

**AGENDA**  
**WYOMING CITY COUNCIL MEETING**  
**CITY COUNCIL CHAMBERS**  
**MONDAY, JULY 1, 2024, 7:00 P.M.**

- 1) Call to Order**
- 2) Invocation** – Pastor Rick South, Abundant Life Church of God  
*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 June 17, 2024 Committee of the Whole Meeting and June 17, 2024 Regular Meeting
- 7) Approval of Agenda**
- 8) Public Hearings**  
*If you wish to speak to an item during a public hearing you are welcome to do so. It is important to note this is not an opportunity for dialog or debate; this is an opportunity to provide comment to the City Council. Comments made during a public hearing may become part of the meeting's permanent record. Upon approaching the podium, please begin by providing your name and address. There is a 3 minute limit per person.*
- 9) Public Comment on Agenda Items**  
*This public comment period is reserved for comment on agenda items only. If you wish to speak about an item that is not on the agenda, please hold your comments until the acknowledgement of visitors at the end of the meeting. It is important to note this is not an opportunity for dialog or debate; this is an opportunity to provide comment to the City Council. Upon approaching the podium, please begin by providing your name and address. There is a 3 minute limit per person.*
- 10) Presentations and Proclamations**
  - a) Presentations
  - b) Proclamations
- 11) Petitions and Communications**
  - a) Petitions
  - b) Communications
- 12) Reports from City Officers**
  - a) From City Council
  - b) From City Manager  
24-13 Acceptance of 3<sup>rd</sup> Transmission Main Project Easement (Van Buren Storage Condominium Association)
- 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 Stephanie McIntosh for her Service as a Member of the Community Development Committee for the City of Wyoming
- 15) Resolutions**
  - b) To Recognize Women at Risk International as a Nonprofit Organization

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

- c) To Accept an Amendment from All City Management Services, Inc. to Provide School Crossing Guard Services
- d) To Purchase Power DMS Modules
- e) To Accept a Quotation for the Purchase of an Armored Rescue Vehicle
- f) To Authorize the Purchase of Four Volcanic Police Ready Bicycles and Associated Equipment
- g) To Concur with the Purchase of a Replacement Police Patrol Vehicle (Budget Amendment No. 1)
- h) To Accept a Proposal for Employee Assistance Program (EAP) Services
- i) To Accept an Agreement from Eco-Counter Corporation for the Purchase of Four Pedestrian Counters
- j) To Purchase Two John Deere Gator Utility Vehicles
- k) To Concur with the Repair of a Street Sweeper and Authorize Payment to MacQueen Equipment LLC
- l) To Authorize the Purchase of Hot Rubber Crack Sealer and Material for Concrete Joint Repair
- m) To Accept a Proposal from Feyen Zylstra, LLC for Fiber Installation at the Clean Water Plant
- n) For Award of Bid
  - 1. Hook Tower Rehabilitation Project
- o) To Accept Amendment Number One and Amendment Number Two of the Water Sewer Rate Study Contract

**17) Ordinances**

- 4-24 To Amend Section 90-515 of the Code of Ordinances by Adding Subsection (142) to Rezone 5840 Wilson Avenue SW from ER Estate Residential District to R-4 Residential District (Final Reading)

**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 (Attorney Opinion and Pending Litigation)**

**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](mailto: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](mailto:Clerk_info@wyomingmi.gov) al menos 36 horas antes de la reunión para hacer arreglos para el alojamiento apropiado.*

# CITY OF WYOMING

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

July 1, 2024

Wyoming City Council  
Wyoming, Michigan

City Manager's Report No. 24-13

Subject: Acceptance of 3<sup>rd</sup> transmission main project easement

Councilmembers:

We continue to acquire easements needed for the 3<sup>rd</sup> transmission line project. I recommend City Council's approval of the following easement:

Grantor: Van Buren Storage Condominium Association  
Easement: Water transmission main vent easement  
Parcel #: 70-12-30-400-026  
Address: 5255 Lake Shore Drive, Holland MI 49424  
Consideration: \$2,000.00

I recommend the City Council approve the attached easements prepared by the City attorney.

Respectfully submitted,

Patrick Waterman  
Deputy City Manager

Attachment: Easement



**MEMORANDUM**

TO: City of Wyoming - Myron Erickson  
FROM: Deborah S. Poeder  
DATE: June 10, 2024  
RE: City of Wyoming Wastewater Treatment Project  
3<sup>rd</sup> Transmission Line - 98<sup>th</sup> Alignment

On behalf of the City of Wyoming a Water Transmission Main Vent Easement necessary for the above referenced project has been acquired as follows.

Van Buren Storage Condominium Association      \$2,000.00  
5255 Lake Shore Drive  
Holland, MI 49424

Enclosed is a copy of the signed Water Transmission Main Easement, along with the completed W-9 form. Please make payment directly to the property owner at the above addresses and send a copy of the payment check to us for our files.

We will have the City Attorney sign the document before sending it into the Ottawa County Register of deeds for recording. We will forward a copy of the Easement to the property owner and the original to you upon recording. If you have any questions, please give us a call. Thank you!

cc: Scott G. Smith, City Attorney

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**Land Matters Inc.**

488 Kinney Avenue NW, Grand Rapids, Michigan 49534  
Phone: 616.791.9805      Fax: 616.791.9815      [www.landmatters.com](http://www.landmatters.com)

### WATER TRANSMISSION MAIN VENT EASEMENT

The Grantor, **Van Buren Storage Condominium Association**, a non-profit organization, whose address is 5255 Lakeshore Drive, Holland, MI 49424, in exchange for the consideration of **Two Thousand Dollars and No Cents (\$2,000.00)**, the receipt and sufficiency of which is acknowledged, grants, and conveys to the **City of Wyoming, a Michigan municipal corporation of 1155 28<sup>th</sup> St SW, Wyoming, MI 49509 (City)** a permanent easement in, on, over, and under the real property described in the attached **Exhibit A** as the **Easement Area** for the purposes of constructing, installing, reconstructing, reinstalling, repairing, maintaining, replacing, improving, inspecting, monitoring, operating, using, air release vent appurtenant to underground water service transmission main that is located on other property as described or depicted in Exhibit A. This easement is subject to the following:

1. Grantor may continue to use the Easement Area subject to the following:
  - A. No buildings or other structures, including brick, block or stone walls, or fences may be constructed in the Easement Area. Nothing shall be placed in the Easement Area that covers or blocks access to the air release vent located above ground as described/depicted on Exhibit A.
  - B. Subject to subparagraph A, the Easement Area may be improved by landscaping other than minimal grading reasonably needed to address storm water flow, soils may not be removed from or regraded over the Easement Area without City's prior written approval. The Easement Area shall not be terraced or improved with a retaining wall.
2. Except for urgent or emergency situations, City entry upon and work within the Easement Area shall occur only after reasonable notice to Grantor.
3. After the initial construction of the water transmission main is completed, if work is undertaken in the Easement Area and any other disturbed areas of Grantor's property shall be restored, without expense to Grantor, to a condition reasonably like that existing immediately before that work. Landscape restoration will be by seeding of lawns, and trees and shrubs will be replaced with standard nursery stock of similar species. If Grantor locates them for City before work begins, underground irrigation or electronic pet fence wire will be manually cut, and City will reimburse Grantor reasonable costs Grantor incurs to repair cut lines and irrigation heads.
4. City's rights under this easement may be exercised by City's officers, employees, engineering and other consultants, contractors, and other designated agents and representatives.
5. This easement shall run with land as a perpetual easement for the benefit of City and City's water supply system. City may assign this easement to any successor of City in ownership and operation of City's water supply system.
6. This easement shall be binding on Grantor and Grantor's successors, heirs, assigns and all other owners of the property upon which the Easement Area is located. "Grantor" as used in this

easement includes Grantor as identified above and Grantor's successors, heirs, assigns and all other owners of the property upon with the Easement Area is located.

7. This easement may be modified only in writing with the approval of the Wyoming City Council.

Approved as a form:



Scott G. Smith, City Attorney

GRANTOR:

Van Buren Storage Condominium Association,  
a non-profit organization




By: David TenBrink  
Its: President

STATE OF MICHIGAN )  
COUNTY OF Ottawa

The foregoing instrument was acknowledged before me in Ottawa County, Michigan on this 19 day of March 2024, by David TenBrink, President of Van Buren Storage Condominium Association, a non-profit organization.

C GODDARD  
NOTARY PUBLIC - STATE OF MICHIGAN  
COUNTY OF OTTAWA  
My Commission Expires July 05, 2029  
Acting in the County of Ottawa

  
Notary Public  
State of Michigan, County of Ottawa  
My Commission Expires: 7/5/2029  
Acting in the County of Ottawa

Drafted by:  
Deborah S. Poeder  
Land Matters, Inc.  
488 Kinney Ave., NW  
Grand Rapids, MI 49534

Legal Description prepared by:  
Prein & Newhof  
3355 Evergreen Dr., NE  
Grand Rapids, MI 49525

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

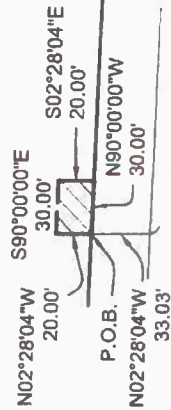
# EASEMENT SKETCH

## EXHIBIT "A"

**SUBJECT PARCEL (TAX DESCRIPTION)**  
 VAN BUREN STORAGE, AS RECORDED IN OTTAWA COUNTY REGISTER OF DEEDS, DOCUMENT NO. 2009-0032858, OTTAWA COUNTY CONDO PLAN 552 AND AMENDED IN DOCUMENT NO. 2023-0021814. PART OF SECTION 30, T6N, R15W, OLIVE TOWNSHIP, OTTAWA COUNTY, MICHIGAN.

**EASEMENT DESCRIPTION**  
 PART OF THE COMMON ELEMENT OF VAN BUREN STORAGE, AS RECORDED IN OTTAWA COUNTY REGISTER OF DEEDS, DOCUMENT NO. 2009-0032858, OTTAWA COUNTY CONDO PLAN 552 AND AMENDED IN DOCUMENT NO. 2023-0021814. PART OF SECTION 30, T6N, R15W, OLIVE TOWNSHIP, OTTAWA COUNTY, MICHIGAN, DESCRIBED AS: COMMENCING AT THE SOUTHEAST CORNER OF SAID SECTION 30; THENCE N90°00'00"W 978.94 FEET ALONG THE SOUTH LINE OF SAID SECTION; THENCE N02°28'04"W 33.03 FEET TO THE NORTH RIGHT OF WAY LINE OF VAN BUREN STREET AND THE POINT OF BEGINNING; THENCE CONTINUING N02°28'04"W 20.00 FEET; THENCE S90°00'00"E 30.00 FEET; THENCE S02°28'04"E 20.00 FEET TO THE NORTH RIGHT OF WAY LINE OF VAN BUREN STREET; THENCE N90°00'00"W 30.00 FEET ALONG SAID RIGHT OF WAY LINE TO THE POINT OF BEGINNING.  
 (600 SQUARE FEET)

### PART OF VAN BUREN STORAGE

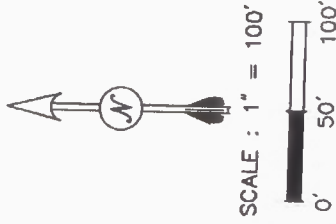


**VAN BUREN ST**  
 (66' PUBLIC R.O.W.)

S LINE, SEC 30, T6N, R15W

SE COR,  
 SEC 30,  
 T6N, R15W

136TH AVE  
 (VARIABLE WIDTH PUBLIC R.O.W.)  
 E LINE, SEC 30, T6N, R15W



-027

--028

-007

**Prein & Newhof**  
 Engineers • Surveyors • Environmental • Laboratory

3355 Evergreen Drive NE  
 Grand Rapids, MI 49525  
 www.preinnewhof.com  
 t. (616) 364-8491  
 f. (616) 364-6955  
 info@preinnewhof.com

CLIENT:  
 CITY OF WYOMING  
 2660 BURLINGAME AVE.  
 WYOMING, MI 49509

LOCATED IN : SECTION 30  
 TOWN 6 NORTH, RANGE 15 WEST  
 PORT SHELTON TOWNSHIP,  
 OTTAWA COUNTY, MICHIGAN  
 Date : 11/22/2023  
 Project No. 2180630

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

RESOLUTION OF APPRECIATION TO STEPHANIE MCINTOSH FOR HER SERVICE  
AS A MEMBER OF THE COMMUNITY DEVELOPMENT COMMITTEE  
OF THE CITY OF WYOMING

WHEREAS:

1. Stephanie McIntosh has served faithfully and effectively as a member of the Community Development Committee since September 8, 2020.

NOW, THEREFORE, BE IT RESOLVED:

1. Councilmembers and citizens of the City of Wyoming wish to express their deep appreciation to Stephanie McIntosh for her dedicated service as a member of the Community Development Committee.

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 July 1, 2024.

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



Charitable Gaming Division  
 Box 30023, Lansing, MI 48909  
 OVERNIGHT DELIVERY:  
 101 E. Hillsdale, Lansing MI 48933  
 (517) 335-5780  
 www.michigan.gov/cg

**LOCAL GOVERNING BODY RESOLUTION FOR CHARITABLE GAMING LICENSES**  
 (Required by MCL.432.103a(l)(ii))

At a regular meeting of the Wyoming City Council  
REGULAR OR SPECIAL TOWNSHIP, CITY, OR VILLAGE COUNCIL/BOARD

called to order by \_\_\_\_\_ on July 1, 2024  
DATE

at \_\_\_\_\_ a.m./p.m. the following resolution was offered:  
TIME

Moved by \_\_\_\_\_ and supported by \_\_\_\_\_

that the request from Women at Risk International of Wyoming,  
NAME OF ORGANIZATION CITY

county of Kent, asking that they be recognized as a  
COUNTY NAME

nonprofit organization operating in the community for the purpose of obtaining charitable

gaming licenses, be considered for \_\_\_\_\_.  
APPROVAL/DISAPPROVAL

APPROVAL

DISAPPROVAL

Yeas: \_\_\_\_\_

Yeas: \_\_\_\_\_

Nays: \_\_\_\_\_

Nays: \_\_\_\_\_

Absent: \_\_\_\_\_

Absent: \_\_\_\_\_

I hereby certify that the foregoing is a true and complete copy of a resolution offered and

adopted by the Wyoming City Council at a regular  
TOWNSHIP, CITY, OR VILLAGE COUNCIL/BOARD REGULAR OR SPECIAL

meeting held on July 1, 2024.  
DATE

SIGNED: \_\_\_\_\_  
TOWNSHIP, CITY, OR VILLAGE CLERK

Kelli A. VandenBerg, City Clerk

PRINTED NAME AND TITLE

1155 28th St SW, Wyoming, MI 49509-0905

ADDRESS

COMPLETION: Required.  
 PENALTY: Possible denial of application.

BSL-CG-1153(R4/24)



*Women At Risk*<sup>™</sup>  
INTERNATIONAL

2790 44TH ST. SW | WYOMING, MI 49519  
616-855-0796 | WARINTERNATIONAL.ORG

*Creating Circles of Protection Around Those at Risk*

June 6, 2024

City of Wyoming City Council  
1155 28<sup>th</sup> Street SW  
Wyoming MI 49509

City Council Members,

Women At Risk, International (WAR) has been a non-profit organization since 2007. The organization exists to unite and educate to create circles of protection around those at risk culturally sensitive, value-added intervention projects. We are most known for our rescue and aftercare for those trapped in several slavery incidents including women and babies in Wyoming.

In 2023 alone, the following are just a few accomplishments our organization was able to do:

- Provide 237 project or partnerships in 59 countries to date
- Raise \$60,248 for our 911 Rescue Fund in FY 2023
- Provide 10 anti-trafficking training conferences
- Provide 17 U. S. Military presentations and training conferences (including Germany)
- Partner with 123 local businesses in the sale of our glass ornaments for the rescue of those involved in human trafficking

As we continue to add new programs of intervention to our list of projects, we have been offered a chance to partner with an organization called Swan (Strong Women Arise Network). Swan is a professional organization for women in all stages of their careers. They are dedicated to supporting each other as they overcome obstacles, learn new skills and build relationships. Swan is hosting a women's conference in October of 2024 in which they will have a raffle allowing attendees to purchase donated items. The proceeds being contributed to support WAR and its outreach to those dealing with anti-trafficking.

WAR has applied to the State of Michigan for a one-day license to support these efforts for the raffle at the SwanCon event. We are asking the City of Wyoming to recognize Women At Risk, International and SWAN in our efforts to continue to raise funds for the WAR organization by allowing a charitable gaming license to proceed and be approved by the State of Michigan.

Sincerely,

Rebecca McDonald  
President & Founder

MICHIGAN DEPARTMENT OF LABOR & ECONOMIC GROWTH  
BUREAU OF COMMERCIAL SERVICES

u/

Date Received	ADJUSTED PURSUANT TO TELEPHONE AUTHORIZATION (FOR BUREAU USE ONLY)
	This document is effective on the date filed, unless a subsequent effective date within 90 days after received date is stated in the document.

**FILED** Tran Info: 12084607-1 08/24/06  
 Chk#: 5022 Amt: \$20.00  
 AUG 29 2008 ID: (CLOSE) DOOR MINISTRIES

Name <b>Rebecca McDonald</b>			
Address 4345 Sawkaw Dr NE, Ste A			
City Grand Rapids	State MI	Zip Code 49525	

Administrator  
BUREAU OF COMMERCIAL SERVICES  
EFFECTIVE DATE:

Document will be returned to the name and address you enter above. If left blank document will be mailed to the registered office.

**799759**

**ARTICLES OF INCORPORATION**  
**For use by Domestic Nonprofit Corporations**  
 (Please read information and instructions on the last page)

Pursuant to the provisions of Act 162, Public Acts of 1982, the undersigned corporation executes the following Articles:

**ARTICLE I**

The name of the corporation is: **Women at Risk International, Inc.**

**ARTICLE II**

The purpose or purposes for which the corporation is organized are:  
 Unite and educate women to provide protection and hope to women at risk, through global, culturally sensitive and value-added intervention projects.

**ARTICLE III**

1. The corporation is organized upon a Nonstock basis.  
 (Stock or Nonstock)

2. If organized on a stock basis, the total number of shares which the corporation has authority to issue is \_\_\_\_\_ . If the shares are, or are to be, divided into classes, the designation of each class, the number of shares in each class, and the relative rights, preferences and limitations of the shares of each class are as follows:

*[Handwritten signature]*

**ARTICLE III (cont.)**

3. a. If organized on a nonstock basis, the description and value of its real property assets are: (if none, insert "none")

*None*

b. The description and value of its personal property assets are: (if none, insert "none")

None

c. The corporation is to be financed under the following general plan:

Contributions

d. The corporation is organized on a Directorship basis.  
(Membership or Directorship)

**ARTICLE IV**

1. The address of the registered office is:

4345 Sawkaw Drive NE, Ste A

Grand Rapids

Michigan

49525

(StreetAddress)

(City)

(ZIP Code)

2. The mailing address of the registered office, if different than above:

PO Box 2513

Grand Rapids

Michigan

49501

(Street Address or P.O. Box)

(City)

(ZIP Code)

3. The name of the resident agent at the registered office is:

Rebecca McDonald

**ARTICLE V**

The name(s) and address(es) of the incorporator(s) is (are) as follows:

Name

Residence or Business Address

Rebecca McDonald

4345 Sawkaw Drive NE, Ste A, Grand Rapids MI 49525

Use space below for additional Articles or for continuation of previous Articles. Please identify any Article being continued or added. Attach additional pages if needed.

I, (We), the incorporator(s) sign my (our) name(s) this 26th day of August, 2006.

Rebecca S. McDonald

4345 Sawkaw Dr NE, Ste A

Brand Rapids, MT 49525

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

<b>MICHIGAN DEPARTMENT OF CONSUMER &amp; INDUSTRY SERVICES BUREAU OF COMMERCIAL SERVICES</b>	
Date Received	<i>Carolin</i> (FOR BUREAU USE ONLY) <b>FILED</b> REGISTERED PURSUANT TO TELEPHONE AUTHORITY ACT MAR 02 2007 This document is effective on the date filed, unless a subsequent effective date within 90 days after received date is stated in the document. Administrator BUREAU OF COMMERCIAL SERVICES
Name	Trans Info: 12648347-1 02/28/07 Chk#: 526 Amt: \$10.00 ID: CLOSED DOOR INDUSTRIES  EFFECTIVE DATE:
Address	
City State Zip Code	
Rebecca McDonald 4345 Sawkaw Dr NE, Ste A Grand Rapids MI 49525	

Document will be returned to the name and address you enter above. If left blank document will be mailed to the registered office.

### CERTIFICATE OF AMENDMENT TO THE ARTICLES OF INCORPORATION

For use by Domestic Profit and Nonprofit Corporations  
(Please read Information and instructions on the last page)

Pursuant to the provisions of Act 284, Public Acts of 1972 (profit corporations), or Act 162, Public Acts of 1982 (nonprofit corporations), the undersigned corporation executes the following Certificate:

1. The present name of the corporation is: Women at Risk International, Inc.
2. The identification number assigned by the Bureau is: <span style="border: 1px solid black; padding: 2px 20px;">799759</span>

3. Article VI of the Articles of Incorporation is hereby amended to read as follows:

**ARTICLE VI  
LIABILITY AND INDEMNIFICATION**

Section 1. Director and Officer Liability. A <sup>volunteer</sup> director or officer is not personally liable to the Corporation for monetary damages for a breach of fiduciary duty. This provision shall not eliminate or limit the liability of a <sup>volunteer</sup> director or officer for any of the following:

- a. A breach of the duty of loyalty to the Corporation or its members.
- b. Acts of omission not in good faith or that involve intentional misconduct or a knowing violation of law.
- c. A violation of Section 551(1) of the Michigan Nonprofit Corporation Act (M.C.L.A. Section 450.2551(1)).
- d. A transaction from which the director or officer derived an improper personal benefit.
- e. An act or omission occurring before the effective date of the <sup>amendment</sup>
- f. An act or omission that is grossly negligent.

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**FILED**

<b>MICHIGAN DEPARTMENT OF LABOR &amp; ECONOMIC GROWTH BUREAU OF COMMERCIAL SERVICES</b>		
Date Received	(FOR BUREAU USE ONLY)	AUG 01 2007
	<b>Adjusted Pursuant to Telephone Authorization</b>	Administrator BUREAU OF COMMERCIAL SERVICES
	This document is effective on the date filed, unless a subsequent effective date within 90 days after received date is stated in the document.	Tran Info: 1 131 MS23-1 07/31/07 CARR: 5449 Amt: \$10.00 IO: CLOSED COR INDUSTRIES
Name Rebecca McDonald		EFFECTIVE DATE:
Address 4345 Sawkaw		
City Grand Rapids	State MI	

Document will be returned to the name and address you enter above. If left blank document will be mailed to the registered office.

### CERTIFICATE OF AMENDMENT TO THE ARTICLES OF INCORPORATION

For use by Domestic Profit and Nonprofit Corporations  
(Please read Information and Instructions on the last page)

Pursuant to the provisions of Act 284, Public Acts of 1972, (profit corporations), or Act 162, Public Acts of 1982 (nonprofit corporations), the undersigned corporation executes the following Certificate:

1. The present name of the corporation is:	Women At Risk International, Inc
2. The identification number assigned by the Bureau is:	749759

3. Article VII of the Articles of Incorporation is hereby amended to read as follows:

- 1.) This organization is organized exclusively for charitable, religious, educational, and scientific purposes under section 501 (c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code.
- 2.) Upon the dissolution of this organization, assets shall be distributed for one or more exempt purposes within the meaning of section 501 (c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code, or shall be distributed to the federal government, or to a state or local government, or for a public purpose.

RK

6. (For a nonprofit corporation whose Articles state the corporation is organized on a directorship basis.)

The foregoing amendment to the Articles of Incorporation was duly adopted on the 15th day of February, 2007 by the directors of a nonprofit corporation whose articles of incorporation state it is organized on a directorship basis (check one of the following)

at a meeting the necessary votes were cast in favor of the amendment.

by written consent of all directors pursuant to Section 525 of the Act.

Signed this 15th day of February, 2007

By Rebecca McDonald  
(Signature of President, Vice-President, Chairperson or Vice-Chairperson)

Rebecca McDonald  
(Type or Print Name)

President  
(Type or Print Title)

6. (For a nonprofit corporation whose Articles state the corporation is organized on a directorship basis.)

The foregoing amendment to the Articles of Incorporation was duly adopted on the 27th day of July, 2007 by the directors of a nonprofit corporation whose articles of incorporation state it is organized on a directorship basis (check one of the following)

- at a meeting the necessary votes were cast in favor of the amendment
- by written consent of all directors pursuant to Section 525 of the Act.

Signed this 27th day of July, 2007

By Rebecca McDonald  
(Signature of President, Vice-President, Chairperson or Vice-Chairperson)

Rebecca McDonald President  
(Type or Print Name) (Type or Print Title)

# **Board of Directors Meeting**

## **Women At Risk, International**

May 17, 2024

### **Corporate Officers**

**President: Rebecca McDonald**

**Secretary: Lisa Maskill**

**Treasurer: Laura Birt**

### **Directors**

**Birt, Laura (Treasurer)**

336 Country Lane  
Lenoir City, TN 37771

Board Member Service began Fall of 2017  
(re-election of 3-year term will be addressed in Fall 2026)

**Maskill, Audrey**

7382 Wilkinson DR NE  
Rockford, MI 49341

Board Member Service began in Fall of 2008  
(re-election of 3-year term will be addressed in Fall 2026)

**Maskill, Lisa (Secretary)**

6973 Wildermere Dr NE  
Rockford, MI 49341

Board Member Service began Fall of 2013  
(re-election of 3-year term will be addressed in Fall 2025)

**McDonald, Philip (Chairman)**

9146 24<sup>th</sup> Ave  
Jenison, MI 49428

Board Member Service began in Fall of 2008  
(re-election of 3-year term will be addressed in Fall 2024)

**McDonald, Rebecca (President)**  
9146 24<sup>th</sup> Ave  
Jenison, MI 49428

Board Member Service began in Fall of 2008  
(re-election of 3-year term will be addressed in Fall 2026)

**Shane, Amy**  
7190 South Polo Ridge Dr.  
Littleton, CO 80128

Board Member Service began in Fall of 2008  
(re-election of 3-year term will be addressed in Fall 2025)

**Smith, Arlene (Vice-Chairman)**  
540 Laurelwood Dr.  
Winchester, VA 22602

Board Member Service began Fall of 2017  
(re-election of 3-year term will be addressed in Fall 2023)

# MINUTES

## Women At Risk Department Head Meeting

September 14, 2023 |

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### In Attendance

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Beck McDonald, Cheryl Zuidema, Carol Hedg-peth, Ferudun Gulbahar, Joy Dauber, Daphne Nieboer

Absent: Amy Laux, Shelley Marinus

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### Worship

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Becky opened the meeting with prayer.

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### New Business: Becky McDonald

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Becky advised of the following staff changes.

- Sierra Bieler has been hired as the Administrative Assistant.
- Alice Scholten will be leaving WAR at the end of September
- Jackie Hollis will be splitting her time between the USTC and Accounting.

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### President's Report: Becky McDonald

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- Recent speaking events were held in CO, OH, IL, IN, MI
- Upcoming trips include AZ, KY, ME, IL, NY
- We have scheduled a Micro-Enterprise trip for Feb/March of 2024
- We have scheduled a CFR for January 13, 2024.
- Bieler's are visiting WAR in December.
- WAR's programs are being evaluated and compacted.
- Becky distributed the book "Strengths Finder". She encouraged all to read the book. Take the test and turn your test results into Cheryl. Results due end of October. Concentrate on your strengths.
- WAR's next Board meetings are November 10, 2023 and May 17, 2024.

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### Administration: Cheryl Zuidema

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- Cheryl has created a work schedule/vaca schedule calendar for staff scheduling. In addition, a calendar has been created for signing out the USTC and/or USTC conference room area. All have been given access rights to both calendars.
- It is easily seen that all staff members are busy at their jobs. However, sometimes special requests for assistance are needed. Please encourage your staff members to reach out and help others. The requests are few, the result is great.
- When time permits, the S drive is slowly being cleaned-up. For instance, there are many copies of the same document out there, in different folders, with different versions. "Old" versions are being archived with the most current version being kept as the template. This is an on-going project.

- When Sierra moves to GR, she will be trained as a store back-up cashier. She will be the first back-up to the store. Until then, please encourage staff that is trained in the store, to be available if needed.
- In the next few months, we will have safety training meetings. Everyone that works in the building will be trained on and shown where .... The water shut-off's are, the main electrical control panels are, how to work a fire extinguisher, where the leak detectors are, carbon detectors, water heaters, etc. We will walk through the building and identify these items and their locations.

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### Boutique Report: Joy Dauble

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- Various reports showing sales compared to last year were reviewed. Joy also reviewed the to date status of the outdoor market sales. It appears that this year, the outdoor market has provided additional sales to the store along with noticeable foot traffic due to people stopping to see what was in the outdoor market.
- Joy is now coordinating the wording and design of the digital sign in front of the building.
- We have two upcoming events in the store - - Coffee With A Cop and Treats & Tales.
- Coffee With A Cop: it was suggested that neighboring senior living homes be contacted in order to bring in people to the event and boutique. Also contact nearby Churches that have senior groups.
- Treats & Tales: contact neighboring day cares and/or provide flyers for the children to take home and show their parents. Also advertise or contact with local churches that this is a fun, free event.
- For the Treats & Tales event, employees Daphne, Joy, Shelley and Cheryl will be available to help with the children and events. All will be dressing as 'princesses'.
- Joy and Amy are currently working on a promo for Black Friday.
- A discussion took place regarding returns. Going forward, all returns must be accompanied by a receipt. Joy will work with Amy on drafting a return policy statement to go on all receipts. Joy will take the lead on the project and work with Fer (to get the statement on receipts) and Audrey (to create a label to adhere to the current order forms that are in-house). She will then work with Shelley to have volunteers stick the labels on the order forms.

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### Finance Report: Carol Hedg-peth

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- Carol will be working with the copier machine provider to determine if we keep our current machines and/or trade them in as our contracts are coming to an end.
- Carol is busy working on securing building insurance.
- The auditors will be here the last 2 weeks of September.
- Representatives from Aflac have visited WAR and are offering optional insurances for purchase by employees.
- Carol will develop a policy in regards to the safes and who has the codes. The policy must include a plan for the safes with a 2-person passcode entry (the 2 people must be in the building each day).
- With Alice leaving the organization, we have reorganized responsibilities within the department. Jackie is training with Alice and will join Accounting on a pt basis. We also are advertising for a pt Accounts Payable person.

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### IT Report: Ferudun Gulbahar

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- Fer has installed water detection monitors throughout the building and will be alerted if there is any type of surge in water usage.
- Fer will be installing carbon monoxide detectors throughout the building in the next week.

- Fer has also installed door monitors that alert him if a building door is left ajar.
- We currently have 5 window server licenses.
- All equipment is 'healthy' in the server room.

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### Marketing Report: Amy Laux (reported by Cheryl Zuidema)

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- Amy is concerned about the workload of the Marketing Department.  
RESPONSE (Becky): Additional assistance for marketing has been delayed due to Sierra not moving to Grand Rapids until January.
- Amy has launched a new form for advertising any public event. By completing this form, it auto populates a spreadsheet that she uses for timelines and when events need to be added to the web, constituent letters sent, etc. If you have a public event that needs to be advertised, connect with Amy so she can direct you to this Google form.
- Amy is urgently working on the following projects:
  - Giving Tuesday Campaign (launches in October)
  - Promotional Ideas to drive business into the boutique and on-line
  - Holiday Sales Promo's (Black Friday and Cyber Monday)
  - The Holiday Lookbook is being worked on and will be ready for release shortly.
- Becky discussed the upcoming and future of The Look Books. The Look Books are an expensive way to showcase our products. Is it worth it? What other ways could we promote the products without the high expense of The Look Book? The following ideas were suggested.
  - Social Media
  - Constant Contact List

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### Product Report: Daphne Neiboer

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- Daphne advised that we have a posting for a Product Assistant.
- Daphne would like to hire additional staff for seasonal help. We are looking especially for a few people that can lift trees. NOTE: Becky suggested contacting the local Christian schools or put a posting in a Church bulletin.
- Daphne and her team are over half way through the ornament order (unpacking and stocking).
- Jane is making calls to local businesses and coordinating the ornament campaign deliveries.
- The website sales volume is down compared to previous years. Daphne requested suggestion on how to improve these sales. An in-depth discussion took place on our web sales, web layout, etc. Some suggestions for improvement are:
  - Ask people to review us on Google. Get more visible.
  - Add a QR code to the price tags and add a sticker on our entranceway doors were a few ideas.
  - Provide a 10% off coupon for those that immediately for those that do a review.
  - Optimize our key words within the website for Google search matches.
- Becky requested that Daphne provide Cheryl with a list of on-line customers for the month. Cheryl will work with Sierra on getting those names into Abilia.

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### Volunteers: Shelley Marinus – reported by Cheryl

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- Shelley continues to bring in volunteer groups to WAR. Some of the group projects being worked on or completed are:

- Sorted through the new, donated clothing for our surviving women. Clothes were sorted and distributed as needed. In addition, we have separated small totes of clothing in each size to keep at WAR HQ in case it is needed immediately by a woman in need.
- All unused offices are being emptied of remaining office supplies (file racks, paper clips, etc.). These items will be sorted and restocked in the copy room.
- Closets, hide-away storage areas are slowly being gone through to determine usage and where the times should go.

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### Program Focus and Trip Reports: Becky McDonald

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- Becky is working on a review of the organizations programs that are offered. She will be slowly discontinuing the programs that are no longer providing valuable output.
- Becky gave a report on her recent travels and what is coming up in the next few months. While she is out, continue to issues to Cheryl that need resolution. She will resolve or contact Becky for direction.

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### Closing Devotion: Becky McDonald

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Becky gave a closing devotion on Salt.

1. Salt brings flavor out in foods.
  - a. For us, flavor provides grace.
2. Salt is a binding agent. It solidifies food.
  - a. For us, salt provides unity. It pulls people in. It gives you connections to your community.
3. Salt preserves. It purifies and softens water.
  - a. For us, salt has us take people in that the world does not want.
4. Salt makes us thirsty.
  - a. For us, salt is empowering. It makes us thirsty for Christ.
5. The most identifiable danger of salt is contamination.
  - a. For us, don't let salt contaminate your life. Give grace. Be the one that provides unity. Be the one to welcome your neighbor in off the street. Be thirsty.

Submitted by:  
Cheryl Zuidema  
Executive Assistant

# ALL STAFF MEETING

February 1, 2024

## AGENDA | Meeting Minutes

### Becky McDonald: Open with Prayer | Devotion

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#### What's happening?

- Welcome to John Ehnis as Interim Controller (replacing Carol Hedg-peth), reports directly to Becky
- Welcome to Sierra as new Administrative Assistant, reporting to Cheryl
- Open positions remaining are the Controller, Call Center Supervisor, Accounts Payable Associate
- Congratulate Liz Midkiff on becoming a WAR Ambassador

#### Housekeeping:

- Keep a list by your desk for things volunteers could do
- Volunteers – say hello, greet them, thank them

#### Recent Events & Trips:

- Taught class at Wheaton College
- Christmas Teas
- CFR Conference – successful even w/ weather
- **NOTE:** Both of these events required varied work schedules and/or extra hours. Both events were successful ..... \*\* thank you to staff that participated and made these events happen.
- The next Board of Directors meetings are May 17, 2024 and November 11, 2024.
- Presentations at Bosch Industries, Calvary Baptist Church (KY), Jamestown Baptist Church, Educational Environment Leadership Class (high schoolers), Women's Literary Club in Holland, ChapelStreet (IL), Breakaway Conference (AZ)

#### Upcoming Trip:

- February 10 – April 2: Becky will be traveling to India, Thailand, Zambia,
- March 16: Micro-enterprise Conference where women will be taught the art of stringing tinsel in their hair and nail art. Empowering women to work with dignity & pride. Learning skills to provide an income for themselves and their families. Day will include lunch, tea, games and skill building sessions.
- Advise staff of emergency protocols (who is in charge, who to contact)

#### Around the Table:

- No discussion from around the table.

#### Closing with Prayer:

- Becky closed the meeting with prayer.

INTERNAL REVENUE SERVICE  
P. O. BOX 2508  
CINCINNATI, OH 45201

DEPARTMENT OF THE TREASURY

Date: OCT 23 2007

WOMEN AT RISK INTERNATIONAL INC  
4345 SAWKAW DR NE STE A  
GRAND RAPIDS, MI 49525-6517

Employer Identification Number:  
77-0664609  
DLN:  
17053060029037  
Contact Person:  
DONNA ELLIOT-MOORE ID# 50304  
Contact Telephone Number:  
(877) 829-5500  
Accounting Period Ending:  
June 30  
Public Charity Status:  
170(b)(1)(A)(vi)  
Form 990 Required:  
Yes  
Effective Date of Exemption:  
August 29, 2006  
Contribution Deductibility:  
Yes  
Advance Ruling Ending Date:  
June 30, 2011  
Addendum Applies:  
No

Dear Applicant:

We are pleased to inform you that upon review of your application for tax exempt status we have determined that you are exempt from Federal income tax under section 501(c)(3) of the Internal Revenue Code. Contributions to you are deductible under section 170 of the Code. You are also qualified to receive tax deductible bequests, devises, transfers or gifts under section 2055, 2106 or 2522 of the Code. Because this letter could help resolve any questions regarding your exempt status, you should keep it in your permanent records.

Organizations exempt under section 501(c)(3) of the Code are further classified as either public charities or private foundations. During your advance ruling period, you will be treated as a public charity. Your advance ruling period begins with the effective date of your exemption and ends with advance ruling ending date shown in the heading of the letter.

Shortly before the end of your advance ruling period, we will send you Form 8734, Support Schedule for Advance Ruling Period. You will have 90 days after the end of your advance ruling period to return the completed form. We will then notify you, in writing, about your public charity status.

Please see enclosed Publication 4221-PC, Compliance Guide for 501(c)(3) Public Charities, for some helpful information about your responsibilities as an exempt organization.

Letter 1045 (DO/CG)

WOMEN AT RISK INTERNATIONAL INC

Sincerely,

A handwritten signature in cursive script that reads "Robert Choi". The signature is written in dark ink and is positioned above the typed name and title.

Robert Choi  
Director, Exempt Organizations  
Rulings and Agreements

Enclosures: Publication 4221-PC  
Statute Extension

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

RESOLUTION TO ACCEPT AN AMENDMENT FROM  
ALL CITY MANAGEMENT SERVICES, INC.  
TO PROVIDE SCHOOL CROSSING GUARD SERVICES

WHEREAS:

1. As detailed in the attached staff report, All City Management Services, Inc. has provided the City with an amendment to the existing agreement to provide school crossing guard services through June 30, 2026.
2. It is recommended the City Council accept the amendment.
3. It is estimated the City will spend approximately \$319,065.30 for the crossing guard services.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council accepts an amendment from All City Management Services, Inc. to provide crossing guard services.
2. The City Council authorizes the Mayor and City Clerk to sign the amendment.

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 July 1, 2024.

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

ATTACHMENTS:

Staff Report  
Amendment

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

## Staff Report

Date: June 19, 2024  
Subject: All City Management Services Crossing Guard Contract Extension  
From: Capt. Eric Wiler  
Meeting Date: July 1<sup>st</sup>, 2024

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### **PURPOSE:**

It is recommended City Council authorize an extension of a two-year contract between the City of Wyoming and All City Management Services, Inc. for the City's school crossing guard needs.

### **ALIGNMENT WITH STRATEGIC PLAN:**

- PILLAR 2 – SAFETY

### **DISCUSSION:**

According to Michigan law, the function of school crossing guards is the responsibility of the local law enforcement agency having jurisdiction over the crossing. Our children walking to and from their homes to school require safe transit and the crossing guard program helps insure that. Contracting this service has been shown to reduce demand on police officers and police supervisors, freeing them to complete more specialized and technical law enforcement tasks, while providing a competent and properly supervised program.

The City of Wyoming began contracting crossing guard services in May of 2013. City Council Resolution number 24477 dated May 20, 2013 authorized this and resolved that future renewals could be made with consent of the City Manager in accordance with budget authorization. The current contract expired on June 30, 2024 and the vendor, All City Management Services, Inc. has offered a two-year renewal. The City Attorney has prepared the contract for signing should you approve the extension.

### **BUDGET IMPACT:**

The total estimated cost of the two-year contract is \$319,065.30. Monies are budgeted for this purpose and are available in budget line 205-301-31600-956.000.

Attachment:  
All City Management Services Crossing Guard Contract.



# ALL CITY MANAGEMENT SERVICES

## **Amendment to Agreement between All City Management Services, Inc. and the City of Wyoming providing School Crossing Guard Services**

The **City of Wyoming** hereinafter referred to as the "City" and **All City Management Services, Inc.**, located at 10440 Pioneer Blvd Ste. 5, Santa Fe Springs, CA 90670, hereinafter referred to as the "ACMS", mutually agree to amend the existing Agreement entered into on July 1, 2021 as follows:

### **2. City Obligations – A. Pay ACMS as follows:**

1. Payments shall be at \$32.57 per hour for the 2024/2025 school year for services provided by Crossing Guards under this Contract. The total hours projected for such services based on a school calendar with 180 instructional days during which students are present is 4,770 hours at twelve (12) different sites. The total project amount to be paid to ACMS not-to-exceed \$155,358.90.
- a. Payments shall be at \$34.32 per hour for the 2025/2026 school year for services provided by Crossing Guards under this Contract. The total hours projected for such services based on a school calendar with 180 instructional days during which students are present is 4,770 hours at twelve (12) different sites. The total project amount to be paid to ACMS not-to-exceed \$163,706.40.
- b. If the City changes either the hours of Crossing Guard services each day (e.g. determines service need to be provided over a longer period of time), the calculations above shall correspondingly change.

### **7. Term and Termination**

This Contract will be in effect from July 1, 2024 through June 30, 2026. However, the obligations under section 5 of this Contract shall remain in effect until all Claims that may have accrued during the term of the Contract have been fully addressed or are barred by applicable statutes of limitations.

- A. Either party may terminate this Contract upon 60 days prior written notice to the other Party.
- B. This contract may be extended without amendment upon a written acknowledgement by ACMS Rep and the City Manager of the hourly rate to be applied during and the length of any such extension.

Except as provided for in Item #2 and Item #7, all other terms and conditions of the original Agreement and Amendments thereto between the City and the ACMS remain in effect.

**[SIGNATURES FOLLOW ON NEXT PAGE]**

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year written below.

**City of Wyoming**

**All City Management Services, Inc.**

By \_\_\_\_\_  
Signature

By \_\_\_\_\_  
Demetra Farwell, Corporate Secretary

Kent Vanderwood, Mayor  
Print Name and Title

Date \_\_\_\_\_

By \_\_\_\_\_  
Kelli VandenBerg, Wyoming City Clerk

Approved as to form:

  
\_\_\_\_\_

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

RESOLUTION TO PURCHASE POWER DMS MODULES

WHEREAS:

1. On November 7, 2022, City Council approved resolution number 27513 authorizing the purchase of Power Engage, Power Time, and Power FTO DMS modules.
2. As detailed in the attached staff report, NEOGOV has provided the City with a two year proposal to cancel the Power Engage module and purchase the Power Training and Power Vitals DMS modules.
3. It is recommended City Council accept the proposal in the total estimated amount of \$16,652.63.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council accepts the proposal from NEOGOV in the total estimated amount of \$16,652.63.
2. The City Council authorizes the Mayor and City Clerk to sign the contract.
3. The City Council authorizes the City Manager to accept future agreements in accordance with budget authorization.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried      Yes  
                                    No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on July 1, 2024.

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

Attachments:

Staff Report

Proposal/Service Agreement

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

## Staff Report

Date: June 24, 2024  
Subject: Purchase of Additional PowerDMS Technology Modules  
From: Capt. Eric Wiler  
Meeting Date: July 1, 2024

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### **PURPOSE:**

It is recommended City Council authorize the Department of Public Safety – Police to purchase two PowerDMS modules called Power Vitals and Power Training. Both modules have recurring annual subscription fees which are described below in the discussion and budget impact sections of this report.

### **ALIGNMENT WITH STRATEGIC PLAN:**

- PILLAR 2 – SAFETY

### **DISCUSSION:**

PowerDMS offers several different web-based platforms for various law enforcement tasks. The Police Department has been utilizing one of their products, Power DMS, to manage CALEA accreditation workflow for approximately six years. Approximately three years ago, we added a module that allows us to manage and track our policies. Our experience with PowerDMS has been extremely positive, and both of those modules have provided significant boosts in efficiency.

On November 7<sup>th</sup>, 2022, the City Council approved the purchase of three PowerDMS modules, Power Engage, Power Time, and Power FTO, under resolution number 27513. That resolution authorized the police department to purchase the three products and stated that we would re-evaluate maintaining them if they did not meet our needs.

The Power Time and Power FTO products have met and/or exceeded our needs and we will continue utilizing them. Power Engage has not performed as expected, and we have experienced receiving inaccurate data when running analytics. These inaccurate data skew statistics and require manual data corrections, which is time-consuming and inefficient. We have worked with PowerDMS to cancel our subscription to Power Engage and replace it with two other modules, Power Training, and Power Vitals if approved by the Council.

Power Training: This training solution allows us to create, deliver, and track training content online, including videos and PowerPoint presentations. It integrates with the policy and CALEA

standards modules to ensure compliance. Furthermore, this module will be used to demonstrate compliance with the newly enacted Continuing Professional Education requirements of Public Act 1 of 2023 (PA1). PA1 requires licensed law enforcement officers in the State of Michigan to receive specified annual training as a condition of maintaining their law enforcement license.

Power Vitals: This is a PowerDMS module that improves officer wellness through the use of an app that provides officers with physical and mental wellness education, easy access to mental wellness support services, anonymous peer-to-peer texting abilities, and provides the department with insight into our wellness needs. It also assists in identifying the true impact that traumatic stress has on an officer and provides assistance plans to help provide them with the resources they need. Power Vitals will work in conjunction with the newly approved behavioral health specialist position.

As noted earlier, Power Training and Power Vitals both have recurring annual subscription fees, and Power Vitals has a one-time set-up fee. Due to the configuration of the modules and how they interact with our other PowerDMS products, the contract start and end dates vary between Power Training and Power Vitals. Power Training will renew on July 1<sup>st</sup> each year as it aligns with our policy and CALEA standards contract, and Power Vitals will renew on November 30<sup>th</sup> each year as it replaces the Power Engage contract. A credit of \$3,797.96 will be applied to our account for the unused portion of the Power Engage contract (July 1<sup>st</sup>, 2024 – November 29<sup>th</sup>, 2024).

We are requesting the Council approve \$1,691.00 for the purchase of the Power Training module. We are also requesting approval of \$4,836.63 for the prorated bridge and set-up of the Power Vitals module to cover July 1<sup>st</sup>, 2024 – November 29<sup>th</sup>, 2024, and \$10,125.00 to cover the Power Vitals subscription from November 30<sup>th</sup>, 2024 – November 29<sup>th</sup>, 2025.

In order to meld with the PowerDMS technology currently utilized by the Department of Public Safety, the two additional PowerDMS modules will be a sole-source purchase.

The City Attorney and Information Technology Department have weighed in and approved of these purchases and the form of the contract (attached).

#### **BUDGET IMPACT:**

If approved, \$6,627.63 will be paid to PowerDMS (NEOGOV) in July 2024 and \$10,125.00 will be paid to PowerDMS (NEOGOV) in November 2024 for the purchase of Power Training and Power Vitals. Monies are available for these purchases in the Police Admin – Software Services account 205-301-30500-806.000. It is anticipated that future renewals of these modules will be approximately \$1,500 more than our current annual fees for PowerDMS.

Attachment:  
Contract

Contract Records		Order Details	
<b>Account Number:</b>	A-1207	<b>Order #:</b>	Q-255462
<b>Customer:</b>	Wyoming Police Department (MI)	<b>Valid Until:</b>	6/30/2024
<b>Employee Count:</b>	120		
<b>Sales Rep:</b>	Jared Goldberg		

Customer Contact		Shipping Contact :	
<b>Billing Contact:</b>	Wyoming Police Department (MI) Megan Baas	<b>Shipping Contact :</b>	Wyoming Police Department (MI) Megan Baas
<b>Billing Address:</b>	2300 DeHoop Avenue SW Wyoming, MI 49509	<b>Shipping Address:</b>	2300 DeHoop Avenue SW Wyoming, MI 49509
<b>Billing Contact Email:</b>	baasm@wyomingmi.gov	<b>Shipping Contact Email:</b>	baasm@wyomingmi.gov
<b>Billing Phone:</b>		<b>Shipping Phone:</b>	

Payment Terms		Notes: Annualized Engage Credit (\$9,200.81) First term annualized additional products Training & Vitals (\$9,284.75)	
<b>Payment Term:</b>	Net 30		
<b>PO Number:</b>			
<b>Subscription Service</b>			

Engage Subscription

Item	Type	Start Date	End Date	Qty	Price	Total (USD)
PowerEngage LE Subscription	Recurring	7/1/2024	11/29/2024	-115	\$-9,200.81	\$-3,797.96
Automated text message / text survey platform for law enforcement agencies sent based on interaction with a single department. Includes Rules Engine, Survey Builder - about the agency or officers, Measurement Dashboards, Task Creation and Positive Feedback. Includes connection to agency Computer Aided Dispatch (CAD) and Law Records Management System (RMS). Does not include fees, if any, charged by the CAD or RMS vendor.						
<b>Engage Credit TOTAL:</b>						\$-3,797.96

Activate PowerTraining

Item	Type	Start Date	End Date	Qty	Price	Total (USD)
PowerTraining	Recurring	7/1/2024	6/30/2025	124	\$1,691.00	\$1,691.00
A training solution that lets you create, deliver, and track training content online, including videos and PowerPoint presentations. It integrates with PowerPolicy Select and Professional, giving you the ability to attach policies to training courses while ensuring version control. Quantity reflects number of authorized user licenses for the software-as-a-service subscription.						
<b>Activate PowerTraining TOTAL:</b>						\$1,691.00

Activate PowerVitals - Prorated Bridge

Item	Type	Start Date	End Date	Qty	Total (USD)
PowerVitals Subscription	Recurring	7/1/2024	11/29/2024	1	\$3,134.59
The PowerVitals Annual subscription provides an agency-specific license for the use the PowerVitals module that provides tracking of indicators, alerts and assistance plans for early indication and intervention of officers by supervisors.					
PowerVitals Setup	Services	--	--	1	\$5,500.00
The one-time implementation fee to build the site includes access to online resources , system configuration training, train the trainer,user-materials, and an implementation consultant.					
<b>Activate PowerVitals - Prorated Bridge TOTAL:</b>					\$8,634.59

Activate PowerVitals - Prorated Bridge

Item	Type	Start Date	End Date	Qty	Total (USD)
PowerVitals Subscription	Recurring	11/30/2024	11/29/2025	1	\$10,125.00
The PowerVitals Annual subscription provides an agency-specific license for the use the PowerVitals module that provides tracking of indicators, alerts and assistance plans for early indication and intervention of officers by supervisors.					
<b>Activate PowerVitals - Prorated Bridge TOTAL:</b>					<b>\$10,125.00</b>

<b>Year 1 TOTAL:</b>	6,527.63
<b>Year 2 TOTAL:</b>	\$10,125.00
<b>Total:  </b>	<b>\$16,652.63</b>

**This price does NOT include any sales tax. Total in USD**

**Additional Terms and Conditions**

**Payment Terms:** All invoices issued hereunder are **due upon the invoice due date**. The fees set forth in this Order Form are exclusive of all applicable taxes, levies, or duties imposed by taxing authorities and Customer shall be responsible for payment of any such applicable taxes, levies, or duties. All payment obligations are non-cancellable, and all fees paid are non-refundable. Payment for services ordered hereunder shall be made to PowerDMS, Inc., a wholly owned subsidiary of GovernmentJobs.com, Inc. (D/B/A NEOGOV).

**Terms & Conditions:** This Order Form creates a legally binding contract on the parties. Unless otherwise agreed in a written agreement between GovernmentJobs.com, Inc. (D/B/A/ NEOGOV), parent company of PowerDMS, Inc., Cuehit, Inc., Ragnasoft LLC (D/B/A/ PlanIT Schedule), and Design PD, LLC (D/B/A Agency360) (collectively, "**NEOGOV**") and Customer, this Order Form and the services to be furnished pursuant to this Order Form are subject to the terms and conditions set forth here: <https://www.neogov.com/service-specifications>. The Effective Date (as defined in the terms and conditions) shall be the Subscription Start Date.

**Special Condition:**

Accepted and Agreed By Authorized Representative of:  
**Wyoming Police Department (MI)**

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

Printed Name: Kent Vanderwood and Kelli VandenBerg \_\_\_\_\_

Title: Wyoming City Mayor and Wyoming City Clerk \_\_\_\_\_

Date \_\_\_\_\_

**THE INFORMATION AND PRICING CONTAINED IN THIS ORDER FORM IS STRICTLY CONFIDENTIAL.  
YOUR SIGNATURE CONSTITUTES ACCEPTANCE OF TERMS HEREIN AND  
CONTRACTUAL COMMITMENT TO PURCHASE THE ITEMS LISTED ABOVE.**

Approved as to form:  \_\_\_\_\_

## SERVICES AGREEMENT

V050724

You agree that by placing an order through a NEOGOV standard ordering document such as an “Order Form”, “Service Order,” “Ordering Document,” “SOW” or other document mutually agreed by the parties detailing the services, pricing and subscription term (each, an “Order Form” for purposes of this Agreement), you agree to follow and be bound by the terms and conditions set forth herein. “Governmentjobs.com”, “NEOGOV”, “we”, and “our” means Governmentjobs.com, Inc. (D/B/A/ NEOGOV), for and on behalf of itself and its subsidiaries PowerDMS, Inc., Cuehit, Inc., Ragnasoft LLC (D/B/A/ PlanIT Schedule), and Design PD, LLC (D/B/A Agency360) (collectively, “NEOGOV” and, where applicable, its other affiliates; “Customer”, “you”, “your” means the NEOGOV client, customer, and/or the subscriber identified in the Order Form).

“Services Agreement” or the “Agreement” shall be used to collectively refer to this NEOGOV Services Agreement, documents incorporated herein including the applicable Order Form, each Addendum (as applicable), and Special Conditions (if any). “Addendum” means each Addendum set forth either as an Exhibit hereto or otherwise made available at <https://www.neogov.com/service-specifications> (the “NEOGOV Site”) and, as applicable, made a part of this Agreement. “Special Conditions” means individually negotiated variations, amendments and/or additions to this Service Agreement of which are either drafted, or incorporated by reference, into the Order Form.

1. Provision of Services. Subject to the terms of this Agreement NEOGOV hereby agrees to provide Customer with access to its SaaS Applications and Professional Services (each defined below) included or ordered by Customer in the applicable Order Form (collectively referred to as the “Services”). Customer hereby acknowledges and agrees that NEOGOV’s provision and performance of, and Customer’s access to, the Services is dependent and conditioned upon Customer’s full performance of its duties, obligations and responsibilities hereunder. This Agreement entered into as of the earlier of: (i) date of your signature on an applicable Order Form; or (ii) use of the Services commences (the “Effective Date”). The Agreement supersedes any prior and contemporaneous discussions, agreements or representations and warranties.
2. SaaS Subscription.
  - a) Subscription Grant. “SaaS Applications” means each proprietary NEOGOV web-based software-as-a-service application that may be set forth on an Order Form and subsequently made available by NEOGOV to Customer, and associated components as described in any written service specifications made available to Customer by NEOGOV (the “Service Specifications”). Subject to and conditioned on Customer’s and its Authorized Users’ compliance with the terms and conditions of this Agreement, NEOGOV hereby grants to Customer a limited, non-exclusive, non-transferable, and non-sublicensable right to (i) onboard, access and use, and to permit Authorized Users to onboard, access and use, the SaaS Applications specified in the Order Form solely for Customer’s internal, non-commercial purposes; (ii) generate, print, and download Customer Data as may result from any access to or use of the SaaS Applications; and (iii) train Authorized Users in uses of the SaaS Applications permitted hereunder (these rights shall collectively be referred to as the “SaaS Subscription”). “Authorized Users” means (1) Customer employees, agents, contractors, consultants (“Personnel”) who are authorized by Customer to access and use the Services under the rights granted to Customer pursuant to this Services Agreement and (2) for whom access to the Services has been purchased hereunder. You shall not exceed the usage limits (if any) as detailed in the user tier in the applicable Order Form. You may not access the SaaS Applications if you are a direct competitor of NEOGOV or its affiliates. In addition, you may not access the SaaS Applications for purposes of monitoring their availability, performance, or functionality, or for any other benchmarking or competitive purposes. You shall be responsible for each Authorized User’s access to and use of the SaaS Applications and compliance with applicable terms and conditions of this Agreement.
  - b) Subscription Term. Unless otherwise specified in an applicable Order Form, SaaS Subscriptions shall commence on the Effective Date and remain in effect for twelve (12) consecutive months, unless terminated earlier in accordance with this Agreement (the “Initial Term”). Thereafter, SaaS Subscriptions shall automatically renew for successive twelve (12) month terms (each a “Renewal Term” and together with the Initial Term, collectively, the “Term”) unless a party delivers to the other party, at least sixty (60) days prior to the expiration of the Initial Term or the applicable Renewal Term, written notice of such party’s intention to not renew the SaaS Subscriptions, or unless terminated earlier in accordance with this Agreement. The Term for the Services is a continuous and non-divisible commitment for the full duration regardless of any invoice schedule. The purchase of any Service is separate from any other order for any other Service. Customer may purchase certain Services independently of other Services. Your obligation to pay for any Service is not contingent on performance of any other Service or delivery of any other Service.
3. Customer Responsibilities.

- a) Managing the Subscription. Customer may use the Service in a manner consistent with the terms of this Agreement. Customer will provide NEOGOV all information needed to process the Order Form to activate the subscription and provision the Service to the Customer.
  - b) Managing Authorized Users. Customer is responsible for managing the Authorized Users on its account on the Service.
    - i) Invitations and Permissions. Customer is responsible for determining which persons to invite to join the Customer's account on the Service and for all actions by Authorized Users on Customer's account on the Service. Customer is solely in control of the individual permissions on the Customer's account.
    - ii) Customer Obligations. Customer must: (A) obtain any rights, permissions, or consents that are necessary for the Authorized User's lawful use of Customer Data and the operation of the Service; (B) ensure that the transfer and processing of Customer Data under the Agreement is lawful; and (C) respond to and resolve any dispute with an Authorized User relating to or based on Customer Data, the Service, or Customer's failure to fulfill its obligations under the Agreement or applicable law. Customer will not, and will ensure its Authorized Users do not (a) make any of the Services available to anyone other than Authorized Users or use any Services for the benefit of anyone other than Customer and its Authorized Users, unless otherwise agreed in writing by the parties, (b) sell, resell, license, sublicense, distribute, make available, rent or lease any of the Services, or include any of the Services in a service bureau or outsourcing offering, unless otherwise agreed in writing by the parties, (c) use the Services to store or transmit infringing, libelous, or otherwise unlawful or tortious material, or to store or transmit material in violation of the privacy rights, publicity rights, copyright rights, or other rights of any person or entity, (d) use the Services to store or transmit code, files, scripts, agents or programs intended to do harm, including, for example, viruses, worms, time bombs and Trojan horses, (e) interfere with or disrupt the integrity or performance of the Services (including, without limitation, activities such as security penetration tests, stress tests, and spamming activity), (f) attempt to gain unauthorized access to the Services or its related systems or networks, (g) disassemble, reverse engineer, or decompile the Services, or modify, copy, or create derivative works based on the Services or any part, feature, function or user interface thereof, (h) remove the copyright, trademark, or any other proprietary rights or notices included within NEOGOV Intellectual Property and on and in any documentation or training materials, or (i) use the Services in a manner which violates the terms of this Agreement, any Order Form or any applicable laws.
4. Professional Services. "Professional Services" shall mean professional services purchased by Customer as detailed in an applicable Order Form or NEOGOV Scope of Work (SOW) describing the work to be performed, fees, and any applicable milestones, dependencies, and other technical specifications or related information. Professional Services include training, set-up, implementation, and best practices of and concerning the SaaS Applications. Professional Services are subject to the terms of the Professional Services Addendum made available on the NEOGOV Site and made a part hereof and may be subject to additional terms pursuant to an SOW and Service Specifications describing, if applicable, the work to be performed, fees, and any applicable milestones, dependencies, and other technical specifications or related information. Order Forms or SOWs must be signed by Customer before NEOGOV shall commence work. If Customer executes a separate SOW, this Agreement and documents incorporated herein (including but not limited to the Professional Services Addendum) shall control in the event of a conflict with the terms of the SOW.
5. Payment Terms.
- a) Fees. Customer shall pay all Subscription, Onboarding and Set-Up fees ("Subscription Fees") and Professional Service fees ("Professional Service Fees", collectively the "Fees") as set forth in an Order Form within thirty (30) days of the date of NEOGOV's invoice. Fees shall be invoiced annually in advance and in a single invoice for each Term. Unless explicitly stated otherwise in an Order Form, all payments due under an Order Form are expressed in and shall be paid in U.S. dollars. Invoices shall be delivered to the stated "Bill To" party on the Order Form. Unless explicitly provided otherwise, once placed the Order Form is non-cancellable and sums paid nonrefundable. Any invoiced amount that is not received by NEOGOV when due as set forth in an Order Form will be subject to a late payment fee of 1.5% per month or the maximum rate permitted by law, whichever is lower. If any amount owing by Customer is more than 30 days overdue, NEOGOV may, without limiting its other rights and remedies, suspend the Services until such amounts are paid in full. If Subscription Fees are based upon the Authorized User or employee count as may be specified in an Order Form, Customer shall owe NEOGOV supplemental Subscription Fees to the extent Customer exceeds the number of Authorized Users or employees set forth in the Order Form. Except as otherwise specifically stated in the Order Form, NEOGOV may change the charges for the Services with effect from the start of each Renewal Term by providing Customer with new pricing at least thirty (30) day notice prior to commencement of a Renewal Term. The new pricing shall be deemed to be effective if Customer (a) returns an executed Order Form to NEOGOV, (b) remits payment to NEOGOV of the fees set forth in the invoice referencing the new pricing, or (c) the Customer or any of its Authorized Users access or use the Services after the expiration of the previous Term.

- b) Taxes. Customer will pay all taxes, duties and levies imposed by all federal, state, and local authorities (including, without limitation, export, sales, use, excise, and value-added taxes) based on the transactions or payments under this Agreement, except those taxes imposed or based on NEOGOV's net income or those exempt by applicable state law. Customer shall provide NEOGOV with a certificate or other evidence of such exemption within ten (10) days after the Effective Date of this Agreement and thereafter upon NEOGOV's request therefor.
- c) Purchase Orders. Any reference to a purchase order in an Order Form or any associated invoice is solely for Customer's convenience in record keeping, and no such reference or any delivery of services to Customer following receipt of any purchase order shall be deemed an acknowledgement of or an agreement to any terms or conditions referenced or included in any such purchase order. If a purchase order is delivered by Customer in connection with the purchase of Services, none of the terms and conditions contained in such purchase order shall have any effect or modify or supersede the terms and conditions of this Agreement. NEOGOV's failure to object to terms contained in any such purchase order shall not be a waiver of the terms set forth in this provision or in this Agreement.
6. Term and Termination.
- a) Term. This Agreement shall commence on the Effective Date and shall remain in effect until all SaaS Subscriptions have expired and/or both parties have achieved full performance of Professional Services, unless it is terminated earlier in accordance with this Agreement.
- b) Termination for Cause; Effect of Termination. Either Party may terminate this Agreement immediately if the other is in material breach of this Agreement and such breach is not cured within thirty (30) days following non-breaching party's written specification of the breach. NEOGOV may suspend the Services or terminate this Agreement immediately in the event the Services or Customer's use of the Services provided hereunder pose a security risk to the Services, NEOGOV or any third party, or become illegal or contrary to any applicable law, rule, regulation, or public policy. Upon expiration or any termination of this Agreement, Customer shall cease all use and refrain from all further use of the Services and other NEOGOV Intellectual Property. Additionally, Customer shall be obligated to pay, as of the effective date of such expiration or termination, all amounts due and unpaid to NEOGOV under this Agreement. Unless otherwise specified, following 90 days after expiration or termination of the Agreement NEOGOV may remove Customer Data from NEOGOV Services and without Customer consent or notice.
7. Audit Rights. Upon reasonable notice, NEOGOV or its agent shall have the right to audit Customer's records relating to its compliance with this Agreement. Customer shall cooperate fully with this audit. If any audit conducted under this Section indicates that any amount due to NEOGOV was underpaid, Customer shall within three (3) business days pay to NEOGOV the amount due. All expenses associated with any such audit shall be paid by NEOGOV unless the audit reveals underpayment in excess of five percent (5%), in which case Customer shall pay such expenses as well as any amount due to NEOGOV.
8. Maintenance; Modifications; Support Services.
- a) Maintenance, Updates, Upgrades. NEOGOV maintains NEOGOV's hardware and software infrastructure for the Services and is responsible for maintaining the NEOGOV server operation and NEOGOV database security. NEOGOV may in its sole discretion, periodically modify, Update, and Upgrade the features, components, and functionality of the Services during the Term. "Update" means any update, bug fix, patch or correction of the Services or underlying NEOGOV software that NEOGOV makes generally available to its customers of the same module, excluding Upgrades. Updates are automatic and available upon Customer's next login to the Services following an Update at no additional cost to Customer. "Upgrade" means any update of the Services or underlying NEOGOV software such as platform updates, and major product enhancements and/or new features that NEOGOV makes commercially available. NEOGOV shall have no obligation to provide Upgrades to customers and retains the right to offer Upgrades free of cost or on a per customer basis at additional cost. NEOGOV shall have no liability for, or any obligations to, investments in, or modifications to Customer's hardware, systems or other software which may be necessary to use or access the Services due to a modification, Update, or Upgrade of the Services.
- b) Program Documentation; Training Materials. "Program Documentation" shall mean all user guides, training, and implementation material, and Service descriptions provided by NEOGOV to Customer in connection with the Services. NEOGOV hereby grants to Customer a non-exclusive, non-sublicensable, non-transferable license to use, print, and distribute internally via non-public platforms, the Program Documentation during the Term solely for Customer's internal business purposes in connection with its use of the Services. Primary training of NEOGOV Services is conducted by self-review of online materials. NEOGOV's pre-built, online training consists of a series of tutorials to introduce the standard features and functions (the "Training Materials"). The Training Materials may be used as reference material by Customer Personnel conducting day-to-day activities.

- c) **Implementation.** For Services requiring implementation, NEOGOV implementation supplements the Training Materials and is conducted off-site unless otherwise agreed in the Order Form. For an additional fee as detailed on an applicable Order Form, NEOGOV personnel will provide consultation on best practices for setting up the Services, answer Customer questions during the implementation period, and use commercially reasonable efforts to ensure Authorized User Admins grasp the system. The length of the implementation time is dependent on the type of Service and the Customer's responsiveness. NEOGOV is not responsible or liable for any delay or failure to perform implementation caused in whole or in part by Customer's delay in performing its obligations hereunder and, in the event of any such delay, NEOGOV may, in its sole discretion, extend all performance dates as NEOGOV deems reasonably necessary.
- d) **Support.** Phone support for the Services is available to Customer Monday through Friday, excluding NEOGOV holidays. Customer may submit a request for online support for the Services 24 hours a day, seven days a week, and the NEOGOV support desk will acknowledge receipt of the request within a reasonable time. The length of time for a resolution of any problem is dependent on the type of case.
- e) **Limitations.** Unless otherwise specified in the Order Form, this Agreement does not obligate NEOGOV to render any maintenance or support services that are not expressly provided herein, including, but not limited to data uploads, manual data entry, migration services, data conversion, refinement, purification, reformatting, SQL dump, or process consultation.

#### 9. NEOGOV Intellectual Property Rights.

- a) NEOGOV shall exclusively own all right, title and interest in and to all pre-existing and future intellectual property developed or delivered by NEOGOV including all Services, products, systems, software (including any source code or object code) or Service Specifications related thereto, Updates or Upgrades, trademarks, service marks, logos and other distinctive brand features of NEOGOV and all proprietary rights embodied therein (collectively, the "NEOGOV Intellectual Property"). This Agreement does not convey or transfer title or ownership of the NEOGOV Intellectual Property to Customer or any of its users. All rights not expressly granted herein are reserved by NEOGOV. Other than recommendation use or as required by law, all use of NEOGOV trademarks must be pre-approved by NEOGOV prior to use. Trademarks shall include any word, name, symbol, color, designation or device, or any combination thereof that functions as a source identifier, including any trademark, trade dress, service mark, trade name, logo, design mark, or domain name, whether or not registered.
- b) Customer may, but is not obligated to, provide NEOGOV with suggestions, ideas, enhancement requests, or other feedback ("Feedback"). If Customer provides any such Feedback to NEOGOV, Customer hereby grants NEOGOV a nonexclusive, perpetual, irrevocable, royalty-free license to use all Feedback for any purpose. Feedback is provided to NEOGOV on an "as-is" basis without warranties of any kind.

#### 10. Data Processing and Privacy.

- a) **Customer Data.** "Customer Data" shall mean all data that is owned or developed by Customer, whether provided to NEOGOV by Customer or provided by a third party to NEOGOV in connection with NEOGOV's provision of Services to Customer, including Personnel data collected, loaded into, or located in Customer data files maintained by NEOGOV. NEOGOV Intellectual Property, including but not limited to the Services and all derivative works thereof, NEOGOV Confidential Information, and Platform Data do not fall within the meaning of the term "Customer Data". Customer exclusively owns all right, title, and interest in and to all Customer Data. Customer grants NEOGOV a license to host, use, process, display, create non-personal derivative works of, and transmit Customer Data to provide the Services. NEOGOV reserves the right to delete or disable Customer Data stored, transmitted or published by Customer using the Services upon receipt of a bona fide notification that such content infringes upon the intellectual property rights of others, or if NEOGOV otherwise reasonably believes any such content is in violation of this Agreement.
- b) **Platform Data.** "Platform Data" shall mean any anonymized data reflecting the access to or use of the Services by or on behalf of Customer or any user, including statistical or other analysis and performance information related to the provision and operation of the Services including any end user visit, session, impression, clickthrough or click stream data, as well as log, device, transaction data, or other analysis, information, or data based on or derived from any of the foregoing. NEOGOV shall exclusively own all right, title and interest in and to all Platform Data. Customer acknowledges NEOGOV may compile Platform Data based on Customer Data input into the Services. Customer agrees that NEOGOV may use Platform Data to the extent and in the manner permitted under applicable law. Such anonymized data neither identifies Customer or its users, nor can Customer or any its users can be derived from such data.

- c) Data Processing Agreement. The parties agree that the terms of the NEOGOV Data Processing Addendum (“DPA”) made available on the NEOGOV Site is hereby incorporated herein by reference and made part of this Agreement and governs NEOGOV’s processing of Personal Data.
  - d) Data Responsibilities.
    - i) NEOGOV will maintain commercially reasonable administrative, physical, and technical safeguards for protection of the security, confidentiality and integrity of the Customer Data. Those safeguards will include, but will not be limited to, measures for preventing access, use, modification or disclosure of Customer Data by NEOGOV personnel except (a) to provide the Services and prevent or address service or technical problems, (b) as compelled by applicable law, or (c) as Customer expressly permits in writing. Customer acknowledges and agrees that it is commercially reasonable for NEOGOV to rely upon the security processes and measures utilized by NEOGOV’s cloud infrastructure providers.
    - ii) Customer is solely responsible for the development, content, operation, maintenance, and use of Customer Data, including but not limited to compliance with applicable laws. NEOGOV will have no responsibility or liability for the accuracy of the Customer Data prior to receipt of such data into the Services. Without limiting the foregoing, Customer shall be solely responsible for and shall comply with all applicable laws and regulations relating to (a) the accuracy and completeness of all information input, submitted, or uploaded to the Services, (b) the privacy of users of the Services, including, without limitation, providing appropriate notices to and obtaining appropriate consents from any individuals to whom Customer Data relates; and (c) the collection, use, modification, alteration, extraction, retention, copying, external storage, disclosure, transfer, disposal, and other processing of any Customer Data. NEOGOV is not responsible for lost data caused by the action or inaction of Customer or Authorized Users. Unless otherwise mutually agreed in writing, Customer shall not maintain any financial, health, payment card, or similarly sensitive data that imposes specific data security or data protection obligations within the Services. Customer shall provide and institute all appropriate tools and procedures required to ensure the security of its own information system and, more specifically, to prevent, detect and destroy the occurrence of any viruses.
  - e) Breach Notice. NEOGOV will notify Customer of unauthorized access to, or unauthorized use, loss or disclosure of Customer Data within its custody and control (a “Security Breach”) within 72 hours of NEOGOV’s confirmation of the nature and extent of the same or when required by applicable law, whichever is earlier. Each party will reasonably cooperate with the other with respect to the investigation and resolution of any Security Breach. If applicable law or Customer’s policies require notification of its Authorized Users or others of the Security Breach, Customer shall be responsible for such notification.
  - f) Data Export, Retention and Destruction. Customer may export or delete Customer Data from the Services at any time during a Subscription Term, using the existing features and functionality of the Services. Customer is solely responsible for its data retention obligations with respect to Customer Data. If and to the extent Customer cannot export or delete Customer Data stored on NEOGOV’s systems using the then existing features and functionality of the Services, NEOGOV will, upon Customer’s written request, make the Customer Data available for export by Customer or destroy the Customer Data. If Customer requires the Customer Data to be exported in a different format than provided by NEOGOV, such additional services will be subject to a separate agreement on a time and materials basis. Except as otherwise required by applicable law, NEOGOV will have no obligation to maintain or provide any Customer Data more than ninety (90) days after the expiration or termination of this Agreement. Customer acknowledges that it is solely responsible for determining any retention requirements with respect to the Customer Data as required by applicable law and NEOGOV disclaims all liability in connection with such determination. In addition, to the extent Customer requests that NEOGOV retain Customer Data beyond the expiration of the retention period required by applicable law, rule or regulation, NEOGOV disclaims all liability in connection with retaining such Customer Data including but not limited to any claims related to loss or destruction of such Customer Data.
11. Third Party Services. The Services may permit Customer and its Authorized Users to access services or content provided by third parties through the Services (“Third Party Services”). Customer agrees that NEOGOV is not the original source and shall not be liable for any inaccuracies contained in any content provided in any of the Third Party Services. NEOGOV makes no representations, warranties or guarantees with respect to the Third Party Services or any content contained therein. NEOGOV may discontinue access to any Third Party Services through the Services if the relevant agreement with the applicable third party no longer permits NEOGOV to provide such access. If loss of access to any Third Party Services (to which Customer has a subscription under this Agreement) occurs during a Subscription Term, NEOGOV will refund to Customer any prepaid fees for such Third Party Services covering the remainder of the Subscription Term.
12. Nondisclosure.

- a) Definition of Confidential Information. “Confidential Information” means all information disclosed by a party (“Disclosing Party”) to the other party (“Receiving Party”), whether orally or in writing, that is designated as confidential or that reasonably should be understood to be confidential given the nature of the information and the circumstances of disclosure. Customer's Confidential Information includes its Customer Data. NEOGOV Confidential Information includes the NEOGOV Intellectual Property and the Services. The Confidential Information of each party includes the terms and conditions of this Agreement and all Order Forms (including pricing), as well as business and marketing plans, technology and technical information, product plans and designs, and business processes disclosed by such party. However, Confidential Information does not include any information that (a) is or becomes generally known to the public without breach of any obligation owed to the Disclosing Party, (b) was known to the Receiving Party prior to its disclosure by the Disclosing Party without breach of any obligation owed to the Disclosing Party, (c) is received from a third party without breach of any obligation owed to the Disclosing Party, or (d) was independently developed by the Receiving Party.
- b) Obligations. The Receiving Party will: (i) use the same degree of care it uses to protect the confidentiality of its own confidential information of like kind (but not less than reasonable care); (ii) not use any Confidential Information of the Disclosing Party for any purpose outside the scope of this Agreement and (iii) except as otherwise authorized by the Disclosing Party in writing, limit access to Confidential Information of the Disclosing Party to those of its employees and contractors who need access for purposes consistent with this Agreement and who have signed confidentiality agreements with the Receiving Party containing protections not less protective of the Confidential Information than those herein.
- c) Exceptions. The Receiving Party may disclose Confidential Information of the Disclosing Party to the extent compelled by law to do so, provided the Receiving Party gives the Disclosing Party prior notice of the compelled disclosure (to the extent legally permitted) and reasonable assistance, at the Disclosing Party's cost, if the Disclosing Party wishes to contest the disclosure.
- d) Equitable Relief. The parties recognize and agree there may be no adequate remedy at law for breach of the provisions of the confidentiality obligations set forth in this Section 12, that such a breach may irreparably harm the Disclosing Party and the Disclosing Party is entitled to seek equitable relief (including, without limitation, an injunction) with respect to any such breach or potential breach in addition to any other remedies available to it at law or in equity.

### 13. Representations, Warranties, and Disclaimers.

- a) Mutual Representations. Each party represents and warrants to the other party that (i) it has full power and authority under all relevant laws and regulations and is duly authorized to enter into this Agreement; and (ii) to its knowledge, the execution, delivery and performance of this Agreement by such party does not conflict with any agreement, instrument or understanding, oral or written, to which it is a party or by which it may be bound, nor violate any law or regulation of any court, governmental body or administrative or other agency having jurisdiction over it.
- b) Additional Customer Representations and Warranties. Customer hereby represents and warrants to NEOGOV that: (1) Customer and Authorized Users have all necessary rights and authority to upload Customer Data to the Service without violating any third party's proprietary or privacy rights, including intellectual property rights; (2) Customer Data does not contain any viruses, worms, Trojan horses, or other harmful or destructive code or content; and (3) Customer will use the Service in compliance with all laws, rules, regulations, and this Agreement.
- c) Service Performance Warranty. NEOGOV warrants that it provides the Services using a commercially reasonable level of care and skill and in a professional manner in accordance with generally recognized industry standards for similar services.
- d) No Other Warranty. EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN THIS WARRANTY SECTION, THE SERVICES AND ANY OTHER INFORMATION ARE PROVIDED ON AN “AS IS” AND “AS AVAILABLE” BASIS, AND CUSTOMER'S USE OF THE SERVICES IS AT ITS OWN RISK. NEOGOV DOES NOT MAKE, AND HEREBY DISCLAIMS, ANY AND ALL OTHER EXPRESS AND/OR IMPLIED WARRANTIES, INCLUDING, BUT NOT LIMITED TO, WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NONINFRINGEMENT AND TITLE, AND ANY WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE, OR TRADE PRACTICE. NEOGOV DOES NOT WARRANT THAT THE SERVICES WILL BE UNINTERRUPTED, ERROR-FREE, OR COMPLETELY SECURE, OR THAT ANY ERROR WILL BE CORRECTED.
- e) Disclaimer of Actions Caused by and/or Under the Control of Third Parties. NEOGOV DOES NOT AND CANNOT CONTROL THE FLOW OF DATA TO OR FROM THE NEOGOV SYSTEM AND OTHER PORTIONS OF THE

INTERNET. SUCH FLOW DEPENDS IN LARGE PART ON THE PERFORMANCE OF INTERNET SERVICES PROVIDED OR CONTROLLED BY THIRD PARTIES. AT TIMES, ACTIONS OR INACTIONS OF SUCH THIRD PARTIES CAN IMPAIR OR DISRUPT CUSTOMER'S CONNECTIONS TO THE INTERNET (OR PORTIONS THEREOF). ALTHOUGH NEOGOV WILL USE COMMERCIALY REASONABLE EFFORTS TO TAKE ALL ACTIONS IT DEEMS APPROPRIATE TO REMEDY AND AVOID SUCH EVENTS, NEOGOV CANNOT GUARANTEE THAT SUCH EVENTS WILL NOT OCCUR. ACCORDINGLY, NEOGOV DISCLAIMS ANY AND ALL LIABILITY RESULTING FROM OR RELATED TO SUCH EVENTS OR WITH RESPECT TO ANY THIRD PARTY SERVICES.

- f) No Medical Advice. Through certain Services, NEOGOV may make certain telehealth related information available to Customer and/or facilitate user access to telemedicine, expert medical services, and/or emergency medical services. NEOGOV is independent from healthcare providers who provide telemedicine services and is not responsible for such healthcare providers' acts, omissions or for any content or communications made by them. The Services do not provide medical advice and do not create a healthcare provider/patient relationship between Customer and NEOGOV or otherwise. Any Services, or content accessed from the Services, are for informational purposes only and do not constitute medical advice. Customer should seek professional medical advice, diagnosis, and/or treatment for any and all medical conditions, whether as a result of using Services or otherwise. NEOGOV IS NOT RESPONSIBLE OR LIABLE FOR ANY ADVICE, COURSE OF TREATMENT, DIAGNOSIS OR ANY OTHER TREATMENT OR INFORMATION THAT CUSTOMER OR ITS USERS MAY OBTAIN THROUGH THE USE OF THE SERVICES.

#### 14. Indemnification.

- a) Customer Indemnity. To the extent permitted by applicable law, Customer will defend and indemnify NEOGOV from and against any claim, demand, suit or proceeding made or brought against NEOGOV (i) by a third party alleging that any Customer Data infringes or misappropriates such third party's intellectual property rights, (ii) in connection with Customer's violation of any applicable laws, or (iii) any claim or allegation by any third party resulting from or related to Customer's or any of its Authorized User's breach of Section 3 of this Agreement.
- b) NEOGOV Indemnity. Subject to subsections 14(b)(i) through 14(b)(iii) and 14(c) of this Section, if a third party makes a claim against Customer that any NEOGOV intellectual property furnished by NEOGOV and used by Customer infringes a third party's intellectual property rights, NEOGOV will defend the Customer against the claim and indemnify the Customer from the damages and liabilities awarded by the court to the third-party claiming infringement or the settlement agreed to by NEOGOV.
- i) Alternative Resolution. If NEOGOV believes or it is determined that any of the Services may have violated a third party's intellectual property rights, NEOGOV may choose to either modify the Services to be non-infringing or obtain a license to allow for continued use. If these alternatives are not commercially reasonable, NEOGOV may end the subscription or license for the Services and refund a pro-rata portion of any fees covering the whole months that would have remained, absent such early termination, following the effective date of such early termination.
- ii) No Duty to Indemnify. NEOGOV will not indemnify Customer if Customer alters the Service or Service Specifications, or uses it outside the scope of use or if Customer uses a version of the Service or Service Specifications which has been superseded, if the infringement claim could have been avoided by using an unaltered current version of the Services or Service Specifications which was provided to Customer, or if the Customer continues to use the infringing material after the subscription expires. NEOGOV will not indemnify the Customer to the extent that an infringement claim is based upon any information, design, specification, instruction, software, data, or material not furnished by NEOGOV. NEOGOV will not indemnify Customer for any portion of an infringement claim that is based upon the combination of Service or Service Specifications with any products or services not provided by NEOGOV. NEOGOV will not indemnify Customer for infringement caused by Customer's actions against any third party if the Services as delivered to Customer and used in accordance with the terms of the Agreement would not otherwise infringe any third-party intellectual property rights.
- iii) Exclusive Remedy. This Section provides the exclusive remedy for any intellectual property infringement claims or damages against NEOGOV.
- c) Indemnification Procedures. In order to receive the indemnities described hereunder, the indemnified party must: (i) promptly notify the indemnifying party, in writing, of any claim; (ii) cooperate reasonably with indemnifying party, at the indemnifying party's expense, in the defense and/or settlement thereof; and (iii) allow the indemnifying party to control the defense and/or settlement thereof except that the indemnifying party may not, without the indemnified party's prior written consent, enter into any settlement that does not unconditionally release the indemnified party from liability. The indemnified party shall have the right to participate in any defense of a claim and/or to be represented by counsel of

its own choosing at its own expense, provided that ultimate control of such defense shall remain solely with the indemnifying party.

15. Limitations of Liability.

- a) EXCLUSION OF DAMAGES. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, IN NO EVENT WILL EITHER PARTY BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT OR ITS SUBJECT MATTER UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, INCLUDING FOR ANY: (a) LOSS OF PRODUCTION, USE, BUSINESS, REVENUE, OR PROFIT OR DIMINUTION IN VALUE; (b) IMPAIRMENT, INABILITY TO USE OR LOSS, INTERRUPTION OR DELAY OF THE SERVICES; (c) LOSS, DAMAGE, CORRUPTION OR RECOVERY OF DATA, OR BREACH OF DATA OR SYSTEM SECURITY; (d) COST OF REPLACEMENT GOODS OR SERVICES; (e) LOSS OF GOODWILL, LOSS OF BUSINESS OPPORTUNITY OR PROFIT, OR LOSS OF REPUTATION; OR (f) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES, REGARDLESS OF WHETHER SUCH PERSONS WERE ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE, AND NOTWITHSTANDING THE FAILURE OF ANY AGREED OR OTHER REMEDY OF ITS ESSENTIAL PURPOSE.
- b) CAP ON MONETARY LIABILITY. EXCEPT FOR DAMAGES ARISING OUT OF LIABILITY WHICH CANNOT BE LAWFULLY EXCLUDED OR LIMITED, OR CUSTOMER'S OBLIGATIONS TO MAKE PAYMENT UNDER THIS AGREEMENT, THE TOTAL AGGREGATE LIABILITY OF EITHER PARTY FOR ANY AND ALL CLAIMS AGAINST THE OTHER PARTY UNDER THIS AGREEMENT, WHETHER ARISING UNDER OR RELATED TO BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, OR ANY OTHER LEGAL OR EQUITABLE THEORY, SHALL NOT EXCEED THE AMOUNT OF ALL PAYMENTS ACTUALLY RECEIVED BY NEOGOV FROM CUSTOMER IN CONNECTION WITH THIS AGREEMENT IN THE 12 MONTH PERIOD PRECEDING THE DATE OF THE FIRST EVENT INITIALLY GIVING RISE TO SUCH LIABILITY. THE EXISTENCE OF ONE OR MORE CLAIMS WILL NOT ENLARGE THE LIMIT.

16. Reimbursement of Costs in Third Party Litigation. With respect to any litigation or other court proceeding involving Customer and a third party, if any subpoena or other legally binding request related to such litigation or court proceeding is served to NEOGOV requesting copies of documents maintained by NEOGOV or otherwise requesting NEOGOV to appear as a witness in any capacity or provide testimony with respect to Customer's documentation, Customer shall reimburse NEOGOV for its out-of-pocket costs associated with compliance with such request, including but not limited to NEOGOV's reasonable attorneys' fees.

17. EOL Products. NEOGOV may, in its discretion, at certain times elect to discontinue development, distribution and/or support of any Service or any elements or versions of any Service, and thereby designate such Service or elements or versions as end of life ("EOL"). In the event that NEOGOV elects to announce EOL for any Service, NEOGOV will provide six (6) months prior written notice, which may be by direct notice or posting on the NEOGOV website. Customer will have a period of six (6) months after receipt of such notice to upgrade to the last commercially available (non-EOL) version of the Service, if applicable, or otherwise following the expiration of such six (6) month period, the Service shall be deemed terminated without penalty and a pro rata refund shall be provided to Customer for the remaining term of the Service. During the 6-month notice period, Customer may continue exercising all of the rights set forth in this Agreement with respect to such EOL Service.

18. Text Message Communications. NEOGOV may offer Personnel the opportunity to receive text messages regarding job application or hiring process reminders, applicant status updates, or other human resource related notices. Since these text message services depend on the functionality of third-party providers, there may be technical delays on the part of those providers. NEOGOV may make commercially reasonable efforts to provide alerts in a timely manner with accurate information, but cannot guarantee the delivery, timeliness, or accuracy of the content of any alert. NEOGOV shall not be liable for any delays, failure to deliver, or misdirected delivery of any alert; for any errors in the content of an alert; or for any actions taken or not taken by you or any third party in reliance on an alert. NEOGOV cannot vouch for the technical capabilities of any third parties to receive such text messages. To the extent you utilize text messaging features, NEOGOV shall not be responsible for your use of such features, and you shall indemnify NEOGOV with respect to any damages resulting from your use including but not limited any violations of applicable law. NEOGOV MAKES NO WARRANTIES OR REPRESENTATIONS OF ANY KIND, EXPRESS, STATUTORY, OR IMPLIED AS TO: (a) THE AVAILABILITY OF TELECOMMUNICATION SERVICES; (b) ANY LOSS, DAMAGE, OR OTHER SECURITY INTRUSION OF THE TELECOMMUNICATION SERVICES; AND (c) ANY DISCLOSURE OF INFORMATION TO THIRD PARTIES OR FAILURE TO TRANSMIT ANY DATA, COMMUNICATIONS, OR SETTINGS CONNECTED WITH THE SERVICES.

19. Publicity. Unless otherwise provided in the applicable Order Form, NEOGOV may identify Customer as one of its customers and use Customer's logo for such purposes, subject to any trademark usage requirements specified by Customer.
20. Force Majeure. Except for Customer's payment obligations to NEOGOV, neither party shall be liable for any damages, costs, expenses or other consequences incurred by the other party or by any other person or entity for any act, circumstance, event, impediment or occurrence beyond such party's reasonable control, including, without limitation: (a) acts of God; (b) changes in or in the interpretation of any law, rule, regulation or ordinance; (c) strikes, lockouts or other labor problems; (d) transportation delays; (e) unavailability of supplies or materials; (f) fire or explosion; (g) riot, pandemic, military action or usurped power; (h) actions or failures to act on the part of a governmental authority; (i) internet service interruptions or slowdowns, vandalism or cyber-attacks, or (j) any other cause beyond the reasonable control of such party.
21. Independent Contractor; No Third Party Beneficiary; Fulfillment Partners. The relationship of the parties shall be deemed to be that of an independent contractor and nothing contained herein shall be deemed to constitute a partnership between or a joint venture by the parties hereto or constitute either party the employee or agent of the other. Customer acknowledges that nothing in this Agreement gives Customer the right to bind or commit NEOGOV to any agreements with any third parties. This Agreement is not for the benefit of any third party and shall not be deemed to give any right or remedy to any such party whether referred to herein or not. NEOGOV may designate any third-party affiliate, or other agent or subcontractor (each a "Fulfillment Partner"), without notice to, or the consent of, Customer, to perform such tasks and functions to complete any Services.
22. Entire Agreement; Amendment; Addendum. This Services Agreement, the Exhibits hereto, each Addendum (as may be applicable pursuant to the terms therein) and documents incorporated herein, the applicable Order Form, and Special Conditions (if any) constitute the entire agreement between the parties with respect to the subject matter hereof and supersede all prior or contemporaneous oral and written statements of any kind whatsoever made by the parties with respect to such subject matter. It is expressly agreed that the terms of this Agreement and any NEOGOV Order Form shall supersede the terms in any non-NEOGOV purchase order or other ordering document. Notwithstanding the foregoing, any conflict of terms shall be resolved by giving priority in accordance with the following order: 1) Special Conditions (if any), 2) NEOGOV Order Form, 3) the NEOGOV Services Agreement, and 4) incorporated documents (including the Exhibits and each applicable Addendum). This Agreement supersedes the terms and conditions of any clickthrough agreement associated with the Services. This Agreement may not be modified or amended (and no rights hereunder may be waived) except through a written instrument signed by the parties to be bound. If you are subscribing for the HRIS or PowerEngage Platform, you hereby specifically agree to the terms of the applicable Addendum set forth on the NEOGOV Site.
23. General.
  - a) Governing Law and Venue. This Agreement shall be governed by and construed in accordance with the laws of the state of California, without giving effect to conflict of law rules. Any legal action or proceeding relating to this Agreement shall be instituted only in any state or federal court in Los Angeles, California.
  - b) Severability. If any provision of this Agreement is held to be illegal or unenforceable, such provision shall be limited or eliminated to the minimum extent necessary so that the remainder of this Agreement will continue in full force and effect. Provisions that survive termination or expiration are those relating to, without limitation, accrued rights to payment, acknowledgements and reservations of proprietary rights, confidentiality obligations, warranty disclaimers, and limitations of liability, and others which by their nature are intended to survive.
  - c) Notices. All notices or other communications required or permitted hereunder shall be in writing and shall be deemed to have been duly given either when personally delivered, one (1) business day following delivery by recognized overnight courier or electronic mail, or three (3) business days following deposit in the U.S. mail, registered or certified, postage prepaid, return receipt requested. All such communications shall be sent to (i) Customer at the address set forth in the Order Form and (ii) NEOGOV at the address specified in the applicable Order Form.
  - d) Waiver. The waiver, express or implied, by either party of any breach of this Agreement by the other party will not waive any subsequent breach by such party of the same or a different kind. This Agreement may be executed in two or more counterparts, each of which will be deemed an original, but all of which taken together shall constitute one and the same instrument.
  - e) Electronic Delivery. Delivery of a copy of this Agreement or an Order Form bearing an original signature by electronic mail or by any other electronic means will have the same effect as physical delivery of the paper document bearing the original signature.

- f) Assignment. Customer may not assign this Agreement without the express written approval of NEOGOV. Any attempt at assignment in violation of this Section shall be null and void.
- g) Construction. The parties intend this Agreement to be construed without regard to any presumption or rule requiring construction or interpretation against the party drafting an instrument or causing any instrument to be drafted. The exhibits, addendum, schedules, attachments, and appendices referred to herein are an integral part of this Agreement to the same extent as if they were set forth verbatim herein.
- h) Subcontractors. For purposes of this Agreement, including any subsequent documentation requested by Customer pursuant to this Agreement, the term "subcontractors" shall exclude subcontractors (i) who perform routine software development and maintenance services which are not specific to the Customer, (ii) subcontractors who will not have any access to Customer Data, and (iii) subcontractors who have access to Customer Data solely within NEOGOV's or Customer's systems.,

**Exhibit A**  
**Government Customer Addendum**

If Customer is a Government Customer, the following Government Customer Addendum (“Government Addendum”) forms part of the Services Agreement, and in the case of any conflict or inconsistency between the terms and provisions of this Addendum and any other provision of the Services Agreement, the terms of this Government Addendum shall control. For purposes hereof, a “Government Customer” means a Customer which is a (a) U.S. Federal agency, (b) state government, agency, department, or political subdivision (including a city, county or municipal corporation), or (c) instrumentality of any of the foregoing (including a municipal hospital or municipal hospital district, police or fire department, public library, park district, state college or university, Indian tribal economic development organization, or port authority).

1. **Applicability.** The provisions of this Addendum shall apply only if Customer is a Government Customer under the Services Agreement.
2. **Termination for Non-Appropriation of Funds on Multi-Year Deals.** Customer represents that it has received sufficient appropriation of funds by the applicable legislature (or other appropriate governmental body) (“Governmental Appropriation”) for the first year of the term of any Order Form executed by Customer (the “First Year” and all such years following the First Year which are included in the term of an Order Form, the “Future Years”). If Customer is subject to federal, state or local law which makes Customer’s financial obligations under this Services Agreement contingent upon Governmental Appropriation, and if such funds are not forthcoming or are insufficient due to failure of such Governmental Appropriation, then Customer will have the right to terminate the then remaining portion of any Future Years under the Services Agreement at no additional cost and with no penalty by giving prior written notice documenting the lack of funding. Customer will provide at least thirty (30) days advance written notice of such termination. Customer will use reasonable efforts to ensure appropriated funds are available. It is expressly agreed that Customer shall not activate this non-appropriation provision for its convenience or to circumvent the requirements of this Agreement, but only as an emergency fiscal measure during a substantial fiscal crisis, which affects generally its fiscal operations. If Customer terminates the Services Agreement under this Section 2, Customer agrees not to replace the Services with functionally similar products or services for a period of one year after the termination of the Services Agreement.
3. **Indemnification.** If Customer is prohibited by federal, state or local law from agreeing to hold harmless or indemnify third parties, Section 14(a) and the indemnification provision included in Section 17 of the Services Agreement shall not apply to Customer, to the extent disallowed by applicable law.
4. **Open Records.** If the Customer is subject to federal or state public records laws, including laws styled as open records, freedom of information, or sunshine laws (“Open Records Laws”) the confidentiality requirements of Section 12 of the Services Agreement apply only to the extent permitted by Open Records Laws applicable to the Customer. This Section is not intended to be a waiver of any of the provisions of the applicable Open Records Laws, including, without limitation, the requirement for the Customer to provide notice and opportunity for NEOGOV to assert an exception to disclosure requirements in accordance with the applicable Open Records laws.
5. **Cooperative Purchasing.** As permitted by law, it is understood and agreed by Customer and NEOGOV that any (i) federal, state, local, tribal, or other municipal government (including all administrative agencies, departments, and offices thereof); (ii) any business enterprise in which a federal, state, local, tribal or other municipal entity has a full, majority, or other controlling interest; and/or (iii) any public school (including without limitation K-12 schools, colleges, universities, and vocational schools) (collectively referred to as the “New Entity”) may purchase the Services specified herein in accordance with the terms and conditions of this Agreement. It is also understood and agreed that each New Entity will establish its own contract with NEOGOV, be invoiced therefrom and make its own payments to NEOGOV in accordance with the terms of the contract established between the New Entity and NEOGOV. With respect to any purchases by a New Entity pursuant to this Section, Customer: (i) shall not be construed as a dealer, re-marketer, representative, partner or agent of any type of NEOGOV, or such New Entity; (ii) shall not be obligated, liable or responsible for any order made by New Entities or any employee thereof under the agreement or for any payment required to be made with respect to such order; and (iii) shall not be obliged, liable or responsible for any failure by any New Entity to comply with procedures or requirements of applicable law or to obtain the due authorization and approval necessary to purchase under the agreement. Termination of this Agreement shall in no way limit NEOGOV from soliciting, entering into, or continuing a contractual relationship with any New Entity. Any New Entity who purchases Services under this Section hereby represents that it has the authority to use this Services Agreement for the purchase and that the use of the Services Agreement for the purchase is not prohibited by law or procurement regulations applicable to the New Entity.

## Exhibit B Integration Terms Addendum

NEOGOV offers integrations and platform APIs for integrations to third party systems (“Integration Services”). Customer may use only those Integration Services purchased or subscribed to as listed within the NEOGOV Order Form. The following terms (the “Integration Terms Addendum”) shall apply to the extent that Customer utilizes a system integration between the Services and either: (a) an affiliated integrated service, including those found at <https://api.neogov.com/connect/marketplace.html> and/or <https://apidocs.powerdms.com> (“Affiliated API”) or to the extent that Customer utilizes a system integration between the Services and an unaffiliated third-party service (“Customer Application”) integrated using NEOGOV’s open API (“Open API”). Integration Services are not available for HRIS Services and this Exhibit B shall not apply to HRIS Services.

1. **Provision of Integrations.** Subject to and conditioned on compliance with all terms and conditions set forth in this Agreement, NEOGOV hereby grants Customer a limited, revocable, non-exclusive, non-transferable, non-sublicensable license during the applicable Term to use and/or access the Affiliated API as described in this Agreement, or the Open API for communication between Customer’s human resource related third application(s) that will interoperate with NEOGOV Services (collectively these uses shall be referred to as the “API” or “Integration”). Customer acknowledges there are no implied licenses granted under this Agreement. NEOGOV reserves all rights that are not expressly granted. Customer may not use the API for any other purpose without our prior written consent. Customer may not share the API with any third party, must keep the API and all log-in information secure, and must use the API key as Customer sole means of accessing the API.
2. **Integration Intellectual Property.** All right, title, and interest in the API and any and all information, data, documents, materials, inventions, technologies, know-how, descriptions, requirements, plans, reports, works, intellectual property, software, hardware, systems, methods, processes, and inventions, customizations, enhancements, improvements and other modifications based on or derived from the API are and will remain, as appropriate, with NEOGOV. All right, title, and interest in and to the third-party materials, including all intellectual property rights therein, are and will remain with their respective third-party rights holders subject to the terms and conditions of the applicable third-party license agreements. Customer has no right or license with respect to any third-party materials except as expressly licensed under such third-party license agreements.
3. **Integration Terms of Use.** Except as expressly authorized under this Agreement, you may not remove any proprietary notices from the API; use the API in any manner or for any purpose that infringes, misappropriates, or otherwise violates any intellectual property right or other right of any person, or that violates any applicable law; combine or integrate the API with any software, technology, services, or materials not authorized by NEOGOV; design or permit Customer Application(s) to disable, override, or otherwise interfere with any NEOGOV-implemented communications to end users, consent screens, user settings, alerts, warning, or the like; use the API in any of Customer Application(s) to replicate or attempt to replace the user experience of the Services; or attempt to cloak or conceal Customer identity or the identity of Customer Application(s) when requesting authorization to use the API.
4. **Customer Integration Responsibilities.** Customer, Customer developed web or other software services or applications, and Customer third-party vendors that integrate with the API (collectively the “Customer Applications”), shall comply with all terms and conditions of this Agreement, all applicable laws, rules, and regulations, and all guidelines, standards, and requirements that may be posted on <https://api.neogov.com/connect/index.html> and/or <https://apidocs.powerdms.com> from time to time. In addition, Customer will not use the API in connection with or to promote any products, services, or materials that constitute, promote, or are used primarily for the purpose of dealing in spyware, adware, or other malicious programs or code, counterfeit goods, items subject to U.S. embargo, unsolicited mass distribution of email (“spam”), multi-level marketing proposals, hate materials, hacking, surveillance, interception, or descrambling equipment, libelous, defamatory, obscene, pornographic, abusive, or otherwise offensive content, stolen products, and items used for theft, hazardous materials, or any illegal activities.
5. **Cooperation.** If applicable, Customer shall timely provide such cooperation, assistance, and information as NEOGOV reasonably requests to enable the API. NEOGOV is not responsible or liable for any late delivery or delay or failure of performance caused in whole or in part by Customer’s delay in performing, or failure to perform, any of its obligations under this Agreement. NEOGOV will provide Customer maintenance and support services for API issues arising from the information technology designed, developed, and under then current control of NEOGOV. NEOGOV shall have no obligation to provide maintenance or support for issues arising from the inaction or action of Customer or third parties of which are outside NEOGOV control.
6. **Provision of Open API.** In the event license fees or other payments are not due in exchange for the right to use and access the Open API, you acknowledge and agree that this arrangement is made in consideration of the mutual covenants set forth

in this Agreement, including, without limitation, the disclaimers, exclusions, and limitations of liability set forth herein. Notwithstanding the foregoing, NEOGOV reserves the right to charge for access with effect from the start of each Renewal Term by giving Customer at least ninety (90) day notice prior to commencement of a Renewal Term.

7. API Key. In order to use and access the Open API, you must obtain an Open API key through the registration process. Customer agrees to monitor Customer Applications for any activity that violates applicable laws, rules and regulation, or any terms and conditions of this Agreement, including any fraudulent, inappropriate, or potentially harmful behavior. This Agreement does not entitle Customer to any support for the Open API. You acknowledge that NEOGOV may update or modify the Open API from time to time and at our sole discretion and may require you to obtain and use the most recent version(s). You are required to make any such changes to Customer Applications that are required for integration as a result of such Update at Customer sole cost and expense. Updates may adversely affect how Customer Applications communicate with the Services.
8. Efficient Processing. You must use efficient programming, which will not cause an overwhelming number of requests to be made in too short a period of time, as-determined solely by NEOGOV. If this occurs, NEOGOV reserves the right to throttle your API connections, or suspend or terminate your access to the Open API. NEOGOV shall use reasonable efforts to provide Customer notice and reasonable time to cure prior to taking such actions.
9. Open API Limitations. TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW, IN NO EVENT WILL NEOGOV BE LIABLE TO CUSTOMER OR TO ANY THIRD PARTY UNDER ANY TORT, CONTRACT, NEGLIGENCE, STRICT LIABILITY, OR OTHER LEGAL OR EQUITABLE THEORY FOR ANY DIRECT, LOST PROFITS, LOST OR CORRUPTED DATA, COMPUTER FAILURE OR MALFUNCTION, INTERRUPTION OF BUSINESS, OR OTHER SPECIAL, INDIRECT, INCIDENTAL, OR CONSEQUENTIAL DAMAGES OF ANY KIND ARISING OUT OF THE USE OR INABILITY TO USE THE OPEN API; OR ANY DAMAGES, IN THE AGGREGATE, IN EXCESS OF FIFTY DOLLARS, EVEN IF NEOGOV HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH LOSS OR DAMAGES AND WHETHER OR NOT SUCH LOSS OR DAMAGES ARE FORESEEABLE OR NEOGOV WAS ADVISED OF THE POSSIBILITY OF SUCH DAMAGES. ANY CLAIM YOU MAY HAVE ARISING OUT OF OR RELATING TO THIS AGREEMENT MUST BE BROUGHT WITHIN ONE YEAR AFTER THE OCCURRENCE OF THE EVENT GIVING RISE TO SUCH CLAIM.
10. Open API Termination. Notwithstanding the additional Termination rights herein, NEOGOV may immediately terminate or suspend Customer access to Open APIs in our sole discretion at any time and for any reason, with or without notice or cause. In addition, your Open API subscription will terminate immediately and automatically without any notice if you violate any of the terms and conditions of this Agreement.

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

RESOLUTION TO ACCEPT A QUOTATION FOR THE PURCHASE  
OF AN ARMORED RESCUE VEHICLE

WHEREAS:

1. As detailed in the attached staff report, it is recommended City Council accept a quotation from the sole source provider Lenco Armored Vehicles for the purchase of a Bearcat G3 armored rescue vehicle in the total estimated amount of \$356,862.00.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council accepts the quotation from Lenco Armored Vehicles for the purchase of a Bearcat G3 armored rescue vehicle in the total estimated amount of \$356,862.00.
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 bidders and the bid opening procedure.

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 July 1, 2024.

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

ATTACHMENTS:

Staff Report  
Quote  
Sole Source Letter

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

## Staff Report

Date: 06/05/2024

Subject: Police – Armored Rescue Vehicle Purchase

From: Lieutenant Andrew Koeller

Meeting Date: July 1, 2024

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### **RECOMMENDATION:**

It is recommended that the City Council approve the purchase of a Lenco Bearcat G3 Armored Rescue Vehicle in the amount of \$356,862.00

### **ALIGNMENT WITH STRATEGIC PLAN:**

- **Pillar 2 - Safety**

### **DISCUSSION:**

The City of Wyoming Police Department is committed to ensuring the safety and security of our community members. To further increase our efforts of providing safety and security to our community, we have identified the need for enhanced response capabilities to violent incidents and natural or man-made disasters. Therefore, it is requested that the purchase of a Lenco Armored Rescue Vehicle (ARV) be approved. This critical asset will bolster our ability to effectively address evolving public safety challenges and protect members of our community, in addition to law enforcement personnel.

#### **Current Challenges Without an Armored Rescue Vehicle:**

**Violent Incidents:** Violent crime continues to be a concern for communities nationwide, including the City of Wyoming. These calls for service pose significant risks to public safety and require a quick, dedicated response from law enforcement.

**Prolonged Response Times:** Presently, our department relies on mutual aid agreements for armored rescue vehicle assistance, leading to prolonged response times during high-risk critical incidents. A recent request for an ARV from a neighboring jurisdiction during an armed barricaded incident resulted in a 90-minute

response time. Delays in response can exacerbate the severity of situations and jeopardize the safety of both civilians and first responders.

#### Rationale for Purchase of an Armored Rescue Vehicle:

**Enhanced Public Safety:** Purchasing a Lenco ARV is essential for enhancing public safety and security within the City of Wyoming. The vehicle's advanced ballistic protection enables law enforcement to respond quickly to armed threats, thereby minimizing the risk of injury to both officers and civilians and mitigating the impact of violent incidents.

**Rapid Response Capability:** An armored rescue vehicle enhances our preparedness to respond effectively to incidents such as civil unrest, barricaded gunmen, hostage situations, natural disasters, and numerous other high-risk situations. By deploying an ARV within our department's fleet, response times to critical incidents can be significantly reduced. The vehicle's design enables it to navigate diverse terrain to access high-risk areas and areas of the city impacted by natural disasters such as floods, tornados, etc., ensuring that our officers can effectively intervene against active threats and protect the community.

**Protection of Law Enforcement Personnel:** The safety of our officers is paramount in any high-risk situation. The Lenco ARV provides a secure environment for officers tasked with responding to armed confrontations, hostage situations, natural disasters, and many other hazardous incidents, thereby enhancing their effectiveness and resilience.

**Versatility and Adaptability:** The Lenco ARV is a versatile platform that can be customized to meet the Wyoming Police Department's specific requirements. This vehicle offers flexibility and adaptability in addressing various public safety challenges.

Acquiring a Lenco Armored Rescue Vehicle is integral to the City of Wyoming's commitment to enhancing public safety. By investing in this vehicle, our department demonstrates its commitment to protecting the lives and well-being of our residents, visitors, and law enforcement personnel. The ARV's capabilities in rapid response, threat mitigation, citizen rescue, and officer protection make it a necessary tool for addressing high-risk situations.

#### **SOLE SOURCE:**

The Lenco Bearcat Armored Rescue Vehicle is the industry standard worldwide for armored vehicles; it provides unmatched protection, reliability, and versatility. Lenco is the only Bearcat Armored Rescue Vehicle manufacturer. As a sole source provider with unmatched expertise, performance, and support capabilities, Lenco Armored Vehicles offers a compelling solution tailored to the department's requirements. Due to its

mission-specific nature, this vehicle is respectfully requested to be purchased as a sole source item.

This vehicle will take approximately 14-18 months to manufacture from when the order is made.

**BUDGET IMPACT:**

Funds are budgeted in 205-301-31500-985.000 Capital Outlay Vehicles Fund.

**ATTACHED:**

**Quote**  
**Sole Source Documentation**



Protecting Our Nation's Defenders™

10 Betnr Industrial Drive - Pittsfield, MA 01201

PH: 413-443-7359 - FAX: 413-445-7865

# Quotation 103186

Customer Code: WOLMI

Quotation Date: 05/30/24

Lenco Tax ID#: 04-2719777

Page #: 1 of 1

<b>Bill To</b>
Wyoming Department of Public Safety 2300 DeHoop Ave SW Wyoming, MI 49509 USA

<b>Ship To</b>
Wyoming Department of Public Safety 2300 DeHoop Ave SW Wyoming, MI 49509 USA

<b>Payment Terms</b>	<b>Shipping Terms</b>	<b>Ship Via</b>
Net 30 Days	FOB: Destination	Common Carrier
<b>Estimated Completion</b>	<b>Lenco Contact</b>	<b>Inspection &amp; Acceptance</b>
14-18 months ARO (Est.)	Daniel Besemer	At Lenco's Facility, Pittsfield, MA

Item:	Product #	Qty	Unit Price	Total
Vehicle configuration	4618			
Lenco BearCat	BC55003-BASE	1	\$228,803.00	\$228,803.00
Options:				
LED Red & Blue w/ Clear Lenses	LED_RED_BLUE_CLEAR	1		
Exterior Paint Color: Lusterless Black	LUSTERLESS_BLACK	1		
Gasoline Engine	BCGEN	1		
BearCat G3 4-Wheel Off-Road Upgrade Pkg w/Run-Flats	BC3WOFFRD	1	\$38,454.00	\$38,454.00
4-Door Configuration	BC4DR	1	\$9,823.00	\$9,823.00
(1) 7" Vertical GunPort Upgrade	BCGP7	8	\$228.00	\$1,824.00
Electric Power Mirrors	BCMIR	1	\$1,508.00	\$1,508.00
360 Camera System	BC360DEG	1	\$4,422.00	\$4,422.00
Radio Prep Package, (1) Max (2)	BCINSRA	1	\$502.00	\$502.00
Rear A/C-Heating System: High Capacity (Ceiling Mounted)	BCHAC	1	\$2,972.00	\$2,972.00
Hydraulic Ram Upgrade w/Front Mounted Receiver with Ram Post and Plate	BCHYDRAM	1	\$14,975.00	\$14,975.00
VSP Style Low Profile & Scene Lighting Pkg	BCVSPL	1	\$6,102.00	\$6,102.00
Roof Mounted Remote Control Spot Light - LED	BCSLLED	4	\$1,404.00	\$5,616.00
Police Cupola w/Glass & Barn Doors	BCPCUPOLA	1	\$31,585.00	\$31,585.00
Armored Oil Pan Guard	BCAOPG	1	\$1,936.00	\$1,936.00
Ballistic Skip Round Shield	BCBSRS	2	\$2,420.00	\$4,840.00
<b>Configuration Subtotal:</b>				<b>\$353,362.00</b>
Lenco BearCat	NEWCONFIG	1	\$353,362.00	\$353,362.00
Freight Out - Vehicles	FREIGHTOUT-VEHICLE	1	\$3,500.00	\$3,500.00
<b>Net Total</b>				<b>\$356,862.00</b>

**Notes:**

**WARNING: Information Subject to Export Control Laws**  
The written approval of the Directorate of US Defense Trade Controls and Lenco Industries, Inc. must be obtained before reselling, transferring, transshipping or disposing of a defense article to any end user, end use or destination other than as stated on this Lenco quote or the shipper's export declaration in cases where an exemption is claimed under this subchapter ITAR 123.9(A).

Acceptance of this quotation or entering into a purchase agreement with Lenco, the purchaser agrees to Lenco's full Terms and Conditions of Sale, available upon request. This quote will be valid for 60 days.

**ACCEPTANCE OF PROPOSAL**

**Authorized Signature:** \_\_\_\_\_  
Please sign and return

**Authorized Signature:** Daniel Besemer  
Daniel Besemer

Thank you



Protecting Our Nation's Defenders™

**SOLE SOURCE LETTER**

Lenco Industries, Inc.  
10 Betnr Industrial Drive  
Pittsfield, MA, 01201  
E-mail: [Contracting@LencoArmor.com](mailto:Contracting@LencoArmor.com)  
Phone: 413-443-7359

**DATE:** March 29, 2024

**RE:** Sole Source Letter for the Lenco BearCat

To Whom It May Concern:

This letter confirms that Lenco Industries Inc. (d/b/a Lenco Armored Vehicles), as designer and manufacturer, is the **Sole Source** provider of the following products in the United States and internationally:

- **Lenco BEAR®**
- **Lenco BearCat®**
- **Lenco BombCat®**
- **Lenco MedCat™**
- **Lenco FireCat™**

Additionally, these Lenco products, their specifications, manufacturing techniques and marketing materials are proprietary and are protected by copyrights, trademarks, service marks, patents, nondisclosure agreements, noncompete agreements and exclusive supply agreements; in whole or in part.

There are no other items or products available that offer identical functionality or performance characteristics, and Lenco determines the prices for the above-named products to be fair and reasonable because of pre-competed federal and state supply schedules controlled by exclusive distribution.

Federal Acquisition Regulation (FAR) Part 6.302-1 – “Only one responsible source and no other supplies or services will satisfy agency requirements” is the statutory authority permitting this Sole Source government procurement.

Further, the Code of Federal Regulations (CFR) Title 2, Part 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards establishes government-wide requirements for federal grants and cooperative agreements. Under the Uniform Guidance, a non-Federal entity that receives a federal award must “provide a preference for the purchase, acquisition, or use of goods, products, or materials produced in the United States.” *See* 2 C.F.R. § 200.322. If the non-Federal entity fails to do so, the federal awarding agency or pass-through entity may sanction a non-compliant recipient of funds.

In summary, Lenco Armored Vehicles, based in the United States, is the only manufacturer or authorized dealer of the Lenco BearCat, its variants or its equivalent.

**Designer and Manufacturer of Tactical Armored Security Vehicles**

10 Betnr Industrial Drive · Pittsfield, MA 01201 · Tel (413) 443-7359 · Fax (413) 445-7865  
[www.LencoArmor.com](http://www.LencoArmor.com) · e-mail: [Info@LencoArmor.com](mailto:Info@LencoArmor.com)

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

RESOLUTION TO AUTHORIZE THE PURCHASE OF FOUR  
VOLCANIC POLICE READY BICYCLES AND ASSOCIATED EQUIPMENT

WHEREAS:

1. As detailed in the attached staff report, it is recommended City Council authorize the purchase of four Volcanic police ready bicycles and associated equipment from the sole source provider Volcanic Bikes in the total estimated amount of \$10,759.44.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council authorizes the purchase of four Volcanic police ready bicycles and associated equipment from Volcanic Bikes in the total estimated amount of \$10,759.44.
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 bidders and the bid opening procedure.

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 July 1, 2024.

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

ATTACHMENTS:

Staff Report  
Quote  
Letter

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

## Staff Report

Date: 06/05/2024

Subject: Police – Mountain Bike Purchase

From: Lieutenant Andrew Koeller

Meeting Date: July 1, 2024

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### **RECOMMENDATION:**

It is recommended that the City Council approve the purchase of four (4) Volcanic Police Patrol Bicycles. The bicycles are purchased directly from Volcanic, a sole source vendor.

### **ALIGNMENT WITH STRATEGIC PLAN:**

- **Pillar 2 - Safety**

### **DISCUSSION:**

The police bicycle is a vital tool the police department uses to provide public safety services to our community. In 2019, the Wyoming Police Department created a 14-officer Tactical Bike Team; this team has been utilized for civil unrest (riots), public relations, patrol operations, and numerous police-related functions. The police department currently has an aging fleet of bicycles from various manufacturers. After several years of multiple Tactical Bike Team deployments, the police department's bicycle fleet desperately needs replacement and standardization; heavy use has caused numerous catastrophic breakdowns. Many bicycles are beyond their serviceable life.

The Volcanic Police Ready Approach Mountain Bicycle costs \$2,689.86 per unit, for a total purchase cost of four (4) bicycles of \$10,759.44. The total price includes the bicycle, decals, gear bags, lighting package, siren, and shipping. Future bicycle replacements will be needed as the department works to replace and standardize all bicycles over several budget years to help offset the high cost of each unit.

The Volcanic police bicycle is currently the industry standard due to its reliability, quality, craftsmanship, and specific design for police work. Volcanic bicycles are presently used by the Grand Rapids Police Department and Michigan State Police. The Tactical Bike Team works closely with these teams and has witnessed their performance and

reliability. The WYPD fleet of bicycles is in the process of being transitioned to Volcanic brand bicycles; therefore, this is recommended as a sole source purchase.

**BUDGET IMPACT:**

Funds are budgeted in the Capital Outlay Miscellaneous Account: 205-301-31500-973.153

**ATTACHED:**

**Quote**  
**Sole Source Documentation**

**Volcanic Bikes**  
 PO Box 526  
 Boys Town, NE 68010  
 (509) 427-8623  
 info@volcanicbikes.com  
 www.volcanicbikes.com



# Estimate

ADDRESS
Wyoming MI Police Department 2300 DeHoop Ave SW Wyoming, MI 49509

SHIP TO
Wyoming MI Police Department 2300 DeHoop Ave Sw Wyoming, MI 49509

ESTIMATE #	DATE
2656980	05/29/2024

DATE	ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
	<b>Volcanic Police Ready APB 29"</b>	"APB" 1x11 34T Wheel Size: 29er Frame Size: TBD Frame Color: Black Wheels: Sun Ringle /Duroc /Sealed *Drifter tires  Accessories Included: Topeak MTX Trunk Bag DX (non-police) Topeak MTX Explorer Disc Rack 29" Niterider Lighting System w/Taillight Niterider Siren	4	2,489.86	9,959.44
	<b>Custom Decal Kit</b>	Custom Decal Sticker Kit, Retail	4	50.00	200.00
	<b>Freight / Shipping</b>	FedEx Ground	4	150.00	600.00
	<b>Sales Tax</b>	Sales Tax calculated by AvaTax on Wed 29 May 16:25:42 UTC 2024	1	0.00	0.00

SUBTOTAL	10,759.44
TAX	0.00
<b>TOTAL</b>	<b>\$10,759.44</b>

Accepted By

Accepted Date



5/23/2024

Wyoming Police Dept  
Lt. Andrew Koeller

RE: Sole Source and Purchasing

Thank you for considering Volcanic Bikes for your patrol bike purchase. Volcanic Bike models are designed exclusively for the rigors of the Bicycle Patrol Industry. Volcanic Manufacturing LLC, doing business as Volcanic Bikes, is the sole source for our patrol bikes. We only sell direct to the end consumer to ensure the customer gets exactly what they need and to ensure any products with POLICE markings only end up in the hands of the authorized end-user.

Unique characteristics of Volcanic Approach Patrol Bicycles (APB):

- All Volcanic Bicycle frames are built specifically for the Bicycle Patrol Industry
  - o Lifetime Warranty on all Volcanic frames
- Chain stay and seat stay yokes are machined from solid alloy bar stock
  - o Far superior in strength to other processes
- Chain stay yoke encompasses the width of the bottom bracket to Eliminate "chainring lean"
  - o Volcanic frame components were combined by design to minimize the flex in the rear triangle of the frame to support additional weight and especially at the bottom bracket to reduce "chainring lean". When the bottom bracket flexes, the chainrings lean while being pedaled, which makes the chain drag over the chainrings, increasing abrasion between the two metals instead of being pulled directly over the chainrings to run smooth.
- Seat stay yoke is sized and placed to extend the strength and stiffness of "The Rib"
  - o "The Rib" is a specifically designed frame component which is attached between the seat stay yoke and the seat tube. It is rectangular and has a rib in the middle to eliminate flex at the top of the seat tube to support the weight of a bicycle patrol officer's additional gear, reducing drivetrain wear and tear
- Rectangular chain stays and seat stays are used to strengthen and eliminate flex in the rear triangle to support larger riders carrying extra gear, gun belt, trunk bag containing law enforcement equipment, etc
- Unique dropouts add to the strength and comfort of the frame. The circular shape is designed to distribute impact force throughout the arc to minimize frame and rider fatigue. This design includes 14 inches of weld per set which is a drastic increase in point of contact between the dropouts and the chain stays and seat stays which increases the

strength of the frame and the safety of the rider.

By minimizing the flex, Volcanic Bikes have much less wear and tear on the drive train. ***This saves the department time and money throughout the life of the bicycle.***

CUSTOMIZATION:

- Volcanic Bikes offers color choices to coordinate with department colors
- Volcanic Bikes can create and deliver any color decal requested and can customize the decal to meet the needs of different departments.

Thank you for your consideration,

*Nathan Keenan*

Nathan Keenan  
Owner, Sales & Operations Director  
Volcanic Bikes  
nate@volcanicbikes.com  
509-427-8623

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

RESOLUTION TO CONCUR WITH THE PURCHASE OF  
A REPLACEMENT POLICE PATROL VEHICLE

WHEREAS:

1. As detailed in the attached staff report, it is recommended City Council concur with the purchase of a replacement patrol vehicle from Lunghamer Ford using the State of Michigan cooperative contract bid pricing in the total estimated amount of \$48,121.00.
2. The purchase will require the approval of the attached budget amendment.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council concurs with the purchase of a replacement police patrol vehicle from Lunghamer Ford in the total estimated amount of \$48,121.00.
2. The City Council approves the attached budget amendment.
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 July 1, 2024.

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

ATTACHMENTS:

Staff Report  
Estimate  
Budget Amendment

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

**CITY OF WYOMING BUDGET AMENDMENT**

**Date: July 1, 2024**

**Budget Amendment No. 001**

To the Wyoming City Council:

A budget amendment is requested to appropriate an additional \$48,121 of budgetary authority to provide the necessary funds to replace a Ford Interceptor.

<u>Description/Account Code</u>	<u>Current</u>	<u>Increase</u>	<u>Decrease</u>	<u>Amended</u>
<b><u>Motor Pool Depreciation Reserve Fund</u></b>				
Public Works - Capital Outlay - Vehicles				
660-441-58500-985.000	\$ 779,000.00	\$ 48,121.00	\$ -	\$ 827,121.00
Fund Balance/Working Capital (Fund 660)		<u>\$ -</u>	<u>\$ 48,121.00</u>	

Recommended:  \_\_\_\_\_  
 Senior Accountant City Manager

Motion by Councilmember \_\_\_\_\_, seconded by Councilmember \_\_\_\_\_ that the General Appropriations Act for Fiscal Year 2024-2025 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: June 17, 2024  
Subject: Police Car Replacement Purchase  
From: Don Roest, Fleet Services Supervisor  
CC: Myron Erickson, P.E., Director of Public Works  
Meeting Date: July 1, 2024

---

### **RECOMMENDATION:**

It is recommended that the City Council approve the purchase of a 2025 Ford Interceptor from Lunghamer Ford, using the State of Michigan Contract #071B770180 for \$48,121.00, and approve the associated budget amendment.

### **ALIGNMENT WITH STRATEGIC PLAN:**

- Pillar 2 – Safety
  - Goal 1 – Implement and adopt more proactive public safety initiatives.
- Pillar 3 – Stewardship
  - Goal 2 – Enhance the efficiency and effectiveness of City operations and services.

### **DISCUSSION:**

On May 8, 2024, a 2020 Ford Interceptor Police patrol vehicle was involved in an accident. The City's insurance provider (MMRMA) determined that the vehicle was a total loss and provided an insurance payout of \$20,450.00. This vehicle was scheduled for replacement in FY26 and there is approximately \$33,550 collected for its replacement to date. Therefore, the total available for its replacement, including the insurance payout and replacement collections, is approximately \$54,000.

The city is able to purchase a model year 2025 Ford Interceptor replacement vehicle from Lunghamer Ford, using the State of Michigan Contract #071B770180, in the amount of \$48,121.00.

### **BUDGET IMPACT:**

Because this vehicle was totaled in an accident and not budgeted for in FY25, a budget amendment is necessary. Sufficient funds will then exist in Capital Outlay Vehicles Account 660-441-58500-985.000.

Attachments:  
Lunghamer Estimate  
Budget Amendment



June 11, 2024

City of Wyoming  
Attn: Don Roest  
1155- 28<sup>th</sup> Street SW  
P.O. Box 905  
Wyoming, MI 49509-0905

Dear Don Roest:

Price on 2025 Vehicle State of Michigan Contract# 071B770180 and Macomb County Contract# 21-18 Bid:

**2025 Ford Police Interceptor Utility AWD in Black** **\$48,121.00 ea**

Service Contract: 36,000 miles or 36 months factory bumper to bumper warranty and 100,000 miles or 60 months powertrain warranty.

Delivery date: Approximately 90-120 Days A.R.O.

**Order Cutoff Date: TBD.**

**Ford Motor Company does not guarantee delivery---Ford Motor Company will make reasonable efforts to schedule orders received prior to fleet order cut-off date.**

**Payment requirements:** All departments to pay on delivery of vehicle. 10-day grace period will be given if previous arrangements have been made. An \$8.00 per day floor plan will be charged if payment is not at the dealership within 10 days of delivery of the vehicle (s).  
**If you have any questions please call me, 888-92-Fleet (888-923-5338).**

Respectfully Submitted,

*Bill Campbell*

Bill Campbell  
Government & Fleet Sales

# State of Michigan

## 2025 Utility Police Interceptor

### Major Standard Equipment

#### MECHANICAL

- Axle Ratio – 3.73 (AWD)
- Brakes – 4-Wheel Heavy-Duty Disc w/H.D. Front and Rear Calipers
- Class III Trailer Hitch Receiver with 5,000 lbs. towing capacity and (2) recovery hooks Note: Includes Class III Trailer Tow Lighting Package
- Column Shifter
- DC/DC converter – 220-Amp (in lieu of alternator)
- Drivetrain – All-Wheel-Drive
- Electric Power-Assist Steering (EPAS) – Heavy-Duty
- Engine – 3.3L V6 Direct-Injection FFV
- Engine Hour Idle Meter
- Engine Hour Meter
- Engine Oil Cooler
- Fuel Tank – 19-gallons
- HR AGM Battery (850CCA/92-amp)
- Lithium-Ion Battery Pack
- Manual Police Pursuit Mode (Steering Wheel Switch Execution)
- Suspension – independent front & rear
- Transmission – 10-speed automatic
- Transmission Oil Cooler

#### EXTERIOR

- Antenna, Roof-mounted
- Cladding – Lower bodyside cladding (MIC)
- Door Handles – Black (MIC)
- Exhaust, True Dual (down-turned)
- Daytime Running Lamps – Configurable ON/OFF through instrument cluster Note: Select option (942) if desire is to have Daytime Running Lamps permanently on (cannot be turned off or reprogrammed)
- Door-Lock Cylinders (Front Driver / Passenger / Liftgate)
- Glass – 2 nd Row, Rear Quarter and Liftgate Privacy Glass
- Grille – Black (MIC)
- Headlamps – Automatic, LED Low-and-High-Beam  
Note: Includes Front Headlamp / Police Interceptor Housing (with LED wig-wag feature)
- Pre-drilled hole for side marker police use, does not include LED strobe, but includes LED wig-wag functionality (eliminates need to drill housing assemblies and provides LED wig-wag feature)
- Pre-molded side warning LED holes with standard sealed capability (does not include LED installed lights)
- Wig-wag default is traditional ping-pong pattern; can be programmed to triple-burst pattern or ping-pong / triple-burst Note: Must be wired to vehicle's light controller to enable wig-wag functionality; recommend Ready for the Road Package (67H) or Ultimate Wiring Package (67U)
- Liftgate – Manual 1-Piece – Fixed Glass w/Door-Lock Cylinder
- Mirrors – Black Caps (MIC), Dual Pwr/Heated/Manual Fold Back Mirror
- Spare – Full size 18" Tire w/TPMS
- Spoiler – Painted Black
- Liftgate Handle – (MIC)
- Tail lamps – LED
- Tail Lamp Prep Kit
- Tires – 255/60R18 A/S BSW
- Wheel-Lip Molding – Black (MIC)
- Wheels – 18" x 8.0 painted black steel with polished stainless steel hub cover

- Windshield – Acoustic Laminated

#### INTERIOR/COMFORT

- Cargo Hooks in cargo area
- Climate Control – Dual-Zone Electronic Automatic Temperature Control (DEATC)
- Climate Control – Rear Aux A/C System
- Dark Car
- Door-Locks
- Power
- Rear-Door Handles and Locks Operable
- Fixed Pedals (Driver Dead Pedal)
- Floor – Flooring – Heavy-Duty Thermoplastic Elastomer
- Glove Box – Locking/non-illuminated
- Grab Handles – (1 – Front-passenger side, 2-Rear)
- Heated Sanitization Solution
- Liftgate Release Switch located in overhead console (45 second timeout feature)
- Lighting
- Overhead Console
- Red/White Task Lighting in Overhead Console
- Mirror – Day/Night Rear View
- Particulate Air Filter
- Powerpoints – (2) USB A+C Type Ports
- Rear-door closeout panels
- Rear-window Defrost
- Scuff Plates – Front & Rear
- Seats
- 1 st Row Police Grade Cloth Trim, Dual Front Buckets with reduced bolsters

- 1 st Row – Driver 6-way Power track (fore/aft. Up/down, tilt with manual recline, 2-way power lumbar)
- 1 st Row – Passenger 4-way Power track with 2-way power recline and 2-way power lumbar
- Built-in steel intrusion plates in both driver/passenger seatbacks
- 2 nd Row Vinyl, 35/30/35 Split Bench Seat (manual fold-flat, no tumble) – fixed seat track
- Red and White Dome Lamp in Cargo Area
- Speed (Cruise) Control
- Speedometer – New 12.3" Display Calibrated (includes digital readout)
- Steering Wheel – Manual / Tilt / Telescoping, Urethane wheel finish w/Silver Painted Bezels with Speed Controls and 4 user – configurable latching switches
- Sun visors, color-keyed, non-illuminated
- Universal Top Tray – Center of I/P for mounting aftermarket equipment
- Windows, Power, 1-touch Up/Down Front Driver/Passenger-Side with disable feature

#### SAFETY/SECURITY

- AdvanceTrac® w/RSC® (Roll Stability Control®)
- Airbags, dual-stage driver & front-passenger, side seat, passenger-side knee, Roll Curtain Airbags and Safety Canopy®
- Anti-Lock Brakes (ABS) with Traction Control
- BLIS® – Blind Spot Monitoring with Cross-traffic Alert
- Brakes – Police calibrated high-performance regenerative braking system
- Belt-Minder® (Front Driver / Passenger)
- Cross Traffic Brake Assist (HNYAC)
- Child-Safety Locks (capped; set to "on")
- Individual Tire Pressure Monitoring System (TPMS)
- LATCH (Lower Anchors and Tethers for Children) system on rear outboard seat locations
- Police Perimeter Alert detects motion in an approximately 270-degree radius on sides and back of vehicle; if movement is determined to be a threat, chime will sound at level I. Doors will lock and windows will automatically go up at level II. Includes visual display in instrument cluster with tracking.
- Pre-Collision Mitigation system Note: Includes unique one-touch temporary disable switch for Law Enforcement use
- Rearview Camera viewable on 8" Center Stack Screen
- 1/4 Scale Rear Camera Display (Available)
- Reverse Sensing System
- Seat Belts, Pretensioner/Energy-Management System w/adjustable height in 1st Row
- SOS Post-Crash Alert System™

#### FUNCTIONAL

- 100 Watt Siren/Speaker Prep Kit
- Speed Control
- Audio
- AM/FM / MP3 Capable / Clock / 4-speakers
- SYNC® Phoenix
- Includes hands-free voice command support (compatible with most Bluetooth connected mobile devices)
- USB Port – (1)
- 8" Color LCD Screen Center-Stack "Smart Display"
- Supports Android Auto and Apple CarPlay
- UIS (Upfitter Interface System) Located behind 2nd row passenger seat floorboard
- Easy Fuel® Capless Fuel-Filler
- Fleet Telematics Modem
- Allows data to be provided to support Ford Pro™ Telematics and Data Services via optional subscription, including but not limited to vehicle location, speed, idle time, fuel, vehicle diagnostics and maintenance alerts. Device enables optional telematics services through Ford or authorized providers via paid subscription. Subscribe at <https://fordpro.com/en-us/telematics/> or call 1-833-811-FORD (3673)
- Front door tether straps (driver/passenger)
- PAITRO output tied to liftgate release switch (Police Accessory Independent Timed-Release Output)
- Police Engine Idle
- Power pigtail harness
- Simple Fleet Key (w/o microchip, easy to replace; 4-keys)
- Keyless Entry – Key FOB Only (Less PATS) – Includes 4 fobs
- Two-way radio pre-wire
- Two (2) 50 – amp battery power circuits – power distribution junction block (behind 2nd row passenger seat floorboard)
- Wipers – Front Speed-Sensitive Intermittent; Rear Dual Speed Wiper

#### WARRANTY

- 3 Year / 36,000 Miles Bumper / Bumper
- 8 Year / 100,000 Miles Hybrid Unique Components
- 5-year/100,000-mile Powertrain CARE Extended Service Plan (zero deductible) – Standard

**Police Interceptor Utility Base Prices**

<input checked="" type="checkbox"/>	<b>Utility All Wheel Drive</b> (3.3L V6 Direct-Injection FFV, 136 MPH, 99B/44U) <b>K8A/500A</b>	<b>\$44,591.00</b>
<input type="checkbox"/>	<b>Utility All Wheel Drive</b> (3.0L V6 EcoBoost, 148 MPH, 99C/44U) <b>K8A/500A</b>	<b>\$47,965.00</b>
<input type="checkbox"/>	<b>Utility All Wheel Drive</b> (3.3L V6 Direct-Injection Hybrid Eng., 136 MPH, 99W/44B) <b>K8A/500A</b>	<b>\$47,118.00</b>

<u>VEHICLE COLOR: Order Code</u>	<u>Interior Trim Color</u>	
	<u>Charcoal Black (9W)</u>	
Dark Blue	[LK]	[ ]
Royal Blue	[LM]	[ ]
Vermillion Red	[E4]	[ ]
Silver Grey Metallic	[TN]	[ ]
Iconic Silver Metallic	[JS]	[ ]
<b>Agate Black</b>	[UM]	[ x ]
Oxford White	[YZ]	[ ]
Sterling Grey Metallic	[UJ]	[ ]
Carbonized Grey	[M7]	[ ]

**INTERCEPTOR OPTIONAL FEATURES:**

	<u>Code</u>	<u>\$Cost</u>
<b><u>Flooring/Seats</u></b>		
<input type="checkbox"/> 1st and 2nd row carpet floor covering	16C	150.00
<input type="checkbox"/> 2nd Row Cloth Seats	F6/ 88F	70.00
<input type="checkbox"/> Rear Console Plate (Not available with Interior Upgrade Pkg – 65U)	85R	60.00
<input type="checkbox"/> <b><u>Interior Upgrade Package</u></b>	<b>65U</b>	<b>390.00</b>
<ul style="list-style-type: none"> <li>• 1st and 2nd Row Carpet Floor Covering</li> <li>• Cloth Seats – Rear</li> <li>• Center Floor Console less shifter w/unique Police console finish plate</li> <li>• Includes Console and Top Plate with 2 cup holders</li> <li>• Floor Mats, front and rear (carpeted)</li> <li>• 18" Aluminum Wheel</li> <li>• Selectable Sport Mode</li> <li>• High Series Headlamp with LED Corner Warning Lights</li> <li>• Includes SYNC@ Phoenix</li> </ul>		
Note: Note: Not available with EcoBoost Powertrain (99C/44U).		
<b><u>Lamps/Lighting</u></b>		
<input type="checkbox"/> Side Marker LED – Sideview Mirrors (Red / Blue)	63B	340.00
<input type="checkbox"/> Rear Quarter Glass Side Marker Lights	63L	580.00
<input type="checkbox"/> Front Warning Auxiliary Light (Driver side – Red / Passenger side – Blue)	21L	580.00
<input type="checkbox"/> Rear Auxiliary Liftgate Lights (Red/Blue LED Lights; located beneath liftgate glass in applique panel)	43A	400.00
<input type="checkbox"/> Rear Spoiler Traffic Warning Light	96T	1500.00
<input type="checkbox"/> Spot Lamp – Driver Only (LED Bulbs) (Unity)	51R	400.00
<input checked="" type="checkbox"/> <b>Spot Lamp – Driver Only (LED Bulbs) (Whelen)</b>	<b>51T</b>	<b>420.00</b>
<input type="checkbox"/> Spot Lamp – Dual (driver and passenger) (LED Bulbs) (Unity)	51S	620.00
<input type="checkbox"/> Spot Lamp – Dual (driver and passenger) (LED Bulbs) (Whelen)	51V	670.00
<b><u>Body</u></b>		
<input type="checkbox"/> Glass – Solar Tint 2nd and 3rd Row (Deletes Privacy Glass)	92G	120.00
<input type="checkbox"/> Glass – Solar Tint 2nd Row (Privacy Glass on Rear Quarter and Liftgate Window)	92R	90.00
<input type="checkbox"/> Deflector Plate	76D	340.00
<b><u>Wheels</u></b>		
<input type="checkbox"/> Wheel Covers (18" Full Face Wheel Cover)	65L	60.00
<b><u>Misc</u></b>		
<input type="checkbox"/> Engine Block Heater	41H	190.00
<input type="checkbox"/> License Plate Bracket – Front	153	N/C
<input type="checkbox"/> Badge Delete (Police Interceptor Badge Only)	16D	N/C
<input checked="" type="checkbox"/> <b>100 Watt Siren/Speaker (includes bracket and pigtail)</b>	<b>18X</b>	<b>350.00</b>
<input type="checkbox"/> Noise Suppression Bonds (Ground Straps)	60R	100.00
<input type="checkbox"/> Rear Bumper Step Pad	16P	100.00

**Audio/Video**

- [ ] **12.1" Integrated Computer Screen** 47E 3700.00
  - Includes 12.1" touchscreen display in center stack and allows for operation of laptop in remote location to free up cabin space in front passenger area
  - Includes Audio Video Extender (AVX) box, (2) AVX cables, (2) USB cables and (1) HDMI cable
  - Includes SYNC Phoenix ®
- [ ] ¼ Size Picture in Picture (8" Rear Camera Image in upper lefthand quadrant of display). Not available with Integrated Computer Screen (47E) 87M N/C

**Doors/Windows**

- [x] **Global Lock / Unlock feature (Door-panel switches will lock/unlock all doors and rear liftgate. Eliminates the overhead console liftgate unlock switch) \*\*\*\*\* OLD STYLE REAR HATCH LOCK / UNLOCK \*\*\*\*\*** 18D N/C
- [ ] Hidden Door Lock Plunger, Rear Door Handle and Rear Windows Inoperable 52P 160.00
- [x] **Rear Door Handles Inoperable/Locks Inoperable and Rear Windows Inop.** 68G 80.00
- [x] **Lock system; Single Key/All Vehicles Keyed Alike** 59J 50.00
  - Keyed Alike 1284x= 59B Keyed Alike 1294x= 59C Keyed Alike 0135x= 59D
  - Keyed Alike 1435x= 59E Keyed Alike 0576x= 59F Keyed Alike 0151x= 59G
  - Keyed Alike 1111x= 59J

**Safety & Security**

- [ ] Ballistic Door Panels – Driver Front Door Only (Level 3+) 90D 1590.00
- [ ] Ballistic Door Panels – Driver & Pass Front Doors (Level 3+) 90E 3170.00
- [ ] Ballistic Door Panels – Driver Front Door Only (Level 4+) 90F 2420.00
- [ ] Ballistic Door Panels – Driver & Pass Front Doors (Level 4+) 90G 4830.00
- [ ] Extra Key \$10.00x\_\_\_\_= Parts 10.00 ea
- [ ] Remote Starter Parts 550.00
- [ ] Gun Vault (Not Available with (17A) Aux Air Conditioning) 63V 270.00

[x] **Front Headlamp Lighting Solution** 66A 900.00

- Includes LED Low beam/High beam headlamp, Wig-wag function and (2) Red/Blue/White LED side warning lights in each headlamp (factory configured: driver's side White/Red / passenger side White/Blue)
- Includes pre-wire for grille LED lights, siren and speaker (60A)
- Wiring, LED lights included (in headlamps only; grille lights not included). Controller "not" included
- Note: Included with Ready for the Road (67H)
- Note: Recommend using Ultimate Wiring Package (67U)
- Note: Included with Police Upgrade Package (65U)

[x] **Tail Lamp Lighting Solution** 66B 430.00

- Includes LED Tail Lamp Wig-Wag Module
- LED lights only. Wiring, controller "not" included
- Note: Included with Ready for the Road (67H)
- Note: Recommend using Ultimate Wiring Package (67U)

[x] **Rear Lighting Solution** 66C 460.00

- Includes two (2) backlit flashing linear high-intensity LED lights (driver's side red / passenger side blue) mounted to inside liftgate glass
- Includes two (2) backlit flashing linear high-intensity LED lights (driver's side red / Passenger side blue) installed on inside lip of liftgate (lights activate when liftgate is open)
- LED lights only. Wiring, controller "not" included
- Note: Included with Ready for the Road (67H)
- Note: LED lights only – does "not" include wiring or controller

[x] **Police Wire Harness Connector Kit – Front/Rear** 67V 200.00

For connectivity to Ford PI Package solutions includes:

- **Front**
  - (2) Male 4-pin connectors for siren
  - (5) Female 4-pin connectors for lighting/siren/speaker
  - (1) 4-pin IP connector for speakers
  - (1) 4-pin IP connector for siren controller connectivity
  - (1) 8-pin sealed connector
  - (1) 14-pin IP connector
- **Rear**
  - (2) Male 4-pin connectors for siren
  - (5) Female 4-pin connectors for lighting/siren/speaker
  - (1) 4-pin IP connector for speakers
  - (1) 4-pin IP connector for siren controller connectivity
  - (1) 8-pin sealed connector

<p><input checked="" type="checkbox"/> <b><u>Ultimate Wiring Package</u></b></p> <ul style="list-style-type: none"> <li>• Rear console mounting plate (85R) – contours through 2nd row; channel for wiring</li> <li>• Pre-wiring for grille LED lights, siren and speaker (60A)</li> <li>• Wiring harness I/P to rear cargo area (overlay) <ul style="list-style-type: none"> <li>– Two (2) light cables – supports up to six (6) LED lights (engine compartment/grille)</li> <li>– One (1) 10-amp siren/speaker circuit engine compartment</li> </ul> </li> <li>• Rear hatch/cargo area wiring – supports up to six (6) rear LED lights</li> <li>• Does "not" include LED lights, side connectors or controller</li> </ul> <p><b>Note: Recommend Police Wire Harness Connector Kit 67V</b>  <b>Note: Not available with options: 65U, 67H</b></p>	<p><b>67U</b></p>	<p><b>640.00</b></p>
<p><input type="checkbox"/> <b><u>Ready for the Road Package All-in Complete Package</u></b></p> <p>All-in Complete Package – Includes Police Interceptor Packages: 66A, 66B, 66C, plus</p> <ul style="list-style-type: none"> <li>• Whelen Cencom Light Controller Head with dimmable backlight</li> <li>• Whelen Cencom Relay Center / Siren / Amp w/Traffic Advisor control (mounted behind 2nd row seat)</li> <li>• Light Controller / Relay Cencom Wiring (wiring harness) w/additional input/output pigtails</li> <li>• High current pigtail</li> <li>• Whelen Specific WECAN Cable (console to cargo area) connects Cencom to Control Head</li> <li>• Pre-wiring for grille LED lights, siren and speaker (60A)</li> <li>• Rear console plate (85R) – contours through 2nd row; channel for wiring</li> <li>• Grille linear LED Lights (Red / Blue) and harness</li> <li>• 100-Watt Siren / Speaker</li> <li>• Hidden Door-Lock Plunger w/Rear-door controls inoperable (locks, handles and windows) (52P)</li> </ul> <p><b>Note: Not available with options: 66A, 66B, 66C, 67U and 65U</b></p>	<p><b>67H</b></p>	<p><b>3800.00</b></p>
<p><b><u>Extended Warranty Option's (\$0.00 Deductible) 100,000 Mile Coverage</u></b></p>		
<p><input type="checkbox"/> <b>5-Year Premium Care Warranty (500 Plus Components Coverage)</b></p>		<p><b>2950.00</b></p>

**Total Price \$48,121.00 ea**

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

RESOLUTION TO ACCEPT A PROPOSAL FOR  
EMPLOYEE ASSISTANCE PROGRAM (EAP) SERVICES

WHEREAS:

1. The City of Wyoming offers an Employee Assistance Program (EAP) to its employees.
2. As detailed in the attached staff report, it is recommended City Council accept a proposal from Pine Rest Christian Mental Health Services to provide the EAP services.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council accepts a proposal from Pine Rest Christian Mental Health Services to provide Employee Assistance Program (EAP) services.
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 hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on July 1, 2024.

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

ATTACHMENTS:

Staff Report  
Contract

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

## STAFF REPORT

Date: June 12, 2024

Subject: Employee Assistance Provider

From: Kim Klaassen, Human Resources Specialist

Cc: Kim Oostindie, Director of Human Resources  
Emily Vande Griend, Assistant Director of Human Resources

Meeting Date: July 1, 2024

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### RECOMMENDATION:

It is recommended the City Council approve the contract renewal proposal from Pine Rest and authorize the Mayor and City Clerk to continue an agreement to provide an Employee Assistance Program to the City of Wyoming employees.

### ALIGNMENT WITH STRATEGIC PLAN:

- PILLAR 3 – Stewardship
  - GOAL 4 – Attract, train, and retain a talented workforce.
    - OBJECTIVE 1 – Develop a plan to attract and retain staff.

### DISCUSSION:

Pine Rest provides counseling services, supervisor consultation, educational and awareness materials, an online library of articles and other resources, a 24-hour crisis hotline, four on-site educational presentations per year, legal consultation, financial consultation, and critical incident. These services provide opportunities for our employees to maintain a productive, healthy lifestyle. Mental health is key to employee safety and the safety of their family members and others. EAPs, such as the one offered by Pine Rest, help support employees in their work pursuits and personal lives so they can maintain a productive focus on the services they provide to the community.

On July 1, 2019, City Council adopted resolution 26441 awarding accepting a proposal from Pine Rest for Employee Assistance Program Services. For renewals in 2020, 2021, and 2022, Pine Rest did not increase their pricing. In 2023, Pine Rest increased their pricing slightly, to \$20 per employee. This contract is effective August 1, 2024, and the price remains the same at \$20 per employee for an approximate total of \$8,500 per year.

### BUDGET IMPACT:

Funds for EAP services are budgeted in the Human Resources professional services account 101-270-27000-801.000

Enclosure:  
Employee Assistance Program Contract



## EMPLOYEE ASSISTANCE PROGRAM CONTRACT

This agreement is entered into as of the **1st day of August 2024** between Pine Rest Christian Mental Health Services (Pine Rest) with offices at 300 68<sup>th</sup> Street SE, Grand Rapids, MI 49548 and **City of Wyoming** with offices at 1155 28th St SW, Wyoming, MI 49509.

WHEREAS, Employer wishes to obtain certain employee assistance services for employees and Pine Rest wishes to provide such services;

NOW THEREFORE, in consideration of the mutual promises contained herein, it is agreed as follows:

1. Definitions

- a. Employee means any full-time or part-time employee of Employer.
- b. Client means an Employee who receives services hereunder.

2. Employee Assistance Program

a. The Program

The services provided to Employees as specified herein shall constitute the Employee Assistance Program (Pine Rest EAP). The services that are furnished under Pine Rest EAP shall be provided only to an Employee who requests such services, or to an Employee who is referred to Pine Rest by Employer for such services, for personal problems of a medical, emotional, financial, family or substance abuse nature, or other personal problems which may cause or lead to poor performance.

b. Eligibility for Services

EAP services will be provided to both full and part time Employees during the course of their employment. Additionally, any member of the Employee's household, defined as all individuals who reside within the household, will also be eligible for services under this agreement.

c. Nature of Services – See Attachment A

d. Location of Services

- NATIONAL COVERAGE: Employees and household members located within the United States are eligible for services at multiple locations throughout West Michigan and affiliate locations nationwide.
- INTERNATIONAL COVERAGE: This contract does not include services for Employees and household members who are located outside of the United States.

3. Term of Agreement

a. This agreement shall be effective on the date first set forth above and shall continue in effect until terminated by either party as provided in b below.

b. This agreement may be terminated by either party with 30-day notice. This agreement shall remain in effect for one year and may be renewed for successive terms of one year each unless there is notification prior to the anniversary date of the contract by either party to terminate the agreement. In the event of any rate change, written notification will be given 60 days prior to the anniversary date of the contract.

c. In the event of termination, the annual and/or quarterly fees will be prorated to the date of termination.

4. Fees

- Employer agrees to pay Pine Rest EAP:
- Annual Program Fee based on number of employees at contract start date.
  - 1 – 100 employees = \$100 Program Fee
  - 101 – 250 employees = \$200 Program Fee
  - 251+ employees = \$0 Program Fee
- Annual billing based on per-employee rate: **\$20 per employee per year**
- Other fees spelled out in Attachment A.

5. Records

a. All client and staff activity records maintained by Pine Rest in conjunction with Pine Rest EAP shall be confidential. Client records shall not be released by Pine Rest to anyone without the client's written authorization, except as required or authorized by law.

6. Program Audit

a. Quarterly Report

A quarterly written report on program activity will be provided by Pine Rest EAP to Employer. This report shall contain the number services accessed on a monthly basis as well as category of diagnosis, completed trainings, Critical Incident Response services, and any additional services that are provided to the client.

b. Annual Report

A yearly written report on program activity will be provided and shall contain information regarding number of services accessed, problem categories, and monitoring results.

7. Coordinator

Employer shall designate a Coordinator of the Program who shall serve as a liaison between Pine Rest EAP and Employer.

8. Waiver

Failure of either party to require strict performance by the other of any agreement provision shall not affect its rights with respect to continued or subsequent breaches.

9. Severability and Law Governing

In the event that any part of this agreement is found to be illegal or unenforceable, the parties will be excused from performance of such portion or portions of this agreement as shall be found to be illegal or unenforceable without affecting the validity of the remaining provisions of this agreement. This agreement shall be construed in accordance with the laws of the State of Michigan.

10. Independent Contractor Status

This Agreement shall constitute Pine Rest EAP as an independent contractor. The Employer is interested in only the results of the services and shall not supervise, direct or control Pine Rest EAP in the performance thereof. All persons employed in the performance of work hereunder shall be and remain the exclusive employees of Pine Rest EAP and shall not be held out directly or impliedly as Employees or agents of Employer.



11. Indemnification

Pine Rest EAP shall assume all responsibility for, and indemnify and save Employer harmless from all expenses, claims or liability for injury to any person, including death or damages, and also for any property damage, which in any manner are connected with or arise from any action or operation hereunder or the performance of the services which are the subject of this contract, provided Pine Rest EAP shall not be required to indemnify Employer for such injury or damage caused by Employer's sole negligence.

12. Insurance

Pine Rest EAP shall maintain Commercial General Liability insurance, written on an occurrence form, with policy limits of not less than \$500,000 each occurrence, and \$1,500,000 general aggregate.

13. Entire Agreement

This agreement terminates and supersedes any prior oral or written agreements between the parties concerning the subject matter hereof and constitutes the entire understanding between them.

14. All notices required by the provisions of this agreement shall be given in writing and may be delivered personally or may be served by certified or registered mail. Notices to Employer shall be delivered or mailed to **City of Wyoming** with offices at 1155 28th St SW, Wyoming, MI 49509.

Notices to Pine Rest EAP shall be delivered via email to [eap@pinerest.org](mailto:eap@pinerest.org) or mailed to Pine Rest Corporate offices, attention to the Employee Assistance Program, Pine Rest Christian Mental Health Services, 300 - 68<sup>th</sup> Street, SE, P.O. Box 165, Grand Rapids, Michigan, 49501-0165. Notices delivered by mail shall be effective on the date mailed.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first written above.

**PINE REST CHRISTIAN MENTAL HEALTH SERVICES**

By: \_\_\_\_\_  
Scott Halstead, PhD, VP/Outpatient & Recovery Services  
**Pine Rest Christian Mental Health Services**


\_\_\_\_\_  
Date Signed

By: \_\_\_\_\_  
**City of Wyoming**

\_\_\_\_\_  
Date Signed

Please print name Kent Vanderwood Title Mayor

Approved as to form:

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

By: \_\_\_\_\_  
Kelli VandenBerg, Wyoming City Clerk

\_\_\_\_\_  
Date Signed



ATTACHMENT A  
EAP AGREEMENT BETWEEN  
Pine Rest Christian Mental Health Services  
and  
**City of Wyoming**  
SERVICES

Pine Rest EAP will provide the following services:

1. Diagnostic Assessment and Referral

A diagnostic therapist with approved State credentials will provide to Employees and household members confidential assessment and referral for any type of personal problem and, where appropriate, short-term counseling and problem resolution.

- Hotline: Employee and household members may call the Hotline 24 hours per day - 7 days per week to discuss their concerns with a licensed clinical provider and triage next steps for care. Telephone calls are returned within one hour of initial contact by professional staff.
- Consultation: Employee and household members are entitled to up to **five (5)** face-to-face or telehealth consultations per episode of treatment for purposes of assessment and, if needed, referral. Individuals seeking services will be contacted within 48 business hours of initial contact with the program and will be scheduled based on employee's need (i.e. specialty request, day/times available, location needs, etc.) and this may cause them to be scheduled outside of the 7 business day window. Notwithstanding the foregoing, Pine Rest EAP shall endeavor to schedule all Employees within 7 business days, accommodating their preferences, if possible.

2. Consultation on Program

Pine Rest EAP will provide ongoing training and consultation to Employer concerning behavioral health/management issues and appropriate development and improvement of the EAP Program. Employer may engage Pine Rest EAP for **four hours** of virtual educational presentations per contract year for no additional cost; onsite presentations will be assessed a \$50 travel fee. Trainings that are scheduled beyond the four free hours will be invoiced at a rate of \$200 per hour; a \$50 travel fee will be assessed for on-site facilitation.

3. Elder Care Consultation

Pine Rest EAP will provide Employees with telephonic access to Elder Care experts for consultation regarding available resources such as, but not limited to, in-home care, meals on wheels, case management services, adult day programs, in-home recreational therapy, transportation options, and a continuum of care communities such as nursing homes, assisted living facilities, adult foster care, and senior communities. This service will be available Monday-Friday, 9am-3pm. Messages left after-hours will be returned the next business day.

4. Legal Consultation

Pine Rest EAP will provide Employees with access to one free 30-minute telephonic consultation with an attorney from Rhoades McKee law firm plus a 20% discount from standard rates on any subsequent legal services. The discount includes estate planning services at reduced flat fees. It is understood that Pine Rest simply makes this discounted service available through its relationship with Rhoades McKee and that this service then occurs within the relationship between the Employee



and Rhoades McKee law firm.

5. Financial Consultation

Pine Rest EAP will provide Employees with access to free financial consultations with a Lake Michigan Credit Union finance expert. Sample issues include budgeting, managing credit card debt, tax preparation, and wealth management. It is understood that Pine Rest simply makes this service available through its relationship with Lake Michigan Credit Union and that this service then occurs within the relationship between the Employee and Lake Michigan Credit Union.

6. Personal Advantage Web-based Resources

Pine Rest EAP will provide Employees with confidential access to thousands of assessments, articles, videos, calculators, template legal forms, and training via this password-protected web tool.

7. Critical Incident Response Services

Specially trained trauma counselors can be available quickly to help support individual and organizational resilience after workplace tragedies. This service will be provided at \$200 per hour, per clinician; a \$50 travel fee will be assessed, per clinician, for on-site facilitation.

8. Coaching and Mediation Services

Executive coaching, Employee coaching, and Mediation services are facilitated by a human resources professional or licensed clinician. These services will be provided at \$200 per hour; a \$50 travel fee will be assessed for on-site facilitation.

9. Mandatory Referral Services

Mandatory Referral services are provided as part of this contract. Employee will be contacted to schedule an appointment within 48 business hours of the initial referral. Employer will be given updates as permitted per the signed Release of Information including information about the Employees' engagement and attendance. No confidential information regarding the content of the sessions will be disclosed per HIPAA requirements. Additional fees will apply if the Mandatory Referral requires engagement of a Substance Abuse professional per DOT (Department of Transportation) and FMC (Federal Motor Carrier) regulations.

10. Materials Pine Rest EAP will furnish benefit fliers, wallet cards, posters and information pamphlets as required to make the availability of services known to Employees.

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

RESOLUTION TO ACCEPT AN AGREEMENT FROM ECO-COUNTER CORPORATION  
FOR THE PURCHASE OF FOUR PEDESTRIAN COUNTERS

WHEREAS:

1. As detailed in the attached staff report, it is recommended City Council accept an agreement from the sole source provider Eco-Counter Corporation for the purchase of four Pyro Box Evo pedestrian counters in the total estimated amount of \$17,980.00.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council accepts the quote from Eco-Counter Corporation for the purchase of four pedestrian counters in the total estimated amount of \$17,980.00.
2. The City Council authorizes the Mayor and City Clerk to sign the agreement.
3. The City Council does hereby waive the provisions of 2-252, 2-253, 2-254 and 2-256 of the City Code regarding the 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 July 1, 2024.

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

ATTACHMENTS:

Staff Report

Agreement

General License Conditions

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

## STAFF REPORT

Date: June 11, 2024  
Subject: Pedestrian Counter Purchase  
CC: Nicole Hofert, Director of Community & Economic Development  
John Shay, City Manager  
Patrick Waterman, Deputy City Manager  
From: Paul Smith, Assistant Director of Community & Economic Development  
Meeting Date: July 1, 2024

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### RECOMMENDATION

It is recommended that City Council accept the quote from Eco-Counter for four Pyro Box pedestrian counters for the total amount of \$17,980.00.

### ALIGNMENT WITH STRATEGIC PLAN

- Pillar 1 – Community
  - Objective 1 – Complete City Center public improvements.
    - Task 3 – Complete public infrastructure improvements related to City Center.

### DISCUSSION

The City Center budget provides for pedestrian counters for City staff to monitor the usage of bicycle and pedestrian trails throughout the City of Wyoming. Federal grant applications typically require a benefit-cost analysis and, for trail projects, that analysis requires forecasts of trail usage. In recent years, City staff have requested short-term installations of pedestrian counters owned by the Grand Valley Metro Council (GVMC) to gather information for these grant applications, but those counters are in high demand among partner communities. Operating our own pedestrian counters will allow us to gather data more quickly and write more competitive grant applications.

In addition, pedestrian counters will allow City staff to monitor how trail usage patterns change over time and assess the demand for improved pedestrian and bicycle facilities throughout the City. Examples of potential uses include placing a counter along an existing trail to determine how usage changes throughout the year or placing a counter along a sidewalk where demand might indicate a 10 foot trail is more appropriate. The information collected with these counters will allow the City to be more thoughtful and efficient as it continues to build out its trail network.

The Pyro Boxes will count all trail users (e.g. pedestrians and bicyclists) using a pair of infrared beams. Each passing trail user will be counted and their direction of travel will be tagged. Data will be collected in 15-minute increments. The quote calls for two types of Pyro Boxes, where the difference is how close pedestrians must pass in front of the box to be counted (i.e., within 15 feet or within 39 feet). Having access both types of Pyro Boxes will allow staff to place counters more efficiently. Each of these units can be moved as necessary to meet the City's needs, has 400 days of memory on board, and a replaceable battery with an expected service life of 2 years.

Staff is recommending the Eco-Counter Pyro Boxes as a sole source quote because pedestrian counters use proprietary software and the nearby agencies all use Eco-Counter. In selecting the same vendor, we will be able to share data and collaborate on larger data collection efforts. Each counter requires an annual software subscription of \$180 to keep firmware up-to-date and allow for in-person data collection from the units.

### BUDGET IMPACT

The City Center project budget includes funds for pedestrian counters. Adequate funds exist in 496-901-90131-973.002.



**Eco-Counter Corp**

C/O Pramex International Corp.  
535 Mission Street, 14th Floor  
San Francisco, CA 94105, United States

Contact : Quentin Freixo  
Email : quentin.freixo@eco-counter.com  
Phone : +1 (866) 518-4404

Customer Number :

Quote Number : Q-63149

# QUOTE

**Customer**

**City of Wyoming**

1155 28th Street SW P.O. Box 905  
Wyoming, MI  
49509, United States

Contact : Paul Smith

**Delivery address if different**

**Subject :** City of Wyoming - 4 PYRO Box Evo

**Date :** 6/11/2024

## PYRO Box Evo

Detection range: 15ft  
Logging time bin: 15min

Code	Description	Unit Price	Qty	Price
<b>PYRO Evo</b>			<b>3</b>	<b>\$ 12,675.00</b>
SYSTEM	PYRO Evo Counter - With Direction - M (Medium range) - Activated	\$ 3,300.00	3	\$ 9,900.00
2263	PYRO-Box Evo	\$ 475.00	3	\$ 1,425.00
756	15-minute interval data recording	\$ 220.00	3	\$ 660.00
2336	Large reusable fastening system for PYRO-Box Evo (Post diameter 130-440mm/5.1"-17.3")	\$ 50.00	3	\$ 150.00
2610	LIGHT Package - Eco-Visio Software subscription (1 year service) - Manual data transmission	\$ 180.00	3	\$ 540.00

## PYRO Box Evo

Detection range: 39ft  
Logging time bin: 15min

Code	Description	Unit Price	Qty	Price
<b>PYRO Evo</b>			<b>1</b>	<b>\$ 5,175.00</b>
SYSTEM	PYRO Evo Counter - With Direction - L (Long range) - Activated	\$ 4,250.00	1	\$ 4,250.00
2263	PYRO-Box Evo	\$ 475.00	1	\$ 475.00
756	15-minute interval data recording	\$ 220.00	1	\$ 220.00
2336	Large reusable fastening system for PYRO-Box Evo (Post diameter 130-440mm/5.1"-17.3")	\$ 50.00	1	\$ 50.00
2610	LIGHT Package - Eco-Visio Software subscription (1 year service) - Manual data transmission	\$ 180.00	1	\$ 180.00

## Shipping

Code	Description	Unit Price	Qty	Price
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<b>Shipping</b>		<b>1</b>	<b>\$ 130.00</b>
SH96966666	Shipping	\$ 130.00	1 \$ 130.00

**Delivery lead time four to five weeks.**  
**Please provide tax ID for customs clearance.**  
**Payment by check, wire transfer or ACH transfer within 30 days.**  
**All prices are in US dollars and exclude sales tax.**  
**Please provide sales tax exemption certificate if any.**

**Total \$ 17,980.00**

**Sign and Date for Agreement**



# General Licence Conditions

## 1 - PURPOSE OF THE CONTRACT

This document (the “**Contract**”) sets out the general licence conditions for the ECO-COUNTER services (the “**Services**”) related to the ECO-COUNTER counting products (the “**Products**”) and applicable to all ECO-COUNTER professional clients (each, a “**Client**”).

This Contract applies to ECO-COUNTER’s provision of the Services listed in Appendix A of the Contract, which may consist of the transmission of counting data (the “**Data**”) and the provision of an online digital platform (the “**Platform**”) to manage the Data collected by the Products. ECO-COUNTER’s sale of the Products to the Client is addressed separately in ECO-COUNTER’s General Terms and Conditions of Sale.

## 2 - ORDERS – PRICES – PAYMENT TERMS – DISPUTES

### 2.1. ORDERS – PRICES

Orders only bind ECO-COUNTER once ECO-COUNTER has accepted an order and confirmed this acceptance to the Client by issuing a confirmation of receipt.

The prices for the Services are given in **[United States]** dollars, and before any applicable taxes. For greater certainty, all amounts referred to in the Contract, each quote or any other document presenting an offer from ECO-COUNTER, are stated in **[United States]** dollars.

Unless otherwise stated in the quote or any other document presenting an offer from ECO-COUNTER, the prices offered to the Client shall remain unchanged for a period of three (3) months from the time they are first communicated to the Client.

ECO-COUNTER reserves the right to increase the prices for the Services on an annual basis, subject to prior notification to the Client.

### 2.2. PAYMENT TERMS

The Services will be invoiced in accordance with the terms set forth in the quote.

Unless stipulated otherwise in the quote, invoices must be paid by bank transfer or cheque within 30 days of the invoice date. Compliance with this deadline requires the Client to take into consideration the timing of fund disbursement related to this mode of payment. All bank transfer fees shall be borne by the Client. In addition to any other rights or remedies of ECO-COUNTER, any amount not paid by the Client when due shall bear interest at the rate that is the lesser of 1.5% per month or the maximum rate allowable by law.

ECO-COUNTER may also, in the event of payment incidents or the Client’s failure to pay, terminate the Contract under the terms of Section 5.3 below. ECO-COUNTER may also, at its discretion, consider the Services to be suspended until the Client settles its debt in full.

Under no circumstances shall payments be suspended or subject to compensation of any kind without the prior written consent of ECO-COUNTER.

### 2.3. INVOICE DISPUTES

Any invoice that is not contested within a maximum period of three (3) months after issuance is considered to be definitively accepted and may not lead to any requests for reimbursement or compensation.

### **3 – WARRANTY; WARRANTY DISCLAIMER; LIMITATION OF LIABILITY**

The Services will be provided in a professional and competent manner consistent with generally accepted industry standards and in accordance with the terms and conditions of the Contract.

Other than as set forth in the Contract, ECO-COUNTER expressly declines, on its own behalf and on behalf of its affiliates, shareholders, directors, officers, employees, subcontractors, vendors and licensors any and all express, legal or implicit representations, warranties and conditions not contained herein, including representations, warranties and conditions of merchantability, performance, fitness for a particular purpose, non-infringement and accuracy. In particular, ECO-COUNTER expressly declines the following and makes no representation or warranty in these regards: (i) the fact that the Services will meet the Client's operational requirements; (ii) the fact that the operation of the Services will be error-free or uninterrupted or that the results obtained from their use will be accurate or reliable; or (iii) the fact that all programming or service errors can be corrected or found in order to be corrected.

ECO-COUNTER cannot be held liable for events outside its control that occur during its provision of the Services, including the effect of any such event on the Services and/or the Data.

This applies, in particular, but not exclusively, in cases of:

- Force Majeure (as defined below in Section 6);
- Disruptions or interruptions in the provision or operation of the telecommunication systems to which the Products are connected;
- Improper, abnormal or non-compliant use/installation of ECO-COUNTER's equipment or any data provided by ECO-COUNTER, as ECO-COUNTER cannot be held liable for such use or installation;
- Failure to follow the user instructions for ECO-COUNTER's equipment or data and/or the related technical or environmental specifications and/or the applicable laws and regulations; and
- Use of the Services following a disclosure, deactivation, deletion, addition, loss or theft of an access code to the Platform and, more generally, use of the Services by any unauthorized person.

ECO-COUNTER will not be responsible for decisions made by the Client based on the information, documents and study reports drawn up by the Client on the basis of ECO-COUNTER's Services.

Under no circumstances shall ECO-COUNTER be liable for (i) consequential, indirect, incidental, special, exemplary, punitive or enhanced damages; or (ii) interruption of activity, loss of profits, loss of revenues, loss of earnings, loss of sales, loss of data, loss of clients or orders or costs related to obtaining replacement goods or services arising out of or relating to the Services or the Contract, regardless of (a) whether such damages were foreseeable; (b) whether or not ECO-COUNTER was advised of the possibility of such damages; or (c) the legal or equitable theory (contract, tort or otherwise) upon which the claim is based.

The Client will indemnify, defend, and hold harmless ECO-COUNTER from and against any and all third-party suits, claims, actions, causes of action, liabilities, losses, damage to property, or for injury to, or sickness or death of, any person, and any costs and expenses (including, but not limited to, interest, penalties, reasonable legal fees and other expenses of litigation) arising out of or in connection with (a) the Client's obligations under the Contract; or (b) the Client's use of the Services, the Products, the Platform or the Data.

In any event, other than in cases of death or bodily harm caused by one of the parties, gross negligence or willful misconduct, ECO-COUNTER's total liability for any cause whatsoever arising under the Contract shall be limited to the amounts paid by the Client to ECO-COUNTER during the 6-month period preceding the event from which the liability arises.

The Client acknowledges that ECO-COUNTER pricing reflects the allocation of risk under the Contract and the limitation of liability specified herein.

## 4 - INTELLECTUAL PROPERTY – DATA

### 4.1 INTELLECTUAL PROPERTY

All rights, title and interest in and to (i) the Services; and (ii) any distinctive sign (brand, logo, etc.) that appears in connection with ECO-COUNTER's Services are the exclusive property of ECO-COUNTER and shall not be assigned to the Client under the Contract.

ECO-COUNTER grants to the Client a non-exclusive, non-assignable, non-sublicensable, limited, personal right of use to the Services (including all the underlying software and related components), valid for the term of the Contract. The Client is only authorized to use the executable version of the Services, to use them for the purposes for which they are intended and to reproduce the documentation that will be provided by ECO-COUNTER. The Client shall not have any right of access to the Services' source code.

Consequently, the Client shall not reproduce the Services, permanently or temporarily, in whole or in part, by any means and in any form, use or operate them for any purpose other than the intended purpose, give them to a third party in any capacity, proceed with any decompilation or disassembly, carry out any reverse engineering, translate, adapt, arrange or modify the Services, export the Services, merge them with other services, or correct any errors.

ECO-COUNTER shall own all right, title and interest in and to any suggestions, requests or recommendations for improvements or enhancement to the Services or other feedback that the Client (including any of its users) may, alone or jointly with ECO-COUNTER, propose or make during the term of the Contract (collectively, "Feedback"). The Client hereby irrevocably: (i) assigns all right, title and interest in and to the Feedback to ECO-COUNTER; (ii) waives in favour of ECO-COUNTER, its successors and assigns any and all moral rights that the Client has or may have in the Feedback; and (iii) agrees to provide ECO-COUNTER such assistance as it may require to document, perfect, and maintain ECO-COUNTER's rights to the Feedback.

### 4.2 DATA

ECO-COUNTER collects Data to carry out the Services. This Data concerns the number of people in a specific location, as counted by the Products.

The Data collected by ECO-COUNTER's Services belong wholly to the Client. The Client can obtain the Data in a format that allows for its reuse. ECO-COUNTER formally agrees not to sell the Data to any third party.

Unless otherwise stipulated by the Client, if the Client has a Product in the Eco Display line, the Data shall be displayed on the ECO-COUNTER webpage that can be viewed at this address: <https://www.eco-public.com/ParcPublic/?id=4586>. This Eco-Display Data allows ECO-COUNTER to promote its Products and Services.

The Client expressly agrees that ECO-COUNTER may use the Data:

- In the maintenance of the Products and in the improvement of the Products and Services;
- To improve the Client's experience;
- To understand the Client's use of the Services;
- In an anonymized form, for panels, indexes, public reports and regional, national or international articles; under no circumstances will the Client's name be mentioned directly or indirectly in connection with such use.

Furthermore, and solely with the prior consent of the Client, ECO-COUNTER may share the Data with any third-party organization or entity that wishes to use the Data for its own purposes. The Client will be informed of the purposes for which and the conditions under which the Data will be used.

In its provision of the Services, ECO-COUNTER represents and warrants that it will comply in all material respects with all applicable privacy laws and regulations with respect to the handling of the Data.

## **5 - TERM – SUSPENSION OF ECO-COUNTER SERVICES – CONTRACT TERMINATION**

### **5.1 TERM**

The Contract is concluded for the term that will be set out in ECO-COUNTER's offer to the Client or in the quote. Any renewal of this term will be subject to the written agreement of the parties.

### **5.2 SUSPENSION OF ECO-COUNTER'S SERVICES**

ECO-COUNTER reserves the right to suspend, immediately and with reasonable prior notice, the performance of the Contract, including access to the Services purchased by the Client, in the following situations:

- (i) Non-performance by the Client of one of its obligations under the Contract;
- (ii) Non-payment of amounts owing by the Client after written notice of such non-payment has been ignored;
- (iii) ECO-COUNTER detects fraud, a security breach or any similar threat or attack that causes or that could cause, in ECO-COUNTER's reasonable opinion, damage to the Services or to the Data; or
- (iv) ECO-COUNTER is undertaking scheduled maintenance of the Services.

The suspension of the Contract in the circumstances described in subsections (i) and (ii) above shall result in the immediate payment of all amounts owing to ECO-COUNTER by the Client, who shall remain responsible for fulfilling all of its obligations under the Contract.

A lump sum reactivation fee of \$100, plus taxes, will be charged to re-launch the purchased Services after any suspension described in subsections (i) and (ii) above. If Data reconstruction is required after a period of suspension, it will be subject to a Data reconstruction fee at the rate in effect at the time of reconstruction, which rate will be communicated in advance to the Client.

### **5.3 TERMINATION**

The Contract may be terminated at any time by either party in the event of a material breach of a contractual obligation by the other party, subject to a thirty (30) day cure period. The effective date of termination will occur thirty (30) days after a written notice on this matter delivered to the party in default has been ignored or thirty (30) days after a written notice on this matter has been delivered to the party in default and the default has not been cured.

If the Client wishes to terminate the Contract prior to the end of the term, the Client shall provide ECO-COUNTER at least thirty (30) days' prior written notice and the Client shall pay to ECO-COUNTER, as liquidated damages and not as a penalty, an amount equal to 100% of the amounts owed to ECO-COUNTER through the end of the term. For greater certainty, if the Client wishes to terminate the Contract prior to the end of the term, no amounts already paid to ECO-COUNTER shall be reimbursed to the Client. The Client expressly waives its termination rights pursuant to Sections 2125 to 2129 of the *Québec Civil Code*.

Sections 3, 4, 5.4 and 7 shall survive the termination or expiry of the Contract.

### **5.4 EFFECTS OF TERMINATION**

Upon expiry or termination of the Contract: (i) the license for the Services will terminate immediately and the Client will cease to have access to the Services; (ii) ECO-COUNTER undertakes to provide to the Client, within two (2) months of the effective date of termination, all Data, in a reusable format; and (iii) ECO-COUNTER shall be entitled to the payment of any undisputed amounts owing that have accrued as of the date of termination.

## **6 - FORCE MAJEURE – CIRCUMSTANCES BEYOND THE PARTIES' CONTROL**

The parties cannot be held responsible for a delay or breach of a contractual obligation resulting from circumstances beyond their control, such as an act of nature or an unpredictable or unavoidable event that prevents the parties from fulfilling all or part of their obligations, namely, any Force Majeure event.

For the purpose of the Contract, “**Force Majeure**” shall be defined as any circumstances beyond a party’s reasonable control, including acts of God, acts of government, floods, fires, earthquakes, civil unrest, pandemics, epidemics, government-mandated quarantines, publicly declared states of emergency, acts of terror, strikes or other labor problems, embargoes, malicious acts or damages, Internet service provider failures or delays, computer hacking or ransomware attacks on either ECO-COUNTER or the Client, security breaches, denial of service attacks, power failures, the malfunction of servers operated by third parties to which the networks supporting the Services are connected; any governmental order imposing the complete or partial shutdown of ECO-COUNTER’s Services under any applicable legislation or regulations then in effect; or the termination of ECO-COUNTER’s operations by a court order rendered by a competent court.

In such a situation, the party prevented from fulfilling its obligations shall notify the other party of the delay or breach in question. If the continuation of the Force Majeure event exceeds one (1) month, either party may terminate the Contract without any liability whatsoever.

By express agreement, this section shall have no effect on the Client’s payment obligations, including all expenses incurred by ECO-COUNTER prior to termination.

## **7 – MISCELLANEOUS**

**7.1 Entire Agreement.** The Contract consists of this document and Appendix A hereto, which forms an integral part hereof, as well as the applicable financial terms for the Services agreed to between ECO-COUNTER and the Client and set out in the applicable ECO-COUNTER quote. The Contract constitutes the complete agreement between the parties with respect to ECO-COUNTER’s provision of the Services and supersedes all prior or contemporaneous agreements or representations or warranties, written or oral, concerning the provision of the Services. Nothing in Client purchase orders or any other documents transmitted by Client in connection with any ECO-COUNTER quote in application hereof shall be construed to modify, amend or supplement the terms of the Contract. ECO-COUNTER reserves the right to revise the Contract at any time, provided that any revisions that materially affect the relationship between ECO-COUNTER and the Client shall be communicated to the Client within a commercially reasonable period of time prior to such revisions taking effect.

**7.2 Notice.** All notices required to be sent in connection with the Contract will be in writing and will be deemed to have been given when: (i) sent via e-mail; (ii) sent in the mail; or (iii) delivered in person. Any such notice shall be deemed to have been received, if sent by e-mail, on the next business day following transmission; if sent in the mail, at the time of arrival thereof at the address of the other party; and if delivered in person, at the time of delivery.

**7.3 Independent Contractors.** The parties declare and acknowledge that (i) they are and shall remain, throughout the term of the Contract, independent commercial and professional partners, each assuming the risks of its own activity, each conserving the management of its business; and (ii) that the Contract cannot be deemed to have created between them any subsidiary or joint venture or any relationship of subordination or employment.

**7.4 Assignment.** The Contract and all rights granted hereunder cannot be transferred or assigned by the Client without the prior written agreement of ECO-COUNTER. Any attempt at transfer or assignment in violation hereof shall be null and void. ECO-COUNTER shall have the right to assign the Contract upon prior written notice to the Client.

**7.5 Severability.** If any of the provisions contained in the Contract are found by a court of competent jurisdiction to be invalid, illegal or unenforceable in any respect, the validity, legality or enforceability of the remaining provisions contained herein shall not be in any way affected or impaired hereby.

**7.6 Waiver.** The failure of a party to enforce any provision of the Contract shall not constitute a waiver of such provision or of the right of such party to enforce such provision and every other provision.

**7.7 Governing Law; Jurisdiction.** The Contract will be governed by, interpreted and construed in accordance with the laws of the Province of Québec, Canada and the laws of Canada applicable therein, other than rules governing conflicts of laws. Each of the parties agrees that any dispute arising out of or in connection with the Contract, including any question regarding its existence, validity or termination shall be submitted to the exclusive jurisdiction of the courts of the Province of Québec, Canada (district of Montréal).

**7.8 Language.** The parties have requested that the Contract and all documents related thereto be drafted in English. *Les parties ont exigé que le Contrat, ainsi que tous les documents y afférents, soient rédigés en anglais.*

## Appendix A

### **Description of the Available Services**

ECO-COUNTER's Services allow for the visualization of Data from ECO-COUNTER sensors in connection with the counting Products installed at various points and zones on the Client's geographic site (the "Site"). The Client has access to the following services:

#### OVERVIEW OF THE SERVICES OFFERED BY ECO-COUNTER:

1. Transmission of daily Data;
2. Data hosting;
3. Data visualization;
4. Data export; and
5. Access to ECO-COUNTER customer support for the above-mentioned services.

Details about the Services are provided in this appendix. The Client acknowledges that any order of Services is subject to the terms of the Contract.

ECO-COUNTER reserves the right to modify the list of Services.

### **1. TRANSMISSION OF DAILY DATA**

This Service concerns ECO-COUNTER Products equipped with a DATA SIM card.

This card allows for the transmission of Data on ECO-COUNTER servers. For this Service, ECO-COUNTER has employed a subcontractor, Sierra Wireless.

The daily Data are sent via 2G, 3G, 4G or 4G LTE networks, depending on the local availability of the DATA network and the type of Product acquired by the Client.

ECO-COUNTER is dependent on its subcontractor for the transmission of the daily Data. Data transmissions are guaranteed at a success rate of 95% under normal conditions of Product use.

ECO-COUNTER cannot, for any reason, be held liable for any malfunction related to its transmission of daily Data Services, which is provided by Sierra Wireless.

If Data transmission has become impacted for reasons relating to the local DATA network, ECO-COUNTER permits the Client to collect the Data from the Product by connecting locally to the Product.

ECO-COUNTER cannot be held liable for the failure of Data transmission if no DATA technology is available at the Site. Furthermore, ECO-COUNTER assumes no responsibility if technology is not available at the Site.

Products with an inactive DATA SIM card can be put in active DATA SIM mode at any time if the Client purchases a Service that includes the transmission of daily Data.

### **2. DATA HOSTING**

The daily Data is hosted in the file format of ECO-COUNTER's choosing in an OVH data centre, which provides standard warranties (and related exclusions) with respect to the security of data storage and IT security.

ECO-COUNTER is dependent on its supplier OVH for the availability, quality and reliability of its Data hosting. Under the agreement with OVH, OVH undertakes to use commercially reasonable efforts to provide an availability access rate for the hosted Data of 97%.

ECO-COUNTER can in no way be held liable for any malfunction related to the hosting services provided by OVH.

Upon the expiry or termination of the Contract and upon the winding up of the Services, the Data hosting will be extended for a period of five (5) years by ECO-COUNTER. At the end of this period, all hosted Data will be deleted.

### 3. DATA VISUALIZATION

ECO-COUNTER offers a data visualization service via web access to the ECO-VISIO Platform.

The ECO-VISIO Platform is a visualization and analysis software for the daily Data transmitted by the Client's ECO-COUNTER Products.

This Service includes administrator access to the ECO-VISIO Platform for the Client.

Using this administrator access, the Client can create and manage access accounts for its other users. The Client has full responsibility over such access, including with respect to (i) ensuring that its users maintain the confidentiality of their access codes to the Platform; and (ii) the secure use of the Data and the ECO-VISIO Platform.

ECO-COUNTER cannot be held liable in the event of improper handling of the Data by the Client's administrator or one of the Client's users.

Access to the Platform is for a limited term, corresponding to the term of the Contract and the nature of the Services purchased by the Client.

In case of termination of the Contract or non-renewal of the Services, ECO-COUNTER will deactivate the Client's access to the Platform (both the administrator account and all user accounts).

To allow the Client to resubscribe without losing its user accounts, ECO-COUNTER will not delete any Client accounts until six (6) months after termination of the Services.

### 4. CLIENT DATA EXPORT

By default, ECO-COUNTER gives the Client access to a Data export function in Excel format.

For purely technical reasons, ECO-COUNTER reserves the right to change its Data export format at any time. The Client may, from the ECO-VISIO Platform, if it is subscribed to such Service, export the Data via customizable widgets.

Consequently, the Client can export all Data generated by the Products.

Under no circumstances can ECO-COUNTER be held liable for the use of the Data after the Client has exported the Data, whether by the Client administrator or any of its users.

#### **ACCESS TO ECO-COUNTER CUSTOMER SUPPORT for the Services included in the Client subscription:**

The availability of ECO-COUNTER support is the following:

Days	Hours
Monday, Tuesday, Wednesday, Thursday	9 a.m. to 6 p.m.
Friday	9 a.m. to 5 p.m.

ECO-COUNTER reserves the right to change these availabilities.

ECO-COUNTER support should be requested by email at [support@eco-counter.com](mailto:support@eco-counter.com). ECO-COUNTER support is

available in either English or French.

In the email subject line, the Client must state the severity level of its request in accordance with the severity levels set forth in the table below:

Severity 1	Eco-Visio webpage is not accessible; The daily Data has not been available for over 5 days; Data export is not possible; For each of these three issues, no workaround is available.
Severity 2	ECO-ALERT management or ECO-ALERTS are not functional; The weather module is not functional; For each of these two issues, no workaround is available.
Severity 3	An error other than an error of severity level 1 or 2 which has a significant impact on the function of the Services; A functionality is not working as indicated, but a workaround is available and the important commercial functions are not substantially altered.
Severity 4	An error with no impact on operations.
Severity 5	A request for improvement or a new function or service.

The Client will have to explain in detail, in the email, the problem it has encountered and, if necessary, provide all the information that can assist ECO-COUNTER in understanding and resolving the problem.

Based on the severity level indicated by the Client, ECO-COUNTER shall use commercially reasonable efforts to provide a response within the timelines set forth below:

Severity Level	Response time (in business hours/days)	Expected response
Severity 1	Within 48 h	An initial telephone contact will be made by ECO-COUNTER Support, if the Client is available, to commence the resolution of the problem.
Severity 2	Within 72 h	An initial email contact will be made by ECO-COUNTER Support to commence the resolution of the problem.
Severity 3	Within 1 week	An initial email contact will be made by ECO-COUNTER Support to commence the resolution of the problem.
Severity 4	Within 2 weeks	An initial email contact will be made by ECO-COUNTER Support to commence the resolution of the problem.

ECO-COUNTER reserves the right to change the content of its expected response.

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

RESOLUTION TO PURCHASE TWO  
JOHN DEERE GATOR UTILITY VEHICLES

WHEREAS:

1. As detailed in the attached staff report, it is recommended City Council authorize the purchase of two John Deere Gator utility vehicles from Deere & Company c/o Greenmark Equipment, LLC at a cost of \$9,971.34 each using Sourcewell contract pricing.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council authorizes the purchase of two John Deere Gator utility vehicles in the total estimated amount of \$19,942.68.
2. The City Council authorizes the Mayor and City Clerk to sign the contract.
3. The City Council waives the provisions of Sections 2-252, 2-253, 2-254, and 2-256 of the City Code regarding the 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 certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on July 1, 2024.

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

ATTACHMENTS:

Staff Report  
Contract/Quote

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

## Staff Report

Date: June 24, 2024  
Subject: Two John Deere Gator Utility Vehicles  
From: Tim Montgomery, Parks Foreman  
CC: Krashawn Martin, Director of Parks and Recreation  
Meeting Date: July 1, 2024

---

### RECOMMENDATION:

It is recommended City Council authorize the purchase of two John Deere Gator utility vehicles from Deere & Company c/o GreenMark Equipment, LLC for park maintenance at a combined cost of \$19,942.68 through a Sourcewell contract.

### Alignment With Strategic Plan:

- Pillar 3 – Stewardship
  - Goal 1 – Enhance the efficiency and effectiveness of City operations and services.

### Discussion:

The Wyoming Parks and Recreation department works collaboratively with Fleet Services to utilize cooperative purchasing agreements, when possible, to purchase equipment and vehicles. The department has a long history utilizing John Deere Gator utility vehicles for the day-to-day maintenance of the parks. The vehicles are selected because of their wide range of use in the parks as well as the ability of our park maintenance staff to maintain them in house.

The Parks and Recreation department received three quotes for two John Deere Gator TX models:

Four Seasons Yard & Sport	\$20,182.94
Steensma Lawn & Power Equipment	\$19,942.68
Deere & Company c/o GreenMark Equipment, LLC (Sourcewell Contract)	\$19,942.68

It is recommended that the city purchase the gators from Deere & Company c/o GreenMark Equipment, LLC using Sourcewell contract pricing

### Budget Impact:

Funds are budgeted for this equipment purchase in capital account number 208-751-75600-984.000

Attachment:  
Contract/Quote

# CITY OF WYOMING

## 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 28<sup>th</sup> St SW, Wyoming, MI 49509.

Effective Date means: July 2, 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: Deere & Company  
[Name of supplying entity]  
A Delaware corporation  
[State and type of entity, e.g., corporation, limited liability company, etc.]  
2000 John Deere Run  
[Supplier's street address]  
Cary, NC 27513  
[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

Supplier: Deere & Company

By: \_\_\_\_\_  
Kent Vanderwood, Mayor

By: Allen Niles  
[Signature officer, director, or principal of Supplier]  
ALLEN NILES GOODMAN EQUIPMENT - SALES  
[Typed/Printed Name & Title of Person Signing for Supplier]

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

Date signed: JUNE 25, 2024

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

Approved as to form: [Signature]

# CITY OF WYOMING

## 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](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 fails 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](mailto:Acct_Info@wyomingmi.gov) a completed IRS W-9 form (available at [www.irs.gov](http://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 for 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 13.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
<b>COMMERCIAL GENERAL LIABILITY</b>	
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.
<b>AUTOMOBILE LIABILITY INSURANCE</b>	
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.
<b>WORKERS' COMPENSATION/ EMPLOYERS' LIABILITY</b>	
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.
<b>ENVIRONMENTAL/POLLUTION LIABILITY</b>	
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**



**JOHN DEERE**



**Quote Id: 30868280**

---

**ALL PURCHASE ORDERS MUST BE MADE OUT TO (VENDOR):**

Deere & Company  
2000 John Deere Run  
Cary, NC 27513  
FED ID: 36-2382580  
UEID: FNSWEDARMK53

**ALL PURCHASE ORDERS MUST BE SENT TO DELIVERING DEALER:**

GreenMark Equipment, LLC  
2040 Chicago Drive  
Jenison, MI 49428  
616-669-2000  
Jenison@GreenMarkEquipment.com

---

01 May 2024

Tim Montgomery  
1155 28TH ST SW  
WYOMING, MI 49509

THIS IS A SOURCEWELL QUOTE AND TAX EXEMPT. GREENMARK EQUIPMENT IS THE VENDOR, HOWEVER, JOHN DEERE CO. WILL BE THE PAYEE.

Allen Noles  
616-669-2000  
GreenMark Equipment, LLC



**ALL PURCHASE ORDERS MUST BE MADE OUT TO (VENDOR):**  
 Deere & Company  
 2000 John Deere Run  
 Cary, NC 27513  
 FED ID: 36-2382580  
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**ALL PURCHASE ORDERS MUST BE SENT TO DELIVERING DEALER:**  
 GreenMark Equipment, LLC  
 2040 Chicago Drive  
 Jenison, MI 49428  
 616-669-2000  
 Jenison@GreenMarkEquipment.com

**Quote Summary**

**Prepared For:**  
 Tim Montgomery  
 CITY OF WYOMING PARKS  
 Tim Montgomery  
 1155 28TH ST SW  
 WYOMING, MI 49509  
 Business: 616-249-3473  
 TIM.MONTGOMERY@WYOMINGMI.US.COM

**Delivering Dealer:**  
**GreenMark Equipment, LLC**  
 Allen Noles  
 2040 Chicago Drive  
 Jenison, MI 49428  
 Phone: 616-669-2000  
 anoles@greenmarkequipment.com

**Quote ID:** 30868280  
**Created On:** 01 May 2024  
**Last Modified On:** 02 May 2024  
**Expiration Date:** 31 May 2024

Equipment Summary	Suggested List	Selling Price	Qty	Extended
JOHN DEERE GATOR™ TX (Model Year 2024) <b>Contract:</b> Sourcewell Grounds Maintenance 031121-DAC (PG NB CG 70) <b>Price Effective Date:</b> April 30, 2024	\$ 12,013.66	\$ 9,971.34 X	1 =	\$ 9,971.34
JOHN DEERE GATOR™ TX (Model Year 2024) <b>Contract:</b> Sourcewell Grounds Maintenance 031121-DAC (PG NB CG 70) <b>Price Effective Date:</b> April 30, 2024	\$ 12,013.66	\$ 9,971.34 X	1 =	\$ 9,971.34
<b>Equipment Total</b>				<b>\$ 19,942.68</b>

\* Includes Fees and Non-contract items

**Quote Summary**

Equipment Total	\$ 19,942.68
Trade In	
SubTotal	<b>\$ 19,942.68</b>
Est. Service Agreement Tax	\$ 0.00
Total	\$ 19,942.68
Down Payment	(0.00)
Rental Applied	(0.00)
<b>Balance Due</b>	<b>\$ 19,942.68</b>

Salesperson : X \_\_\_\_\_

Accepted By : X \_\_\_\_\_



**JOHN DEERE**



---

**ALL PURCHASE ORDERS MUST BE MADE OUT  
TO (VENDOR):**

Deere & Company  
2000 John Deere Run  
Cary, NC 27513  
FED ID: 36-2382580  
UEID: FNSWEDARMK53

---

**ALL PURCHASE ORDERS MUST BE SENT  
TO DELIVERING DEALER:**

GreenMark Equipment, LLC  
2040 Chicago Drive  
Jenison, MI 49428  
616-669-2000  
Jenison@GreenMarkEquipment.com

---

Salesperson : X \_\_\_\_\_

Accepted By : X \_\_\_\_\_

*Confidential*



# Selling Equipment

Quote Id: 30868280

Customer Name: CITY OF WYOMING PARKS

ALL PURCHASE ORDERS MUST BE MADE OUT TO (VENDOR):

Deere & Company  
2000 John Deere Run  
Cary, NC 27513  
FED ID: 36-2382580  
UEID: FNSWEDARMK53

ALL PURCHASE ORDERS MUST BE SENT TO DELIVERING DEALER:

GreenMark Equipment, LLC  
2040 Chicago Drive  
Jenison, MI 49428  
616-669-2000  
Jenison@GreenMarkEquipment.com

## JOHN DEERE GATOR™ TX (Model Year 2024)

Hours:

Suggested List \*

Stock Number:

\$ 12,013.66

Contract: Sourcewell Grounds Maintenance 031121-DAC  
(PG NB CG 70)

Selling Price \*

\$ 9,971.34

Price Effective Date: April 30, 2024

\* Price per item - includes Fees and Non-contract items

Code	Description	Qty	List Price	Discount%	Discount Amount	Contract Price	Extended Contract Price
56A6M	GATOR™ TX (Model Year 2024)	1	\$ 10,949.00	17.00	\$ 1,861.33	\$ 9,087.67	\$ 9,087.67
<b>Standard Options - Per Unit</b>							
0202	United States	1	\$ 0.00	17.00	\$ 0.00	\$ 0.00	\$ 0.00
0505	Build to Order	1	\$ 0.00	17.00	\$ 0.00	\$ 0.00	\$ 0.00
1015	Turf Tires	1	\$ 0.00	17.00	\$ 0.00	\$ 0.00	\$ 0.00
2016	Non Adjustable Seat	1	\$ 0.00	17.00	\$ 0.00	\$ 0.00	\$ 0.00
3001	Deluxe Cargo Box with Paint and Reflectors	1	\$ 0.00	17.00	\$ 0.00	\$ 0.00	\$ 0.00
3100	Cargo Box Manual Lift	1	\$ 0.00	17.00	\$ 0.00	\$ 0.00	\$ 0.00
4099	Less Front Protection Package	1	\$ 0.00	17.00	\$ 0.00	\$ 0.00	\$ 0.00
4199	Less Rear Protection Package	1	\$ 0.00	17.00	\$ 0.00	\$ 0.00	\$ 0.00
<b>Standard Options Total</b>			<b>\$ 0.00</b>		<b>\$ 0.00</b>	<b>\$ 0.00</b>	<b>\$ 0.00</b>
<b>Dealer Attachments/Non-Contract/Open Market</b>							
BM23734	Cargo Box Power Lift	1	\$ 1,064.66	17.00	\$ 180.99	\$ 883.67	\$ 883.67
<b>Dealer Attachments Total</b>			<b>\$ 1,064.66</b>		<b>\$ 180.99</b>	<b>\$ 883.67</b>	<b>\$ 883.67</b>
<b>Value Added Services Total</b>			<b>\$ 0.00</b>			<b>\$ 0.00</b>	<b>\$ 0.00</b>
<b>Total Selling Price</b>			<b>\$ 12,013.66</b>		<b>\$ 2,042.32</b>	<b>\$ 9,971.34</b>	<b>\$ 9,971.34</b>

## JOHN DEERE GATOR™ TX (Model Year 2024)



# Selling Equipment

Quote Id: 30868280

Customer Name: CITY OF WYOMING PARKS

**ALL PURCHASE ORDERS MUST BE MADE OUT TO (VENDOR):**

Deere & Company  
2000 John Deere Run  
Cary, NC 27513  
FED ID: 36-2382580  
UEID: FNSWEDARMK53

**ALL PURCHASE ORDERS MUST BE SENT TO DELIVERING DEALER:**

GreenMark Equipment, LLC  
2040 Chicago Drive  
Jenison, MI 49428  
616-669-2000  
Jenison@GreenMarkEquipment.com

**Equipment Notes:**

Hours:

**Suggested List \***

\$ 12,013.66

Stock Number:

**Selling Price \***

Contract: Sourcewell Grounds Maintenance 031121-DAC  
(PG NB CG 70)

\$ 9,971.34

Price Effective Date: April 30, 2024

\* Price per item - includes Fees and Non-contract items

Code	Description	Qty	List Price	Discount%	Discount Amount	Contract Price	Extended Contract Price
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4099	Less Front Protection Package	1	\$ 0.00	17.00	\$ 0.00	\$ 0.00	\$ 0.00
4199	Less Rear Protection Package	1	\$ 0.00	17.00	\$ 0.00	\$ 0.00	\$ 0.00
<b>Standard Options Total</b>			<b>\$ 0.00</b>		<b>\$ 0.00</b>	<b>\$ 0.00</b>	<b>\$ 0.00</b>
<b>Dealer Attachments/Non-Contract/Open Market</b>							
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<b>Dealer Attachments Total</b>			<b>\$ 1,064.66</b>		<b>\$ 180.99</b>	<b>\$ 883.67</b>	<b>\$ 883.67</b>
<b>Value Added Services Total</b>			<b>\$ 0.00</b>			<b>\$ 0.00</b>	<b>\$ 0.00</b>
<b>Total Selling Price</b>			<b>\$ 12,013.66</b>		<b>\$ 2,042.32</b>	<b>\$ 9,971.34</b>	<b>\$ 9,971.34</b>



**Extended Warranty Proposal**

**PowerGard™ Protection Plan**

**Utility Vehicles**

Date : May 2, 2024

**Machine/Use Information**

**Plan Description**

**Price**

Manufacturer	<b>JOHN DEERE</b>	Plan Type:	New	Deductible:	\$ 0
Equipment Type	Utility Vehicles	Coverage:	Limited	Quoted Price	\$ 354.00
Model	TX 4X2	Total Months:	36		
Country	US	Total Hours:	600	Date Quoted	May 1, 2024
MFWD/Tracks	N				

**Scraper Use**

THIS PROPOSAL IS VALID FOR 30-DAYS FROM DATE ISSUED. GRACE pricing is offered only early during the Deere basic warranty period and has no surcharges. After this period, DELAYED PURCHASE pricing (surcharged) is offered later during the John Deere Basic Warranty. Many PowerGard quotes presented in the Delayed Purchase Period will require inspection/certification process and must also pass fluid testing. The Total Months and Total Hours listed above include the John Deere Basic Warranty terms (24 months / 2000 hours on Tractors, 24 months on Golf & Turf Products, 12 months for all AG Harvesting and Sprayer equipment, and 12 months/1000 hours on most Gator Utility Vehicles)."Limited" Plan coverage = Engine & Powertrain only. "Comprehensive" Plan coverage = Full Machine.

**PowerGard Protection Proposal Prepared for:** *I have been offered this extended warranty and*

Customer Name - Please Print

- I ACCEPT the PowerGard Protection
- I DECLINE the PowerGard Protection

Customer Signature

*If declined, I fully understand that my equipment listed above is not covered for repair expenses due to component failures beyond the original basic warranty period provided by John Deere.*

**Note :** This is **not** a contract. For specific PowerGard Protection coverage terms and conditions, please refer to the actual PowerGard Protection Plan contract for more information and the terms, conditions and limitations of the agreement.

**What PowerGard Protection is :**

The PowerGard Protection Plan is an **extended warranty** program for reimbursement on parts and labour for covered components that fail due to faulty material or original workmanship that occur beyond the John Deere Basic Warranty coverage period. The agreement is between Deere & Company and the owners of select John Deere Commercial and Agricultural equipment, who purchase the PowerGard Plans for the desired coverage as indicated in this proposal.

**What PowerGard Protection is not :**

PowerGard Protection is **not insurance**. It also does not cover routine maintenance or high wear items, or insurance-related risks/perils such as collision, overturn, vandalism, wind, fire, hail, etc. It does not cover loss of income or loss of value of crops during or after an equipment failure. See the actual product-specific PowerGard Protection Plan agreement for a complete listing of covered components, and limitations and conditions under the program.

**Features/Benefits:**

PowerGard protection include the following features and benefits under the program :

- Pays for parts and labour costs incurred on failed covered components (less any applicable deductibles),
- Does not require pre-approval before repairs are made by the authorized John Deere dealership,
- Payments are reimbursed directly to the dealership with no prepayment required by the contract holder.
- PowerGard Protection agreements ensure that only Genuine John Deere Parts are used in all repairs,
- PowerGard coverage is fully transferable to future owners, with no transfer fees when coverage remains,
- PowerGard ensures higher resale value and makes equipment more marketable during the sale or trade-in,
- PowerGard allows you to budget your total cost of ownership, with financing available through John Deere Credit or other sources,
- PowerGard helps prevent large,unexpected repair bills during later years of equipment ownership,in exchange for a smaller protection fee up front.



**JOHN DEERE**

**Customer:**

**Quotes are valid for 30 days from the creation date or upon contract expiration, whichever occurs first.**

**A Purchase Order (PO) or Letter of Intent (LOI) including the below information is required to proceed with this sale. The PO or LOI will be returned if information is missing.**

Vendor: Deere & Company

- 2000 John Deere Run  
Cary, NC 27513

- Signature on all LOIs and POs with a signature line
- Contract name or number; or JD Quote ID
- Sold to street address
- Ship to street address (no PO box)
- Bill to contact name and phone number
- Bill to address
- Bill to email address (required to send the invoice and/or to obtain the tax exemption certificate)
- Membership number if required by the contract

**For any questions, please contact:**

**Allen Noles**

GreenMark Equipment, LLC  
2040 Chicago Drive  
Jenison, MI 49428

Tel: 616-669-2000

Fax: 616-669-4399

Email: [anoles@greenmarkequipment.com](mailto:anoles@greenmarkequipment.com)

Quotes of equipment offered through contracts between Deere & Company, its divisions and subsidiaries (collectively "Deere") and government agencies are subject to audit and access by Deere's Strategic Accounts Business Division to ensure compliance with the terms and conditions of the contracts.

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

RESOLUTION TO CONCUR WITH THE REPAIR OF A STREET SWEEPER AND  
AUTHORIZE PAYMENT TO MACQUEEN EQUIPMENT LLC

WHEREAS:

1. As detailed in the attached staff report, it is recommended City Council concur with the repair of a street sweeper by MacQueen Equipment LLC in the total amount of \$37,410.11.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council concurs with the repair of a street sweeper.
2. The City Council authorizes payment to MacQueen Equipment LLC in the total amount of \$37,410.11.

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 July 1, 2024.

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

ATTACHMENTS:

Staff Report  
Invoice

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

## Staff Report

Date: June 17, 2024  
Subject: Authorize Payment for Street Sweeper Repairs  
From: Don Roest, Fleet Services Supervisor  
CC: Myron Erickson, Director of Public Works  
Meeting Date: July 1, 2024

---

### **RECOMMENDATION:**

It is recommended that the City Council authorize payment of \$37,410.11 to MacQueen Equipment LLC for repairs completed on the 2015 Eglin Crosswind street sweeper.

### **ALIGNMENT WITH STRATEGIC PLAN:**

- Pillar 3 – Stewardship
  - Goal 3 – Improve City Infrastructure and Service Reliability

### **DISCUSSION:**

In March of this year, the 2015 Eglin Crosswind street sweeper experienced multiple problems that fleet technicians were unable to diagnose and repair. The full extent of the repairs was not known and a diagnosis from a shop that specializes in repair of these sweepers was needed. The unit was sent to MacQueen Equipment LLC, a dealer and service center that specializes in Eglin street sweepers, for diagnosis and repair. Competitive bids were not solicited because MacQueen was the only practical choice of repair shop for this type of equipment.

Multiple significant electrical, mechanical and hydraulic repairs were needed to get the sweeper back in working order. MacQueen was able to complete the repairs in a timely fashion and the sweeper was returned to the City in May. It is back in service and working much more efficiently.

### **BUDGET IMPACT:**

Sufficient funds are available in the Motor Pool, Equipment Operations, Repairs and Maintenance account: 661-441-58200-930.000

### **ATTACHMENTS:**

Invoice



**MACQUEEN™**

N60 W15835 Kohler Lane  
Menomonee Falls, WI 53051  
262-252-4744 • 800-252-4799

**PLEASE REFER TO:**  
MacQueen  
1125 7th Street E  
St Paul, MN 55106  
651-645-5726 • 800-832-6417

**Ship To:** CITY OF WYOMING  
2660 BURLINGAME AVE S.W.  
WYOMING  
MI 49509

**Invoice To:** CITY OF WYOMING  
1155 28TH STREET, SW  
PO BOX 905  
WYOMING MI 49509-0905

Branch MENOM FALLS WI		
Date 04/23/24	Time 22:45:22 (B)	Page 01
Account No WYOMI002	Phone No	Inv No W06994
Ship Via	Purchase Order 622-001	
Tax ID No 38-6006933		
		Salesperson 108

**SERVICE INVOICE**

STK#/FLEET#		HRS	PIN/EIN	WARRANTY DATE	HRS
C046110	2015 ELGIN CROSSWI CROSSWIND	6478 38890	J40341 1FVACXDT1GHGW9292		

SEGMENT# 1 C 660 NA 03/11/24 03/11/24

IMPELLER SYSTEM

CORRECTION:

- REMOVE IDLER PULLEY ASSY. FROM HOUSING. REMOVE IMPELLER BELT.
- REPLACE IDLER PULLEY BEARINGS & REASSEMBLE.
- REMOVE UPPER IMPELLER HOUSING HALF, DIG OUT DEBRIS FROM RING AREA TO ACCESS BOLTS.
- REMOVE IMPELLER FAN ASSY. FROM UNIT. MEASURE PULLEY, BEARING AND FAN PLACEMENT ON SHAFT.
- REMOVE IMPELLER PULLEY FROM SHAFT.
- CLEAN MATING SURFACES ON HOUSING HAVES. FOUND HOLE WORN THROUGH ON LOWER HOUSING HALF.
- CLEAN UP DAMAGED AREA & CUT STEEL FOR PATCH.
- WELD AND PAINT PATCH.
- INSTALL NEW IMPELLER BELT. REINSTALL IDLER PULLEY ASSY. & ALING PULLEYS.
- ASSEMBLE NEW FAN ON NEW SHAFT. INSTALL NEW BEARINGS AND SEALS AND INSTALL COVERS.
- INSTALL NEW IMPELLER ASSY. INTO LOWER HOUSING, ALING PULLEYS.
- SET RING GAP AND INSTALL SAFETY WIRE.
- REINSTALL UPPER HALF. BOLT DOWN TO LOWER. SET IMPELLER BELT TENSION, TORQUE BOLTS & SEAL SHAFT SEALS TO HOUSING.
- INSTALL UPPER HALF RING BOLTS AND INSTALL SAFETY WIRE.
- CHECK MAKE / BRAKE SEALS TO BODY / ADJUST AS NEEDED.

ADDITIONAL DESCRIPTION:

REPLACE IMPELLER, SHAFT AND BRGS.

CONTINUED ON PAGE 02

X

Received By

Date



**MACQUEEN™**

N60 W15835 Kohler Lane  
Menomonee Falls, WI 53051  
262-252-4744 • 800-252-4799

**PLEASE REMIT TO:**  
MacQueen  
1125 7<sup>th</sup> Street E  
St Paul, MN 55106  
651-645-5726 • 800-832-6417

**Ship To:** CITY OF WYOMING  
2660 BURLINGAME AVE S.W.  
WYOMING  
MI 49509

**Invoice To:** CITY OF WYOMING  
1155 28TH STREET, SW  
PO BOX 905  
WYOMING MI 49509-0905

Branch MENOM FALLS WI		
Date 04/23/24	Time 22:45:22 (B)	Page 02
Account No WYOMI002	Phone No	Inv No W06994
Ship Via	Purchase Order 622-001	
Tax ID No 38-6006933		
		Salesperson 108

**SERVICE INVOICE**

STK#/FLEET#		HRS	PIN/EIN	WARRANTY DATE	HRS
C046110	2015 ELGIN CROSSWI CROSSWIND	6478 38890	J40341 1FVACXD'T1GHGW9292		
	REPLACE BELT REPLACE IDLER BRGS. FRT		SHIP & HNDLING	2	
1016555			IDLER SPACER	2 S	
1028308			SHAFT SEAL-B	2	
1036503			BUSHING, IDLER B	1	
	BUSHING, IDLER BRNG-G, L				
1048412			SHAFT-IMP-J	1 N	
1078765			WLDT-IMPELLER B	1 S	
	WLDT-IMPELLER BALNCD				
1078900			OPEN END CAP	1	
1078901			OPEN END CAP/SE	2	
	OPEN END CAP/SEAL				
1078902			CLOSED END CAP	1	
1087958			SPACER-BEARING	1	
1093677			BEARING-PILOT	4	
1123186			BELT-5 BAND 5V	1	
1127111			BRG. PILLOW BLK	2	
5009215			DOMED LOCKWASHE	12	
	DOMED LOCKWASHER				
5009221			3/8-16 X 1 HH C	12 S	
	3/8-16 X 1 HH CS DRILLED				
5009743			RTNG RING, 2.28	2	
	RTNG RING, 2.280 OD				
			PARTS		5028.87
			LABOR		3884.10
11000001			SEGMENT TOTAL==>		8912.97

SEGMENT# 2 C 660 NA 03/11/24 03/11/24  
SPRAY WATER

CONTINUED ON PAGE 03

X  
Received By \_\_\_\_\_ Date \_\_\_\_\_



MACQUEEN™

N60 W15835 Kohler Lane
Menomonee Falls, WI 53051
262-252-4744 • 800-252-4799

PLEASE REMIT TO:
MacQueen
1125 7th Street E
St Paul, MN 55106
651-645-5726 • 800-832-6417

Ship To: CITY OF WYOMING
2660 BURLINGAME AVE S.W.
WYOMING
MI 49509

Invoice To: CITY OF WYOMING
1155 28TH STREET, SW
PO BOX 905
WYOMING MI 49509-0905

Table with invoice details including Branch (MENOM FALLS WI), Date (04/23/24), Time (22:45:22 (B)), Page (03), Account No (WYOMI002), Phone No, Inv No (W06994), Ship Via, Purchase Order (622-001), Tax ID No (38-6006933), and Salesperson (108).

SERVICE INVOICE

STK#/FLEET# HRS PIN/EIN WARRANTY DATE HRS
C046110 2015 ELGIN CROSSWI 6478 J40341
CROSSWIND 38890 1FVACXDT1GHGW9292

CORRECTION:

- REPLACE RH S/B SPRAY WATER LINE DAMAGED.
-REMOVE 1 SUCTION TUBE SPRAY WATER NOZZLE.
-REPLACE SUCTION TUBE SPRAY NOZZLE.
-REROUTE WATER TANK FILL HOSE / INSTALL HOSE GUARD.
-STRAIGHTEN FRONT BUMPER SPRAY WATER BAR.
-CLEAN OUT FILTER HOUSING / CLEAN FILTER.
-FILL SPRAY WATER TANK / TEST SPRAY WATER PATTERN'S.

ADDITIONAL DESCRIPTION:

ONE SUCTION HOSE SPRAY NOZZLE WORN, REPLACE.
RSB WATER HOSE SPLIT, REPLACE HOSE

Table with columns for STK#, Description, HRS, and PARTS/LABOR. Includes items like 1063824 NOZ-FC,90DEG,.6 and 1065850 UM-.375 NYLON T.

SEGMENT# 3 C 660 NA 03/11/24 03/11/24
OPERATORS COMPARTMENT
OPERATORS CONSOLE LIGHT BURNED OUT, REPLACE.
LICENSE PLATE LIGHT OUT, REPLACE.
REPAIR WIPER ISSUE. TAKE APART STEERING COLUMNS AND
INSPECT. REPAIR CHAFFED WIRES BUT NO SPECIFIC ISSUE FOUND
AND UNIT WOULD NOT ACT UP WHILE HERE. CHECK ALL TERMINALS
AND CONNECTIONS. IF ISSUE PERSISTS TURN SIGNAL STALK SHOULD
BE REPLACED.

FRT SHIP & HNDLING 1
1104264 LAMP, 4M CONSOL 1 N

CONTINUED ON PAGE 04

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Date 04/23/24	Time 22:45:22 (B)	Page 04
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		Salesperson 108

**SERVICE INVOICE**

STK#/FLEET#		HRS	PIN/EIN	WARRANTY DATE	HRS
C046110	2015 ELGIN CROSSWI CROSSWIND LAMP, 4M CONSOLE	6478 38890	J40341 1FVACXDT1GHGW9292		
5009093	LIC PLATE LIGHT			1 N	
				PARTS	152.37
				LABOR	882.75
11000001				SEGMENT TOTAL==>	1035.12

SEGMENT#	4 C 660 NA	03/11/24	03/11/24		
	HYDRAULIC SYSTEM PM SYSTEM HYD PUMP ON AUX ENGINE LEAKS, HYD HOSE ON PUMP IS RUBBING ALONG HOPPER FRAME. REPLACE PUMP AND HOSE.				
	CASTROL PURP 68	HYDRAULIC OIL		35	
	FRT	SHIP & HNDLING		2	
	1027460	FILTER,BREATHER		1	
	1060690	HOSE ASSY		1 N	
	1086891	FILTER-HYDRAULI		1	
	FILTER-HYDRAULIC-T3				
	1127103	FSO-HYDR HOSE &		1 N	
				PARTS	1552.39
				LABOR	882.75
11000001				SEGMENT TOTAL==>	2435.14

SEGMENT#	5 C 660 NA	03/11/24	03/11/24		
	PNEUMATIC SYSTEM <u>CORRECTION:</u> -REPLACE RH S/B LIFT AIR CYL. / INSTALL NEW FITTING'S. -REPLACE LH SWING OUT AIR CYL. / INSTALL NEW FITTING'S. -REPLACE DAMAGED FITTING ON AIR VALVE FOR ABS. -REPLACE AIR MANIFOLD BREATHER'S.				
	<u>ADDITIONAL DESCRIPTION:</u>				

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**SERVICE INVOICE**

STK#/FLEET#		HRS	PIN/EIN	WARRANTY DATE	HRS
C046110	2015 ELGIN CROSSWI	6478	J40341		
	CROSSWIND	38890	1FVACXDT1GHGW9292		

LSB SWING CYL IS RUBBED THROUGH ON THE BARREL END AND HAS A LARGE LEAK, REPLACE LSB SWING CYL.  
P/U HEAD LEAF CURTAIN AIR CYLINDER LEAKING FROM SHAFT SEAL AND BOTH FITTINGS, REPLACE CYLINDER AND FITTINGS.  
RSB LIFT CYLINDER LEAKS FROM SHAFT SEAL, REPLACE CYL.  
CHASSIS ABS VALVE FITTING LEAKING WHEN BRAKES ARE DEPRESSED, REPLACE FITTING.

FRT	SHIP & HNDLING	2
1106153	CONNECTOR 90 D	2 N
1122187	CYL AIR 3 X 5.5	2 S
1122193	CYLINDER, 3x5.5	1 N

PARTS	1370.08
LABOR	1059.30
SEGMENT TOTAL==>	2429.38

11000001

SEGMENT# 6 C 660 NA 03/11/24 03/11/24

AUX ENGINE  
CORRECTION:

- CHANGE BOTH AIR FILTER'S.
- CHANGE BOTH FUEL FILTER'S.
- CHANGE AUX. ENG. OIL FILTER / ENG. OIL.
- TRANSPORT SWEEPER TO BROOKS.
- TRANSPORT SWEEPER BACK FROM BROOKS.

ADDITIONAL DESCRIPTION:

AUX ENGINE HAS CHECK ENGINE LIGHT ON. JOHN DEERE SPN3251.07 FMI 53, DPF DIFFERENTIAL PRESSURE MECHANICAL SYSTEM NOT RESPONDING. TAKE UNIT TO JOHN DEERE DEALER FOR DIAGNOSIS.

PM ENGINE		
MOTOR OIL	MOTOR OIL	20
RE544394	FUEL FILTER	1 N

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**SERVICE INVOICE**

STK#/FLEET#		HRS	PIN/EIN	WARRANTY DATE	HRS	
C046110	2015 ELGIN CROSSWI CROSSWIND	6478 38890	J40341 1FVACXDT1GHGW9292			
SUBLETL	ENGINE REPAIRS				1	
7072906	PRIMARY ELEMENT				1	
7072907	SAFETY ELEMENT				1	
7279119	OIL FILTER ELEM				1	
	OIL FILTER ELEMENT					
7279181	PRE-FUEL FILTER				1	
	PRE-FUEL FILTER, T3					
				PARTS		486.20
				LABOR		529.65
				SUBLET		999.44
11000001				SEGMENT TOTAL==>		2015.29

SEGMENT# 7 C 660 NA 03/11/24 03/11/24  
PICKUP HEAD  
REMOVE P/U HEAD ASSY.  
P/U HEAD IS WORN ALONG PRESSURE SLOT. STRAIGHTEN PRESSURE  
SLOT AND PATCH CRACKS/WEAR AREAS UNDERNEATH P/U HEAD.  
RH CARBIDE RUNNER IS WORN HEAVILY ON BACK SIDE, REPLACE  
CARBIDE. CUSTOMER HAS MAGNET INSTALLED ONTO RUNNER, CUT OFF  
AND REINSTALL ONTO NEW RUNNER.  
ADJUST P/U HEAD AFTER REPAIRS AND RUBBERS ARE REPLACED.  
SUCTION HOSE BEGINNING TO WEAR ON FRONT SIDE, ROTATE HOSE  
180 DEG.  
BOTH TOW BAR BRACKETS ARE BENT TOWARDS THE LH SIDE, REPLACE  
BRACKETS.  
REPLACE ALL P/U HEAD RUBBERS/CURTAINS. PRESSURE SLOT  
WELDMENT/CLAMP STRIP IS DAMAGED, REPLACE.  
CENTERBOARD MISSING FROM UNIT, INSTALL CENTERBOARD ASSEMBLY  
AND CHAINS.  
P/U HEAD STOW BRACKETS DAMAGED, REPLACE.

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		Salesperson 108

**SERVICE INVOICE**

STK#/FLEET#		HRS	PIN/EIN	WARRANTY DATE	HRS
C046110	2015 ELGIN CROSSWI CROSSWIND	6478 38890	J40341 1FVACXDT1GHGW9292		
FRT	SHIP & HNDLING				4
1024331	CTR BD ASSY.				1 N
1024333	ANGLE-G				1 N
1033338	SIDE RUBBER DEF				2
	SIDE RUBBER DEFLECTOR-G				
1033339	FRONT RUBBER DE				2
	FRONT RUBBER DEFL-G				
1058944	FRONT CURTAIN I				1
	FRONT CURTAIN INNER				
1058947	FRONT CURTAIN				1
1058950	REAR CURTAIN				2
1058963	WLDT - DIRT SHO				1 N
	WLDT - DIRT SHOE-RH				
1061411	MOUNT-TOW BAR				1 N
1076995	CURTAIN PRES SL				1
	CURTAIN PRES SLOT				
1102511	MOUNT-TOW BAR				1 N
1115602	ANGLE-PRESSUE S				1 N
1121215	WLDMT. REAR BRK				1 N
1131278	FSO-PICKUP HEAD				1 N
				PARTS	4172.62
				LABOR	3177.90
11000001				SEGMENT TOTAL==>	7350.52

SEGMENT# 8 C 660 NA 03/11/24 03/11/24

SIDE BROOM  
CORRECTION:

- REMOVE RH STEP FROM UNDER DOOR TO ACCESS S/B PIVOT PIN.
- DISCONNECT HYD. LINES / TILT WIRING / SPRAY WATER LINE.
- DISASSEMBLE RH S/B ASSY.

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**SERVICE INVOICE**

STK#/FLEET#		HRS	PIN/EIN	WARRANTY DATE	HRS
C046110	2015 ELGIN CROSSWI	6478	J40341		
	CROSSWIND	38890	1FVACXDT1GHGW9292		

- REMOVE RH S/B DISC /DIG OUT DEBRIS FROM SEAL / SHAFT AREA.
- REMOVE RH S/B MOTOR FROM BRACKET.
- SWAP OUT C-CHANNEL / REPLACE TILT PIVOT BOLT'S.
- MANUALLY LUBE RH S/B TILT.
- SWAP OUT MOTOR FITTING'S / INSTALL NEW S/B MOTOR.
- ASSEMBLE S/B / SET TILT'S.

ADDITIONAL DESCRIPTION:

RSB LOSES SPEED DURING SWEEPING. CHECKED RSB RPMS, FOUND RPMS STARTED TO SLOWDOWN AFTER 45 MIN OF RUNNING BROOM. LSB SPEEDS REMAINED THE SAME. CHECKED RSB SOLENOID VOLTAGE WHILE RUNNING, VOLTAGE DID NOT CHANGE. RSB MOTOR WILL NEEDREPLACEMENT.

S/B SEGMENTS WORN, REPLACE RH SEGMENTS.

RSB SWING PIN MISSING, REPLACE.

RSB PINS/BUSHINGS WORN, REPLACE PIVOT PINS/BUSHINGS AND LINK PINS/BUSHINGS. ADJUST BROOM PATTERN AFTER REPAIRS.

FRT	SHIP & HNDLING	2
101-137359	SB SEG, 21W	5
1040086	SCREW-SOCK HD S	2
	SCREW-SOCK HD SHLDR-G	
1040087	SPRING - DISC	4
1040769	WELDMENT PIN	1 N
1058924	ROD END - LH	1
1058925	ROD END - RH	1
1062847	CHAN-MOTOR PIVO	1 N
1071879	MOT-HYDR,17.1 C	1
	MOT-HYDR,17.1 CUIN/R	
1095842	PL-LINK PIN KEE	2
	PL-LINK PIN KEEPER	
1095956	PIN-SBRM LINK N	2 N

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SERVICE INVOICE

STK#/FLEET#		HRS	PIN/EIN	WARRANTY DATE	HRS	
C046110	2015 ELGIN CROSSWI CROSSWIND	6478 38890	J40341 1FVACXDT1GHGW9292			
1095960	BRG-MRP SEALED BRG-MRP SEALED				4 .75	
1096366			BRG-MRP 1.5 IDX		2 S	
1096367			WASHER-1.50 UHM		2 N	
				PARTS		1804.97
				LABOR		1059.30
11000001				SEGMENT TOTAL==>		2864.27

SEGMENT# 9 C 660 NA 03/11/24 03/11/24  
HOPPER  
L AND R INSPECTION DOORS SHOW SIGNS OF LEAKAGE. BOTH  
GASKETS ARE DEFORMED/FLATTENED, REPLACE GASKETS AND ADJUST  
LATCHES.  
IMPELLER HOUSING SEAL FLATTENED, REPLACE.  
BODY SCREENS ARE PACKED FULL OF DEBRIS, CLEANOUT SCREENS.  
BOTH SCREEN HANDLES AND LATCHES ARE DAMAGED, REPLACE.  
ALL LATCH PLATES ARE BENT, REPLACE. LATCH BAR FINGERS ARE  
WORN, WELD FINGERS AS NECESSARY. ADJUST DOOR SEAL AFTER  
REPAIRS.  
TAILGATE OPEN PROX SWITCH DAMAGED, REPLACE.  
HOPPER IS PACKED WITH DEBRIS, CLEAN OUT HOPPER.  
HOPPER CLEANOUT DOORS STUCK CLOSED, SHIM DOORS AS NECESSARY.

FRT	SHIP & HNDLING	2
1059145	BULB SEAL-BLOWE	1
	BULB SEAL-BLOWER	
1061810	WLDT-LATCH STRI	3
1066679	WLDT-HANDLE	2 S
1066695	WLDT-LOOP	3 S
1075991	GASKET-INSPECTN	2 S
	GASKET-INSPECTN DOOR	

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**SERVICE INVOICE**

STK#/FLEET#		HRS	PIN/BIN	WARRANTY DATE	HRS	
C046110	2015 ELGIN CROSSWI CROSSWIND	6478	J40341			
1086747		38890	1FVACXDT1GHGW9292			
			SENSOR-METAL	1		
				PARTS		970.54
				LABOR		2824.80
11000001				SEGMENT TOTAL==>		3795.34

SEGMENT#	DESCRIPTION	DATE	DATE			
10	C 660 NA	03/11/24	03/15/24			
	OPTIONS PULL OFF ALL WANDERING HOSE COMPONENTS AND SCRAP. INSTALL BLOCK OFF PLATE FOR HOLE IN DOOR.					
	FRT	SHIP & HNDLING		1		
1010784		BLIND FLANGE		1 N		
				PARTS		45.42
				LABOR		529.65
11000001				SEGMENT TOTAL==>		575.07

SEGMENT#11 C CUST NA 03/11/24 03/07/24  
INSPECTION AND REPAIRS DURING INSPECTION  
INSPECTED UNIT. HOPPER AND PICKUP HEAD FUNCTIONS WOULD NOT OPERATE. HOPPER TAILGATE WOULD OPEN SLOWLY BUT NOT RAISE. CHECKED HOPPER FUSES, FOUND NO BLOWN FUSES. HOPPER FUSE HAD A 15A INSTALLED, WHICH SHOULD BE A 10A. REPLACED WITH 10A FUSE. HOPPER WOULD RAISE USING MANUAL OVERRIDES. TESTED FOR VOLTAGE AT SOLENOIDS, FOUND -12V AND GROUND AT RAISE SOLENOID. TRACED WIRING AND FOUND GROUND PINS WERE INSTALLED INTO POWER WIRE PINS. SWAPPED GROUND PINS TO READ POSITIVE 12V. FOUND 12V AT DOOR OPEN SOLENOID WHEN RAISING HOPPER. FOUND SEVERAL BURNED DIODES IN CAB. FOUND P/U HEAD FUSE WAS BLOWN, REPLACED FUSE AND P/U HEAD FUNCTIONED. P/U HEAD FUSE WAS LIKELY BLOWING FROM BURNED DIODES. P/U HEAD AND HOPPER FUNCTIONS ARE TIED TOGETHER

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STK#/FLEET#	HRS	PIN/EIN	WARRANTY DATE	HRS
C046110	2015 ELGIN CROSSWI CROSSWIND	6478 J40341	1FVACXDT1GHGW9292	
THROUGH THE AUX PUMP WIRING.				
11000001			LABOR	1765.50
			SEGMENT TOTAL==>	1765.50

SEGMENT#12 C 95027 NA	03/11/24 04/19/24			
TRANSPORT CHARGES				
<u>CORRECTION:</u>				
277 MILES X \$5.50 = \$1523.50				
<u>ADDITIONAL DESCRIPTION:</u>				
TRANSPORT CHARGES				
11000001			LABOR	1523.50
			SEGMENT TOTAL==>	1523.50

SEGMENT#13 C 660 N/A	03/11/24 03/11/24			
TEST, WINTERIZE AND CLEAN UNIT AFTER REPAIRS				
11000001			LABOR	882.75
			SEGMENT TOTAL==>	882.75

\*\*\*\*\* WORK ORDER TOTALS \*\*\*\*\*

PARTS	15775.95
LABOR	19355.05
SUBLET	999.44
SHOP SUPPLIES	1279.67
TOTAL DUE	37410.11

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

RESOLUTION TO AUTHORIZE THE PURCHASE OF  
HOT RUBBER CRACK SEALER AND MATERIAL FOR CONCRETE JOINT REPAIR

WHEREAS:

1. As detailed on the attached staff report, it is recommended City Council authorize the purchase of hot rubber crack sealer and material for concrete joint repair from Sherwin Industries, Inc. and Investors Supply, LLC d/b/a ERSCO Construction Supply using the Kent County Road Commission bid pricing.
2. It is estimated the City will spend approximately \$35,000.00 on hot rubber crack sealer and material for concrete joint repair through December 31, 2024.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council authorizes the purchase of hot rubber crack sealer and material for concrete joint repair from Sherwin Industries, Inc. and Investors Supply, LLC d/b/a ERSCO Construction Supply.
2. The City Council authorizes the Mayor and City Clerk to execute the contract.
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 July 1, 2024.

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

ATTACHMENTS:

Staff Report  
Contracts

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

## Staff Report

Date: June 18, 2024  
Subject: Bid Award – Hot Rubber Crack Sealer & Material for Concrete Joint Repair  
From: Jay VanDyke, Assistant Director of Public Works – Maintenance  
CC: Myron Erickson, Director of Public Works  
Meeting Date: July 1, 2024

---

### RECOMMENDATION:

It is recommended that the City Council authorize the purchase of crack sealing products from Sherwin Industries, Inc. and Investors Supply, LLC d/b/a ERSCO Construction Supply utilizing the Kent County Road Commission bid for Hot Rubber Crack Sealer & Material for Concrete Joint Repair. It is also recommended that the City Council authorize the Mayor and City Clerk to execute the contracts.

### ALIGNMENT WITH STRATEGIC PLAN:

- Pillar 3 – Stewardship
  - Goal 3 – Improve City Infrastructure and Service Reliability

### DISCUSSION:

Public Works Department staff perform crack sealing on roads using a hot pour rubber compound as a preventative maintenance technique. Addressing cracks in their development infancy is a far more cost-effective option as opposed to waiting until the cracks develop into larger gaps or potholes.

On December 19, 2023, bids were received by the Kent County Road Commission for Hot Rubber Crack Sealer and Material for Concrete Joint Repair. Sherwin Industries, Inc. and Investors Supply, LLC d/b/a ERSCO Construction Supply provided the two lowest bid prices for the products specified as shown on the attached bid tabulation.

It is recommended that the City Council award the bid to Sherwin Industries, Inc. and Investors Supply, LLC d/b/a ERSCO Construction Supply for calendar year 2024, which comes with a one-year renewal option for calendar year 2025.

Staff expect to use approximately \$35,000 worth of crack sealing material this calendar year.

### BUDGET IMPACT:



Sufficient funds are available in the major and local street maintenance accounts: 202-441-46300-775.000 and 203-441-46300-775.000.

**ATTACHMENTS:**

Contracts  
KCRC Bid Tabulation

# CITY OF WYOMING

## 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 28<sup>th</sup> St SW, Wyoming, MI 49509.

Effective Date means: July 2, 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: Sherwin Industries, Inc.  
[Name of supplying entity]  
A Wisconsin corporation  
[State and type of entity, e.g., corporation, limited liability company, etc.]  
2129 West Morgan Ave  
[Supplier's street address]  
Milwaukee, WI 53221  
[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:

City reserves the right to renew the contract for one additional one-year term- 2025, at the same pricing and terms and conditions.

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

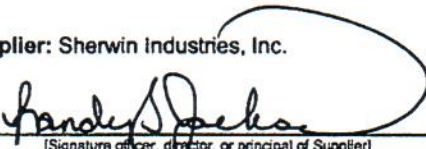
By: \_\_\_\_\_  
Kelli A. VandenBerg, City Clerk

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

Approved as to form:

\_\_\_\_\_ 

Supplier: Sherwin Industries, Inc.

By:   
\_\_\_\_\_  
[Signature of officer, director, or principal of Supplier]  
Randy S. Jackson, Vice President  
[Typed/Printed Name & Title of Person Signing for Supplier]

Date signed: June 18, 2024

# CITY OF WYOMING

## 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](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 fails 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](mailto:Acct_Info@wyomingmi.gov) a completed IRS W-9 form (available at [www.irs.gov](http://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 13.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
<b>COMMERCIAL GENERAL LIABILITY</b>	
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.
<b>AUTOMOBILE LIABILITY INSURANCE</b>	
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.
<b>WORKERS' COMPENSATION/EMPLOYERS' LIABILITY</b>	
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.
<b>ENVIRONMENTAL/POLLUTION LIABILITY</b>	
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**

Specifications for Bid #24-MNT-04:  
Hot Rubber Crack Sealer & Material for Concrete Joint Repair

**Bid Form for Bid #24-MNT-04:  
Hot Rubber Crack Sealer & Material for Concrete Joint Repair**

<b>*Meadows 3405:</b>	<b><u>F.O.B. your site</u></b>	<b><u>Delivered KCRC site</u></b>
Cost per pound	\$ <u>No Bid</u>	\$ <u>No Bid</u>
<b>*Crafco Type 2:</b>		
Crafco #34244 Asphalt Rubber Plus Type 2	\$ 0.5212 - IL	\$ 0.5512 FOB Destination
Cost per pound	\$ <u>0.5212- OH</u>	\$ <u>0.5615 FOB Destination</u>
<b>*Alternate Product:</b> <u>Crafco #34221 Roadsaver 221 Meeting ASTM 6690 Type 2</u>		
	\$ 0.5449 - IL	\$ 0.5749 FOB Destination
Cost per pound	\$ <u>0.5449 - OH</u>	\$ <u>0.5849 FOB Destination</u>

\* Indicate the number of units and weight per skid: 75 # units @ 2,250 lbs/skid  
75 Boxes @ 30#/BX

**Concrete Joint Repair Material:**

Fiber-Cut 1" x 9" x 12"	\$ <u>No Bid</u>	<u>Lft</u>
Dowel-Epoxy 1 1/4" x 18"	\$ <u>No Bid</u>	<u>Ea</u>
Hot Rod-Cut 1-1/4" (400')	\$ <u>No Bid</u>	<u>Lft</u>
Mesh 6 x 12 14/6 6'0" x 11'	\$ <u>No Bid</u>	<u>Sq Yd</u>

Minimum quantity of skids to be stocked at your location at any given time Minimum six skids

Delivery time from your supplier ARO to your site Estimated 7-14 Days ARO to KCRC site Estimated 7-14 Days ARO

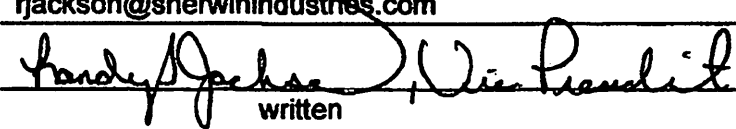
Cash Discounts will be allowed for prompt payment as follows: Net 30 Days % cash discount if paid within 30 days from delivery and acceptance of goods or completion of service. (See Item Cash Discounts under General Specifications, C3)

Company Name Sherwin Industries, Inc.

Company Address 2129 West Morgan Avenue  
Milwaukee, WI 53221

Telephone Number 414-281-6400 Fax# 414-281-6404

Email Address rjackson@sherwinindustries.com

Authorized Signature and Title   
written  
Randy S. Jackson / Vice President  
typed/printed

Date December 18, 2023

Federal Employer ID# or SS # 39-0612605

# CITY OF WYOMING

## 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 28<sup>th</sup> St SW, Wyoming, MI 49509.

Effective Date means: July 2, 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: Investors Supply, LLC d/b/a ERSCO Construction Supply  
(Name of supplying entity)  
A Michigan limited liability company  
(State and type of entity, e.g., corporation, limited liability company, etc.)  
2739 Burlingame Ave SW  
(Supplier's street address)  
Wyoming, MI 49509  
(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:

City reserves the right to renew the contract for one additional one-year term- 2025, at the same pricing and terms and conditions.


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

Supplier: Investors Supply, LLC d/b/a ERSCO Construction Supply

By: \_\_\_\_\_  
Kent Vanderwood, Mayor

By:   
(Signature officer, director, or principal of Supplier)  
Nick Scalabrino  
(Typed/Printed Name & Title of Person Signing for Supplier)

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

Date signed: June 18, 2024

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

Approved as to form: 

# CITY OF WYOMING

## 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.

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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](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.

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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.

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A. Supplier shall maintain the following insurance:

REQUIRED LIMITS	ADDITIONAL REQUIREMENTS
<b>COMMERCIAL GENERAL LIABILITY</b>	
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.
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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.
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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.
<b>ENVIRONMENTAL/POLLUTION LIABILITY</b>	
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**

Specifications for Bid #24-MNT-04:  
Hot Rubber Crack Sealer & Material for Concrete Joint Repair

**Bid Form for Bid #24-MNT-04:  
Hot Rubber Crack Sealer & Material for Concrete Joint Repair**

<b>*Meadows 3405:</b>	<u>F.O.B. your site</u>	<u>Delivered KCRC site</u>
Cost per pound	\$ <u>0.56</u>	\$ <u>0.57</u>

<b>*Crafco Type 2:</b>		
Cost per pound	\$ _____	\$ _____

<b>*Alternate Product:</b> _____		
Cost per pound	\$ _____	\$ _____

\* Indicate the number of units and weight per skid: 36 # units @ 1,980 lbs/skid

**Concrete Joint Repair Material:**

Fiber-Cut 1" x 9" x 12"	\$ <u>20.40</u>	Lft
Dowel-Epoxy 1 1/4" x 18"	\$ <u>7.65</u>	Ea
Hot Rod-Cut 1-1/4" (400')	\$ <u>0.50</u>	Lft
Mesh 6 x 12 14/6 6'0" x 11'	\$ <u>9.50</u>	Sq Yd

Minimum quantity of skids to be stocked at your location at any given time 5

Delivery time from your supplier ARO to your site 4 to KCRC site 4

Cash Discounts will be allowed for prompt payment as follows: \_\_\_\_\_ % cash discount if paid within 30 days from delivery and acceptance of goods or completion of service. (See Item Cash Discounts under General Specifications, C3)

Company Name Ercco Construction Supply

Company Address 2739 Burlingame Ave. SW  
Wyoming, ME 49509

Telephone Number 616-531-7050 Fax# 616-531-2420

Email Address Nick@erccosupply.com

Authorized Signature and Title Nick Scalabrino Sales  
written

Nick Scalabrino  
typed/printed

Date 12-18-2023

Federal Employer ID# or SS # 27-1994207



## Bid Tabulation

### Bid #24-MNT-04: Hot Rubber Crack Sealer & Material for Concrete Joint Repair

Contract Term: December 31, 2024, w/ a One-Year Renewal Option

Bidder	Sherwin Industries	Ersco Construction Supply	PT Products	Maxwell Products
Product Name	Crafco #34244 Asphalt Rubber Plus Type 2	Meadows 3405	Dura-Fill 3405 / Dura-Fill 3405 Dura-Melt	Elastoflex 61
Picked Up/Delivered	\$0.5212 / \$0.5512 (IL) \$0.5212 / \$0.5615 (OH)	\$0.56 / \$0.57	\$0.56 / \$0.64	\$.625 (Delivered)
Units / Weight Per Skid	75 Units / 2,250 lbs	36 Units / 1,980 lbs	75 Units / 2,250 lbs 64 Units / 2,250 lbs	80 Units / 2,600 lbs
Alternate Product	Crafco #34221 Roadsaver 221 \$0.5449 / \$0.5749 (IL) \$0.5449 / \$0.5849 (OH)	N/B	N/B	N/B
Concrete Joint Repair Material				
Fiber-Cut 1" x 9" x 12", Lft	N/B	\$20.40	N/B	N/B
Dowel-Epoxy 1 1/4" x 18", Each	N/B	\$7.65	N/B	N/B
Hot Rod-Cut 1-1/4" (400'), Lft	N/B	\$0.50	N/B	N/B
Mesh 6 x 12 14/6 6'0" x 11', Sq Yd	N/B	\$9.50	N/B	N/B

2024 Price Reflects a 3.86% Decrease from the 2022 Bid for Hot Rubber

**STAFF RECOMMENDS FOR THE BOARD TO AWARD THE BID TO ALL BIDDERS**

**Bid Letting Date:** 12/19/2023  
**Anticipated Award Date:** 01/09/2024

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

RESOLUTION TO ACCEPT A PROPOSAL FROM FEYEN ZYLSTRA, LLC FOR  
FIBER INSTALLATION AT THE CLEAN WATER PLANT

WHEREAS:

1. As detailed in the attached staff report, it is recommended the City Council accept a proposal from Feyen Zylstra, LLC for a fiber installation project at the Clean Water Plant in the total estimated amount of \$10,425.00.
2. It is further recommended the City Council authorize \$1,000.00 for contingency.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council accepts a proposal from Feyen Zylstra, LLC in the total estimated amount of \$10,425.00.
2. The City Council authorizes \$1,000.00 for contingency.
3. The City Council authorizes the City Manager to approve and sign change orders that are within the contingency.
4. 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 July 1, 2024.

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

ATTACHMENTS:

Staff Report  
Contract/Proposal

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

## Staff Report

Date: June 6, 2024  
Subject: Fiber Installation Project  
From: Dan Kleinheksel, Utility Maintenance Manager  
CC: Myron Erickson, P.E., Director of Public Works  
Meeting Date: July 1, 2024

---

### **RECOMMENDATION:**

It is recommended the City Council accept the quote as provided by Feyen Zylstra for a fiber installation project at the Clean Water Plant in the amount of \$10,425.00 plus a \$1,000.00 contingency for a total amount of \$11,425.00.

### **ALIGNMENT WITH STRATEGIC PLAN:**

- PILLAR 3 – STEWARDSHIP
  - GOAL 3 – Improve City infrastructure and service reliability

### **DISCUSSION:**

As computer systems have become increasingly powerful, the need for data bandwidth and processing capabilities on the network backbone has grown to match. The Clean Water Plant was originally constructed with multiple network closets distributed throughout the main facility with many of these closets connected using copper-based network cables. The older copper-based cables limit the amount of network bandwidth that is available to meet the modern data and networking needs of the plant staff and equipment. Hence, updating the network infrastructure to fiber optic communication is necessary. Installing a fiber backbone will resolve the current limitation by increasing the available bandwidth 10-fold, allowing speeds of 10Gbps or higher on the network backbone between the closets. This will improve the end-user experience and allow the facility to meet its increased needs by modernizing the facility's network backbone.

Therefore, a scope of work was developed for a fiber installation project, and quotes were requested from four contractors with the capacity and expertise to perform the work. Three contractors made site visits to review the work and provided the pricing as shown in the included tabulation. After a review of the quotes, Feyen Zylstra had the lowest cost and met the required scope of work.

**TABULATION:**

<b>Bidder</b>	<b>Bid Amount</b>
Feyen Zylstra	\$10,425.00
Buist Communications	\$13,593.00
Shareco Communications	\$21,020.00

**BUDGET IMPACT:**

Adequate funds exist in the Clean Water Plant Account 590-536-54400-986.444.

# CITY OF WYOMING

**CITY STANDARD CONTRACT**  
**CITY OF WYOMING, MICHIGAN**  
**(MORE THAN \$8,500)**  
**(NO RFP)**

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 28<sup>th</sup> St SW, Wyoming, MI 49509.

Contractor means: Feyen-Zylstra, LLC  
[Name of contracting entity]  
A Michigan limited liability company  
[State and type of entity, e.g., corporation, limited liability company, etc.]  
2396 Hillside Dr NW  
[Contractor's street address]  
Grand Rapids, MI 49544  
[Contractor's city, state & zip]

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

Effective Date means: June 18, 2024. Normally this is the day after the Council meeting at which it is approved.

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

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

Standard Terms means "City Contract Standard Terms and Conditions" attached as Exhibit A.

Work means the services described and specified the Proposal.

### TERMS AND CONDITIONS

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

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

None.

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

4. If this Contract is for a public improvement project costing \$50,000 or more, performance and payment bonds in an amount equal to the Contract amount are required and must be provided before beginning any Work.
5. This is the only agreement between the parties regarding City engagement of Contractor to perform the Work and supply the goods. There are no other agreements, representations, or warranties except as stated in the Proposal. This contract can be amended only in writing signed by both City and Contractor.

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

**City of Wyoming**

By: \_\_\_\_\_  
Kent Vanderwood, Mayor

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

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

Approved as to form:

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

**Contractor: Feyen-Zylstra, LLC**

By: WJA  
\_\_\_\_\_  
[Signature officer, director, or principal of Contractor]  
William Herington, CFO  
\_\_\_\_\_  
[Typed/Printed Name & Title of Person Signing for Contractor]

Date signed: June 6, 2024

**EXHIBIT A**  
**CITY CONTRACT STANDARD TERMS AND CONDITIONS**

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

1. **Legal Compliance.** Contractor and all Contractor'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 MIOASHA safe practices, and with applicable federal and state labor laws, rules, and regulations.

2. **Permits and Inspections.** Unless the Proposal states otherwise, Contractor shall, without expense to City, obtain all licenses and permits required to lawfully perform the Work under the contract and furnish copies of those licenses and permits to City before commencing Work. Contractor shall also ensure all inspections required by local, state, and federal agencies and codes are performed.

3. **Grant Compliance.** If state or federal grant funds are a source of payment for the project, Contractor promises to comply with grant agreement terms and conditions that apply to the contract.

A. If funds for the Work come from the United States Department of Housing and Urban Development (**HUD**), the following apply:

1. Under HUD Fair Labor Standards Act Provisions, the most recent wage determination for Kent County, Michigan will apply to all wages Contractor pays for any Work on the project. For 2024 (it may be updated), that is General Decision No. MI20240088, dated 01/19/2024, <https://sam.gov/wage-determination/MI20240088/1>.

2. Contractor will be required to prepare and maintain adequate financial records in a form satisfactory to City that reflect all costs and expenses incurred in performing this Contract and records of the use of all amounts paid pursuant to this Contract. Contractor's financial records and reports must conform to the regulations found at 2 CFR Part 200 entitled "Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Final Guidance," <https://www.ecfr.gov/current/title-2/subtitle-A/chapter-II/part-200>.

3. If project costs are \$200,000 or more, HUD Section 3 provisions may require training and employment of low- and very low-income persons. See 24 CFR 75.3(a)(iii) (<https://www.hud.gov/sites/dfiles/FPM/documents/Section-3-FAQs.pdf>).

B. If they are applicable, Contractor shall comply with Davis-Bacon Act, other prevailing wage, Buy American, and any other requirements in grants or other funds used to pay Contractor or for other parts of the project. This includes, for example, employment, recordkeeping, purchasing, sourcing, and other compliance.

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

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

B. Contractor, any subcontractor, and their respective 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 Contractor 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](https://www.hud.gov/program_offices/general_counsel/limited_denial_participation_hud_funding_disqualifications)). Unless waived by City's purchasing director, Contractor and all subcontractors will register on the Federal SAM Registry available at: <https://usfcr.com>. Contractor 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. Neither Contractor nor any subcontractor is an "Iran linked business" under Michigan's Iran economic sanctions act, 2012 PA 517.

5. **Nondiscrimination and Respect.** City is committed to equity, fairness, impartiality, courtesy, respect, and nondiscrimination in City programs, benefits, and actions, including City contracts and acts that contractors engage in for or on City's behalf. Therefore:

A. Contractor in (i) employment actions, (ii) soliciting, bidding or contracting with subcontractors, or (iii) soliciting, bidding or contracting for materials will not discriminate based on race, color, religion, national origin, age, sex, 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. Contractor 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. If Contractor will engage with others on City's behalf, Contractor must (i) ensure all persons are treated with fairness, equity, impartiality, courtesy and respect, and in a manner that does not discriminate based on race, color, religion, national origin, age, sex, sexual orientation, gender identity or expression, height, weight, marital status, familial status, mental or physical disability, genetic information, or any other reason prohibited by law, and (ii) if any engaged individuals have limited English proficiency (*i.e.*, speak English less than very well), Contractor must use language assistance services in communications.

C. Contractor must include these requirements in subcontracts and supply contracts and reasonably enforce compliance.

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

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

6. **Ethical Standards.** To the best of Contractor's knowledge after reasonable inquiry:

A. Contractor and Contractor's personnel, as well as any parent, affiliate, or subsidiary organization of Contractor has not engaged in and shall refrain from: (i) holding or acquiring an interest that would conflict with this contract; (ii) 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 (iii) 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 Contractor or of any parent, affiliate, or subsidiary organization or subcontractor of Contractor 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. Contractor will immediately notify City of any subsequently discovered violation of the standards in this section.

7. 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.

8. Payment to Contractor.

A. Contractor and all subcontractors, suppliers and consultants shall, before beginning the Work, submit by email to City's Finance Department at [Acct\\_Info@wyomingmi.gov](mailto:Acct_Info@wyomingmi.gov) a completed IRS W-9 form (available at [www.irs.gov](http://www.irs.gov)).

B. Payments to Contractor 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 all required information is submitted provided the design professional (if one is identified in the specifications or contract) and authorized City representative agree the Work has been performed, materials or equipment delivered, and other actions taken as provided in the contract and in accordance with any plans and specifications.

C. Payment disputes will be resolved as provided in §16. City will pay undisputed amounts and the disputed amount will be held in a non-interest-bearing account until the dispute is resolved.

9. Intellectual Property. Contractor 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. Contractor 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.

10. Materials and Equipment Information, Quality, Disposal, and Related Requirements. If the Proposal includes the use, installation, or acquisition of materials, equipment, supplies or other items:

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

B. Specifications provided by City are the minimum acceptable. When specific manufacturer and model numbers are used, they establish a desired design, type of construction, quality, functional capability, and/or performance level. If the Proposal included alternates, City will be the sole judge of equivalency.

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

D. If quantities are listed in the RFP, they are based on estimated needs. City reserves the right to increase or decrease quantities to meet actual needs.

E. Contractor's failure to meet specified delivery schedules or promptly replace rejected materials renders Contractor 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.

F. Unless the Proposal expressly states otherwise, Contractor will remove and dispose of all materials, equipment, or other items demolished, removed, or replaced during the Work and cleanup and remove all debris resulting from the Work. Disposal will comply

with laws, rules, and regulations applicable to such disposal. Contractor will keep and, upon request, provide City copies of required manifests or other disposal documentation.

11. Restoration. Unless the Proposal states otherwise, Contractor will restore, without expense to City, any property damaged during or as a result of any Work to a condition similar and equal to that existing before such damage. If Contractor fails to make such restoration, City may, after 48-hours' notice to Contractor, make such restoration, and deduct the cost City incurs to do so from amounts due Contractor.

12. Access to Work. City personnel and representatives must always have access to all the Work and be furnished such information and assistance by Contractor as reasonably needed or desired to inspect the Work.

A. 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. On construction projects state sales taxes are applicable on materials only.

13. 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 the bid/proposal and any resulting contract. Contractor shall retain copies of all records related to the contract, including, without limitation, the items supplied or used in performance of the contract, and all work under the contract for at least 7 years after completion of the contract. Contractor shall, within 5 City business days of a City request, allow inspection, auditing and copying of all retained records.

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

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

16. Disputes/Remedies. Unless the RFP states otherwise provide the following applies to any dispute under this Contract:

A. In case of Contractor's default, City may procure the articles or services from other sources and hold Contractor responsible for any 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 Contractor with an opportunity to appeal the decision to the City Manager or the City Manager's designee.

B. Before filing a lawsuit, a party must first notify the 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 16.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.

F. To resolve discrepancies within this Contract, precedence shall be given in the following order: (i) the contract form and these Terms, (ii) the RFP including specifications, instructions to bidders, and general bid information without conditions or changes, (iii) the Proposal, (iv) the RFP drawings, and (v) City Standard Specifications for Construction\Prequalification at <https://www.wyomingmi.gov/About-Wyoming/City-Departments/Public-Works/Engineering/Construction-Specifications>. Figure dimensions on drawings take precedence over scale dimensions. Detailed drawings take precedence over general drawings.

**17. Risk Allocation.**

A. Contractor is solely responsible for (i) the means and methods of the work and services provided under the contract, (ii) the conduct of its officers, employees, subcontractors, and consultants, and (iii) for any injuries or property damage occurring as a result of its Work under and performance of the contract.

B. Contractor 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 Contractor's Work under or performance of this Contract. Contractor shall reimburse the City for or pay in the City's stead costs the City incurs as a result of claims, demands, judgments, administrative actions, or any order to pay any amounts made or entered against the City or City officers or employees as a result of Contractor's Work under or performance of this Contract.

**18. Insurance.**

A. Contractor shall provide the following insurance:

REQUIRED LIMITS	ADDITIONAL REQUIREMENTS
<b>COMMERCIAL GENERAL LIABILITY</b>	
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 these extensions: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Contractors Coverage; (D) Broad Form General Liability Extensions or equivalent, if not already included; (E) deletion of all Explosion, Collapse, and Underground (EXU) Exclusions, if applicable. Coverage shall be primary and any other insurance shall be secondary and/or excess.
<b>AUTOMOBILE LIABILITY INSURANCE</b>	
Minimal Limits (include hired and non-owned automobile coverage): \$2,000,000 per person \$2,000,000 per occurrence	Coverage of shall be primary and any other insurance shall be secondary and/or excess.
<b>WORKERS' COMPENSATION/ EMPLOYERS' LIABILITY</b>	

REQUIRED LIMITS	ADDITIONAL REQUIREMENTS
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.
<b>EXCESS/UMBRELLA INSURANCE</b>	
Required liability limits may be obtained by using an Excess/Umbrella Liability policy in addition to the primary liability policy(ies).	If coverage limits are satisfied by an Excess and/or Umbrella policy, coverage must follow form of the primary liability policy(ies). Coverage shall be primary and any other insurance shall be secondary and/or excess.
<b>OWNERS CONTRACTORS PROTECTIVE</b>	
Coverage is required if the amount stated below is more than \$0. Amount required \$ _____.	The City of Wyoming shall be "Named Insured" on said coverage. A 30 day, 10 day for non-payment of premium, Notice of Cancellation shall be endorsed onto this policy. In lieu of this requirement, a per project aggregate on the Commercial General Liability policy may be acceptable for jobs requiring a \$1,000,000 liability limit.
<b>ENVIRONMENTAL/POLLUTION LIABILITY</b>	
Coverage is required if the amount stated below is more than \$0.  Amount required \$ _____.	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 contractor shall be required to keep the policy in force, or purchase "tail" coverage, for a minimum of 3 years after the termination of this contract. Coverage shall be primary and any other insurance shall be secondary and/or excess.
<b>BUILDERS RISK PROPERTY INSURANCE</b>	
Coverage is required if checked "yes." Yes _____ No _____ Amount required: Full Contract Amount.	Contractor shall procure and maintain during the term of construction a policy of Builders Risk Property Insurance in the full amount of the project. Policy shall be on an All-Risk form and cover all property under a Replacement Cost basis. Policy shall also name the City of Wyoming as Loss Payee.

B. Commercial General Liability, Automobile Liability, Excess/Umbrella Insurance, Environmental Pollution Insurance shall include an endorsement stating the following shall be Insureds or Additional Insureds and certificate holders: (i) City of Wyoming, (ii) all City of Wyoming elected and appointed officers, employees, volunteers, board members, and commission members, (iii) authorities created by the City of Wyoming, (iv) board members, officers, and employees of authorities created by the City of Wyoming, and (v) authorized agents of the foregoing.

**19. General Terms.**

A. These terms and conditions may not be amended or modified except in writing signed by Contractor 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.

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

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

**EXHIBIT B  
PROPOSAL**



June 05, 2024

Dave Bartz  
Wyoming Water Plant  
2350 Ivanrest Ave. SW  
Wyoming, MI 49418

RE: Wyoming Water Plant 12 Strand Fiber Runs

Dear Dave,

Feyen Zylstra is pleased to submit for your review and consideration the following proposal for your specific electrical requirements. The proposal being offered is based upon the information supplied to us by you at the time of your request. Any changes to the information after this proposal was developed may require additional proposals or revisions.

### Scope of Work

- Provide and Install 2" Sleeve through wall into Maintenance area for cabling pathway to Maintenance IDF.
- Provide and Install 1 1/4" Conduit from existing box on main level, up and into wall of Server Room for fiber pathway.
- Provide and Install "J" Hooks as needed for fiber pathways outside of existing tray being used.
- Provide and Install (1) Corning 1U Fiber shelf equipped with (1) 12 Port LC Fiber adapter panel into existing cabinet in IDF AB.
- Provide and Install (1) Corning 1U Fiber shelf equipped with (1) 12 Port LC Fiber adapter panel into existing cabinet in Maintenance IDF.
- Provide and Install (1) Corning 1U Fiber shelf equipped with (2) 12 Port LC Fiber adapter panels into existing rack in Server Room.
- Provide, Install, Terminate and Test a 12 Strand Plenum SM Interlocking Armored Fiber from Server room out to IDF AB.
- Provide, Install, Terminate and Test a 12 Strand Plenum SM Interlocking Armored Fiber from Server room out to Maintenance IDF.

**Quoted Amount - \$10,425.00**



**Prices**

Unless otherwise specified elsewhere in this proposal, the prices quoted shall remain in effect for **45 days** after the date of this proposal.

**Extra Work**

We reserve the right to charge for additional costs if installation is interrupted due to circumstances we are not responsible for. This quote is based on installation, commissioning, and acceptance testing to occur in a continuous manner with no substantial interruptions that could cause us to leave the job site and return at a later date.

**T&M Rates**

Should additional assistance be requested by your company for T&M installation services, such service would be charged at current service rates. Hourly service rates are based on a standard eight (8) hour day Monday through Friday. Services provided outside the standard work day will be charged at one and one-half times the straight time rate, except Sundays and holidays, in which case the services will be charged at two times the base rate.

Thank you for the opportunity to quote this project. We look forward to working with you. If I can be of further assistance, please contact me.

**Your and Our Acceptance:**

Feyen Zylstra LLC will commence work as identified in the above proposal only after acceptance as evidenced by the respective signatures of the parties' authorized representatives. No person has authority to make any claim, representation, promise or condition on either party's' behalf that is not documented within this Agreement. The Proposal Terms and Conditions are part of this agreement. Those Proposal Terms and Conditions may be printed in the back of this document. If not, please contact the Feyen Zylstra, LLC Representative below as the Proposal Terms and Conditions are fully incorporated by reference into this agreement.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Client Name (please print)

\_\_\_\_\_  
Client Authorized Signature

6/5/24  
\_\_\_\_\_  
Date

**Terry Finch**  
\_\_\_\_\_  
Feyen Zylstra LLC Representative

*Terry Finch*  
\_\_\_\_\_  
Feyen Zylstra LLC Authorized Signature



## FEYEN ZYLSTRA, LLC PROPOSAL TERMS AND CONDITIONS

The Proposal of Feyen Zylstra, LLC ("Seller") is subject to these terms and conditions:

1. **Binding Contract.** This Proposal and these terms and conditions ("Agreement") constitute a binding contract. FEYEN ZYLSTRA disclaims, objects and rejects any CLIENT document, including a purchase order, proposal or confirming order that adds to, varies, conflicts with or attempts in any way to alter this Agreement. In the event of any dispute between this Agreement and CLIENT's document, this Agreement shall control. FEYEN ZYLSTRA will furnish its work on the condition that any statement, clause, or condition in CLIENT's order does not in any way change, enlarge, or modify FEYEN ZYLSTRA's liability or obligation as set forth in this Agreement.
2. **Period of Performance.** All work referenced in this Agreement is to be substantially complete as set forth in the proposal herein.
3. **Safety Requirements.** For any work performed on CLIENT's premises, CLIENT shall furnish a work place free from recognized hazards that may cause serious physical harm and CLIENT agrees to take all reasonable precautions for the safety of FEYEN ZYLSTRA's employees, agents or subcontractors working thereon. CLIENT shall comply with all applicable safety laws, regulations and orders of any public authority. CLIENT shall hold harmless, defend and indemnify FEYEN ZYLSTRA for any claim, damage, loss, fine, or cost, including attorney fees, arising from CLIENT's failure to comply with any safety requirement, except where FEYEN ZYLSTRA is adjudged to be solely negligent. Where CLIENT directs the work of FEYEN ZYLSTRA's employees, CLIENT assumes all liability for such supervision and direction and agrees to hold harmless, defend and indemnify FEYEN ZYLSTRA for any claim, damage, loss, fine or cost, including attorney fees, arising from CLIENT's supervision or direction, except where FEYEN ZYLSTRA is adjudged to be solely negligent.
4. **Prices and Taxes.** The price(s) stated herein are firm for 15 days from the date of the proposal, however, FEYEN ZYLSTRA reserves the right to correct any typographical or clerical errors. Unless otherwise agreed by FEYEN ZYLSTRA in writing, the amount of any local, state or federal tax levied on the goods shall be added to the amount payable by and remain sole responsibility of CLIENT.
5. **Invoicing and Payment.** FEYEN ZYLSTRA shall invoice CLIENT per the terms of each PROPOSAL. If terms are not specified in a given PROPOSAL, FEYEN ZYLSTRA shall invoice CLIENT each week for Services rendered plus out-of-pocket expenses incurred ("Fees") and agrees to pay all invoices within 30 days after receipt of an approved invoice. Any amount remaining unpaid after 30 days shall accrue interest at a rate of one and one-half percent (1.5%) per month. In the event of any dispute regarding a portion of an invoice, the undisputed portion shall be paid as provided herein.
6. **Extra Work and Change Orders.** FEYEN ZYLSTRA shall perform extra work only when the extra work is authorized in writing by the CLIENT, and accepted by FEYEN ZYLSTRA. Any change in the scope of Services shall be agreed upon in writing by the Parties, and FEYEN ZYLSTRA shall have no obligation to perform Services in connection with any change until the Parties have agreed upon the effect of such change in a Proposal. Notwithstanding the foregoing, any Services provided by FEYEN ZYLSTRA to Client during the Term that are not documented in a Proposal or another written agreement between the Parties will be governed by the terms of the Agreement.
7. **Licenses and Permits.** FEYEN ZYLSTRA shall be responsible for any permits and licenses necessary to perform its work.
8. **Project Closeout.** At project completion, FEYEN ZYLSTRA shall within Thirty (30) business days from receipt of notice from CLIENT of any defects or omissions, take any necessary action to correct all defects or omissions. If FEYEN ZYLSTRA fails to timely correct its work, FEYEN ZYLSTRA shall be responsible for any reasonable direct costs incurred by the CLIENT, in proportion and directly attributable to correct the work of FEYEN ZYLSTRA as set forth in the Agreement.
9. **Project Delays.** FEYEN ZYLSTRA shall remedy any delays in proportion and directly attributable to its failure to timely perform its obligations according to the agreed project schedule. FEYEN ZYLSTRA shall be entitled to reimbursement from the CLIENT for any extra costs incurred and a time extension as a result of a project delay caused by the CLIENT.
10. **Project Cleanup.** FEYEN ZYLSTRA shall clean up and remove from the site all of its rubbish and debris on a daily basis. All of the FEYEN ZYLSTRA's supplies, materials and equipment must be properly stored or immediately removed from the job site by FEYEN ZYLSTRA.
11. **Liens.** If FEYEN ZYLSTRA has been paid for work performed and liens are filed in relation to the labor and/or materials furnished under this Agreement, FEYEN ZYLSTRA agrees to have the liens discharged within ten (10) business days from the date of the receipt of written notice. If any lien is not timely discharged, CLIENT may discharge the lien at FEYEN ZYLSTRA's expense.
12. **Inspection and Acceptance.** CLIENT has the right to inspect any work provided by FEYEN ZYLSTRA. FEYEN ZYLSTRA shall promptly repair or replace any defective work.
13. **Indemnification.** Each party shall indemnify and hold harmless the other party, and its agents and employees from and against all injuries, claims, damages, losses and expenses to the extent caused by the indemnifying party, the indemnifying party's lower tier subcontractors, or anyone directly employed by the indemnifying party or anyone for whose acts the indemnifying party is liable. FEYEN ZYLSTRA's liability (whether in contract, tort, negligence, strict liability or by statute or otherwise) to CLIENT or to any third party concerning performance or non-performance or otherwise related to this Agreement shall individually or in the aggregate be limited to the direct and actual damages, not to exceed the fees received by FEYEN ZYLSTRA hereunder for the portion of the services giving rise to such claim. NOTWITHSTANDING ANY PROVISION HEREIN OR IN ANY PROPOSAL TO THE CONTRARY, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR CONSEQUENTIAL, INCIDENTAL, PUNITIVE, SPECIAL, EXEMPLARY OR INDIRECT DAMAGE, OR EXPENSES (INCLUDING, WITHOUT LIMITATION, LOST PROFITS OR OTHER ECONOMIC LOSS, LOST REIMBURSEMENTS, LOST DATA, OR LOST SAVINGS) EVEN IF SUCH PARTY WAS ADVISED OF THE POSSIBILITY OF THE OCCURRENCE OF SUCH DAMAGES, EVEN IF SUCH DAMAGES WERE REASONABLY FORESEEABLE, AND EVEN IF ANY REMEDY FAILS OF ITS ESSENTIAL PURPOSE. The provisions of this Section shall survive termination of this Agreement.
14. **Insurance.** Within ten (10) calendar days from the date of this Agreement, FEYEN ZYLSTRA shall provide CLIENT, a Certificate of Insurance evidencing proof of insurance. The insurance will be primary naming CLIENT as an "additional insured". Policies shall not be cancelled without



adequate substitution before cancellation. FEYEN ZYLSTRA shall insure by and provide evidence of coverage for:

- (i) Comprehensive general liability insurance policy or policies provided by an acceptable insurance carrier with combined single limit bodily injury and property damage in the amount of at least \$1 Million.
- (ii) Professional Liability Professional or Errors and Omissions Liability - covering FEYEN ZYLSTRA's errors, omissions, or other acts committed or omitted that cause liability in the performance or nonperformance of FEYEN ZYLSTRA's professional services, in the amount of at least \$5 Million each wrongful act or omission and in the annual aggregate, to be kept in effect for three (3) years after completion of the Work or termination of the Contract, whichever is later.
- (iii) Vehicular insurance for all vehicles used by Service Provider, its servants and agents, with combined single limit bodily injury and property damage for at least \$1 Million.
- (iv) Statutory Worker's Compensation and Employers Liability Insurance.

**15. Notices.** All notices shall be provided to the addresses set forth in this Agreement and if none is provided, to the party's resident agent in the state of incorporation or organization. Wherever possible, all terms shall be interpreted consistently. If a conflict arises as to price, payment terms or delivery, the typed terms on the front page shall control over the printed provisions on this side. For any other conflict, these Terms and Conditions shall control. No usage in trade shall create a conflict with the terms of this Agreement. FEYEN ZYLSTRA reserves the right to correct any typographical errors anywhere in this Agreement. If any provision is determined to be unenforceable, the remainder of this Agreement shall remain in full force and effect.

**16. Non-Solicitation; Non-Competition.** (a) While CLIENT is affiliated with FEYEN ZYLSTRA and for a period of one year after the cessation of the CLIENT's affiliation with FEYEN ZYLSTRA, for any reason whatsoever, Company shall not directly or indirectly, either individually or as CLIENT, partner, agent, member, stockholder, officer, director, consultant or otherwise, solicit for employment any person who was an employee of FEYEN ZYLSTRA during any period during which the CLIENT was affiliated with FEYEN ZYLSTRA. (b) While CLIENT is affiliated with FEYEN ZYLSTRA and for a period of one year after the cessation of the CLIENT's affiliation with FEYEN ZYLSTRA, for any reason whatsoever, CLIENT shall not directly or indirectly, either individually or as CLIENT, partner, agent, Company, stockholder, officer, director, consultant, or otherwise, do business with, or solicit business from any CLIENT or CLIENT of FEYEN ZYLSTRA of which CLIENT became aware while affiliated with FEYEN ZYLSTRA. Also, while Company is affiliated with FEYEN ZYLSTRA and for a period of one year after the cessation of the CLIENT's affiliation with FEYEN ZYLSTRA, CLIENT will also refrain from soliciting business with any CLIENT and or prospective CLIENT based on knowledge gained as a result of its affiliation and engagement with FEYEN ZYLSTRA.

**17. Confidentiality:** In connection with this Agreement, one Party (the "Receiving Party") may have access to certain information that the other party (the "Disclosing Party") treats as confidential and proprietary, including, without limitation, information regarding the Disclosing Party's trade secrets, products, vendors, operations, finances, employees, information systems and the existence of and terms of this Agreement or any applicable PROPOSAL (collectively, "Confidential Information"). During and after the term of this Agreement, the Receiving Party shall (i) hold the Disclosing Party's Confidential Information in confidence using the same degree of care that it uses to protect its own Confidential Information (but in no event less than a reasonable degree of care), (ii) use the Disclosing Party's Confidential Information solely in connection with performing its obligations hereunder or, in the case of CLIENT, in connection with its use of the Services, or Deliverables, and (iii) not disclose any of the Disclosing Party's Confidential Information to any employee or other third party except to a limited number of its employees who have a need to know the Disclosing Party's Confidential Information in order to perform its obligations under this Agreement or, in the case of CLIENT, in connection with its use of the Services, or Deliverables.

Confidential Information shall not include information that the Receiving Party can demonstrate by written records: (i) is or becomes a part of the public domain through no act or omission of the Receiving Party; (ii) was in the Receiving Party's lawful possession prior to the disclosure and had not been obtained by the Receiving Party either directly or indirectly from the Disclosing Party; (iii) is lawfully disclosed to the Receiving Party by a third-party without restriction on disclosure; or (iv) is independently developed by the Receiving Party without the use of any of the Disclosing Party's Confidential Information. The Receiving Party shall not be in violation of this Section 10 for disclosure of the Disclosing Party's Confidential Information that is required to be disclosed pursuant to governmental or judicial process, provided that the notice of such process is promptly provided to the Disclosing Party in order that it may have every opportunity to intercede in such process to contest such disclosure. The provisions of this Section 10 shall survive the performance, completion, termination, or cancellation of this Agreement.

FEYEN ZYLSTRA shall have the right to build case studies based on Services performed under this Agreement and use those materials from case studies for marketing purposes. FEYEN ZYLSTRA shall have the right to describe and demonstrate Services performed under this Agreement to prospective CLIENT's and use those materials for sales and other promotional purposes. FEYEN ZYLSTRA shall respect the CLIENT's Confidential Information as defined above. CLIENT has the right to review and request in writing that FEYEN ZYLSTRA edit or remove material used in any case study or demonstrated to a specific industry or prospective CLIENT at any time.

**18. Products or Services Furnished to Buyers Specifications:** FEYEN ZYLSTRA makes NO WARRANTY WHATSOEVER, as to services or goods delivered and/or designed to CLIENT's specifications and CLIENT shall, at its own expense, defend, indemnify, and hold FEYEN ZYLSTRA harmless from and against any claim, suit, or other expense that is asserted against FEYEN ZYLSTRA by reason of such design, installation, or sale of said services or goods.

**19. Intellectual Property:** FEYEN ZYLSTRA and CLIENT agree that, unless otherwise agreed upon in writing, their respective rights to any "Intellectual Property" developed or used in connection with the Services shall be as set forth in this Section 19. As used herein, "Intellectual Property" means the intangible legal rights or interests evidenced by or embodied in (i) any idea, design, concept, technique, invention, discovery or improvement, whether or not patentable, but including patents, patent applications, trade secrets and know-how, (ii) any work of authorship, whether or not copyrightable, but including copyrights and any similar intangible rights recognized by law, (iii) any trademark, service mark or trade name, (iv) any trade secret and (v) any other similar rights, in each case on a worldwide basis.

(I) Pre-Existing Intellectual Property and Independently Developed Intellectual Property. Each Party shall retain all rights, title and interests in



the Intellectual Property that it (a) has as of the date of the Agreement ("Pre-Existing IP"), and (b) independently developed during the term of the Agreement ("Independently Developed IP"). Except as expressly set forth herein, neither Party shall have any right, title or interest in any of the Pre-Existing IP or Independently Developed IP of the other Party, except CLIENT shall have an irrevocable, royalty-free and perpetual license to use for the purpose for which it is made available to CLIENT in accordance with the Services and the applicable PROPOSAL any of FEYEN ZYLSTRA's Pre-Existing IP and Independently Developed IP that is incorporated into any material, work product, document, data or other deliverable developed or provided by FEYEN ZYLSTRA in connection with any Services provided to CLIENT ("Deliverables"). CLIENT may not (a) reproduce or use Preexisting IP or Independently Developed IP other than as components of the Deliverables, (b) distribute Preexisting IP or Independently Developed IP or sublicense any rights in Preexisting IP or Independently Developed IP to third parties other than in support of CLIENT's internal business operations. All Pre-Existing and Independently Developed software, software source code, software technology stack, software products (collectively "Software") of the Parties, including enhancements or modifications thereto prepared by either Party or their Representative, will be and will remain the exclusive property of that Party or the third-Party licensors thereof and the other Party will have no rights or interests in such Software unless expressly agreed to by written authorization from each Party. A Party shall not, without the owning Party's prior consent, decompile or reverse engineer the Software of the other Party.

(ii) Jointly Developed Intellectual Property. Unless otherwise agreed to in writing, CLIENT shall retain sole rights, title and interest in all Intellectual Property that is jointly developed by the Parties during the term of the Agreement ("Jointly Developed IP"). As CLIENT of the Jointly Developed IP, CLIENT shall have the right to independently use, make improvements to, make derivative works of and license the Jointly Developed IP. To the extent CLIENT uses, makes improvements to, makes derivative works of or licenses any of the Jointly Developed IP, CLIENT shall have no obligation to pay any royalty or other fee to FEYEN ZYLSTRA. All Jointly Developed IP shall be considered "works made for hire" (as defined in the U.S. Copyright law). FEYEN ZYLSTRA agrees to execute any and all documents and do any and all further acts, at CLIENT's expense, as may be requested by CLIENT from time to time to carry out the intent and purposes of this section, including, but not limited to, giving testimony in support of inventorship or authorship as may be necessary in any legal proceedings or any application proceedings for any U.S. or foreign patents or copyrights. To the extent this Section does not provide CLIENT with full ownership, right, title, and interest in and to the Jointly Developed IP, FEYEN ZYLSTRA grants CLIENT a perpetual, irrevocable, fully paid, royalty-free license to the Jointly Developed IP.

(iii) Deliverables. Subject to FEYEN ZYLSTRA's rights, title, and interest in all FEYEN ZYLSTRA Pre-Existing IP and FEYEN ZYLSTRA Independently Developed IP pursuant to Section 19(i) above, the terms and conditions of this Agreement including the payment of applicable fees, and the CLIENT's rights, title, and interest in Jointly Developed IP pursuant to Section 19(ii) above, FEYEN ZYLSTRA grants CLIENT a non-exclusive, non-transferable, non-sublicenseable right to access and use the Deliverables for the purpose for which it is made available to CLIENT in accordance with the Services and the applicable PROPOSAL.

(iv) Third-Party Software. CLIENT acknowledges and agrees that each third-party software product ("Third-Party Software") is the property of the respective third-party CLIENT or licensor and that CLIENT has no right or title, nor will it assert any right or title, in the same except as expressly granted in writing by the terms and conditions of such third party's license or purchase agreement. All Third-Party Software provided to CLIENT under this Agreement shall be used only in accordance with the applicable license from the third party.

(v) Nothing in this Agreement shall preclude FEYEN ZYLSTRA from using in any manner and for any purpose it deems necessary, its Independently Developed IP, general knowledge, skills and experience and any ideas, concepts, know-how and techniques related to FEYEN ZYLSTRA's consulting and used in the course of providing the Services on other engagements for individuals and entities other than CLIENT, including, but not limited to, automation and monitoring technologies developed by FEYEN ZYLSTRA through learning lessons engaged in the course of performing Services for the CLIENT.

**20. Warranty.** FEYEN ZYLSTRA will repair or replace, at its sole discretion, defective goods installed by FEYEN ZYLSTRA within one year of completion when such defect results from FEYEN ZYLSTRA's defective material or defective workmanship and CLIENT has notified FEYEN ZYLSTRA of such defect within 30 days of discovery of such defect.

FEYEN ZYLSTRA makes NO WARRANTY WHATSOEVER concerning services or goods provided by others, but will extend any warranties provided FEYEN ZYLSTRA for such goods to CLIENT as are permissible under such warranty.

There is no warranty for any repairs or replacement caused by: (i) physical abuse or vandalism of the goods or any component; (ii) alterations, modifications, additions, or repairs made during the warranty period by anyone other than FEYEN ZYLSTRA, its agents, or subcontractors, unless consented to by FEYEN ZYLSTRA; (iii) accidents or damage resulting from fire, wind, water, hail, lightning, earthquake, theft or similar causes originating outside the goods; and (iv) CLIENT's remedy is limited, in the sole discretion of FEYEN ZYLSTRA, to the repair or replacement of any work determined to be defective and covered by this warranty.

**DISCLAIMER AND EXCLUSION OF OTHER WARRANTIES:** FEYEN ZYLSTRA (including its suppliers, subcontractors, employees, and agents) provides Services "AS IS" and makes no other express or implied warranties, written or oral, and ALL OTHER WARRANTIES ARE SPECIFICALLY EXCLUDED, INCLUDING BUT NOT LIMITED TO, THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND ANY WARRANTY ARISING BY STATUTE, OPERATION OF LAW, COURSE OF DEALING OR PERFORMANCE, OR USAGE OF TRADE. NOTHING HEREIN IS INTENDED TO CONSTITUTE OR CREATE ANY REPRESENTATION OR WARRANTY BY FEYEN ZYLSTRA TO ANY THIRD PARTY, (INCLUDING END USERS), DIRECTLY OR AS A THIRD PARTY BENEFICIARY, WITH RESPECT TO ANY OF THE SERVICES PROVIDED HEREUNDER. The Parties do not intend the Agreement or any PROPOSAL to be governed by Article 2 of the Uniform Commercial Code.

(ii) Third-Party Hardware and Software. FEYEN ZYLSTRA MAKES NO WARRANTY WITH RESPECT TO ANY THIRD-PARTY HARDWARE OR SOFTWARE, AND ANY WARRANTY THAT MAY APPLY TO THIRD-PARTY HARDWARE OR SOFTWARE IS ONLY AS EXPRESSLY STATED BY THE MANUFACTURER, CLIENT, OR LICENSOR OF THE THIRD-PARTY HARDWARE OF SOFTWARE.

(iii) Third-Party Maintenance and Support. FEYEN ZYLSTRA MAKES NO WARRANTY WITH RESPECT TO ANY THIRD-PARTY MAINTENANCE OR



SUPPORT SERVICES PROVIDED TO CUSTOMER UNDER THIS AGREEMENT, AND ANY WARRANTY THAT MAY APPLY TO ANY SUCH SERVICES IS ONLY AS EXPRESSLY STATED AND PROVIDED BY THE THIRD-PARTY.

21. **Limitation of Action:** No action, regardless of its form and arising out of this Agreement may be brought against FEYEN ZYLSTRA more than two (2) years after the cause of action has accrued
  22. **No Assignment.** No assignment is allowed by either party without the prior written approval of the other party
  23. **Term and Termination.**
    - (i) **Term of Agreement.** The initial term of this Agreement shall commence on the Effective Date, set forth in the proposal herein, and unless otherwise stipulated in the applicable proposal after the initial term, this Agreement shall automatically renew for successive twelve (12)-month periods unless either Party provides the other Party with written notice of non-renewal at least sixty (60) days prior to the end of the then-current term. Upon termination, FEYEN ZYLSTRA agrees to complete (and Client agrees to make payment for) any Services in progress unless specifically directed otherwise by Client, it being understood and agreed that termination of this Agreement shall not constitute termination of any Services in progress pursuant to a previously executed Proposal.
    - (ii) **Termination for Breach.** Each of the following shall constitute a breach of this Agreement: FEYEN ZYLSTRA becomes insolvent; a petition in bankruptcy is filed by or against FEYEN ZYLSTRA; FEYEN ZYLSTRA makes a general assignment for the benefit of creditors; a receiver is asked or appointed for FEYEN ZYLSTRA; FEYEN ZYLSTRA fails to supply skilled workers or proper materials; CLIENT fails to pay FEYEN ZYLSTRA; FEYEN ZYLSTRA fails to make prompt payment to its suppliers for labor and materials after receipt of payment from CLIENT; FEYEN ZYLSTRA fails to pay its insurance premiums; FEYEN ZYLSTRA fails to observe and comply with laws, regulations or ordinances; FEYEN ZYLSTRA fails to timely perform the Work; or, either party otherwise fails in the performance of any provision of this Agreement. If either party breaches this Agreement, the other party may terminate this Agreement after thirty (30) calendar days written notice to cure the breach.
  24. **Governing Law.** This Agreement shall be deemed made in Kent County, Michigan and shall be governed by and interpreted under the laws of Michigan.
  25. **Disputes.** Disputes of any kind shall be decided by Arbitration and governed by the Commercial Industry Rules of the American Arbitration Association existing when the claim or demand arose. The arbitrator's award shall be final and binding, and shall be enforceable in a court of competent jurisdiction. The venue of any Arbitration shall be in Kent County, Michigan, unless otherwise agreed. The arbitrator shall specifically enforce and may not modify the terms of this Agreement, except the interest provision if determined that it violates the law.
  26. **Compliance with Laws.** FEYEN ZYLSTRA agrees to be bound by and comply with all federal, state and local laws, ordinances and regulations ("Laws") applicable to its work.
  27. **Severability.** If any part of this Agreement is deemed by any court to be illegal or unenforceable, the remainder of the Agreement shall remain in full force and effect.
  28. **Counterparts.** This Agreement may be executed in one or more counterparts, which together shall constitute one document. A photocopy or facsimile of this Agreement will have the same legal effect as the original.
  29. **Force Majeure:** FEYEN ZYLSTRA shall not be responsible or liable for any delays in service completion due to any cause or condition beyond its control, including, without limitation, fire, flood, earthquake, labor dispute, shortage of materials or supplies, riot or other civil disturbance, war, acts of God or Nature, accident, or any acts of any government.
- Entire Agreement.** This Agreement represents the entire agreement between the parties. No other statements, either written or oral, are a part of this Agreement.

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 listed below as recommended in the attached staff report and summarized below.

Item	Recommended Bidder	Cost
Hook Tower Rehabilitation Project	Seven Brothers Painting, Inc.	\$803,500.00

2. The City Council authorizes a 10% contingency for the Hook Tower Rehabilitation Project.
3. 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 July 1, 2024.

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

ATTACHMENTS:  
Staff Report  
Recommendation of Award Letter  
Notice of Award  
Contract

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

## Staff Report

Date: June 17, 2024

Subject: Hook Tower Rehabilitation Project

From: Dan Kleinheksel, Utility Maintenance Manager

CC: Myron Erickson, Director of Public Works

Meeting Date: July 1, 2024

---

### **RECOMMENDATION:**

It is recommended the City Council award the bid as provided by Seven Brothers Painting, Inc. for the Hook Tower Rehabilitation Project in the amount of \$803,500.00 plus a 10% contingency for a total amount of \$883,850.00.

### **ALIGNMENT WITH STRATEGIC PLAN:**

- Pillar 3 – Stewardship
  - Goal 3 – Improve City infrastructure and service reliability.

### **DISCUSSION:**

The City of Wyoming has two elevated tanks to store potable water and provide consistent water pressure to city residents and businesses. The tank located off Hook Avenue can store 2,000,000 gallons of water. On October 21, 2019, Dixon Engineering performed a comprehensive inspection of the Hook Avenue tank which resulted in recommendations for repair and recoating of the tank interior and exterior. The scope of recommended work also included EGLE compliance upgrades and the replacement of a roof hatch and corroded roof stiffeners. The tank was last coated in 2004 and has surpassed the typical coating life expectancy of 15 years. To maximize the tank life and continue supplying potable water to the city, it is prudent to proceed with the rehabilitation.

On October 12, 2023, via resolution No. 28773, the City Council accepted a proposal from Dixon Engineering for the development of technical specifications, project administration, and construction oversight of the Hook Tower Rehabilitation Project. Dixon Engineering developed specifications with support from city staff and the bidding documents were advertised on April 17, 2024.

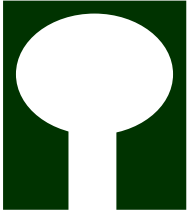
On May 21, ten bids were received which are shown in the included tabulation. Dixon Engineering and utility staff reviewed the bids and concurred with the recommendation of bid award to the lowest bidder, Seven Brothers Painting, Inc.

**TABULATION:**

<b>Bidder</b>	<b>Bid Amount</b>
Seven Brothers Painting Inc.	\$803,500.00
O&J Coatings Inc.	\$833,000.00
Fedewa Inc.	\$879,400.00
E&L Contractors Inc.	\$889,400.00
L&T Painting Inc.	\$957,900.00
Tank Pro Inc.	\$1,079,544.00
L.C. United Painting Co. Inc.	\$1,145,000.00
Viking Painting LLC	\$1,180,720.00
Classic Protective Coatings Inc.	\$1,478,950.00
D&M Painting Corporation	\$1,490,140.00

**BUDGET IMPACT:**

Adequate funds exist in the Water Fund capital outlay account 591-537-57300-986.444.



**DIXON**

**ENGINEERING & INSPECTION SERVICES  
FOR THE COATING INDUSTRY**

1104 Third Avenue  
Lake Odessa, MI 48849  
Telephone: (616) 374-3221  
Fax: (616) 374-7116

June 4, 2024

Mr. Dan Kleinheksel, Utility Maintenance Manager  
City of Wyoming  
16700 New Holland St.  
Holland, MI 49424

Subject: 2,000,000 Gallon Toroellipse (Hook Avenue) Exterior Overcoat, Wet Interior Repaint, Dry Interior Spot Repaint, and Miscellaneous Repairs – Recommendation for Award

Dear Dan:

Dixon Engineering has reviewed the bids submitted for the repainting of the 2,000,000-gallon Hook Ave elevated water storage tank and recommends award to the low bidder, Seven Brother's Painting Inc. of Shelby Twp, MI, for the bid amount of \$803,500. This includes all line items in the Schedule of Values. Seven Brother's Painting Inc. is a prequalified contractor with Dixon for this Scope of Work and has completed many similar projects including the elevated tank rehabilitations for the Cities of Benton Harbor, South Haven, and Waterford Michigan.

Bidding was competitive with ten bids received and the first and second low bids separated by three and a half (3.5%) percent. I reached out to Sam with Seven Brothers, to discuss their bid regarding the acknowledgement of Addendum #1, Roof Stiffener Replacement Contingency and the Project Schedule. Sam verified that they would honor their bid price and would complete the work during the City's preferred spring construction period.

Enclosed for your review and action is a copy of the Notice of Award. Please sign and forward a copy to the contractor for signature. Instruct the contractor to return one copy to you, forward a copy to our office, and retain a copy for their files. Also, please notify the contractor that they are to forward to our office the required bonds and certificate(s) of insurance for inclusion in the contract documents.

If you have any questions regarding our recommendation, please contact me at (616) 374-3221, Ext. 309.

FOR DIXON ENGINEERING, INC.,

Eric Binkowski  
Project Manager

Section 00 51 00 - NOTICE OF AWARD

Date of Issuance: **June 4, 2024**  
Owner: **City of Wyoming, Michigan** Owner's Project No.:  
Engineer: **Dixon Engineering, Inc.** Engineer's Project No.: **22-41-19-02-24**  
Project: **2,000,000 Gallon Toroellipse (Hook Avenue)**  
Contract Name: **Exterior Overcoat, Wet Interior Repaint, Dry Interior Spot Repaint, and Miscellaneous Repairs**  
Bidder: **Seven Brothers Painting, Inc.**  
Bidder's Address: **50805 Rizzo Drive, Shelby Township, MI 48315**

You are notified that Owner has accepted your Bid dated 5/16/2024 for the above Contract, and that you are the Successful Bidder and are awarded a Contract for:

**Catch Basin (\$7,500)**  
**Access Tube Roof Hatch Neck (\$1,500)**  
**Overflow Pipe Rerouting (\$6,000)**  
**Platform Handrail Kickplates (\$2,000)**  
**Fill/Draw Pipe Grate (\$5,500)**  
**Roof Stiffener Replacement – Contingency (\$2,000)**  
**Building Removal (\$2,000)**  
**Exterior Overcoat (\$393,500)**  
**Lettering (\$9,000)**  
**Wet Interior Repaint (\$341,000)**  
**Seam Sealer (\$3,500)**  
**Pit Filler – 100 Pits (\$5,000)**  
**Dry Interior Spot Repaint (\$25,000)**

The Contract Price of the awarded Contract is **\$803,500**. Contract Price is subject to adjustment based on the provisions of the Contract, including but not limited to those governing changes, Unit Price Work, and Work performed on a cost-plus-fee basis, as applicable.

You must comply with the following conditions precedent within 15 days of the date of receipt of this Notice of Award:

1. Deliver the Contract security (such as required performance, payment, and maintenance bonds) and insurance documentation, as specified in the Instructions to Bidders and in the General Conditions, Articles 2 and 6.
2. Other conditions precedent (if any): **None**

Failure to comply with these conditions within the time specified will entitle Owner to consider you in default, annul this Notice of Award, and declare your Bid security forfeited.

Within 10 days after you comply with the above conditions, Owner will return to you one fully signed counterpart of the Agreement, together with any additional copies of the Contract Documents as indicated in Paragraph 2.02 of the General Conditions.

Owner: City of Wyoming, Michigan

By *(signature)*: \_\_\_\_\_

Name *(printed)*: \_\_\_\_\_

Title: \_\_\_\_\_

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

Contractor: Seven Brothers Painting, Inc.

By *(signature)*: \_\_\_\_\_

Name *(printed)*: \_\_\_\_\_

Title: \_\_\_\_\_

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

Copy: Engineer

# Wyoming

MICHIGAN

## 2,000,000 GALLON TOROELLIPSE (HOOK AVENUE) EXTERIOR OVERCOAT, WET INTERIOR REPAINT, DRY INTERIOR SPOT REPAINT, AND MISCELLANEOUS REPAIRS PROJECT 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 28<sup>th</sup> St SW, Wyoming, MI 49509.

Contractor means: SELEN BROTHERS PAINTING, INC  
[Name of contracting entity]  
A MICHIGAN  
[State and type of entity, e.g. corporation, limited liability company, etc.]  
50505 AUTO DR  
[Contractor's street address]  
SHELBY TWP MI 48315  
[Contractor's city, state & zip]

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

Effective Date means: \_\_\_\_\_, 202\_

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

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

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

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

Work means the services described and specified in the RFP as modified by the Proposal.

### TERMS AND CONDITIONS

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

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

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

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

5. This is the only agreement between the parties regarding City engagement of Contractor to perform the Work and supply the goods. There are no other agreements, representations, or warranties except as stated in the RFP as modified by the Proposal. This contract can be amended only in writing signed by both City and Contractor.

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

City of Wyoming

By: \_\_\_\_\_  
Kent Vanderwood, Mayor

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

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

Approved as to form: \_\_\_\_\_  


Contractor: SELEN BROTHERS PAINTING, INC

By: \_\_\_\_\_  
[Signature of officer, director, or principal of Contractor]  
KANTO VUSNAB - PRESIDENT  
[Typed/Printed Name & Title of Person Signing for Contractor]

Date signed 6/12, 2024

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

RESOLUTION TO ACCEPT AMENDMENT NUMBER ONE AND  
AMENDMENT NUMBER TWO OF THE WATER SEWER RATE STUDY CONTRACT

WHEREAS:

1. On August 21, 2023, City Council adopted Resolution number 27824 awarding the bid for a water and sewer rate study to Stantec Consulting Services, Inc.
2. As detailed in the attached staff report, it is recommended City Council accept amendment number one for Stantec Consulting Services Inc. to provide wholesale water and sewer rate reconciliation assistance for the FY24 water and sewer rates in the total estimated amount of \$6,950.00.
3. It is also recommended City Council accept amendment number two for Stantec Consulting Services Inc. to provide rate methodology alternative analysis and assist with wholesale water and sewer contract design in the total estimated amount of \$25,000.00.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council accepts amendment number one for Stantec Consulting Services Inc. to provide wholesale water and sewer rate reconciliation assistance for the FY24 water and sewer rates.
2. The City Council accepts amendment number two for Stantec Consulting Services Inc. to provide rate methodology alternative analysis and assist with wholesale water and sewer contract design.
3. The City Council authorizes the Mayor and City Clerk to sign amendment number one.
4. The City Council authorizes the Mayor and City Clerk to sign amendment number two.
5. The City Council authorizes the City Manager to accept future amendments in accordance with the contract and budget authorization.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried      Yes  
                                    No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on July 1, 2024.

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

ATTACHMENTS:

Staff Report  
Amendment One  
Amendment Two

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

## Staff Report

Date: June 17, 2024

Subject: Additional Services for Water and Sewer Rate Assistance and Analysis

From: Aaron Vis, Deputy Director of Public Works

CC: Myron Erickson, Director of Public Works

Meeting Date: July 1, 2024

---

### **RECOMMENDATION:**

It is recommended that the City Council approve the following two amendments to the existing Water and Sewer Rate Study contract with Stantec Consulting Services Inc. and authorize the Mayor and Clerk to sign the associated contract amendments:

- Contract Amendment 1, which is to provide wholesale water and sewer rate reconciliation assistance for the FY24 water and sewer rates, at a not to exceed amount of \$6,950.00.
- Contract Amendment 2, which is to provide rate methodology alternative analysis and assist with wholesale water and sewer contract design, at a not to exceed price of \$25,000.00.

### **ALIGNMENT WITH STRATEGIC PLAN:**

- Pillar 3 – Stewardship
  - Goal 3 – Improve City infrastructure and service reliability

### **DISCUSSION:**

In August of 2023, the City awarded the Water and Sewer Rate Study bid to the low bidder, Stantec Consulting Services Inc. (Stantec) for a not-to-exceed amount of \$85,000 via resolution 27824. Stantec has substantially completed this work, which was used to set FY25 retail and wholesale customer rates. Based on our excellent experience with Stantec throughout this project, we requested two proposals from them for additional work.

The first proposal and contract amendment 1 is for Stantec to provide wholesale water and sewer rate reconciliation assistance for the FY24 water and sewer rates. At the end of each fiscal year, estimated wholesale water and sewer usage and expenses are

reconciled with actual usage and expenses to determine final rates. This is an important and complicated process with significant financial impact. Given our experience with Stantec and their understanding of our contracts, staff are recommending contracting with Stantec for assistance in this endeavor. This work will not exceed \$6,950.00.

Additionally, staff are in the initial process of updating and renegotiating wholesale water and sewer contracts. This involves investigating alternative water and sewer rate methodologies, requiring the expertise of Stantec to assist in determining the impacts of various rate scenarios. Contract amendment 2 is for Stantec's assistance, done on a time and materials basis, with a not to exceed amount of \$25,000.00.

**BUDGET IMPACT:**

Adequate funds exist in the appropriate Professional Services Accounts of the Water and Sewer Funds, numbers 590-441-54200-801.000 and 591-441-56200-801.000.

# CITY OF WYOMING

## CONTRACT AMENDMENT Stantec Consulting Services, Inc.

This Contract Amendment is to the Water/Sewer Rate Study Contract made as of August 22, 2023 (Effective Date) between the City of Wyoming (City) and Stantec Consulting Services, Inc. (Professional)

### RECITALS

- A. City wishes to add additional services to reconcile of individual wholesale customer estimated cost to actual cost for the 2023-24 period. (Added Services).
- B. Professional submitted a proposal dated April 30, 2024, for the additional services, copy of which is attached as Exhibit A (Proposal):

### TERMS AND CONDITIONS

In exchange for the consideration in and referred by this Amendment, including the compensation stated in the proposal, the parties agree:

- 1. Professional will perform the Added Services for the compensation stated in the Proposal.
- 2. All other terms of the Professional Services Contract remain in full effect.

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

#### City of Wyoming

By: \_\_\_\_\_  
Kent Vanderwood, Mayor

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

Date signed: \_\_\_\_\_, 2024

Approved as to form:

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

#### Stantec Consulting Services, Inc.

By: William B Zieburtz, Jr.  
[Signature officer, director or principal of Professional]  
William B Zieburtz, Jr.  
[Typed/Printed Name & Title of Person Signing for Professional]

Date signed: May 6, 2024

EXHIBIT A  
PROPOSAL



April 30, 2024

Mr. Aaron Vis  
City of Wyoming, MI  
1155 28<sup>th</sup> Street SW  
Wyoming, MI 49509

**Re:** 23/24 Reconciliation of Individual Wholesale Customer Estimated Cost to Actual Cost for the 23/24 period (12 months ended June 2024).

Dear Aaron:

As requested, Stantec Consulting Services Inc. is pleased to present this proposal to reconcile the City's wholesale estimated costs by individual customer to the actual costs each wholesale customer should have paid to the City of Wyoming for 12 months ended June 30, 2024. Such analysis will utilize actual data provided by the City as well as wholesale contract information and any other data provided by the City to complete the reconciliation for each wholesale customer. Enclosed is a description of the scope of services for this study as Attachment A as well as Stantec's terms and conditions for this type of work.

Stantec proposes to complete the reconciliation of the estimated to actual cost for each water and sewer wholesale customer for a not to exceed fee of \$6,950. Stantec will begin this analysis upon execution of this proposal, the timely receipt of necessary water and sewer actual cost and operating data (12 months ended June 30, 2024) from the City and would expect to complete the requested reconciliation by September 30, 2024. Stantec will invoice monthly, based on the percentage of the project completed each month.

Stantec looks forward to assisting the City of Wyoming with this important 23/24 wholesale customer cost reconciliation. If you have any questions concerning this proposal, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in black ink, appearing to read "James F. Bearman".

James F. Bearman  
Principal



By signing below, the City of Wyoming, MI acknowledges that it has read, accepts, and agrees to the terms and conditions attached hereto, that the terms and conditions, together with this proposal, constitute the contract, and that the City of Wyoming, MI authorizes Stantec to proceed with the services herein described.

**CITY OF WYOMING, MI**

**STANTEC CONSULTING SERVICES INC.**



\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
James Bearman  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Principal  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
April 30, 2024  
Date



## ATTACHMENT A

### SCOPE OF SERVICES

For the 12 months ended June 30, 2024, Stantec will prepare a reconciliation of actual costs for each water and sewer wholesale to those estimated costs paid by each wholesale customer, similar to those reconciliations prepared by the City for previous periods. Such analysis will be dependent on the timely receipt of cost and operating data from the City, so that Stantec's analysis can be completed by September 30, 2024. We would expect multiple interactive discussions with City staff during the completion of our analysis. Stantec will provide a Technical Memorandum, following the completion of our analysis, supporting the results of the requested wholesale cost reconciliation.

Stantec will invoice the City monthly based upon the percentage of the reconciliation analysis completed that month, recognizing the fairly short timeframe between receipt of the actual data and the desired September 30, 2024, completion date.





The following Terms and Conditions are attached to and form part of a proposal for services to be performed by Consultant and together, when the Client authorizes Consultant to proceed with the services, constitute the Agreement. Consultant means the Stantec entity issuing the Proposal.

**DESCRIPTION OF WORK:** Consultant shall render the services described in the Proposal (hereinafter called the "Services") to the Client.

**TERMS AND CONDITIONS:** No terms, conditions, understandings, or agreements purporting to modify or vary these Terms and Conditions shall be binding unless hereafter made in writing and signed by the Client and Consultant. In the event of any conflict between the Proposal and these Terms and Conditions, these Terms and Conditions shall take precedence. This Agreement supercedes all previous agreements, arrangements or understandings between the parties whether written or oral in connection with or incidental to the Project.

**COMPENSATION:** Payment is due to Consultant upon receipt of invoice. Failure to make any payment when due is a material breach of this Agreement and will entitle Consultant, at its option, to suspend or terminate this Agreement and the provision of the Services. Interest will accrue on accounts overdue by 30 days at the lesser of 1.5 percent per month (18 percent per annum) or the maximum legal rate of interest. Unless otherwise noted, the fees in this agreement do not include any value added, sales, or other taxes that may be applied by Government on fees for services. Such taxes will be added to all invoices as required. The Client will make payment by Electronic Funds Transfer when requested by Consultant.

**NOTICES:** Each party shall designate a representative who is authorized to act on behalf of that party. All notices, consents, and approvals required to be given hereunder shall be in writing and shall be given to the representatives of each party.

**TERMINATION:** Either party may terminate the Agreement without cause upon thirty (30) days notice in writing. If either party breaches the Agreement and fails to remedy such breach within seven (7) days of notice to do so by the non-defaulting party, the non-defaulting party may immediately terminate the Agreement. Non-payment by the Client of Consultant's invoices within 30 days of Consultant rendering same is agreed to constitute a material breach and, upon written notice as prescribed above, the duties, obligations and responsibilities of Consultant are terminated. On termination by either party, the Client shall forthwith pay Consultant all fees and charges for the Services provided to the effective date of termination.

**ENVIRONMENTAL:** Except as specifically described in this Agreement, Consultant's field investigation, laboratory testing and engineering recommendations will not address or evaluate pollution of soil or pollution of groundwater. Consultant is entitled to rely upon information provided by the Client, its consultants, and third-party sources provided such third party is, in Consultant's opinion, a reasonable source for such information, relating to subterranean structures or utilities. The Client releases Consultant from any liability and agrees to defend, indemnify and hold Consultant harmless from any and all claims, damages, losses and/or expenses, direct and indirect, or consequential damages relating to subterranean structures or utilities which are not correctly identified in such information.

**PROFESSIONAL RESPONSIBILITY:** In performing the Services, Consultant will provide and exercise the standard of care, skill and diligence required by customarily accepted professional practices normally provided in the performance of the Services at the time and the location in which the Services were performed.

**INDEMNITY:** The Client releases Consultant from any liability and agrees to defend, indemnify and hold Consultant harmless from any and all claims, damages, losses, and/or expenses, direct and indirect, or consequential damages, including but not limited to attorney's fees and charges and court and arbitration costs, arising out of, or claimed to arise out of, the performance of the Services, excepting liability arising from the sole negligence of Consultant.

**LIMITATION OF LIABILITY:** It is agreed that, to the fullest extent possible under the applicable law, the total amount of all claims the Client may have against Consultant under this Agreement, including but not limited to claims for negligence, negligent misrepresentation and/or breach of contract, shall be strictly limited to the lesser of professional fees paid to Consultant for the Services or \$50,000.00. No claim may be brought against Consultant more than two (2) years after the cause of action arose. As the Client's sole and exclusive remedy under this Agreement any claim, demand or suit shall be directed and/or asserted only against Consultant and not against any of Consultant's employees, officers or directors.

Consultant's liability with respect to any claims arising out of this Agreement shall be absolutely limited to direct damages arising out of the Services and Consultant shall bear no liability whatsoever for any consequential loss, injury or damage incurred by the Client, including but not limited to claims for loss of use, loss of profits and/or loss of markets.

In no event shall Consultant's obligation to pay damages of any kind exceed its proportionate share of liability for causing such damages.

**DOCUMENTS:** All of the documents prepared by or on behalf of Consultant in connection with the Project are instruments of service for the execution of the Project. Consultant retains the property and copyright in these documents, whether the Project is executed or not. These documents may not be used for any other purpose without the prior written consent of Consultant. In the event Consultant's documents are subsequently reused or modified in any material respect without the prior consent of Consultant, the Client agrees to defend, hold harmless and indemnify Consultant from any claims advanced on account of said reuse or modification.

Any document produced by Consultant in relation to the Services is intended for the sole use of Client. The documents may not be relied upon by any other party without the express written consent of Consultant, which may be withheld at Consultant's discretion. Any such consent will provide no greater rights to the third party than those held by the Client under the contract and will only be authorized pursuant to the conditions of Consultant's standard form reliance letter.

Consultant cannot guarantee the authenticity, integrity or completeness of data files supplied in electronic format ("Electronic Files"). Client shall release, indemnify and hold Consultant, its officers, employees, Consultant's and agents harmless from any claims or damages arising from the use of Electronic Files. Electronic files will not contain stamps or seals, remain the property of Consultant, are not to be used for any purpose other than that for which they were transmitted, and are not to be retransmitted to a third party without Consultant's written consent.



**FIELD SERVICES:** Consultant shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with work on the Project, and shall not be responsible for any contractor's failure to carry out the work in accordance with the contract documents. Consultant shall not be responsible for the acts or omissions of any contractor, subcontractor, any of their agents or employees, or any other persons performing any of the work in connection with the Project. Consultant shall not be the prime contractor or similar under any occupational health and safety legislation.

**GOVERNING LAW/COMPLIANCE WITH LAWS:** The Agreement shall be governed, construed and enforced in accordance with the laws of the jurisdiction in which the majority of the Services are performed. Consultant shall observe and comply with all applicable laws, continue to provide equal employment opportunity to all qualified persons, and to recruit, hire, train, promote and compensate persons in all jobs without regard to race, color, religion, sex, age, disability or national origin or any other basis prohibited by applicable laws.

**DISPUTE RESOLUTION:** If requested in writing by either the Client or Consultant, the Client and Consultant shall attempt to resolve any dispute between them arising out of or in connection with this Agreement by entering into structured non-binding negotiations with the assistance of a mediator on a without prejudice basis. The mediator shall be appointed by agreement of the parties. The Parties agree that any actions under this Agreement will be brought in the appropriate court in the jurisdiction of the Governing Law, or elsewhere by mutual agreement. Nothing herein however prevents Consultant from any exercising statutory lien rights or remedies in accordance with legislation where the project site is located.

**ASSIGNMENT:** The Client shall not, without the prior written consent of Consultant, assign the benefit or in any way transfer the obligations under these Terms and Conditions or any part hereof.

**SEVERABILITY:** If any term, condition or covenant of the Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of the Agreement shall be binding on the Client and Consultant.

**FORCE MAJEURE:** Any default in the performance of this Agreement caused by any of the following events and without fault or negligence on the part of the defaulting party shall not constitute a breach of contract, labor strikes, riots, war, acts of governmental authorities, unusually severe weather conditions or other natural catastrophe, disease, epidemic or pandemic, or any other cause beyond the reasonable control or contemplation of either party. Nothing herein relieves the Client of its obligation to pay Consultant for services rendered.

**COVID-19:** The parties acknowledge the ongoing COVID-19 pandemic and agree that the fee and schedule in the proposal is based on what is currently understood. Where conditions change, the parties may have further discussions to manage and mitigate the impact of this evolving situation on the Project.

**CONTRA PROFERENTEM:** The parties agree that in the event this Agreement is subject to interpretation or construction by a third party, such third party shall not construe this Agreement or any part of it against either party as the drafter of this Agreement.

**BUSINESS PRACTICES:** Each Party shall comply with all applicable laws, contractual requirements and mandatory or best practice guidance regarding improper or illegal payments, gifts, or gratuities, and will not pay, promise to pay or authorize the payment of any money or anything of value, directly or indirectly, to any person (whether a government official or private individual) or entity for the purpose or illegally or improperly inducing a decision or obtaining or retaining business in connection with this Agreement or the Services.

**FLORIDA CONTRACTS: PURSUANT TO FLORIDA STATUTES CHAPTER 558.0035 AN INDIVIDUAL EMPLOYEE OR AGENT MAY NOT BE HELD INDIVIDUALLY LIABLE FOR DAMAGES RESULTING FROM NEGLIGENCE.**

# CITY OF WYOMING

## CONTRACT AMENDMENT 2

Stantec Consulting Services, Inc.

This second Contract Amendment is to the Water/Sewer Rate Study Contract made as of August 22, 2023 (Effective Date) between the City of Wyoming (City) and Stantec Consulting Services, Inc. (Professional)

### RECITALS

- A. Professional will provide rate methodology alternatives and other recommendations to assist the City as it renegotiates new service contracts with wholesale water and wastewater customers. (Added Services).
- B. Professional submitted a proposal dated June 3, 2024, for the additional services, copy of which is attached as Exhibit A (Proposal):

### TERMS AND CONDITIONS

In exchange for the consideration in and referred by this Amendment, including the compensation stated in the proposal, the parties agree:

- 1. Professional will perform the Added Services for the compensation stated in the Proposal.
- 2. All other terms of the Professional Services Contract remain in full effect.

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

#### City of Wyoming

By: \_\_\_\_\_  
Kent Vanderwood, Mayor

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

Date signed: \_\_\_\_\_, 2024

Approved as to form:

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

#### Stantec Consulting Services, Inc.

By: \_\_\_\_\_  
[Signature officer, director or principal of Professional]

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

Date signed: June 7, \_\_\_\_\_, 2024

EXHIBIT A  
PROPOSAL



June 3, 2024

Mr. Aaron Vis  
City of Wyoming, MI  
1155 28<sup>th</sup> Street SW  
Wyoming, MI 49509

**Re: Wholesale Contract Renegotiations Assistance**

Dear Aaron:

As requested, Stantec is pleased to provide this proposal to provide rate methodology alternatives and other recommendations to assist the City as it renegotiates new service contracts with the City's wholesale water and wastewater customers. Stantec expects to provide comparisons by customer with the effects of each proposed rate methodology recommendation to the existing approach at your request as options are developed. Such analysis will utilize actual data provided by the City, wholesale contract information, as well as input provided by both the City and Wholesale customers. In addition, Stantec will prepare for, participate in, and lead discussions about contractual matters as requested by the City.

A brief description of the scope of services for this analysis is provided as Attachment A as well as Stantec's terms and conditions for this type of work.

As discussed, due to the uncertainty of level of involvement ultimately needed by the City, Stantec proposes to complete such contract analysis on an hourly time and materials basis, with an initial fee cap set at \$25,000. Any revision of this cap amount must be mutually agreed to by both parties. Stantec would also seek recovery of any travel related expenses for in-person meetings, but as with our time charges on this project, Stantec will obtain authorization prior to incurring any direct expenses. Stantec will begin this analysis upon execution of this proposal by the City and as authorized. Stantec will invoice monthly, based on the hours worked and the appropriate hourly rate by Stantec employee as shown on Attachment A.

Stantec looks forward to assisting the City of Wyoming with this important Wholesale contract renegotiation process and associated matters. If you have any questions concerning this proposal, please do not hesitate to contact me.

Very truly yours,

A handwritten signature in cursive script that reads "James F. Bearman".

James F. Bearman  
Principal



By signing below, the City of Wyoming, MI acknowledges that it has read, accepts, and agrees to the terms and conditions attached hereto, that the terms and conditions, together with this proposal, constitute the contract, and that the City of Wyoming, MI authorizes Stantec to proceed with the services herein described.

**CITY OF WYOMING, MI**

**STANTEC CONSULTING SERVICES INC.**



\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Authorized Signature

\_\_\_\_\_  
Name

\_\_\_\_\_  
James Bearman  
Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Principal  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
June 3, 2024  
Date



**ATTACHMENT A**

**SCOPE OF SERVICES**

Stantec will assist the City in its efforts to negotiate new wholesale service agreements with its water and sewer wholesale customers. Stantec will provide alternative cost allocation/rate calculation methodologies for negotiation purposes and provide customer impacts for each alternative rate calculation methodology. Stantec will participate in discussions with the parties, as requested by the City. In addition, Stantec will review and provide recommendations regarding other contract terms as again requested by the City. Lastly, Stantec will participate in any other tasks in the negotiating process as also requested by the City.

Stantec will invoice the City monthly based upon the hours worked by individual for that month multiplied by their respective hourly rate as shown below for each Stantec employee. If any travel related expenses are incurred, those actual expenses will also be invoiced as well. Please note that if this wholesale negotiation process continues into 2025, the hourly rates below will be increased by 3% for work performed after January 1, 2025, through December 31, 2025, and will increase by an additional 3% annually for work performed in each calendar year thereafter.

William Zieburtz	\$375/hr.
James Bearman	\$250/hr.
Danica Katz	\$200/hr.
Nicolas Juliano	\$170/hr.
Emily Lambert	\$85/hr.





The following Terms and Conditions are attached to and form part of a proposal for services to be performed by Consultant and together, when the Client authorizes Consultant to proceed with the services, constitute the Agreement. Consultant means the Stantec entity issuing the Proposal.

**DESCRIPTION OF WORK:** Consultant shall render the services described in the Proposal (hereinafter called the "Services") to the Client

**TERMS AND CONDITIONS:** No terms, conditions, understandings, or agreements purporting to modify or vary these Terms and Conditions shall be binding unless hereafter made in writing and signed by the Client and Consultant. In the event of any conflict between the Proposal and these Terms and Conditions, these Terms and Conditions shall take precedence. This Agreement supercedes all previous agreements, arrangements or understandings between the parties whether written or oral in connection with or incidental to the Project.

**COMPENSATION:** Payment is due to Consultant upon receipt of invoice. Failure to make any payment when due is a material breach of this Agreement and will entitle Consultant, at its option, to suspend or terminate this Agreement and the provision of the Services. Interest will accrue on accounts overdue by 30 days at the lesser of 1.5 percent per month (18 percent per annum) or the maximum legal rate of interest. Unless otherwise noted, the fees in this agreement do not include any value added, sales, or other taxes that may be applied by Government on fees for services. Such taxes will be added to all invoices as required. The Client will make payment by Electronic Funds Transfer when requested by Consultant.

**NOTICES:** Each party shall designate a representative who is authorized to act on behalf of that party. All notices, consents, and approvals required to be given hereunder shall be in writing and shall be given to the representatives of each party.

**TERMINATION:** Either party may terminate the Agreement without cause upon thirty (30) days notice in writing. If either party breaches the Agreement and fails to remedy such breach within seven (7) days of notice to do so by the non-defaulting party, the non-defaulting party may immediately terminate the Agreement. Non-payment by the Client of Consultant's invoices within 30 days of Consultant rendering same is agreed to constitute a material breach and, upon written notice as prescribed above, the duties, obligations and responsibilities of Consultant are terminated. On termination by either party, the Client shall forthwith pay Consultant all fees and charges for the Services provided to the effective date of termination.

**ENVIRONMENTAL:** Except as specifically described in this Agreement, Consultant's field investigation, laboratory testing and engineering recommendations will not address or evaluate pollution of soil or pollution of groundwater. Consultant is entitled to rely upon information provided by the Client, its consultants, and third-party sources provided such third party is, in Consultant's opinion, a reasonable source for such information, relating to subterranean structures or utilities. The Client releases Consultant from any liability and agrees to defend, indemnify and hold Consultant harmless from any and all claims, damages, losses and/or expenses, direct and indirect, or consequential damages relating to subterranean structures or utilities which are not correctly identified in such information.

**PROFESSIONAL RESPONSIBILITY:** In performing the Services, Consultant will provide and exercise the standard of care, skill and diligence required by customarily accepted professional practices normally provided in the performance of the Services at the time and the location in which the Services were performed.

**INDEMNITY:** The Client releases Consultant from any liability and agrees to defend, indemnify and hold Consultant harmless from any and all claims, damages, losses, and/or expenses, direct and indirect, or consequential damages, including but not limited to attorney's fees and charges and court and arbitration costs, arising out of, or claimed to arise out of, the performance of the Services, excepting liability arising from the sole negligence of Consultant.

**LIMITATION OF LIABILITY:** It is agreed that, to the fullest extent possible under the applicable law, the total amount of all claims the Client may have against Consultant under this Agreement, including but not limited to claims for negligence, negligent misrepresentation and/or breach of contract, shall be strictly limited to the lesser of professional fees paid to Consultant for the Services or \$50,000.00. No claim may be brought against Consultant more than two (2) years after the cause of action arose. As the Client's sole and exclusive remedy under this Agreement any claim, demand or suit shall be directed and/or asserted only against Consultant and not against any of Consultant's employees, officers or directors.

Consultant's liability with respect to any claims arising out of this Agreement shall be absolutely limited to direct damages arising out of the Services and Consultant shall bear no liability whatsoever for any consequential loss, injury or damage incurred by the Client, including but not limited to claims for loss of use, loss of profits and/or loss of markets.

In no event shall Consultant's obligation to pay damages of any kind exceed its proportionate share of liability for causing such damages.

**DOCUMENTS:** All of the documents prepared by or on behalf of Consultant in connection with the Project are instruments of service for the execution of the Project. Consultant retains the property and copyright in these documents, whether the Project is executed or not. These documents may not be used for any other purpose without the prior written consent of Consultant. In the event Consultants documents are subsequently reused or modified in any material respect without the prior consent of Consultant, the Client agrees to defend, hold harmless and indemnify Consultant from any claims advanced on account of said reuse or modification.

Any document produced by Consultant in relation to the Services is intended for the sole use of Client. The documents may not be relied upon by any other party without the express written consent of Consultant, which may be withheld at Consultant's discretion. Any such consent will provide no greater rights to the third party than those held by the Client under the contract and will only be authorized pursuant to the conditions of Consultant's standard form reliance letter.

Consultant cannot guarantee the authenticity, integrity or completeness of data files supplied in electronic format ("Electronic Files"). Client shall release, indemnify and hold Consultant, its officers, employees, Consultant's and agents harmless from any claims or damages arising from the use of Electronic Files. Electronic files will not contain stamps or seals, remain the property of Consultant, are not to be used for any purpose other than that for which they were transmitted, and are not to be retransmitted to a third party without Consultant's written consent.



**FIELD SERVICES:** Consultant shall not be responsible for construction means, methods, techniques, sequences or procedures, or for safety precautions and programs in connection with work on the Project, and shall not be responsible for any contractor's failure to carry out the work in accordance with the contract documents. Consultant shall not be responsible for the acts or omissions of any contractor, subcontractor, any of their agents or employees, or any other persons performing any of the work in connection with the Project. Consultant shall not be the prime contractor or similar under any occupational health and safety legislation.

**GOVERNING LAW/COMPLIANCE WITH LAWS:** The Agreement shall be governed, construed and enforced in accordance with the laws of the jurisdiction in which the majority of the Services are performed. Consultant shall observe and comply with all applicable laws, continue to provide equal employment opportunity to all qualified persons, and to recruit, hire, train, promote and compensate persons in all jobs without regard to race, color, religion, sex, age, disability or national origin or any other basis prohibited by applicable laws.

**DISPUTE RESOLUTION:** If requested in writing by either the Client or Consultant, the Client and Consultant shall attempt to resolve any dispute between them arising out of or in connection with this Agreement by entering into structured non-binding negotiations with the assistance of a mediator on a without prejudice basis. The mediator shall be appointed by agreement of the parties. The Parties agree that any actions under this Agreement will be brought in the appropriate court in the jurisdiction of the Governing Law, or elsewhere by mutual agreement. Nothing herein however prevents Consultant from any exercising statutory lien rights or remedies in accordance with legislation where the project site is located.

**ASSIGNMENT:** The Client shall not, without the prior written consent of Consultant, assign the benefit or in any way transfer the obligations under these Terms and Conditions or any part hereof.

**SEVERABILITY:** If any term, condition or covenant of the Agreement is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remaining provisions of the Agreement shall be binding on the Client and Consultant.

**FORCE MAJEURE:** Any default in the performance of this Agreement caused by any of the following events and without fault or negligence on the part of the defaulting party shall not constitute a breach of contract, labor strikes, riots, war, acts of governmental authorities, unusually severe weather conditions or other natural catastrophe, disease, epidemic or pandemic, or any other cause beyond the reasonable control or contemplation of either party. Nothing herein relieves the Client of its obligation to pay Consultant for services rendered.

**COVID-19:** The parties acknowledge the ongoing COVID-19 pandemic and agree that the fee and schedule in the proposal is based on what is currently understood. Where conditions change, the parties may have further discussions to manage and mitigate the impact of this evolving situation on the Project.

**CONTRA PROFERENTEM:** The parties agree that in the event this Agreement is subject to interpretation or construction by a third party, such third party shall not construe this Agreement or any part of it against either party as the drafter of this Agreement.

**BUSINESS PRACTICES:** Each Party shall comply with all applicable laws, contractual requirements and mandatory or best practice guidance regarding improper or illegal payments, gifts, or gratuities, and will not pay, promise to pay or authorize the payment of any money or anything of value, directly or indirectly, to any person (whether a government official or private individual) or entity for the purpose or illegally or improperly inducing a decision or obtaining or retaining business in connection with this Agreement or the Services.

**FLORIDA CONTRACTS: PURSUANT TO FLORIDA STATUTES CHAPTER 558.0035 AN INDIVIDUAL EMPLOYEE OR AGENT MAY NOT BE HELD INDIVIDUALLY LIABLE FOR DAMAGES RESULTING FROM NEGLIGENCE.**

ORDINANCE NO. 4-24

ORDINANCE TO AMEND SECTION 90-515 OF THE CODE OF ORDINANCES  
BY ADDING SUBSECTION (142) TO REZONE 5840 WILSON AVENUE SW  
FROM ER ESTATE RESIDENTIAL DISTRICT TO R-4 RESIDENTIAL DISTRICT

THE CITY OF WYOMING ORDAINS:

Section 1. That Section 90-515 of the Code of the City of Wyoming is amended by adding subsection (142) to read as follows:

- (142) (a) To rezone the following described property at 5840 Wilson Avenue SW (parcel number 41-17-32-300-047) from ER Estate Residential District to R-4 Residential District:

**PARCEL NUMBER 41-17-32-300-047, AS SURVEYED:**

THE NORTH 370 FEET OF THE WEST 880 FEET TO THE SOUTH ½ OF THE SOUTHWEST ¼ OF SECTION 32, TOWN 6 NORTH, RANGE 12 WEST, EXCEPT THE NORTH 200 FEET OF THE WEST 275 FEET THEREOF, CITY OF WYOMING, KENT COUNTY, MICHIGAN. ALSO EXCEPT, IN THE SOUTHWEST ¼ OF SECTION 32, TOWN 6 NORTH, RANGE 12 WEST, CITY OF WYOMING, KENT COUNTY, MICHIGAN: DESCRIPTION OF ADDITIONAL RIGHT-OF-WAY DESCRIBED AS: COMMENCING AT THE NORTHWEST CORNER OF THE SOUTH ½ OF THE SOUTHWEST ¼ OF SECTION 32; THENCE SOUTH 01 DEGREES 25 MINUTES 58 SECONDS WEST 200.00 FEET ALONG THE WEST LINE OF SECTION 32 TO THE SOUTHWEST CORNER OF THE NORTH 200.00 FEET OF THE SOUTH ½ OF THE SOUTHWEST ¼ OF SECTION 32 AND THE PLACE OF BEGINNING; THENCE SOUTH 88 DEGREES 16 MINUTES 20 SECONDS EAST 12.39 FEET ALONG THE SOUTH LINE OF THE NORTH 200.00 FEET OF THE SOUTH ½ OF THE SOUTHWEST ¼ OF SECTION 32 TO THE EXISTING WEST RIGHT-OF-WAY LINE OF WILSON AVENUE; THENCE SOUTHERLY ALONG THE EXISTING WEST RIGHT-OF-WAY LINE OF WILSON AVENUE ON A 6105.90 FOOT RADIUS CURE TO THE RIGHT 170.05 FEET; THENCE NORTH 88 DEGREES 16 MINUTES 20 SECONDS WEST 15.33 FEET TO THE WEST LINE OF SECTION 32; THEN NORTH 01 DEGREES 25 MINUTES 58 SECONDS EAST 170.00 FEET ALONG THE WEST LINE OF SECTION 32 TO THE PLACE OF BEGINNING.

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

I certify that this ordinance was adopted by the City of Wyoming at a regular session of the City Council held on \_\_\_\_\_, 2024.

---

Kelli A. VandenBerg  
Wyoming City Clerk

May 28, 2024

Ms. Kelli A. VandenBerg  
City Clerk  
Wyoming, MI

Subject: Request to rezone from ER Estate Residential to R-4 Residential District at 5840 Wilson Ave SW (Section 32) (Ryan Schmidt, GJCR, LLC)

Planning Commission Recommendation: To approve the rezoning of the subject property.

Dear Ms. VandenBerg,

The above referenced request was reviewed by the Wyoming Planning Commission at its regular meeting on May 21, 2024. At the meeting, a motion was made by Hall, supported by VanDuren, to recommend that City Council approve the proposed rezoning. The motion to approve passed unanimously.

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

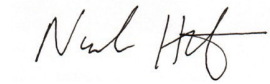
This parcel is 5.9 acres and features a vacant single-family home. Currently, it is zoned ER Estate Residential. The parcel is more than twice the minimum size required for Estate Residential lots, but its limited frontage prevents a parcel split and the natural features of the property make platting untenable.

Rezoning the parcel to R-4 would allow for uses compatible with surrounding uses, most notably found in adjacent PUD-1 developments. If rezoned, the applicant intends to develop a townhouse-style residential development on this property. The City's 2020 Analysis of Impediments and Housing Needs Assessment calls for 7,876 additional units to meet the demand for housing in Wyoming. This property can make a contribution to meeting Wyoming's housing need, if rezoned to R-4 Residential District.

The parcel satisfies or exceeds the dimensional standards for the R-4 Residential District, including minimum lot area and minimum lot width. It also would be buildable within the required minimum setbacks.

No comments were made during the public hearing. The proposed rezoning ordinance is attached.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Nicole Hofert". The signature is written in a cursive style with a horizontal line extending from the end.

Nicole Hofert, Director of Community and Economic Development  
Community and Economic Development Department

Cc: John Shay, City Manager  
Patrick Waterman, Deputy City Manager

A motion was made by Hall, supported by Smart, to grant site plan approval.

A vote on the motion passed unanimously.

AGENDA ITEM NO. 4

Request for a Rezoning from ER Estate Residential to R-4 Residential District at 5840 Wilson Ave SW (Section 32) (Ryan Schmidt, GJCR LLC)

Blair explained that the site is zoned ER, Estate Residential, and outlined the various uses of the surrounding land.

Blair said the applicant is requesting the parcel located at 5840 Wilson Avenue SW be rezoned from ER Estate Residential to R-4 Residential District. The parcel is 5.9 acres and features a vacant single-family home. Rezoning the parcel to R-4 would allow for uses compatible with surrounding uses, most notably found in adjacent PUD-1 developments. If rezoned, the applicant intends to develop a townhouse-style residential development to this property.

Blair said the City's Master Plan, Wyoming [re]Imagined, calls for this parcel to be 'Suburban Residential', which includes both single family and multifamily development. Larger estate lots, over 2 acres, are encouraged to be redeveloped "as the City looks to maximize development potential to capture projected growth in the region." These types of developments are recommended along major roadways and near Neighborhood Commercial Centers. This rezoning is compatible with the envisioned future use.

Section 90-516(6) establishes general review standards for rezonings:

(A) *Consistency with the adopted master plan;*

The City's Master Plan, Wyoming [re] Imagined was adopted in 2021. The future land use map identifies this parcel as "Suburban Residential." The proposed use is consistent with the future envisioned use.

(B) *Compatibility of the allowed uses with existing and future land uses;*

With the proposed rezoning, the property would be able to support all potential R-4 uses. In addition, the parcel is identified in the Wyoming Master Plan as 'Suburban Residential'; an R-4 zoning classification would provide more options to adequately meet this future land use goal.

(C) *Capability of the property to be served by public services;*

The property can be served by public utilities within defined limits, as the panhandle portion of the City is restricted based on sanitary sewer capacity. A study done by the City's Engineering office shows that this property would be able to accommodate any of the permitted uses within the R-4 zoning district.

(D) *Ability of the property to be used as currently zoned; and*

The property's current ER zoning does not allow for multifamily homes. The size of the parcel is twice the minimum size of ER parcels, but the limited frontage prevents the parcel from being split. Additional natural features on the property make the platting process inefficient as well. The location and lot dimensions make a townhouse-style residential development a viable use. While the parcel is not located adjacent to other parcels zoned R-4, adjacent parcels include multifamily uses that are consistent with the proposed use under R-4 zoning.

- (E) *Appropriateness of all uses allowed within the proposed district at the property location.* The R-4 zoning district provides residential uses which are appropriate for this location. With other similarly developed parcels adjacent to this property, R-4 uses would fit with and contribute to the character of the area.

Blair also shared the following staff comments:

(A) *Process*

The Planning Commission is only considering the rezoning of this parcel. If approved, the rezoning will receive two readings at City Council. The applicant could submit a site plan relying on the updated zoning once approved by City Council or contingent on City Council approval.

- May 21 – Planning Commission considers rezoning request.
- June 3 – City Council hears the first reading of the rezone request.
- July 1 – City Council hears the second reading of the rezone request.

(B) *Analysis of Impediments (AI) to Housing Choice and Housing Needs Assessment (HNA)*

The City's 2020 AI and HNA calls for 7,876 additional units to meet the demand for housing in Wyoming. This property can make a contribution to meeting Wyoming's housing need as zoned R-4.

- (C) The City's Master Plan, Wyoming [re]Imagined, calls for this parcel to be 'Suburban Residential', which includes both single family and multifamily development. Larger estate lots, over 2 acres, are encouraged to be redeveloped "as the City looks to maximize development potential to capture projected growth in the region." These types of developments are recommended along major roadways and near Neighborhood Commercial Centers. This rezoning is compatible with the envisioned future use.

(D) *Location*

The property is located south of the intersection of Wilson Avenue SW and 56<sup>th</sup> Street. It is located near a small retail plaza, a high school, a day care center, a place of worship, and a golf course. The proximity to considerable amenities makes this parcel viable for future growth.

(E) *Dimensional Standards*

The lot meets the minimum dimensional standards for R-4 zoning:

- The minimum lot area for R-4 is 1 acre. 5840 Wilson Ave SW is nearly 5.9 acres.
- The minimum lot width for R-4 is 120 feet. 5840 Wilson Ave SW is 170 feet wide.
- The minimum front and rear yard setbacks are 35 feet, and side yard setbacks are 20ft. 5840 Wilson Ave SW is 865 feet deep. This depth would allow for a residential development within the buildable area.

Blair said that The Development Review Team recommends the Planning Commission grant the R-4 rezoning request and recommend the same to City Council.

Micele opened the public hearing at 7:53 PM. There was no public comment, and the hearing was closed.

A motion was made by Hall, supported by VanDuren, to approve the rezoning from ER Estate Residential to R-4 Residential District at 5840 Wilson Ave SW.

A vote on the motion carried out unanimously.

#### AGENDA ITEM NO. 5

Request to amend Zoning Code Sections 90-201 “Definitions ‘A’”, 90-334 “Accessory Dwelling Units”, 90-401A “Principal Permitted Uses”, 90-404A “Specific Requirements”, 90-405A “Additional Regulations”, 90-406A “Principal Permitted Uses”, 90-409A “Specific Requirements”, 90-410A “Additional Regulations”, 90-414A “Specific Requirements”, 90-415A “Additional Regulations”, 90-421A “Additional Regulations”, 90-437A “Principal Permitted Uses”, 90-440A “Specific Requirements”, 90-401C “Principal Permitted Uses”, 90-405C “General Requirements”, and 90-419C “Development Standards” (Wyoming Planning Staff)

Smith explained that an Accessory Dwelling Units (ADU) is a house or apartment that shares a building lot with, and is incidental to, a larger primary dwelling unit. He then explained that ADUs can be either attached or detached and gave examples of each. Smith said the City’s Master Plan recommends the use of both types of ADUs to bring a diverse set of housing types to Wyoming. ADUs increase housing choices and contribute to affordability, accessibility, and livability. With appropriate conditions, ADUs can provide additional housing, while maintaining the character of existing neighborhoods.

Smith explained the purpose for zoning ordinance amendments stating the following: Accessory dwelling units are already allowed in the City of Wyoming, but they are limited to form-based code districts and, specifically, may only be constructed as second-floor units in accessory buildings in those districts. The proposed amendments would make accessory dwelling units principal permitted uses in most residential districts. Accessory dwelling units are already allowed in nearby communities and Grand Rapids is relaxing its regulation of accessory dwelling units.

Accessory dwelling units are favored by property owners for several reasons, including:

**PREPARED FOR:**  
 CopperRock Construction Inc.  
 Dean Rosendall

601 5th Street NW, Suite 300  
 Grand Rapids, MI 49504

**CREATED:**  
 Drawn: DS Date: 4/22/2022

**REVISIONS:**  
 Rev: \_\_\_\_\_ Date: \_\_\_\_\_  
 Drawn: \_\_\_\_\_

**GJCR, LLC a Michigan limited liability company**  
**ALTANS/SPS Land Title Survey**  
 5840 Wilson Avenue SW  
 PART OF THE SOUTHWEST 1/4 OF SECTION 32, T6N, R12W,  
 CITY OF WYOMING, KENT COUNTY, MICHIGAN

**STAMP:**

**PROJECT NO:**  
 22400536

**SHEET NO:**  
**AL**

**SHEET: 1 OF 1**

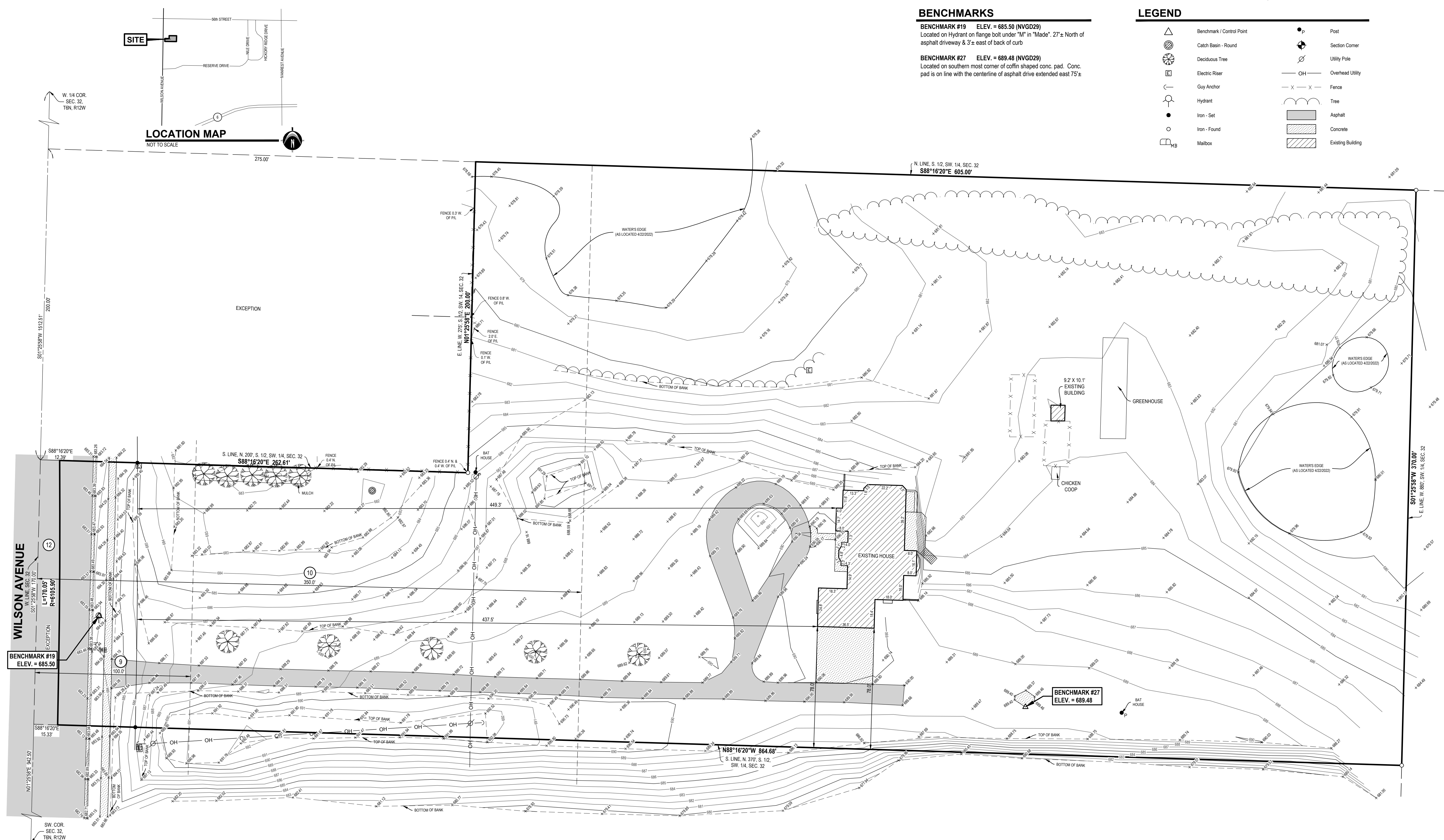
**BENCHMARKS**

**BENCHMARK #19** ELEV. = 685.50 (NVGD29)  
 Located on Hydrant on flange bolt under "M" in "Made". 27'± North of asphalt driveway & 3'± east of back of curb

**BENCHMARK #27** ELEV. = 689.48 (NVGD29)  
 Located on southern most corner of coffin shaped conc. pad. Conc. pad is on line with the centerline of asphalt drive extended east 75'±

**LEGEND**

	Benchmark / Control Point		Post
	Catch Basin - Round		Section Corner
	Deciduous Tree		Utility Pole
	Electric Riser		Overhead Utility
	Guy Anchor		Fence
	Hydrant		Tree
	Iron - Set		Asphalt
	Iron - Found		Concrete
	Mailbox		Existing Building



**TITLE INFORMATION**

The Title Description and Schedule B items hereon are from Chicago Title Insurance Company, Commitment No. 41117430RTA, Revision 3, dated February 18, 2022.

**TITLE DESCRIPTION**

Land Situated in the State of Michigan, County of Kent, City of Wyoming.

The North 370 feet of the West 880 feet of the South 1/2 of the Southwest 1/4 of Section 32, Town 6 North, Range 12 West, except the North 200 feet of the West 275 feet thereof, City of Wyoming, Kent County, Michigan. Also except, in the Southwest 1/4 of Section 32, Town 6 North, Range 12 West, City of Wyoming, Kent County, Michigan: Description of Additional Right-of-way Described as: Commencing at the Northwest corner of the South 1/2 of the Southwest 1/4 of Section 32; thence South 01 degrees 25 minutes 58 seconds West 200.00 feet along the West line of Section 32 to the Southwest corner of the North 200.00 feet of the South 1/2 of the Southwest 1/4 of Section 32 and the place of beginning; thence South 88 degrees 16 minutes 20 seconds East 12.39 feet along the South line of the North 200.00 feet of the South 1/2 of the Southwest 1/4 of Section 32 to the existing West right-of-way line of Wilson Avenue; thence Southerly along the existing West right-of-way line of Wilson Avenue on a 6105.90 foot radius curve to the right 170.05 feet; thence North 88 degrees 16 minutes 20 seconds West 15.33 feet to the West line of Section 32; thence North 01 degrees 25 minutes 58 seconds East 170.00 feet along the west line of Section 32 to the place of beginning.

**SCHEDULE B - SECTION II NOTES**

- 8) Rights of Way and/or Easement(s) and rights incidental thereto, as granted to Consumers Power Company (now known as Consumers Energy) in a document recorded as Liber 110 of miscellaneous records, Page 269. **The easement described in this document is a blanket easement.**
- 9) Rights of Way and/or Easement(s) and rights incidental thereto, as granted to Consumers Power Company (now known as Consumers Energy) in a document recorded as Liber 76 of miscellaneous records, Page 381. **The easement described in this document is shown on this survey.**
- 10) Rights of Way and/or Easement(s) and rights incidental thereto, as granted to Consumers Power Company (now known as Consumers Energy) in a document recorded as Liber 103, Page 591. **The easement described in this document is shown on this survey.**
- 12) Rights of Way and/or Easement(s) and rights incidental thereto, as granted in a document, granted to City of Wyoming, recorded as Instrument No. 20060310-0227372. **The easement described in this document is shown on this survey.**

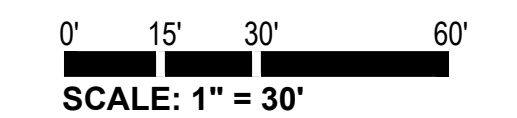
**SURVEYOR'S NOTES**

- 1) ALTA TABLE "A" ITEM NO. 3 - Flood Zone Classification: An examination of the National Flood Insurance Program's Flood Insurance Rate Map for Community Number 260111, Panel Number 0010C, with an Effective Date of September 2, 1982, shows this parcel to be located in Zone X (subject to map scale uncertainty). No field surveying was performed to determine this zone. (This map was not printed)
- 2) ALTA TABLE "A" ITEM NO. 4 - Gross Land Area: 268180 Square Feet / 6.16 Acres
- 3) ALTA TABLE "A" ITEM NO. 9 - Parking Information  
 0 total parking spaces
- 4) Basis of Bearing: S01°25'58"W on West Section Line
- 5) Note to the client, insurer, and lender - With regard to Table A, item 11, information from the sources checked above will be combined with observed evidence of utilities pursuant to Section 5.E.iv. to develop a view of the underground utilities. However, lacking excavation, the exact location of underground features cannot be accurately, completely, and reliably depicted. In addition, in some jurisdictions, 811 or other similar utility locate requests from surveyors may be ignored or result in an incomplete response. Where additional or more detailed information is required, the client is advised that excavation may be necessary.
- 6) NOTE TO CONTRACTORS: 3 (THREE) WORKING DAYS BEFORE YOU DIG, CALL MISS DIG AT TOLL FREE 1-800-482-7171 FOR UTILITY LOCATIONS ON THE GROUND.

**SURVEYOR'S CERTIFICATION**

To GJCR, LLC a Michigan limited liability company, Chicago Title Insurance Company: This is to certify that this map or plat and the survey on which it is based were made in accordance with the 2021 Minimum Standard Detail Requirements for ALTA/NSPS Land Title Surveys, jointly established and adopted by ALTA and NSPS, and includes Items 1, 2, 3, 4, 5, 7(a), 8, & 9 of Table A thereof. The fieldwork was completed on 4/26/2022.

**PRELIMINARY**  
 Randal J. Vugteveen  
 Professional Surveyor No. 4001028429  
 Nederveld, Inc.  
 rvugteveen@nederveld.com



UTILITY LOCATIONS ARE DERIVED FROM ACTUAL MEASUREMENTS OR AVAILABLE RECORDS. THEY SHOULD NOT BE INTERPRETED TO BE EXACT LOCATIONS NOR SHOULD IT BE ASSUMED THAT THEY ARE THE ONLY UTILITIES IN THIS AREA.

NOTE: EXISTING UTILITIES AND SERVICE LINES IDENTIFIED AS "PLANS" WERE OBTAINED FROM AVAILABLE CITY AS-BUILT RECORD DRAWINGS. THE CONTRACTOR SHALL VERIFY THE LOCATION, DEPTH AND STATUS OF ALL UTILITIES AND SERVICE LINES PRIOR TO NEW CONNECTIONS.