion carried: Yes _____, No _____

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

City Clerk

STAFF REPORT

Date: November 27, 2023

Subject: Confined Space Communication Equipment

From: Kip Snyder, Deputy Director of Public Safety

Meeting Date: December 18, 2023

RECOMMENDATION:

It is recommended that the City Council authorize the purchase of confined space communication equipment for the Wyoming Fire Department Confined Space Rescue Team for a total of \$13,967.19. If approved, this equipment would be purchased from Safeware, Inc. through the MiDeal extended purchasing program.

COMMUNITY, SAFETY, STEWARDSHIP:

A confined space is any space which is not intended for continual occupancy, has limited means of egress, and has the potential for physical, chemical, or atmospheric engulfment. Confined spaces exist throughout the City, including on City property and in City facilities. There are circumstances that make it essential for City employees to enter these confined spaces. It is the City's desire to protect the safety of its employees and the public as it relates to entry into confined spaces.

A "Confined Space Program" has been developed by the City's Risk Manager for the protection of City employees and contractors. This program follows the Michigan Occupational Safety and Health Administration (MIOSHA), General Industry Safety Standard, Part 90, and Confined Space Entry in Construction Part 35. Entrance into a confined space (manhole, lift station, etc.) is to be considered dangerous by all employees and shall be treated accordingly. Oxygen deficiency, combustible gases, and toxic gases if present in such structures can cause severe injury or death to an employee or a member of the general public. In addition, certain confined spaces contain the risk of entrapment or engulfment of the employee.

In many circumstances, MIOSHA requires teams who are specially equipped, trained, and certified to be present and to standby during confined space entries. Until recently, the City has relied upon outside contracted companies to perform this function when City employees or contracted entities needed to enter a confined space. However, since June of 2023, the Wyoming Fire Department has developed a team of trained and certified fulltime firefighters who have become the primary confined space standby and rescue team for the City.

Although there will be costs to the City for ongoing training, equipment startup and replacement, and personnel costs for deployment of the Fire team, we still anticipate a significant savings from the \$12,000 that is budgeted each year for contracted confined space standby services.

DISCUSSION:

The requested confined space communication equipment would be purchased using the (MiDeal) purchasing contract. Also, this equipment is compatible with neighboring agencies that Wyoming Fire would most likely work with on a large-scale, mutual aid event. These types of events may involve our City receiving or providing confined space rescue mutual aid.

The following additional Confined Space Rescue Team equipment will be purchased from various vendors in accordance with purchasing policies.

Trash Pump w/ Hose	\$350.00
Come along (2)	\$614.26
Incline Air Valves (8)	\$1,567.20
Air Cart Fittings	\$1,463.54
Hitch Anchor	\$235.00
Gloves (20)	\$925.00
Tarp Tent	\$100.12
Carabiners (10)	\$150.00
Tri-Link	\$75.00
Meter Hose	\$65.00
Cluster Assembly (4)	\$355.92
Quick Draw Sling	\$6.95
<u>Umbilical Sheath (4)</u>	<u>\$464.00</u>
TOTAL	\$6,371.99

BUDGET IMPACT:

Sufficient funds exist in the General Fund Fire Operating Supplies account 101-337-33900-740.000 pending approval of the attached budget amendment.

Attachments:

Quote

Budget Amendment



QUOTATION

Safeware, Inc.
 510 Eastpark Court
 Suite # 120
 Sandston, VA 23150
 804-236-0579
 www.safewareinc.com

Order Number	
10064576	
Order Date	Page
11/15/2023 11:12:31	1 of 2

Quote Expires On: 12/15/2023

Contract No: St of MI #171 180000001151

Bill To: **Customer ID:** 137776
 City of Wyoming Fire Division
 1250 36th St SW
 Wyoming, MI 49509

Ship To:
 City of Wyoming Fire Division
 1250 36th St SW
 Wyoming, MI 49509

616-530-7250

Requested By: Mr. Chris Hoyt

PO Number	Taker	Email
QUOTE: Savox Rescue Kit 1, REV. 2	Alicia Ledbetter	aledbetter@safewareinc.com
Freight Terms	Phone	Fax
Freight Paid		
Sales Representative		
Kurt Wilhelm		

Quantities					Item ID Item Description	Pricing UOM Unit Size	Unit Price	Extended Price
Ordered	Allocated	Remaining	UOM Unit Size	Disp.				
1.00	0.00	1.00	EA		SAV 0113-01-002	EA	12,201.63	12,201.63
Safeware Catalog Price:					21,037.29	Contract Discount: 41%		Your Discount: 42.00%
		1.0			Rescue Kit 1 with Power Talk Box, EMEA Atex	1.0		
Ordered As:					0113-01-002			
1.00	0.00	1.00	EA		SAV 2103-01-010	EA	441.39	441.39
Safeware Catalog Price:					761.02	Contract Discount: 41%		Your Discount: 42.00%
		1.0			Savox Umbilical Cover, 98', Black 30M	1.0		
1.00	0.00	1.00	EA		SAV 2103-01-020	EA	441.39	441.39
Safeware Catalog Price:					761.02	Contract Discount: 41%		Your Discount: 42.00%
		1.0			Savox Umbilical Cover, 98', Red 30M	1.0		
1.00	0.00	1.00	EA		SAV 2103-01-030	EA	441.39	441.39
Safeware Catalog Price:					761.02	Contract Discount: 41%		Your Discount: 42.00%
		1.0			Savox Umbilical Cover, 98', Blue 30M	1.0		
1.00	0.00	1.00	EA		SAV 2103-01-040	EA	441.39	441.39
Safeware Catalog Price:					761.02	Contract Discount: 41%		Your Discount: 42.00%
		1.0			Savox Umbilical Cover, 98', Orange	1.0		



QUOTATION

Safeware, Inc.
 510 Eastpark Court
 Suite # 120
 Sandston, VA 23150
 804-236-0579
 www.safewareinc.com

Order Number	
10064576	
Order Date	Page
11/15/2023 11:12:31	2 of 2

Quote Expires On: 12/15/2023

Contract No: St of MI #171 180000001151

<i>Quantities</i>					<i>Item ID</i>	<i>Pricing</i>		<i>Unit</i>	<i>Extended</i>
<i>Ordered</i>	<i>Allocated</i>	<i>Remaining</i>	<i>UOM</i>	<i>Unit Size</i>	<i>Item Description</i>	<i>UOM</i>		<i>Price</i>	<i>Price</i>
				<i>Disp.</i>		<i>Unit Size</i>			
					30M				
1.00	0.00	1.00	EA		OPC MIDEAL	EA		0.00	0.00
				1.0	State of Michigan #171 180000001151		1.0		
					Public Safety & Emergency Preparedness				
					Contract Master Agreement #4400008468				
					Standard freight within continental US is paid, all				
					HAZMAT or expedited freight will be billed.				

Total Lines: 6

SUB-TOTAL: 13,967.19

TAX: 0.00

AMOUNT DUE: 13,967.19

Actual freight added per freight terms

RESOLUTION NO. _____

RESOLUTION TO CONCUR WITH THE EMERGENCY REPAIR
OF A ROOFTOP AIR CONDITIONER

WHEREAS:

1. As detailed in the attached staff report, it is recommended City Council concur with the emergency repair of a rooftop air conditioner at the Clean Water Plant.
2. The total cost of the emergency repair was completed by Carrier Corporation in the total amount of \$20,950.00.
3. Funds are available in account number 590-590-54300-930.000.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council concurs with the emergency repair of a rooftop air conditioner and authorizes payment to Carrier Corporation in the total amount of \$20,950.00.
2. The City Council waives 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 builders, and the bid opening procedures.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on December 18, 2023.

Kelli A. Vandenberg, Wyoming City Clerk

ATTACHMENTS:

Staff Report
Invoice

Resolution No. _____

STAFF REPORT

Date: December 4, 2023

Subject: Emergency Air Conditioner Repair

From: Dan Kleinheksel, Utility Maintenance Manager

Meeting Date: December 18, 2023

RECOMMENDATION:

It is recommended the City Council concur with the emergency repair of a Clean Water Plant rooftop air conditioner by Carrier Corporation and approve payment for the total invoiced amount of \$20,950.00.

COMMUNITY, SAFETY, STEWARDSHIP:

Emergency repair of critical equipment is necessary to prevent the interruption of the day-to-day operations at the Clean Water Plant.

DISCUSSION:

The Clean Water Plant blower building electrical room is conditioned by a 40-ton industrial rooftop air conditioner. The electrical room requires cooling year-round due to the significant heat generated from five blower variable frequency drives (VFDs). If acceptable temperatures are not maintained, the VFDs will shut down. This will stop the aeration blowers, which are used to provide oxygen for the critical biological component of wastewater treatment.

This past summer the blower building rooftop air conditioner experienced both electrical and mechanical failures. The primary compressor failed as well as electrical components for the economizer. Carrier Corporation was contacted for repair as they are the original equipment manufacturer and hold proprietary software for programming the unit.

Emergency repair authorization was granted by the City Manager and Carrier Corporation completed the compressor replacement. The economizer is unable to be repaired due to replacement part obsolescence, both from the manufacturer and any third-party suppliers. Therefore, the economizer is being operated manually until the rooftop air conditioner can be replaced with a much smaller unit following the blower upgrade project.

BUDGET IMPACT:

Adequate funds exist in account #590-590-54300-930.000.



Invoice: PR0730732

PROFORMA - CUSTOMER ORIGINAL

CARRIER CORPORATION TERMS AND CONDITIONS OF SALE - EQUIPMENT AND/OR SERVICE

1. PAYMENT AND TAXES-Payment shall be made net 30 days from date of invoice. Carrier reserves the right to require cash payment or other alternative method of payment prior to shipment or completion of work if Carrier determines, in its sole discretion, that Customer or Customer's assignee's financial condition at any time does not justify continuance of the net 30 days payment term. In addition to the price, Customer shall pay Carrier any taxes or government charges arising from this Agreement. If Customer claims that any such taxes or government charges do not apply to the transactions governed by this Agreement, Customer shall provide Carrier with acceptable tax exemption certificates or other applicable documents.

2. EXTRAS-Equipment, parts or labor in addition to those specified in this Agreement will be provided upon receipt of Customer's written authorization, paid for as an extra at Carrier's prevailing labor rates and equipment/parts charges, and subject to the terms of this Agreement.

3. RETURNS-No items will be accepted for return without prior written authorization. Returned goods may be subject to a restocking charge. Special order and non-stock items cannot be returned.

4. SHIPMENT - All shipments shall be F.O.B. shipping point, freight prepaid and allowed to the job site. Shipment dates quoted are approximate. Carrier does not guarantee a particular date for shipment or delivery.

5. PARTIAL SHIPMENT-Carrier shall have the right to ship any portion of the equipment, goods or other materials included in this Agreement and invoice Customer for such partial shipment.

6. DELAYS-Carrier shall not be liable for delays in manufacturing, shipping or delivery by causes beyond the control and without the fault or negligence of Carrier, including but not restricted to acts of God, acts of a public enemy, acts of government, acts of terrorism, fires, floods, epidemics, quarantine restrictions, freight embargoes, supplier delays, strikes, or labor difficulties (collectively "Force Majeure Events"). Carrier agrees to notify Customer in writing as soon as practicable of the causes of such delay. In the event that any materials or equipment to be provided by Carrier under this Agreement become permanently unavailable as a result of a Force Majeure Event, Carrier shall be excused from furnishing such materials or equipment.

7. WARRANTY-Carrier warrants that all equipment manufactured by Carrier Corporation and all Carrier equipment, parts or components supplied hereunder will be free from defects in material and workmanship. Carrier shall at its option repair or replace, F.O.B. point of sale, any equipment, part or component sold by Carrier and determined to be defective within one (1) year from the date of initial operation or eighteen (18) months from date of shipment, whichever is earlier. Carrier does not warrant products not manufactured by Carrier Corporation, but it does pass on to Customer any transferrable manufacturer warranties for those products. Carrier warrants that all service provided by Carrier hereunder shall be performed in a workmanlike manner. In the event any such service is determined to be defective within ninety (90) days of completion of that service, Carrier shall at its option re-perform or issue a credit for such service. Carrier's obligation to repair or replace any defective equipment, parts or components during the warranty period shall be Customer's exclusive remedy. Carrier shall not be responsible for labor charges for removal or reinstallation of defective equipment, parts or components, for charges for transportation, handling and shipping or refrigerant loss, or for repairs or replacement of such equipment, parts or components, required as a consequence of faulty installation, misapplication, vandalism, abuse, exposure to chemicals, improper servicing, unauthorized alteration or improper operation by persons other than Carrier. THIS WARRANTY IS GIVEN IN LIEU OF ALL OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY INCLUDING THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE.

8. WORKING HOURS-All services performed under this Agreement, including but not limited to, major repairs, are to be provided during Carrier's normal working hours unless otherwise agreed.

9. CUSTOMER RESPONSIBILITIES (Service Contracts only) - Customer shall:

- Provide safe and reasonable equipment access and a safe work environment.
- Permit access to Customer's site, and use of building services including but not limited to: water, elevators, receiving dock facilities, electrical service and local telephone service.

- Keep areas adjacent to equipment free of extraneous material, move any stock, fixtures, walls or partitions that may be necessary to perform the specified service.
- Promptly notify Carrier of any unusual operating conditions.
- Upon agreement of a timely mutual schedule, allow Carrier to stop and start equipment necessary to perform service.
- Provide adequate water treatment.
- Provide the daily routine equipment operation (if not part of this Agreement) including availability of routine equipment log readings.
- Where Carrier's remote monitoring service is provided, provide and maintain a telephone line with long distance direct dial and answer capability.
- Operate the equipment properly and in accordance with instructions.
- Promptly address any issues that arise related to mold, fungi, mildew or bacteria.
- Identify and label any asbestos containing material that may be present. The customer will provide, in writing, prior to the start of a job, a signed statement regarding the absence or presence of asbestos for any job where the building or the equipment to be serviced is older than 1981. Should this document state that no asbestos is present, the customer will also provide in writing the method used to determine the absence of asbestos.

10. EXCLUSIONS-Carrier is not responsible for items not normally subject to mechanical maintenance including but not limited to: duct work, casings, cabinets, fixtures, structural supports, grillage, water piping, steam piping, drain piping, cooling tower fill, boiler tubes, boiler refractory, disconnect switches and circuit breakers. Carrier is not responsible for repairs, replacements, alterations, additions, adjustments, repairs by others, unscheduled calls or emergency calls, any of which may be necessitated by negligent operation, abuse, misuse, prior improper maintenance, vandalism, obsolescence, building system design, damage due to freezing weather, chemical/electrochemical attack, corrosion, erosion, deterioration due to unusual wear and tear, any damage related to the presence of mold, fungi, mildew, or bacteria, damage caused by power reductions or failures or any other cause beyond Carrier's control. Carrier shall not be required to perform tests, install any items of equipment or make modifications that may be recommended or directed by insurance companies, government, state, municipal or other authority. However, in the event any such recommendations occur, Carrier, at its option, may submit a proposal for Customer's consideration in addition to this Agreement. Carrier shall not be required to repair or replace equipment that has not been properly maintained.

11. EQUIPMENT CONDITION & RECOMMENDED SERVICE (Service Contracts only) -Upon the initial scheduled operating and/or initial annual stop inspection, should Carrier determine the need for repairs or replacement, Carrier will provide Customer in writing an 'equipment condition' report including recommendations for corrections and the price for repairs in addition to this Agreement. In the event Carrier recommends certain services (that are not included herein or upon initial inspection) and if Customer does not elect to have such services properly performed in a timely fashion, Carrier shall not be responsible for any equipment or control failures, operability or any long-term damage that may result. Carrier at its option will either continue to maintain equipment and/or controls to the best of its ability, without any responsibility, or remove such equipment from this Agreement, adjusting the price accordingly.

12. PROPRIETARY RIGHTS (Service Contracts only) - During the term of this Agreement and in combination with certain services, Carrier may elect to install, attach to Customer equipment, or provide portable devices (hardware and/or software) that shall remain the personal proprietary property of Carrier. No devices installed, attached to real property or portable device(s) shall become a fixture of the Customer locations. Customer shall not acquire any interest, title or equity in any hardware, software, processes, and other intellectual or proprietary rights to devices that are used in connection with providing service on Customer equipment.

13. DATA RIGHTS (Service Contracts only) -Customer hereby grants and agrees to grant to Carrier a worldwide, non-exclusive, non-terminable, irrevocable, perpetual, paid-up, royalty free license to any Source Data, with the right to sub-license to its affiliates and suppliers for (i) Carrier's performance of services pursuant to this Agreement,



Invoice: PR0730732

PROFORMA - CUSTOMER ORIGINAL

royalty free license to any Source Data, with the right to sub-license to its affiliates and suppliers for (i) Carrier's performance of services pursuant to this Agreement, (ii) the improvement of Carrier services, and Carrier's Analytics Platform; (iii) improving product performance, operation, reliability, and maintainability; (iv) to create, compile, and/or use datasets and/or statistics for the purposes of benchmarking, development of best practices, product improvement; (v) the provision of services to third parties, (vi) research, statistical, and marketing purposes, and/or (vii) in support of Carrier agreements.

Source Data - shall mean data that is produced directly from a system, or device and received at a collection point or a central server (e.g. a Carrier database, data lake, or third party cloud service).

Analytics Platform - shall mean server algorithms or web interface systems used to (i) interpret, convert, manipulate, or calculate data, (ii) perform data processing, and/or (iii) the delivery of data to Carrier, affiliates or suppliers of Carrier, and/or Customer.

14. RETURN OF DATA (Service Contracts only) -Customer understands and acknowledges that the portable devices will collect Source Data that will be stored on and/or transmitted to Carrier's servers and to suppliers or affiliates that are contracted by Carrier and used to transmit, process, extract or store such Source Data for purposes of Carrier's performance of the service in accordance with this Agreement. Once such data and information has been stored and/or transmitted to Carrier's servers, Customer agrees that such data and information shall become part of Carrier's database and therefore subject to the license terms under section 13.

15. DATA DELIVERY -During the term of the Agreement Customer shall (i) make reasonable efforts to ensure that the hardware remains powered on, (ii) avoid intentional action to impede, block or throttle collection and transmission of Source Data by Carrier, and (iii) avoid intentional action to disable, turn off, or remove the hardware without Carrier's express written consent, which consent shall not be unreasonably withheld.

16. REVERSE ENGINEERING -Customer shall not extract, decompile or reverse engineer any software included with, incorporated in, or otherwise associated with the hardware and shall not reverse engineer any reports or analytics provided to or received by Customer from Carrier.

17. WAIVER OF DAMAGES-Under no circumstances shall Carrier be liable for any incidental, special or consequential damages, including loss of revenue, loss of use of equipment or facilities, or economic damages based on strict liability or negligence.

18. LIMITATION OF LIABILITY-Carrier's maximum liability for any reason (except for personal injuries) arising from this Agreement shall not exceed the value of the payments received by Carrier under this Agreement.

19. CANCELLATION-Customer may cancel this Agreement only with Carrier's prior written consent, and upon payment of reasonable cancellation charges. Such charges shall take into account costs and expenses incurred, and purchases or contract commitments made by Carrier and all other losses due to the cancellation including a reasonable profit.

20. CUSTOMER TERMINATION FOR CARRIER NON-PERFORMANCE- Customer shall have the right to terminate this Agreement for Carrier's non-performance provided Carrier fails to cure such non-performance within thirty (30) days after having been given prior written notice of the non-performance. Upon early termination or expiration of this Agreement, Carrier shall have free access to enter Customer locations to disconnect and remove any Carrier personal proprietary property or devices as well as remove any and all Carrier-owned parts, tools and personal property. Additionally, Customer agrees to pay Carrier for all incurred but unamortized service costs performed by Carrier including overheads and a reasonable profit.

21. CARRIER TERMINATION-Carrier reserves the right to discontinue its service any time payments have not been made as agreed or if alterations, additions or repairs are made to equipment during the term of this Agreement by others without prior agreement between Customer and Carrier.

22. CLAIMS-Any lawsuits arising from the performance or nonperformance of this Agreement, whether based upon contract, negligence, strict liability or otherwise, shall be brought within one (1) year from the date the claim arose.

23. GOVERNMENT PROCUREMENTS-The components, equipment and services provided by Carrier are "commercial items" as defined in Section 2.101 of the Federal Acquisition Regulations ("FAR"), and the prices of such components, equipment and services are based on Carrier's commercial pricing policies and practices (which do not consider any special requirements of U.S. Government cost principles, FAR Part 31, or any similar procurement regulations). As such, Carrier will not agree to provide or certify cost or pricing data, nor will

Carrier agree to comply with the Cost Accounting Standards (CAS). In addition, no government procurement regulations, such as FARs or DFARs, shall apply to this Agreement except those regulations expressly accepted in writing by Carrier.

24. HAZARDOUS MATERIALS-Carrier is not responsible for the identification, detection, abatement, encapsulating or removal of asbestos, products or materials containing asbestos, similar hazardous substances, or mold, fungi, mildew, or bacteria. If Carrier encounters any asbestos or other hazardous material while performing this Agreement, Carrier may suspend its work and remove its employees from the project, until such material and any hazards associated with it are abated. The time for Carrier's performance shall be extended accordingly, and Carrier shall be compensated for the delay.

25. WASTE DISPOSAL-Customer is wholly responsible for the removal and proper disposal of waste oil, refrigerant and any other material generated during the term of this Agreement.

26. SUPERSEDE, ASSIGNMENT and MODIFICATION-This Agreement contains the complete and exclusive statement of the agreement between the parties and supersedes all previous or contemporaneous, oral or written, statements. Customer may assign this Agreement only with Carrier's prior written consent. No modification to this Agreement shall be binding unless in writing and signed by both parties. Orders shall be binding upon Carrier when accepted in writing by an authorized representative of Carrier. CARRIER'S ACCEPTANCE OF CUSTOMER'S ORDER IS CONDITIONED UPON CUSTOMER'S ACCEPTANCE OF THE TERMS AND CONDITIONS SET FORTH HEREIN (THIS "AGREEMENT") AND CUSTOMER'S AGREEMENT TO BE BOUND BY AND COMPLY WITH THIS AGREEMENT. THIS AGREEMENT AND ALL REFERENCED ATTACHMENTS CONSTITUTE THE ENTIRE AGREEMENT BETWEEN CARRIER AND CUSTOMER, AND NO AMENDMENT OR MODIFICATION SHALL BE BINDING ON CARRIER UNLESS SIGNED BY AN OFFICER OR AUTHORIZED EMPLOYEE OF CARRIER. THE FAILURE OF CARRIER TO OBJECT TO PROVISIONS CONTAINED IN ANY PURCHASE ORDER OR OTHER DOCUMENT OF CUSTOMER SHALL NOT BE CONSTRUED AS A WAIVER BY CARRIER OF THE TERMS IN THIS AGREEMENT OR AN ACCEPTANCE OF ANY OF CUSTOMER'S PROVISIONS. ANY CONFLICTING OR ADDITIONAL TERMS OR CONDITIONS SET FORTH BY CUSTOMER IN A PURCHASE ORDER OR OTHER DOCUMENT SHALL NOT BE BINDING UPON CARRIER, AND CARRIER HEREBY EXPRESSLY OBJECTS THERETO.

27. CUSTOMER CONSENT-Customer consents and agrees that Carrier may, from time to time, publicize Carrier related projects with Customer, including the value of such projects, in all forms and media for advertising, trade, and any other lawful purposes.

28. FOR WORK BEING PERFORMED IN CALIFORNIA-Contractors are required by law to be licensed and regulated by the Contractors' State License Board which has jurisdiction to investigate complaints against contractors if a complaint regarding a patent act or omission is filed within four years of the date of the alleged violation. A complaint regarding a latent act or omission pertaining to structural defects must be filed within 10 years of the date of the alleged violation. Any questions concerning a contractor may be referred to the Registrar, Contractors' State License Board, P.O. Box 26000, Sacramento, California 95826.

29. INTELLECTUAL PROPERTY - Notwithstanding anything to the contrary stated herein, Carrier retains ownership of its intellectual property and no license to Carrier's intellectual property is granted except as necessary for Customer to use any deliverables and/or services provided hereunder.

30. DATA PRIVACY - Each party will comply with applicable data privacy laws governing personal information collected and processed under this Agreement.

31. FACTORY ACCEPTANCE TESTS AND INSPECTIONS - The nature and extent of factory acceptance tests or factory inspections, including without limitation, the number and identity of participants, locations visited, and activities undertaken, shall be limited to activities directly related to the performance of this Agreement. The tests or inspections will be subject to mutual agreement of the parties, Carrier policy and internal pre-approval requirements, and strictly comply with Customer's policies as well as all applicable laws and regulations including, without limitation, all applicable laws and regulations prohibiting corruption.

RESOLUTION NO. _____

RESOLUTION TO AUTHORIZE THE PURCHASE OF LABORATORY SUPPLIES

WHEREAS:

1. As detailed in the attached staff report, the City purchases laboratory supplies as needed.
2. It is recommended City Council authorize the purchase of laboratory supplies using the State of Michigan (MiDEAL) extended purchasing program.
3. Funds are available in account numbers 591-591-55310-740.000 and 590-590-54310-740.000.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council authorizes the purchase of laboratory supplies through the State of Michigan (MiDEAL) extended purchasing program.
2. The Wyoming City Council waives 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 builders, and the bid opening procedures.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on December 18, 2023.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENT:

Staff Report

Resolution No. _____

STAFF REPORT

Date: December 4, 2023
Subject: Laboratory Supplies
From: Jaime Fleming, Utilities Laboratory Manager
CC: Myron Erickson, P.E., Director of Public Works
Meeting Date: December 18, 2023

RECOMMENDATION:

It is recommended that the City authorize the purchase of laboratory supplies from VWR International Inc. and Fisher Scientific Company L.L.C. using the State of Michigan MiDEAL contracts for the 2024 calendar year, up to an estimated annual amount of \$130,000.

COMMUNITY, SAFETY, STEWARDSHIP:

The Utilities laboratories actively engage in the protection of Michigan's natural water environment and the public health of Wyoming's citizens. A large part of this work is conducting laboratory analysis to quantifiably document our compliance with regulatory requirements and permit limitations, guide treatment process control decisions, ensure success of our biosolids program, and monitor permit compliance of our industrial sewer users.

DISCUSSION:

MiDEAL is an extended purchasing program which allows Michigan cities, townships, villages, counties, school districts, universities, community colleges and nonprofit hospitals to use state contracts to buy goods and services.

The MiDEAL vendor contracts for laboratory supplies are currently with VWR International Inc. and Fisher Scientific Company L.L.C. The websites for VWR International Inc. and Fisher Scientific Company L.L.C. are connected to current MiDEAL contract pricing which allows lab staff to easily compare vendors to obtain the lowest possible prices at the time of purchase.

BUDGET IMPACT:

Funds for the purchase of laboratory supplies are available in the Water Fund Treatment Lab Services account 591-591-55310-740.000 and Sewer Fund Treatment Lab Services account 590-590-54310-740.000.

RESOLUTION NO. _____

RESOLUTION TO ACCEPT A QUOTE FOR THE PURCHASE OF UV EMERGENCY
BYPASS FLAP GATES FOR THE CLEAN WATER PLANT

WHEREAS:

1. As detailed in the attached staff report, it is recommended City Council accept a quote from RW Gate Company for the purchase of UV emergency bypass flap gates in the total estimated amount of \$33,478.00.
2. Funds are available in account number 590-590-54400-986.444.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council authorizes the purchase of UV emergency bypass gate flap gates in the total amount of \$33,478.00.
2. The City Council does hereby waive the provisions of Sections 2-252, 2-253, 2-254 and 2-256 of the City Code regarding publication and posting of bid notices, notification of bidders and the bid opening procedure.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on December 18, 2023.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Staff Report
Quote

Resolution No. _____

STAFF REPORT

Date: November 27, 2023

Subject: UV Emergency Bypass Flap Gates

From: Jon Burke, Clean Water Plant Superintendent

Date of Meeting: December 18, 2023

RECOMMENDATION:

It is recommended that the City Council approve the purchase of flap gates from RW Gate Company as described in the attached quote in the amount of \$33,478.00.

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. Protecting the equipment from environmental conditions helps to keep the equipment running in optimal condition.

DISCUSSION:

The Clean Water Plant recently reached the final completion phase of the UV disinfection project. Most of the equipment has been installed and running since August, 2022. In that time, the new equipment has performed as expected but a couple of concerns have come up that need to be addressed.

During extreme weather events such as abnormal amounts of snow or extreme temperatures in the summer, there have been issues starting the standby equipment that is not already running. This option was discussed in the preliminary design but was considered optional at that point. There is also the potential of flow backing up and flooding the UV area, for example if there is a power failure at the plant and higher-than-average influent flow.

With Resolution No. 27721, the City Council entered into an agreement with Black & Veatch to provide the design and engineering services for the screw pump covers and emergency bypass. The project was then sent out for bid this fall, with bid opening held on November 14th. Unfortunately, we only received one bid and it was more than double the engineering estimate.

After discussing our options with the purchasing and legal departments, it was decided to purchase the materials directly ourselves to save the contractor markup fees. RW Gate Company was contacted for a quote directly, as they are the sole supplier of the approved gate from the design process. The cost of the gates will be \$33,478.00 and we will be reaching out to local contractors for quotes on the installation. The screw pump covers will be addressed in a future staff report.

BUDGET IMPACT:

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



QUOTATION

November 27, 2023

To: Jon Burke - Wyoming CWP

Quotation #QT01023666- Rev 1

Project: Wyoming, MI – Wyoming CWP Overflows
Engineer: Black & Veatch

Dear Jon:

Following is our quotation for **Section 40 0578 – Flap Gates** on the referenced project. Our offering is as follows:

Item No. 01

Qty. - Size: Three (3) Model RW5000-S Flap Gates - 36" wide x 30" tall

Design Seating Head / Design Unseating Head (invert to MWL): 0.3' / 0'

Tag No.: GFL-0501, GFL-0502, GLF-0503

Dwg No.: M-101, M-301

Description: The flap gate frame, flap, hinge arms and cushion bar will be constructed of 304/304L stainless steel. Flap gate will be provided with a bumper spring assembly for pump discharge. A resilient seal will be provided around the perimeter of the frame. A lifting eye will be provided on the bottom of the flap.

Mounting Style: Gate frames will be wall surface mounted with 316 stainless steel adhesive anchors and non-shrink grout. Anchor studs, nuts and washers are included.

Item No. 02

Qty. - Size: One (1) Model RW5000-S Flap Gates - 24" wide x 30" tall

Design Seating Head / Design Unseating Head (invert to MWL): 0.3' / 0'

Tag No.: GFL-0504

Dwg No.: S-102, SD-101

Description: The flap gate frame, flap, hinge arms and cushion bar will be constructed of 304/304L stainless steel. Flap gate will be provided with a bumper spring assembly for pump discharge. A resilient seal will be provided around the perimeter of the frame. A lifting eye will be provided on the bottom of the flap.

Mounting Style: Gate frames will be wall surface mounted with 316 stainless steel adhesive anchors and non-shrink grout. Anchor studs, nuts and washers are included.

TOTAL SELLING PRICE: \$ 33,478.00

GENERAL: Our quotation is based on our best interpretation of the plans and specifications and the description listed herein. Please review the quotation and advise our local representative, **Heather Walker of HESCO at 586-506-3239**, if there are any discrepancies between the details in this quotation and the actual requirements. The pricing and deliveries listed in the body of the quotation will be held until Jan 30, 2024.

RW Gate is ISO 9001:2015 certified. Equipment is AIS certified.

INCLUDED: Submittal drawings, installation instructions and O&M manuals. Installation instructions will be forwarded with the equipment. Information will be sent electronically unless otherwise indicated by the customer.

EXCLUDED: The following items are specifically excluded; demolition, installation, field measurements, control panels, remote control stations, instrumentation, integration with plant control system, wiring, conduit, junction boxes, disconnects, wall thimbles, wall pipes, floor sleeves, bulkheads, blind flanges, plugs, concrete, grout, gaskets, mastic, lubricants, weir plates, grating, handrail, odor control covers, cover plates, epoxy for anchors and all bonds, taxes including local and state sales tax.

PAYMENT: Net 30 days. No retainage allowed. Please contact RW Gate prior to payment via credit card. An additional charge may be necessary when paying by credit card.

FREIGHT: Full freight to the project site or closest access via truck is included. Please contact the factory if separate, partial shipments are necessary as a price adder will be required. Unloading will be the responsibility of others.

STANDARD DELIVERY: Submittal drawings will ship within 4-6 weeks of receipt of a purchase order. The gate assemblies will ship 14-18 weeks after receipt of approved submittal drawings. Please contact our local representative for expedited or extended delivery dates.

FIELD SERVICE: Field service for installation check, start-up or training is not included. If field service is required the cost is \$1,800 per day. Please contact our local representative (HESCO) to schedule. Please provide a minimum of a 3-week notice for field service.

Best Regards,

Stephen Payler

Stephen Payler
RW Gate Company
spayler@rwgate.com



www.RWGATE.com

RESOLUTION NO. _____

RESOLUTION TO ACCEPT A QUOTE FROM
FERGUSON ENTERPRISES, LLC D/B/A FERGUSON WATERWORKS
FOR WATER METERS, STRAINERS, AND METER EQUIPMENT

WHEREAS:

1. As detailed in the attached staff report, Ferguson Enterprises d/b/a Ferguson Waterworks is the sole source distributor of Neptune water meter products in the State of Michigan.
2. It is recommended City Council accept a quote from Ferguson Enterprises d/b/a/ Ferguson Waterworks extending their 2023 pricing for the 2024 calendar year.
3. It is estimated the City will spend approximately \$440,000 in 2024 for water meters, strainers, and meter equipment.
4. Funds are available in account number 591-591-56500-775.000.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council accepts a quote from Ferguson Enterprises, LLC d/b/a Ferguson Waterworks for water meters, strainers, and meter equipment.
2. The City Council authorizes the Mayor and City Clerk to sign the contract.
3. The Wyoming City Council waives the provisions of Sections 2-252, 2-253, 2-254 and 2-256 of the City Code regarding publication and posting of bid notices, notification of bidders and the bid opening procedure.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on December 18, 2023.

Kelli A. Vandenberg, Wyoming City Clerk

ATTACHMENTS:

Staff Report

Contract/Quote

Resolution No. _____

STAFF REPORT

Date: November 30, 2023

Subject: Water Meters, Strainers and Meter Equipment

From: Jay VanDyke, Assistant Director of Public Works - Maintenance

Date of Meeting: December 18, 2023

RECOMMENDATION:

It is recommended that the City Council accept a quotation for water meters and strainers from Ferguson Waterworks for the 2024 calendar year.

COMMUNITY, SAFETY, STEWARDSHIP:

Water meters are used for billing both water and sewer use for all customers in the City. The City utilizes two meter manufacturers, Sensus and Neptune, in order to match the best meter with the most appropriate application thereby ensuring fair and equitable water and sewer billing. Water meters are replaced based on age and condition throughout the community, and all meet the definition of “lead free” as defined within the Safe Drinking Water Act.

DISCUSSION:

Neptune water meters are provided by Ferguson Waterworks as the sole source distributor for Neptune water meters in the State. These water meters are primarily used in residential applications.

There is no increase in meter pricing from the prior calendar year.

It is estimated that the City will spend approximately \$440,000 this coming calendar year on water meter replacements. These replacements will occur in conjunction with the AMI project and are AMI compatible.

BUDGET IMPACT:

Sufficient funds are available in the water fund, transmission and distribution, meters account number 591-591-56500-775.000.

ATTACHMENT:

Ferguson Waterworks Contract

CITY OF
Wyoming
MICHIGAN

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

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

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

Effective Date means: January 1, 2024.

Items means the parts, equipment, or other items the City is purchasing as stated in the Proposal.

Proposal means Contractor's Bid/Proposal attached as Exhibit B.

Standard Terms means "City Contract Standard Terms and Conditions" is Exhibit A, including the Risk Allocation and Insurance Provisions.

Supplier means: Ferguson Enterprises, LLC d/b/a Ferguson Waterworks
[Name of supplying entity]
A Virginia limited liability company
[State and type of entity, e.g., corporation, limited liability company, etc.]
3900 44th St SE
[Supplier's street address]
Kentwood, MI 49512
[Supplier's city, state & zip]

TERMS AND CONDITIONS

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

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

None.

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

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

City of Wyoming

By: _____
Kent Vanderwood, Mayor

By: _____
Kelli A. Vandenberg, City Clerk

Date signed: _____, 20__

Approved as to form: _____


Supplier: Ferguson Enterprises, LLC d/b/a Ferguson Waterworks

By: _____
[Signature, officer, director, or principal of Supplier]
Steven Berra
[Typed/Printed Name & Title of Person Signing for Supplier]

Date signed: November 30, 2023

CITY OF
Wyoming
MICHIGAN

EXHIBIT A

CITY CONTRACT STANDARD TERMS AND CONDITIONS

These Terms and Conditions apply to this contract. Supplier attests it complies with and promises it will comply with these Terms and Conditions.

1. **Legal Compliance.** Supplier and all Supplier's personnel must comply with all applicable (i) laws, rules, regulations, codes, and ordinances, (ii) license and permit requirements, and (iii) orders of any governmental agency, official or court of competent jurisdiction. This includes, for example, complying with federal OSHA and Michigan MIOSHA safe practices, and with applicable federal and state labor laws, rules, and regulations.

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

A. Supplier and Supplier's personnel must have and maintain all licenses, registrations, certifications, memberships, or other approvals needed to perform the Work and supply materials required by the contract.

B. Supplier and its principals, owners, officers, shareholders, key employees, directors, members and partners: (i) are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by a federal department or agency; (ii) have not within the last 3-years 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 contract or transaction with a governmental entity; (iii) have not within the last 3 years violated federal or state antitrust statutes or committed embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; (iv) are not presently indicted for or otherwise criminally charged by a governmental entity with commission of any of the offenses enumerated in this certification; and (v) have not within the last 3-years had one or more contracts or transactions with a governmental entity terminated for cause or default.

C. If the contract is for a HUD CDBG or another federal or state funded project, neither Supplier nor any of its subcontractors on the HUD list of debarred and suspended participants (https://www.hud.gov/program_offices/general_counsel/limited_denial_participation_hud_funding_disqualifications), Unless waived by City's purchasing director, Supplier and all subcontractors will register on the Federal SAM Registry available at: <https://usfcr.com>. Supplier and all subcontractors are not on and will remain off the Federal System for Award Management list of persons and entities ineligible for federal contracts.

D. Supplier is not an "Iran linked business" under Michigan's Iran economic sanctions act, 2012 PA 517.

3. **Nondiscrimination and Respect.** City is committed to equity, fairness, impartiality, courtesy, respect, and nondiscrimination in City programs, benefits, and actions, including City contracts. Therefore:

A. Supplier in (i) employment actions and (ii) soliciting, bidding or contracting for materials will not discriminate based on race, color, religion, national origin, age, sex, sexual orientation, gender identity or expression, 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. Supplier will comply with applicable state and federal laws, rules, regulations, orders, and guidance 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.

B. Noncompliance with this provision is a material breach of this Contract that can result in (i) withholding payments to Supplier, (ii)

Contract cancellation, termination, or suspension, in whole or in part, and (iii) Supplier's ineligibility for future City contracts.

C. Supplier 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 Supplier is in the sole possession of another who falls or refuses to furnish it, Supplier must so certify to City.

4. **Ethical Standards.** To the best of Supplier's knowledge after reasonable inquiry:

A. Supplier and Supplier's personnel, as well as any parent, affiliate, or subsidiary organization of Supplier has not engaged in and shall refrain from: (i) attempting to or appearing to influence any City elected or appointed officer or employee by a direct or indirect offer of anything of value, or (ii) paying or agreeing to pay a person, other than its personnel, any consideration contingent upon the award of the contract.

B. No owner, director, officer, member, partner, or key employee of Supplier or of any parent, affiliate, or subsidiary organization or subcontractor of Supplier is a spouse, parent, child, grandchild, or sibling of the mayor, city council member, or another City elected or appointed officer except as already disclosed in writing to City when submitting its proposal.

C. Supplier will immediately notify City of any subsequently discovered violation of the standards in this section.

5. **Media Releases.** Media or other releases (including promotional literature and commercial advertisements) pertaining to the contract or the project to which it relates shall not be made without the City Manager's prior written approval and only in accordance with the written terms provided in that approval.

6. **Payment to Supplier.**

A. Supplier and all subcontractors, suppliers and consultants shall, before beginning the Work, submit by email to City's Finance Department at Acct_Info@wyomingmi.gov a completed IRS W-9 form (available at www.irs.gov).

B. Payments to Supplier will be made in accordance with the Proposal. If no other terms are provided, payment of an invoice to City will generally be made within 30 days after and invoice all required information is submitted to City.

C. Payment disputes will be resolved as provided in §13. City will pay undisputed amounts and the disputed amount will be held in a non-interest-bearing account until the dispute is resolved.

7. **Intellectual Property.** Supplier guarantees the sale or use of articles, software, copies, records, or other intellectual property provided under or used to perform the contract will not infringe any copyright, patent, trademark, or other intellectual property rights. Supplier will, without expense to City, defend every action brought against City or City's officers or employees for any alleged infringement of intellectual property rights by reason of their sale or use as part of the contract and will pay all costs, damages, and profits recoverable in any action.

8. **Information, Quality, and Related Requirements.**

A. Unless otherwise stated in the Proposal, all items shall be new, the best of their respective kind, and free from defects.

B. Supplier shall provide City all manufacturer parts lists, assembly, and maintenance information, and all other documents provided by the manufacturer for the items, and ensure all related warranties are held by or assigned to City.

C. Supplier's failure to meet specified delivery schedules or promptly replace rejected materials renders Supplier liable for all costs in excess of the bid price(s) when alternate procurement is necessary. Excess costs will include administrative costs. Prices shall be delivered F.O.B. destination freight prepaid to any location

specified in the specifications and included in the Proposal pricing unless otherwise specified in the RFP or expressly stated in the Proposal.

9. Taxes. City is generally exempt from federal and state taxes, including state sales and use taxes. A copy of City's certificate of tax exemption can be requested by contacting City's Finance Department. Invoices must be separated to show the amount added for taxes of any kind if applicable. Taxes, wherever indicated and applicable to any purchase, will not be subject to trade or cash discounts.

10. Records. Because City is a public entity that receives funds from other governmental agencies: (i) City is required to retain, be able to obtain, and/or audit records related to City contracts and (ii) Michigan's Freedom of Information Act generally requires that City disclose to those requesting them copies of all requested documents relating to this contract. Supplier shall retain copies of all records related to this contract for at least 7 years after completion of the contract. Supplier shall, within 5 City business days of a City request, allow inspection, auditing and copying of all retained records.

11. Assignment/Beneficiaries. None of Supplier's rights or duties may be assigned or delegated without City's prior written consent. This contract will be binding on Supplier's successors and permitted assigns. No other persons are intended to be beneficiaries of this contract.

12. Independent Contractor. Supplier and Supplier's personnel are wholly independent of City. None of them shall be or be represented as City officers or employees. Supplier is solely responsible Supplier's personnel's acts, omissions, and statements. Supplier is solely responsible for any compensation and benefits to be provided Supplier's personnel for Work under the contract. Except for payment of the contract price, City has no responsibility to supervise, compensate or insure Supplier or Supplier's personnel.

13. Disputes/Remedies. The following applies to all disputes under this contract:

A. In case of Supplier's default, City may procure the items from other sources and hold Supplier responsible for excess costs occasioned by the default. Such action will only be (i) when time is off the essence due to impending weather conditions, upcoming seasonal changes, permit durational limits, scheduled events, conflicts with other projects, or other circumstances City reasonably determines makes time of the essence and (ii) after written notice to Supplier with an opportunity to appeal the decision to the City Manager.

B. Before filing a lawsuit, a party must first notify the other party in writing stating the provision involved, stating the actions or failure to act that did not comply with the provision, and proposing the action to be taken to address the alleged non-compliance. The party receiving that notice shall, within 14 days, respond in writing detailing any reasons why it disagrees that it has failed to comply with the contract or stating what actions it has taken or is taking to address the noncompliance and prevent recurrence. Both parties shall meet within 14 days after the date of the response in an effort to resolve any continuing dispute.

C. A party need not undertake the procedure provided in subsection 11.B if it has previously done so with respect to any noncompliance with the same contract provision.

D. Jurisdiction and venue for any dispute shall be solely in state courts in Kent County, Michigan.

E. In addition to any other remedies to which a party may be entitled, the prevailing party shall be entitled to recover all actual reasonable costs, including for example and without limitation, filing fees, expert consultation and witness fees and expenses, attorneys' fees, discovery expenses, copying costs, exhibit preparation costs, and any other actual reasonable costs incurred to investigate, bring, maintain or defend any action from its first discovery or first notice of it through all collection and appellate proceedings.

17. Risk Allocation. Supplier is solely responsible for (i) the means and methods of providing the items under the contract, (ii) the conduct of its officers, employees, subcontractors, and consultants, and (iii) for any injuries or property damage suffered by Supplier or Supplier's officers, employees, and agents.

B. Supplier shall hold City and City's officers and employees harmless from, indemnify them for, and defend them against any claims made by persons other than the City as a result of actions, errors, or omission of Supplier or Supplier's officers, employees, and agents while providing the items under this Contract.

18. Insurance.

A. Supplier shall maintain the following insurance:

REQUIRED LIMITS	ADDITIONAL REQUIREMENTS
COMMERCIAL GENERAL LIABILITY	
Minimal Limits: \$2,000,000 Each Occurrence Limit \$2,000,000 Personal & Advertising Injury Limit \$2,000,000 General Aggregate Limit \$2,000,000 Products/Completed Operations	Coverage shall include the following extensions: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Contractors Coverage; and (D) Broad Form General Liability Extensions or equivalent, if not already included. Coverage afforded shall be primary and any other insurance that may be in effect shall be secondary and/or excess.
AUTOMOBILE LIABILITY INSURANCE	
Minimal Limits (include hired and non-owned automobile coverage): \$2,000,000 per person \$2,000,000 per occurrence	Coverage afforded shall be primary and any other insurance that may be in effect shall be secondary and/or excess.
WORKERS' COMPENSATION/ EMPLOYERS' LIABILITY	
Minimal Limits: \$500,000 per occurrence	Coverage shall be in accordance with all applicable Michigan statutes. Waiver of subrogation, except where waiver is prohibited by law.
ENVIRONMENTAL/POLLUTION LIABILITY	
Coverage is required if any of the items being purchased are hazardous or toxic substances or materials or contain hazardous or toxic substances or materials. Amount required \$2,000,000.	Coverage shall include, but not be limited to, loading/unloading, transportation, storage, and removal of all hazardous waste/material. If this policy is claims made form, then the Supplier keep the policy in force, or purchase "tail" coverage, for a minimum of 3 years after the termination of this contract. Coverage afforded shall be primary and any other insurance that may be in effect shall be secondary and/or excess.

19. General Terms.

F. These terms and conditions may not be amended or modified except in writing signed by Supplier and City. These terms and conditions shall not be affected by any course of dealing. The captions are for reference and will not affect the interpretation of these terms and conditions.

G. This contract is made in Kent County, Michigan and shall be governed by and interpreted in accordance with Michigan law.

H. Reference by office to a City officer includes that City officer's designee(s).

**Exhibit B
Proposal**



November 15th, 2023

City of Wyoming Public Works Department
2660 Burlingame Ave SW
Wyoming, MI 49509

RE: Water Meter Pricing for 2024

To whom it may concern,

Ferguson Waterworks is the Level One Distributor of Neptune water meter products in the state of Michigan. This makes Ferguson Waterworks the sole source distributor for Neptune Technology Group and their products in the state. We proudly support 5 offices across Michigan, with our main office located in Kentwood.

Ferguson Waterworks and Neptune Technology Group sincerely appreciate the opportunity to supply the city of Wyoming with water metering products year over year. Attached you will find our pricing on those products for the city's fiscal year 2024. As you can see this is an extension from previous years. We are happy to offer this extension again, furthering our partnership with the city.

Should you have any questions, please do not hesitate to contact me.

Thank you,

DocuSigned by:

Bradley C. Klein

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Bradley C. Klein
Area Sales Manager
Ferguson Waterworks

RESIDENTIAL WATER METERS

Positive Displacement Type

Description	Specification	FERGUSON WATERWORKS		
		Inside Application Price (each)	PII Application Price (each)	Rebuild Kit (each) (NIB Kit (each))
5/8" X 3/4" Positive displacement type with register, with touchpad	Neptune T-10 Procodr	\$143.34	\$168.34	\$24.05
5/8" X 3/4" Positive displacement type with register, without touchpad	Neptune T-10 Procodr	\$143.34	\$168.34	\$24.05
1" Positive displacement type with register, with touchpad	Neptune T-10 Procodr	\$295.80	\$324.74	\$66.14
1" Positive displacement type with register, without touchpad	Neptune T-10 Procodr	\$295.74	\$324.74	\$66.14
Ultrasonic Type with Register or Turbine LL				
5/8" X 3/4" Ultrasonic type with register, without touchpad	Neptune Mach 10		\$198.60	N/A
1" Ultrasonic type with register, without touchpad	Neptune Mach 10		\$288.53	N/A
1.5" Ultrasonic type with register, without touchpad, 10", 13"	Neptune Mach 10		\$745.72	N/A
2" Ultrasonic type with register, without touchpad, 10", 13, 25", 17"	Neptune Mach 10		\$874.15	N/A
3" Ultrasonic type with register, without touchpad, Compound or Turbine LL	Neptune Mach 10		\$2,906.33	\$2,017.80
4" Ultrasonic type with register, without touchpad, Compound or Turbine LL	Neptune Mach 10		\$3,733.57	\$2,658.00
6" Ultrasonic type with register, without touchpad, Compound or Turbine LL	Neptune Mach 10		\$6,409.42	\$3,858.00
8" Ultrasonic type with register, without touchpad, Turbine LL	Neptune Mach 10		\$9,971.74	\$5,229.60
10" Ultrasonic Type with register, without touchpad, Turbine LL	Neptune Mach 10		\$12,447.10	\$6,514.80
12" Ultrasonic Type with register, without touchpad, Turbine LL	Neptune Mach 10		\$14,497.83	\$7,800.00

COMMERCIAL WATER METERS

Turbine Meter With or Without Touchpad

Description	Specification	FERGUSON WATERWORKS		
		Inside Application Price (each)	PII Application Price (each)	U.M. Kit (each)
1.5" Turbine type with register, without touchpad	Neptune High Performance Turbine		\$898.18	\$688.00
2" Turbine type with register, without touchpad	Neptune High Performance Turbine		\$898.18	\$688.00
3" Turbine type with register, without touchpad	Neptune High Performance Turbine		\$1,588.53	\$886.00
4" Turbine type with register, without touchpad	Neptune High Performance Turbine		\$1,871.33	\$924.00
6" Turbine type with register, without touchpad	Neptune High Performance Turbine		\$3,497.24	\$1,415.00
8" Turbine type with register, without touchpad	Neptune High Performance Turbine		\$5,188.41	\$2,202.00
10" Turbine type with register, without touchpad	Neptune High Performance Turbine		\$8,119.76	\$2,943.00

COMMERCIAL WATER METERS

Compound Meter

Description	Specification	FERGUSON WATERWORKS		
		Price (each)	Price (each)	U.M. Kit (each)
2" Compound type with register, without touchpad	Neptune TrueFlo	\$1,959.42		\$1,379.00
3" Compound type with register, without touchpad	Neptune TrueFlo	\$2,147.10		\$1,832.00
4" Compound type with register, without touchpad	Neptune TrueFlo	\$2,839.13		\$2,315.00
6" Compound type with register, without touchpad	Neptune TrueFlo	\$6,459.00		\$3,232.00
8" Compound type with register, without touchpad	HP Protectus Fire Service w kettle strainer	\$8,414.49		\$3,143.00
10" Compound type with register, without touchpad	HP Protectus Fire Service w kettle strainer	\$27,859.42		\$3,929.00

COMMERCIAL WATER METERS

Positive Displacement Meter

Description	Specification	FERGUSON WATERWORKS		
		Inside Application Price (each)	PII Application Price (each)	Rebuild Kit (each)
1.5" Positive displacement type with register, without touchpad	Neptune T-10 Procodr	\$708.70	\$726.09	\$122.58
2" Positive displacement type with register, without touchpad	Neptune T-10 Procodr	\$908.70	\$926.09	\$159.88

STRAINERS

Description	Specification	FERGUSON	
		Price (each)	Price (each)
1.5"	FERGUSON, Bronze Strainer	\$823.91	
2"	FERGUSON, Bronze Strainer	\$823.91	
3"	FERGUSON, Bronze Strainer	\$1,119.57	
4"	FERGUSON, Bronze Strainer	\$1,030.43	
6"	FERGUSON, Bronze Strainer	\$2,924.64	
8"	FERGUSON, Bronze Strainer	\$4,971.01	
10"	FERGUSON, Bronze Strainer	\$7,246.23	

RESOLUTION NO. _____

RESOLUTION FOR AWARD OF BID

WHEREAS:

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

NOW, THEREFORE, BE IT RESOLVED:

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

Item	Recommended Bidder	Cost
CWP Coating Project	Dave Cole Decorators, Inc.	\$41,390.00

2. The City Council authorizes the Mayor and City Clerk to sign the contract.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on December 18, 2023.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Staff Report
Contract

Resolution No. _____

STAFF REPORT

Date: December 1, 2023
Subject: CWP Coating Project
From: Dan Kleinheksel, Utility Maintenance Manager
Date of Meeting: December 18, 2023

RECOMMENDATION:

It is recommended the City Council award the Clean Water Plant W Building and Odor Control Coating Project to Dave Cole Decorators, Inc. in the total amount of \$41,390.00.

COMMUNITY, SAFETY, STEWARDSHIP:

Regular and proper upkeep of utility buildings and infrastructure contributes to their longevity and to the prevention of untimely and costly repairs or replacement that could potentially interrupt the day-to-day operations of the utility plants.

DISCUSSION:

The Clean Water Plant W Building and exterior odor control piping require painting due to the deterioration of existing coatings. To prevent pipe and equipment surfaces from corrosion, and fiberglass odor control lines from UV damage, it is prudent to apply a new coating.

Therefore, specifications were assembled, and the project was competitively bid with the specifications made available via the City's website. Forty-seven registered bidders downloaded the specifications, and six companies attended the pre-bid meeting. On Tuesday, November 14, eight bids were received and are as follows:

Bidder	Total Bid Amount
Dave Cole Decorators, Inc.	\$ 41,390.00
River Town Painting Co., Inc	\$ 45,845.73
Freedom Construction and Consulting, Inc.	\$ 70,885.00
Blastek, LLC	\$ 73,665.00
Fedewa, Inc.	\$ 78,280.00
Mid Michigan Pride Painting, LLC	\$ 83,222.00
Murray Painting Company	\$ 93,176.00
JK of Michigan, LLC	\$ 269,891.17

Upon review of the bid documents received, Dave Cole Decorators, Inc. was found to be the lowest bid and met the specification requirements. They have successfully performed coating projects at the utility plants including the CWP E Building earlier this year. Therefore, it is recommended the City Council award the Clean Water Plant W Building and Odor Control Coating Project to Dave Cole Decorators, Inc. in the total amount of \$41,390.00.

BUDGET IMPACT:

Adequate funds exist and have been budgeted for in Clean Water Plant account 590-590-54300-930.000 and GVRBA account 590-590-54800-930.000.

CITY OF
Wyoming
MICHIGAN

CLEAN WATER PLANT W BUILDING & ODOR CONTROL COATING PROJECT CONTRACT
PROFESSIONAL SERVICES CONTRACT
CITY OF WYOMING, MICHIGAN

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: Dave Cole Decorators, Inc.
(Name of contracting entity)
A Michigan - Corporation
(State and type of entity, e.g., corporation, limited liability company, etc.)
325 Martindale St.
(Professional's street address)
Sparta, MI 49345
(Professional's city, state & zip)

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

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

Effective Date means: November 14, 2023.

Proposal means Contractor's proposal attached as Exhibit B.

RFP means the Request for Bids/Proposals attached as Exhibit A. S

Services or Work means the services described and specified in the Proposal.

Standard Terms means "City Contract Standard Terms and Conditions" portion of the RFP, including the Risk Allocation and Insurance Provisions.

TERMS AND CONDITIONS

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

1. Contractor will perform the Services and provide the deliverables as detailed in the RFP and Proposal.
2. City will pay the Professional in accordance with the Proposal.
3. Contractor represents and warrants, except for those listed in this paragraph as inapplicable or that are modified by this paragraph, Contractor is complying with and will comply with the Standard Terms. Inapplicable conditions are as follows:

Standard Terms Sections 10-Materials and Equipment Information, Quality, Disposal, and Related Requirements, 11-Restoration, and 12-Access to Work do not apply this Contract.

4. If the Services include preparation of bid documents, Contractor must ensure those documents are consistent with and do not duplicate City's standard bid documents. Costs incurred by City to address duplicative or inconsistent provisions (including city staff time) will be deducted from any fixed fee or project-based cost paid Contractor. Any bid documents Contractor provides must show that Contractor or the professional overseeing the project to be bid will be making recommendations about acceptance of work, substantial and final completion, substitutions, and other decisions for City to make determinations. AIA, EJDCD, or other standardized contract forms must be modified, if necessary, to meet this requirement.

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

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

City of Wyoming

By: _____
Kent Vanderwood, Mayor

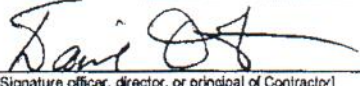
By: _____
Kelli A. VandenBerg, City Clerk

Date signed: _____, 20__

Approved as to form: 

Scott G. Smith, City Attorney

Contractor: Dave Cole Decorators, Inc.

By: 

(Signature officer, director, or principal of Contractor)
Daniel Oosterink - Vice President
(Typed/Printed Name & Title of Person Signing for Contractor)

Date signed: November 14, 2023

ORDINANCE NO. 16-23

ORDINANCE TO AMEND CHAPTER 86, ARTICLE III OF THE CODE OF ORDINANCES
TO UPDATE THE CITY'S SANITARY SEWER USE REQUIREMENTS

THE CITY OF WYOMING ORDAINS:

Section 1. That Chapter 86, Article III of the Code of the City of Wyoming is amended by to read as follows:

ARTICLE III. - SANITARY SEWER SYSTEM
DIVISION 1. – GENERALLY

Sec. 86-130. - Definitions.

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

(a) *25 percent rule* means that the combined depth of oil and grease and other solids (floating and settled) in any chamber of a trap shall not be equal to or greater than 25 percent of the total operating depth of the trap. The operating depth of a trap is determined by measuring the internal depth from the water outlet invert elevation to the inside bottom of the trap.

(b) *Act* means the Federal Water Pollution Control Act and the Clean Water Act, Public Law 92-500, as adopted in 1972 and amended on February 4, 1987, as amended.

(c) *Alternative discharge limit* means limits set by the city in lieu of the promulgated National Categorical Pretreatment Standards for integrated facilities in accordance with the combined wastestream formula, as established by the EPA.

(d) *Authorized representative when used in relationship to an industrial user* means an individual meeting the requirements in 40 CFR §403.12(l) and section 86-269.

(e) *Best management practices* or *BMPs* means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 40 CFR§403.5(a)(1) and (b). BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

(f) *Biochemical oxygen demand (BOD)* means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures (without the addition of nitrification inhibitors and expressed in terms of milligrams per liter).

(g) *Building drain* means that part of the lowest horizontal piping of a drainage system that receives wastewater from inside the walls of the building and conveys it to the building sewer, beginning five feet outside the inner face of the building wall.

(h) *Building official* means the director of utilities, building inspector, the city engineer or another designated agent of the city or that individual's designee.

(i) *Building sewers* means the extension from the building drain to a public sewer or other places of disposal.

(j) *Cesspool* means an underground pit into which raw sewage or other untreated liquid waste is discharged and from which the liquid seeps into surrounding soil or is otherwise removed.

(k) *Chemical oxygen demand (COD)* means a measure of the oxygen-consuming capacity of inorganic and organic matter present in water or wastewater. It is expressed as the amount of oxygen consumed from a chemical oxidant in a specified test. It does not differentiate between stable and unstable organic matter and thus does not necessarily correlate with biochemical oxygen demand. It is also known as OC and DOC, oxygen consumed, and dichromate oxygen consumed, respectively.

(l) *Chlorine demand* means the difference between the amount of chlorine added to water or wastewater and the amount of residual chlorine remaining at the end of a specified contact period. The demand for any given water varies with the amount of chlorine applied, time of contact and temperature.

(m) *City* means the City of Wyoming, Kent County, Michigan.

(n) *Combined wastestream* means the wastestream at industrial facilities where regulated process effluent is mixed prior to treatment with wastewaters other than those generated by the regulated process. Where required by federal or state law, and only to the extent required by federal or state law, the combined wastestream formula provided in 40 CFR 403 will apply to the limits applicable to a combined wastestream.

(o) *Compatible pollutant* means a substance amenable to treatment in the wastewater treatment plant such as biochemical oxygen demand, suspended solids, and fecal coliform bacteria, plus additional pollutants identified in the NPDES permit if the publicly owned treatment works was designed to treat such pollutants, and in fact does remove such pollutant to a substantial degree. Examples of such additional pollutants may

include: chemical oxygen demand, total organic carbon, phosphorus and phosphorus compounds, nitrogen compounds, fats, oils and grease of animal or vegetable origin.

(p) *Composite sample* means a series of representative samples taken over a specific time period and combined into one sample.

(q) *Debt service charges* means the charges levied to users of the system which are used to pay principal, interest and administrative costs of retiring the debt incurred for construction of the sewage works.

(r) *Director* means the city's director of utilities or that person's designee.

(s) *Domestic users* means all users of the sewage works whose discharge into the system is domestic wastewater.

(t) *Domestic wastewater* means wastewater consisting primarily of household and human waste.

(u) *Dwelling unit* means the same as found in chapter 90 of this Code (*i.e.*, the city's zoning ordinance).

(v) *Environmental Protection Agency (EPA)* means the U.S. Environmental Protection Agency, including its administrator or other duly authorized official.

(w) *Garbage* means liquid and solid wastes from the storage, preparation, cooking and dispensing of food and from the growing, handling, storage or sale of produce or other edible products.

(x) *Grab sample* means a sample which is taken from a wastestream on a one-time basis with no regard to the flow in the wastestream and without consideration of time.

(y) *Grease trap* means a device designed to separate and retain fats, oils, and grease from liquid waste and permit the liquid waste to discharge into the sewer system.

(z) *Holding tank waste* means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks or vacuum-pump tank trucks.

(aa) *Incompatible pollutant* means any pollutant which is not compatible with biological treatment or removal of which is not designed into the treatment process.

(bb) *Industrial wastes* means the wastewater discharges that are not domestic wastewater, wastewater discharges from industrial, manufacturing, trade or business processes, or wastewater discharge from any structures with these characteristics.

(cc) *Integrated facilities* means industrial facilities where wastestreams are combined prior to treatment.

(dd) *Interference* means any discharge which alone or in conjunction with discharges from other sources, both:

- (1) Inhibits or disrupts the POTW and any of its process or operations, or its sludge use or disposal; and
- (2) Therefore is a cause of a violation of any requirement of the POTW's NPDES permit, including an increase in the magnitude or duration of a violation, or of the prevention of sewage sludge use or disposal.

(ee) *National categorical pretreatment standard* means any federal regulation containing pollutant discharge limits promulgated by the EPA which applies to a specific category of industrial users.

(ff) *National Pollution Discharge Elimination System permit (NPDES permit)* means a permit issued pursuant to section 402 of the Act (33 USC 1342), as amended.

(gg) *National prohibitive discharge standard or prohibitive discharge standard* means any regulation developed under the authority of section 307(b) of the Act and 40 CFR 403.5, as amended.

(hh) *Natural outlet* means any outlet into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

(ii) *New source* means:

(1) Any building, structure, facility, or installation from which there may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Clean Water Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section provided that:

- a. The building, structure, facility, or installation is constructed at a site at which no other source is located;
- b. The building, structure, facility or installation totally replaces the process or production equipment that causes discharge of pollutants at an existing source; or
- c. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the existing source will be considered.

(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of subsection (1)b or (1)c of this definition but otherwise alters, replaces or adds to existing process or production equipment.

(3) Construction of a new source as defined under this definition has commenced if the owner or operator has:

- a. Begun, or caused to begin as part of a continuous on-site construction program:
 1. Any placement, assembly, or installation of facilities or equipment; or
 2. Significant site preparation work including clearing, excavation or removal of existing buildings, structures or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment;
- b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this definition.

(jj) *Operation and maintenance* means all work, materials, equipment, utilities, administration and other efforts required to operate and maintain the sewage works including the cost of replacement.

(kk) *Pass through* means a discharge which exits the POTW into waters of the state in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, causes a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

(ll) *Penalty* means a charge for discharge of noncompatible substances including pH in violation of the wastewater discharge permit.

(mm) *pH* means the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

(nn) *Pollutant* means any of various chemicals, substances and refuse materials such as solid waste, sewage, garbage, sewage sludge, chemical wastes, biological materials, radioactive materials, heat and industrial, municipal and agricultural wastes which impair the purity of the water or soil.

(oo) *Pollution* means the manmade or man-induced alteration of the chemical, physical, biological or radiological integrity of water.

(pp) *Premises* means a lot, parcel or plot of land including the buildings or structures thereon or any part thereof.

(qq) *Pretreatment or treatment* means the reduction of the amount of pollutants, the elimination of pollutants, the alteration of the nature of pollutants or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the sewage works. The reduction or alteration can be obtained by physical, chemical or biological processes, process changes or other means, except as prohibited by 40 CFR 403.6(d), as amended.

(rr) *Pretreatment facilities* means devices or structures for use in treating industrial waste prior to discharge into public sewers.

(ss) *Pretreatment requirements* means any substantive or procedural requirement for treating of a waste prior to discharge to the sewers.

(tt) *Pretreatment standards* means National Categorical Pretreatment Standards, alternative discharge limits or other federal, state or local standards, whichever are applicable.

(uu) *Private sewage works* means any sewage works or part thereof not connected to a public sewer and shall include, but not be limited to, septic tanks, cesspools and seepage pits.

(vv) *Public nuisance* means anything which is injurious to health, is indecent or offensive to the senses, or is an obstruction to the free use of property so as to interfere with human comfort or enjoyment of life or property, whether affecting individual interests per se or affecting at the same time an entire community or neighborhood of any considerable number of persons, although the extent of the annoyance, interference or damage may not be inflicted equally upon the persons therein.

(ww) *Public sewer* means a city sewer or any part thereof.

(xx) *Publicly owned treatment works (POTW)* means a treatment works as defined by section 212 of the Clean Water Act, which is owned in this case by the city. This definition includes any devices and systems used in storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances if they convey wastewater to a POTW treatment plant.

(yy) *POTW treatment plant* means that portion of the POTW which is designed to provide treatment (including recycling and reclamation) of municipal sewage and industrial waste.

(zz) *Quality control* means a formal program designed to monitor the reliability (accuracy and precision) of reported analytical results.

(aaa) *Replacement* means the replacement, in whole or in part, of any system equipment to ensure continuous treatment of wastewater in accordance with the NPDES permit and other state and federal regulations.

(bbb) *Sanitary sewer* means a sewer designed to carry sewage only.

(ccc) *Seepage pit* means an underground enclosure constructed of concrete blocks, bricks or similar material loosely laid with open joints so as to allow the septic tank overflow or effluent to be absorbed directly into the surrounding soil.

(ddd) *Septic tank* means a receptacle receiving sewage and having an inlet and outlet designed to permit the separation of solids in suspension from such wastes and to permit such retained solids to undergo decomposition therein.

(eee) *Sewage or wastewater* means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any groundwater, surface water and stormwater that may be present, whether treated or untreated, which is contributed into or permitted to enter the sewage works.

(fff) *Sewage works* means the sanitary sewage collection system any part thereof and the wastewater treatment facility.

(ggg) *Sewer* means a pipe or conduit for carrying sewage.

(hhh) *Sewer connection permit* means, as set forth in section 86-137, a written permit issued by the city prior to using, connecting, altering or opening any public sewer or appurtenance thereof.

(iii) *Sewer service charge* means any applicable user charges, surcharges and debt service charges.

(jjj) *Significant industrial user* means, except as provided in subsection (3) of this definition:

(1) All industrial users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N; and

(2) Any other industrial user that: discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up 5.0% or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the city on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

(3) Upon finding that an industrial user meeting the criteria in subsection (2) of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the city may at any time, on its own initiative or in response to a petition received from an industrial user, determine that such industrial user is not a significant industrial user.

(kkk) *Significant noncompliance* means one or more of the following:

(1) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all of the measurements taken during a 6-month period exceed, by any magnitude, a numeric pretreatment standard or pretreatment requirement for the same pollutant, including instantaneous limits, as defined by 40 CFR 403.3(l);

(2) Technical review criteria (TRC) violations, defined here as those in which 33 percent or more of all measurements taken for the same pollutant parameter during a 6-month period equal or exceed the product of the numeric pretreatment standard or pretreatment requirement including instantaneous limits, as defined by 40 CFR 403.3(l) multiplied by the applicable TRC value (TRC=1.4 for BOD, TSS, oil and grease, and 1.2 for all other pollutants except pH);

(3) Any other violation of a pretreatment standard or pretreatment requirement as defined by 40 CFR 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the city determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;

(4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the city's exercise of its emergency authority to halt or prevent such a discharge;

(5) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in the wastewater discharge permit or other enforcement orders for starting construction, completing construction or attaining final compliance;

(6) Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(7) Failure to accurately report noncompliance; or

(8) Any other violation or group of violations, which may include a violation of BMPs, that the city determines will adversely affect the operation or implementation of the local pretreatment program.

(III) *Slug discharge* means any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate this ordinance or discharge permit conditions and can include any pollutant, including compatible pollutants, released in a single extraordinary discharge episode of such volume or strength as to have such results.

(mmm) *Standard industrial classification (SIC)* means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987, as amended.

(nnn) *Storm sewer or storm drain* means a sewer designed to carry stormwater and surface water and drainage only.

(ooo) *Subsurface disposal field* means a system for the distribution of septic tank overflow or effluent below the ground surface through a line or a series of branch lines, of drain tile laid with open joint to allow the overflow or effluent to be absorbed by the surrounding soil throughout the entire field.

(ppp) *Surcharge* means a charge to cover the cost of treating sewage which exceeds limits as established in this article. A surcharge is appropriate to cover costs of treating extra strength compatible waste which are authorized by order of determination. A surcharge is not acceptable as a sole remedy for violations of limits.

(qqq) *Suspended solids* means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.

(rrr) *System* means the city's sanitary sewer system including all collection lines, mains, pumps, chambers, the POTW and all components and facilities.

(sss) *Toilet* means a privy, outhouse, septic tank, septic toilet, chemical closet or other device designed for the disposal of human excreta.

(ttt) *Total toxic organics (TTO)* means total toxic organics, which is the summation of all quantifiable values greater than 0.01 milligrams per liter for toxic organics listed in the federal categorical pretreatment standards or as defined by the director.

(uuu) *Toxic pollutant* means any pollutant or combination of pollutants which is or can potentially be harmful to the public health, treatment or environment, including those listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency, under the provisions of CWA 307(a) or other acts, as amended.

(vvv) *Upset* means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(www) *User* means any person who contributes, causes or permits the contribution of wastewater into the sewage works.

(xxx) *User charge* means a charge levied to users of a treatment works for the cost of sewage works including operation, maintenance and capital charges.

(yyy) *User class* means the kind of user connected to sanitary sewers including, but not limited to, the following:

(1) *Domestic user.* A user of a dwelling unit discharging domestic wastewater.

(2) *Industrial user.* Any user that discharges any industrial wastewater or that contributes, causes or permits the contribution or introduction of wastewater or pollutants into the POTW, whether intentionally or unintentionally, and whether directly or indirectly.

(zzz) *Wastewater* means the liquid and water-carried industrial or domestic waste from dwellings, commercial buildings, industrial facilities, and institutions including, without limitation, contaminated

groundwater and landfill leachate, whether treated or untreated, that is contributed, introduced or discharged into the POTW.

(aaaa) *Wastewater discharge permit* means as set forth in section 86-251, a written permit issued by the director to nondomestic users of the POTW.

(bbbb) *Watercourse* means a channel, natural or artificial, in which a flow of water occurs, either continuously or intermittently.

(cccc) *Waters of the state* means all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

Sec. 86-131. - Abbreviations.

The following abbreviations shall have the designated meanings:

- (1) *BOD* means biochemical oxygen demand;
- (2) *CFR* means Code of Federal Regulations;
- (3) *COD* means chemical oxygen demand;
- (4) *EPA* means United States Environmental Protection Agency;
- (5) *L* means liter;
- (6) *MDEGLE* means Michigan Department of Environment, Great Lakes and Energy;
- (7) *mg* means milligrams;
- (8) *mg/l* means milligrams per liter;
- (9) *NPDES* means National Pollutant Discharge Elimination System;
- (10) *SIC* means standard industrial classification;
- (11) *SS* means suspended solids;
- (12) *TTO* means total toxic organics;
- (13) *USC* means United States Code;
- (14) *O&M* means operation and maintenance;
- (15) *CWA* means Clean Water Act;
- (16) *µg* means micrograms;
- (17) *POTW* means publicly owned treatment works;
- (18) *ppm* means parts per million;
- (19) *ppb* means parts per billion;
- (20) *ppt* means part per trillion.
- (21) *MG* means million gallons;
- (22) *gpd* means gallons per day;
- (23) *Cd* means cadmium;
- (24) *Cr* means chromium;
- (25) *Cu* means copper;
- (26) *Pb* means lead;
- (27) *Ni* means nickel;
- (28) *Zn* means zinc;
- (29) *CN* means cyanide;
- (30) *Ag* means silver;
- (31) *Hg* means mercury;
- (32) *As* means arsenic; and
- (33) *Be* means beryllium.

Sec. 86-132. - Designation of officials and agencies.

Whenever this article refers to a governmental agency it shall include any successor or replacement agency. Whenever this article refers to any governmental officer or official, it shall include that officer or official's successor and designee(s).

Sec. 86-133. - Water pollution; abatement of water pollution.

(a) No person shall discharge or allow to be discharged into any natural outlet or watercourse within the city or in any area under the jurisdiction of the city, any sewage, industrial waste, or other pollution.

(b) If the building official determines from any investigation that there is a health or environmental hazard caused by sewage from any property being exposed to the surface of the ground or being permitted to drain under the surface of the ground or into any ditch, storm sewer, lake or stream, or that the presence of any sewage on the property has an obnoxious or detrimental odor or creates a public nuisance, the owner of such property must connect to the public sewer forthwith, whenever such property abuts any public right-of-way in which a public sanitary sewer is located, and the structure is within 200 feet of said sanitary sewer. If such property does not abut a public right-of-way in which a public sanitary sewer is located within 100 feet from an intersection of any line of the property with such right-of-way, the owner of such property shall forthwith construct, repair or replace the private sewage works so that the conditions which led to the determination by the building official are abated.

Sec. 86-134. - Private sewer system.

If property does not meet the 100-foot requirement of section 86-133, the building sewer of the property shall be connected to a private sewage works which shall be operated in a sanitary manner at all times. At such time as the property is connected to the public sewer, the property owner is responsible for all maintenance that is required for that portion of the connection located outside the city right-of-way or easement.

Sec. 86-135. - Disposition of private system upon connection to public sanitary sewer.

If any property is connected to a public sanitary sewer and there exists on the property a septic tank, cesspool, seepage pit or other similar private sewage facility, any sewage in the septic tank, cesspool, seepage pit or other similar private sewage facility shall be removed and disposed of in a sanitary manner, and the septic tank, cesspool, seepage pit or other private sewage facility shall be filled with sand or gravel.

Sec. 86-136. - Construction, repair, or enlargement of private sewage works.

No private sewage works may be constructed, repaired, or enlarged if any part of a residential structure, excluding any attached garage, on said property is within 200 feet of a public sanitary sewer, except as provided for in section 86-133.

Sec. 86-137. - Sewer connection permit—Generally.

No person shall uncover nor make any connections with, or openings into, use, alter or disturb any public sewer or appurtenance thereof, without obtaining a written permit from the city. All permit applications for industrial connections shall contain information outlined in section 86-253. Information submitted shall be approved by the director prior to issuance of a permit. Any sewer connections or work done within the city's right-of-way shall require a street opening permit from the city engineer.

Sec. 86-138. - Same—Classification.

There shall be two classes of building sewer permits:

- (1) Residential and commercial domestic; and
- (2) Commercial industrial and industrial.

In either case, the owner or the owner's agent shall make application on the form furnished by the city. The permit application shall be supplemented by any plans, specifications or other information considered pertinent by the city. Applications for an industrial or commercial industrial permit shall be submitted with a copy to the wastewater department. Permit and inspection fees shall be paid in the amounts specified from time to time by resolution of the city council.

Sec. 86-139. - Multiple sewer connection system.

A separate and independent building sewer shall be provided for each building. However, where any existing building is so located on an interior lot so that no private sewer is available nor can one be constructed to the building through an adjoining alley, courtyard or driveway, more than one building may be served with the same building sewer subject to approval by the city. In areas where laterals have not been constructed to the property and complete street improvements have been made or where unusual lot splits have occurred leaving only one lateral for two properties, if there is no health or other danger, the director may approve joint use of that lateral with the connection being made to the city sewer. All discharge limits in this article apply to that portion as the lateral emanating from a single building. Compliance with pretreatment standards or local discharge limits prescribed by this article shall be determined within each tributary to the common lateral prior to commingling with other wastewater.

Sec. 86-140. - Existing building sewer examination.

Existing sewers shall meet all requirements of this article. Whenever an examination determines that an existing building sewer does not meet the requirements of this article and the building official determines that

the connection is creating a health hazard, odor or public nuisance, or environmental hazard the sewer shall be reconstructed at the owner's expense.

Sec. 86-141. - City of Grand Rapids sanitary sewer system.

If a significant industrial user located in the city is connected to the sanitary sewer system of the City of Grand Rapids, the terms of the City of Grand Rapids Sewer Use Ordinance (and the Interjurisdictional Agreement (IJA) signed by both the City of Grand Rapids and City of Wyoming pursuant to MCL 124.1 *et seq.* shall apply and are hereby incorporated by reference. Copies of the relevant portion of the Grand Rapids City Code and the IJA are on file with the city clerk and available to the public.

Secs. 86-142—86-160. - Reserved.

DIVISION 2. - ADMINISTRATION AND ENFORCEMENT

Sec. 86-161. - Rates, surcharges and penalties to be set by city council.

(1) The city council shall by resolution establish system rates, fees and charges for such items as (i) review of plans related to system connections, system extensions or improvements; (ii) connection to the system; (iii) inspections of connections, extensions or improvements to the system; (iv) consumption and sewer service; (v) meter or AMI device installation, inspection and use; (vi) backflow device use and installation; (vii) wholesale service; (viii) unmetered sewer use; (ix) reading meters on any property for which the owner or occupant has refused installation of an AMI device; (x) late payment penalties or interest, rebilling fees, or other amounts to be paid for late payment; and (xi) any other system related amounts or rates the city council deems it appropriate to charge.

(a) Special rates may be established by contracts approved by the city council.

(b) Except when the city council determines there are extraordinary circumstances, rates charged for system services to users outside the city shall not be less than rates charged for system services to users within the city.

(c) Rates, fees and charges established by city council resolution must be in amounts or at rates estimated to be sufficient to provide for the payment of the expenses of operation, maintenance, repair, and replacement of the system in accordance with accepted utility practices, to timely pay the principal and interest on all as are necessary to preserve the system and all its component facilities in good repair and working order; to provide for payment of the interest upon and the principal of all bonds as and when due and payable, to provide for any coverage required under any bond covenants or as required by law, and to provide for such other expenditures and funds for the system as are required by this article. Such rates and charges shall be fixed and revised from time to time as may be necessary to produce these amounts, and it is hereby covenanted, and agreed at all times to fix, maintain and collect such rates and charges for water service furnished by the system as shall be sufficient to provide for the foregoing.

(d) Because the system must be sized, constructed, operated, and maintained to be ready to serve the premises, except as provided in this subsection, readiness to serve charges will be charged for all property in each billing regardless of whether the system is actively used. Exceptions include only (i) unoccupied vacant property without buildings or other occupiable structures, and (ii) property with vacant, unoccupied buildings awaiting demolition. If the owner of a residential, commercial, industrial, or other property requests cessation of service (*i.e.*, the sewer lateral is cut and plugged) a readiness to serve charge will be charged at the same rate as if a 5/8-inch meter was installed.

(2) Except in extraordinary circumstances, such as extreme weather or a health emergency, meters or data from AMI devices will be read not less frequently than quarterly, and bills for water service shall be rendered not less frequently than quarterly and become due on or before the due date specified in the bill. If bills are not paid on or before the due date specified will accrue and be charged fees, interest or penalties related to the late payment in amounts or at rates established by city council resolution.

(3) System rates fees and charges will be a lien on property served as provided in and collectible as provided in 1933 PA 94 (MCL 141.101 *et seq.*) and 1939 PA 178 (MCL 123.161 *et seq.*). If not paid within six months after they are due, the city utility billing office may, before April 1 of each year, certify the delinquency to the city treasurer who shall enter such delinquent charges upon the next general city tax roll as a charge against such premises and the same shall be collected and the lien thereof enforced in the same manner as general city taxes against such premises are collected and the lien thereof enforced. However, where notice is given that a tenant is responsible for such charges and service as provided in those statutes and security for such charges has been provided as established by city council by resolution, those rates, fees, and charges shall not be a lien of the premises served.

(4) In addition to other remedies provided, the city shall have the right to shut off and discontinue the water service and sewer service to any premises for the nonpayment of system rates, fees, or charges when due. Services so discontinued must not be restored until all sums then due and owing shall be paid, plus a turn-on charge as established by resolution of the city council on file in city hall.

(5) The city treasurer may accept payment arrangements to pay system bills when such arrangements are needed to prevent undue hardships and are acceptable to the city manager.

Sec. 86-162. – Violations as municipal civil infractions.

A violation of a wastewater discharge permit is a municipal civil infraction. The city council may from time to time by resolution establish penalties for violation of a user's wastewater discharge permit. Penalties may be based on either a grab, composite or in the case of pH, on the basis of results from a pH recorder. Penalties will be assessed for any sample exceeding limits established from time to time by a resolution of the city council. Any user who violates any provision of this article, or permits issued under this article, shall be penalized in an amount up to \$25,000.00 or the maximum penalty allowed under state law. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. Payment of penalties does not constitute compliance with the permit. In addition to these penalties, (i) those violating this article shall be subject to all other consequences of such violations as provided in this article and, (ii) continued, habitual or gross violations or those caused by negligence or failure to install and operate property pretreatment units will be enforced under sections 86-165, 86-167 and 86-297.

Sec. 86-163. - Delinquent accounts.

If any amounts owed to the city for the use of the public sewer system are not timely paid as required by this article, other parts of this code of ordinances, the terms of any contract, or the terms of any arrangement made with the city to pay such amounts, the city may pursue all remedies available at law or in equity including, to the extent not otherwise precluded or limited by law, one or more of the following:

- (1) A lawsuit against the property owner or any other person responsible for payment;
- (2) Suspending, terminating or otherwise discontinuing city sanitary sewer service, water service or both services to the premises;
- (3) Setting off the unpaid amounts against any amounts owed by the city to the owner of the premises or other responsible party; or
- (4) Certifying such charge to the city assessor who shall assess the charge against the lot or parcel of land upon which is situated the premises served. The assessment shall then be collected or returned in the same manner as real property taxes.
- (5) The city may also require an escrow deposit against future delinquent payments of such amounts. The deposit may be up to an estimated one-quarter's billing for sanitary sewer service, including any estimated surcharges, late payment fees, and interest. The deposit shall be held in a non-interest-bearing escrow account to be used and applied against any amounts due for sanitary sewer service that are not paid when due. The amount used from the escrowed funds will be added to the amounts owed such that the user shall be obligated to maintain that escrow and timely pay all charges for sanitary sewer service in order to preclude use of the remedies provided in this section.

Sec. 86-164. - Public nuisance abatement.

A violation of this article is a public nuisance per se. The director or the building official may require the abatement of any public nuisance under this article by giving the owner of such property notice to eliminate such conditions. The time limit shall be stated in the notice commensurate with the type of nuisance. The director or building official may discontinue water and sewage service to the property if the owner or other responsible party fails to abate such nuisance. All work required to abate such nuisance shall be performed in compliance with this article at the owner's expense. Alternatively, or in addition, the city attorney may bring a lawsuit to abate the nuisance

Sec. 86-165. - Harmful contributions.

The director may suspend sewer and water service when such suspension is necessary to stop an actual or threatened discharge which may present an imminent or substantial endangerment to the health or welfare of persons or the environment, cause interference to the sewage works or cause the city to violate any condition of its NPDES permit. Any person notified of a possible suspension of water or wastewater treatment service shall immediately stop or eliminate the contribution. If that person fails to voluntarily comply with any discharge permit, the city may take such steps as deemed necessary including immediate suspension of sewer and water service, to prevent or minimize damage to the sewage works or endangerment of any individuals. The director shall reinstate the sewer and water and service upon proof of the elimination of the noncomplying discharge provided the city manager determines necessary steps have also been taken to prevent recurrence of such noncompliance. The noncomplying user shall submit to the director a detailed written statement describing the cause(s) of the noncompliance and the measures taken to prevent any recurrence within 15 days of the date of occurrence.

Sec. 86-166. - Official determination of hazard.

If the building official determines that there is a health or welfare hazard created by the emanation of sewage by being exposed to the surface of the ground or draining of sewage from the property under the surface of

the ground or into any ditch, storm sewer, lake or stream and that the continuance of the use of the private sewage works for the property poses an immediate threat to humans or natural resources, the building official may order and require the occupants to vacate any structure on the property forthwith.

Sec. 86-167. - Notification of violation of article.

If the city finds that a user failed to comply with or is failing to comply with any provision of this article, the city may serve upon such person a written notice stating the nature of the noncompliance and require a plan to correct it and prevent recurrence. Within 30 days of the date of the notice or such shorter time as the city may require in the notice in order to protect the environment or the public health, safety or welfare, a plan for the satisfactory correction of all violations shall be submitted by the user to the city for approval. Failure to respond in 30 days or shorter time as provided in the notice, or to develop a satisfactory plan shall constitute an additional violation of this article, and the city shall take such action as deemed necessary, including suspension of water or sewer service, or both.

Sec. 86-168. - Show cause hearing.

(a) Any user subject to enforcement action under the provisions of this article may, within 10 days, make a written request for a hearing before the city manager which request shall be filed with the director or the city clerk. If any user so requests a hearing, the city manager shall hold a hearing concerning the violation, any reasons for the action, remedial actions taken following the violation, steps and plans to prevent further noncompliance with this article, and any proposed enforcement actions. The city manager shall allow the user to show cause why the proposed enforcement action should not be implemented.

(b) The city manager may conduct the hearing and take the evidence or may designate any officer or employee to:

- (1) Issue in the name of the city manager notices of hearing requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing;
- (2) Take the evidence, inquire of witnesses or other persons presenting information or arguments, review any exhibits or records, allow for any pre-hearing or post-hearing written submissions; and
- (3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the city manager for action thereon.

(c) At a hearing held pursuant to this article, testimony taken may, but doesn't need to be, under oath and recorded. The transcript will be made available to any member of the public or any part to the hearing upon payment of charges for copying. Rules of civil procedure and rules of evidence do not apply. Information normally relied upon in the conduct of serious business may be presented and considered. While either the city or the user may be represented by legal counsel, legal counsel is not required. The city manager or the person designated by the city manager to conduct the hearing may consult with the city's legal counsel as either deems needed or helpful.

(d) After the city manager has reviewed the available information, an order may be issued to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless acceptable treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities and that such devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

(e) The city manager may also establish appropriate surcharges or fees to reimburse the city for the additional cost of operation and maintenance of the wastewater treatment works due to any violations of this article.

(f) Any order or directive by the city manager may be appealed to a board of referees consisting of two registered professional engineers authorized to practice in Michigan who are experienced in wastewater issues, one of who shall be selected by the city and one by the user, and a third engineer selected by the first two engineers. None of three engineers shall be in the employ of, a party to any contract with, or an officer or employee of a party to a contract with either the city or the user. The appeal shall be made in writing to the director within 10 days of any order or directive resulting from the hearing before the city manager. Selection of referees shall be made within 10 days of the filing of the appeal.

(g) Within 10 days after receiving notice of the selection of the referees, the city manager shall file with the referees a copy of his determination and the results of his investigation supporting such determination. Within 10 days thereafter the appellant shall file its reply together with supporting documentation. The referees may thereafter require additional information and may, if they choose, hold a hearing at which both sides may present evidence and arguments. The referees shall, by a majority vote, render a written opinion within ten days after the last documents are filed, and such opinion shall be binding upon all parties. The review by the referees shall be *de novo* but based on the information that was in the record at the completion of the city manager's hearing.

(h) The referees shall be entitled to reasonable compensation and expenses with the costs to be borne equally by the city and the user.

(i) Any party may seek judicial review of a referee decision in circuit court. The circuit court shall uphold the city manager's decision if it is based on competent, material, and substantial evidence.

Sec. 86-169. - Legal action.

If any person discharges sewage, industrial wastes, or other wastes into the city's wastewater disposal system contrary to the provisions of this article, federal or state pretreatment requirements, or any order of the city, the city attorney may commence an action for appropriate relief.

Sec. 86-170. - False information.

No person shall knowingly make any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this article nor shall falsify, tamper with or knowingly render inaccurate any monitoring device or method required under this article.

Sec. 86-171. - Affirmative defense.

A user shall have an affirmative defense in any action brought against it alleging a violation of the general prohibitions of this article and the specific prohibitions in subsections (2), (4), (8), (10) and (12) of section 86-291 where the user can demonstrate that:

(1) It did not know or have reason to know that its discharge, alone or in conjunction with a discharge or discharges from other sources, would cause pass through or interference; and

(2) Either:

(a) A local limit designed to prevent pass through or interference was developed for each pollutant in the user's discharge that caused pass through or interference and the user was in compliance with each such local limit immediately before and during the pass through or interference; or

(b) A local limit was not applicable and immediately before and during the pass through or interference the user's discharge did not substantially change in volume or constituents from the user's previous discharges when the POTW was regularly in compliance with its NPDES permit and, in the case of interference, all applicable requirements for sludge use or disposal.

Sec. 86-172. - Publication of list of industrial users in significant noncompliance.

As required by federal regulations, the city shall at least annually, before April 1, publish in a newspaper of record a list of industrial users which during the previous calendar year were in significant noncompliance of applicable pretreatment standards or other pretreatment requirements. For the purposes of this section significant noncompliance is defined in section 86-130.

Sec. 86-173. - Conflicts.

Should any existing agreements, orders or permits be in conflict with this article, then they shall be revised to comply with this article.

Sec. 86-174. - Municipal civil infraction—Penalty.

Any violations of the provisions of article not specifically designated a misdemeanor shall be a civil infraction for which the user shall be responsible for a civil fine in the amount of up to \$25,000.00 for each violation.

Sec. 86-175. – Other amounts owed for violations.

In addition any other amounts or remedies under this article, anyone violating or responsible for a violation of any provision of this article shall be responsible for paying all costs incurred by the city as a result of such violation, including for example and not for limitation, (i) any fines or penalties the city may be obligated to pay as a result of such violation or any violation of any permit issued to the city that results from the person's violation of this article, (ii) any costs incurred to reactivate, repair, improve, or replace any part of the system or any processes within the system, (iii) any costs for engineering, legal, environmental consultant or other professional services, (iv) any overtime or other personnel costs, (v) the cost of any contract services such as hazardous waste disposal costs, added sludge handling or disposal costs, pumping costs, laboratory fees, or other expenses, (vi) added materials costs such as in the city's laboratory; (vii) added special equipment costs such as pumps or payments for use of equipment in the city's motor pool, (viii) any publication or public information expenses, (ix) costs of any special clothing for or to replace any clothing or personal articles of city personnel, (x) any filing fees, appeals costs, collection expenses, discovery costs, cost of exhibits, or other expenses related to any legal or administrative proceeding, (xi) any first aid or medical expenses for due to any illness, injury or reasonable diagnostic test needed to rule out any illness or injury to any city employee or agent, and (xii) any costs the city is obligated to pay any third party such as another user of the system, including any incidental or consequential damages paid to any such third party.

Secs. 86-176—86-200. - Reserved.

DIVISION 3. - BUILDING SEWERS

Sec. 86-201. - Material specifications.

All materials used on construction of laterals and building sewers shall be of the type approved by the applicable construction code and as required by the city.

Sec. 86-202. - Pipe size.

The size of a residential building sewer shall not be less than 4 inches in diameter. All other sewer sizes shall be determined by the city based upon the type of facility and the applicable construction code.

Sec. 86-203. - Sewer slope.

Building sewers shall be constructed to slopes consistent with the provisions of the applicable plumbing code, but not less than 1/8-inch per linear foot.

Sec. 86-204. - Location and elevation.

Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. Building sewers shall not be laid parallel to nor within 3 feet of any bearing wall. The depth shall be sufficient to be protected against frost. The building sewer shall be laid at uniform grade and in straight alignment insofar as possible. Changes in alignment shall be made only with properly curved pipe or long radius fittings. Changes in direction having bends of 45 degrees or more shall have a cleanout.

Sec. 86-205. - Floor drains.

Floor drains which are connected to the building sewer shall be required for all basements or cellars if the elevation of the public sanitary sewer will service the building.

Sec. 86-206. - Lift pump.

In all buildings in which any building drain is too low to permit gravity flow to the building sewer, sanitary sewage carried by such drain shall be lifted by means of a pump or other approved means and discharged into the building sewer.

Sec. 86-207. - Construction procedures to be in accordance with city's standard construction specifications; exception.

All construction procedures shall be in accordance with the city's standard construction specifications, with the exception that tunneling of laterals will be allowed if it is determined that the proper alignment and slope can be maintained on the lateral.

Sec. 86-208. - Grease, oil, and sand interceptors.

(a) All establishments where food is manufactured, sold, or prepared, except for small areas designated as employee break areas or the equivalent, discharging wastewater containing fats, oils, and grease (FOG) to the system shall install, operate, and maintain a sufficiently sized oil and grease, water and solids separator (hereinafter called grease trap) necessary to achieve and maintain compliance with the limits indicated in section 86-292.

(b) Unless otherwise authorized by the director, all grease traps shall be of the outdoor, inline variety. With special authorization by the director, grease traps of the indoor, under-counter, stand-alone variety may be allowed. In this case, maintenance of indoor grease traps shall be performed at frequencies necessary to protect the capacity of the sewer system against accumulation of grease and oils, as required by the "25% rule" as defined herein. Under no condition shall an indoor grease trap be cleaned at intervals less frequent than once every 14 days.

(c) Grease, oil and sand interceptors shall be provided when they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand or other harmful ingredients. Such interceptors shall not be required for dwelling units. All interceptors shall be of a type and capacity approved by the director and shall be located so as to be readily accessible for cleaning and inspection.

(d) Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight.

(e) Where installed, all grease, oil and sand interceptors shall be cleaned and maintained by the owner and shall be operated continuously in an efficient manner whenever the facility is in operation. The city shall have the right to inspect maintenance and disposal records related to the operation of grease, oil and sand interceptors.

(f) The user shall be responsible for the proper removal and legal disposal of the grease trap waste. All waste removed from each grease trap must be disposed of at a facility permitted to receive such waste. No grease trap pumpage may be discharged to the city sewer system. Maintenance shall include the complete removal of all contents, including floatable materials, wastewater, sludges and solids and jet flushing to remove measurable build-up on tank walls. Top skimming of outdoor grease traps, decanting or back flushing of the grease trap or its wastes for the purpose of reducing the volume to be hauled is prohibited.

(g) There shall be ample room and reasonable access to interceptors to allow accurate sampling and preparation of samples for transport and analysis.

(h) Grease traps and other interceptors shall be installed in compliance with the current plumbing codes adopted by the city. The director shall make final determination and approval of a grease trap's size. If additional pretreatment and/or maintenance is required to meet the provisions in this section, the director, may require that the establishment in existence prior to the effective date of this section upgrade to the requirements provided.

(i) Maintenance of an outdoor grease trap shall be performed at frequencies necessary to protect the capacity of the sewer system against accumulation of grease and oils, as required by the "25 percent rule" and at intervals no less than once every 90 days.

(j) Use of any bacteriological, chemical, or enzymatic addition for the purpose of maintaining a grease trap is prohibited unless written approval is obtained from the director.

(k) The user shall be responsible for maintaining records and/or manifests as to the dates of service, quantity, and waste hauler name at the user's location for a period of three years, which records shall be subject to review by the city without prior notification.

(l) Should any user fail to properly clean and maintain a grease trap as required herein, the city, at its option may contract for appropriate cleaning and maintenance by a licensed contractor, the cost of which shall be collectable by the city from the user at a charge of actual cost plus 100%.

Sec. 86-209. - Tests.

All tests of building sewers shall be made in conformance with the applicable plumbing code.

Sec. 86-210. - Completion notification.

The applicant for the building sewer permit shall notify the plumbing inspector when the building sewer is ready for inspection and connection to the public sewer. The connection shall be made under the supervision of the city's plumbing inspector.

Secs. 86-211—86-250. - Reserved.

DIVISION 4. - PUBLIC SEWER USE
Subdivision I. - In General

Sec. 86-251. - Wastewater discharge permits—Generally.

The director shall by written permit establish the maximum relative strength of sewage and industrial waste to be discharged into the public sewer by nondomestic users. Prior to the initial issuance of a permit or 90 days prior to the expiration of an existing permit, nondomestic users shall submit the information outlined in section 86-253. Wastewater discharge permit fees shall be paid in the amount as set from time to time by resolution of the city council. Permits shall be individual and control mechanisms must be enforceable and contain, at a minimum, the following conditions:

- (1) A statement of duration (in no case more than five years);
- (2) A statement of non-transferability without, at a minimum, prior notification to the POTW and provision of a copy of the existing control mechanism to the new owner or operator;
- (3) Effluent limits, including BMPs, based upon applicable general pretreatment standards in 40 CFR 403, categorical pretreatment standards, local limits, and state and local law;
- (4) Self-monitoring, sampling, reporting, notification and recordkeeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency, and sample type, based upon general pretreatment standards in 40 CFR 403, categorical pretreatment standards, local limits, and state and local law;
- (5) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule; and
- (6) Requirements to control slug discharges, if determined by the director to be necessary.
- (7) A statement to enable authorized representatives of the POTW, state, and EPA to enter and inspect the premises of nondomestic users.

Sec. 86-252. – Permit review and adjustment.

Any permit issued by the director shall be periodically, not less frequently than once every 5 years, reviewed and adjusted.

Sec. 86-253. - Wastewater contribution information.

(a) All nondomestic users proposing to connect to or to contribute to the sewage works shall submit information on their processes and wastewater to the city before connecting to or contributing to the sewage works. All existing industrial users connected to or contributing to the sewage works shall submit this

information upon request of the director. At least 90 days prior to the commencement of discharge, new sources and sources that become industrial users subsequent to the promulgation of an applicable categorical standard shall be required to submit to the city a report which contains the information in this section. New sources shall also be required to include in this report information on the method of pretreatment the source intends to use to meet applicable pretreatment standards. New sources shall give estimates of the information requested in subsections (a)(4) and (a)(7) of this section. The information submitted shall be sufficient for the city to determine the impact of the user's discharge on the sewage works and the need for pretreatment. Any statements or information submitted in connection with this section shall be signed by an authorized representative of the company. The user shall submit, in units and terms appropriate for evaluation, the following information:

- (1) Name of the operator and owners, facility name, address and location.
- (2) A list of any environmental control permits held by or for the facility.
- (3) SIC code number.
- (4) Measurement of pollutants. For industrial users subject to categorical pretreatment standards, the user shall submit the results of sampling and analysis identifying the nature and concentration (or mass where required by standard or the city) of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentration (or mass where required) shall be reported. The sample shall be representative of daily operations. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the city or the applicable standards to determine compliance with the standard.
 - a. A minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics. For all other pollutants, 24-hour composite samples must be obtained through flow proportional composite sampling techniques where feasible. The city may waive flow proportional sampling for any industrial user that demonstrates that flow proportional sampling is infeasible. In such cases samples must be obtained through time proportional composite sampling techniques or through a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged.
 - b. The user shall take a minimum of one representative sample to compile the data necessary to comply with the requirements of this section.
 - c. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed prior to pretreatment the user should measure the flows and concentrations necessary to allow use of the combined wastestream formula.
 - d. Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR 136 and amendments thereto. Where 40 CFR 136 does not contain sampling or analytical techniques for the pollutant in question, or where the director determines that the 40 CFR 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the POTW or other parties approved by the director.
 - e. If this report is a baseline report, the city may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures. The baseline report shall indicate the time, date and place of sampling; the methods of analysis; and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.
- (5) Average rate of production.
- (6) Time and duration of contribution.
- (7) Average daily and maximum wastewater flow rates from all regulated process streams and other waste streams as necessary to allow use of the combined wastestream formula, including daily, monthly, and seasonal variations, if any. The city may allow for verifiable estimates of these flows where justified by cost or feasibility considerations.
- (8) Industries identified as significant industries or subject to the national categorical pretreatment standards or alternative discharge limits or those required by the city must submit site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by the size, location and elevation. For industrial users subject to categorical pretreatment standards, a schematic process diagram identifying the location of points of discharge from all regulated processes as well as the pretreatment standards applicable to each regulated point of discharge shall also be submitted.

(9) Description of activities, facilities and plant processes on the premises including all materials or pollutants which are or could be discharged.

(10) The user shall submit a certification statement reviewed and signed by an authorized representative indicating whether or not the pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance and/or additional pretreatment is required by the industrial user to meet applicable pretreatment standards.

(11) If additional pretreatment or O&M will be required to meet the pretreatment standards, the user will provide the shortest schedule by which the user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The following conditions shall apply to this schedule:

a. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment facilities required for the user to meet the applicable pretreatment standards.

b. No such increment shall exceed nine months.

c. No later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the director including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress; the reason for delay; and the steps being taken by the user to return the construction to the schedule established. In no event shall more than nine months elapse between such increments of progress.

(12) Type and amount of raw materials.

(13) Number and type of employees, hours of operation of plant and proposed or actual hours of operation of pretreatment system.

(14) Location of sampling manhole.

(15) Any other information as may be deemed by the city to be necessary to evaluate the impact of the discharge on the sewage works.

(b) Any industrial user must inform the appropriate authorities upon discharge of hazardous waste as follows:

(1) Any industrial user shall notify the POTW, the EPA regional waste management division director, and state hazardous waste authorities in writing of any discharge into the POTW of a substance, which if otherwise disposed of, would be a hazardous waste under 40 CFR 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR 261, the EPA hazardous waste number, and the type of discharge (continuous, batch or other). If the industrial user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the industrial user: An identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during the calendar month, and an estimation of the mass of the constituents in the wastestream expected to be discharged during the following 12 months. Industrial users shall provide this notification no later than 180 days after the discharge of the listed or characteristic hazardous waste commences. Any notification under this section need be submitted only once for each hazardous waste discharged. The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements in this article.

(2) Dischargers are exempt from the requirements of subsection (b)(1) of this section during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of non-acute hazardous waste in a calendar month, or of any quantity of acute hazardous waste as specified in 40 CFR 261.30(d) and 40 CFR 261.33(e) requires a one-time notification. Subsequent months during which the industrial user discharges more than such quantities of any hazardous waste do not require additional notification.

(3) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous wastes or listing any additional substances as hazardous wastes, the industrial user must notify the POTW, the EPA regional waste management waste division director, and the state hazardous waste authorities of the discharge of such substances within 90 days of the effective date of such regulations.

(4) In the case of any notification made under subsection (b) of this section, the industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous waste generated to the degree it has determined to be economically practical.

(c) All users shall maintain records of wastewater contribution information, including without limitation documentation associated with BMPs, for a period of at least three years.

Sec. 86-254. - Confidential information.

(a) Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the city that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user and that such information need not be disclosed in accordance with any applicable Freedom of Information Act or any other applicable law. When requested by the person furnishing a report which might disclose trade secrets, such report shall be kept confidential to the extent permitted by law except that the report shall be made available upon written request to governmental agencies for uses related to this article, the NPDES permit or any pretreatment programs, and it shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

(b) Except as otherwise required by applicable law, information accepted by the city as confidential shall not be transmitted to any governmental agency or to the general public by the city unless and until a 10-day notice is given to the user. If an applicable state or federal law, rule, or regulation conflicts with a provision in this article by requiring greater disclosure, that state or federal law, rule, or regulation shall govern.

Sec. 86-255. - Wastewater discharges.

No person shall discharge into the waters of the state within the city or in any area under the jurisdiction of the city or to the system except as authorized by the director in accordance with the provisions of this article.

Sec. 86-256. - Liquid discharges.

No person shall discharge or cause to be discharged any type of liquid into any sewer except in accordance with this article.

Sec. 86-257. - Waste hauler discharges.

Waste haulers authorized to discharge into the POTW shall be required to pay fees established from time to time by resolution of the city council, in addition to any surcharges. Discharge shall be allowed only at such points as designated by the city. Waste haulers applying for discharge authorization shall submit the information requested in section 86-253 prior to receiving authorization.

Sec. 86-258. - Discharge regulations, charges, and fees.

Wastewater discharges shall be expressly subject to all provisions of this article and all other applicable regulations, user charges and fees established by the city. In addition, the city may:

- (1) Establish unit charges, surcharges or a schedule of user charges and fees for the wastewater to be discharged into the sewage works;
- (2) Limit the average and maximum wastewater constituents and characteristics;
- (3) Limit the average and maximum rate and time of discharge or make requirements for flow regulations and equalization;
- (4) Require the installation and maintenance of inspection and sampling facilities;
- (5) Establish specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;
- (6) Establish compliance schedules;
- (7) Require submission of technical reports or discharge reports;
- (8) Require the maintaining, retaining and furnishing of plant records relating to wastewater discharge as specified by the city, and affording city access thereto, and copying thereof;
- (9) Require notification of the city of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;
- (10) Require notification of slug discharges;
- (11) Require other conditions as deemed appropriate by the city to ensure compliance with this article.

Sec. 86-259. - Monitoring facilities.

(a) The city may require a user to provide, maintain and operate monitoring facilities at the user's expense. Such facilities may include any or all of the following: a source of power, a sampling manhole meeting the specifications required by the city, an approved sampler, and flow monitoring devices as required by the director to allow for inspection, sampling and flow measurement of the building sewer and internal drainage systems. Such facilities shall be kept free of snow, parked vehicles or other obstructions. The monitoring facility shall be situated on the user's premises in an area accessible to a vehicle, but the city may, when such

a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in a public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles. There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user. Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with plans and specifications submitted to and approved by the city and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the city of requiring such facilities unless the completion date is extended by the director at his discretion.

(b) Flow measurement devices on building sewers shall be checked and necessary repairs made on an annual basis. Such maintenance and checks shall be performed by the equipment manufacturer or an authorized designee who shall certify in writing to the director as to the accuracy of the equipment.

Sec. 86-260. - Meters required.

All users shall have meters on all water sources that ultimately discharge into the sewage works or shall meter the liquid wastes at the point of discharge into the sewage works. All meters and metering plans shall be approved by the city.

Sec. 86-261. - Inspection and sampling.

(a) The city may inspect the premises and facilities of any user to ascertain whether the requirements of this article are being met. Persons or occupants of premises where wastewater is created or discharged shall allow the city's representatives access to all parts of the premises for the purposes of inspection, sampling, records examination, record copying or any other task necessary in the performance of their duties. Nondomestic users shall be subject to inspection fees as stipulated by resolution of the city council from time to time and on file in city hall.

(b) The city shall have the right to set up on the user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and metering operations. Where a user has security measures in force which would require property identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the city will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

(c) Refusal to allow duly authorized representatives entry shall be considered a violation of this article and may be considered grounds for discontinuing of sewer or water services, or both.

Sec. 86-262. - Refusing entry for inspection; issuance of search warrant.

Whenever the building official or director deems it necessary to enter upon any property at a reasonable hour for the purposes of inspection, observation, measurement, sampling and testing of enforcement in accordance with the provisions of this article and is refused such entry, the official who is refused such entry may make an affidavit in writing, under oath to the district court stating the facts of the case so far as it may be known to the complainant. The court may issue an administrative search warrant or inspection or other order allowing the director, building official or his representatives to enter upon such property to the extent and time necessary to enforce and carry out the provisions of this article.

Sec. 86-263. - Sampling and analytical fee.

Industrial users may be charged a sampling and analytical fee in cases where the city must utilize the analytical capabilities of a private laboratory in order to determine compliance with pretreatment standards. This fee shall be equal to the actual costs incurred by the city plus an additional administrative fee to compensate the city for the staffing time, billing, and collection expenses.

Sec. 86-264. - Self-monitoring.

The city may require industrial users to conduct self-monitoring. The city shall determine the frequency of self-monitoring necessary to assess and assure compliance by the industrial user with applicable pretreatment standards and requirements. The city may require the industrial user to provide a split of self-monitoring samples. The city shall require appropriate reporting from industrial users required to conduct self-monitoring.

Sec. 86-265. - Sampling and analysis procedures and methods.

All sampling and analyses conducted shall be performed in accordance with the procedures and methods required by 40 CFR Part 136.

Sec. 86-266. - Laboratory utilized by industry conducting self-monitoring to be approved by city; quality control documentation required.

(a) Each laboratory utilized by industries conducting self-monitoring as required by the city shall be approved by the city and required to operate a formal quality control program as required by 40 CFR Part 13.

(b) Laboratories conducting analyses for industrial users must submit a copy of the formal quality control documentation prior to approval by the city. Approval of laboratories shall be subject to periodic review. The city shall have the right to issue blind standards to be analyzed by other laboratories being utilized for self-monitoring. In the case of resolving disputes between analytical data generated by the city and another laboratory, any data without documented supporting quality control data will be rejected.

Sec. 86-267. - User notification to POTW of spills, etc., or change in volume or character of discharge; requirements.

All industrial users shall notify the POTW immediately of any accidental spills, unusual discharges, or slug discharges. All industrial users shall promptly notify the POTW in advance of any substantial change in the volume or character of pollutants in their discharge, including the listed or characteristic hazardous wastes for which the industrial user has submitted initial notification under 40 CFR 403.12(p) or 40.24(2) or this article. If self-monitoring performed by an industrial user indicates a violation, the user shall notify the city within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results to the city within 30 days after becoming aware of the violation. Where the city performed the sampling and analysis in lieu of the industrial user, the city must perform the repeat sampling and analysis unless the city notifies the user of the violation and requires the user to perform the repeat analysis. The industrial user is not required to resample if:

- (1) The city performs sampling at the industrial user at a frequency of at least once per month.
- (2) The city performs sampling at the industrial user between the time when the user performs its initial sampling and the time when the user receives the results of this sampling.

Sec. 86-268. - Pretreatment compliance reporting.

(a) Within 90 days following the date for final compliance with applicable pretreatment standards or, in the case of a new user, following commencement of the introduction of wastewater into the sewage works, any user subject to pretreatment standards and requirements shall submit to the director information requested in section 86-253. For industrial users subject to equivalent mass or concentration limits established by the city in accordance with the procedures in 40 CFR 403.6, this report shall contain a reasonable measure of the user's long-term production rate. For all other industrial users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. This report shall include the certification statement as required in section 86-253. This statement shall be signed by an authorized representative as defined in section 86-130.

(b) Periodic compliance reports shall be submitted by users as follows:

(1) Any user discharging into the sewage works shall submit to the director semiannually, unless required more frequently in the pretreatment standards or by the director, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report shall include a record of all daily flows which during the reporting period exceeded the average daily flow reported in section 86-253. The reports required in this article shall be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data is representative of conditions occurring during the reporting period. The city shall require that frequency and numbers of grab samples and other monitoring necessary to assess and ensure compliance by the industrial user with applicable pretreatment standards and requirements.

a. Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the city. Where time-proportional composite sampling or grab sampling is authorized by the city, the samples must be representative of the discharge and the decision to allow the alternative sampling must be documented in the Industrial User file for that facility or facilities. Using protocols (including appropriate preservation) specified in 40 CFR part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: For cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil & grease the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the city, as appropriate.

b. For sampling required in support of baseline monitoring and 90-day compliance reports, a minimum of 4 grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the city may authorize a lower minimum. Grab

samples must be taken at times the city deems necessary to assess and assure compliance by industrial users with applicable pretreatment standards and pretreatment requirements.

(2) If an industrial user subject to the reporting requirements in this section monitors any pollutant more frequently than required by the city, the results of this monitoring shall be included in the report. At the discretion of the director, the director may alter the months during which the above reports are to be submitted. This report shall include the certification statement as required in section 86-253. This report shall be signed by an authorized representative as outlined in section 86-131. In the case of significant noncategorical industrial users, where the city itself collects all the information required for the report, the noncategorical significant industrial user will not be required to submit the report.

(3) The director may also impose mass limitations on users using dilution to meet applicable pretreatment standards or requirements, or in other cases in which the imposition of mass limitations is appropriate. In such cases, the report required by subsection (b)(1) of this section shall also indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user.

(4) Where the pretreatment standard or a wastewater discharge permit requires compliance with a BMP (or pollution prevention alternative), the user shall submit documentation required by the city or the pretreatment standard necessary to determine the user's compliance status.

Sec. 86-269. – Report signature requirements.

The reports required by this article must show the certification statement as set forth in 40 CFR §403.6(a)(2)(ii), and be signed as follows:

(1) By a responsible corporate officer, if the industrial user submitting the report is a corporation. For purposes of this section, a responsible corporate officer means:

(a) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or

(b) The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) By a general partner or proprietor if the industrial user submitting the report is a partnership, or sole proprietorship respectively.

(3) By a duly authorized representative of the individual designated in subsections (1) or (2) if:

(a) The authorization is made in writing by an individual described in subsection (1) or (2);

(b) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the wastewater discharge originates, such as the position of plant manager, operator of a well, or well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and

(c) the written authorization is submitted to the city.

(4) If an authorization under subsection (3) is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of subsection (3) must be submitted to the city prior to or together with any report to be signed by an authorized representative.

Secs. 86-270—86-290. - Reserved.

Subdivision II. - Prohibited Discharges and Pretreatment Standards

Sec. 86-291. - General discharge prohibitions.

No person shall contribute nor cause to be contributed, directly or indirectly, any of the following substances into the sewage works:

(1) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion hazard in the POTW (including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Celsius using the test methods specified in 40 CFR 261.21) or be injurious in any other way to the sewage works or to the operation of the sewage works.

(2) Solid or viscous substances which may cause obstruction to the flow in a sewer to other interference with the operation of the wastewater treatment facilities.

- (3) Any wastewater having a pH of less than 5.0, or greater than 10.5, or other than that range established by the wastewater discharge permit, or any wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment or personnel of the sewage works. In any event, a minimum pH of 5.0 is necessary in order to comply with 40 CFR 403.5.
- (4) Any pollutant, including oxygen demanding pollutants released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW.
- (5) Any wastewater containing toxic pollutants in sufficient quantity, either alone or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the sewage works or exceed any limitation set forth in the EPA categorical pretreatment standard, or any other applicable federal, state or county standards.
- (6) Any noxious or malodorous liquids, gases or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard or are sufficient to prevent entry into the sewers for maintenance and repair.
- (7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
- (8) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.
- (9) Any substance which may cause the sewage works' effluent, or any other product of the sewage works such as residues, sludges or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process.
- (10) Any substance which, alone or in conjunction with a discharge or other discharges, causes pass through as defined in section 86-130.
- (11) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dyes, wastes and vegetable tanning solutions.
- (12) Any wastewater having a temperature which will inhibit biological activity in the sewage works. Wastewater with a temperature at the introduction into the sewage works which exceeds 49 degrees Celsius (120 degrees Fahrenheit) or is lower than 0 degrees Celsius (32 degrees Fahrenheit) is prohibited.
- (13) Any slug discharge.
- (14) Any wastewater containing radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the director in compliance with applicable state or federal regulations.
- (15) Any wastewater which can cause any hazardous situation or creates a public nuisance.
- (16) Any wastewater containing noncompatibles in excess of the limits contained in the wastewater discharge permit.
- (17) Any trucked or hauled pollutants except, at discharge points designated by the POTW.

Sec. 86-292. - Discharge standards and limits.

- (a) All nondomestic users who discharge compatible pollutants shall be subject to the requirements itemized below.
 - (1) Upon approval of the director and issuance of a wastewater discharge permit, and if the discharge complies with the requirements of subsection (3) herein, wastewater not in excess of user-specific maximum mass limits may be discharged. These limits will be established by the director by an appropriate allocation of the wastewater treatment plant's approved maximum allowable headworks loadings for the following parameters:

<u>Parameter</u>	<u>MAHL (lb/day)</u>
5-day BOD	85,000
Suspended Solids	51,600
Total Phosphorus	1,800
Ammonia Nitrogen	4,800

- (2) Upon approval of the director and issuance of a wastewater discharge permit, wastewater containing pollutants not in excess of the following maximum concentration limits may be discharged:

<u>Parameter</u>	<u>Daily Average Concentration (mg/L)</u>	<u>Single Grab Maximum Concentration (mg/L)</u>
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Fats, Oils and Grease	470	830
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(3) Discharges of compatible pollutants shall also be subject to a surcharge in accordance with section 86-162 when exceeding any of the following baseline levels:

<u>Parameter</u>	<u>Daily Average Concentration (mg/L)</u>
5-day BOD	460
Suspended Solids	260
Phosphorus	12
Fats, Oil and Grease	91
Ammonia Nitrogen	32

(b) All nondomestic users who discharge incompatible pollutants shall be subject to the requirements itemized below.

(1) Primary toxic pollutants.

a. Upon approval of the director and issuance of a wastewater discharge permit, wastewater not in excess of the following limits may be discharged:

<u>Parameter</u>	<u>Daily Maximum Concentration (mg/L)</u>
Arsenic, Total	0.061
Cadmium, Total	0.1
Chromium, Total	2.9
Copper, Total	2.1
Lead, Total	1.9
Mercury, Total	<0.0002
Molybdenum, Total	0.19
Nickel, Total	1.2
Selenium, Total	0.04
Silver, Total	0.15
Zinc, Total	4.0
Cyanides, Total	0.2

(2) Secondary toxic pollutants.

a. Upon approval of the director and issuance of a wastewater discharge permit, wastewater containing pollutants not in excess of the following limits may be discharged:

<u>Parameter</u>	<u>Daily Average Concentration</u>
2-Butanone (Methyl Ethyl Ketone)	760 mg/L
Butyl Benzyl Phthalate	6.4 mg/L
4-Chloro-3-Methyl Phenol (p-Chloro-m-Cresol)	1.0 mg/L
1,4-Dichlorobenzene	0.48 mg/L
bis 2-Ethylhexyl Phthalate	0.19 mg/L
4-Methylphenol (p-Cresol)	4.7 mg/L
Naphthalene	1.9 mg/L
Phenol *	42 mg/L
Toluene	3.5 mg/L

Perfluorooctanesulfonic acid (PFOS)	28 ng/L
Perfluorooctanoic acid (PFOA)	6800 ng/L
Perfluorobutanesulfonic acid (PFBS)	22,106,000 ng/L

Notes:

*Based on discharge of any or all of the following phenolic compounds: 2-Chlorophenol; 4-Chlorophenol; 2,4-Dichlorophenol; 2,4-Dimethylphenol; 2,4-Dinitrophenol; 2-Methylphenol; 4-Methylphenol; 2-Nitrophenol; 4-Nitrophenol; and Phenol. Discharge of other phenolic compounds is prohibited, except as specifically authorized by the director.

b. Should pollutants other than specified above be received or anticipated, corresponding discharge limits may be established by the city via an appropriate mass allocation of the wastewater treatment plant's approved maximum allowable headworks loadings. The city reserves the right to enter into local initiatives with industrial users setting out special terms under which they may discharge to the POTW. In no case will any special agreement waive compliance with a pretreatment standard or requirement.

(3) For each significant industrial user, the director shall, when issuing a discharge permit, periodically reviewing a discharge permit (as required by section 86-252), reviewing any report regarding a discharge violating any provision of this article, or as otherwise required in this subsection evaluate whether the significant industrial user needs a plan or other action to control slug discharges. For industrial users identified as significant prior to November 14, 2005, this evaluation must have been conducted at least once by October 14, 2006. Additional significant industrial users must be evaluated within 1 year of being designated a significant industrial user. The results of such activities shall be available to MDEGLE upon request. Significant industrial users must notify the director immediately of any changes at its facility affecting potential for a slug discharge. If the director decides that a slug discharge control plan is needed, the plan shall contain, at a minimum, the following elements:

- a. Description of discharge practices, including non-routine batch discharges;
- b. Description of stored chemicals;
- c. Procedures for immediately notifying the director of slug discharges, including any discharge that would violate a prohibition under this article with procedures for follow-up written notification within 5 days; and
- d. If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

Sec. 86-293. - National categorical pretreatment standards.

Upon the promulgation of any national categorical pretreatment standards, alternative discharge limits or other federal or state limitations, for a particular industrial subcategory, the pretreatment standard, if more stringent than limitations imposed under this article for uses in that subcategory, shall immediately supersede the limitations imposed under this article and shall be considered part of this article. Compliance by existing sources with categorical pretreatment standards shall be within three years of the date the standard is effective unless a shorter compliance time is specified in the appropriate subpart of 40 CFR chapter I, subchapter N. Direct dischargers with NPDES permits modified or reissued to provide a variance pursuant to section 301(i)(2) of the Act shall be required to meet compliance dates set in any applicable categorical pretreatment standard. Existing sources which become industrial users subsequent to promulgation of an applicable categorical pretreatment standard shall be considered existing industrial users except where such sources meet the definition of new source as defined in section 86-130. New sources shall install and have in operating condition, and shall start up all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge. Within the shortest feasible time (not to exceed 90 days), new sources must meet all applicable pretreatment standards. The director shall notify all affected users of the applicable reporting requirements.

Sec. 86-294. - Equivalent mass and concentration limits.

When the limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the city may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual industrial users. The city shall calculate equivalent mass-per-day limitations and equivalent concentration limitations in accordance with 40 CFR 403.6(c)(2)-(4) and 40 CFR 403.6(c)(6)-(7). Equivalent limitations calculated in accordance with these sections shall be deemed pretreatment standards for the

purposes of section 307(d) of the Act and this article. Industrial users shall comply with the equivalent limitations in lieu of the promulgated categorical standards for which the equivalent limitations were derived. Any industrial user operating under a wastewater discharge permit incorporating equivalent mass or concentration limits calculated from a production-based standard shall notify the city within 2 business days after the user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any user not notifying the city of such anticipated change will be required to meet the mass or concentration limits in its wastewater discharge permit that were based on the original estimate of the long-term average production rate.

Sec. 86-295. - Net/gross calculation.

Categorical pretreatment standards may be adjusted to reflect the presence of pollutants in the industrial user's intake water in accordance with 40 CFR 403.15.

Sec. 86-296. - Discharge modifications.

Within 6 months of the promulgation or revision of any applicable pretreatment standard, all affected users must submit to the city the information required by section 86-253(a)(8) and (a)(9).

Sec. 86-297. - Application of state requirements or limitations.

State requirements or limitations on discharges shall apply whenever they are more stringent than national categorical pretreatment standards or limitations provided in this article. State and federal requirements may not be appealed.

Sec. 86-298. - Compliance with pretreatment standards.

Industrial users shall provide necessary wastewater treatment as required to comply with this article and shall achieve compliance with all pretreatment standards within the time limitations specified by the federal pretreatment regulations, state regulations and as required by the city. Any facilities required to pretreat wastewater shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to and approved by the city before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the city under the provisions of this article. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable by the city prior to the user's initiation of the changes.

Sec. 86-299. - User to initiate construction of facilities necessary to comply with discharge limitations.

If pretreatment facilities are necessary to comply with wastewater discharge permit limitations, industrial users shall initiate construction of such facilities within 6 months and complete construction within 18 months from the date of notice of noncompliance by city.

Sec. 86-300. - Increase of process water to dilute excessive discharge.

No user shall ever increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the national categorical pretreatment standards, alternative discharge limits or in any other pollutant-specific limitation adopted by the city or state.

Sec. 86-301. - Procedures for prevention of accidental and slug discharges; notification if discharge occurs.

Users shall provide protection from slug discharges or accidental discharges of prohibited materials or other substances regulated by this article. If deemed reasonably necessary by the director or as otherwise required by state or federal laws or regulations, the city may require the user to implement procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents) and/or measures and equipment for emergency response. Facilities to prevent slug discharges or accidental discharges of prohibited material shall be provided and maintained at the user's cost and expense. Detailed information and plans showing facilities and operating procedures to provide this protection including descriptions of discharge practices and stored chemicals shall be submitted to the city for review and approval by the city before construction. All users shall complete construction of required facilities within the time period specified by the director. New users shall not be permitted to introduce pollutants into the system until approved accidental discharge facilities have been constructed. Review and approval of such plans and operating procedures shall not relieve the user from the responsibility to modify the facility as necessary to meet the requirements of this article or from otherwise meeting requirements of this article. In the case of a slug discharge or an accidental discharge, the user shall immediately notify the director of the incident. The notification shall include location of discharge, type of waste, concentration and volume and corrective actions. Accidental discharge shall also include any discharge where such discharge has the possibility of entering into any waters of the state.

(1) Within 5 working days following a slug discharge or accidental discharge, the user shall submit to the director a detailed written report describing the cause of the discharge and the measures to be taken by the user to correct the situation and to prevent similar future occurrences. Such notification shall not relieve the user of any expense, penalty, loss, damage or other liability which may be incurred as a result of damage to the sewage works treatment process, nor any other damage to person or property, nor shall such notification relieve the user of any fines, civil or other liability which may be imposed by this article or other applicable law.

(2) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees of the persons to notify in the event of an accidental discharge. Employers shall advise all employees who may cause or suffer such a dangerous discharge to occur of the emergency notification procedure.

Sec. 86-302. - Upset is an affirmative defense.

(a) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subsection (b) of this section are met.

(b) An industrial user wishing to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and the industrial user can identify the causes of the upset;

(2) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures;

(3) The industrial user has submitted the following information to the POTW and control authority within 24 hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five days):

a. A description of the indirect discharge and cause of noncompliance;

b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

c. Steps being taken or planned to be taken to reduce, eliminate, and prevent recurrence of the noncompliance.

(c) In any enforcement proceeding, the industrial user seeking to establish the occurrence of an upset shall have the burden of proof.

(d) In the usual exercise of prosecutorial discretion, the city's enforcement personnel should review any claims that noncompliance was caused by an upset. No determinations made in the course of the review constitute final city action subject to judicial review. Industrial users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(e) The industrial user shall control production or all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

Sec. 86-303. - Bypass.

For the purpose of this section, bypass shall mean the intentional diversion of wastestreams from any portion of the industrial user's treatment facility. An industrial user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to ensure efficient operation. These bypasses are not subject to subsections (1) and (2) of this section.

(1) If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the city, if possible, at least ten days before the date of the bypass. An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the city within 24 hours from the time the industrial user becomes aware of the bypass. A written submission shall also be provided within five days of the time the industrial user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent reoccurrence of the bypass. The city may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(2) Bypass is prohibited, and the city may take enforcement action against an industrial user for a bypass, unless:

a. Bypass was unavoidable to prevent loss of life, personal injury or severe property damage. Severe property damage shall mean substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which

can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass which occurred during periods of equipment downtime or preventative maintenance;

c. The industrial user submitted notices as required under subsection (1) of this section.

(3) The director may approve an anticipated bypass, after considering its adverse effects, if the director determines that it will meet the three conditions listed in subsection (2) of this section.

Sec. 86-304. – Stormwater/Groundwater Prohibited.

The direct or indirect connection of roof downspouts, exterior footing or foundation drains, areaway drains, storm drains, sump pump discharges or other sources of surface runoff, stormwater, or groundwater to the system is prohibited. Except with a sewer discharge permit no person shall discharge to the system any surface runoff, stormwater, or groundwater.

Secs. 86-305—86-320. - Reserved.

DIVISION 5. - LIQUID WASTE

Sec. 86-321. - Definitions.

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

(a) *Liquid waste* means any liquid, gaseous or waterborne waste or sludge materials resulting from or incidental to any process of industry, manufacturing, mining or agricultural operations or any mixture of these waste materials with water or domestic sewage and domestic sewage.

(b) *Liquid waste disposal system* means any facility primarily designed or operated for the purpose of processing or storing liquid waste.

(c) *Structure* means the area in which the liquid industrial waste or liquid waste is stored on the premises for treatment or processing and shall include holding tanks.

Sec. 86-322. - Storage, removal, transfer, unloading, offering for sale, trade or exchange restricted to areas zoned for such dealings.

No person shall engage in the storage, removal, transfer, unloading, offering for sale, trade or exchange, or in any manner dealing in liquid wastes in the city except at such locations as are provided for in the zoning provisions of this Code.

Sec. 86-323. - Accumulations and deposit.

No person shall deposit, cause to be deposited or permit to accumulate any liquid waste or liquid industrial waste upon any public or private premises within the city in such a manner so as to emit noxious or offensive odors or dust or to become unsanitary or injurious to public health.

Sec. 86-324. - Storage and treatment.

The following provisions shall govern the operation for storage and treatment of all liquid waste on any property, excluding industries generating such liquid wastes which do not store or treat such liquid wastes:

(1) Whenever liquid wastes are placed into any area for the purpose of removing liquids or portions of liquids from such waste, such liquid waste shall be placed in structures according to provisions as stated in this section.

(2) None of the liquid waste shall be allowed to spill outside of the structures, and, if it is spilled outside, it shall be removed immediately.

(3) No liquid waste shall be allowed to discharge on or into the groundwaters or surface waters.

(4) Any liquid waste which has spilled onto the apron around the structure shall be washed into the structure or removed from the apron immediately after the spillage.

(5) The entire area in which the structures are located shall be enclosed by a chain-link fence and a chain-link gate which shall be locked so as to prevent entrance by any unauthorized person when the area is unattended.

(6) No liquid waste shall be allowed to dry to the extent that the waste would generate dust.

(7) All liquid waste placed into any open structure shall be a minimum of six inches below the top of the structure at all times.

(8) Reasonable means shall be used to prevent any spillage from any vehicles while they are carrying any liquid waste on any street to and from the location of the liquid waste site. If there is any spillage, the spillage shall be removed immediately.

(9) Any person operating a facility handling liquid wastes shall have provisions for accumulating data so as to measure any dust being generated from the property because of the liquid waste. Such equipment shall be capable of monitoring the air on a 24-hour basis and shall be approved by the city, which approval shall be based upon the ability of the equipment to perform as required. Upon request, such information shall be furnished to the city.

(10) Every person operating a liquid waste disposal system shall be required to obtain a license and pay the fee as set by resolution of the city council from time to time and on file in city hall.

(11) All liquid wastes placed into the city sewer system shall meet all requirements of this article pertaining thereto.

(12) There shall be no storage of any liquid waste except for the purpose of treatment. All liquid wastes shall be treated within a reasonable time after being brought to the site.

Sec. 86-325. - Transporting vehicle standards.

All vehicles used for transporting liquid waste shall be completely sealed and shall be in good repair and free from any leaks so as to prevent spillage or discharge any place. All such vehicles shall be clean and odor-free prior to any movement on any city streets.

Sec. 86-326. - State approval required for deposit or storage on city lands.

When required, no person shall engage in the pickup or disposal of liquid waste material to deposit, discharge, store or stockpile such waste material on any lands in the city unless such land has been approved as a site for the disposal of such liquid waste by the state department of natural resources.

Sec. 86-327. - Use of storm drains, inlets, streets, or lands.

No person shall deposit or discharge any liquid waste material into any public or private storm drains, inlets, streets or lands.

Sec. 86-328. - Storage or treatment facilities require pollution prevention plan.

Any person desiring to operate a new facility for the storing or treating of liquid waste shall submit a pollution prevention plan to the city for approval at the time application is made for a building permit for the construction of any structures to be used primarily for the treatment, storage, transfer or handling of industrial wastes. The following shall be included:

- (1) Chemical composition of the liquid wastes to be processed or treated, including estimated volumes or quantities and identification of all toxic elements.
- (2) Chemical composition of the expected resultant effluent, subsequent to treatment, to be discharged to the city sewer, including estimated volumes per day and quantities of heavy metals.
- (3) Complete technological description of the treatment process, including complete plans and specifications of all equipment and structures to be used in the process or at the site.
- (4) Complete description of method of handling wastes, including transporting, loading, and unloading, as well as a description of equipment and vehicles used for handling wastes.
- (5) Location of approved disposal sites for any liquid wastes resulting from the company's processing that cannot be discharged into a city sewer.
- (6) Proof of licenses and permits that may be required from other governmental agencies for the hauling and disposal of liquid wastes.
- (7) List of the names and addresses of industries from which liquid wastes will be collected and transported to the facility for treatment, including estimated volumes of liquid waste from each industry and a description of such wastes.
- (8) Methods and equipment that will be used to monitor effectively and measure on a regular basis the quality of the air, groundwater and surface waters, soils and discharge to the city sewer system. Sampling and testing procedures shall be included in the plan as well as the frequency of such sampling and testing.

Sec. 86-329. - Inspection of liquid waste businesses.

The city by its authorized representatives shall have the right at all reasonable times to make inspections of any business subject to the provisions of this division governing liquid wastes.

Secs. 86-330—86-350. - Reserved.

Section 2. That this ordinance shall take effect on _____, 2024.

Section 3. That, because this ordinance required preapproval by state officials in compliance with federal and state regulatory requirements, MuniCode shall incorporate this ordinance into the Code of Ordinances, City of Wyoming, Michigan in exactly the format provided without changing any section numbering or other provisions.

I certify that this ordinance was adopted by the City of Wyoming at a regular session of the City Council held on _____, 2023.

Kelli A. VandenBerg
Wyoming City Clerk

Ordinance No. 16-23
Introduced: November 6, 2023
Adopted: December 18, 2023
Effective:

STAFF REPORT

Date: October 31, 2023
Subject: Utility Ordinance and Water Line Break – Sewer Backup Policy Amendments
From: Scott Smith, City Attorney
Myron Erickson, Public Works Director
Lisa Bartrum, Environmental Services Supervisor
Meeting Date: November 6, 2023

RECOMMENDATION:

Adopt the Ordinance to Amend Chapter 86, Article III of the City Code to Update the City's Sanitary Sewer Use Requirements.

COMMUNITY, SAFETY, STEWARDSHIP:

Community – Ownership and operation of the city's sanitary sewer system requires sanitary sewer system use requirements complying with state and federal laws, rules, and regulations, and with the city's National Pollution Discharge Elimination System (NPDES) permit in an ordinance approved by the Michigan Department of Environment, Great Lakes, and Energy (EGLE).

Safety – Adoption and enforcement of an approved sewer use ordinance protects the public's health and safety, and also protects the environment.

Stewardship – Periodic updates of a sewer use ordinance are required to comply with the city's NPDES permit thereby avoiding penalties for noncompliance and to ensure the city has the authority to impose fines on ordinance violators in amounts set by state and federal laws, rules, and regulations.

BUDGET IMPACT:

The proposed amendments will not impact the budget.

DISCUSSION:

EGLE recently reviewed the city's sewer use ordinance (last updated in 2018) and required certain amendments. One of the more significant amendments includes increases in fines that can be imposed from \$10,000 per day to \$25,000 per day in accordance with increases in fines that the EPA and EGLE can impose on the city for violations of its NPDES permit. Another was to incorporate limits for PFAS related substances. Most other changes were more technical in nature.