

AGENDA
WYOMING CITY COUNCIL MEETING
CITY COUNCIL CHAMBERS
MONDAY, AUGUST 5, 2024, 7:00 P.M.

- 1) **Call to Order**
- 2) **Invocation** – Pastor Wayne Ondersma, The Pier Church
If you wish and are able, please stand for the invocation. The Pledge of Allegiance will immediately follow the invocation.
- 3) **Pledge of Allegiance**
- 4) **Roll Call**
- 5) **Student Recognition**
- 6) **Approval of Minutes**
From the July 15, 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
 1. DTE Update
 - b) Proclamations
- 11) **Petitions and Communications**
 - a) Petitions
 - b) Communications
- 12) **Reports from City Officers**
 - a) From City Council
 - b) From City Manager
- 13) **Budget Amendments**
 - a) Budget Amendment No. 2 – To Appropriate Funds for Open Purchase Orders, Capital Outlay, Uncompleted Projects, and Other Encumbrances from the 2023-2024 Fiscal Year to the 2024-2025 Fiscal Year
 - b) Budget Amendment No. 3 – To Appropriate an Additional \$14,049 of Budgetary Authority for Act 302 Police Training and Recognize the Associated Transfer of Revenue from the General Fund

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) To Authorize the City Manager to Attend the Michigan Municipal League Annual Convention

15) Resolutions

- b) To Approve the City of Wyoming Credit Card Policy

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

- c) To Accept a Proposal for Enterprise Resource Planning (ERP) Software Consulting Services
- d) To Accept a Proposal for Development of an Administrative Allocation Plan
- e) To Authorize Payment to Grand Elk Railroad, Inc. for Annual Maintenance of Traffic Control Devices at Railroad Crossings in the City of Wyoming
- f) To Approve a Property Rights Exchange Agreement with Zuiderveen Enterprises L.L.C., Authorize and Direct the Mayor and City Clerk to Sign the Agreement, and Authorize and Direct City Officers and Staff to Implement the Agreement
- g) To Approve and Authorize Signing of a City Center Project Easement Agreement
- h) To Accept a Proposal from TeamDynamix Solutions LLC for Licensing and Implementation of an Information Technology Service Management (ITSM) Solution
- i) To Accept a Proposal from Sentinel Technologies Inc. for Incident Response Retainer
- j) To Accept Agreements from National Hose Testing Specialties, Inc. for Testing and Certification of the City Fire Hoses, Ladders, and Aerial Devices
- k) To Approve the City Manager to Enter into an Agreement with Greater Level LLC for Special Event and Police Services for the 2024 Metro Cruise
- l) To Concur with the Emergency Repair of a 15” Storm Sewer and Authorize Payment to Waste Recovery Systems, Inc.
- m) For the Purchase of a Xylem YSI Nitrite Probe
- n) For Award of Bids
 - 1. Wyoming Senior Center Accessible Entrance Renovation
 - 2. Lemery Park and Palmer Park Field Scoreboards

17) Ordinances

- 6-24 To Amend Section 90-515 of the Code of Ordinances by Adding Subsection (143) to Rezone 152-158 36th Street SE from R-3 Residential District to R-4 Residential District (First Reading)

18) Informational Material

19) Acknowledgment of Visitors

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

20) Closed Session (as necessary)

21) Adjournment

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

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

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

The logo features the letters "DTE" in a bold, dark blue, sans-serif font. To the left of the text is a graphic of thin, light blue lines radiating from a central point, forming a partial sunburst or fan shape.

DTE

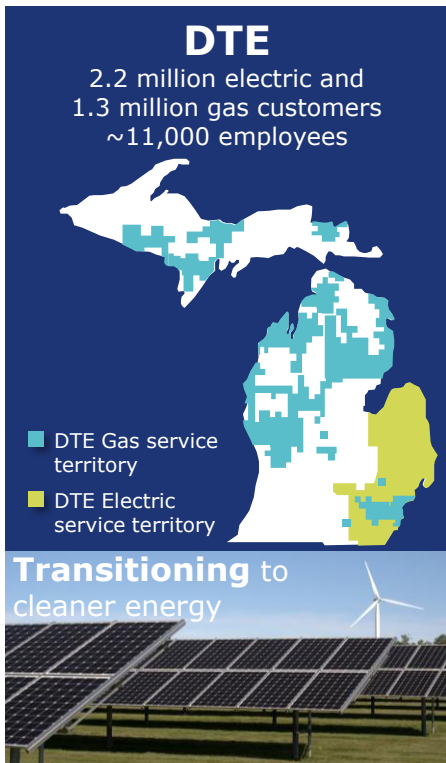
City of Wyoming
DTE Regional Affairs Update

August 5, 2024

Regional Affairs – Corporate & Government Affairs

- Jonathan Wilson – Regional Manager
 - Based in Muskegon
 - Manage local government and community partner relationships across DTE's 20-county service territory in West Michigan
 - Liaison for DTE natural gas infrastructure & renewable energy projects
 - Provide support for the DTE Foundation in West Michigan

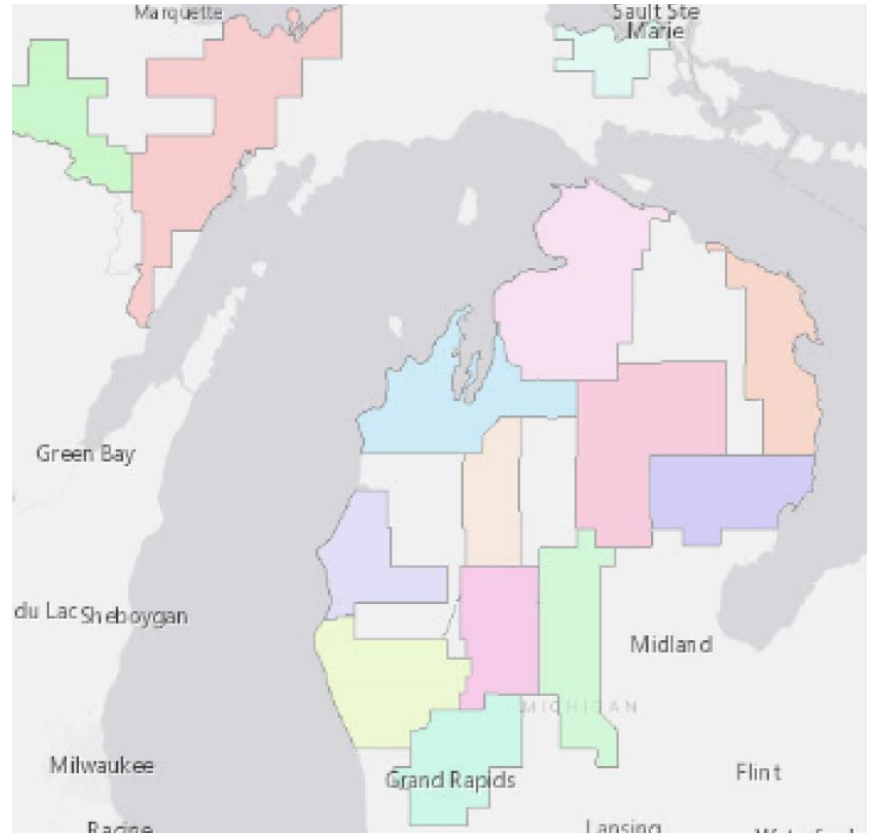
DTE aspires to be the best-operated energy company in North America and a force for growth and prosperity in the communities we live and serve



- Fortune 250 company headquartered in Detroit, MI providing **safe and reliable** energy services for over 150 years
- DTE is a **committed leader in decarbonization**, leading Michigan to **net zero emissions by 2050** by advancing technologies such as CCS, retiring coal fired power plants, updating our gas infrastructure, and offering voluntary customer facing programs
- Gas utility founded in 1849 with **~300 BCF** of gas delivered annually
 - Delivers gas through **~2,000 miles of transmission and ~20,000 miles of distribution pipeline**
 - Owns and operates four underground storage fields, with a total of 179 active wells with **a capacity of 139 BCF of working gas**

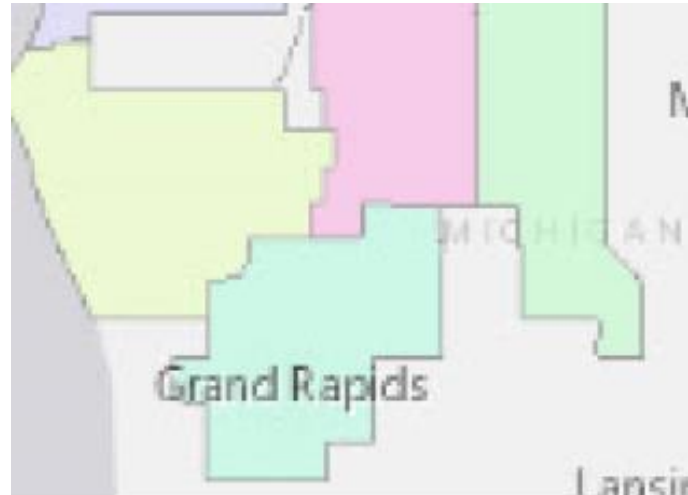
DTE - Greater Michigan

- Regional Affairs-Western Michigan
- 5 transmission and distribution service centers in West and Central Michigan
- DTE Gas celebrating 175 years in 2024



DTE in West Michigan

- Distribution Service Center on Wealthy St
- Gas Main Renewal Service Center on 3 Mile



Recent Investments/Key Projects

Gas Renewal Program (GRP)

- \$3.5 billion, 18-year statewide investment upgrading infrastructure to improve safety and reliability
- 2024 work being completed near Greenfield, Ithaca, Burton and Shamrock, 131
- Appx 2 miles of new gas main will be installed; 245 service lines will be upgraded
- Appx 66 meters will be moved outside
- Restoration will be completed within 30 days from May-Oct



DTE Foundation

- Millions of dollars in philanthropic support statewide every year
- Q1 – Education & Employment, Q2 – Community Transformation/Economic Progress, Q3 – Human Needs/Arts & Culture, Q4 Environment
- Statewide partnerships with United Way, Habitat for Humanity, The Nature Conservancy
- Combating Homelessness and Food Insecurity



DTE – Committed To Our Communities

- Supporting Wyoming Area Community Groups
 - South Kent Chamber of Commerce
 - The Right Place
 - Grand Rapids Chamber of Commerce
 - Kids Food Basket
 - Grand Rapids Public Museum
 - West Michigan Sustainable Business Forum
 - Road to Restoration Clinics
 - Tree Plantings
 - Grand Rapids Asian-Pacific Festival
 - West Michigan Hispanic Festival

DTE - Committed to Sustainable Energy Production

Summary



15,400 MW
of renewables and



1,810 MW
of storage by 2042

Transforms DTE Electric's generation fleet, resulting in a total of 18,400 MW of renewables and a total of 2,900 MW of storage by 2042



1,300 MW
coal to natural gas

Repurposes existing infrastructure at the Belle River Power Plant by converting its fuel source from coal to natural gas



- 4,100 MW
coal plant
retirements

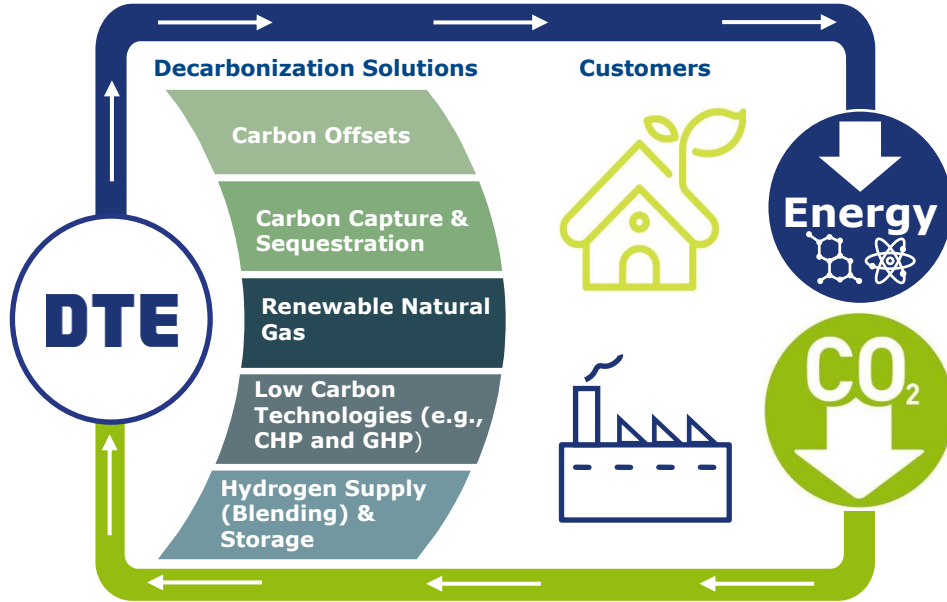
Ends the use of coal in 2035 with a responsible, phased retirement schedule that protects customer affordability and reliability



1.5%
energy waste
reduction

Continues to focus on customer programs by targeting an average of 1.5% energy waste reduction savings per year over the study period (maximum amount of achievable potential)

While upstream and internal emissions are largely under the control of DTE Gas, downstream (customer) emissions will require the use of advanced technologies to fully mitigate carbon generation



We will continue to advance other solutions for future development to provide customers with energy while minimizing their GHG emissions

- With gas consumption in Michigan expected to remain strong, these solutions will be critical for **decarbonizing** emissions
- Our efforts around **RNG** are focused on voluntary program offerings to our gas customers
- **Carbon Capture & Sequestration** has potential to be a key player in emissions reducing based on MI's unique geological position
- **Nature based offsets** are increasingly gaining popularity amongst corporates and hedge funds as they see it as way to address ESG goals affordably
- **Hydrogen** is an immature decarbonization solution but has potential for reducing emissions via blending with natural gas and fuel supply production
- **Gas Heat Pumps (GHPs)** are gaining industry momentum

Our CleanVision Natural Gas Balance voluntary program provides our customers a solution to affordably offset their natural gas emissions with locally sourced projects



Voluntary program offering consisting of a hybrid blend of **carbon offsets and renewable natural gas (RNG)**¹ to negate customer emissions

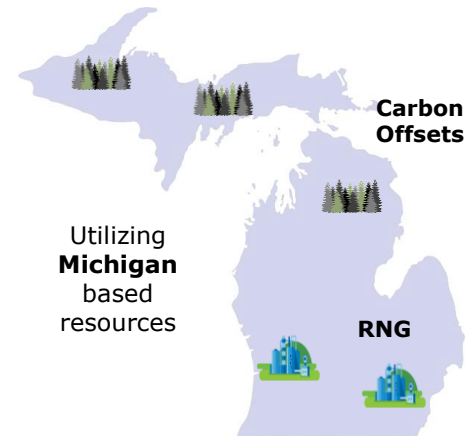
We source forestry carbon offsets from projects in the **Upper Peninsula and Pigeon River forest near Gaylord**; RNG we supply from a **Canton landfill and Grand Rapids waste-water facility**

A **first of its kind program** within the country aimed at reducing our customer end use emissions through local projects

Open to all our customer classes, including residential, commercial and industrials

We currently have over **11,004 customers enrolled** in the program

Our residential program offering is designed to negate emissions from an average home; our business program offering is more tailored and flexible allowing participation at any level starting at 5% all the way up to 100%





1. Includes RNG environmental attribute only

Energy Assistance & Energy Efficiency Programs




**2023-2024
Payment Assistance
Programs**

... and ways to lower your
energy bill

DTE Energy Efficiency Program for Business

Get rebates for energy efficiency projects

DTE Energy is committed to helping your business thrive by making it easier for you to improve operations with energy efficiency upgrades. These improvements can be expensive and that's why the DTE Energy Efficiency Program for Business offers a comprehensive set of rebates for both electric and natural gas energy efficiency projects designed to help you invest in energy efficient technologies and reduce your payback timeline. As a result, your business could use less energy, reduce emissions, improve operations, and save on your energy bill.

	Electric	Natural Gas
Max Per Year	\$1,000,000	\$300,000


Rebates are available for:

- Standard qualified equipment upgrades include lighting fixtures, lamps, LED lighting systems and controls, motors and variable speed drives, food service and refrigeration equipment, air conditioning and ventilation equipment, boiler tune-ups and other common energy efficient equipment.
- If your business needs more customized energy efficiency improvements our team of energy advisors can help you plan your upgrade project to achieve the most energy savings and rebates.
- If you are building a new facility or planning a major renovation, rebates are available if the improvements exceed the requirements in ASHRAE 90.1-2013, Leadership in Energy & Environmental Design (LEED) or exceed local building codes.
- If your business is just starting an energy efficiency journey, DTE can provide a whole facility energy assessment for buildings that have 500k or greater square feet and recommend potential upgrade projects and energy savings estimates.

*Rebates are available per customer per year across all facilities saving electricity and natural gas up to the cap level amounts.

Energy efficient lighting & HVAC systems can reduce your energy costs by up to **30%**.

*In 2022, DTE paid Michigan businesses over **38 million** dollars in rebates for energy efficiency improvements.



Check out the catalog of standard energy efficiency upgrades.

Contact Us Today

Phone: 866.796.0512 (option 3)
 Web: dteenergy.com/rebateprograms
 Email: dtesaveenergy@dte.com

QUESTIONS?

Jonathan Wilson
DTE – Regional Manager
Jonathan.Wilson@DTEEnergy.com
616-581-8290

CITY OF WYOMING BUDGET AMENDMENT

Date: August 5, 2024

Budget Amendment No. 002

To the Wyoming City Council:

A budget amendment is requested to reappropriate funds for open purchase orders, capital outlay, uncompleted projects, and other encumbrances from the 2023-2024 fiscal year to the 2024-2025 fiscal year per the attached schedule.

<u>Summary of Changes by Fund</u>	<u>Revenue</u>	<u>Expense</u>	<u>Change in Fund Balance</u>
General Fund	\$ 74,673.00	\$ 406,902.00	\$ (332,229.00)
Major Streets Fund	\$ -	\$ 1,620,423.00	\$ (1,620,423.00)
Local Streets Fund	\$ -	\$ 3,355,283.00	\$ (3,355,283.00)
Public Safety Fund	\$ 127,286.00	\$ 1,391,976.00	\$ (1,264,690.00)
Parks and Recreation Fund	\$ -	\$ 475,837.00	\$ (475,837.00)
Community Development Fund (CDBG)	\$ 658,517.00	\$ 658,517.00	\$ -
Indigent Defense Fund (MIDC)	\$ 307,166.00	\$ 307,166.00	\$ -
Federal Grants Fund (ARPA)	\$ 946,363.00	\$ 946,363.00	\$ -
Capital Improvement Fund (millage)	\$ -	\$ 818,238.00	\$ (818,238.00)
City Center Fund	\$ 21,208,447.00	\$ 23,435,769.00	\$ (2,227,322.00)
Sewer Construction Fund (Bond)	\$ -	\$ 5,677,676.00	\$ (5,677,676.00)
Sewer Fund	\$ -	\$ 3,999,313.00	\$ (3,999,313.00)
Water Fund	\$ -	\$ 6,152,297.00	\$ (6,152,297.00)
Motor Pool Reserves Fund	\$ -	\$ 2,778,505.00	\$ (2,778,505.00)
Capital Projects Revolving Fund	\$ -	\$ 513,940.00	\$ (513,940.00)

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

City of Wyoming
Schedule of Reappropriations
 From FY24 to FY25
 Budget Amendment No. 2
 August 5, 2024

<u>Account No.</u>	<u>Purpose</u>	<u>Revenue</u>	<u>Expense</u>
General Fund			
<u>Communications</u>			
101-101-10300-801.000	Rebranding campaign		313,230.00
<u>Information Technology</u>			
101-228-22800-740.201	Computer equipment		9,010.00
101-228-22800-801.000	Professional services		9,990.00
<u>Veterans Treatment Court</u>			
101-540.001	Revenue-Kent County contract thru 9/30/2024	40,866.00	
101-540.001	Revenue-State of Michigan contract thru 9/30/2024	33,807.00	
101-286-29500-707.000	State budget for wages		31,307.00
101-286-29500-801.000	State budget for fluids testing		2,500.00
101-286-29500-707.000	County budget for wages		8,368.00
101-286-29500-715.000	County budget for FICA tax		2,172.00
101-286-29500-719.000	County budget for workers compensation insurance		36.00
101-286-29500-801.000	County budget for operations		30,289.00
Major Streets Fund			
<u>Public Works Street Maintenance</u>			
202-441-46300-930.000	Clyde Park irrigation replacement		95,000.00
202-441-46300-972.502	36th St resurfacing		2,195.00
202-441-46300-972.502	Chicago Dr resurfacing (Burlingame to Clyde Park)		18,237.00
202-441-46300-972.502	Eastern Ave traffic signal upgrades		13,565.00
202-441-46300-972.502	Meijer access drive		177.00
202-441-46300-972.502	Eastern Ave resurfacing/sidewalk (28th to 44th)		534,276.00
202-441-46300-972.502	Bridge scope evaluation		10,650.00
202-441-46300-972.502	Gezon Pkwy/54th St resurfacing		164,175.00
202-441-46300-972.502	Gezon resurfacing - design and administration		139,864.00
202-441-46300-972.502	Clyde Park and Kenowa Ave resurfacing		70,000.00
202-441-46300-972.502	Clyde Park/Kenowa - design and administration		25,359.00
202-441-46300-972.502	Burton and Burlingame intersection study		5,273.00
202-441-46300-972.510	Byron Center Ave (44th to M-6)		51,744.00
202-441-46300-972.510	Wilson Ave resurfacing		162,835.00
202-441-46300-972.510	Interurban trail rehabilitation		68,482.00
202-441-46300-972.510	Local resurfacing program - 2023		121,158.00
202-441-46300-972.510	2024 Wyoming resurfacing		35,000.00
<u>Public Works Traffic Maintenance</u>			
202-441-47400-930.000	Pavement markings city-wide		89,975.00
202-441-47400-930.000	Prairie Parkway road diet (bike lane addition)		12,458.00

<u>Account No.</u>	<u>Purpose</u>	<u>Revenue</u>	<u>Expense</u>
--------------------	----------------	----------------	----------------

Local Streets Fund

Public Works Street Maintenance

203-441-46300-972.503	Fisher Ave street construction		100,000.00
203-441-46300-972.510	Local resurfacing program - 2023		145,562.00
203-441-46300-972.510	2024 Wyoming resurfacing		3,109,721.00

Public Safety Fund

Police Administration

205-507.000	Revenue-BYRNE grant funds	35,941.00	
205-301-30500-973.000	BYRNE-Handgun sights, holsters, accessories		35,941.00

Police Patrol

205-301-31500-740.000	Handguns with night sights and magazines		47,281.00
205-301-31500-744.000	Bulletproof vests		20,275.00
205-301-31500-980.691	Tasers and associated licensing		22,504.00

Police Office of Highway Safety Patrol (OHSP) Enforcement

205-505.003	Revenue-OHSP funds, grant ending 9/30/2024	91,345.00	
205-301-31506-956.520	OHSP-Grand Rapids distribution		23,418.00
205-301-31506-956.522	OHSP-Kentwood distribution		18,886.00
205-301-31506-956.523	OHSP-Walker distribution		20,799.00
205-301-31506-956.525	OHSP-Kent County distribution		17,306.00

Fire Buildings

205-336-33800-740.000	Operating supplies for new fire stations		19,000.00
-----------------------	--	--	-----------

Fire Fighting

205-336-33900-740.000	Fire hose		39,380.00
205-336-33900-744.001	Water rescue gear and equipment		2,421.00
205-336-33900-744.001	Turnout gear		31,000.00
205-336-33900-985.000	Platform aerial fire truck		1,093,765.00

Parks and Recreation Fund

Parks Maintenance

208-751-75600-975.113	Pinery Park post tension court project		474,000.00
208-752-75600-975.117	Kelloggsville Park parking lot resurfacing		1,837.00

<u>Account No.</u>	<u>Purpose</u>	<u>Revenue</u>	<u>Expense</u>
Community Development Fund			
<u>Community Development Block Grant (CDBG)</u>			
251-000-02020-519.100	Revenue-2020 grant funds remaining	39,735.00	
251-701-69420-956.045	2020-Rehab loans		39,735.00
251-000-02022-519.100	Revenue-2022 grant funds remaining	222,972.00	
251-701-69422-956.029	2022-Demolition services		6,800.00
251-701-69422-975.000	2022-Capital outlay		216,172.00
251-000-02023-519.100	Revenue-2023 grant funds remaining	223,779.00	
251-701-69423-956.045	2023-Rehab loans		213,779.00
251-701-69423-956.040	2023-Acquisition		10,000.00
251-000-02024-519.100	Revenue-2024 grant funds remaining	172,031.00	
251-701-69424-956.040	2024-Acquisition		7,913.00
251-701-69424-975.000	2024-Capital outlay		131,046.00
251-701-17524-956.000	2024-Other services administration		21,644.00
251-701-69124-956.000	2024-Other services rehab administration		11,428.00

Indigent Fund			
<u>Michigan Indigent Defense Commission (MIDC) Grant</u>			
260-571.000	Revenue-MIDC funds, grant ending 9/30/24	307,166.00	
260-000-28600-706.000	MIDC-Salaries		25,301.00
260-000-28600-715.000	MIDC-FICA		1,737.00
260-000-28600-716.000	MIDC-Hospitalization insurance		780.00
260-000-28600-717.000	MIDC-Life insurance		29.00
260-000-28600-718.100	MIDC-Defined Contribution Plan pension		1,978.00
260-000-28600-718.200	MIDC-Defined Contribution Plan health		862.00
260-000-28600-719.000	MIDC-Work comp insurance		7.00
260-000-28600-740.000	MIDC-Operating supplies		3,403.00
260-000-28600-801.000	MIDC-Professional services (case experts)		7,400.00
260-000-28600-801.021	MIDC-Legal services		237,075.00
260-000-28600-860.000	MIDC-Travel and training		18,711.00
260-000-28600-956.000	MIDC-Other services		5,887.00
260-000-28600-960.000	MIDC-Liability insurance		841.00
260-000-28600-961.000	MIDC-Administration expense		3,155.00

Federal Grants Fund			
<u>American Rescue Plan Act (ARPA)</u>			
285-528.002	ARPA funds remaining	946,363.00	
285-872-17500-956.000	ARPA-City Hall security upgrades		20,307.00
285-873-17500-956.000	ARPA-Desk Officer Reporting System software		7,200.00
285-873-17500-956.000	ARPA-Fire station improvements		918,856.00

<u>Account No.</u>	<u>Purpose</u>	<u>Revenue</u>	<u>Expense</u>
Capital Improvement Fund (millage)			
<u>Capital Projects</u>			
401-441-57300-972.573	Watermain reconstruction - Jordan/Calhoun/Opal/Lorraine		62,330.00
401-441-57300-972.573	Watermain reconstruction - Greenfield (Porter to Chicago)		22,174.00
401-441-57300-972.573	Watermain relocation - Site 36		60,000.00
401-441-57300-972.573	Watermain construction - Fisher Ave		50,000.00
401-441-57300-972.573	Watermain reconstruction - Wyoming Ave		<u>623,734.00</u>

City Center Fund			
<u>City Center Project</u>			
496-528.002	County ARPA funds remaining	1,208,447.00	
496-540.000	State grant funds remaining	<u>20,000,000.00</u>	
496-901-90101-973.002	Bridges Phase 1 - Capital outlay		6,529,000.00
496-901-90111-973.002	Planning - Capital outlay		73,329.00
496-901-90121-971.000	Property Phase 1 - Land		4,990.00
496-901-90131-973.002	Trails Phase 1 - Capital outlay		5,324,665.00
496-901-90132-973.002	Trails Phase 2 - Capital outlay		3,356,500.00
496-901-90141-973.002	Utilities Phase 1 - Capital outlay		4,987,285.00
496-901-90161-973.002	Streetscaping - Capital outlay		<u>3,160,000.00</u>

Sewer Construction and Operations Funds			
<u>Sewer Construction (Bonded Capital Projects)</u>			
571-536-54400-986.444	Blower project installation/equipment		<u>5,677,676.00</u>
<u>Sewer Operations</u>			
590-441-54400-972.544	Lift station PLC upgrades		175,000.00
590-441-54400-972.544	Mallards Cove sanitary sewer repair		184,300.00
590-536-54300-775.000	Kerr pump parts		1,622.00
590-536-54300-775.000	Sludge pump parts		23,763.00
590-536-54300-930.000	Maintenance agreement - Newkirk		19,100.00
590-536-54300-930.000	Maintenance agreement - Michigan Cat		4,489.00
590-536-54400-986.444	Electrical upgrades		2,467,346.00
590-536-54400-986.444	Women's lockerroom updates		1,717.00
590-536-54400-986.444	SCADA system upgrades		73,437.00
590-536-54400-986.444	Hauling bay overhead door		3,817.00
590-536-54400-986.444	Lab hood replacement		49,950.00
590-536-54400-986.444	Men's lockerroom updates		26,349.00
590-536-54400-986.444	Thin Client Manager system		36,352.00
590-536-54400-986.444	Drain line project		852,740.00
590-536-54800-975.000	GVRBA Moyno pump		59,666.00
590-536-54800-975.000	GVRBA FYBROC pump		<u>19,665.00</u>

<u>Account No.</u>	<u>Purpose</u>	<u>Revenue</u>	<u>Expense</u>
Water Fund			
<u>Public Works</u>			
591-441-56200-956.000	Water reliability study and asset management plan		32,066.00
591-441-57300-972.573	Watermain reconstruction - Wyoming Ave		623,734.00
<u>Water Treatment Plant</u>			
591-537-55310-740.000	Lab window shades		1,556.00
591-537-55300-775.000	HVAC parts - fans		5,141.00
591-537-55300-775.000	Valve and actuator supplies - hydrant parts		4,134.00
591-537-55300-930.000	High service 36in butterfly valve installation		21,400.00
591-537-55300-930.000	Building and grounds - survey/treatment		1,560.00
591-537-55300-930.000	Electrical repair - transformer maintenance		27,215.00
591-537-57300-986.444	Gezon booster station generator upgrades		2,564,539.00
591-537-57300-986.444	Gezon pump station HVAC improvements		127,335.00
591-537-57300-986.444	30in butterfly valves		609,902.00
591-537-57300-986.444	Discharge valce upgrades		1,484,815.00
591-537-57300-986.444	Hook elevated tank rehabilitation		82,900.00
591-537-57300-986.444	Second water intake - engineering services		244,021.00
591-537-57300-986.444	Property acquisition		88,582.00
591-537-57300-986.444	Third transmission main - design and engineering		56,209.00
591-537-57300-986.444	Surge suppression system - design and engineering		68,151.00
591-537-57300-986.444	Gezon generator upgrades - design and engineering		58,342.00
591-537-57300-986.444	High services pump valve replacement		27,650.00
591-537-57300-986.444	High service pump valve replacement - contingency		9,300.00
591-537-57300-986.444	Remote site programmable controllers		13,745.00
Motor Pool Depreciation and Reserves Fund			
<u>Motor Pool Reserves</u>			
660-441-58500-977.000	PW Building elevator repairs		35,000.00
660-441-58500-985.000	Salt spreaders (3)		539,535.00
660-441-58500-985.000	Prisoner van		58,616.00
660-441-58500-985.000	Chevrolet 1500 4 door pickup truck		40,836.00
660-441-58500-985.000	Service body upfitting on water truck		26,518.00
660-441-58500-985.000	Fire platform		1,975,000.00
660-441-58500-985.000	Fire platform upfitting		45,000.00
660-441-58500-985.000	Upfitting for various vehicles		50,000.00
660-441-58500-987.000	Concrete saw trailer		8,000.00
Capital Projects Revolving Fund			
<u>Capital Projects</u>			
805-000-57300-975.000	City Hall interior remodel		199,054.00
805-000-57300-975.000	Court elevator		64,094.00
805-000-57300-975.000	City Hall and police building security upgrades		65,792.00
805-000-57300-975.000	Court garage and roof improvements		125,000.00
805-000-57300-975.000	Court boiler		40,000.00
805-000-57300-975.000	Police building main entry, lighting, etc.		5,000.00
805-000-57300-975.014	Veterans memorial wall rehabilitation		15,000.00

CITY OF WYOMING BUDGET AMENDMENT

Date: August 5, 2024

Budget Amendment No. 003

To the Wyoming City Council:

A budget amendment is requested to appropriate an additional \$14,049 of budgetary authority for Act 302 police training and recognize the associated transfer of revenue from the General Fund.

<u>Description/Account Code</u>	<u>Current</u>	<u>Increase</u>	<u>Decrease</u>	<u>Amended</u>
<u>Public Safety Fund</u>				
Transfers from General Fund				
205-699.101	\$ 20,500,000.00	\$ 14,049.00	\$ -	\$ 20,514,049.00
Police - Act 302 Training - Travel and Training				
205-301-32100-860.000	\$ -	\$ 14,049.00	\$ -	\$ 14,049.00
Fund Balance/Working Capital (Fund 205)		<u>\$ -</u>	<u>\$ -</u>	
<u>General Fund</u>				
Transfers Out - Transfer to Public Safety Fund				
101-999-99900-995.205	\$ 20,500,000.00	\$ 14,049.00	\$ -	\$ 20,514,049.00
Fund Balance/Working Capital (Fund 101)		<u>\$ -</u>	<u>\$ 14,049.00</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

RESOLUTION NO. _____

RESOLUTION TO AUTHORIZE THE CITY MANAGER TO
ATTEND THE MICHIGAN MUNICIPAL LEAGUE ANNUAL CONVENTION

WHEREAS:

1. The 2024 Michigan Municipal League's Annual Convention will be held on Mackinaw Island, Michigan, September 11-13, 2024.
2. It is the desire of the City Council that Wyoming be represented at the conference by City Manager John Shay, who will be the official representative to cast the vote of the municipality.

NOW, THEREFORE, BE IT RESOLVED:

1. That members of the Wyoming City Council hereby authorized City Manager John Shay, to attend the 2024 Michigan Municipal League's Annual Convention.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on August 5, 2024.

Kelli A. VandenBerg, Wyoming City Clerk

RESOLUTION NO. _____

RESOLUTION TO APPROVE THE CITY OF WYOMING CREDIT CARD POLICY

WHEREAS:

1. Public Act 266 authorizes and regulates credit card transactions involving local units of government.
2. Public Act 266 requires a credit card policy adopted by resolution of the local unit's governing body.
3. The City of Wyoming Credit Card Policy dated June 2015 was revised to improve internal controls and ensure an effective and efficient process for city staff.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The City of Wyoming Credit Card Policy as updated August 2024 is approved.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I certify that this resolution was adopted by the City Council of the City of Wyoming, Michigan at a regular meeting held on August 5, 2024.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Staff Report

City of Wyoming Credit Card Policy

Resolution No. _____

STAFF REPORT

Date: July 29, 2024
Subject: Credit Card Policy Update
From: Jodi Yenchar, Finance Director
Meeting Date: August 5, 2024

RECOMMENDATION:

It is recommended City Council approve the updated City of Wyoming Credit Card Policy.

ALIGNMENT WITH STRATEGIC PLAN:

- PILLAR 3 – STEWARDSHIP
 - GOAL 2 – Enhance the efficiency and effectiveness of city operations and services.

DISCUSSION:

The Finance Department is reviewing all current policies and updating the policies as needed to ensure sufficient internal controls while providing efficient and effective operations for city staff.

Public Act 266 authorizes and regulates credit card transactions involving local units of government. This act also requires a credit card policy adopted by resolution of the local unit's governing body. The City of Wyoming Credit Card Policy was last updated in June 2015. Since that time, there has been an increase in vendors requiring payment via credit card. Discussion with department heads regarding the use of credit cards identified additional concerns related to access to the cards, the quantity of cards per department and available credit limits.

In conjunction with the City Attorney, the city's internal audit consultants and all department heads, the Finance Department updated the policy to:

- provide improved internal controls to ensure the possession of city-issued credit cards is tracked and credit cards are securely stored when not signed out by staff

- provide city-issued credit cards for all departments according to the needs determined by the department head (including quantity of credit cards, available credit limit per card and location of credit card storage)
- provide clarity on responsible parties and required procedures

BUDGET IMPACT:

Adopting this policy has no impact on the budget.

Attachment:

City of Wyoming Credit Card Policy

City of Wyoming, Michigan
Administrative Policy

Department	Finance
Department Head Approval: Jodi Yenchar	Date:
City Manager Approval: John Shay	Date:
Subject: Credit Card Policy	

Original Policy Date: June 2015
Revised: August 2024

CITY OF
WYOMING

CREDIT CARD POLICY

REVISED AUGUST 2024

**FINANCE DEPARTMENT
616-530-7225
ACCT_INFO@WYOMINGMI.GOV**

§1 – Purpose. This policy establishes a uniform policy and procedures for acquisition, use and monthly reconciliation of credit cards issued under the City’s commercial credit card program via a card service provider to streamline the process for small procurements.

§2 – Designation of Responsible Official. The City Finance Director (or the Finance Director’s designee) is the official responsible for overseeing compliance with the credit card policy and procedures including card issuance, accounting for card transactions, monitoring and payment of card statements.

§3 – Credit Card Use. All active employees are authorized users of City-issued credit cards for the purchase of goods and services for the official business of the City. Under no circumstances is a City-issued credit card to be used for the purchase of any personal item(s). Credit card numbers, security codes and expiration dates should not be saved or stored in websites or account profiles.

§4 – Transaction Amounts. City-issued credit cards may be used for purchases consistent with City purchasing policy up to the credit limit. The total monthly purchase limit for each credit card will be assigned by the Finance Director in consultation with the department head and City Manager based on the anticipated reasonable needs of the card user. The Finance Director may raise or lower credit card limits on a temporary or permanent basis.

§5 – Sales Tax Exemption. As a municipality, the City is exempt from payment of state sales tax. Each credit card identifies the cardholder as the City of Wyoming and includes the City’s federal employer identification number (FEIN). Credit card users should provide the City’s sales tax exemption certificate (available on the City intranet) when making credit card purchases to avoid sales tax charges.

§6 – Transaction Support.

A. All purchases made with a city-issued credit card must be fully supported by detailed receipts and documentation of compliance with City purchasing policies. Receipts must be entered into the accounting system with the business purpose documented in the description.

B. The commercial credit card program requires timely payment of outstanding charges for the City as a whole. The Finance Department will provide a copy of the monthly statement for each credit card to the department listed on the card with the date by which all purchases must be entered and supporting documentation submitted. Each department must enter its respective purchases into the accounting system (as outlined in the Accounts Payable Manual available on the City intranet) and submit the supporting documentation along with the statement to the Finance Department by the established date to ensure timely payment.

§7 – Credit Card Cancellation. Noncompliance with City purchasing and finance policies or noncompliance with any provision of this policy, including without limitation any failure to timely submit required documentation to the Finance Department will result in credit card cancellation.

§8 – Credit Card Issuance and Access.

A. Department heads shall:

1. Determine and request from the Finance Director the number of cards the department needs.
2. Ensure only active employees have access to the department’s card(s) and that all cards not currently checked out are kept in a locked drawer or cabinet.
3. Ensure a log is maintained when employees use a department’s shared card including the date the card was checked out, the employee checking it out, and the date it was returned. This is not required for use of a credit card issued in the name of a specific employee.
4. Ensure credit cards are returned in a timely manner.
5. Conduct an annual audit of the physical credit cards to ensure all are accounted for and provide documentation of the audit to the Finance department.
6. Ensure all credit card purchases are entered and approved in the accounting system and submitted to the Finance Department with the supporting documentation by stated deadlines.
7. Contact the Finance Director or Deputy Finance Director to request credit limit adjustments.
8. Immediately notify the Finance Department (at Acct_Info@wyomingmi.gov) of billing inconsistencies or fraudulent transactions.
9. Immediately notify the Finance Department (at Acct_Info@wyomingmi.gov) if a credit card is lost or stolen.

- B. The Finance Department shall:
1. Request issuance of new or replacement credit cards from the card program provider.
 2. Provide a template for credit card check in/out log.
 3. Provide a monthly statement for individual credit cards to the appropriate department.
 4. Reconcile all purchases entered into the accounting system to the City-wide monthly statement and ensure proper support and business purpose for transactions are documented.
 5. Submit timely payment to the card program provider (not more than 60 days from the initial statement date).
 6. Administer credit limits for individual cards.
 7. Conduct periodic audits of compliance with this policy.
 8. Assist departments in resolving reported billing inconsistencies or fraudulent transactions.

RESOLUTION NO. _____

RESOLUTION TO ACCEPT A PROPOSAL FOR
ENTERPRISE RESOURCE PLANNING (ERP) SOFTWARE CONSULTING SERVICES

WHEREAS:

1. As detailed in the attached staff report, the City of Wyoming strategic plan includes implementing a new enterprise resource planning (ERP) system.
2. Plante Moran has provided the City with a proposal to provide ERP software consulting services in the total estimated amount of \$80,000.
3. It is recommended City Council accept the proposal.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council accepts a proposal from Plante Moran to provide Enterprise Resource Planning (ERP) software consulting services.
2. The City Council authorizes the City Manager to sign the proposal.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on August 5, 2024.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Staff Report
Proposal

Resolution No. _____

STAFF REPORT

Date: July 24, 2024
Subject: Enterprise Resource Planning (ERP) System Needs Assessment
From: Jodi Yenchar, Finance Director
Meeting Date: August 5, 2024

RECOMMENDATION:

It is recommended City Council approve the proposal for ERP software consulting from Plante Moran in the amount of \$80,000.

ALIGNMENT WITH STRATEGIC PLAN:

- PILLAR 3 – STEWARDSHIP
 - GOAL 2 – Enhance the efficiency and effectiveness of city operations and services.
 - OBJECTIVE 4 – Assess city-wide use of technology.
 - TASK 4 – Implement new Enterprise Resource Planning (ERP) System

DISCUSSION:

On June 19, 2023, City Council awarded a three-year contract for internal audit and consulting services to Plante Moran. Plante Moran staff have been working with departments throughout the city to assess existing policies and procedures.

The City of Wyoming Strategic Plan includes implementing a new enterprise resource planning (ERP) system. An ERP is a business management software system that integrates internal and external information across an entire organization. An ERP supports automation and processes in finance, human resources, procurement, inventory, and operations.

An ERP system would enable the city to optimize processes while providing real-time data to support decision-making. There are a variety of systems being utilized throughout the city, many of which require custom integrations to allow data to move from the source software to the financial software. The Finance Department is currently utilizing New World software while the Assessing, Treasury and Building Inspections

teams utilize BS&A. Many departments (such as Facilities and Motor Pool) have function-specific software that require an export to be configured and imported into the finance system. Although New World is designed to be an ERP, the city is utilizing it as standalone accounting software. As the data is imported from the source systems, only summary data is available and researching detailed information to support financial reporting takes a significant amount of time in addition to the amount of time spent maintaining multiple systems. Many of the New World functions (such as bank reconciliations and grant management) do not work in our current configuration. The city is in need of a comprehensive human resources information system and New World does not support the functions needed in this area.

Implementing an ERP system is a very complex project and provides the opportunity to improve business processes and modernize operations. Plante Moran has developed the attached proposal to consult with city staff on a city-wide ERP needs assessment. Engaging with our consultants provides the resources necessary to conduct a thorough analysis and mapping of existing business processes, identifying process inefficiencies and duplicate or redundant work. Plante Moran's experience with ERP system selection, implementing projects and existing knowledge of city processes and challenges is critical in developing a comprehensive list of functional requirements for new software as well as the necessary scope of implementation services and integration of systems across the city to be utilized in the development of a comprehensive request for proposal for ERP software system bids.

BUDGET IMPACT:

Funds are budgeted in account number 101-191-19100-801.000.

Attachment:
Proposal



JULY 29, 2024

Count on us.

CITY OF WYOMING

ERP Software Consulting Proposal

July 29, 2024

Jodi Yenchar, Finance Director
City of Wyoming, MI
1155 28th St SW
Wyoming, MI 49509

Dear Jodi,

We appreciate the opportunity to present this proposal to the City of Wyoming (the City) to provide ERP software consulting services. We are excited to partner with your team on this important project.

Our understanding is that the City has experienced several challenges with its current ERP solution (Tyler New World) in recent years, which have led to departments such as HR abandoning the product and adopting other software to support their business processes and functions. In addition, the City's Finance team is frustrated with New World's lack of functionality and inability to integrate with other critical software systems in use throughout the City such as BS&A. As a result of these challenges, the City plans to conduct a needs assessment to examine its current software environment and identify strategies for improvement. As a future phase, the City is considering an effort to explore the ERP software market and identify a new system that supports the City's needs across all departments, including but not limited to Finance, Budget, HR, Community Development, Utilities, and Information Technology.

This proposal outlines our approach, timing, and professional services fees for assisting the City with an ERP needs assessment. Our approach has been refined through many similar projects with public sector and government clients, and our team brings significant industry experience and a service mindset.

Thank you again for the opportunity to serve you. If you have any questions regarding our proposal, please contact me at 248.223.3799 (email mark.warner@plantemoran.com).

Sincerely,

PLANTE & MORAN, PLLC



Mark Warner, Partner

cc: Matt Bohdan, Kari Shea, Chris Carr, Mike Grossman, John Shay

Contents

Approach and methodology3

Project timeline10

Project fees11

Fee assumptions.....11

Appendix A: Engagement agreement.....12

Approach and methodology

Phase 1: Needs assessment

Phase objective and summary of activities: The purpose of this phase is to develop an understanding of business and administrative processes supported by the City's current software systems, identify opportunities for improving efficiency, and define functional requirements for a potential future ERP system.

1. Project kickoff

A project initiation meeting will be conducted to introduce the project team, discuss the project's organizational structure, and review the project scope, deliverables, and timetables. Prior to or during project kickoff, we will work with the City to develop a project organizational structure, draft a project charter, create a project plan, and schedule project status meetings. We will also create a SharePoint collaboration site for this project.

2. Review documents

Plante Moran will review existing documentation to gain a comprehensive understanding of the City's business processes and current technologies. Documents to be reviewed include the following:

- Process documentation, workflow diagrams, flowcharts, etc.
- Organizational charts
- Inventory of existing enterprise software applications and modules
- Software licensing agreements
- Information on current IT operational and security standards, processes and policies

We do not expect the City to create any documentation that does not currently exist. For areas where documentation is lacking or does not exist, the pertinent information will be obtained during the interview process.

3. ERP marketplace awareness RFI

Working in conjunction with the City's procurement office, we will develop a brief Request for Information (RFI) to solicit informational ERP awareness demonstrations from public sector ERP software providers. The RFI will contain, at minimum:

- An overview of the City's current ERP environment and future direction
- Basic/minimal terms and conditions
- RFI response instructions and timeline
- Description of ERP awareness demonstrations format
- Minimal requirements for proposing vendors

4. ERP marketplace awareness demonstrations

We will review information provided by responding vendors to validate alignment with the RFI's minimal requirements and prepare a high-level comparative guide outlining the following for each vendor:

- Company background
- Software module offerings
- Sample customers/relevant experience

We will schedule, coordinate, and facilitate demonstrations with each of the responding vendors who meets the minimal requirements stipulated in the RFI. We anticipate that the demonstrations will be conducted remotely via

Microsoft Teams or Zoom, and that each demonstration will be approximately 4 hours in duration. We will develop a brief survey to solicit feedback from City stakeholders attending the demonstrations, and will coordinate any follow-up questions as necessary.

5. Assess the current information technology infrastructure

We will use a combination of first-hand discovery and technical questionnaires to evaluate the readiness and capabilities of the City's current technical environment to efficiently and effectively support an potential future ERP solution. We will issue the questionnaires for the City's completion and conduct interviews with staff directly involved with supporting the City's current technical environment. Example areas of the assessment include the overall architecture of infrastructure systems (ISP, WAN, LAN, WLAN, server, virtualization, storage, etc.)

The results of reviewing documentation and interviewing the City's IT staff will allow us to identify and document the key legacy technologies, infrastructure, and facilities. The potential implementation and administration of a new software solution may require a thorough and responsive support and communication infrastructure. To this end, we will identify and document the current environment for inclusion in a potential future ERP RFP as well as identify preliminary high-level general recommendations related to supporting technologies that must be implemented well in advance of obtaining more detailed technical environment requirements from software vendors.

Deliverable: Technology infrastructure assessment

6. Conduct stakeholder interviews

We will interview teams of individuals directly involved in financial processes conducted at the City. These sessions will include supervisory personnel, department staff, IT representatives, and additional stakeholders. Through the interviews, we will seek to understand the following topics and their impact on software requirements:

- Existing business processes and workflows
- Issues and opportunities within various business departments and process areas
- Gaps, deficiencies, and limitations within existing technology systems and processes
- Essential and desired functionality for a new ERP system

We anticipate that we will conduct 15-18 interview sessions with groups of City staff, and that all stakeholder interviews will be conducted remotely via Microsoft Teams. The majority of interviews will be between 60-90 minutes in duration.

7. Prepare findings and recommended actions matrix

The results of our time with the City will be summarized in a findings and recommended actions matrix. The "findings" will be areas for improvement and desired enhancements (e.g., redundant steps, functional deficiencies, "shadow" systems [ledgers, spreadsheets, word processing files, forms] that staff use in parallel with the legacy system, processes that are time and paper intensive, etc.). The "recommended actions" will be the results of our benchmarking the "findings" with our knowledge of industry best practices and experience with other governmental clients.

The following illustrates a sample findings and recommended actions matrix for core financial process areas, which identifies existing process and system strengths and gaps by functional area, provides suggestions/opportunities for each finding, and identifies timing, priority, and an assigned resource to efficiently manage each action item. This matrix will be leveraged as a tool to summarize all decisions and criteria to be

addressed before, during and after implementation by categorizing implementation related issues as “implementation” under “timing.”

Deliverable: Findings and recommended actions matrix

8. Develop application migration plan and interface listing

During our initial discussions, we will inventory all systems, applications, and interfaces used throughout the City’s ERP environment, using the legend below:

LEGEND CODE	DESCRIPTION
R Replace	The City intends to replace this application with the selected solution.
C Consider	The City is considering replacing this application with the selected solution, based on the strength of the finalist vendor offering and cost/benefit of the replacement module.
M Maintain	The City intends to retain the application, not replace it during this effort.
I Interface	The City intends to keep the application and interface/integrate it with the selected solution.

The application migration table will be refined with the City using the following information:

- A preliminary listing of suggested interfaces between the City systems and a new ERP system. Listing will be refined with the City staff through the RFP development phase.
- The existing systems’ business value
- Technical requirements including security and other relevant areas.

The interface listing will include information on:

- Existing interfaces/integrations between both internal and external systems
- Future recommended interfaces/integrations
- The business value each interface provides or will provide
- Key data required to be shared in the interface/integration
- Data flow direction

9. Develop software specifications

Based on our extensive experience, we have found that working from best practice specifications streamlines the requirements definition process, taking advantage of knowledge gained through prior selection projects. Following stakeholder interviews, we will update and modify our best practice system specifications using information obtained during the interview sessions. The specifications may represent the following functional areas (flexible based upon the City’s needs):

- General & technical requirements (i.e., hosting, security, authentication, integration capabilities, etc.)
- Reporting & analytics
- General ledger
- Budgeting
- Accounts payable
- Accounts receivable
- Cashiering
- Purchasing
- Property tax and assessing
- Grant and project accounting
- Human resources
- Recruiting
- Position control

- Payroll
- Benefits
- Time & attendance
- Employee self-service
- Community development
- Utility billing

***Deliverable:* Customized ERP software specifications for usage in RFP**

10. Prepare ERP needs assessment report

We will prepare an ERP needs assessment report encompassing each of the process areas identifying potential areas for improvement. The analysis will include:

- An **executive summary**, for the City that details key recommendation our experts believe is the best course of action to be followed by the City.
- **SWOT analysis** including strengths, weaknesses, opportunities, and threats.
- **Findings and recommended actions matrix** where the “findings” will be areas for improvement (e.g., redundant steps, functional deficiencies, “shadow” systems [ledgers, spreadsheets, word processing files, forms] that staff use in parallel with the legacy ERP, processes that are time- and paper-intensive, etc.) The “recommended actions” will be the results of our benchmarking the “findings” with our knowledge of best practices and experience with other governmental clients.
- Suggested **implementation timeframe** based on proposed project scope, current, and future organizational initiatives.
- **Cost estimate** over a 10-year horizon, including both external costs (software, implementation and training services, project management, integration/conversion services, etc.) and internal costs (project management, staffing infrastructure required, etc).
- An ERP **marketplace assessment**, including an analysis of vendor products/modules in the marketplace and what types of ERP systems and deployment methods municipalities of the City’s size use today. This study will include recommendations to inform the City’s RFP strategy for possible future phases. This will also include areas of the City’s environment that may not be met by most systems, which may require a third party system. This will also include an overview of emerging trends we see in the marketplace that the City may be able to utilize.
- A list of **recommended ERP vendors** to consider sending a future RFP to based on our discovery.

***Deliverable:* ERP needs assessment report**

Phase 2: Request for proposals (RFP) development (optional)

Phase objective and summary of activities: The purpose of this phase is to develop a request for proposals (RFP) for purposes of soliciting responses from ERP software vendors.

1. Develop request for proposals (RFP) document

We will work with the City to develop an RFP document to solicit responses in a format that will ease analysis. The RFP will be tailored to the City’s unique requirements and scope, and is minimally expected to include the following:

- Terms and conditions
- Background information on the City and the scope of the project, including:
 - Current environment

- Technology standards
- Operating volumes
- Key project dates (selection timeline, desired implementation timing and go-live dates, etc.)
- Software specifications
- Various forms for the vendors to complete and return, including:
 - Software specifications response
 - Vendor background questionnaire
 - Pricing summary
 - Reference forms
- Additional attachments as appropriate

***Deliverable:* Request for Proposals (RFP) document and vendor response forms**

2. Finalize and distribute RFP

Prior to the releasing the RFP, we will meet with the City to capture any required edits and finalize the document. We will provide a suggested vendor distribution list for the RFP based on our knowledge of the not-for-profit ERP marketplace and will assist in distributing the RFP to those vendors in accordance with the City's procurement policies. We will also support the City in managing the bid process and assist with response to any questions that prospective bidders have in regards to the RFP terms or requirements through the creation of addenda.

Phase 3: Evaluation, due diligence, and selection (optional)

Phase objective and summary of activities: The purpose of this phase is to review and evaluate proposals and perform subsequent due diligence activities leading up to selection of the preferred solution.

1. Analyze proposals and facilitate selection of semi-finalists

Vendors will be instructed to complete the forms in the RFP and return them electronically. To augment the City's direct review of vendor proposals, we will tabulate and analyze the RFP responses to gain a full understanding of each vendor's:

- Conformance with functional specifications
- Vendor background and fit
- Experience providing software to not-for-profits
- Technical solution, hosting approach, mobile capabilities
- Implementation approach
- Software, implementation, training, conversion, and professional services costs

As part of this initial analysis, we will assess each of the vendors' solutions and meet with the City to present a comparative proposal analysis. We will facilitate an evaluation discussion to assist the City in identifying the most qualified vendors to include in the due diligence tasks described below.

Deliverable: Proposal analysis presentation and facilitated scoring meeting

2. Support due diligence activities

Plante Moran will assist in coordinating scripted demonstrations with the finalist vendors. We anticipate that City staff will participate in approximately 2 days of software demonstrations with each of the finalist vendors. Demonstrations will be structured using demonstration scripts developed from Plante Moran samples to align the vendors' presentations to the functionality that is most important to the City. We will provide City attendees with a demonstration survey to capture feedback on the sessions.

We will provide sample reference checking questions for City staff to use while conducting reference calls to vendor clients. We have found that having client staff contact their peers at the reference sites results in more productive and candid conversations. As such, we will oversee the reference checking process, but not perform the reference calls ourselves.

3. Obtain best and final offer

Following due diligence activities, we will assist the City in issuing a request for a best and final offer (BAFO) to the finalist vendor(s). We've found that conducting due diligence activities after vendors have responded to an RFP provides further understanding of the solutions being offered by the software vendors, as well as further understanding by software vendors as to the needs of the City. In addition to updated pricing, the BAFO will likely include additional clarifications in terms of services, modules, and interfaces.

4. Facilitate selection of a preferred vendor

Following the software demonstrations, best and final offer, and due diligence activities, we will perform additional review and analysis of the finalist vendors' proposed solutions and capabilities.

Finally, we will facilitate a final evaluation meeting with City staff to determine the City's preferred vendor.

Deliverable: Updated proposal analysis presentation and facilitated scoring meeting

Phase 4: Contract negotiations assistance (optional)

We will review the license, support, and other agreements provided by the vendor and propose recommended changes to the contract. Working with the City's legal counsel, we will participate in negotiations with the primary finalist vendor. Contractual terms, conditions, and costs will be negotiated with the goal in mind of protecting the City's long-term interests. Terms and conditions relating to term and termination of the agreements, purchase and support costs, caps on price increases, Service Level Agreements (SLAs), recourse for non-performance by the vendor, software acceptance criteria, rights to the source code if vendor declares bankruptcy, warranties and incorporation of the vendor's response to the RFP, rights to major new releases, payment terms tied to major deliverables, controls over expenses, development of an implementation plan, on-going support criteria, etc., are key areas of focus for us. We will rely on the City's legal counsel for non-IT related terms and conditions.

Project timeline

Project initiation activities for Phase 1 can begin within three weeks upon receipt of the signed Engagement Agreement (**Appendix A**). A tentative project timeline has been included below.

Phase / Key Task	2024-2025			
	Q1	Q2	Q3	Q4
	Jul-Sep	Oct-Dec	Jan-Mar	Apr-Jun
1. Project initiation				
1. ERP marketplace awareness RFI and demos				
1. Needs assessment				
2. RFP development and bid period (optional)				
3. Evaluation, due diligence, and selection (optional)				
4. Contract negotiations (optional)				

Please note that the timing is predicated on the availability and responsiveness of your staff, and assumes that project planning activities can take place immediately upon receipt of a signed Engagement Agreement.

We will work with your staff to finalize a schedule that best meets your needs and staff availability. A detailed project plan and timeline will be finalized during the project initiation step. We will keep the City’s project team apprised of any critical issues that need to be addressed prior to our report being completed, or that could require a change in the timeline or scope of the project.

Project fees

Our professional fees for this engagement, which are subject to the terms and conditions of the existing June 21, 2023 Professional Services Agreement between the City of Wyoming and Plante Moran for Internal Auditing and Consulting Services, are based on the value of the services provided. Our not-to-exceed fees for the needs assessment (Phase 1) of this engagement are **\$80,000**. We will not exceed this amount unless a change in scope is requested and approved in advance by the City.

Should the City wish to proceed with Phases 2-4, we would be happy to provide fee estimates for these phases upon conclusion of the needs assessment.

Fee assumptions

Plante Moran's fees for the engagement described in the project approach section are based upon the assumptions listed below. Should these assumptions change, we would adjust our professional fees accordingly, in consultation with the City.

1. The City will assign a project manager for all phases that will work directly with Plante Moran staff.
2. The City staff are available for interviews as scheduled by Plante Moran and the City's project manager.
3. Plante Moran will deliver all services for all engagement phases remotely unless specified and mutually agreed upon in the project plan and detailed schedule. Should any travel be agreed upon by Plante Moran's and the City's project managers, travel fees and expenses will be invoiced to the City based on actual cost without markup. These additional travel costs will be over and above the fees/amounts listed in our Project Fees table.
4. We anticipate billing the City on a monthly basis for services rendered in the prior month.

Appendix A: Engagement agreement

This agreement is made between Plante & Moran, PLLC (PM), 3000 Town Center, Ste. 100, Southfield, MI 48075 and the City of Wyoming, 1155 28th St SW, Wyoming, MI 49509.

Scope of Services

This agreement and the July 29, 2024 Professional Services Agreement between the City of Wyoming and Plante Moran for Internal Auditing and Consulting Services, the terms of which are incorporated into this engagement agreement, confirm the nature, limitations, and terms of the services we will provide to the City of Wyoming.

This agreement also incorporates by reference the following sections of the Proposal to Provide ERP Software Consulting Services to the City of Wyoming dated July 29, 2024:

- Approach and methodology
- Project timeline
- Project fees
- Fee assumptions

Fees and Payment Terms

As you probably realize, our primary cost is salaries that are paid currently. Accordingly, our invoices will be rendered periodically and are due when received. In the event an invoice is not paid timely, a late charge in the amount of 1.25 percent per month will be added, beginning 30 days after the date of the invoice.

Agreed and Accepted

We accept this agreement, which is subject to the terms of the July 29, 2024 Professional Services Agreement between the City of Wyoming and Plante Moran for Internal Auditing and Consulting services. This Agreement may be amended by written agreement between Plante & Moran, PLLC and the City of Wyoming.

Plante & Moran, PLLC



1/29/2024

Mark Warner
Partner

Date

City of Wyoming

John Shay
City Manager

Date

Approved as to form:



Scott G. Smith, City Attorney



**We look forward to working with you.
Please contact us with any questions.**



Mark Warner
Engagement Partner
248-223-3799
mark.warner@plante Moran.com

RESOLUTION NO. _____

RESOLUTION TO ACCEPT A PROPOSAL FOR
DEVELOPMENT OF AN ADMINISTRATIVE ALLOCATION PLAN

WHEREAS:

1. As detailed in the attached staff report, it is recommended City Council accept a proposal from Maximus Consulting Services, Inc. for development of an updated administrative cost allocation plan in the total estimated amount of \$15,500 using State of Michigan MiDEAL cooperative contract pricing.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council accepts a proposal from Maximus Consulting Services, Inc. for development of an administrative cost allocation plan.
2. The City Council authorizes the Mayor and City Clerk to sign the contract.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular meeting held on August 5, 2024.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Staff Report
Contract/Proposal

Resolution No. _____

STAFF REPORT

Date: July 24, 2024
Subject: Administrative Allocation Plan
From: Jodi Yenchar, Finance Director
Meeting Date: August 5, 2024

RECOMMENDATION:

It is recommended City Council approve the proposal for development of an updated administrative cost allocation plan from Maximus Consulting Services in the amount of \$15,500.

ALIGNMENT WITH STRATEGIC PLAN:

- PILLAR 3 – STEWARDSHIP
 - GOAL 2 – Enhance the efficiency and effectiveness of city operations and services.

DISCUSSION:

Each fiscal year, the city allocates administrative (or indirect) costs to the various funds and departments supported by administrative departments to ensure the financial statements properly reflect the full cost of providing city services. The administrative functions allocated across funds through this process are:

- City Council
- Communications
- City Manager
- Finance
- Treasury
- Assessing
- City Attorney
- Information Technology
- Facilities

Cost allocation plans should be evaluated annually to ensure the basis and methodology of allocation is fair, consistent and reasonable. The methodology utilized

in the current administrative allocation has been in place since at least 2009. Current accounting best practices involve allocating costs utilizing a basis that reasonably approximates the proportional share of the service received from each department. The city's current method allocates costs solely based on each department's percentage of the city-wide budget. The current method does not accurately reflect the proportional share of administrative services received. For example, information technology support costs may vary based upon the number of employees in each department requiring support. When costs are allocated based on a department's percentage of the city-wide budget, a department with low expenditures and 20 staff would pay less for these support services than a department with high expenditures but only 10 staff.

On June 19, 2023, City Council awarded a three-year contract for internal audit and consulting services to Plante Moran. Plante Moran staff have been working with departments throughout the city to assess existing policies and procedures and supported the Finance Department's recommendation to update the administrative allocation model. Both Plante Moran and the City of Grand Rapids recommended utilizing Maximus Consulting Services, Inc. through the State of Michigan MiDeal Extended Purchasing Program contract which allows the city to purchase this consulting service based on the State's contract with Maximus Consulting.

Due to their expertise in this field, the first opening Maximus Consulting has in their schedule to update the administrative allocation is late summer 2025. In order to reserve our place on their client calendar, we recommend accepting their proposal at this time.

BUDGET IMPACT:

The cost for the administrative allocation plan update will be budgeted in the Finance Department budget for fiscal year 2025-2026.

Attachment(s):

Contract

CITY OF WYOMING

PROFESSIONAL SERVICES CONTRACT

CITY OF WYOMING, MICHIGAN

(OVER \$8,500)

(No RFP)

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

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

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

Effective Date means: _____, 202__.

Professional means: Maximus Consulting Services, Inc.
[Name of contracting entity]

A _____
[State and type of entity, e.g., corporation, limited liability company, etc.]

110 W. Michigan Ave., Suite 200
[Professional's street address]

Lansing, MI 48933
[Professional's city, state & zip]

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

Proposal means Professional's proposal attached as Exhibit B.

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

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

TERMS AND CONDITIONS

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

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

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

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

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

City of Wyoming

By: _____
Kent Vanderwood, Mayor

By: _____
Kelli VandenBerg, City Clerk

Date signed: _____, 20__

Approved as to form:

Scott G. Smith, City Attorney

Professional

By: _____
[Signature officer, director or principal of Professional]

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

Date signed: _____, 20__

EXHIBIT A
CITY CONTRACT STANDARD TERMS AND CONDITIONS

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

1. Legal Compliance. Professional and Professional's personnel must comply with applicable (i) laws, rules, regulations, codes, and ordinances, (ii) license and permit requirements, and (iii) orders of a governmental agency, official or court of competent jurisdiction.

2. Grant Compliance. If City identifies state or federal grant funds as a source of payment for the project, Professional (i) represents it has reviewed the grant agreement and (ii) will comply with grant agreement terms and conditions applicable to this contract.

3. Qualifications. Professional represents and promises that:

A. Professional and Professional's personnel have and will maintain all licenses, registrations, certifications, memberships, or other approvals needed to perform the Services.

B. Professional, any subcontractor, and all their 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, Professional is not on the HUD list of debarred and suspended participants. Unless waived by City's purchasing director, Professional and all subcontractors will register on the Federal SAM Registry available at: <https://usfcr.com>. Professional is not on and will remain off the Federal System for Award Management list of entities ineligible for federal contracts.

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

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

A. Professional in (i) employment actions and (ii) soliciting, bidding or contracting with subcontractors or 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. Professional 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 Professional engages with others on City's behalf, Professional must (i) ensure all persons are treated with fairness, equity, impartiality, courtesy and respect, and in a manner that does not discriminate based on any reason listed in subsection A, and (ii) if any engaged individuals have limited English proficiency (*i.e.*, speak English less than very well), Professional will use language assistance services in communications.

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

E. Professional 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.

5. Ethical Standards. To the best of Professional's knowledge after reasonable inquiry:

A. Professional, Professional's personnel, and any parent, affiliate, or subsidiary organization of Professional has not engaged in and will 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 Professional or of any parent, affiliate, or subsidiary organization 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. Professional will immediately notify City of any subsequently discovered violation of the standards in this section.

6. Media Releases. Media or other releases (including promotional literature and commercial advertisements) pertaining to the contract or the project to which it relates shall only in accordance with City Manager's prior written approval.

7. Payment to Professional.

A. Professional shall submit by email to City's Finance Department at Acct_Info@wyomingmi.gov a completed IRS W-9 form (available at www.irs.gov) before beginning the Services.

B. Payments to Professional will be made in accordance with the RFP and Proposal. If no other terms are provided, payment of invoices to City will generally be made within 30 days after all required information is submitted and City's representative agrees the Services have been performed and deliverables received in accordance with the RFP and Proposal.

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.

8. Intellectual Property. Professional 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 copyright, patent, trademark, or other intellectual property rights. Professional will, without expense to City, defend all actions against City or City's officers or employees for alleged infringement of intellectual property rights by reason of their sale or use as part of this contract and will pay all costs, damages, and profits recoverable in any action.

9. Taxes. City is generally exempt from federal and 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 separately list amounts added for taxes.

10. Records. City is a public entity that receives funds from other governmental agencies. Thus, (i) City must 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 records relating to its contracts. Professional will retain copies of all records related to the contract, for at least 7 years after completion of the contract. Professional shall, within 5 City business days of a City request, allow inspection, auditing and copying of retained records.

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

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

13. Disputes/Remedies. For all disputes under this contract:

A. Before filing a lawsuit, a party must first notify the other party in writing stating the provision involved, stating 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 receiving party shall, within 14 days, respond in writing detailing reasons why it disagrees that it has failed to comply with the contract and/or actions it has taken or is taking to address noncompliance and prevent recurrence. The parties shall meet within 14 days after the date of the response in an effort to resolve any continuing dispute.

B. A party need not follow the §13.A procedure if it previously did so regarding noncompliance with the same contract provision.

C. Jurisdiction and venue for any dispute shall be solely in state courts in Kent County, Michigan. 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, filing fees, expert consulting/witness fees and expenses, attorneys' fees, discovery expenses, copying costs, exhibit preparation costs, and all 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.

14. Professional Liability and Risk Allocation.

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

B. To the extent not prohibited by law, the total amount of professional liability of Professional or Professional's personnel (i.e., Professional's members, directors, partners, officers, employees, subcontractors, or any other individuals Professional engages to provide the Services under this contract) to City and City's officers and employees, whether sounding in tort, contract, administrative law, or other action, whether legal or equitable, shall be City's actual damages but only to the degree of the fault of Professional or Professional's personnel, not to exceed the greater of the total fees paid to Professional under this Contract or the amount of insurance available under the professional liability insurance provisions of this Contract.

1. Professional will, to the degree of fault of Professional's personnel, defend City and City's officers from all claims made by that arise from the wrongful acts or omissions of Professional or Professional's personnel that are not claims for professional liability insurance.

2. A Commercial General Liability insurance policy shall be obtained and maintained for bodily injury or property damage to the City's officers or employees or property committed by Maximus.

15. Insurance.

A. Professional shall provide the following insurance:

REQUIRED LIMITS	ADDITIONAL REQUIREMENTS
COMMERCIAL GENERAL LIABILITY	

Minimal Limits: Coverage to \$2,000,000 Each Occurrence Completed \$ 4,000,000 Advertising Operations; (C) Injury	include: (A) Contractual Liability; (B) Products and Aggregate Personal & Independent Contractors;
---	--

AUTOMOBILE LIABILITY INSURANCE

Minimal Limits (include hired and non-owned automobile liability coverage): \$2,000,000 each accident	Coverage shall be primary and any other insurance maintained by the City that may be in effect shall be secondary and/or excess.
--	--

WORKERS' COMPENSATION/ EMPLOYERS' LIABILITY

Minimal Limits: Statutory for Workers Comp Employers Liability limits: \$1,000,000 for bodily injury by accident each accident, \$1,000,000 for bodily injury by disease each employee, and \$1,000,000 for bodily injury by disease policy limit.	Coverage shall be in accordance with all applicable Michigan statutes. Waiver of subrogation, except where waiver is prohibited by law.
--	---

EXCESS/UMBRELLA INSURANCE

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 maintained by the City that may be in effect shall be secondary and/or excess.
--	--

PROFESSIONAL LIABILITY

Amount required \$3,000,000 per claim.	If the policy is a claims made form, then Professional shall keep the policy in force, or purchase "tail" coverage, for at least 3 years after the termination of this contract.
--	--

16. Limitation of Liability.

City agrees that Contractor's total liability to City for any and all damages whatsoever arising out of, or in any way related to, this Agreement from any cause, including but not limited to negligence, errors, omissions, strict liability, breach of contract or breach of warranty shall not, in the aggregate, exceed \$15,500.00.

In no event shall Contractor be liable for indirect, special, incidental, economic, consequential or punitive damages, including but not limited to lost revenue, lost profits, replacement goods, loss of technology rights or services, loss of data, or interruption or loss of use of software or any portion thereof regardless of the legal theory under which such damages are sought even if Contractor has been advised of the likelihood of such damages, and notwithstanding any failure of essential purpose of any limited remedy.

To the extent allowed by law, any claim by City against Contractor relating to this Agreement must be made in writing and presented to Contractor within one (1) year after the date on which Contractor completes performance of the Services specified in this Agreement.

17. Services and Materials to be Furnished by City.

Contractor shall provide guidance to City in determining the data required. The City acknowledges and agrees that Contractor shall be entitled to rely upon the accuracy and completeness of the data provided by the City to perform the Services. City shall provide all such data in a commercially reasonable timeframe sufficient to allow Contractor to provide the Services. Contractor shall have no liability to City whatsoever if City provides incomplete or inaccurate data or provides data in a commercially unreasonable timeframe.

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

18. Contractor Liability if Audited.

Contractor's sole responsibility under an audit shall be to provide reasonable assistance to the City through the audit and to make those changes to the work product as required as a result of the audit. To the extent permitted by applicable law, Contractor shall not be liable for any audit disallowances or any missed or lost revenue associated with, or related to, the Services, regardless of cause.

19. Termination.

a. Termination for Cause. Upon material breach of the terms of this Agreement, the non-breaching party shall provide written notice to the breaching party specifying the nature of the default. The breaching party shall have a minimum of 30 days from the date of receipt to cure any such default prior to the effective date of termination.

b. Termination for Convenience. Either party may terminate this Agreement without cause upon 60 days' prior written notice to the other.

c. Rights Upon Termination. Upon termination for whatever reason and regardless of the nature of the default (if any), City agrees to pay Contractor in full for all Services provided to City under this Agreement, or any amendment thereto, as of the effective date of termination of the Agreement.

20. Litigation Reimbursement.

If Contractor is requested by City to produce Contractor deliverables, documents, records, working papers, or personnel for testimony or interviews with respect to this Agreement or any services provided hereunder for any third party matter, litigation or otherwise, then City and Contractor shall execute a change order or new services agreement for the sole purpose of setting forth any payment and the terms associated with Contractor's response and related to the reasonable fees of Contractor in responding. The foregoing does not: (1) diminish or negate Contractor's obligation to negotiate and defend all cost allocation plans and State mandated cost claims as specifically provided for under this Agreement; or (2) apply in the event Contractor is compelled by subpoena from a third party to provide Contractor deliverables, documents, records, working papers, or personnel for testimony or interviews.

21. Copyright for Contractor's Proprietary Software.

To the extent that the Services provided by Contractor are generated by Contractor's proprietary software, nothing contained herein is intended nor shall it be construed to require Contractor to provide such software to Client. City agrees that it has no claims of ownership, including copyright, patents or other intellectual property rights to Contractor's software. Nothing in this Agreement shall be construed to grant City any rights to Contractor's materials created prior to the execution of this Agreement.

General Terms.

A. These terms and conditions may not be amended or modified except in writing signed by Professional 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.

EXHIBIT B
PROPOSAL

Scope of Services & Compensation

MI CI Wyoming CAP 25

SCOPE OF SERVICES:

- a. Development of a central services cost allocation plan, based on actual expenditures for the fiscal year ending June 30, 2025. The cost allocation plan will identify the various costs incurred by the client to support and administer programs that provide services directly to citizens. This plan will contain a determination of the allowable cost of providing each supporting services such as purchasing, legal counsel, disbursement processing, etc.
- b. Negotiation of the completed cost allocation plan with the representatives of the State or federal government, whichever is applicable.

COMPENSATION:

For services provided as set forth above, Client agrees to pay Contractor compensation in the amount of Fifteen Thousand Five Hundred dollars (\$15,500). Contractor will render to Client one or more invoices for the fees specified herein, with payment due thirty (30) days after the invoice date.

The fee breakdown is as follows:

Fiscal Year 2025

Central Services CAP: \$15,500

RESOLUTION NO. _____

RESOLUTION TO AUTHORIZE PAYMENT TO GRAND ELK RAILROAD, INC.,
FOR ANNUAL MAINTENANCE OF TRAFFIC CONTROL DEVICES AT
RAILROAD CROSSINGS IN THE CITY OF WYOMING

WHEREAS:

1. As detailed in the staff report, it is recommended the City Council authorize payment to Grant Elk Railroad, Inc. in the amount of \$26,720 for the maintenance of traffic control devices for 2023.
2. State of Michigan Act 354 of 1993 requires that all road authorities participate in the annual maintenance cost of railroad crossings with active traffic control devices.
3. Funds are available in the Major Streets Fund, Traffic Services Repairs and Maintenance Account No. 202-441-47400-930.000.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council authorizes payment to Grand Elk Railroad, Inc. for annual maintenance of traffic control devices to railroad crossings in the amount of \$26,720.

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 meeting held on August 5, 2024.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:
Staff Report
Invoice
Act No. 354

Resolution No. _____

STAFF REPORT

Date: July 25, 2024

Subject: Authorize Payment 2024 Wyoming Annual Pavement Markings

From: Russ Henckel, Assistant Director of Public Works/ Engineering

CC: Myron Erickson, Director of Public Works

Meeting Date: August 5, 2024

RECOMMENDATION:

It is recommended the City Council authorize payment to Grand Elk Railroad, Inc., in the amount of \$26,720 for the cost of annual maintenance on its control devices for the 2023 calendar year.

ALIGNMENT WITH STRATEGIC PLAN:

- Pillar 3 – Stewardship
 - Goal 3 – Improve city infrastructure and service reliability

DISCUSSION:

Grant Elk Railroad, Inc. owns railroad tracks within the City of Wyoming, crossing several major streets which require the use of proper traffic control devices including flashing signals and cantilever arms. Per the MCL 462.311, State of Michigan Act 354 of 1993, the road authorities participate in the annual maintenance cost of the railroad crossings with active traffic control devices. The rate per crossing is established in Act 354 and depends on the various traffic control devices at each location. Grand Elk Railroad, Inc. has completed maintenance of these traffic control devices for calendar year 2023 and has submitted an invoice to the City of Wyoming in the amount of \$26,720.

BUDGET IMPACT:

Sufficient funds are available in the Major Streets Fund, Traffic Services Repairs and Maintenance Account No. 202-441-47400-930.000.

RAILROAD CODE OF 1993 (EXCERPT)
Act 354 of 1993

462.311 Passive traffic control devices; street lighting.

Sec. 311. (1) The road authority, at its own expense, shall furnish, renew, and maintain all passive traffic control devices on public streets or highways approaching grade crossings of streets and highways with railroad tracks, including the various advance warning signs, railroad pavement markings, railroad grade crossing signs, number of tracks signs, and other special signs located, designed, and maintained as prescribed by the Michigan manual of uniform traffic control devices. The number of tracks sign shall include a designation "railroad crossing _____ tracks" (insert number of tracks), indicating the actual number of tracks to be crossed. If there is only 1 track in the crossing, the sign stating the number of tracks shall be omitted. These passive traffic control devices shall conform to designs prescribed by the department and shall be subject to revision from time to time as the department considers necessary in the interest of public safety, conforming as closely as possible with generally recognized national standards.

(2) The department, for the purposes of this act, may install and maintain or arrange for the installation and maintenance of highway street lighting at any grade crossing of a state trunkline highway.

History: 1993, Act 354, Imd. Eff. Jan. 14, 1994.



WATCO

Grand Elk Railroad, Inc.
315 West 3rd Street
Pittsburg KS 66762

Invoice

For Billing Questions or Disputes Contact:

Sold-To-Party
City of Wyoming
1155 28th St. SW
Wyoming MI 49509

Information	
Invoice Number	92303503
Invoice Date	07/24/2024
PO No.	2023-Signal Mainte
PO Date	07/24/2024
Customer No.	9029
Invoice Amt	26,720.00
Terms of Payment	30 Days
Include Invoice Number with Payment	

Bill-To-Party:

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

Additional Billing Comments:

Item	Material Description	Quantity	Unit Price	Total
10	2023-Signal Maint-MCL 462315(3)	1 EA	26,720.00	26,720.00
Total Amount in Currency USD				26,720.00

Please Remit Check Payments to:
Grand Elk Railroad, Inc.
39575 Treasury Center
Chicago, IL 60694-9500

Please Remit ACH or EFT Payments to:
BMO Harris Bank
ABA# 071000288
ACCOUNT# 1430137371
ACCT NAME: Watco Companies, L.L.C.



Grand Elk Railroad, Inc
 315 W 3rd St
 Pittsburg, KS 66762

Bill-To-Party	Information
City of Wyoming 1155 28th St SW Wyoming, MI 49509 accounts payable@wyomingmi.gov	Invoice Number Invoice Date Customer No. PO Number Invoice Amount Terms of Payment
	2023- Signal Maintenance 7/23/2024 9029 MCL 462315(3) \$ 26,720.00 Due Upon Receipt

**Listing of Active Crossing Traffic Control Devices
 and Road Authority Fee Schedule in Accordance with
 MCL 462.315(3) - RAILROAD CODE OF 1993 - Act 354 of 1993**

Current schedule of fees - Effective 7-1-2022

Type Code	Rate	Description
Type 1	\$ 1,427.00	Flashing signals on single track
Type 2	\$ 2,867.00	Flashing signals and gates on a single track
Type 3	\$ 2,105.00	Flashing signals with cantilever arm on a single track
Type 4	\$ 3,239.00	Flashing signals with cantilever arm with gates on a single track
Type 5	\$ 3,394.00	Flashing signals and gates on multiple tracks
Type 6	\$ 4,352.00	Flashing signals with cantilever arms and gates on a multiple track
Type 7	\$ 1,698.00	Flashing signals on a multiple track
Type 8	\$ 2,167.00	Flashing signals with cantilever arms on multiple track

*** Note: Actual Cost Per Agreement.

DOT	Road Crossing	Type Code	Description of Traffic Control Devices	Road Authority Maintenance Fee per PA354 of 1993	
				2023	
543868A	36th Stree SE	Type 3	Flashing signals with cantilever arm on a single track	\$	2,105.00
543869G	Eastern Avenue	Type 3	Flashing signals with cantilever arm on a single track	\$	2,105.00
543870B	32nd Street	Type 3	Flashing signals with cantilever arm on a single track	\$	2,105.00
543871H	Madison Avenue	Type 3	Flashing signals with cantilever arm on a single track	\$	2,105.00
543874D	Buchanan Street	Type 3	Flashing signals with cantilever arm on a single track	\$	2,105.00
545751Y	54th Street	Type 4	Flashing signals with cantilever arm with gates on a single track	\$	3,239.00
545752F	50th Street	Type 4	Flashing signals with cantilever arm with gates on a single track	\$	3,239.00
545753M	44th Street	Type 4	Flashing signals with cantilever arm with gates on a single track	\$	3,239.00
545754U	36th Street	Type 4	Flashing signals with cantilever arm with gates on a single track	\$	3,239.00
545755B	32nd Street	Type 4	Flashing signals with cantilever arm with gates on a single track	\$	3,239.00
Total Annual Amount - City of Wyoming				\$	26,720.00

RESOLUTION NO. _____

RESOLUTION TO APPROVE A PROPERTY RIGHTS EXCHANGE AGREEMENT WITH ZUIDERVEEN ENTERPRISES L.L.C, AUTHORIZE AND DIRECT THE MAYOR AND CITY CLERK TO SIGN THE AGREEMENT, AND AUTHORIZE AND DIRECT CITY OFFICERS AND STAFF TO IMPLEMENT THE AGREEMENT

WHEREAS:

1. The City Engineering department proposes to construct a paved road and utilities at Fisher Avenue south of 54th Street.
2. The City must obtain new right-of-way from Zuiderveen Enterprises L.L.C. to construct a standard radius turnaround at the south end of Fisher Avenue and to obtain an easement for a storm sewer outlet to Buck Creek.
3. A signed property rights exchange agreement has been provided by Zuiderveen Enterprises L.L.C. that provides the City with the right-of-way necessary for Fisher Avenue construction at a cost of \$6,001.
4. It is recommended the City Council approves the property rights exchange agreement with Zuiderveen Enterprises L.L.C. to provide right-of-way to the City of Wyoming to construct a paved road and utilities at Fisher Avenue south of 54th Street.
5. It is recommended the City Council authorizes and directs the Mayor and City Clerk to sign the agreement and city officers and staff to implement the agreement.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council approves the property rights exchange agreement with Zuiderveen Enterprises L.L.C.
2. The City Council approves spending \$6,001 for right-of-way specified in the property rights exchange agreement.
3. The City Council authorizes and directs the Mayor and City Clerk to sign the agreement.
4. The City Council authorizes and directs city officers and staff to implement the agreement.

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 meeting held on August 5, 2024.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

- Staff Report
- Property Rights Exchange Agreement copy

Resolution No. _____

STAFF REPORT

Date: July 29, 2024
Subject: Fisher Avenue Property Rights Exchange Agreement
From: Grant Simons, Civil Engineer
CC: Myron Erickson, Director of Public Works
Meeting Date: August 5, 2024

RECOMMENDATION:

It is recommended the City Council approves a property rights exchange agreement from Zuiderveen Enterprises to provide right-of-way for a road and utility construction project at Fisher Avenue south of 54th Street. It is also recommended the City Council authorizes and directs the Mayor and City Clerk to sign the agreement and city officers and staff to implement the agreement.

ALIGNMENT WITH STRATEGIC PLAN:

- Pillar 3 – Stewardship
 - Goal 3 – Improve city infrastructure and service reliability

DISCUSSION:

The City Engineering department has been planning to construct a paved road with utilities at Fisher Avenue south of 54th Street. The paved road will have a turnaround at the south end and a storm sewer outlet to Buck Creek. Property rights from 5522 Clay Avenue, owned by Zuiderveen Enterprises L.L.C, are required to construct a standard 35-foot radius turnaround and to construct storm sewer across the property.

Since 5522 Clay Avenue is the southernmost property along Fisher Avenue, a portion of the existing road right-of-way may be vacated to Zuiderveen Enterprises without impacting access to other properties along Fisher Avenue. The property rights exchange agreement vacates a portion of existing right-of-way to Zuiderveen Enterprises to decrease the length of Fisher Avenue and thereby decrease the cost of constructing and maintaining a paved road.

The agreement specifies that the City will pay Zuiderveen Enterprises \$6,000 for the storm sewer easement and \$1 for the property needed to construct a standard radius turnaround.

BUDGET IMPACT:

The cost for acquiring new right-of-way along Fisher Avenue in accordance with the property rights exchange agreement is \$6,001. Sufficient funds are available in the Capital Improvement Fund, Capital Outlay Storm Sewer Account No. 400-441-45200-972.452.

PROPERTY RIGHTS EXCHANGE AGREEMENT

This Property Rights Exchange Agreement (this "**Agreement**"), dated as of _____, 2024, is between the City of Wyoming, a Michigan municipal corporation of 1155 28th St SW, Wyoming, MI 49509 ("**City**") and Zuiderveen Enterprises, L.L.C., a Michigan limited liability company of 12828 Bayou Ct, Wayland, MI 49348 ("**Zuiderveen**").

RECITALS

- A. City desires to acquire a storm water easement over property Zuiderveen owns commonly known as 5522 Clay Ave SW (PP# 41-17-36-178-016) and 5534 Clay Ave SW (PP# 41-17-36-179-035) (the "**Zuiderveen Property**") along what would be the eastern right-of-way line of Fisher Ave. SW, if extended south (between it and the railroad right-of-way) as depicted and described on the attached **Exhibits C and D** (the "**Storm Water Easement**").
- B. Zuiderveen would benefit from owning the portion of southern end of the Fisher Ave. right-of-way where it dead ends into the property commonly known as 5522 Clay Ave. SW, as depicted and described on the attached **Exhibit B** ("**Vacation Property**") which, if the City vacates it, it would then be owned by Zuiderveen, since Zuiderveen is the owner of all of the adjacent property in the Fisher's Station Plat.
- C. If City vacates the Vacation Property, City will need to have enough property north of the Vacation Property to construct a cul-de-sac to ensure there is sufficient room for emergency vehicles, snowplows, trucks, and other vehicles to turn around as depicted and described on the attached **Exhibit A** ("**New Street End Property**").
- D. The parties also wish to clarify there will be a special assessment for road, water, and storm water improvements and ensure the tenant on the Zuiderveen Property consents to the Storm Water Easement.

TERMS AND CONDITIONS

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

1. Vacation. Within thirty (30) days after this Agreement is fully executed, City will initiate, follow, and conclude its legally required process to consider the vacation of the Vacation Property while retaining easements for existing utilities as provided for herein, and any applicable existing easements of record (collectively, the "Retained Easements").

A. This Agreement is contingent upon the City approving the vacation of the Vacation Property. The parties agree that City's staff, planning commission, and City council will exercise their normal discretion as part of that process and this Agreement does require a particular outcome. If the City approves the vacation of the Vacation Property, it will execute a quitclaim deed to convey all of its right, title, and interest in the Vacation Property, except the Retained Easements (if any), to Zuiderveen on or before Closing (as described in paragraph 5 below).

B. City's vacation process concludes with its city council's adoption and City's recording of a resolution to vacate the Vacation Property. City will not seek to amend any plat and will not seek any state approval of or file any legal action to seek court approval of the vacation of the Vacation Property. If Zuiderveen wishes to amend any involved plat or to seek any court orders or other approval, Zuiderveen may do so at its expense and City will cooperate provided Zuiderveen pays any expenses City incurs in such cooperation.

2. Storm Water Easement. If City vacates the Vacation Property, Zuiderveen will grant to City in exchange for payment in the amount of Six Thousand and 00/100 Dollars (\$6,000.00) by the City to Zuiderveen the Storm Water Easement substantially in the form attached as **Exhibit E**.

3. New Street End Property. If City vacates the Vacation Property, Zuiderveen will convey to City for the consideration of One and 00/100 Dollars (\$1.00) by a quitclaim deed the New Street End Property free of any mortgages or other liens, but subject to any easements of record.

A. Zuiderveen will not provide any title abstract, title insurance, or other assurance of title. Zuiderveen will not provide any survey. If City desires either assurance of title or a survey, it may acquire them without cost to Zuiderveen.

B. Except as expressly stated in this Agreement, this conveyance will be "as is" and "where is" without any warranty as to the condition of the New Street End Property, the absence or presence of hazardous substances or materials, the suitability of the New Street End Property for any particular purpose or use, or any other aspects of the New Street End Property. Zuiderveen represents and City accepts Zuiderveen's representation that Zuiderveen is without any reliable information as to the condition, including the environmental condition of the New Street End Property. City agrees that it will have no recourse against Zuiderveen or Zuiderveen's members, directors, officers, employees, or other agents arising from the conditions in, on, under, or over the New Street End Property.

C. City will be responsible for obtaining any lot split or boundary line adjustment approvals required under any applicable City ordinance for the removal of the New Street End Property from the Zuiderveen Property and the addition/combination of the Vacation Property to the Zuiderveen Property.

4. Notice of Facility Status. City and Zuiderveen acknowledge that:

A. Consistent with the requirements of Part 201 of the Michigan natural resources and environmental protection act ("Part 201") at MCL 324.20116(1), Zuiderveen is providing notice that part of the Zuiderveen Property is a 'facility' as defined by Part 201 because contaminants including benzene, ethylbenzene, and xylenes have been identified in soil or groundwater at concentrations that exceed the cleanup criteria for unrestricted residential use.

B. With Zuiderveen's consent, City contracted Dixon Environmental Consulting, Inc. to conduct environmental site assessment work of the New Street End Property, and Storm Water Easement Area, and has provided to Zuiderveen a copy of the resulting report dated June 25, 2024, which concludes that neither the New Street End Property nor the Storm Water Easement Area are facilities under Part 201.

5. Closing and Diligence.

A. Closing must occur no later than thirty (30) days after City's city council adopts the final resolution vacating the Vacation Property, unless extended by mutual agreement of the parties (the "Closing").

B. At Closing, the City shall provide the following: (1) the quit claim deed to Zuiderveen signed by the City for the Vacation Property; (2) the Storm Water Easement signed by the City in substantially the form attached as Exhibit F; and (3) the sum of \$6,000 for the Storm Water Easement; and Zuiderveen will provide the following: (1) the Storm Water Easement signed by Zuiderveen in substantially the form attached as Exhibit F; and (2) the quit claim deed to the City signed by Zuiderveen for the New Street End Property.

C. The parties will equally share any Closing costs. City will pay the cost of recording the vacation resolution, the quitclaim deed for the Vacation Property, the Storm Water Easement, and the quitclaim deed for the New Street End Property. Zuiderveen will pay the costs for recording any mortgage discharge or for discharges of any other liens on the New Street End Property. Each party will pay its own attorneys' fees.

D. If either party wishes to obtain a survey, title insurance, abstract of title, environmental site assessment, or undertake any other inspection, examination, or diligence with respect to any property interests it is acquiring under this Agreement, that party may do so between the date of this Agreement and the Closing date without expense to the other party. If such diligence reveals a condition unacceptable to a party, that party may, with written notice to the other party, immediately terminate this Agreement.

6. Special Assessment. The parties agree that if the City completes the improvements contemplated in this Agreement, namely, the paving of Fisher Ave, installation of a water line to provide a hydrant and improved fire protection, the shortening of the Fisher Ave right-of-way, and construction of a new storm sewer, a special assessment shall be levied against the Zuiderveen Property and Zuiderveen's 5445 Fisher Street property in the amount of approximately \$35,000.00, which special assessment shall be assessed and payable in installments.

7. Representations and Warranties.

A. Zuiderveen represents and warrants to City as of the date of this Agreement and through the closing:

1. This Agreement and the conveyances required by it will not conflict with or breach another Zuiderveen contract.
2. When fully executed, this Agreement and documents related to it will be legal, valid, and binding on Zuiderveen in accordance with their terms and conditions, subject to the City's approval of the vacation of the Vacation Property pursuant to Section 2 above.
3. To the best of Zuiderveen's knowledge, there is no pending or threatened litigation, proceeding, lien, or governmental investigation, condemnation, or threatened condemnation relating to any property interests to be conveyed under this Agreement.
4. Zuiderveen is in good standing under the laws of Michigan and has taken all necessary and required corporate actions to approve this Agreement and the transactions provided for by this Agreement.

B. City represents and warrants to Zuiderveen as of the date of this Agreement and through the closing:

1. This Agreement and the conveyances required by it will not conflict with or breach another City contract.
2. When fully executed, this Agreement and documents related to it will be legal, valid, and binding on City in accordance with their terms and conditions, subject to the City's approval of the vacation of the Vacation Property pursuant to Section 1 above.
3. To the best of City's knowledge there is no pending or threatened litigation, proceeding, lien, or governmental investigation, condemnation, or threatened condemnation relating to any property interests to be conveyed under this Agreement.
4. City is in good standing under the laws of Michigan and has taken all necessary and required actions to approve this Agreement and the transactions provided for by this Agreement.

C. The parties represent and warrant to one another that there are no brokerage fees, commissions, or other amounts due any real estate broker or agent as a result of this Agreement or the conveyances provided for in this Agreement. If it is later determined that any such amounts are due, the party responsible for the agency or other relationship causing them to be due shall pay those amounts.

8. Lessee's Consent. Zuiderveen will ensure that all lessees of the Zuiderveen Property are aware of and consent to the Storm Water Easement and the construction and installation to occur within it.

9. Assignment and Benefit. Neither party may assign this Agreement or any rights or obligations under it without the other party's prior written consent. This Agreement is binding on the parties and their permitted successors and assigns, provided, however, no other parties are intended third-party beneficiaries of this Agreement.

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

11. Notices. Notices required by this Agreement must be written, addressed to the addresses first provided above, and (i) delivered personally, (ii) delivered by USPS certified mail, return receipt requested, (iii) delivered by UPS, FedEx or another national courier service, or (iv) delivered by email transmission, provided that such transmission shall be deemed delivered once acknowledged by the receiving party.

12. General Provisions.

A. This Agreement constitutes the entire agreement between the parties as to its subject matter. It supersedes all other agreements, representations, and promises regarding its subject matter. It may be modified only in writing signed by both parties. Both parties had input into drafting and opportunity to consult legal counsel before signing this Agreement so it shall be construed as mutually drafted. The captions are only for reference and will not affect its interpretation, but the recitals are an integral part of this Agreement. Reference to an officer by title includes that officer's designee(s) and superior(s).

B. The parties may, by a written amendment signed by both parties, agree to interpretations of, amplifications of, or other amendments to this Agreement.

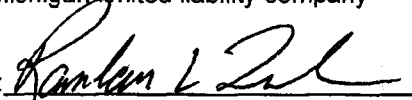
C. This Agreement may be signed in one or more counterparts, all of which will be the same contract and be effective when one or more counterparts are signed by each party and delivered to the other party. Signatures on this Agreement and other documents signed under it may be by facsimile or electronic mail, and the parties will treat facsimile and electronic mail signatures as original signatures.

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

CITY OF WYOMING,
a Michigan municipal corporation

ZUIDERVEEN ENTERPRISES, L.L.C.,
a Michigan limited liability company

By: _____
Kent Vanderwood, Mayor

By:  *member*
Randall L. Zuiderveen, Member

Date signed: 7-26-, 2024

By: _____
Kelli A. Vandenberg, City Clerk

Date signed: _____, 2024

Approved as to form:



Scott G. Smith, City Attorney

Lessee Consent

As the lessee of 5510 Clay Ave, Matthies Enterprises, Inc. consents to granting the Storm Water Easement as described in this Agreement and consents to the construction and installation of storm water improvements pursuant to the attached Storm Water Easement.

MATTHIES ENTERPRISES, INC., a Michigan corporation

Date signed: _____, 2024

By: _____
Craig McDonald, President

Exhibit A

New Street End Property Depiction and Description

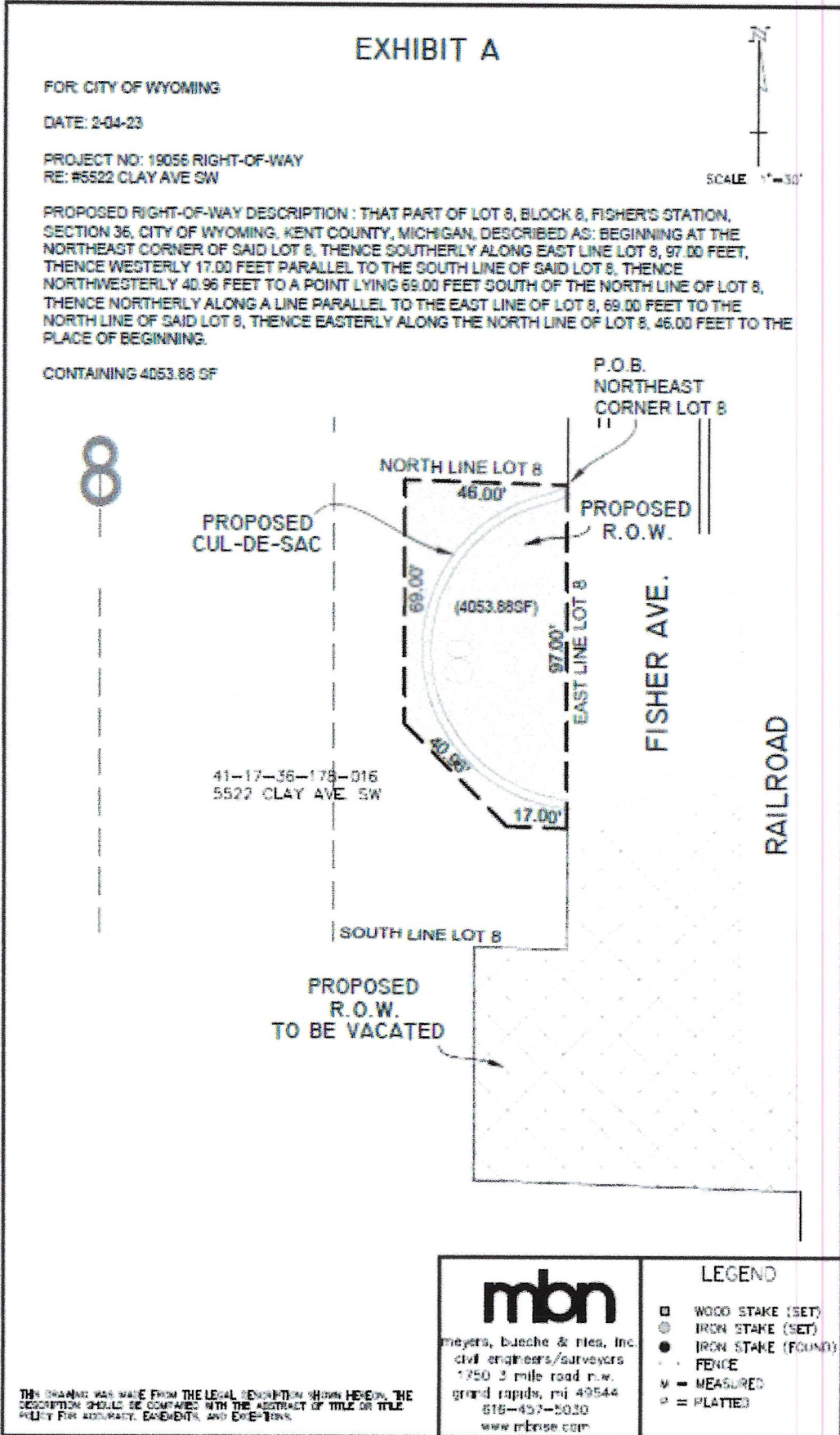


Exhibit B

Vacation Property Depiction and Description

EXHIBIT B

FOR: CITY OF WYOMING

DATE: 7-18-24

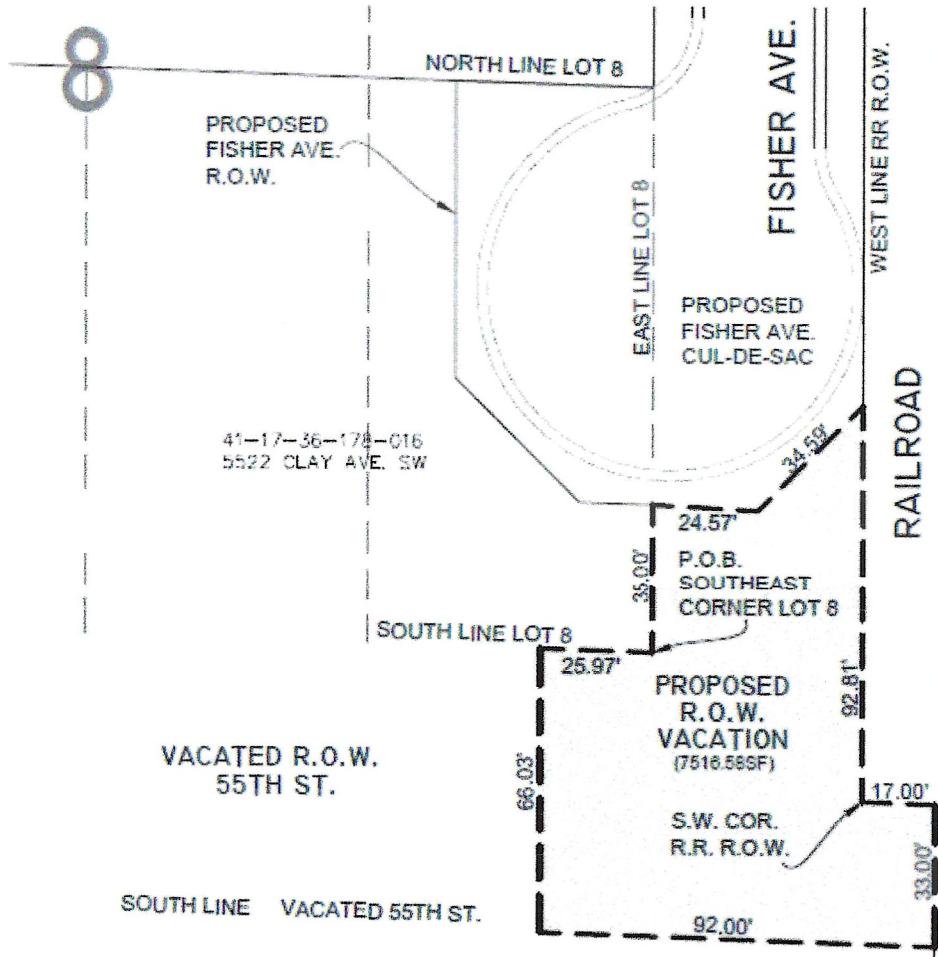
PROJECT NO: 19056 RIGHT-OF-WAY
RE: #5522 CLAY AVE SW

SCALE: 1" = 30'



PROPOSED DESCRIPTION OF RIGHT-OF-WAY TO BE VACATED : THAT PART OF LOT 8, BLOCK 8, FISHER'S STATION AND VACATED R.O.W. 55TH ST., SECTION 36, CITY OF WYOMING, KENT COUNTY, MICHIGAN, DESCRIBED AS: BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 8, THENCE NORTHERLY ALONG EAST LINE LOT 8, 35.00 FEET, THENCE EASTERLY 24.57 FEET PARALLEL WITH THE SOUTH LINE OF LOT 8, THENCE NORTHEASTERLY 34.58 FEET TO A POINT ON THE WEST LINE OF THE RAILROAD RIGHT OF WAY LYING 92.81 FEET NORTHERLY OF THE SOUTHWEST CORNER OF SAID R.R. R.O.W., THENCE SOUTHERLY 92.81 FEET ALONG SAID R.R. R.O.W. TO THE SOUTHWEST CORNER OF SAID R.R. R.O.W., THENCE EASTERLY 17.00 FEET ALONG SAID R.R. R.O.W., THENCE SOUTHERLY 33.00 FEET ALONG SAID R.R. R.O.W. TO THE SOUTH LINE OF VACATED 55TH ST. R.O.W., THENCE WESTERLY 92.00 FEET ALONG SAID VACATED R.O.W., THENCE NORTHERLY 66.03 FEET TO THE SOUTH LINE OF SAID LOT 8 ALONG A LINE PARALLEL TO THE EAST LINE OF LOT 8, THENCE EASTERLY 25.97 FEET ALONG THE SOUTH LINE OF LOT 8 TO THE PLACE OF BEGINNING.

CONTAINING 7516.58 SF



<p>meyers, bueche & nies, inc civil engineers/surveyors 1750 3 mile road n.w. grand rapids, mi 49544 616-457-5030 www.mbnse.com</p>	<p>LEGEND</p> <ul style="list-style-type: none"> □ WOOD STAKE (SET) ○ IRON STAKE (SET) ● IRON STAKE (FOUND) --- FENCE M = MEASURED P = PLATTED
	<p>THIS DRAWING WAS MADE FROM THE LEGAL DESCRIPTION SHOWN HEREON. THE DESCRIPTION SHOULD BE COMPARED WITH THE ABSTRACT OF TITLE OR TITLE POLICY FOR ACCURACY, EASEMENTS, AND EXCEPTIONS.</p>

Exhibit C

5522 Clay Ave SW Storm Water Easement Depiction and Description

EXHIBIT C

FOR: CITY OF WYOMING

DATE: 9-1-23

PROJECT NO: 19056 RIGHT-OF-WAY
RE: #5522 CLAY AVE SW

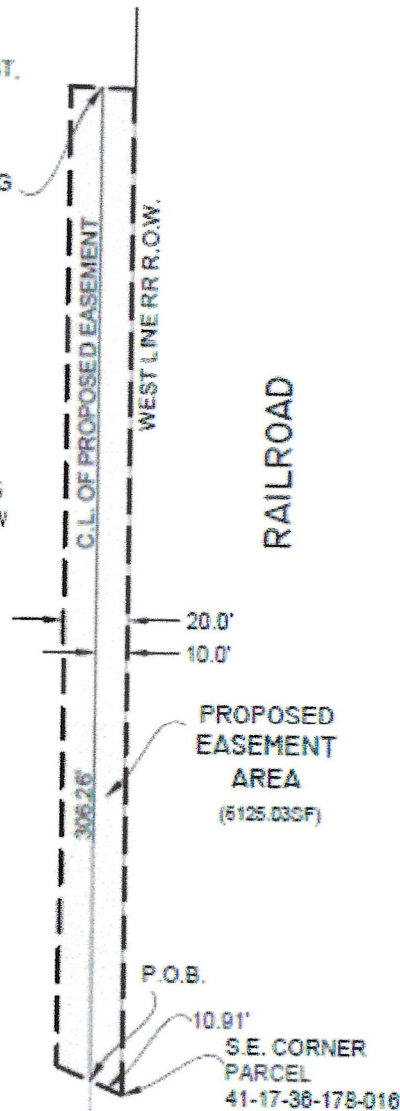


PROPOSED DESCRIPTION OF STORM WATER EASEMENT : A 20 FOOT WIDE EASEMENT FOR STORM WATER DRAINAGE, BEING 10 FEET EACH SIDE OF A CENTERLINE DESCRIBED AS BEGINNING 10.91 FEET NORTHWESTERLY ALONG THE SOUTH LINE OF PARCEL 41-17-36-178-016, SECTION 36, CITY OF WYOMING, KENT COUNTY, MICHIGAN, FROM THE SOUTHEASTERLY CORNER OF SAID PARCEL, THENCE NORTHERLY ALONG A LINE PARALLEL TO THE WEST LINE OF THE CONRAIL R.R. R.O.W., 305.26 FEET, TO THE POINT OF ENDING, LYING ON THE SOUTH LINE OF VACATED 55TH STREET
CONTAINING 6125.03 SF

SOUTH LINE VACATED 55TH ST.

POINT OF ENDING

41-17-36-178-016
5522 CLAY AVE. SW



SOUTH LINE OF PARCEL

41-17-36-179-035
5534 CLAY AVE SW

mbn

Meyers, Bueche & Hes, Inc.
Civil Engineers/Surveyors
1750 3 mile road n.w.
Grand Rapids, MI 49544
616-457-5030
www.mbnse.com

LEGEND

- WOOD STAKE (SET)
- IRON STAKE (SET)
- IRON STAKE (FOUND)
- - - FENCE
- M - MEASURED
- P - PLATTED

THIS DRAWING WAS MADE FROM THE LEGAL DESCRIPTION SHOWN HEREON. THE DESCRIPTION SHOULD BE COMPARED WITH THE ABSTRACT OF TITLE OR TITLE POLICY FOR ACCURACY, ERRATA, AND EXCEPTIONS.

Exhibit D

5534 Clay Ave SW Storm Water Easement Depiction and Description

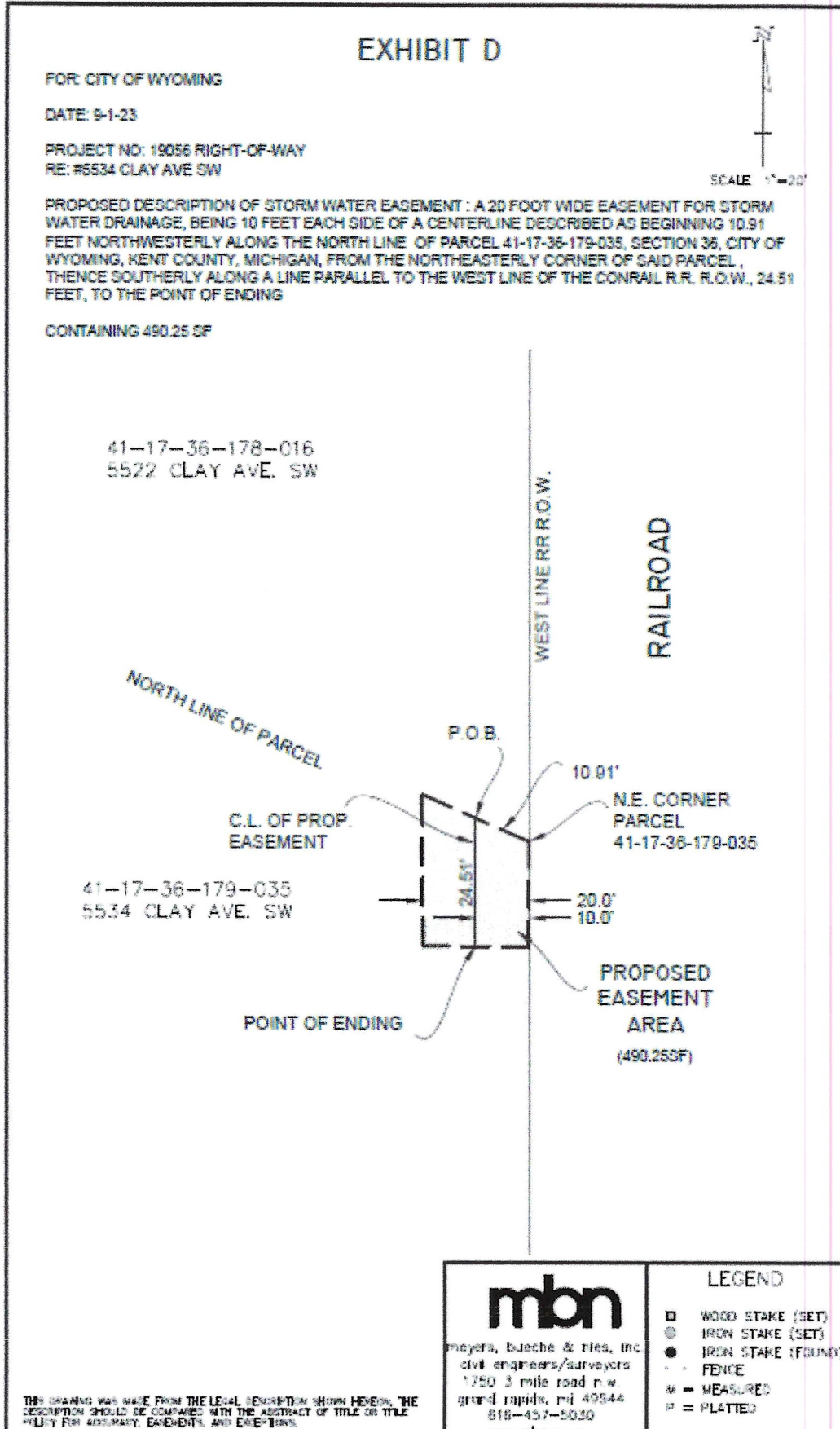


Exhibit E

Storm Water Easement Form

STORM WATER EASEMENT

Zuiderveen Enterprises, L.L.C., a Michigan limited liability company of 12828 Bayou Ct, Wayland, MI 49348 ("**Grantor**"), in exchange for the payment of \$6,000.00, the adequacy and receipt of which is acknowledged, grants to the City of Wyoming, a Michigan municipal corporation of 1155 28th St SW, Wyoming, MI 49509-0905 ("**Grantee**") a permanent easement (the "**Easement**") in, on, over, and under the real property described and depicted on the attached **Attachment 1** (the "**Easement Area**") for the purposes of constructing, installing, reconstructing, reinstalling, repairing, maintaining, replacing, improving, inspecting, monitoring, operating, and using, a storm water culvert, pipes, mains, lines, valves, pumps, manholes, and all related or appurtenant facilities.

At all times, Grantor reserves the right to use and allow others to use the Easement Area in any manner not inconsistent with the rights granted herein; provided, that except for any existing buildings, lean-to's, improvements, and utilities located within the Easement Area, Grantor shall not (i) construct, install, place, or plant, or (ii) allow others to construct, install, place, or plant within the Easement Area any new or additional buildings, structures, utilities, improvements, or vegetation that would interfere with or impede Grantee's then current or future use of its rights under this Easement.

Grantor shall provide Grantee reasonable access to the Easement Area via a route prearranged between Grantee and Grantor over Grantor's adjacent property as may be reasonably needed for Grantee to exercise its rights under this Easement.

In the event of any failure in the storm water system, drain line, or any other systems or improvements as contemplated by or installed pursuant to this Easement, except for any failure directly caused by Grantor's negligence or willful misconduct, Grantee shall be solely responsible and liable for any and all such costs and damages associated with or resulting from such failure.

Grantee shall, at Grantee's sole cost and expense, (i) repair any damage to Grantor's land and improvements caused by Grantee, and (ii) restore Grantor's land and improvements to substantially the same condition that Grantor's land was in prior to Grantee's exercise of the rights set forth herein, including but not limited to restoring any asphalt on the Grantor's land that is disturbed as a result of the rights granted to Grantee in this Easement. Without limiting the generality of the foregoing, Grantee shall be obligated to fill and grade to ground level any trench or ditch occupied by any water system improvements and to restore the drives, parking areas, shrubs, or grass to their former condition insofar as is reasonably possible. In the event of actual damages to fences, drains, drain tile, private roads, or other improvements caused by Grantee on Grantor's land in the exercise of the rights granted under this Easement which are not repaired and restored, Grantee shall pay to Grantor reasonable compensation therefor.

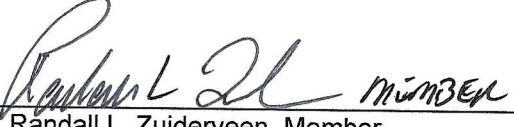
To the extent allowable by law, Grantee agrees to fully defend, indemnify, save, and hold harmless Grantor from any and all claims for damage to real and personal property and injuries and death suffered by persons in any manner caused by or growing out of or in any way connected with the rights granted to Grantee in this Easement, except that such hold harmless and indemnity provisions shall not be applicable in the event of gross negligence or willful misconduct by Grantor, its agents, successors and assigns.

Grantee's rights may be exercised by Grantee's officers, employees, engineering and other consultants, contractors, and other designated agents and representatives. Grantee may assign this Easement to any successor of Grantee or other entity owning the stormwater improvements constructed or installed under this Easement.

This Easement shall run with land as a perpetual easement and shall be binding on Grantor and Grantor's successors, heirs, assigns and all owners of the property upon which the Easement Area is located. "Grantor" includes Grantor as identified above and its successors, heirs, assigns and all other owners of the property upon which the Easement Area is located.

[Signature and Notary Page Follows]

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

<p>GRANTOR:</p> <p>ZUIDERVEEN ENTERPRISES, L.L.C., a Michigan limited liability company</p> <p>By: <u></u> Randall L. Zuiderveen, Member</p>	<p>STATE OF MICHIGAN COUNTY OF _____</p> <p>Acknowledged before me in _____ County, Michigan, on _____, 2024, by Randall L. Zuiderveen, a member of Zuiderveen Enterprises, L.L.C., a Michigan limited liability company, on behalf of the company.</p> <p>_____, Notary Public _____, Michigan Acting in _____ County, Michigan My commission expires: _____</p>	
<p>GRANTEE:</p> <p>CITY OF WYOMING, a Michigan municipal corporation</p> <p>By: _____ Kent Vanderwood, Mayor</p> <p>By: _____ Kelli A. VandenBerg, City Clerk</p>	<p>STATE OF MICHIGAN COUNTY OF _____</p> <p>Acknowledged before me in _____ County, Michigan, on _____, 2024, by Kent Vanderwood, Mayor of the City of Wyoming, a Michigan municipal corporation, on behalf of the City of Wyoming.</p> <p>_____, Notary Public _____, Michigan Acting in _____ County, Michigan My commission expires: _____</p> <p>STATE OF MICHIGAN COUNTY OF _____</p> <p>Acknowledged before me in _____ County, Michigan, on _____, 2024, by Kelli A. VandenBerg, City Clerk of the City of Wyoming, a Michigan municipal corporation, on behalf of the City of Wyoming.</p> <p>_____, Notary Public _____, Michigan Acting in _____ County, Michigan My commission expires: _____</p>	
<p>Exempt from transfer taxes under MCL 207.526(a) & MCL 207.505(a).</p>		
<p>Drafted by: Scott G. Smith, City Attorney 2650 DeHoop Ave SW Wyoming, MI 49509</p>	<p>Legal Description prepared by: Meyers, Bueche & Nies, Inc. 1750 3 Mile Rd NW Grand Rapids, MI 49544</p>	<p>When recorded, return to: Kelli A. VandenBerg, City Clerk 1155 28th St SW Wyoming, MI 49509-0905</p>

ATTACHMENT 1

Depiction and Description of Easement Area

PROPOSED DESCRIPTION OF STORM WATER EASEMENT : A 20 FOOT WIDE EASEMENT FOR STORM WATER DRAINAGE, BEING 10 FEET EACH SIDE OF A CENTERLINE DESCRIBED AS BEGINNING 10.91 FEET NORTHWESTERLY ALONG THE SOUTH LINE OF PARCEL 41-17-36-178-016, SECTION 36, CITY OF WYOMING, KENT COUNTY, MICHIGAN, FROM THE SOUTHEASTERLY CORNER OF SAID PARCEL, THENCE NORTHERLY ALONG A LINE PARALLEL TO THE WEST LINE OF THE CONRAIL R.R. R.O.W., 306.26 FEET, TO THE POINT OF ENDING, LYING ON THE SOUTH LINE OF VACATED 55TH STREET

CONTAINING 6125.03 SF

SOUTH LINE VACATED 55TH ST.

POINT OF ENDING

41-17-36-178-016
5522 CLAY AVE. SW

C.L. OF PROPOSED EASEMENT

WEST LINE RR R.O.W.

RAILROAD

20.0'
10.0'

PROPOSED
EASEMENT
AREA
(6125.03SF)

SOUTH LINE OF PARCEL

41-17-36-179-035
5534 CLAY AVE. SW

P.O.B.

10.91'
S.E. CORNER
PARCEL
41-17-36-178-016

mbn

meyers, busche & nies, inc.
civil engineers/surveyors
1750 3 mile road n.w.
grand rapids, mi 49544
616-457-5030
www.mbnise.com

LEGEND

- WOOD STAKE (SET)
- IRON STAKE (SET)
- IRON STAKE (FOUND)
- - FENCE
- ≡ MEASURED
- ▭ PLATTED

THIS DRAWING WAS MADE FROM THE LEGAL DESCRIPTION SHOWN HEREON. THE DESCRIPTION SHOULD BE COMPARED WITH THE ABSTRACT OF TITLE OR TITLE POLICY FOR ACCURACY, EMBODIMENT, AND EXECUTION.

PROPOSED DESCRIPTION OF STORM WATER EASEMENT : A 20 FOOT WIDE EASEMENT FOR STORM WATER DRAINAGE, BEING 10 FEET EACH SIDE OF A CENTERLINE DESCRIBED AS BEGINNING 10.91 FEET NORTHWESTERLY ALONG THE NORTH LINE OF PARCEL 41-17-36-179-035, SECTION 36, CITY OF WYOMING, KENT COUNTY, MICHIGAN, FROM THE NORTHEASTERLY CORNER OF SAID PARCEL, THENCE SOUTHERLY ALONG A LINE PARALLEL TO THE WEST LINE OF THE CONRAIL R.R. R.O.W., 24.51 FEET, TO THE POINT OF ENDING

CONTAINING 490.25 SF

41-17-36-178-016
5522 CLAY AVE. SW

41-17-36-179-035
5534 CLAY AVE. SW

NORTH LINE OF PARCEL

WEST LINE RR R.O.W.

RAILROAD

C.L. OF PROP. EASEMENT

P.O.B.

10.91'

N.E. CORNER
PARCEL
41-17-36-179-035

24.51'

20.0'
10.0'

PROPOSED
EASEMENT
AREA
(490.25SF)

POINT OF ENDING

mbn

meyers, bueche & ntes, inc.
civil engineers/surveyors
1750 3 mile road n.w.
grand rapids, mi 49544
616-457-5030
www.mbrise.com

LEGEND

- WOOD STAKE (SET)
- IRON STAKE (SET)
- IRON STAKE (FOUND)
- - - FENCE
- M = MEASURED
- P = PLATTED

THIS DRAWING WAS MADE FROM THE LEGAL DESCRIPTION SHOWN HEREON. THE DESCRIPTION SHOULD BE COMPARED WITH THE ABSTRACT OF TITLE OR TITLE POLICY FOR ACCURACY, EASEMENTS, AND EXCEPTIONS.

RESOLUTION NO. _____

RESOLUTION TO APPROVE AND AUTHORIZE SIGNING OF A CITY CENTER
PROJECT EASEMENT AGREEMENT

WHEREAS:

1. The city center project includes a pedestrian/bicycling bridge spanning 28th Street SW and its connection to an increasing network the West Michigan trails by new city trails.
2. One such city trail segment is along Burlingame Ave and requires an easement from General Motors, the owner of the property at 2100 Burlingame Ave SW.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The Easement Agreement between GM Components Holdings LLC as the grantor and the city as the grantee is approved in the form provided with the agenda for this meeting and the city gratefully accepts the nonmotorized trail easement.
2. The Mayor is authorized and directed to sign the Easement Agreement on behalf of the city and city officers and staff are authorized and directed to take all actions consistent with the easement.
3. All resolutions and parts of resolutions are, to the extent of conflict with this resolution, rescinded.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I certify that this resolution was adopted by the City Council of the City of Wyoming, Michigan at a regular meeting held on August 5, 2024.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Staff Report
Easement Agreement

Resolution No. _____

STAFF REPORT

Date: July 24, 2024
Subject: Accepting City Center Project Easement
From: Scott G. Smith, City Attorney
Meeting Date: August 5, 2024

RECOMMENDATION:

It is recommended City Council adopt the Resolution Approving and Authorizing Signing of City Center Project Easement Agreement with GM Components Holdings LLC.

ALIGNMENT WITH STRATEGIC PLAN:

- PILLAR 3 – Stewardship
 - GOAL 2 – Improve city infrastructure and reliability.
 - OBJECTIVE 1 – Complete City Center Project.

DISCUSSION:

To construct the trail segments needed to connect the city center to the ever-growing West Michigan network of trails, the city has needed to acquire easements on property owned by others. This segment is across the GM property just north of the Weller Auto property on Burlingame Ave SW to the Porter St right-of-way.

BUDGET IMPACT:

Costs associated with this easement is covered in the estimated project costs.

Prepared By and Return To:
General Motors LLC
Legal Staff
300 Renaissance Center
MC 482-C25-A68
Detroit, Michigan 48265
Attention: Victoria E. Urbach, Esq.

EASEMENT AGREEMENT

THIS EASEMENT AGREEMENT (this “**Agreement**”) is entered into as of July 16, 2024 (the “**Effective Date**”), by and between GM COMPONENTS HOLDINGS LLC, a Delaware limited liability company (“**Grantor**”), and the CITY OF WYOMING, a Michigan municipal corporation (“**Grantee**”).

RECITALS

- A. Grantor owns certain property commonly known as 2100 Burlingame Ave SW, Wyoming, Michigan 49509 (the “**Property**”).
- B. Grantee has requested an easement over part of the Property, and Grantor is willing to grant such easement pursuant to the terms of this Agreement.

AGREEMENT

NOW, THEREFORE, in consideration of the covenants and conditions below and other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

- 1) **RECITALS:** The Recitals above are true and are incorporated into the body of this Agreement.
- 2) **GRANT:** Subject to the terms and conditions of this Agreement, Grantor grants to Grantee the following easement (the “**Easement**”) in and across that part of the Property described on **Exhibit A** hereto and depicted on **Exhibit B** hereto (the “**Easement Area**”) solely for the following purposes (together the “**Permitted Use**” and each also a “**Permitted Use**”): (a) the area legally described that encumbers the Property on **Exhibit A** and labeled on **Exhibit B** as “**25 Foot Wide Bike Path Easement**” shall be a non-exclusive easement for the sole purposes of constructing, operating, using, maintaining, repairing, replacing, and removing a pedestrian and bicycling trail (the “**Trail**”), which shall only be used for pedestrian, bicycling, and other nonmotorized trail uses subject to only the following exceptions: (a) electric bikes, wheelchairs, skateboards, and scooters may be used for trail uses on the Trail only in accordance with Applicable Law (including Grantee’s ordinances and trail rules), and (b) Grantee, its employees, agents, and contractors may operate

motor vehicles in the Easement Area solely to construct, operate, maintain, repair, replace, and remove the Trail.

- 3) **TERM:** The term of this Agreement begins on the Effective Date and shall continue until it is terminated (the “**Term**”). Grantor may terminate this Agreement if (a) Grantee defaults under this Agreement, or (b) the Easement is vacated or abandoned. If this Agreement is terminated, then at Grantor’s request Grantee shall, at Grantee’s sole cost, execute and deliver any and all documents or instruments required to remove the Easement from the Property and the applicable public records.
- 4) **REPAIR OF PROPERTY:** Grantee shall, at its sole cost, repair any damage to the Property caused by Grantee or any of Grantee’s employees, agents, contractors, invitees, the public, or others at the Property for or on behalf of Grantee (together, the “**Grantee Parties**”).
- 5) **THE TRAIL:**
 - a) **OWNERSHIP:** The Trail shall be the sole property of Grantee subject to the other terms and conditions of this Agreement. The term “**Trail**” shall include any improvements constructed or equipment and other property otherwise installed or used by Grantee in the Easement Area.
 - b) **RELOCATION:** Grantor has the right, from time-to-time but at Grantor’s sole cost and expense, to elect that Grantee relocate the Trail (and/or to relocate any part of the Easement) if Grantor determines, in its sole discretion, that it would be necessary or convenient to do so in connection with Grantor’s use of the Property.
 - c) **WORK:** Grantee shall, at Grantee’s sole cost, construct, operate, use, maintain, repair, and replace the Trail and the Easement Area in a good and workmanlike manner and in accordance with the other terms and conditions of this Agreement including, without limitation, the following:
 - i) **Approval.** Before beginning any construction, installation, maintenance, repairs, replacements, or other work (collectively, “**Work**”) under this Agreement, Grantee shall request Grantor’s prior written consent, which Grantor may grant or withhold in its reasonable discretion. Such requests shall be in writing and shall include all of the plans and specifications for such Work. If Grantor fails to grant or withhold its consent in writing within ten (10) business days after receiving Grantee’s written request, then Grantor shall be deemed to have granted its consent to such request.
 - ii) **Access.** To access the Easement Area for any Work, Grantee shall first request Grantor’s prior written consent at least one (1) business day in advance.
 - iii) **Emergencies.** Notwithstanding the foregoing provisions of this Section, in an emergency (*i.e.*, any circumstance that would pose an objectively reasonable risk to the health or safety of persons or property), Grantee need only give as much prior notice, if any, as is reasonably practical before accessing the Easement Area or performing Work.
 - iv) **Standard of Performance.** Grantee shall, at Grantee’s sole cost, construct, operate, use, maintain, repair, and replace the Trail and the Easement Area to (aa) the same standard and with the same level of care as Grantee maintains its sidewalks and other trails, and (bb) Grantor’s reasonable satisfaction. Such maintenance shall include, for example and without limitation, (i) snow plowing and removal, (ii) removal of graffiti, (iii) repairing or replacing components of fencing as needed to address failing components, sagging, bent, or broken components, and other issues making it dysfunctional or unsightly, (iv) replacing light bulbs and other components of the lights to keep them in working condition and to address any broken or unsightly components, and (v) cutting, trimming, and replacing landscaping elements as needed to avoid overgrown, dead or diseased vegetation, and to keep the landscaping from being hazardous or unsightly.
 - v) **Specific Work.** Grantee shall, at Grantee’s sole cost, before the Trail is first open for public use, and subject to the other terms and conditions of this Agreement:

- (1) Remove and then reinstall or replace the fence along Grantor's south property line that is adjacent to Grantee-owned property to ensure it is at least six feet above the surface of the land in order to correct for the lower height resulting from settling, the accumulation of materials at the fence, or other causes. Grantee shall, without expense to Grantor, maintain the fence once it is reinstalled or replaced so that it serves as a six-foot perimeter barrier between Grantor's and Grantee's respective properties.
 - (2) Construct or install a fence at least six feet in height along the eastern edge of the Easement Area and install appropriate lighting to illuminate the Trail. The fence shall be of steel, aluminum, or similarly sturdy material, though it may be clad or otherwise improved for aesthetic reasons. Grantor consents to use of a chain link fence material for this fence.
 - (3) Grantor abandons the curb-cut and driveway currently located within the Easement Area, and Grantee shall replace the curb-cut with curb and remove the concrete within and regrade the driveway.
- vi) **Self-Help.** To avoid doubt, Grantor shall have no duty whatsoever to construct, operate, maintain, repair, replace, or remove the Trail or the Easement Area. However, Grantor shall have the right, at Grantee's sole expense, to correct any condition in the Easement Area Grantor determines is hazardous to persons or property or would otherwise cause a Loss (defined below). Unless such condition presents an imminent threat to persons or property, Grantor shall do so only after giving at least seven (7) days' prior written notice to Grantee's City Manager to allow Grantee a reasonable period of time to address the condition. This paragraph is subject to the other provisions of this Agreement.
- vii) **Notices.** Notwithstanding **Section 20** below, notices under this **Section** may also be given by email to the following addresses or such others as each party may from time to time select by notifying the other by email: (a) if to Grantor, then to Leo Brennan at leo.brennan@gm.com, and (b) if to Grantee, then to Scott Smith at scott.smith@wyomingmi.gov. Such notices shall be deemed delivered on the same business day as transmitted (read receipt requested, with confirmation not to be unreasonably withheld, conditioned or delayed) so long as sent before 5:00 p.m. Eastern time on a business day.
- 6) **PUBLIC RECORDS:** The Easement is subject to any and all matters of record and those matters that a personal inspection or survey of the Property would reveal. GRANTEE ACCEPTS THE EASEMENT AND EASEMENT AREA "AS IS." GRANTEE ACKNOWLEDGES THAT NEITHER GRANTOR NOR ANY OF GRANTOR'S AFFILIATES (AS HEREINAFTER DEFINED) HAS MADE ANY WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED, WITH RESPECT TO ANY OF THE PROPERTY, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OR REPRESENTATION AS TO (A) FITNESS, DESIGN, OR CONDITION FOR ANY PARTICULAR USE OR PURPOSE, (B) THE QUALITY OF THE MATERIAL OR WORKMANSHIP THEREIN, (C) THE EXISTENCE OF ANY DEFECT, LATENT OR PATENT, (D) COMPLIANCE WITH LAWS, INCLUDING, WITHOUT LIMITATION, ENVIRONMENTAL LAWS (E) LOCATION, (F) USE, (G) OPERATION, OR (H) THE EXISTENCE OF ANY HAZARDOUS SUBSTANCE (AS HEREINAFTER DEFINED); AND ALL RISKS INCIDENT THERETO ARE TO BE BORNE BY GRANTEE. GRANTEE ACKNOWLEDGES THAT THE PROPERTY HAS BEEN INSPECTED BY GRANTEE AND IS SATISFACTORY TO IT FOR THE PERMITTED USE. IN THE EVENT OF ANY DEFECT, DEFICIENCY, OR CONDITION, INCLUDING, WITHOUT LIMITATION, THE ENVIRONMENTAL CONDITION, IN OR OF ANY OF THE PROPERTY OF ANY NATURE, WHETHER LATENT OR PATENT, GRANTOR SHALL NOT HAVE ANY RESPONSIBILITY OR LIABILITY FOR ANY DAMAGES, INCLUDING INCIDENTAL OR CONSEQUENTIAL DAMAGES. GRANTEE RELEASES AND DISCHARGES GRANTOR FROM ANY AND ALL CLAIMS OR CAUSES OF ACTION, INCLUDING, WITHOUT

LIMITATION, ANY THAT ARISE UNDER ANY ENVIRONMENTAL LAWS. THIS SECTION SHALL SURVIVE THE TERMINATION OF THIS AGREEMENT.

- 7) **INTENTIONALLY DELETED.**
- 8) **COMPLIANCE WITH GRANTOR RULES:** Grantee shall comply with all rules, regulations, guidelines, procedures, protocols, directives, and the like established from time to time by Grantor relating to the Property (collectively, the “**Rules and Regulations**”). The initial Rules and Regulations include, but are not limited to, the following: No tailgating, cooking, loitering, firearms, or weapons of any kind are permitted on the Property.
- 9) **SUPERVISION:** Grantee shall be solely responsible during the term of this Agreement for all Work. Grantee shall take all reasonable precautions, including, but not limited to, posting signs and placing fencing and barricades, as are necessary in the interest of public safety and for the safety of any persons working on or traveling upon or in any way using the Easement Area. Grantee shall also be responsible for and take all reasonable precautions for the protection of all persons and of real and personal property situated on the perimeter adjacent to or abutting the Easement Area.
- 10) **CONFORMITY WITH LAW:** Grantee’s use of the Easement Area, including, without limitation, all Work, shall be in conformity with safe practices and shall at all times be in compliance with all applicable local, state, and federal laws, statutes, rules, regulations, ordinances, orders, and codes including Environmental Law (defined below) (“**Applicable Law**” or “**applicable law**”). Grantee shall be solely responsible for obtaining and maintaining any and all permits or other easements required for Grantee to use the Easement Area for the Permitted Use. To illustrate but not limit the preceding sentence, Grantee shall, at Grantee’s sole expense, be solely responsible for addressing any electric service or electric transmission lines, poles, and other support structures (*e.g.*, guy lines) that may impact the Trail, but any changes thereto shall also be subject to Grantor’s prior written consent.

Grantee acknowledges and agrees that wetlands or protected habitat may be present in, or in close proximity to, the Easement Area. Grantee covenants that Grantee shall be responsible, at its sole cost and expense and in accordance with all applicable laws, for any wetlands mitigation or protected habitat considerations that may be necessary as a result of Grantee’s use of the Easement Area. Any proposed wetlands mitigation or protected habitat considerations by Grantee shall be subject to Grantor’s prior written approval, which approval shall be granted or denied in its sole discretion.

Grantee acknowledges and agrees that any and all soil and/or debris management and surface water and/or groundwater management required or necessary because of excavation, construction or soil disturbance related to Grantee’s use of the Easement Area, is the sole obligation and liability of Grantee; provided, however, in the event Grantee identifies the presence, or the potential presence, of any Hazardous Substances (as defined below) in or about the Easement Area or the Property while working on the Easement Area, Grantee shall immediately cease such excavation, construction or improvement activity and shall promptly notify Grantor. Thereafter, any further activity at the impacted area shall commence only upon the agreement of Grantor and after having taken into consideration whether any corrective action may be necessary.

Grantee acknowledges and agrees that for the purpose of disposal under any applicable laws, Grantee is the “owner” of any and all residual soil, water or other environmental media collected or produced in connection with the Permitted Use of the Easement Area. Grantee shall be solely responsible for the lawful disposal of any such material collected or produced in connections with Grantee’s activities and shall coordinate all disposal activities through the Grantor’s Environmental Engineer who will identify the disposal location.

- 11) **INSURANCE:** Prior to any Work and throughout the term of this Agreement, Grantee and its contractors (if applicable) shall obtain and maintain, at Grantee's and its contractors' sole cost and expense, and keep in force insurance policies providing the following coverages:
- a) A policy of commercial general public liability insurance, protecting and indemnifying Grantor and Grantee against any and all liabilities and claims for damages to persons or property occasioned on or about any part of the Easement Area, and all other areas adjacent to the Easement Area, with such policy to be in the minimum amount of One Million Dollars (\$1,000,000) per occurrence, and in the amount of Two Million Dollar (\$2,000,000) combined single limit per occurrence, for personal injury and property damage;
 - b) Worker's compensation insurance having such limits, and containing such terms and conditions as are required under applicable law;
 - c) A policy of business automobile liability insurance, including owned, non-owned, and hired automobile insurance: (i) with a minimum limit for bodily injury of Five Hundred Thousand Dollars (\$500,000) per person and One Million Dollars (\$1,000,000) per occurrence; (ii) with a minimum limit for property damage of One Million Dollars (\$1,000,000) per occurrence; and (iii) with a combined single limit for bodily injury and property damage of Two Million Dollars (\$2,000,000) per occurrence;
 - d) Excess liability of Two Million Dollars (\$2,000,000) per occurrence and aggregate; and
 - e) Such other insurance, in such amounts and in such form as may reasonably be required by Grantor from time to time during the term of this Agreement.

All insurance policies required to be procured and maintained hereunder shall (i) be issued by financially responsible insurance companies acceptable to Grantor; (ii) be written as primary policy coverage and not contributing with or in excess of any coverage which Grantor may carry; (iii) with the exception of worker's compensation insurance, insure and name Grantor as an additional insured as its interests may appear; and (iv) contain an express waiver of any right of subrogation by the insurance company against Grantor and its agents and employees. Neither the issuance of any insurance policy required hereunder, nor the minimum limits specified herein with respect to any insurance coverage, shall be deemed to limit or restrict in any way the liability of Grantee (or any Grantee Party) arising under or out of this Agreement. On or before the execution of this Agreement by the parties herein, Grantee shall deliver to Grantor certificates of insurance evidencing all of the coverages required hereunder. Each insurance policy, with the exception of worker's compensation insurance (and any renewal or extension thereof), required to be carried hereunder shall provide that, unless Grantor shall first have been given thirty (30) days prior written notice, (i) such insurance policy shall not be canceled and shall continue in full force and effect; (ii) the insurance carrier shall not, for any reason whatsoever, fail to renew such insurance policy; and (iii) no material changes may be made in such insurance policy (which changes shall also require Grantor's prior written approval).

Grantee shall not do or permit to be done any act or thing upon the Easement Area that will invalidate or be in conflict with any insurance policies covering the same. Grantee shall promptly comply with all insurance underwriters, rules, orders, regulations, or requirements relating to such insurance policies, and shall not do or permit anything to be done in or about the Easement Area that shall increase the rate of insurance on the Property.

- 12) **INDEMNIFICATION:** Grantee shall defend, indemnify, protect, and save harmless Grantor and its Affiliates (as defined below), and their respective members, partners, venturers, stockholders, directors, officers, employees, agents, spouses, legal representatives, successors and assigns (together, the “Grantor Parties”) from and against any and all Losses (defined below) that arise from or relate to: (a) any act or omission of Grantee or any Grantee Party; (b) any default of this Agreement or any provision hereof by Grantee; (c) the presence of Grantee’s property or equipment on the Easement Area including, without limitation, the Trail; (d) injury to person or property or loss of life sustained in or about the Easement Area; or (e) any violation by Grantee of any Environmental Law or the release of any Hazardous Substances (as defined below) at, in, on or under the Property as a result of Grantee’s use of the Easement Area, all regardless of whether such claims are asserted or incurred before, during, or after the term of this Agreement. This paragraph shall survive the termination of this Agreement. “Affiliate” means, with respect to any Person, any Person that controls, is controlled by or is under common control with such Person, together with its and their respective partners, venturers, directors, officers, stockholders, agents, employees and spouses. A Person shall be presumed to have control when it possesses the power, directly or indirectly, to direct, or cause the direction of, the management or policies of another Person, whether through ownership of voting securities, by contract, or otherwise. “Person” means an individual, partnership, limited liability company, association, corporation or other entity. Grantee waives (but only for the purpose of this indemnity provision) any provision of any workers’ compensation act or other similar law whereby Grantee could preclude its joinder by any Grantor Party as an additional defendant, or avoid liability for damages, contribution, or indemnity in any legal action where Grantee, its employees, or their respective heirs or assigns, or anyone otherwise entitled to receive damages by reason of injury or death, brings an action at law against any Grantor Party. “Losses” means any and all losses, damages, liabilities, deficiencies, debts, obligations, liens, judgments, settlements, interest, awards, penalties, fines, costs, expenses (including attorneys’ and other professional fees), demands, claims, proceedings, suits, and actions of whatever kind, whether known or unknown.
- 13) **RELEASE:** Grantee, for and on behalf of (A) itself, (B) each Grantee Party, (C) each of the foregoing party’s affiliates, (D) each of the foregoing party’s members, partners, shareholders, directors, officers, employees, agents, contractors, representatives, attorneys, successors, and assigns, and (E) all other persons or entities claiming by, through, or under any of the foregoing parties (collectively the “Releasing Parties” and each a “Releasing Party”) settles, cancels, acknowledges to be fully satisfied, releases, and discharges the Grantor Parties from, and covenants not to sue the Grantor Parties for, Losses that any Grantee Party had or may now or hereafter have against any Grantor Party or that any Releasing Party has or may now or hereafter incur, as applicable, arising from or related to (V) the condition of the Property (including, but not limited to, the Property’s environmental condition), (W) use of the Easement, (X) injury to or death of person or damage to or loss of property on or about the Easement Area including, but not limited to, the Trail, (Y) the acts or omissions of any third-party occupant of the Property, or (Z) this Agreement, except, subject to the other provisions of this Agreement, for a Grantor Party’s sole gross negligence or intentional misconduct. This paragraph shall survive the termination of this Agreement.
- 14) **VACATION OF PROPERTY:** Upon the termination of this Agreement, Grantee shall, at its sole cost, (a) vacate the Easement Area (including, without limitation, the removal of all of the Trail), (b) repair any damage to the Easement Area and the Property caused by Grantee’s use thereof or caused by Grantee’s removal of the Trail or Grantee’s materials, equipment, or other property therefrom, and (c) restore the Easement Area to substantially the same condition as existed before Grantee first began using the Easement Area for the Permitted Use.

15) **HAZARDOUS SUBSTANCES, ENVIRONMENTAL COMPLIANCE, AND PROHIBITED USE:**

a) Grantee and the Grantee Parties shall not at any time cause or permit any Hazardous Substances to be brought upon, kept, used, or released in, on, or about the Easement Area or the Property. “**Hazardous Substances**” are defined as any hazardous substances, hazardous wastes, toxic substances, contaminants, pollutants, petroleum, petroleum byproducts, or derivatives, or words of similar import, as those terms are defined and regulated now or in the future under CERCLA, 42 U.S.C. § 9601 et seq., RCRA, 42 U.S.C. § 6901 et seq., TSCA, 15 U.S.C. § 2601 et seq., the Clean Air Act, 42 U.S.C. 7401 et seq., the Federal Water Pollution Control Act, 33 U.S.C. 1251 et seq., the Safe Drinking Water Act, 42 U.S.C. 300(f) et seq., the Hazardous Materials Transportation Act, 49 U.S.C. 1801 et seq., and the Occupational Safety and Health Act, 29 U.S.C. 651 et seq., all as amended, or any other federal, state, or local statute, regulation, ordinance, or order that relates to protection of the environment, natural resources, or public health (“**Environmental Laws**”), and include any per- and polyfluoroalkyl substances whether or not so defined or regulated.

b) Grantee shall, if requested by Grantor, cooperate to produce any required reporting under Environmental Laws, such as calculating threshold determinations for reporting under the Emergency Planning and Community Right-to-Know Act of 1986. Notwithstanding this obligation, Grantee shall also separately comply with such requirements to the extent applicable to Grantee’s Permitted Use hereunder.

c) Grantee shall: (i) comply with all Environmental Laws, (ii) comply with all requirements of this Agreement, and (iii) take such actions as may be reasonably required to protect the Easement Area and the Property against environmental liabilities. Without limiting the foregoing, if the presence of any Hazardous Substances on or about the Easement Area or the Property caused or permitted by Grantee, either before or after the Effective Date, results in any contamination of any portion of the Easement Area or the Property or Grantee is in noncompliance with any legal requirements, including Environmental Laws, or Agreement requirements, Grantee shall promptly take all actions at its sole cost as are necessary to (x) return the Easement Area or the Property to the condition existing prior to the introduction of any such Hazardous Substances, or (y) cure the noncompliance matter, subject to obtaining Grantor’s prior written consent to the actions to be taken by Grantee.

d) Grantee acknowledges that Grantor has the right to continued access to the Easement Area during the term of this Agreement to: (i) investigate and remediate any environmental concerns on the Property, and (ii) periodically conduct inspections to determine Grantee’s conformance with legal requirements, including Environmental Laws, and Agreement requirements. In doing so, Grantor shall exercise reasonable efforts to avoid unreasonably interfering with Grantee’s operations on the Easement Area. Grantee shall provide Grantor with all keys, access codes, or other items required to access the Easement Area and with all reasonable cooperation in Grantor’s inspections, investigations, and remediation, if any, including, without limitation, the prompt removal or relocation of vehicles on the Easement Area.

e) In the event Grantor’s inspections disclose any matter of nonconformance with legal requirements, including Environmental Laws, or Agreement requirements, Grantor shall notify Grantee in writing and Grantee shall promptly take all actions necessary, to Grantor’s reasonable satisfaction, to remedy such nonconformance. Notwithstanding the foregoing and in addition to Grantor’s other rights and remedies in this Agreement, in the event Grantee fails to fulfill any of its obligations or covenants herein related to Hazardous Substances or compliance with Environmental

Laws, Grantor shall have the right to take any and all actions with respect to any such Hazardous Substances or noncompliance with Environmental Laws, including, without limitation, taking remedial or cleanup actions to address any spills or discharges not properly handled by Grantee or actions necessary to cure any matter of noncompliance with Environmental Laws, to Grantee's detriment and at Grantee's sole cost. In addition, Grantor shall have all of its rights and remedies at law or in equity, including, without limitation, the right to immediately terminate this Agreement.

f) Grantee shall promptly notify Grantor of any (i) enforcement, clean-up, removal, order, or demand inspection, or other governmental or regulatory action concerning the Property instituted, completed or threatened pursuant to any Environmental Law, (ii) claim made or threatened by any Person against Grantor and/or Grantee, or the Property, relating to damage, contribution, cost recovery, compensation, loss or injury resulting from or claimed to result from any Hazardous Substances or matter of alleged noncompliance with Environmental Laws, (iii) reports made to any environmental agency arising out of or in connection with any Hazardous Substance or matter of alleged noncompliance with Environmental Laws in, on, or about the Property including with respect to any Hazardous Substance removed from the Property and including any complaints, notices, warnings, reports or asserted violations in connection therewith, and (iv) Hazardous Substance that Grantee knows has been, or will come to be, released or located within, under or about the Property.

g) Grantee acknowledges that the Easement Area is regulated as a "facility" (as that term is defined by MCL § 324.20101(1)(s)) and is subject to the "due care" provisions of Michigan Public Act 451, Part 201. Grantee acknowledges and agrees that Grantee has received and reviewed a copy of the Due Care Plan, dated September 2019, as amended, or updated, that has been prepared for the Property in accordance with Section 20107a of Part 201 of the Michigan Natural Resources and Environmental Protection Act, P.A. 451, 1004, as amended. The Due Care Plan covers the Easement Area and Property. Grantee covenants and agrees that Grantee shall be solely responsible during the Term to implement and maintain the Due Care Plan as the same relates to the Easement Area and shall indemnify and hold Grantor harmless from and against all Losses that Grantor may incur or pay out by reason of Grantee's breach of its obligations under this Subsection. Grantee shall, as part of implementing the Due Care Plan: (i) perform an annual inspection of the Easement Area each September to evaluate its compliance with the requirements in the Due Care Plan, (ii) give Grantor at least five (5) business days prior notice that Grantee is inspecting the Easement Area (by notifying Marianne Secrest at marianne.secrest@gm.com or (o) 1-248-535-5032 or any other person that Grantor designates), so that Grantor's representative may observe such inspections, and (iii) provide Grantor with a written report of its inspection, including any repairs or maintenance that may be needed in order to comply with the Due Care Plan. Notwithstanding anything in this Subsection to the contrary, Grantor shall have the right, but not the duty, upon five (5) business days' prior written notice to Grantee, to perform the inspection required under this Subsection and to provide to Grantee with the written report referenced in clauses (i) and (iii) of this Subsection, respectively, and to do so at any time (not just during the month of September), provided, however, if Grantor elects to do so, then Grantee shall nonetheless remain solely responsible to implement and maintain the Due Care Plan as otherwise set forth in this Agreement including, without limitation, the performance of any maintenance, repairs, and other actions recommended or required by such a written report.

h) NOTICE: THE INTEREST CONVEYED HEREBY IS SUBJECT TO A DECLARATION OF RESTRICTIVE COVENANT DATED JULY 17, 2020, AND RECORDED WITH THE KENT COUNTY REGISTER OF DEEDS AS RECORD NO. 202007240064874, AND ATTACHED HERETO AS **EXHIBIT C**.

i) This Section shall survive the termination of this Agreement.

- 16) **WASTE OR NUISANCE:** Grantee shall not commit, or suffer any Grantee Party to commit, waste or nuisance upon the Easement Area or the Property.
- 17) **PROTECTION FROM LIENS:** Grantee shall keep the Easement Area and the Property free and clear of any and all liens and encumbrances (a) for work performed by Grantee, or on Grantee's behalf, in connection with this Agreement, or (b) that may otherwise arise in connection with the exercise of Grantee's rights under this Agreement.
- 18) **TAXES:** Grantee shall be responsible for and shall pay, prior to delinquency, any and all taxes, assessments, levies, fees, and other governmental charges levied or assessed against or with respect to all of Grantee's personal property and equipment located or to be located on the Easement Area.
- 19) **GOVERNING LAW:** This Agreement shall be governed and construed in accordance with the laws of the state in which the Property is located.
- 20) **NOTICES:** All notices or other communications provided for under this Agreement shall be in writing, signed by the party giving the same, and shall be deemed properly given and received two (2) business days after being sent by overnight delivery service, all to the following addresses:

If to Grantor:	General Motors LLC c/o Real Estate 300 Renaissance Center MC 482-C19-GRE Detroit, MI 48265 Attn: Global Director of Real Estate Phone: 313-665-1105
If to Grantee:	City of Wyoming 2650 DeHoop Ave Wyoming, MI 49509 Attn: Scott G. Smith, City Attorney Phone: (616) 530-3194

Each party shall have the right to designate other or additional addresses or addressees for the delivery of notices, by giving notice of the same in the manner as previously set forth herein.

- 21) **COUNTERPARTS:** This Agreement may be executed in multiple counterparts, each of which shall be an original, but all of which shall constitute one and the same Agreement.
- 22) **REVIEW:** Grantee has had the opportunity to review this Agreement with its legal, tax, or other advisors. Grantee has carefully and fully read this Agreement and understands all of its rights and alternatives. In executing this Agreement, Grantee acknowledges that Grantee's decisions and actions are entirely voluntary and free from any mental, physical, or economic duress.
- 23) **ENTIRE AGREEMENT:** This Agreement constitutes and contains the entire and only existing and binding agreement between Grantor and Grantee concerning the Easement, and supersedes all prior and contemporaneous negotiations, agreements, proposed agreements, and understandings, if any, between the parties concerning the subject matter of this agreement. This Agreement may only be amended or modified in a writing signed by both parties.

- 24) **ASSIGNMENT:** The rights granted to Grantee by this Agreement are personal to Grantee. Grantee shall not sell, assign, or transfer this Agreement or any interest herein without the prior written consent of Grantor, which Grantor may grant or withhold in its sole discretion. Any change or transaction (or series of transactions) resulting in direct or indirect change in ownership or voting control of Grantee, whether as a result of merger, consolidation, issuance of additional equity interest, sale of assets, operation of law or otherwise, shall be deemed an assignment for purposes of this Section.
- 25) **JURY TRIAL WAIVER:** Each party irrevocably and unconditionally waives any right it may have to a trial by jury for any litigation or other dispute arising out of or relating to this Agreement.
- 26) **SEVERABILITY:** If any provision of this Agreement is declared void or unenforceable by a final judicial or administrative order, this Agreement shall continue in full force and effect, except that the void or unenforceable provision shall be deemed deleted and replaced with a provision as similar to such void or unenforceable provision as may be possible and be valid and enforceable.
- 27) **WAIVERS:** No right under this Agreement may be waived except by written instrument executed by the party waiving such right and no such written waiver shall be deemed a waiver of a future exercise of such right. No breach of this Agreement may be waived except by written instrument executed by the non-breaching party and no such written waiver shall be deemed a waiver of any preceding or succeeding breach. No consent or approval required or permitted by this Agreement if given shall be deemed a consent or approval to any subsequent or other act or omission.
- 28) **HEADINGS:** The headings of Sections of this Agreement are for convenience and reference only and do not modify the Sections in which they appear.
- 29) **THIRD PARTIES:** Access to the Easement Area under this Agreement is limited only to those Grantee Parties who have a legitimate need to use the Easement Area for the Permitted Use, and Grantee shall cause the Grantee Parties to comply with the terms and conditions of this Agreement.
- 30) **NO PUBLIC DEDICATION:** Nothing in this Agreement, expressed or implied, shall confer upon any person, other than the parties hereto and their permitted successors and assigns, any rights or remedies under or by reason of this Agreement. This Agreement shall be strictly limited to the purposes set forth in this Agreement. Accordingly, and not in limitation of the preceding sentence, this Agreement shall not oblige Grantor to grant Grantee (or any other party) any additional easements (or any other rights) whether or not related to the matters set forth in this Agreement.
- 31) **RETAINED RIGHTS:** All right, title, and interest in and to the Easement Area and such other parts of the Property that Grantee is given the right to use for access under this Agreement, which may be used and enjoyed without interfering with the rights conveyed to Grantee by this Agreement are reserved to Grantor. Accordingly, Grantor reserves the right to use the Easement Area in any manner and for any purpose that does not interfere with Grantee's use of the Easement or its other rights hereunder.
- 32) **LIMITATION OF DAMAGES:** Notwithstanding anything to the contrary in this Agreement, Grantor shall not be liable under this Agreement for any indirect, punitive, special, consequential, or incidental damages including, without limitation, lost profits.
- 33) **ATTORNEYS' FEES:** In the event of any dispute between the parties regarding the enforcement or effect of this Agreement, including one subject to arbitration, the non-prevailing party in any such dispute shall pay the prevailing party's reasonable attorneys' fees and costs incurred. In the

event of arbitration, the fees of the arbitrator and the cost of the arbitration shall be paid by the non-prevailing party. In the event that neither party wholly prevails, the court or arbitrator, as applicable, may apportion the costs or fees as the court or arbitrator deems appropriate.

- 34) **TIME OF THE ESSENCE:** Both parties agree that time is of the essence and that time specifications contained herein shall be strictly construed.
- 35) **AUTHORITY:** Grantor and Grantee each represent and warrant to the other that it has the authority to execute this Agreement and each individual signing on behalf of it is a duly authorized representative of the signing party and that his or her signature on this Agreement has been duly authorized by, and creates the binding and enforceable obligation of, the party on whose behalf the representative is signing.
- 36) **CUMULATIVE REMEDIES:** All rights and remedies provided in this Agreement are cumulative and not exclusive, and the exercise by either party of any right or remedy does not preclude the exercise of any other rights or remedies that may now or subsequently be available at law, in equity, by statute, in any other agreement between the parties, or otherwise.

[Signature pages follow.]

GRANTEE:

CITY OF WYOMING,
a Michigan municipal corporation

By: _____
Name: _____
Title: _____

STATE OF MICHIGAN)
) SS:
COUNTY OF)

BEFORE ME, a Notary Public in and for said county and state, personally appeared _____, as _____ of _____, who acknowledged that he/she did execute the foregoing instrument for and on behalf of said _____.

IN TESTIMONY WHEREOF, I have hereunto set my hand and seal as of this ___ day of _____, 20____.

Notary Public
Print Name: _____

[Signature pages continue.]

EXHIBIT A

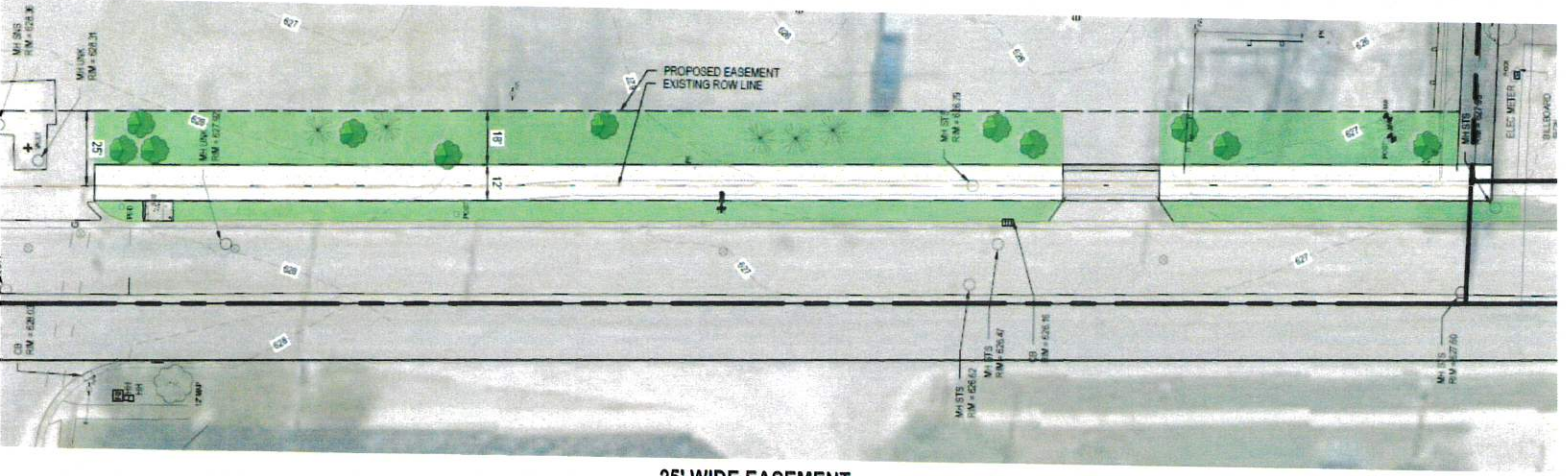
LEGAL DESCRIPTION OF THE EASEMENT AREA

25 FOOT WIDE BIKE PATH EASEMENT:

That part of the West 1/2 of Section 11, Town 6 North, Range 12 West, City of Wyoming, Kent County, Michigan, described as: Beginning at the West 1/4 Corner of said Section 11; thence S0°56'35"E, 499.53 feet along the West line of said Section 11 to the South line of the North 3/4 of the Northwest 1/4 of the Northwest 1/4 of the Southwest 1/4 of said Section 11; thence S88°17'12"E, 58.06 feet along said South line; thence N0°56'35"W, 499.59 feet to the East and West 1/4 line of said Section 11; thence N0°15'59"W, 33.02 feet; thence N88°18'35"W, 58.06 feet to the West line of said Section 11; thence S0°15'59"E, 33.02 feet along said West section line to the Point of Beginning, Except the West 33 feet thereof.

EXHIBIT B

DEPICTION OF THE EASEMENT AREA



25' WIDE EASEMENT

TRAIL PLAN
HOR 1" = 30'
NORTH

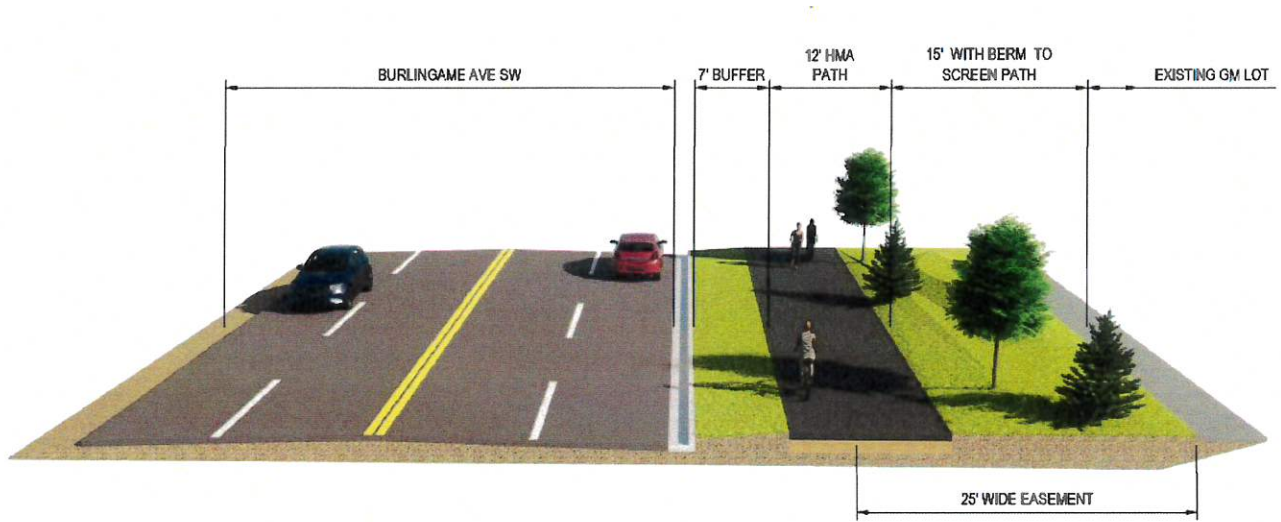


EXHIBIT C

DECLARATION OF RESTRICTIVE COVENANT

RECEIVED
REGISTER OF DEEDS
KENT COUNTY, MI

2020 JUL 23 12:59 PM

202007240064874 Total Pages: 19

07/24/2020 02:22 PM Fees: \$30.00

Lisa Posthumus Lyons, County Clerk/Register
Kent County, MI SEAL

DECLARATION OF RESTRICTIVE COVENANT

This Declaration of Restrictive Covenant ("Restrictive Covenant") has been recorded with the Kent County Register of Deeds for the purpose of protecting public health, safety, and welfare, and the environment by prohibiting or restricting activities that could result in potential unacceptable exposure to environmental contamination present at the property located at 2100 Burlingame Avenue Southwest, Wyoming, Michigan and legally described in Exhibit 1 and depicted in Exhibit 2, attached hereto ("Property").

On September 25, 2013, GM Components Holdings, LLC entered into an Administrative Order on Consent (AOC) with the United States Environmental Protection Agency (U.S. EPA) to investigate and remediate the sources of potential contamination located at the Property. Pursuant to that AOC, GM Components Holdings, LLC completed a Current Conditions Report (CCR) to describe historical and current site conditions; conducted a RCRA Facility Investigation (RFI) to characterize the nature, extent and migration rate of constituents of potential concern (COPCs), from areas of interest (AOIs) identified at the Site; prepared a Corrective Measures Proposal (CMP) to address COPCs as necessary to mitigate potential risks to human health and the environment; and agreed to implement the final corrective measures selected by U.S. EPA. The response activities that will be implemented to address environmental contamination are fully described in the United States Environmental Protection Agency (USEPA) Final Decision Document dated 18 July 2019.

Further, the Property has been identified to contain hazardous substances in excess of the concentrations of the unrestricted residential criteria under Section 20120a(1)(a) and (17) of the NREPA.

The response activities specified in the Final Decision, require the recording of this Restrictive Covenant with the Kent County Register of Deeds to: 1) restrict unacceptable exposures to petroleum and hazardous substances located on the Property; 2) assure that the use of Property is consistent with the exposure assumptions and limitations under the limited Nonresidential cleanup category of Section 20120a(1)(d) of the NREPA and the exposure control measures relied upon at the Property; and 3) to prevent damage or unmitigated disturbance of any element of the response activity constructed on the Property.

The restrictions contained in this Restrictive Covenant are based upon information available at the time the response activities were implemented. Failure of the response activities to achieve and maintain the criteria; maintenance of necessary exposure controls; future changes in the

environmental condition of the Property; the discovery of environmental conditions at the Property that were not accounted for during implementation of the response activities; or use of the Property in a manner inconsistent with the restrictions described herein, may result in this Restrictive Covenant potentially not being protective of public health, safety, and welfare, and the environment.

Definitions

For the purposes of this Restrictive Covenant, the following definitions shall apply:

"EGLE" means the Michigan Department of Environment, Great Lakes, and Energy, its successor entities, and those persons or entities acting on its behalf.

"Grantee" shall mean EGLE, its respective successor entities, and those persons or entities acting on its behalf.

"Grantor" shall mean GM Components Holdings, LLC, the current title holder of the Property at the time this Restrictive Covenant was executed, or any future title holder of the Property or some relevant sub-portion of the Property.

"Final Decision and Response to Comments (Final Decision)" shall mean the Final Decision and Response to Comments for selection of the Corrective Measures at the Site dated July 18, 2019.

"NREPA" shall mean the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, MCL 324.101 *et seq.*

"Owner" means at any given time the then current title holder of the Property or any portion thereof. The owner at the time this restrictive covenant was filed was GM Components Holdings, LLC.

"Part 201" shall mean Part 201, Environmental Remediation, of NREPA.

"Property" shall mean the property legally described in Exhibit 1 and depicted in Exhibit 2.

"Site" shall have the same meaning as Property.

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

Summary of Response Activities

The Property includes an automotive component manufacturing facility and adjacent lands owned by GM Components Holdings, LLC; the Property is currently known as GMCH Wyoming Operations. This Declaration of Restrictive Covenant covers only the Property that is owned by GM Components Holdings, LLC, as legally described in Exhibit 1 and depicted in Exhibit 2.

As a result of a former owner's historical manufacturing operations, petroleum and hazardous substances were released at the Property. The hazardous substances including chlorinated volatile organic compounds (CVOCs) and petroleum substances including hydrocarbon volatile

organic compounds (HVOCs), in excess of applicable current Part 201 EGLE cleanup criteria (December 30, 2013) have impacted soil and groundwater at the Property (Exhibit 3).

Residual hydrocarbon Light Nonaqueous-Phase Liquid (LNAPL) were identified and properly characterized and assessed and will remain in place beneath the Property. The LNAPL exists below the ground surface at a depth of approximately 5 to 9 below ground surface and is spatially limited (Exhibit 4) within the restricted area.

The restrictions provided for in this Restrictive Covenant serve to prevent unacceptable exposure to hazardous and petroleum substances, that exceed the unrestricted residential criteria under Section 20120a(1)(a) of the NREPA.

With the recording of this Restrictive Covenant all proposed remedial actions for the Property have been implemented to the satisfaction of the USEPA, updating and continued implementation of the Due Care Plan, and long-term operation and maintenance.

NOW THEREFORE,

1. Declaration of Land Use or Resource Use Restrictions

GM Components Holdings, LLC, as the Owner of the Property at the time of recording, hereby declares and covenants that the Property shall be subject to the following restrictions and conditions:

- a. Prohibited Land Uses: The Owner shall prohibit all residential land use on the Property as described in Exhibit 5 (Allowable Uses). Residential land use may include, but is not limited to, daycare and elder care facilities, homes and surrounding yards, condominiums, and apartments where people live and sleep for significant periods of time.
- b. Prohibited Activities to Eliminate Unacceptable Exposure to Hazardous Substances. The Owner shall prohibit the activities listed in the following subsections on the Property that may result in unacceptable exposures to hazardous substances at the Property or that may interfere with any element of the ongoing response activities implemented at the Property. The Owner will provide notice to USEPA and EGLE if any of the following prohibited activities covered by this provision are identified. For the media/containment systems listed below these prohibited activities include:
 - i) **Groundwater**
 - a. Groundwater use shall be restricted on the Property to prohibit consumption, irrigation, or use for any other purpose, except as provided below:
 - (i) Wells and other devices, constructed as part of a response activity for the purpose of evaluating groundwater quality or to remediate or control subsurface contamination associated with a release of hazardous substances into the environment, are permitted, provided the construction of the wells or devices complies with all applicable local, state, and federal laws and regulations.
 - (ii) Dewatering for construction, soil stability, or building maintenance purposes is permitted provided the activity, including management and disposal of the

groundwater, is conducted in accordance with all applicable local, state, and federal laws and regulations.

b. Any activity that would interfere with the function of, or obstruct access to, any monitoring wells and devices located on the Property. This includes, but is not limited to, removing, destroying, or altering any well or device in any way that renders it inoperable or incapable of functioning as intended.

c. Any activity that could adversely affect the integrity, effectiveness, and operation of the groundwater extraction and treatment system depicted in Exhibit 6.

ii) Soil

(a) All soil excavation or subsurface activities in areas designated in Exhibit 4 shall be conducted in a controlled manner to limit excavation and management of excess soil. The Owner shall require the use of appropriate personal protective equipment and procedures, as necessary, to mitigate unacceptable exposures to human health or the environment when excavating soil. The Owner shall provide written notice to the USEPA and EGLE at least five (5) business days prior the start of the soil excavation or subsurface activities in the LNAPL areas at AOI-1 or AOI-2, as shown in Exhibit 4. Owner may conduct soil excavation or subsurface activities without the immediate five (5) business day notice, if the need to conduct the work is considered an emergency (e.g. utility rupture). Owner shall notify the USEPA and EGLE within five (5) business days of conducting such an emergency excavation. In addition, Owner shall manage all excavated soils, media and/or debris located on the Property in accordance with the applicable requirements of Section 20120c of the NREPA; Part 111, Hazardous Waste Management, of the NREPA; Subtitle C of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 *et seq.*; the administrative rules promulgated thereunder; and all other relevant state and federal laws.

2. Contaminated Soil Management. The Owner shall manage all soils and/or subsurface debris located within the portions of the Property designated in Exhibit 4 in accordance with the applicable requirements of Sections 21304b of the NREPA; Part 111, Hazardous Waste Management, of the NREPA; Subtitle C of the Resource Conservation and Recovery Act, 42 USC Section 6901 *et seq.*; the administrative rules promulgated thereunder; and all other relevant state and federal laws.

3. Access. The Owner grants to the USEPA and EGLE and their designated representatives the right to enter the Property with sufficient notice and at reasonable times for the purpose of determining and monitoring compliance with the response activities, including the right to take samples, inspect the operation of the response activities and inspect any records relating thereto, and to perform any actions necessary to maintain compliance with the Final Decision.

4. Conveyance of Property Interest. The Owner shall provide notice to the USEPA and EGLE of the Owner's intent to transfer any portion of the Property at least fourteen (14) business days prior to consummating the conveyance. A conveyance of title, easement, or other interest in the Property shall not be consummated by the Owner without adequate and complete provision for compliance with the applicable provisions of Section 20116 of the NREPA. The notice required to be made to the USEPA under this Paragraph shall be made to: Corrective Action Project

Manager, Corrective Action Section 1, United States Environmental Protection Agency Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60640-3590. The Owner shall include in any instrument conveying any interest in any portion of the Property, including, but not limited to, deeds, leases, and mortgages, a notice which is in substantially the following form:

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

A copy of this Restrictive Covenant shall be provided to all future owners, heirs, successors, lessees, easement holders, assigns, and transferees by the person transferring the interest.

5. Term of Restrictive Covenant. This Restrictive Covenant shall run with the Property and shall be binding on the Owner during ownership of the Property, or any portion thereof, and its successors and assigns, lessees, easement holders, and any authorized agents, employees, or persons acting under its direction and control. This Restrictive Covenant shall continue in effect until the USEPA or its successor determines that hazardous substances are no longer present at an unacceptable risk to the public health, safety, or welfare, or the environment. This Restrictive Covenant may only be modified or rescinded with the written approval of the USEPA.

6. Enforcement of Restrictive Covenant. The USEPA, EGLE and GM Components Holdings, LLC may individually enforce the restrictions set forth in this Restrictive Covenant by legal action on an Owner in a court of competent jurisdiction.

7. Severability. If any provision of this Restrictive Covenant is held to be invalid by any court of competent jurisdiction, the invalidity of such provision shall not affect the validity of any other provisions hereof, and all such other provisions shall continue unimpaired and in full force and effect.

8. Authority to Execute Restrictive Covenant. The undersigned person executing this Restrictive Covenant is a representative of the Owner of the Property as of the date hereof and represents and certifies that he or she is duly authorized by and has been empowered to execute and deliver this Restrictive Covenant on behalf of the Owner.

9. Third Party Beneficiary. Grantor, on behalf of itself and its successors and assigns, hereby agrees that the United States, acting by and through USEPA, its successors and assigns shall be a third party beneficiary (Third Party Beneficiary) of all the benefits and rights set out in the restrictions, covenants, easements, exceptions, notifications, conditions and agreements herein, and that the Third Party Beneficiary shall have the right to enforce the restrictions described herein as if it was a party hereto. No other rights in third parties are intended by this Restrictive Covenant, and no other person or entity shall have any rights or authorities hereunder to enforce these restrictions, terms, conditions or obligations beyond EGLE, GM Components Holdings, LLC, their successors and assigns, and the Third Party Beneficiary.

10. Notices. Any notice, demand, request, consent, approval, or communication that is required to be made or obtained under this Restrictive Covenant shall be made in writing; include a statement that the notice is being made pursuant to the requirements of this Restrictive

Covenant; include the RCRA Facility ID Number: MID 017 079 625, and shall be served either personally, or sent via first class mail, postage prepaid, or FedEx delivery as follows:

For GM Components Holdings, LLC:

Global Director Real Estate
Detroit Renaissance Center
300 Renaissance Center
MC 482-C19-GRE
Detroit, MI 48265

For USEPA:

Director
Land, Chemicals and Redevelopment Division (L-17J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

with a copy to:

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

For EGLE:

Hazardous Waste Section Manager
Materials Management Division
Michigan Department of Environment, Great Lakes and Energy
P.O. Box 30241
Lansing, MI 48909-77

IN WITNESS WHEREOF, GM Components Holdings, LLC has caused this Restrictive Covenant, RC-RD-201-_____, to be executed on this 17th day of July, 2020.

GM Components Holdings, LLC,
a Delaware limited liability company

By: Debra H. Hoge

Name: DEBRA H. HOGE

Its: GLOBAL DIR., R.E.

Execution Recommended

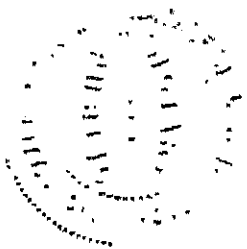
Real Estate

By: Randy N. Schatz

STATE OF MICHIGAN
COUNTY OF Wayne

The foregoing instrument was acknowledged before me this 17th day of July, 2020, by Debra H. Hoge, as Director of GM Components Holdings, LLC, a Delaware limited liability company, on behalf of the company.

(SEAL)



Kathleen M. Rentenbach
Notary Public Signature

Notary Public, State of _____

County of _____

My Commission Expires: _____

Acting In the County of _____

KATHLEEN M. RENTENBACH
NOTARY PUBLIC, STATE OF MI
COUNTY OF WAYNE
MY COMMISSION EXPIRES Sep 22, 2021
ACTING IN COUNTY OF Wayne

Prepared By and When Recorded Return To:

Randy N. Schatz
300 Renaissance Center
Mail Code: 482-C19-GRE
Tower 300 / 19th Floor
Detroit, Michigan 48265-3000

EXHIBIT 1 LEGAL DESCRIPTION

EXHIBIT "A"
LEGAL DESCRIPTION

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

The Northwest 1/4 of the Northwest 1/4 and the Southwest 1/4 of the Northwest 1/4 of Section 11, Town 6 North, Range 12 West, City of Wyoming, Kent County, Michigan, except the North 206.25 feet of the East 528 feet thereof. Also except therefrom, commencing on the South line of Burton Street 528 feet West and 53.25 feet South of the Northeast corner of the Northwest 1/4 of the Northwest 1/4 of Section 11; thence South parallel with the East line thereof 153 feet; thence West parallel with the North line of said Section 9.0 feet; thence Northerly 152.9 feet to a point on the said South line of Burton Street 7.5 feet West of the place of beginning; thence East 7.5 feet to the place of beginning. Also excepting, part of the Northwest 1/4 of Section 11, Town 6 North, Range 12 West, City of Wyoming, Kent County Michigan described as: Commencing at the Northwest corner of said section; thence North 90 degrees 00 minutes 00 seconds East along the North line of said Section 431.98 feet to the place of beginning of this description; thence North 90 degrees 00 minutes 00 seconds East along the North line of said section 291.62 feet; thence South 01 degrees 40 minutes 00 seconds East 333.46 feet; thence South 90 degrees 00 minutes 00 seconds West parallel with the North line of said section 291.62 feet; thence North 01 degrees 40 minutes 00 seconds West 333.46 feet to the place of beginning.

Also excepting,

Part of the West 1/2 of the Northwest 1/4 of Section 11, Town 6 North, Range 12 West, Wyoming Township, Kent County, Michigan, described as follows: Commencing on the North line of said section at a point 139.5' East of the Northwest corner thereof; thence South 57.32' to a point 50' South of the centerline of Burton Street Widening as now surveyed; thence Easterly 635', more or less, parallel to and 50' distant from said center line; thence North 52.56' to North line of said section; thence West 635' along said section line to beginning. Also excepting, A parcel of land situated in the Northwest corner of the Northwest 1/4 of Section 11, Town 6 North, Range 12 West (Wyoming Township) Kent County, Michigan, described as follows: Beginning at a point South 46°02' East 47.58' from the Northwest corner of said Section 11, thence South 89°57' East 106.51'; thence South 0°22' East 24.32' to a point; thence Southwesterly 137.50' along a curve to the left whose radius is 86.00' to a point which is South 43°41' West, 123.62' from the last mentioned point; thence South 87°53' West 17.00'; thence North 2°07' West 114.40' to the point of beginning.

Also,

The North 1/2 of the North 1/2 of the North 1/2 of the Northwest 1/4 of the Southwest 1/4 of Section 11, Town 6 North, Range 12 West, City of Wyoming, Kent County, Michigan.

Also,

The South 1/2 of the North 1/2 of the North 1/2 of the Northwest 1/4 of the Southwest 1/4 of Section 11, Town 6 North, Range 12 West, City of Wyoming, Kent County, Michigan.

Also,

The North 1/2 of the South 1/2 of the North 1/2 of the Northwest 1/4 of the Southwest 1/4 of Section 11, Town 6 North, Range 12 West, City of Wyoming, Kent County, Michigan.

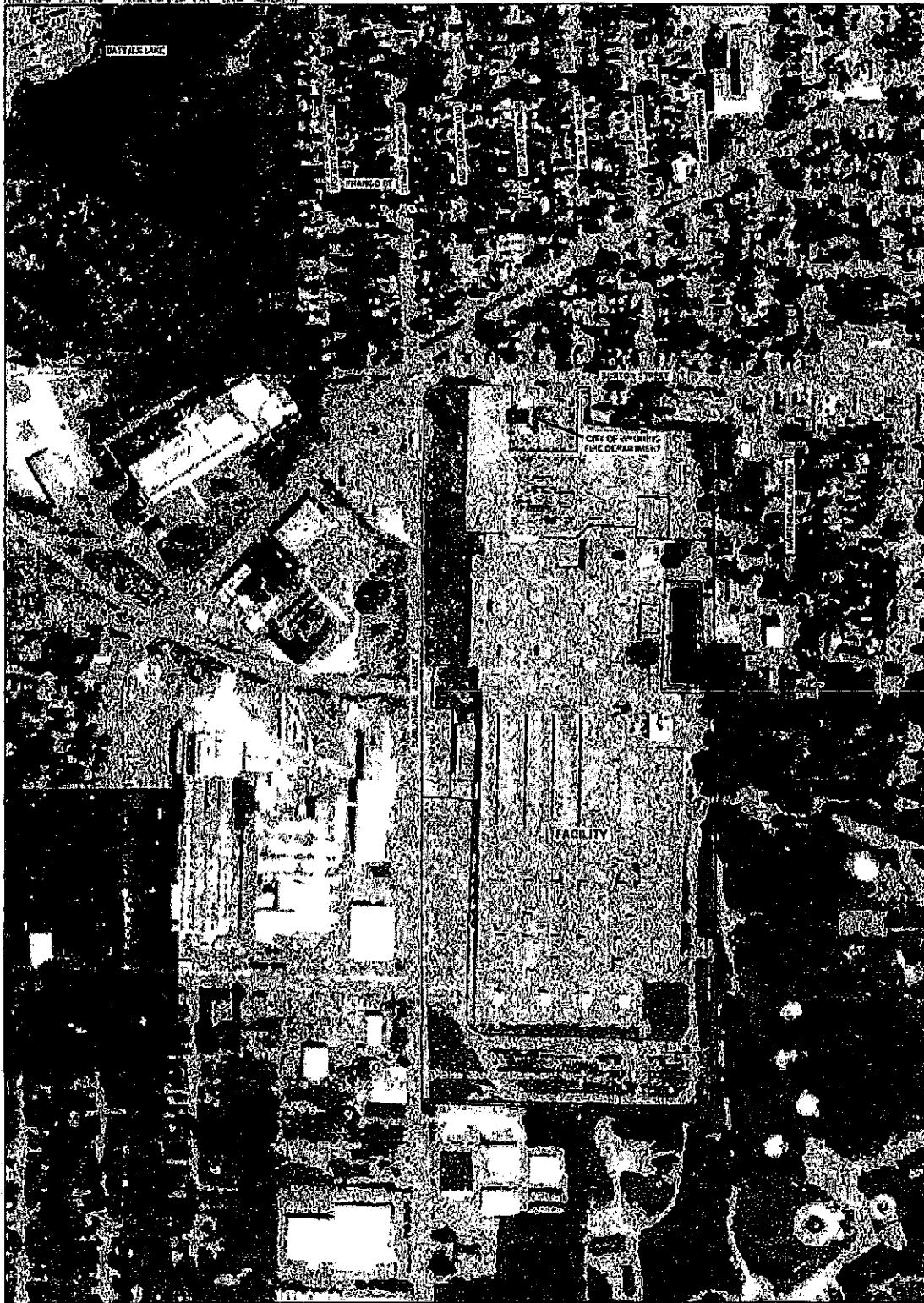
Excepting therefrom, That part of the Northwest 1/4 and of the Southwest 1/4 of Section 11, Town 6 North, Range 12 West, City of Wyoming, Kent County, Michigan described as: Commencing at the Northwest corner of said Section, thence South 3 degrees 20 minutes 11 seconds East 148.65 feet along the West line of said Section; thence North 86 degrees 39 minutes 49 seconds East 33.0 feet to the place of beginning of this exception; thence North 86 degrees 39 minutes 49 seconds East 17.0 feet; thence South 3 degrees 20 minutes 11 seconds East 420.0 feet; thence South 86 degrees 39 minutes 49 seconds West 10.0 feet; thence South 3 degrees 20 minutes 11 seconds East 2096.74 feet to the East and West 1/4 line, thence South 4 degrees 00 minutes 38 seconds East 166.52 feet parallel with the West line of said Section to the South line of the North 1/2 of the North 1/2 of the North 1/2 of the Northwest 1/4 of the Southwest 1/4, thence South 88 degrees 37 minutes 49 seconds West 7.01 feet along said South line, thence North 4 degrees 00 minutes 38 seconds West 166.51 feet to the East and West 1/4 line, thence North 3 degrees 20 minutes 11 seconds West 2516.48 feet to the place of beginning

Commonly known as: 2100 S.E. Burlingame, Wyoming, MI 49509

DETROIT.3854295 2

EXHIBIT 2 SITE FIGURE

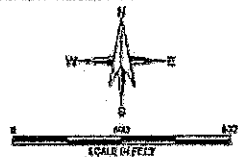
Project Name: C:\WORK\11\24\2020\240064874.dwg
Title: 240064874 - Site Plan for 240064874 - 240064874



- NOTES**
- 1. PLAN BASED ON A BRAMS SURVEY (CITY OF WYOMING).
 - 2. WYOMING DRAIN LOCATION BASED ON CITY OF WYOMING PLANS.
 - 3. FENCE MARKS SWITCHES FROM LOGGERS' EARTH PRO (DATED OCTOBER 19, 2004).

LEGEND

- FENCE
- PROPERTY BOUNDARY



HALVEY & ALDRICH
SOUTH WYOMING FIRE STATIONS
7100 FURNACE AVENUE
WYOMING, WYOMING

SITE PLAN

SCALE: AS SHOWN
NOVEMBER 2011

FIGURE 2

**EXHIBIT 3 – PETROLEUM AND HAZARDOUS SUBSTANCES ABOVE CLEANUP
CRITERIA REQUIREMENTS FOR RESPONSE ACTIVITY IN GROUNDWATER**

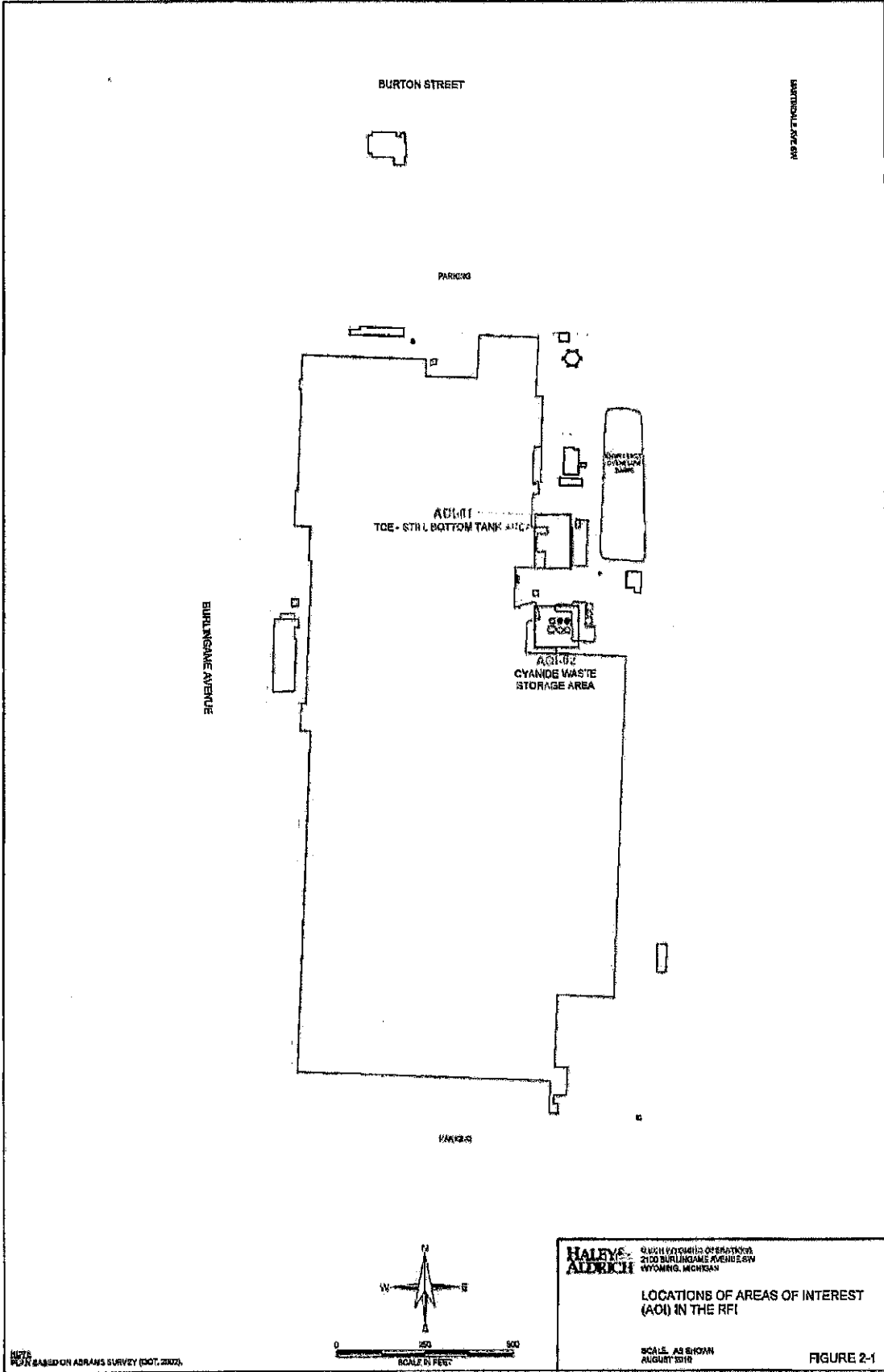
Substance	Criteria Exceeded
1,1-Dichloroethene	MCLs as specified in the FD
1,2-Dichloroethene (total, cis and trans)	MCLs as specified in the FD
Acetone	MCLs as specified in the FD
Benzene	MCLs as specified in the FD
Ethylbenzene	MCLs as specified in the FD
Methylene Chloride	MCLs as specified in the FD
Trichloroethene	MCLs as specified in the FD
Vinyl Chloride	MCLs as specified in the FD
Xylenes	MCLs as specified in the FD

Groundwater

MCLs – USEPA Maximum Contaminant Levels

EXHIBIT 4 AREAS OF INTEREST

0 01000000_01000000_01000000_01000000_01000000_01000000_01000000_01000000_01000000_01000000



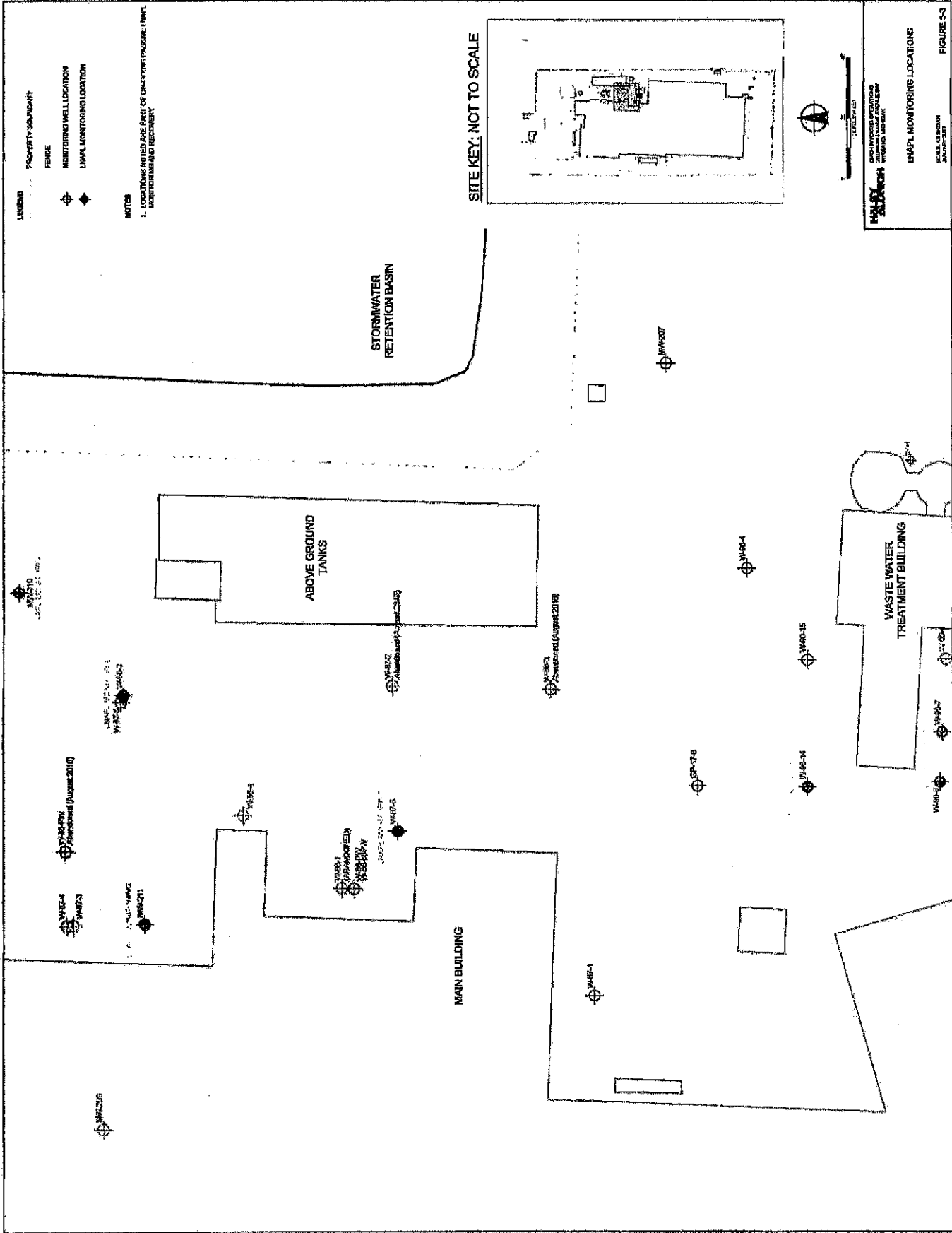
NOTE: PLAN BASED ON ABRAMS SURVEY (DOT, 2002).

HALEY & ALDRICH
 2100 BURLINGAME AVENUE, RM
 WYOMING, MICHIGAN

LOCATIONS OF AREAS OF INTEREST (AOI) IN THE RFI

SCALE: AS SHOWN
 AUGUST 2018

FIGURE 2-1



THIS DOCUMENT IS UNCLASSIFIED EXCEPT WHERE SHOWN OTHERWISE

EXHIBIT 5 DESCRIPTION OF ALLOWABLE USES

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

Any residential use is specifically prohibited from the non-residential land use category. This would include the primary use of the property for human habitation and includes structures such as single family dwellings, multiple family structures, mobile homes, condominiums, and apartment buildings. Any uses which are intended to house, educate, or provide care for children, the elderly, the infirm, or other sensitive populations, and therefore could include day care centers, educational facilities, hospitals, elder care facilities, and nursing homes, may not fit the nonresidential exposure assumptions. Residential or site specific environmental protection standards may need to be considered. The use of any accessory building or portion of an existing building as a dwelling unit permitted for a proprietor or storekeeper and their families, located in the same building as their place of occupation, or for a watchman or caretaker is also prohibited. Any authority that allows for residential use of the Property as a legal non-conforming use is also restricted per the prohibitions contained in this restrictive covenant.

EXHIBIT 6 GROUNDWATER EXTRACTION SYSTEM

EXHIBIT C

DECLARATION OF RESTRICTIVE COVENANT

RECEIVED
REGISTER OF DEEDS
KENT COUNTY, MI

2020 JUL 23 12:59 PM

202007240064874 Total Pages: 19
07/24/2020 02:22 PM Fees: \$30.00
Lisa Posthumus Lyons, County Clerk/Register
Kent County, MI SEAL

DECLARATION OF RESTRICTIVE COVENANT

This Declaration of Restrictive Covenant ("Restrictive Covenant") has been recorded with the Kent County Register of Deeds for the purpose of protecting public health, safety, and welfare, and the environment by prohibiting or restricting activities that could result in potential unacceptable exposure to environmental contamination present at the property located at 2100 Burlingame Avenue Southwest, Wyoming, Michigan and legally described in Exhibit 1 and depicted in Exhibit 2, attached hereto ("Property").

On September 25, 2013, GM Components Holdings, LLC entered into an Administrative Order on Consent (AOC) with the United States Environmental Protection Agency (U.S. EPA) to investigate and remediate the sources of potential contamination located at the Property. Pursuant to that AOC, GM Components Holdings, LLC completed a Current Conditions Report (CCR) to describe historical and current site conditions; conducted a RCRA Facility Investigation (RFI) to characterize the nature, extent and migration rate of constituents of potential concern (COPCs), from areas of interest (AOIs) identified at the Site; prepared a Corrective Measures Proposal (CMP) to address COPCs as necessary to mitigate potential risks to human health and the environment; and agreed to implement the final corrective measures selected by U.S. EPA. The response activities that will be implemented to address environmental contamination are fully described in the United States Environmental Protection Agency (USEPA) Final Decision Document dated 18 July 2019.

Further, the Property has been identified to contain hazardous substances in excess of the concentrations of the unrestricted residential criteria under Section 20120a(1)(a) and (17) of the NREPA.

The response activities specified in the Final Decision, require the recording of this Restrictive Covenant with the Kent County Register of Deeds to: 1) restrict unacceptable exposures to petroleum and hazardous substances located on the Property; 2) assure that the use of Property is consistent with the exposure assumptions and limitations under the limited Nonresidential cleanup category of Section 20120a(1)(d) of the NREPA and the exposure control measures relied upon at the Property; and 3) to prevent damage or unmitigated disturbance of any element of the response activity constructed on the Property.

The restrictions contained in this Restrictive Covenant are based upon information available at the time the response activities were implemented. Failure of the response activities to achieve and maintain the criteria; maintenance of necessary exposure controls; future changes in the

environmental condition of the Property; the discovery of environmental conditions at the Property that were not accounted for during implementation of the response activities; or use of the Property in a manner inconsistent with the restrictions described herein, may result in this Restrictive Covenant potentially not being protective of public health, safety, and welfare, and the environment.

Definitions

For the purposes of this Restrictive Covenant, the following definitions shall apply:

"EGLE" means the Michigan Department of Environment, Great Lakes, and Energy, its successor entities, and those persons or entities acting on its behalf.

"Grantee" shall mean EGLE, its respective successor entities, and those persons or entities acting on its behalf.

"Grantor" shall mean GM Components Holdings, LLC, the current title holder of the Property at the time this Restrictive Covenant was executed, or any future title holder of the Property or some relevant sub-portion of the Property.

"Final Decision and Response to Comments (Final Decision)" shall mean the Final Decision and Response to Comments for selection of the Corrective Measures at the Site dated July 18, 2019.

"NREPA" shall mean the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended, MCL 324.101 *et seq.*

"Owner" means at any given time the then current title holder of the Property or any portion thereof. The owner at the time this restrictive covenant was filed was GM Components Holdings, LLC.

"Part 201" shall mean Part 201, Environmental Remediation, of NREPA.

"Property" shall mean the property legally described in Exhibit 1 and depicted in Exhibit 2.

"Site" shall have the same meaning as Property.

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

Summary of Response Activities

The Property includes an automotive component manufacturing facility and adjacent lands owned by GM Components Holdings, LLC; the Property is currently known as GMCH Wyoming Operations. This Declaration of Restrictive Covenant covers only the Property that is owned by GM Components Holdings, LLC, as legally described in Exhibit 1 and depicted in Exhibit 2.

As a result of a former owner's historical manufacturing operations, petroleum and hazardous substances were released at the Property. The hazardous substances including chlorinated volatile organic compounds (CVOCs) and petroleum substances including hydrocarbon volatile

organic compounds (HVOCs), in excess of applicable current Part 201 EGLE cleanup criteria (December 30, 2013) have impacted soil and groundwater at the Property (Exhibit 3).

Residual hydrocarbon Light Nonaqueous-Phase Liquid (LNAPL) were identified and properly characterized and assessed and will remain in place beneath the Property. The LNAPL exists below the ground surface at a depth of approximately 5 to 9 below ground surface and is spatially limited (Exhibit 4) within the restricted area.

The restrictions provided for in this Restrictive Covenant serve to prevent unacceptable exposure to hazardous and petroleum substances, that exceed the unrestricted residential criteria under Section 20120a(1)(a) of the NREPA.

With the recording of this Restrictive Covenant all proposed remedial actions for the Property have been implemented to the satisfaction of the USEPA, updating and continued implementation of the Due Care Plan, and long-term operation and maintenance.

NOW THEREFORE,

1. Declaration of Land Use or Resource Use Restrictions

GM Components Holdings, LLC, as the Owner of the Property at the time of recording, hereby declares and covenants that the Property shall be subject to the following restrictions and conditions:

- a. **Prohibited Land Uses:** The Owner shall prohibit all residential land use on the Property as described in Exhibit 5 (Allowable Uses). Residential land use may include, but is not limited to, daycare and elder care facilities, homes and surrounding yards, condominiums, and apartments where people live and sleep for significant periods of time.
- b. **Prohibited Activities to Eliminate Unacceptable Exposure to Hazardous Substances.** The Owner shall prohibit the activities listed in the following subsections on the Property that may result in unacceptable exposures to hazardous substances at the Property or that may interfere with any element of the ongoing response activities implemented at the Property. The Owner will provide notice to USEPA and EGLE if any of the following prohibited activities covered by this provision are identified. For the media/containment systems listed below these prohibited activities include:
 - i) **Groundwater**
 - a. Groundwater use shall be restricted on the Property to prohibit consumption, irrigation, or use for any other purpose, except as provided below:
 - (i) Wells and other devices, constructed as part of a response activity for the purpose of evaluating groundwater quality or to remediate or control subsurface contamination associated with a release of hazardous substances into the environment, are permitted, provided the construction of the wells or devices complies with all applicable local, state, and federal laws and regulations.
 - (ii) Dewatering for construction, soil stability, or building maintenance purposes is permitted provided the activity, including management and disposal of the

groundwater, is conducted in accordance with all applicable local, state, and federal laws and regulations.

b. Any activity that would interfere with the function of, or obstruct access to, any monitoring wells and devices located on the Property. This includes, but is not limited to, removing, destroying, or altering any well or device in any way that renders it inoperable or incapable of functioning as intended.

c. Any activity that could adversely affect the integrity, effectiveness, and operation of the groundwater extraction and treatment system depicted in Exhibit 6.

ii) Soil

(a) All soil excavation or subsurface activities in areas designated in Exhibit 4 shall be conducted in a controlled manner to limit excavation and management of excess soil. The Owner shall require the use of appropriate personal protective equipment and procedures, as necessary, to mitigate unacceptable exposures to human health or the environment when excavating soil. The Owner shall provide written notice to the USEPA and EGLE at least five (5) business days prior the start of the soil excavation or subsurface activities in the LNAPL areas at AOI-1 or AOI-2, as shown in Exhibit 4. Owner may conduct soil excavation or subsurface activities without the immediate five (5) business day notice, if the need to conduct the work is considered an emergency (e.g. utility rupture). Owner shall notify the USEPA and EGLE within five (5) business days of conducting such an emergency excavation. In addition, Owner shall manage all excavated soils, media and/or debris located on the Property in accordance with the applicable requirements of Section 20120c of the NREPA; Part 111, Hazardous Waste Management, of the NREPA; Subtitle C of the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 *et seq.*; the administrative rules promulgated thereunder; and all other relevant state and federal laws.

2. Contaminated Soil Management. The Owner shall manage all soils and/or subsurface debris located within the portions of the Property designated in Exhibit 4 in accordance with the applicable requirements of Sections 21304b of the NREPA; Part 111, Hazardous Waste Management, of the NREPA; Subtitle C of the Resource Conservation and Recovery Act, 42 USC Section 6901 *et seq.*; the administrative rules promulgated thereunder; and all other relevant state and federal laws.

3. Access. The Owner grants to the USEPA and EGLE and their designated representatives the right to enter the Property with sufficient notice and at reasonable times for the purpose of determining and monitoring compliance with the response activities, including the right to take samples, inspect the operation of the response activities and inspect any records relating thereto, and to perform any actions necessary to maintain compliance with the Final Decision.

4. Conveyance of Property Interest. The Owner shall provide notice to the USEPA and EGLE of the Owner's intent to transfer any portion of the Property at least fourteen (14) business days prior to consummating the conveyance. A conveyance of title, easement, or other interest in the Property shall not be consummated by the Owner without adequate and complete provision for compliance with the applicable provisions of Section 20116 of the NREPA. The notice required to be made to the USEPA under this Paragraph shall be made to: Corrective Action Project

Manager, Corrective Action Section 1, United States Environmental Protection Agency Region 5, 77 West Jackson Boulevard, Chicago, Illinois 60640-3590. The Owner shall include in any instrument conveying any interest in any portion of the Property, including, but not limited to, deeds, leases, and mortgages, a notice which is in substantially the following form:

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

A copy of this Restrictive Covenant shall be provided to all future owners, heirs, successors, lessees, easement holders, assigns, and transferees by the person transferring the interest.

5. Term of Restrictive Covenant. This Restrictive Covenant shall run with the Property and shall be binding on the Owner during ownership of the Property, or any portion thereof, and its successors and assigns, lessees, easement holders, and any authorized agents, employees, or persons acting under its direction and control. This Restrictive Covenant shall continue in effect until the USEPA or its successor determines that hazardous substances are no longer present at an unacceptable risk to the public health, safety, or welfare, or the environment. This Restrictive Covenant may only be modified or rescinded with the written approval of the USEPA.

6. Enforcement of Restrictive Covenant. The USEPA, EGLE and GM Components Holdings, LLC may individually enforce the restrictions set forth in this Restrictive Covenant by legal action on an Owner in a court of competent jurisdiction.

7. Severability. If any provision of this Restrictive Covenant is held to be invalid by any court of competent jurisdiction, the invalidity of such provision shall not affect the validity of any other provisions hereof, and all such other provisions shall continue unimpaired and in full force and effect.

8. Authority to Execute Restrictive Covenant. The undersigned person executing this Restrictive Covenant is a representative of the Owner of the Property as of the date hereof and represents and certifies that he or she is duly authorized by and has been empowered to execute and deliver this Restrictive Covenant on behalf of the Owner.

9. Third Party Beneficiary. Grantor, on behalf of itself and its successors and assigns, hereby agrees that the United States, acting by and through USEPA, its successors and assigns shall be a third party beneficiary (Third Party Beneficiary) of all the benefits and rights set out in the restrictions, covenants, easements, exceptions, notifications, conditions and agreements herein, and that the Third Party Beneficiary shall have the right to enforce the restrictions described herein as if it was a party hereto. No other rights in third parties are intended by this Restrictive Covenant, and no other person or entity shall have any rights or authorities hereunder to enforce these restrictions, terms, conditions or obligations beyond EGLE, GM Components Holdings, LLC, their successors and assigns, and the Third Party Beneficiary.

10. Notices. Any notice, demand, request, consent, approval, or communication that is required to be made or obtained under this Restrictive Covenant shall be made in writing; include a statement that the notice is being made pursuant to the requirements of this Restrictive

Covenant; include the RCRA Facility ID Number: MID 017 079 625, and shall be served either personally, or sent via first class mail, postage prepaid, or FedEx delivery as follows:

For GM Components Holdings, LLC:

Global Director Real Estate
Detroit Renaissance Center
300 Renaissance Center
MC 482-C19-GRE
Detroit, MI 48265

For USEPA:

Director
Land, Chemicals and Redevelopment Division (L-17J)
U.S. Environmental Protection Agency, Region 5
77 West Jackson Blvd.
Chicago, IL 60604

with a copy to:

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

For EGLE:

Hazardous Waste Section Manager
Materials Management Division
Michigan Department of Environment, Great Lakes and Energy
P.O. Box 30241
Lansing, MI 48909-77

IN WITNESS WHEREOF, GM Components Holdings, LLC has caused this Restrictive Covenant, RC-RD-201-_____, to be executed on this 17th day of July, 2020.

GM Components Holdings, LLC,
a Delaware limited liability company

By: Debra H. Hoop

Name: DEBRA H. HOOP

Its: GLOBAL DIR., R.E.

Execution Recommended

Real Estate

By: Randy N. Schatz

STATE OF MICHIGAN
COUNTY OF Wayne

The foregoing instrument was acknowledged before me this 17th day of July, 2020, by Debra H. Hoop, as Director of GM Components Holdings, LLC, a Delaware limited liability company, on behalf of the company.

(SEAL)

Kathleen M. Rentenbach
Notary Public Signature

Notary Public, State of _____

County of _____

My Commission Expires: _____

Acting in the County of _____

KATHLEEN M. RENTENBACH
NOTARY PUBLIC, STATE OF MI
COUNTY OF WAYNE
MY COMMISSION EXPIRES Sep 22, 2021
ACTING IN COUNTY OF Wayne

Prepared By and When Recorded Return To:

Randy N. Schatz
300 Renaissance Center
Mail Code: 482-C19-GRE
Tower 300 / 19th Floor
Detroit, Michigan 48265-3000

EXHIBIT 1 LEGAL DESCRIPTION

EXHIBIT "A"
LEGAL DESCRIPTION

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

The Northwest 1/4 of the Northwest 1/4 and the Southwest 1/4 of the Northwest 1/4 of Section 11, Town 6 North, Range 12 West, City of Wyoming, Kent County, Michigan, except the North 206.25 feet of the East 528 feet thereof. Also except therefrom, commencing on the South line of Burton Street 528 feet West and 53.25 feet South of the Northeast corner of the Northwest 1/4 of the Northwest 1/4 of Section 11; thence South parallel with the East line thereof 153 feet; thence West parallel with the North line of said Section 9.0 feet; thence Northerly 152.9 feet to a point on the said South line of Burton Street 7.5 feet West of the place of beginning; thence East 7.5 feet to the place of beginning. Also excepting, part of the Northwest 1/4 of Section 11, Town 6 North, Range 12 West, City of Wyoming, Kent County Michigan described as: Commencing at the Northwest corner of said section; thence North 90 degrees 00 minutes 00 seconds East along the North line of said Section 431.98 feet to the place of beginning of this description; thence North 90 degrees 00 minutes 00 seconds East along the North line of said section 291.62 feet; thence South 01 degrees 40 minutes 00 seconds East 333.46 feet; thence South 90 degrees 00 minutes 00 seconds West parallel with the North line of said section 291.62 feet; thence North 01 degrees 40 minutes 00 seconds West 333.46 feet to the place of beginning.

Also excepting,

Part of the West 1/2 of the Northwest 1/4 of Section 11, Town 6 North, Range 12 West, Wyoming Township, Kent County, Michigan, described as follows: Commencing on the North line of said section at a point 139.5' East of the Northwest corner thereof; thence South 57.32' to a point 50' South of the centerline of Burton Street Widening as now surveyed; thence Easterly 635', more or less, parallel to and 50' distant from said center line; thence North 52.56' to North line of said section; thence West 635' along said section line to beginning. Also excepting, A parcel of land situated in the Northwest corner of the Northwest 1/4 of Section 11, Town 6 North, Range 12 West (Wyoming Township) Kent County, Michigan, described as follows: Beginning at a point South 46°02' East 47.58' from the Northwest corner of said Section 11, thence South 89°57' East 106.51'; thence South 0°22' East 24.32' to a point; thence Southwesterly 137.50' along a curve to the left whose radius is 86.00' to a point which is South 43°41' West, 123.62' from the last mentioned point; thence South 87°53' West 17.00'; thence North 2°07' West 114.40' to the point of beginning.

Also,

The North 1/2 of the North 1/2 of the North 1/2 of the Northwest 1/4 of the Southwest 1/4 of Section 11, Town 6 North, Range 12 West, City of Wyoming, Kent County, Michigan.

Also,

The South 1/2 of the North 1/2 of the North 1/2 of the Northwest 1/4 of the Southwest 1/4 of Section 11, Town 6 North, Range 12 West, City of Wyoming, Kent County, Michigan.

Also,

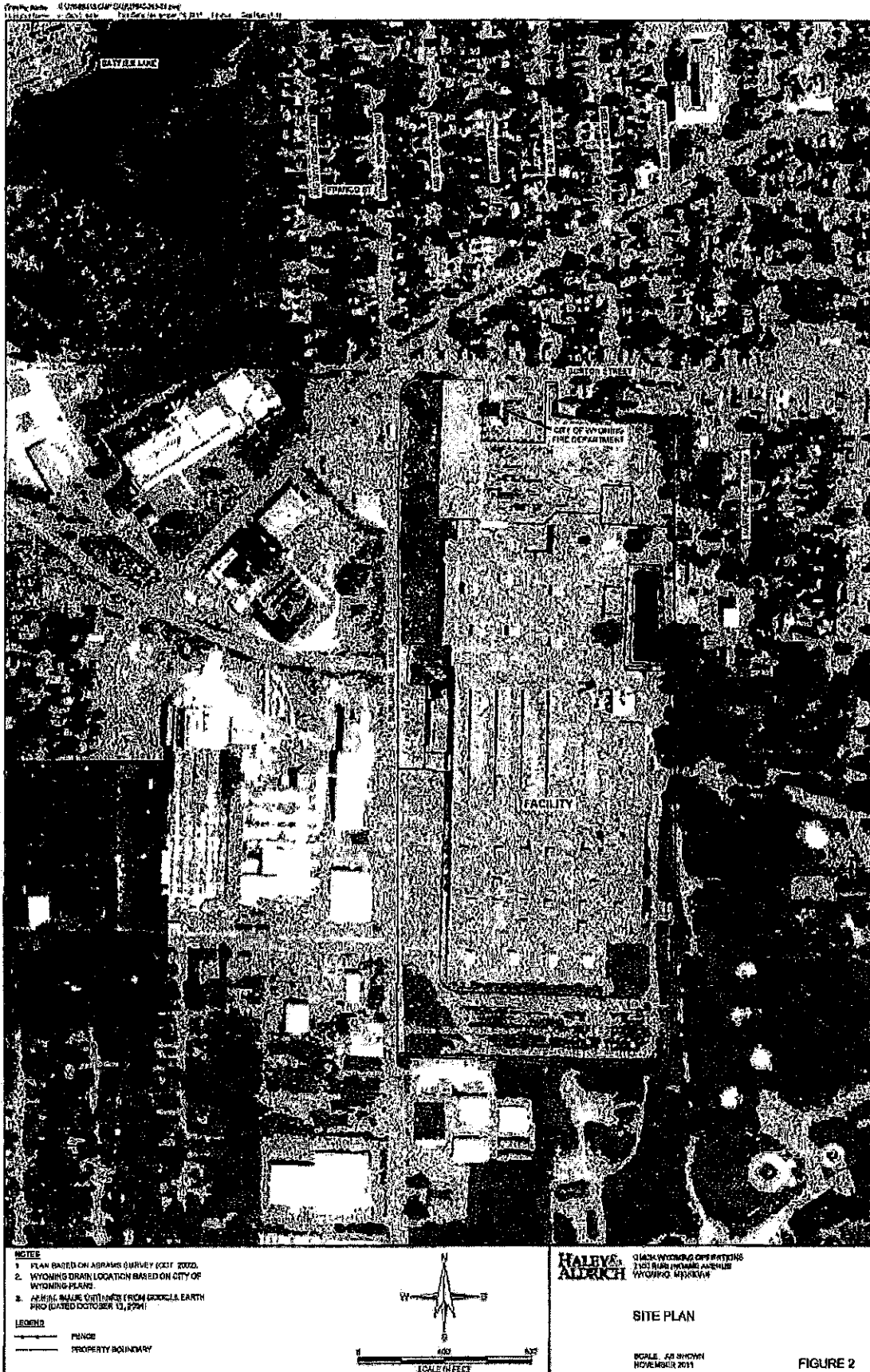
The North 1/2 of the South 1/2 of the North 1/2 of the Northwest 1/4 of the Southwest 1/4 of Section 11, Town 6 North, Range 12 West, City of Wyoming, Kent County, Michigan.

Excepting therefrom, That part of the Northwest 1/4 and of the Southwest 1/4 of Section 11, Town 6 North, Range 12 West, City of Wyoming, Kent County, Michigan described as: Commencing at the Northwest corner of said Section, thence South 3 degrees 20 minutes 11 seconds East 148.65 feet along the West line of said Section; thence North 86 degrees 39 minutes 49 seconds East 33.0 feet to the place of beginning of this exception; thence North 86 degrees 39 minutes 49 seconds East 17.0 feet; thence South 3 degrees 20 minutes 11 seconds East 420.0 feet; thence South 86 degrees 39 minutes 49 seconds West 10.0 feet; thence South 3 degrees 20 minutes 11 seconds East 2096.74 feet to the East and West 1/4 line, thence South 4 degrees 00 minutes 38 seconds East 166.52 feet parallel with the West line of said Section to the South line of the North 1/2 of the North 1/2 of the North 1/2 of the Northwest 1/4 of the Southwest 1/4, thence South 88 degrees 37 minutes 49 seconds West 7.01 feet along said South line, thence North 4 degrees 00 minutes 38 seconds West 166.51 feet to the East and West 1/4 line, thence North 3 degrees 20 minutes 11 seconds West 2516.48 feet to the place of beginning

Commonly known as: 2100 S.E. Burlingame, Wyoming, MI 49509

DETROIT.3854293 2

EXHIBIT 2 SITE FIGURE



**EXHIBIT 3 – PETROLEUM AND HAZARDOUS SUBSTANCES ABOVE CLEANUP
CRITERIA REQUIREMENTS FOR RESPONSE ACTIVITY IN GROUNDWATER**

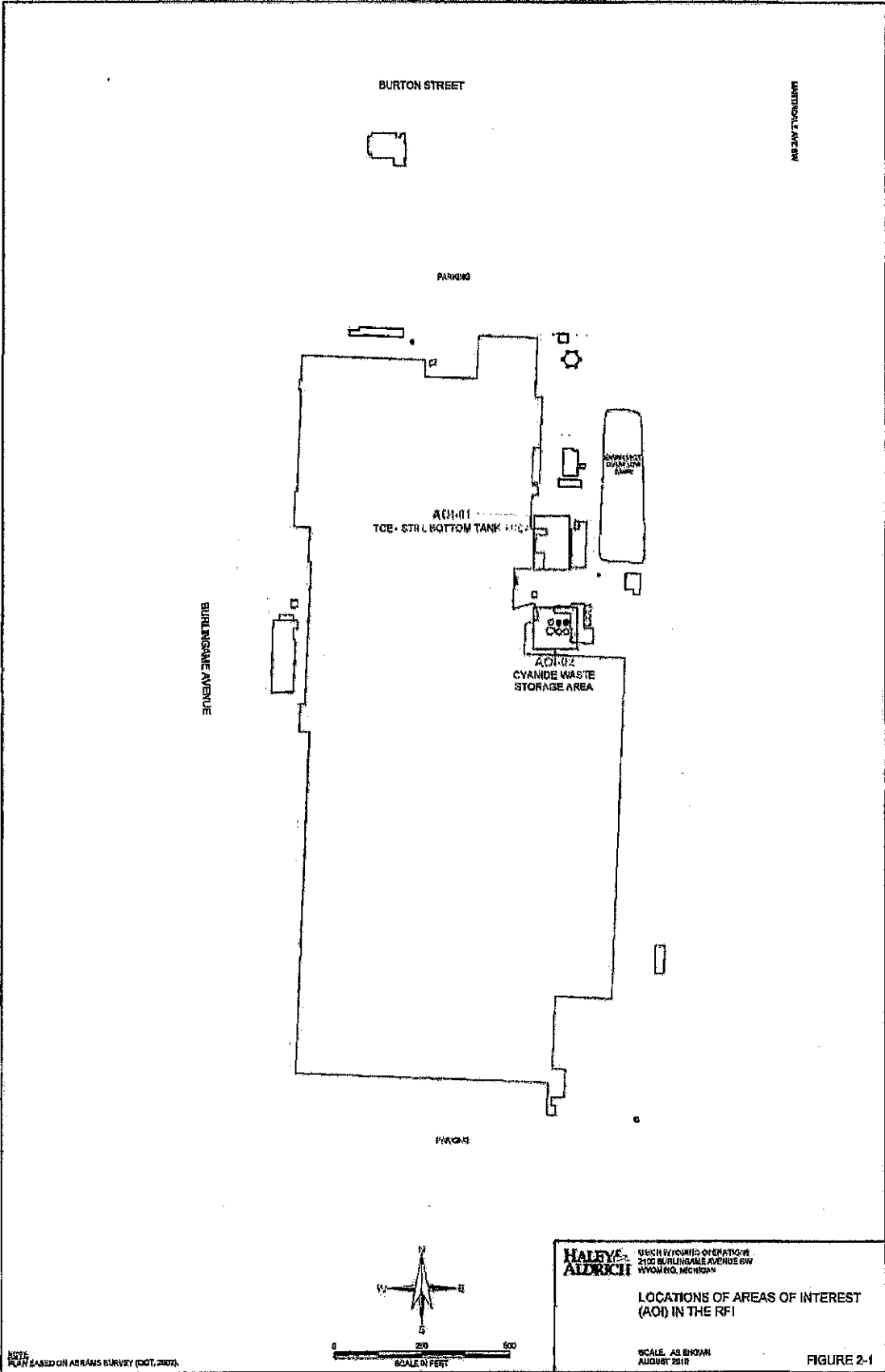
Substance	Criteria Exceeded
1,1-Dichloroethene	MCLs as specified in the FD
1,2-Dichloroethene (total, cis and trans)	MCLs as specified in the FD
Acetone	MCLs as specified in the FD
Benzene	MCLs as specified in the FD
Ethylbenzene	MCLs as specified in the FD
Methylene Chloride	MCLs as specified in the FD
Trichloroethene	MCLs as specified in the FD
Vinyl Chloride	MCLs as specified in the FD
Xylenes	MCLs as specified in the FD

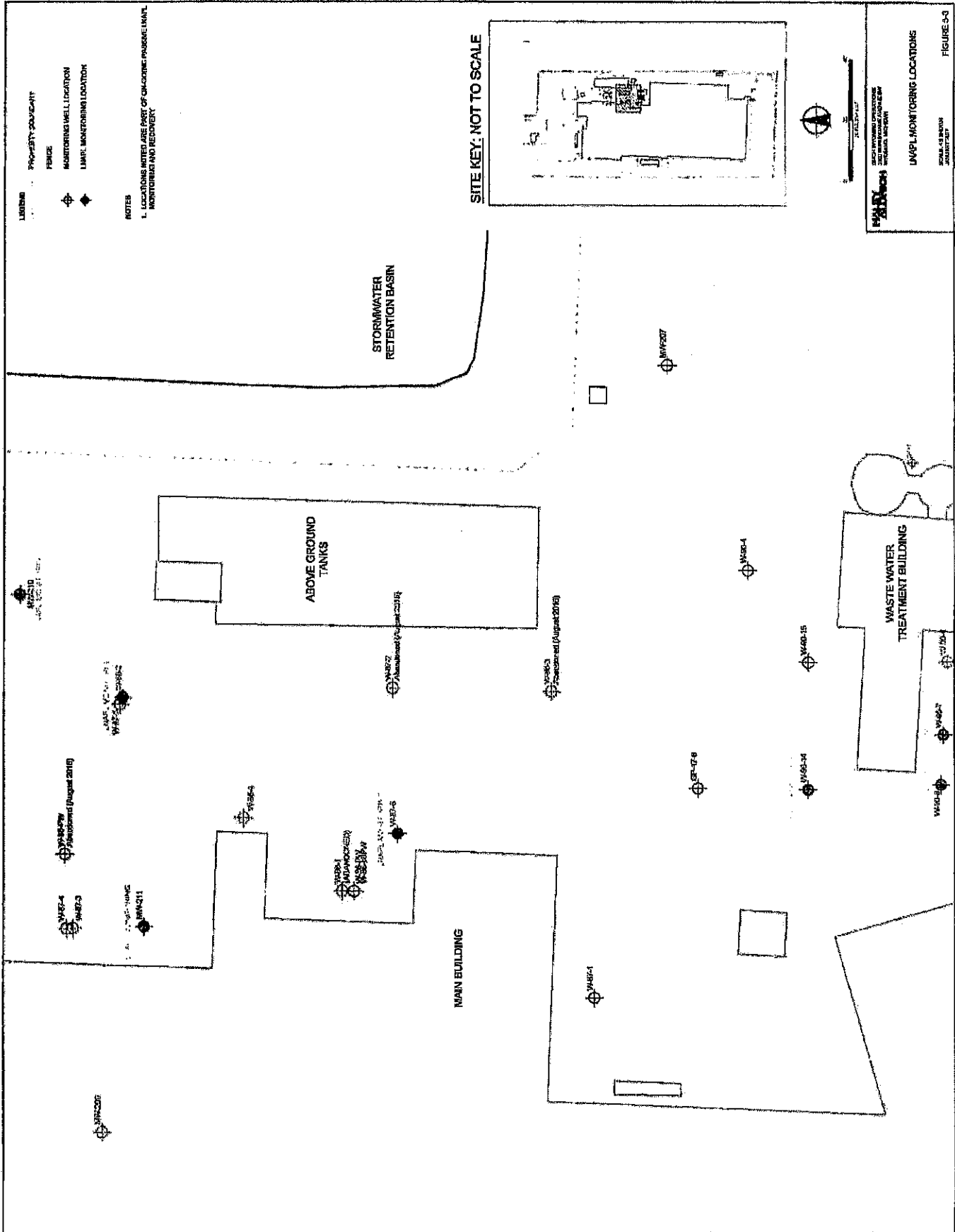
Groundwater

MCLs – USEPA Maximum Contaminant Levels

EXHIBIT 4 AREAS OF INTEREST

D:\NVA\XFL\REPORTS\RFI\RFI\MAPFILES\LOCATIONS_RFI.DWG





UNAPL MONITORING LOCATIONS
 SCALE AS SHOWN
 DATE 07/24/19
 FIGURE 9-3

EXHIBIT 5 DESCRIPTION OF ALLOWABLE USES

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

Any residential use is specifically prohibited from the non-residential land use category. This would include the primary use of the property for human habitation and includes structures such as single family dwellings, multiple family structures, mobile homes, condominiums, and apartment buildings. Any uses which are intended to house, educate, or provide care for children, the elderly, the infirm, or other sensitive populations, and therefore could include day care centers, educational facilities, hospitals, elder care facilities, and nursing homes, may not fit the nonresidential exposure assumptions. Residential or site specific environmental protection standards may need to be considered. The use of any accessory building or portion of an existing building as a dwelling unit permitted for a proprietor or storekeeper and their families, located in the same building as their place of occupation, or for a watchman or caretaker is also prohibited. Any authority that allows for residential use of the Property as a legal non-conforming use is also restricted per the prohibitions contained in this restrictive covenant.

EXHIBIT 6 GROUNDWATER EXTRACTION SYSTEM

RESOLUTION NO. _____

RESOLUTION TO ACCEPT A PROPOSAL FROM TEAMDYNAMIX SOLUTIONS LLC
FOR LICENSING AND IMPLEMENTATION OF AN
INFORMATION TECHNOLOGY SERVICE MANAGEMENT (ITSM) SOLUTION

WHEREAS:

1. As detailed in the attached staff report, it is recommended City Council accept a proposal from TeamDynamix Solutions LLC for licensing and implementation of an ITSM solution in the total amount of \$15,000.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council accepts a proposal from TeamDynamix Solutions LLC for licensing and implementation of an ITSM solution.
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 proposals 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 August 5, 2024.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Staff Report
Proposal

Resolution No. _____

STAFF REPORT

Date: July 18, 2024
Subject: Information Technology Service Management Solution
From: Paul Gerndt, Director of Information Technology
Meeting Date: August 5, 2024

RECOMMENDATION:

IT is recommended City Council authorize the Mayor and City Clerk to accept a proposal for licensing and implementation of an Information Technology Service Management (ITSM) solution from TeamDynamix Solutions LLC in the amount of \$15,000 and authorize annual renewals through 2028 as outlined in the contract.

ALIGNMENT WITH STRATEGIC PLAN:

- PILLAR 1 – STEWARDSHIP
 - GOAL 2 – Enhance the efficiency and effectiveness of City operations and services.

DISCUSSION:

Information Technology staff evaluated several helpdesk ticketing solutions to find a suitable replacement for the current tool that has been used since 2007. Staff used experiential data from local government peers, information from trade organizations, such as the Gartner Group, and vendor demonstrations to identify solutions that best meet the needs of the department and city. The Team Dynamix solution has been selected by staff over other alternatives such as ServiceNOW and Jira Service Management.

A modern ITSM solution is a primary recommendation of the recent information technology assessment performed by Dewpoint. Due to its age, the current system does not support modern secure protocols, and is not meeting the department's needs. Furthermore, the current system does not support modern ITSM methods.

Staff presented top candidate solutions to Dewpoint for validation and received good feedback on all choices, with Dewpoint offering some comments of the complexity and high cost of some solutions.

The TeamDynamix \$7,500 annual pricing is inclusive of all features, except for those of advanced nature that we do not expect to need in the foreseeable future. Other providers use tiered or modular pricing that increases costs correspondingly with the

use of more features. Other solutions evaluated ranged from \$12,000 to \$50,000 annually.

The TeamDynamix solution is provided as software as a service (SaaS) or Cloud service. This reduces implementation time, improves accessibility for off-premises staff, reduces reliance on premise-based infrastructure, and relieves staff of the burden of performing upgrades.

Example TeamDynamix implementations in local government applications can be viewed at the following locations (images linked to sample sites):

The screenshot displays the City of Oklahoma City Information Technology client portal. At the top left is the city logo and the text "The City of Oklahoma City INFORMATION TECHNOLOGY". To the right is a search bar labeled "Search the client portal" and a "Sign In" link. Below the header is a dark blue navigation bar with "Home" and "IT Projects by Dept". The main content area features four large white cards with blue icons and text: "Knowledge Base" (lightbulb icon), "Start a Support Ticket" (ticket icon), "Outages & Maintenance" (warning triangle icon), and "IT Support Utilities" (wrench icon). Each card includes a brief description and a blue button. Below these are two larger white sections: "Quick Links" with six blue buttons for "My Tickets", "Favorite Services", "Favorite Articles", "IT CAB Agenda", "IT Release Agenda", and "IT Projects By Dept"; and "Customer Support & Service Desk" with two blue buttons for "Contact Info & Hours of Operation" and "Give us Your Feedback". At the bottom are two grey boxes for "Popular Articles" (showing "No Items") and "Popular Services" (showing "After-Hours Issue").



Welcome to the City of Buffalo MIS SUPPORT & HELP DESK

Request a Service

Report an Issue

View My Tickets

Submit Feedback

Contact Us

Phone: 716-851-5450

Email: MISHelpDesk@buffalony.gov

Location: City Hall, Room 1201



Accounts & Access

New accounts, manage access, password resets, offboarding, etc



Computers & Devices

Computers, printers, monitors, time clocks, and other hardware



Email

Email accounts, distribution lists, report spam and phishing



Network & Connectivity

Wired and wireless internet access, VPN, connectivity issues



Phones

Request a mobile or desk phone, or report phone issues



Data & Reports

New reports, request report assistance, Open Data Portal

View Current Outages

Popular Services

[New Hardware \(PC/Monitor/Other\) Installation Request](#)

[Onboarding Request \(New / Existing Employee\)](#)

[Report a Hardware Issue](#)

[Printer Installation Request](#)

[Report a Software Program Error](#)

[General Service Request](#)

[Laptop Request](#)

[MUNIS Account Management Request](#)

[New or Replacement Cell Phone Request](#)

[Report an Issue](#)

Welcome to the new MIS Support & Help Desk! When you request services through our Service Catalog, your request is automatically routed to the relevant team so we can get right to work.

Browse our Services

To view the list of services we have available, do the following:

- Click the **Request a Service** button above.
- Click through the categories to find the service that most closely resembles your request.
- Use the button on the right side to request assistance.

Get Help

To request assistance with an issue affecting an IT service, do the following:

- Click the **Report an Issue** button above.
- Click on the entry that most closely resembles your request.



City of Madison IT Service Center

Report an Incident

Request a Service

View My Tickets

Read Knowledge Base Articles

Request a Technology Consultation

Services A to Z

Signing into the IT Service Center

To sign-in, use your City email address (or other work domain, i.e. @publichealthmdc.com) and network password.

Example

Username: JDoe@cityofmadison.com

Password: NetworkPassword1!

Demo Video: [How to Sign-in](#)

Unlocking your Network Account

Welcome to the IT Service Center!

We're happy you're here. The IT Service Center is a one-stop-shop for all your technology needs. You can [request technology services](#), [report technology incidents](#), and search our [knowledge base](#) for help articles. When you request services through our Service Catalog, your request is automatically routed to the appropriate team so we can get right to work!

IT Alerts

CrowdStrike Incident Update

Update as of Mon, July 22 at 2:09 pm

First, we'd like to thank you all for your immense support and grace throughout the global "CrowdStrike BSOD" incident. Your patience and willingness to assist your fellow City employees has helped keep our City running, and we greatly appreciate you! #TeamCity

Secondly, we continue to restore services impacted by this incident, including City workstations. The fix for this issue must be completed on each individual impacted City workstation. Read the [CrowdStrike BSOD Instructions](#) article for step-by-step instructions on restoring your workstation.

If you continue to have issues, please call Help Desk or [submit a ticket](#) and include your workstation ID in the request.

A proposal and contract from Team Dynamix are attached for first year licensing (\$7,500) and implementation services (\$7,500).

BUDGET IMPACT:

Funds are available in account numbers 101-228-22800-806.000, and 101-228-22800-801.000 for the software and services respectively.

Attachment(s):
Contract

TeamDynamix

CITY OF
WYOMING

Jul __, 2024

Contract Number: CWP00001



LICENSE AGREEMENT

Client: City of Wyoming, MI

Contract Number: CWP00001

Term: 60 months

Contract Term Start Date: August 15, 2024

Contract Term End Date: August 14, 2029

THIS LICENSE AGREEMENT (collectively with the addenda and exhibits attached hereto, this "Agreement") is made and entered into on July _____, 2024 (the "Effective Date"), by and between TeamDynamix Solutions LLC, a Delaware limited liability company, with its principal place of business at 1600 Dublin Road, Suite #200, Columbus, Ohio, 43215 ("TeamDynamix"), and City of Wyoming, MI, a City with its principal location at PO Box 905, Wyoming, Michigan, 49509, (hereinafter "Client"). TeamDynamix and Client may be referred to in this Agreement individually as a "Party" and collectively as the "Parties."

- 1. Agreement.** The terms and conditions of this Agreement shall incorporate those terms and conditions set forth in the exhibits to this Agreement (the "Exhibits"). All Exhibits and statements of work attached and executed for products and services, or executed in the future for products and services, shall be incorporated into this Agreement by reference, unless specifically stated otherwise in writing. In the event of a conflict between the applicable Exhibit and this Agreement, the Agreement shall control.
- 2. License.** Subject to the terms and conditions set forth in this Agreement, TeamDynamix hereby grants to Client a non-exclusive, non-transferrable, revocable, non-sublicensable license to access and use the licensed TeamDynamix software identified as licensed on **Exhibit A** ("Applications") during the Term, in object code form only, solely for Client's internal business operations. Client acknowledges and agrees that access to the Applications is licensed and not sold. In the event that TeamDynamix merges with, acquires, or is acquired by, a company offering similar products and services to the Applications, such applications ("Excluded Applications") shall not become part of TeamDynamix's offering of Applications for the price set forth in Table 1.1 of **Exhibit A**. Client and/or its affiliates shall be required to separately order such Excluded Applications from TeamDynamix or its successor.
- 3. Site Connectivity; Access.** Client is solely responsible for providing all telecommunications, computers, and other equipment necessary for accessing the Applications, as well as any third-party access charges. TeamDynamix retains the right, at its sole discretion and without prior notice or liability, to restrict or terminate access to the Applications by Client and/or particular authorized users of Client (each, a "User") if (a) Client and/or its Users materially breach the terms of this Agreement or, through use of the Applications, violates any applicable federal, state, local or international laws or regulations, or the rights of any third party, including other TeamDynamix clients; or (b) this Agreement expires or is terminated.
- 4. Term; Renewal/Extension.** The term of this Agreement shall commence on the Contract Term Start Date set forth above (the "Start Date") and shall continue for a period of 60 months after the Start Date (the "Term"), unless earlier terminated pursuant to this Agreement or extended per the renewal provisions of this **Section 4**. To avoid an interruption of the Services provided, unless Client or TeamDynamix has given notice to the other Party of its desire not to renew under the terms of this Agreement at least sixty (60) days prior to the end of the then-current Term, this Agreement will extend for twelve (12) months at the then current year's twelve (12) months published price rate and the Term will be deemed to be extended for an additional 12 months (an "Extension Term"). TeamDynamix shall provide notice of Client's renewal options no less than ninety (90) days prior to the end of the then-current Term. During the Extension Term, Client and TeamDynamix can mutually agree to enter into a renewal for a longer-term agreement that can replace the Extension Term (a "Renewal Term"). Any such Extension Term or Renewal Term will be invoiced at the end of the then-current term. Any such Extension Term or Renewal Term shall be referred to as the "Term" herein.
- 5. Payment and Fees.** Payment and usage fees for the licensed Applications provided hereunder are set forth on **Exhibit A** hereto. Payment for Professional Services (as defined herein) shall be set forth in the applicable statement of work.
 - a. Failure to Pay.** In addition to any other rights of TeamDynamix, if Client is delinquent in payment of amounts for the services owed hereunder or under an Exhibit, TeamDynamix may give notice to Client of such delinquency and, in such case, Client will have fifteen (15) days from the date of TeamDynamix's written notice to cure such delinquency. If Client fails to cure the delinquency during such fifteen-day notice period, TeamDynamix may, in addition to its other rights and remedies provided hereunder or at law, terminate or

TeamDynamix

suspend Client's access to the Applications or discontinue performance of any other services. All payments not received within fifteen (15) days from due date will accrue 1.5% monthly interest or the maximum rate allowed by law, whichever is less, plus all collection expenses.

- b. **Taxes.** All payments required by this Agreement are exclusive of federal, state, local and foreign taxes, duties, tariffs, levies and similar assessments. Client agrees to bear and be responsible for the payment of all taxes, duties, tariffs, levies, fees and charges of any kind, including, sales, use, excise or value added taxes, and all other similar charges (collectively, "**Taxes**") which are imposed on transactions under this Agreement by or under the authority of any government body, excluding Taxes based solely upon TeamDynamix's net income. Client shall make all payments required without deduction of any Taxes, except as required by law, in which case the amount payable shall be increased as necessary so that after making any required deductions and withholdings, TeamDynamix receives and retains (free from any liability for payment of Taxes) an amount equal to the amount it would have received had no such deductions or withholdings been made. If Client is a tax-exempt entity or claims exemption from any Taxes under this Agreement, Client shall provide a certificate of exemption upon execution of this Agreement and, after receipt of valid evidence of exemption, TeamDynamix shall not charge Client any Taxes from which it is exempt.
6. **Service Levels.** Subject to and conditioned upon the compliance of Client and its Users with the terms and conditions of this Agreement, during the Term, Client shall have the right to the benefit of the system uptime provisions set forth in the **Service Level Exhibit** attached hereto as **Exhibit B**. TeamDynamix shall use commercially reasonable efforts to provide Client and its Users the support services set forth in the **Service Level Agreement** (available at www.teamdynamix.com/SLA).
7. **Professional Services**

 - a. **Professional Services.** Subject to the terms and conditions set forth in this Agreement and the Exhibits (including the Professional Services Addendum set forth on **Exhibit C**), Client, at its option may engage TeamDynamix to provide Professional Services as described in a mutually executed statement of work. "**Professional Services**" means all forms of consulting, training, education, implementation, custom modification and configuration, and other services provided by TeamDynamix pursuant to written agreement.
8. **Confidentiality; Data Security.**

 - a. Each Party acknowledges that it and its employees or agents, in the course of the projects and services contemplated by this Agreement, may be exposed to or acquire information that is proprietary or confidential to the other Party ("**Confidential Information**"). Each Party agrees to hold Confidential Information of the other Party in strict confidence and not to use such Confidential Information or discuss or disclose such Confidential Information to any third party. The Parties agree that Confidential Information does not include: (i) information which at the time of disclosure is, or without fault of the recipient becomes, generally available; (ii) information which either Party can show was in its possession at the time of disclosure or was independently developed by it; (iii) information received from a third party which had the right to transmit same without violation of any confidentiality agreement with the other Party; and (iv) information which is required to be disclosed pursuant to court order or by law. The per-User pricing provided under this Agreement is Confidential Information.
 - b. TeamDynamix will implement reasonable and appropriate security measures for the Applications, as determined by TeamDynamix, designed to help Client secure Client content against accidental or unlawful loss, access, or disclosure. TeamDynamix may modify its security measures from time to time, but will continue to provide at least the same level of security, on an aggregate basis, as is in place on the Effective Date. TeamDynamix shall undergo a third-party security audit on no less than an annual basis. "Client content" shall mean any and all artwork, logos, graphics, video, text, data, materials or content provided by Client for use in the Applications.
 - c. TeamDynamix will not access or use Client content except as necessary to maintain or provide the services under this Agreement, or as necessary to comply with the law or a binding order of a governmental body. TeamDynamix will not (i) disclose Client content to any government or third party, or (ii) move Client content

TeamDynamix

from the TeamDynamix servers; except in each case as necessary to comply with the law or a binding order of a governmental body (such as a subpoena or court order). Unless it would be in violation of a court order or other legal requirement, TeamDynamix will give Client reasonable notice of any legal requirement or order referred to in this **Section 8(c)**, to allow Client to seek a protective order or other appropriate remedy. TeamDynamix will only use personal information and billing information in accordance with its privacy policy (available at <https://www.teamdynamix.com/privacy-policy-terms>), and Client consents to such usage. TeamDynamix will not collect or use any personal information prior to the Effective Date of this Agreement, and Client will not submit or otherwise make available any personal information to TeamDynamix prior to such date.

9. **Mutual Warranties.** Each Party represents and warrants that (a) it has full power and authority to enter into this Agreement and to perform its obligations and to grant any license(s) contained herein; and (b) it has not entered into, and shall not enter into any agreement either written or oral in conflict with its obligations under this Agreement.
10. **Representations.** TeamDynamix warrants that it owns all right, title and interest in all material and Applications used to provide the services under this Agreement or has the authority to license all material or Applications to Client.
11. **Disclaimer of Warranties.** EXCEPT FOR THE EXPRESS WARRANTIES SET FORTH IN **SECTIONS 9 AND 10**, ALL SERVICES AND TEAMDYNAMIX MATERIALS ARE PROVIDED "AS IS" AND TEAMDYNAMIX HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHER, AND TEAMDYNAMIX SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE OR TRADE PRACTICE. WITHOUT LIMITING THE FOREGOING, TEAMDYNAMIX MAKES NO WARRANTY OF ANY KIND THAT THE SERVICES OR TEAMDYNAMIX MATERIALS, OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, WILL MEET CLIENT'S OR ANY OTHER PERSON'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE OR ERROR-FREE. ALL THIRD-PARTY MATERIALS ARE PROVIDED "AS IS" AND ANY REPRESENTATION OR WARRANTY OF OR CONCERNING ANY THIRD PARTY MATERIALS IS STRICTLY BETWEEN CLIENT AND THE THIRD PARTY OWNER OR DISTRIBUTOR OF THE THIRD PARTY MATERIALS.
12. **Client Conduct and Obligations.**
 - a. Client is responsible for, without limitation, the following: (i) Client's implementation of TeamDynamix Applications; (ii) protecting the names and passwords of the Users to the Applications and preventing and notifying TeamDynamix of unauthorized use of the Applications; and (iii) the lawfulness of, and results obtained from, all Client data submitted by Users to the Applications and each such User's acts and omissions.
 - b. Except as otherwise specifically permitted under this Agreement, Client shall not, nor will Client permit any third party to: (i) copy, modify, create derivative works of, distribute, sell, assign, pledge, sublicense, lease, loan, rent, timeshare, deliver or otherwise transfer the Applications to any third party in whole or in part provided that Client may utilize TeamDynamix's published documentation as needed for use by its Users; (ii) reverse engineer, decompile, disassemble, or otherwise attempt to reverse engineer or discover the source code or underlying ideas or algorithms of the Applications; (iii) reverse engineer, decompile, disassemble, or translate the Applications or any part thereof; (iv) transfer any of the Applications components to any other person, entity, computer, computer network, or other device; (v) upload, post, mail, publish, transmit or distribute in any way the Applications, any component of the Applications or derivative works based thereon; (vi) input, upload, transmit or otherwise provide to or through the Applications, any information or materials that are unlawful or injurious or that contain, transmit or activate any harmful code, viruses, corrupted files or similar items that may damage the Applications or another's computer hardware; (vii) provide benchmarking or summary information regarding the Applications to any competitor of TeamDynamix; or (viii) remove, delete, alter, or obscure any trademarks, copyright or other proprietary notices.
 - c. Client will work with TeamDynamix and provide timely, confidential feedback about product value and performance. TeamDynamix shall own all intellectual property rights in any improvements, upgrades, or derivative works resulting from the use of such feedback.

TeamDynamix

- d. Client acknowledges that the Applications are proprietary to TeamDynamix, and TeamDynamix retains exclusive ownership of the same throughout the world and all related intellectual property, including, without limitation, all Application components, and all derivatives thereof, that Client may utilize or build within the Applications, such as (i) “connectors” that allow Users to access, use, and update data and (ii) “flows” that allow Users to add, subtract, or transform data between and among Client’s systems. In order to use the Applications, Client may be required to acquire third party software directly from third party licensors, and the terms and conditions of such licenses are separate and distinct from this Agreement. Additionally, modifications, updates, or customizations made by TeamDynamix to the Applications shall be owned exclusively by TeamDynamix, and Client shall receive or possess no right, title, or interest in any modifications, updates, or customizations except for its license to use the Applications as expressed herein.
- e. TeamDynamix may issue to Client or may authorize a Client administrator to issue, a password for each User to use Client’s account for which Client has paid the applicable fees to TeamDynamix. Client is responsible for maintaining the confidentiality of all usernames and passwords and for ensuring that each username and password is used only by an authorized User. Client is solely responsible for any and all usage of the Applications through the use of names and passwords. Client agrees to promptly notify TeamDynamix of any unauthorized use of Client’s account or any other breach of security suspected or known by Client. TeamDynamix shall have no liability for any loss or damage arising from Client’s failure to comply with these requirements.
- f. Client hereby irrevocably grants all such rights and permissions in or related to Client data to TeamDynamix as are necessary or useful to perform the services contemplated by the Applications and as necessary for TeamDynamix to enforce its rights under this Agreement. The parties expressly agree that, with respect to any Client data actually processed by TeamDynamix pursuant to this Agreement, Client is the data controller and TeamDynamix is a data processor. All Client data shall remain on servers located in the United States, provided however, that Client acknowledges and agrees that, upon Client’s direction within the Applications, Client data may be transferred outside the country where it is located if and as necessary to effect the transfer of such Client data as established by Client’s API policies and procedures in the Applications, in which case Client is solely responsible for ensuring that it is lawfully entitled to transfer and authorize TeamDynamix to transfer the relevant Client data to TeamDynamix so in accordance with this Agreement. Client will ensure that the relevant third parties have been informed of, and have given their consent to, such use, processing, and transfer as required by all applicable data protection legislation.
- g. Client will not transfer any protected health information (as defined under the Health Insurance Portability and Accountability Act (“HIPAA”)) or confidential information under the Family Education Rights Privacy Act (“FERPA”) to TeamDynamix without the prior written consent of TeamDynamix. If the activities permitted by TeamDynamix under this Agreement render TeamDynamix a Business Associate under HIPAA, Client shall execute TeamDynamix’s standard Business Associate Agreement. Client agrees that it shall not utilize iPaaS or Conversational AI (unless Client has been notified by TeamDynamix that HIPAA-compliant functionality has been added to iPaaS and/or Conversational AI, as applicable) to process protected health information or transfer such protected health information to TeamDynamix. TeamDynamix disclaims all liability for breaches under HIPAA, FERPA, or the promulgated regulations thereunder if such breaches were caused in any way by Client, or Client’s employees, agents, officers, or directors or in breach of this **Section 12(g)**.
- h. When Client initiates data transfers, the Client is solely responsible for encrypting such Client data and/or regulated personally identifiable information being transferred into or out of the Applications, including by setting, managing, monitoring, and enforcing the applicable policies with respect to the encryption of such. For the avoidance of doubt, TeamDynamix implements appropriate security measures, including encryption, for Client data at rest when within the Applications.
- i. The Applications may contain features designed to interoperate with either on-premise or hosted Client or third party applications (excluding the Applications) (collectively, “Integrated Third-Party Applications”). Client is solely responsible for obtaining and maintaining access to Integrated Third-Party Applications from the applicable providers. TeamDynamix is not liable to Client hereunder and shall not provide Client with any refund, credit, or other compensation for any errors, delays, downtime, or nonperformance of the Applications caused by the temporary or permanent unavailability of the Integrated Third-Party Application, or if Client terminates Client’s subscription or license to the Integrated Third-Party Application. If Client

TeamDynamix

establishes an integration between the Integrated Third-Party Application and an Application made available via a cloud implementation, Client hereby authorizes TeamDynamix to access and transmit Client data to and/or from the Integrated Third-Party Application during the Term and subject to TeamDynamix's other obligations under this Agreement incident to such transfer, provided, further, that Client acknowledges that no Client data will be stored by TeamDynamix during or as a result of such integration. TeamDynamix is not responsible for any disclosure, modification, or deletion of Client data occurring in or caused by an Integrated Third-Party Application.

- j. TeamDynamix holds all right and title to Resultant Data. Notwithstanding the terms of **Section 8(c)** herein, Client hereby consents to TeamDynamix's utilization of such Resultant Data for purposes of operating TeamDynamix's business and improving its products and relinquishes all right and/or license thereto. For purposes of this Agreement, "Resultant Data" means (i) data and information related to Client's use of the Applications including to compile statistical and performance information related to the provision and operation of the Applications, provided, however, that such data and information must be used by TeamDynamix on an aggregate basis and in an anonymized manner and (ii) outputs and results of the use of Conversational AI such as automatically-generated text or voice responses to inquiries submitted to a Conversational AI ChatBot, and tagged, labeled and categorized text and other similar metadata that is used to train and improve Conversational AI ChatBot algorithms.
13. **Data Retention; Data Recovery Services.** TeamDynamix maintains at least thirty (30) consecutive calendar days of deleted data. Data recovery services may be purchased by Client and, if purchased, will be billed to Client at standard hourly rates. TeamDynamix expressly disclaims any obligation to maintain deleted data beyond the scope set forth in this **Section 13**, including any obligation to maintain deleted data beyond thirty (30) consecutive calendar days.
14. **Defaults.**
 - a. In the event either Party defaults under this Agreement, the non-defaulting Party may notify the defaulting Party in writing and allow that Party a reasonable opportunity to cure said default, such opportunity not to be less than fifteen (15) calendar days. If said default is not remedied within such cure period, the non-defaulting Party shall then have the right to terminate this Agreement immediately in accordance with **Section 15(a)** and this **Section 14**.
 - b. For purposes of this Agreement, a default shall have occurred with respect to either Party if such Party (i) fails to fully and timely perform or comply with, or materially breaches, any material term or condition of this Agreement, (ii) ceases to do business as a going concern, (iii) makes a general assignment for the benefit of creditors, (iv) files for insolvency, bankruptcy, or seeks to enter receivership, (v) authorizes, applies for, consents to, or has proceedings commenced against it to appoint a trustee or liquidator for all or a substantial part of its assets which is not resolved within (30) days of such commencement, or (vi) violates the confidentiality provisions of this Agreement set forth in **Section 8(a)** hereof.
15. **Termination Rights; Effect of Termination.**
 - a. Either Party may terminate this Agreement upon an uncured default of the other Party to this Agreement as set forth and in accordance with **Section 14** of this Agreement.
 - b. A termination or expiration of this Agreement shall not, with respect to the terminated or expired services, release either Party from its obligations under **Section 5**, **Section 8(a)**, **Section 13**, **Sections 16-20**, **Section 22**, **Sections 24-25**, **Section 28-31**, and **Sections 33-34** which shall remain binding upon each Party until expressly released in writing by the other Party. Upon termination or expiration, Client shall delete, destroy, or return all copies of items constituting the intellectual property of TeamDynamix. In the event of termination, TeamDynamix agrees to provide access for two (2) client resources via existing TeamDynamix User accounts to manually download through existing export and download capabilities Client intellectual property stored on TeamDynamix's host systems for thirty (30) days beginning on the date of termination or expiration. TeamDynamix will purge all Client data stored on TeamDynamix's host systems during the first available maintenance window after 30 days from the effective date of termination or expiration.

TeamDynamix

- c. If Client terminates this Agreement pursuant to **Section 15(a)**, Client will be relieved of any obligation to pay any fees pursuant to **Section 5** attributable to the period after the effective date of such termination (and TeamDynamix shall refund to Client any fees paid in advance for services that TeamDynamix has not performed as of the effective date of termination (on a pro-rata basis)).
 - d. If TeamDynamix terminates this Agreement pursuant to **Section 15(a)**, all fees that would have become payable to TeamDynamix had this Agreement remained in effect until the expiration of the Term (as if such earlier termination had not occurred) will become immediately due and payable, and Client shall pay such fees, together with all previously-accrued and not yet paid fees and expenses.
 - e. Upon termination or expiration of this Agreement, Client's license to access and use the Applications shall be extinguished except as provided herein.
16. **Mutual Indemnification.** Each Party agrees to indemnify, defend and hold harmless the other Party and its employees, officers, directors, subsidiaries, agents, and permitted successors and assigns from and against any all claims, damages, liabilities, deficiencies, actions, losses, judgments, settlements, penalties, fines, costs and expenses of every nature (including reasonable attorneys' fees and the costs of enforcing this Agreement and pursuing any insurance providers) resulting from the indemnifying Party's (or its employees, officers, directors, subsidiaries, and agents) gross negligence or willful misconduct.
17. **TeamDynamix IP Indemnity.** Subject to the other provisions of this Agreement, TeamDynamix agrees that it will indemnify, defend and hold harmless Client and its employees, officers, directors, subsidiaries, agents, and permitted successors and assigns (each, a "Client Indemnitee") from any and all claims, damages, liabilities, deficiencies, actions, losses, judgments, settlements, penalties, fines, costs and expenses of every nature (including reasonable attorneys' fees and the costs of enforcing this Agreement and pursuing any insurance providers) incurred by such Client Indemnitee arising out of, resulting from, or attributable to any third party claim that the Applications infringe any third party's United States patent, copyright, trademark or trade secret rights; provided, however that TeamDynamix shall have no liability under this Agreement for claims of infringement based on (a) modifications, adaptations or changes to the Applications not made by TeamDynamix, (b) the use or incorporation of Client data in conjunction with the Applications is the primary cause of the liability, or (c) Client's use of the Applications in a manner inconsistent with TeamDynamix's written instructions for proper usage. **THIS SECTION 17 SETS FORTH CLIENT'S SOLE REMEDIES AND TEAMDYNAMIX'S SOLE LIABILITY AND OBLIGATION FOR ANY ACTUAL, THREATENED, OR ALLEGED CLAIMS THAT THE SERVICES OR APPLICATIONS INFRINGE, MISAPPROPRIATE, OR OTHERWISE VIOLATE ANY INTELLECTUAL PROPERTY RIGHTS OF ANY THIRD PARTY.**
18. **Client IP Indemnity.** Subject to the other provisions of this Agreement, Client agrees to indemnify, defend and hold harmless TeamDynamix and its employees, officers, directors, subsidiaries, agents, and permitted successors and assigns (each, a "TeamDynamix Indemnitee") from any and all claims, damages, liabilities, deficiencies, actions, losses, judgments, settlements, penalties, fines, costs and expenses of every nature (including reasonable attorneys' fees and the costs of enforcing this Agreement and pursuing any insurance providers) incurred by such TeamDynamix Indemnitee arising out of, resulting from, or attributable to any claim by a third party related to any Client data or any unauthorized modification of the Applications, including any claims for intellectual property infringement therefrom.
19. **Limitation of Liability.**
 - a. To the extent permitted by law, the total, cumulative liability of each Party arising out of or related to this Agreement or the services provided hereunder, whether based upon contract, in tort or any other legal or equitable theory, including those related to privacy law, shall be limited to the amounts paid by Client for the service giving rise to the claim during the twelve (12) month period preceding the first event giving rise to the liability. The existence of more than one claim shall not enlarge this limit. The foregoing limitation of liability shall not apply to: (i) bodily injury or death; and (ii) Client's obligation to pay amounts owed for services provided hereunder.
 - b. IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES, EVEN IF SUCH PARTY HAS BEEN ADVISED OF THE POSSIBILITY THEREOF INCLUDING BUT NOT LIMITED TO LOSS OF DATA OR INFORMATION OF ANY KIND, LOST PROFITS, LOST BUSINESS REVENUE, COST OF REPLACEMENT SERVICES, OR FAILURE TO REALIZE EXPECTED SAVINGS AND REGARDLESS OF WHETHER ANY CLAIM FOR SUCH RECOVERY IS BASED UPON THEORIES OF CONTRACT, NEGLIGENCE OR TORT (INCLUDING STRICT LIABILITY).

TeamDynamix

EACH PARTY HEREBY WAIVES, FOR ITSELF AND ITS SUCCESSORS AND ASSIGNS, ANY AND ALL CLAIMS FOR SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES.

20. **Community Works.** Client may build or create derivative works of certain components within the iPaaS Application, namely: (i) “connectors” that allow Users to access, use, and update data; and (ii) “flows” that allow Users to add, subtract, or transform data between and among Client’s systems within the iPaaS Application (the “Community Works”) for distribution and sharing with other iPaaS Applications users in the community area of the iPaaS Application (the “TeamDynamix Community”). Users within the TeamDynamix Community are able to browse connectors and flows that other Users have posted to add to their own libraries and allow efficiencies by appropriating work that has already been done by other Users within the TeamDynamix Community. Other than TeamDynamix’s permission to Client for Client to distribute Community Works in the TeamDynamix Community, Client shall continue to be bound by the restrictions set forth in **Section 12** of this Agreement with respect to the creation and usage of Community Works.
- a. **Intellectual Property Rights.** TeamDynamix owns all right, title, and interest in and to the Community Works, including all intellectual property rights therein. Client shall not acquire any right or interest in or to the Community Works except for the rights to use the Community Works as set forth in this Agreement. To the extent that any intellectual property rights vest in Client, Client shall assign any and all of such intellectual property rights to TeamDynamix, and, upon TeamDynamix’s request, make any required filings or undertake actions required to effect such assignment.
 - b. **Disclaimer.** **If Client uses any Community Works posted in the TeamDynamix Community, Client does so entirely at its own risk and such Community Works are provided “AS IS” with all faults.** TEAMDYNAMIX SHALL HAVE NO DUTY OR OBLIGATION TO INVESTIGATE, VET OR OTHERWISE APPROVE ANY COMMUNITY WORKS POSTED BY ANY USER OR ANY THIRD PARTY AND CLIENT HEREBY RELEASES TEAMDYNAMIX, ITS OFFICERS, MEMBERS, MANAGERS, EMPLOYEES, AGENTS AND ASSIGNS FROM ALL LIABILITY ARISING OUT OF CLIENT’S USAGE OF ANY COMMUNITY WORKS AND ACKNOWLEDGES THAT TEAMDYNAMIX AND ITS OFFICERS, MEMBERS, MANAGERS, EMPLOYEES, AGENTS AND ASSIGNS SHALL HAVE NO OBLIGATION TO INDEMNIFY CLIENT FROM AND AGAINST ANY CLAIMS OR LIABILITY OF ANY KIND RELATED TO CLIENT’S USAGE OF THE COMMUNITY WORKS. WITH RESPECT TO COMMUNITY WORKS, TEAMDYNAMIX HEREBY DISCLAIMS ALL WARRANTIES, WHETHER EXPRESS, IMPLIED, STATUTORY OR OTHER, AND TEAMDYNAMIX SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE OR TRADE PRACTICE. WITHOUT LIMITING THE FOREGOING, TEAMDYNAMIX MAKES NO WARRANTY OF ANY KIND THAT THE COMMUNITY WORKS, OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, WILL MEET CLIENT’S OR ANY OTHER PERSON’S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE OR ERROR-FREE. THE FOREGOING DISCLAIMERS WITH RESPECT TO COMMUNITY WORKS SHALL SUPERSEDE ALL OTHER WARRANTIES PROVIDED IN THIS AGREEMENT OR OTHERWISE.
21. **Conversational AI.** Artificial Intelligence (AI) tools such as ConversationalAI, are designed to process and generate language responses based on the input received. While AI tools can provide helpful insights and responses, they can sometimes provide inaccurate information. When information is input into an AI tool, such information is being provided to the system’s developers, and AI tools are generally not equipped or designed to protect confidential or sensitive data. Accordingly, Users should exercise extreme caution when determining what data AI can access and what questions it provides answers to. TeamDynamix is not liable for AI’s misuse of or inaccurate answers about personal confidential data, business confidential data, any other proprietary, confidential or sensitive data or information of Client or others or any emergency or private information not related in any way to the services (including but not limited to self-harm, physical emergencies or disasters), in Conversational AI. Licenses to Conversational AI Applications include (i) the right to copy and deploy the HTML / Javascript code provided by TeamDynamix on Client’s website for the sole purpose of making the Conversational AI ChatBots accessible for interaction with individuals on Client’s website and through such channels that have been identified as authorized channels on **Exhibit A** and (ii) User access to the online portal provided by TeamDynamix for interacting with TeamDynamix and the Conversational AI ChatBots. Licenses to Conversational AI Applications may be limited to specific departments or sites as indicated on Exhibit A, and Client shall not permit the use of Conversational AI Applications for any other purposes other than to support the designated departments or sites.

TeamDynamix

22. **Independent Contractors.** The relationship between the Parties created by this Agreement is that of independent contractors and not partners, joint venturers, agents, or employees.
23. **Governing Law.** This Agreement will be interpreted, implemented, and enforced under Michigan law, excluding any applicable conflict or choice of law provisions.
24. **Force Majeure.** No Party shall be liable or responsible to the other Party, nor be deemed to have defaulted under or breached this Agreement, for any failure or delay in fulfilling or performing any term of this Agreement, when and to the extent such failure or delay is caused by or results from acts beyond the affected Party's reasonable control, including without limitation: strikes, lock-outs, or other industrial disputes (whether involving its own workforce or a third party's), trespassing, sabotage, theft or other criminal acts, failure of energy sources or transport network, acts of god, war, terrorism, riot, civil commotion, interference by civil or military authorities, national or international calamity, armed conflict, malicious damage, breakdown of plant or machinery, nuclear, chemical or biological contamination, explosions, collapse of building structures, fires, floods, storms, earthquakes, epidemics or similar events, natural disasters or extreme adverse weather conditions (each a "Force Majeure Event"). The Party suffering a Force Majeure Event shall (a) notify the other Party of the Force Majeure Event as soon as possible and (b) use reasonable efforts to mitigate the effects of such Force Majeure Event.
25. **Entire Agreement.** This Agreement, including all Exhibits hereto, constitutes the entire agreement of the Parties hereto and supersedes all prior agreements, negotiations, representations, proposals, discussions, and communications, whether oral or in writing, relating to its subject matter.
26. **Modification/Waiver; Severability; Interpretation.** No modification of this Agreement or an Exhibit, and no waiver of any breach of this Agreement or Exhibit will be effective unless in writing and signed by an authorized representative of the Party against whom enforcement is sought. No waiver of a breach of this Agreement or any Exhibit or the failure of either Party to exercise in any respect any right provided for under this Agreement shall be construed a waiver of any subsequent breach of this Agreement or any Exhibit. No course of dealing between the Parties shall be construed as a waiver of any breach of this Agreement or any Exhibit. The provisions of this Agreement and the Exhibits are severable. If any provision of this Agreement and the Exhibits is held to be invalid, illegal, or unenforceable, the validity, legality or enforceability of the remaining provisions will in no way be affected or impaired thereby. Each Party acknowledges that this Agreement has been the subject of active and complete negotiations, and that this Agreement should not be interpreted or construed in favor of or against any Party by reason of the extent to which any Party or its professional advisors participated in the preparation of this Agreement. Section headings are provided for convenience only and are not to be used to construe or interpret this Agreement. Whenever the words "include" or "including" are used in this Agreement, they will be deemed to be followed by the words "without limitation."
27. **Assignment.** Client may not assign any of its rights or delegate any of its obligations hereunder, in each case whether voluntarily, involuntarily, by operation or law, or otherwise, without the prior written consent of TeamDynamix, which shall not be unreasonably withheld, conditioned or delayed. This Agreement is binding upon and inures to the benefit of the Parties and their respective permitted successors and assigns.
28. **No Third-Party Beneficiaries.** There are no intended third-party beneficiaries under this Agreement.
29. **Attorneys' Fees.** In the event that any action, suit, or other legal or administrative proceeding is instituted or commenced by either Party hereto against the other Party arising out of or related to this Agreement, the prevailing Party shall be entitled to recover its reasonable attorneys' fees and court costs from the non-prevailing Party.
30. **Identification of Client Relationship.** Client grants to TeamDynamix the right to identify Client in TeamDynamix's published list of customers and in marketing materials. If requested by Client, TeamDynamix will follow guidelines prescribed by Client in using Client's name, trademarks, or logos, as applicable.
31. **TeamDynamix Marketing Efforts.** Client agrees to work with the TeamDynamix marketing content team to produce a guest blog focused on a thought leadership topic of Client's choice and approved by TeamDynamix (example topics include: improving ITSM maturity, rolling out an enterprise connectivity initiative, and best practices in change management). The guest blog will be written by TeamDynamix on Client's behalf following a short interview. The blog will be posted on TeamDynamix's website and may be excerpted into other channels such as eBooks and articles, and Client hereby grants TeamDynamix the right to post and distribute the blog post and its content as indicated herein. Client agrees to participate in this program within six (6) months of the Effective Date.



32. **Counterparts.** Original signatures transmitted and received via facsimile or other electronic transmission of a scanned document, (e.g., pdf or similar format) are true and valid signatures for all purposes hereunder and shall bind the Parties to the same extent as that of an original signature. Any such facsimile or electronic mail transmission shall constitute the final agreement of the Parties and conclusive proof of such agreement. This Agreement may be executed in one or more counterparts, each of which shall for all purposes be deemed an original and all of which shall constitute the same instrument.
33. **Notices.** All notices, requests, consents, claims, demands, waivers, and other communications hereunder (each, a "notice") must be in writing and addressed to the parties at the addresses set forth on the second page of this Agreement (or to such other address that may be designated by the Party giving notice from time to time in accordance with this section). All notices must be delivered by personal delivery, nationally recognized overnight courier, certified mail, return receipt requested, or e-mail (with confirmation of transmission). Except as otherwise provided in this Agreement, a notice is effective only (a) upon receipt by the receiving Party; and (b) if the Party giving the notice has complied with the requirements of this section.
34. **Authorized Contract Participation.** In accordance with the Client's Rules Governing Procurement of Goods, Services, Insurance and Cooperative Procurement, it is the intent of this solicitation to allow any public body, public or private health or educational institutions, or Client's affiliated agencies and/or corporations, access and use of any subsequent contract(s), as authorized by TeamDynamix, provided such entities are located within the same state or territory as Client's principal place of business.

Participation in this cooperative procurement is strictly voluntary. If authorized by TeamDynamix, any resultant contract(s) may be extended to the entities as indicated above to purchase at then-current contract prices in accordance with contract terms and conditions. TeamDynamix shall notify Client in writing of any entities accessing the contract. No modification of this contract or execution of a separate contract is required to participate, unless an amendment to the material terms of this contract is made. Participating entities shall place their own orders directly with TeamDynamix, and shall fully and independently administer their use of the contract(s), including contractual disputes, invoicing and payments, without direct administration from Client. Client shall not be held liable for any costs or damages incurred by any other participating entity as a result of any authorization by TeamDynamix to extend participation and use of the contract. It is understood and agreed that Client is not responsible for the acts or omissions of any other entity participating in this cooperative procurement, and will not be considered in default of such new contract no matter the circumstances.

[signature page follows]

TeamDynamix

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives, on the date and year first above written.

TeamDynamix Solutions LLC

City of Wyoming, MI

DocuSigned by:
Ken Benvenuto
95EE6856FE894E1...
Signature _____

Signature _____

Ken Benvenuto
Print _____

Print _____

CEO
Title _____

Title _____

7/19/2024
Date _____

Approved as to form:

Scott G. Smith

Scott G. Smith, City Attorney



Exhibit A – License Payments and Pricing

Table 1.1

License Pricing - 60 Month Agreement					
Cost Items	Year 1	Year 2	Year 3	Year 4	Year 5
Universal User - 15 users					
Vanity URL	\$ 7,500.00	\$ 7,725.00	\$ 7,956.75	\$ 8,195.45	\$ 8,441.32
Licensing Totals:	\$ 7,500.00	\$ 7,725.00	\$ 7,956.75	\$ 8,195.45	\$ 8,441.32

TeamDynamix

License Descriptions: Access to the TeamDynamix solution is determined by the Sites to which the user is assigned; the Applications within these Sites that the user has been granted; and the individual application permissions which allow specific functions.

License Type	Description
Site License	Designed to allow an unlimited number of users access to the TeamDynamix Solution. Furthermore, roles can be setup with security provisions for different types of users and Administrators can freely distribute access to the system, as necessary, without the limitation of a license type. This license type does not include (a) new product lines acquired or offered after the execution of this Agreement unless specified by TeamDynamix, (b) additional campuses acquired by Client after the execution of this Agreement unless specified by TeamDynamix, (c) the Asset Discovery license, (d) the iPaaS License, or (e) the Conversational AI License. It is important to note that specific terms relations to the Site License may be outlined in more detail within the Master Service Agreement.
Universal License	<p>Designed to allow flexibility when granting a specific quantity of users access to the TeamDynamix application. Roles can be set up with security provisions for different types of uses and Administrators can freely distribute access to the system, as necessary, without the limitation of a license type. The Universal License does not include (a) new product lines acquired or offered after the execution of this Agreement unless specified by TeamDynamix, (b) the Asset Discovery license, or (c) the IT Process Automation License.</p> <p>A Universal License can be applied to any type of individual that requires access to TeamDynamix. For example, an Executive-level user that needs access to reporting and project governance. Or, a service desk Technician that must manage every aspect of the ticketing life cycle.</p>
Client	This license is designed for users who only need the ability to access the Client Portal and its applications (e.g. Service Catalog, Knowledge Base). Client Portal users can also view relevant project information, such as plans, issues, and risks
Asset Discovery	This is an environment-wide license which scans networks for physical devices and integrates with other discovery solutions for purposes of synchronizing those devices into the TeamDynamix Asset application(s).
iPaaS	This is an environment-wide license for users to build, troubleshoot, maintain, and monitor automated processes and integrations involving one to many systems and for managing API usage and performance.
Private Cloud	Private Cloud refers to the infrastructure model in which the TeamDynamix solution is deployed. Private Cloud places the TeamDynamix database within a dedicated virtual Microsoft SQL Server, thus is it physically separated from all other database tenants. The standard deployment of TeamDynamix is a shared multitenant model.
Vanity URL	This license allows for a custom or client-specific URL residing within its own domain. By default, the URL to the TeamDynamix solutions falls within teamdynamix.com (e.g. <i>clientname.teamdynamix.com</i>) but can be modified with a Vanity URL license (e.g. <i>servicedesk.clientdomain.edu</i>)
Conversational AI	This is an environment-wide(department or site specific) license for conversational AI and live agent chat capabilities including the administrative tools required to build, monitor, maintain and train solution.



1. **Invoices and Fees.** All license fees included in this Agreement will be billed annually on one invoice based on the pricing set for the in this **Exhibit A**. The first payment of \$7,500.00 will be invoiced upon execution of this Agreement and will be due net 30. The second payment of \$7,725.00 will be invoiced on the 12 month anniversary of the date of this Agreement and will be due net 30. The third payment of \$7,956.00 will be invoiced on the 24 month anniversary of the date of this Agreement and will be due net 30. The fourth payment of \$8,195.45 will be invoiced on the 36 month anniversary of the date of this Agreement and will be due net 30. The fifth payment of \$8,441.32 will be invoiced on the 48 month anniversary of the date of this Agreement and will be due net 30. If additional licenses are purchased pursuant to a purchase order, the amounts due pursuant to such purchased licenses shall be added to the payment amounts described under this **Section 1**.
2. **Purchase Orders.** If Client requires a Purchase Order (PO) for payment of invoices, please email PO numbers to accounting@teamdynamix.com.

Please provide contact information for individual responsible for POs:

Name _____
 Email _____

Please provide contact information for individual responsible for inbound invoices:

Name _____
 Email _____

3. **ACH Payments.** Electronic Payments (ACH) should be remitted to:

TeamDynamix Solutions LLC
 c/o PNC Bank
 2 Tower Center Blvd.
 East Brunswick, NJ 08816

Routing number: 031207607
 Account number: 8026397508

Please contact accounting@teamdynamix.com if you require an ACH authorization form.

4. **Additional License Fees.** Any additional license fees will be invoiced on the effective date and will be due net 30. Additional purchases of licenses, during the Term, can be purchased at the cost identified in Table 1.2 below and purchased pursuant to a purchase order in form reasonably acceptable to TeamDynamix:

Table 1.2 SaaS Licensing

Add-On License Fees Per License	Year 1	Year 2	Year 3	Year 4	Year 5
Universal User	\$ 500.00	\$ 515.00	\$ 530.45	\$ 546.36	\$ 562.75

- a. **Proration of Add-On Licenses.** If additional licenses are purchased by Client pursuant to a purchase order, Client will be invoiced for the prorated (on a 365 day basis) amount due for such purchases in accordance with **Section 1**.
- b. **License Amount.** In the event that additional licenses are purchased by Client pursuant to a purchase order, the Table 1.1 will be deemed to be updated to include the additional purchased licenses. The amount of licenses purchased by the Client and set forth on **Exhibit A** shall not be reduced unless the Agreement is amended by the mutual written agreement of the Parties hereto.

TeamDynamix

Exhibit B: Service Level Exhibit

Capitalized words not defined herein shall have the same meaning as set forth in the License Agreement (the "Agreement") between TeamDynamix Solutions LLC ("TeamDynamix") and the counterparty to such Agreement (the "Client").

1. **Service Levels.** Subject to and conditioned upon the compliance of Client and its Users with the terms and conditions set forth in Agreement, Client shall have the right to the benefit of the system uptime provisions set forth in this Service Level Agreement (the "SLA").
 - a. "Uptime" means the ability of Client to log into the Applications. "Downtime" is a period of time when the site hosted by TeamDynamix is not operating as designed and Client cannot log into the Applications as a result thereof.
 - b. TeamDynamix guarantees Uptime of 99.75%, excluding Downtime that is the result of any Exception described below in **Section 1(c)** of this SLA, during each monthly period of the Term (each, a "Measurement Period"). In the event that TeamDynamix breaches this Uptime guarantee during a Measurement Period, TeamDynamix shall provide Client with credit for the amount of time that the breach continues ("Downtime Credit"), in an amount equal to 3% of the Daily Fee per 15-minute increment that TeamDynamix is in breach, pursuant to this **Section 1**. For purposes of this **Section 1**, "Daily Fee" shall be calculated by dividing the annualized license costs set forth in the Agreement by 365. Downtime Credit may be paid by TeamDynamix via a credit to Client's subsequent annual license invoice in the amount owed pursuant to this **Section 1**. The Downtime Credit described in this **Section 1** shall be Client's sole and exclusive remedy and TeamDynamix's sole and exclusive liability for any breach of the obligations set forth in **Section 1** of this SLA.
 - c. **Exceptions to Uptime:** The following (each, an "Exception") shall each suspend TeamDynamix's Uptime guarantee while in effect and shall not be considered a breach of TeamDynamix's Uptime guarantee:
 - i. scheduled maintenance, scheduled upgrades, and emergency patches, so long as such scheduled maintenance, scheduled upgrades, and emergency patches occur outside of business hours and with notice to Client;
 - ii. a failure or malfunction resulting from scripts, data, applications, equipment, or services provided and/or performed by Client;
 - iii. outages initiated by TeamDynamix or its third party providers at the request or direction of Client for maintenance, back up, or other purposes;
 - iv. outages resulting in failure, interruption or other problem with any software, hardware, system network, facility, or other item not supplied by TeamDynamix;
 - v. events resulting from an interruption or shut down of the services due to circumstances reasonably believed by TeamDynamix to be a significant threat to the normal operation of the Service, the facility from which the Service is provided, or access to or integrity of Client data (e.g., a hacker or a virus attack);
 - vi. outages due to system administration, commands, file transfers performed by Client representatives;
 - vii. other activities Client directs, denial of service attacks, and internet connectivity failures;
 - viii. Force Majeure Events;
 - ix. Client's negligence or breach of its material obligations under the Agreement; and
 - x. a lack of availability or untimely response time of Client to respond to incidents that require its participation for source identification and/or resolution.



Exhibit C – Professional Services

PROFESSIONAL SERVICES ADDENDUM

This Professional Services Addendum (“Addendum”) is an exhibit to, and adds, the License Agreement (“Agreement”), of even date as the Agreement by and between TeamDynamix Solutions LLC, a Delaware limited liability company (“TeamDynamix”), and City of Wyoming, MI, a City, (“Client”). TeamDynamix and Client may be referred to in this Addendum, individually, as “Party” and, collectively, as “Parties”.

1. **Scope and Performance of Professional Services.** TeamDynamix agrees to provide the Professional Services identified in written statements of work attached hereto setting out TeamDynamix’s compensation, deadlines and additional terms and conditions applicable to specific engagements, if any, and such other details as the Parties may deem appropriate and in such form as the Parties may agree (each, a “Statement of Work” or “SOW”). Statements of Work shall reference and be subject to the Agreement and this Addendum, shall be executed by the Parties, and shall form a part of and be incorporated into the Agreement and this Addendum. Client shall be permitted to purchase Professional Services pursuant to a purchase order provided that a compliant Statement of Work is attached to such purchase order.

2. **Order of Precedence.** This Addendum constitutes additional terms and conditions to the Agreement. The provisions of the Agreement shall prevail in the event of a conflict with provisions of this Addendum. In the event of a conflict between the terms and conditions of any SOW and this Addendum, the terms and conditions of this Addendum shall prevail. The provisions in an SOW dated later in time shall prevail in the event of a conflict with provisions in an SOW dated earlier in time.

3. **TeamDynamix Obligations.** Subject to and conditioned upon the compliance of Client with the terms and conditions of the Agreement and this Addendum, TeamDynamix shall use commercially reasonable efforts to provide Client with Professional Services. The professional staff of TeamDynamix will have the proper skill, training, and background necessary to accomplish their assigned tasks and shall perform the services contemplated by this Addendum in accordance with industry standards. TeamDynamix personnel physically located at Client’s facilities, hereinto referred to as “On-Site”, shall comply with all reasonable workplace standards and policies applicable to Client’s employees, of which TeamDynamix is apprised of in writing in advance by Client, provided they are consistent with TeamDynamix’s own business practices.

4. **Client Obligations.** While On-Site, Client will provide TeamDynamix with reasonable access to use Client’s facilities, equipment, data and information that are necessary for TeamDynamix to perform Professional Services. Client will reasonably cooperate with TeamDynamix in the performance of Professional Services, provide reasonable working space to TeamDynamix personnel and reasonably cooperate with such personnel. Client shall respond promptly to any request of TeamDynamix to provide direction, information, approvals, authorizations or decisions that are reasonably necessary for TeamDynamix to perform Professional Services in accordance with the requirements of this Addendum.

5. **Ownership.**

5.1 **Client Content.** Any and all software programs, databases, artwork, logos, graphics, video, text, data and other materials supplied by Client to TeamDynamix in connection with TeamDynamix’s performance of any Professional Services (“Client Content”) are and will at all times remain the sole and exclusive property of Client and its licensors. No right, title, or interest will be transferred from Client to TeamDynamix with respect to any of Client Content or Client’s intellectual property rights therein, provided that Client hereby grants TeamDynamix a non-exclusive right and license to use and incorporate such rights into any Work Product solely for the purposes of providing the Professional Services hereunder.

5.2 **TeamDynamix Content.** TeamDynamix shall retain and possess all right, title, interest, and ownership in and to any and all ideas, concepts, know-how, data processing techniques, software or documentation developed by TeamDynamix personnel (alone or jointly with Client) in connection with Professional Services provided to Client, and it will be the exclusive

TeamDynamix

property of TeamDynamix provided to Client as a part of the Professional Services described herein, and the Client shall have no right, title, interest, or ownership in or to such ideas, concepts, know-how, data processing techniques, software or documentation.

5.3 **Work Product.** As part of or in connection with the Professional Services, TeamDynamix and its employees will or may produce Work Product. “Work Product” includes all inventions, discoveries, processes, reports, plans, projections, budgets, software, data, technology, designs, documentation, innovations and improvements created, discovered, developed, compiled or prepared by TeamDynamix or its employees as part of or in connection with the Professional Services. Work Product includes any intermediate work product created in developing the final deliverables. TeamDynamix and Client agree that, except for any Client intellectual property, any and all Work Product shall be the sole and exclusive property of TeamDynamix, provided that TeamDynamix hereby grants Client a non-exclusive right and license to use the Work Product subject to the same terms and conditions as the license(s) provided under the Addendum for the product or service to which the Work Product relates. For the avoidance of doubt, TeamDynamix shall retain ownership of all intellectual property rights in products and services licensed or sold to Client under the Addendum and any derivative works of said products or services, subject to the licenses granted to Client under the Addendum.

6. **Payment.** The Professional Services fee shall be set forth in the SOW, and invoices shall be rendered in accordance with the payment terms set forth therein and subject to the general terms and conditions of **Section 5** of the Agreement.

7. **Travel.** For any On-Site Professional Services, Client will reimburse TeamDynamix for all, reasonable documented travel and documented out-of-pocket expenses (which shall comprise transport, accommodation and living expenses) incurred. U.S. General Services Administration (GSA.gov) per diem rates are followed for meals/incidentals. Scheduling On-Site engagements shall be approved in advance by Client, before travel costs are incurred.

8. **Non-Solicitation of Employees.** During the Term of the Agreement and for a period of twelve (12) months thereafter, neither Party shall, directly or indirectly, in any manner solicit or induce for employment any person who is then in the employment or engagement of the other Party. A general advertisement or notice of a job listing or opening or similar general publication of a job search or availability to fill employment positions shall not be construed as a solicitation or inducement for the purposes of this **Section 8**, and the hiring of any such employee or independent contractor who freely responds thereto shall not be a breach of this **Section 8**.

9. **Warranty Disclaimer.** TEAMDYNAMIX WARRANTS THAT THE PROFESSIONAL SERVICES WILL BE PERFORMED IN A WORKMANLIKE MANNER AND WITH PROFESSIONAL DILIGENCE AND SKILL, IN ACCORDANCE WITH THIS ADDENDUM AND THE DOCUMENTATION. IF THERE IS A MATERIAL BREACH OF THE ABOVE WARRANTY, TEAMDYNAMIX’S ENTIRE LIABILITY AND CLIENT’S ENTIRE REMEDY SHALL BE, AT TEAMDYNAMIX’S OPTION TO (I) MODIFY THE PROFESSIONAL SERVICES TO CONFORM TO THE TERMS OF THE SOW; (II) PROVIDE A REASONABLE WORKAROUND SOLUTION WHICH WILL REASONABLY MEET CLIENT’S REQUIREMENTS OR (III) IF NEITHER OF THE FOREGOING IS COMMERCIALY REASONABLE, TERMINATE THE SOW AND REFUND TO CLIENT ALL SUMS PAID BY CLIENT FOR THE NONCONFORMING PROFESSIONAL SERVICES, WITH NO FURTHER LIABILITY TO TEAMDYNAMIX. THESE REMEDIES ARE CLIENT’S SOLE AND EXCLUSIVE REMEDIES FOR A CLAIM OF BREACH OF WARRANTY UNDER THIS ADDENDUM.

EXCEPT FOR THE EXPRESS WARRANTIES IN THIS **SECTION 9**, EACH PARTY HEREBY DISCLAIMS ALL WARRANTIES, EITHER EXPRESS, IMPLIED, STATUTORY, OR OTHERWISE UNDER THIS ADDENDUM, AND TEAMDYNAMIX SPECIFICALLY DISCLAIMS ALL IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE AND NON-INFRINGEMENT, AND ALL WARRANTIES ARISING FROM COURSE OF DEALING, USAGE OR TRADE PRACTICE.

10. **Modification/Waiver; Severability; Interpretation.** No modification of this Addendum and no waiver of any breach of this Addendum will be effective unless in writing and signed by an authorized representative of the Party against whom enforcement is sought. No waiver of a breach of this Addendum or the failure of either Party to exercise in any respect any right provided for under this Addendum shall be construed as a waiver of any subsequent breach of this Addendum. No course of dealing between the Parties shall be construed as a waiver of any breach of this Addendum. The provisions of this Addendum are

TeamDynamix

severable. If any provision of this Addendum is held to be invalid, illegal, or unenforceable, the validity, legality or enforceability of the remaining provisos will in no way be affected or impaired thereby. Section headings are provided for convenience only and are not to be used to construe or interpret this Addendum. Whenever the words “include” or “including” are used in this Addendum, they will be deemed to be followed by the words “without limitation.”

11. **No Third Party Beneficiaries.** There are no intended third-party beneficiaries under this Addendum.

[Signature Page Follows]

TeamDynamix

IN WITNESS WHEREOF, the Parties have caused this Addendum to be executed by their duly authorized representatives, on the date and year first above written.

TeamDynamix Solutions LLC

City of Wyoming, MI

DocuSigned by:

95EE6856FE894E1...

Signature _____

Signature _____

Ken Benvenuto

Print _____

Print _____

CEO

Title _____

Title _____

7/19/2024

Date _____

Date _____

[Intentionally Left Blank – Statements of Work Follow]

TeamDynamix

Statement of Work

Introduction

City of Wyoming, MI (herein known as 'CLIENT') is located in Wyoming, MI. CLIENT wishes to implement the best-in-class solutions from TeamDynamix. In summary, the following capabilities are in-scope for this engagement:

- TeamDynamix Work Management Multi-Tenant SaaS Deployment with vanity URL
- TeamDynamix Conversational AI SaaS Deployment
- TeamDynamix Administration Foundations
- TeamDynamix Work Management Core Integrations
- TeamDynamix Work Management Basic Ticketing
- TeamDynamix Work Management Advanced Ticketing
- TeamDynamix Work Management Client Portal
- TeamDynamix Work Management Service Catalog
- TeamDynamix Work Management Knowledge Management
- TeamDynamix Work Management Asset Management
- TeamDynamix Work Management Reporting

Solution Environment

- TeamDynamix Software-as-a-Service (SaaS)

Implementation Approach

TeamDynamix Consulting Services has developed an implementation approach to ensure the success of its clients. The implementation will begin with a planning exercise to discuss specific factors which influence the timeline of the deployment. Following the planning exercise, CLIENT resources shall attend application training courses and learn how to configure the TeamDynamix applications. The training sessions are instructor-led, delivered online, and typically last 90-120 minutes. The number of sessions depends on the applications that are to be implemented. Each session may have pre-requisite videos and follow-up activities such as configuration steps and lab exercises.

Once the training courses conclude and CLIENT has completed the prerequisite configuration activities, one-on-one dedicated sessions with a TeamDynamix Consulting Services consultant shall begin. CLIENT will meet regularly with a TeamDynamix consultant to further build on knowledge from the training course and jointly configure the application(s) to meet specific requirements. Following configuration, the solution is transferred into production once training and go-live preparation steps have been completed. If defined during the planning exercise, additional phases follow the initial go-live. If no follow-on phases have been defined, CLIENT is then introduced to Support and Customer Success and the implementation project is closed-out.

Most clients progress through the implementation between three and six months depending on the complexity of requirements and their resource availability. TeamDynamix and CLIENT will work together to

TeamDynamix

coordinate specific dates once the Statement of Work has been fully executed. TeamDynamix shall make available its Consulting Services resources for the period of time established during the planning exercise. Changes to timeline or scope may require a signed change order document and/or additional costs, especially if Consulting Services resources must be extended beyond the time period outlined in the implementation plan. If for some reason CLIENT chooses to place the implementation on-hold, TeamDynamix resources shall be reassigned to other projects. The scope of services outlined with this Statement of Work expires 6 months from document execution (unless modified by a change order) and all work shall then be considered complete.

Departments Included

CLIENT may wish to deploy TeamDynamix Work Management to multiple departments. Departments can be deployed simultaneously or in phases. If deployed in phases, CLIENT should plan for its primary TeamDynamix Work Management administrator to participate in all phases to ensure continuity and build upon knowledge gained in previous phases.

The following departments are considered in-scope for this engagement:
Information Technology

Key Contacts

The following individuals will serve as key contacts for the coordination of this engagement.

City of Wyoming, MI

Name: Todd Curran

Title: IT

Email: todd.curran@wyomingmi.gov

TeamDynamix Professional Services

Name: Aaron Crane

Title: Vice President, Operations

Phone: 614-340-3342

Email: acrane@teamdynamix.com

Internal Use Only - Do Not Remove - TDXPS69163.9A3RY

Scope of Services

Implementation Project Management

Implementation Project Management

TeamDynamix and CLIENT shall jointly manage the implementation project. TeamDynamix shall take the lead on facilitating the sessions related to the application deployment. CLIENT shall manage its resources, sponsor/stakeholder expectations, and end-user communications. Members of TeamDynamix and CLIENT

TeamDynamix

will work together on the specific project management-related items, such as:

- Project background, objective and vision
- Project scope
- Team roles and responsibilities
- Project timeline
- Project management tools and communication plans
- Outline tracking procedures for risks and issues
- Determine future meeting cadence
- Review deliverables and action items

CLIENT Responsibilities:

- Provide a project manager to coordinate with TeamDynamix resources.
- Identify and coordinate other individuals involved in the project, such as Sponsor, Administrators, Technical resources, Process owners and other Subject Matter Experts.
- Create and manage the documentation and plans required for CLIENT-specific project management processes.
- Ensure its resources are completing activities and actions in a timely manner so that project timeline is met.

TeamDynamix Responsibilities:

- Provide resources to act as a project manager, application consultant, and technical lead. Resources shall work closely with CLIENT project manager to execute the implementation plan.
- Meet with CLIENT project resources on a regular basis to discuss project status and review progress to plan.
- Respond to and help address issues that arise in a timely fashion.
- Help to ensure the overall success and completion of the project.

Core Setup

TeamDynamix consultants shall create a SaaS Production and Test (Sandbox) environment of the TeamDynamix Work Management application for CLIENT. The environments will be accessible via a to-be-determined CLIENT-specific URL (e.g. <https://teamdynamix.clientdomain.com>) and will exist within the TeamDynamix multi-tenant environment.

CLIENT Responsibilities:

- Provide an initial set of users that need access to the TeamDynamix application.
- Create a DNS entry for the defined URL and map the entry to the TeamDynamix environment.

TeamDynamix Responsibilities:

- Perform environment setup tasks for a Production and Sandbox instance of the TeamDynamix application.
- Create a certificate entry using Let's Encrypt for CLIENT vanity URL.
- Provide CLIENT with System Access Information.

TeamDynamix shall create one iPaaS application instance for CLIENT within its SaaS infrastructure. CLIENT will access the application at <https://us1.teamdynamix.com> (U.S. customers) or

TeamDynamix

<https://ca1.teamdynamix.com> (Canadian customers). Furthermore, TeamDynamix will help CLIENT install the iPaaS proxy server if it is necessary to execute scripts, jobs, queries, etc. that reside within CLIENT network.

CLIENT Responsibilities:

- Provide server (virtual or physical) for iPaaS proxy server installation.

TeamDynamix Responsibilities:

- Setup and configure all aspects of the TeamDynamix iPaaS solution in the SaaS infrastructure.
- Provide CLIENT with System Access Information.
- Provide server specifications for iPaaS proxy server.

TeamDynamix Work Management

Solution Workshops

TeamDynamix consultants will provide CLIENT access to the Solution Workshop Course(s). The purpose of the curriculum is to introduce CLIENT to the applications and to transfer knowledge related to each module. TeamDynamix consultants place an emphasis on transferring knowledge to CLIENT resources as a way to best address requirements. Activities covered in the workshop include:

Introduction to TeamDynamix:

- Environment overview
- Maintenance and release schedules
- System Status
- Solutions Client Portal

Administration Foundations:

- Setting up additional Administrators
- TeamDynamix security model
- User groups
- Account/Department values
- Building locations and rooms

Core Integrations:

- Methods of authentication to TeamDynamix
- Email management
- Managing people records
- Microsoft Teams and Slack integration

Client Portal:

- Branding and styling the Client Portal
- Adding headers and footers
- Client Portal pages
- Site-level settings

Knowledge Management:

- Creating knowledge base articles

TeamDynamix

- Building categories
- Knowledge-specific security roles
- Article and category visibility settings
- Notification templates

Service Catalog:

- Defining and configuring services
- Building service categories
- Leveraging Ticket Type values
- Configuring Service templates
- Determining visibility permissions

Ticketing Essentials:

- Ticket creation
- Application security roles
- Service forms
- Custom attributes
- Status values
- Impact, Urgency, and Priority values
- Source values
- Ticket settings

Advanced Ticketing:

- Service Level Agreements
- Notification templates
- Ticket and Task templates
- Response templates
- Satisfaction surveys
- Automation rules
- Workflows and workflow step types (e.g. Approval steps, Conditional steps)

Asset Management:

- Asset creation and relationships
- Configuration items
- Product models and types
- Vendor configuration
- Maintenance windows and change freeze periods
- Asset contracts

Reporting:

- Out-of-the-box reports
- Building reports with the Report Builder tool
- Scheduling reports
- Adding reports to desktops (i.e. Dashboards)
- Sharing reports and visibility settings

CLIENT Responsibilities:

TeamDynamix

- Fully participate in the Solution Workshops
- Review activities covered within each session topic and complete hands-on activities/lab exercises
- Assign appropriate resources to attend training and work on configuration tasks.
- Complete all pre-requisite activities prior to the start of one-on-one consulting sessions with CLIENT’s assigned implementation team.
- Come prepared to each session in order to engage in discussions related to items above.
- Commit to spending time following training activities to continue building expertise.

TeamDynamix Responsibilities:

- Facilitate the solution training and provide guidance to CLIENT.
- Provide access to the Solution Workshop, agenda, and necessary materials.
- Support CLIENT through course activities, addressing questions and issues.
- Following the completion of Solution Workshop activities, assign consultant to CLIENT’s implementation project to address specific requirements during configuration sessions.

Configuration

Following the solution workshop courses, TeamDynamix consultants shall facilitate configuration sessions to further demonstrate, transfer knowledge, and assist CLIENT System Administrators with implementing the application’s capabilities. During configuration sessions, CLIENT and TeamDynamix shall discuss specific requirements and use cases applicable to CLIENT. TeamDynamix shall offer advice on how best to apply the application’s feature-set.

Foundations Configuration:

- Provide guidance to CLIENT on how best to further configure Foundational elements of TeamDynamix (e.g. Accounts/Departments, Security Roles, Locations, etc.) following the solution workshop course.

Core Integrations Configuration:

- Work with CLIENT technical resources to configure Single Sign-on authentication via a SAML 2.0 Identity Provider. CLIENT must supply SAML metadata via a URL or the InCommon Federation so that TeamDynamix can establish a regular metadata synchronization process.
- Work with CLIENT technical resources to configure up to three (3) inbound email monitors. In order to leverage this capability, CLIENT must provide an IMAP-enabled email account that supports OAuth authentication to which the email service can connect. IMAP is not necessary for email processing, but it is used by the TeamDynamix application for mailbox administrative purposes. Instructions and prerequisites shall also be provided by TeamDynamix during the implementation.
- Support CLIENT TeamDynamix System Administrators when building additional email monitors, if applicable.
- Work with CLIENT technical resources to configure the Email Replies monitor and Email Sender settings.
- Coach and support CLIENT technical resources working on user synchronization activities. TeamDynamix has a file import listener utility that can be deployed in the CLIENT environment and will pickup dropped files (e.g. CSV, XLS). TeamDynamix can review and assist with the deployment of this utility if this is the desired approach.

Client Portal Configuration:

- Provide guidance to CLIENT on how best to layout and design Client Portal.
- Provide sample Client Portal layouts from similar implementations.

TeamDynamix

- If necessary, support CLIENT web developer assigned to Client Portal design
- Assist with Client Portal configuration and layout

Knowledge Management Configuration:

- CLIENT shall identify a list of up to twenty (20) knowledge base articles that shall be used as the basis of the Knowledge Management training and configuration activities.
- TeamDynamix shall coach client on how best to apply the capabilities of the knowledge base application and will then support the configuration effort of the up to twenty (20) identified articles.
- CLIENT may add additional articles on its own timeline. If CLIENT desires additional assistance beyond twenty (20) articles, TeamDynamix can provide a separate scope of effort and input on how the implementation timeline may be impacted.

Service Catalog Configuration:

- CLIENT shall identify a list of up to twenty (20) service offerings that shall be used as the basis of the Service Catalog training and configuration activities.
- TeamDynamix shall coach client on how best to apply the capabilities of the Service Catalog application and will then support the configuration effort of the up to twenty (20) identified services offerings.
- CLIENT may add additional service offerings on its own timeline. If CLIENT desires additional assistance beyond twenty (20) service offerings, TeamDynamix can provide a separate scope of effort and input on how the implementation timeline may be impacted.

Ticketing Configuration:

- Coach CLIENT on how best to apply essential ticketing features based on requirements and support the configuration effort.
- Build up to ten (10) ticket forms and support CLIENT TeamDynamix System Administrators during additional form building exercise. CLIENT must provide field definition and layout.
- Provide best practice advice and support CLIENT when adding and managing custom attributes and cascading values.

Advanced Ticketing Configuration:

- Provide guidance to CLIENT on how best to use the advanced ticketing capabilities based on requirements and support the configuration effort.
- Build up to three (3) ticket workflows and support CLIENT TeamDynamix System Administrators during additional workflow building exercise. Workflows can be used to support common business process such as on/off-boarding, major incident processes, and system change management. CLIENT must provide detailed process documentation and explanation.
- Build up to five (5) ticket automation rules and support CLIENT TeamDynamix System Administrators when building additional automation rules. CLIENT must provide conditional routing explanation.
- Assist with customizing notification templates and response templates.

Asset Management Configuration

- Coach CLIENT on how best to apply asset management features based on requirements and support the configuration effort.
- Build up to ten (10) asset forms and support CLIENT TeamDynamix System Administrators during additional form building exercise.
- Assist CLIENT with deploying asset synchronization utility, if necessary. Asset synchronization utility can be

TeamDynamix

deployed within CLIENT environment and connect to an asset data source (e.g. SCCM) for syncing asset inventory to TeamDynamix.

Reporting and Dashboards

- Facilitate a reporting workshop session and demonstrate how to create reports, configure desktops/dashboards, schedule/share reports and discuss reporting best practices.
- Provide common examples of key operational reports to aid CLIENT when making decisions on reporting.
- Custom report development is not in-scope for the implementation.

CLIENT Responsibilities:

- Responsible for primary TeamDynamix configuration with support provided by TeamDynamix.
- Communicate desired state processes and make decisions on configuration options provided by TeamDynamix consultants.
- Assign resources with the availability and skill set required to work with the TeamDynamix suite of applications.

TeamDynamix Responsibilities:

- Coach and guide CLIENT through implementation to ensure the feasibility within the amount of time scoped.
- Assist CLIENT with configuration tasks, when possible, to help maintain implementation momentum.
- Support configuration efforts and assist with importing configuration data, when possible (not all areas of the application support configuration imports). TeamDynamix is not responsible for any data cleansing or manipulation prior to the use of any import tools

TeamDynamix Conversational AI

Solution Workshop

TeamDynamix consultants will provide training on the TeamDynamix Conversational AI solution in order to transfer knowledge to CLIENT administrators. This is achieved via a combination of video-based training, instructor-led sessions, lab exercises, and Q&A sessions. TeamDynamix consultants place an emphasis on transferring knowledge to CLIENT resources to build expertise with the solution. Activities covered in the training include:

Conversational AI:

- Foundational administration/navigation
- Security considerations
- Working with Conversation Intents
- Adding Responses
- Developing Conversation Flows
- Getting started with Conversational Automation
- Improving responses over time

CLIENT Responsibilities:

- Complete initialization packet to document possible CLIENT Intents prior to training.
- Assign appropriate resources to attend training and work on Conversational AI configuration tasks.
- Fully participate in Conversational AI application training.
- Review activities covered within each session topic and complete hands-on activities.

TeamDynamix

- Come prepared to each session in order to engage in discussions related to items above.
- Commit to spending time following training activities to continue building expertise.

TeamDynamix Responsibilities:

- Facilitate the solution training and provide guidance to CLIENT.
- Provide CLIENT with session resources and track progress via implementation plan.
- Share relevant experience from similar implementations.
- Provide input on manners in which application may address CLIENT processes.

Conversational AI Configuration

Following the training sessions and CLIENT completion of post-training activities, for a period of approximately 30-45 days, TeamDynamix Consulting Services will work together with CLIENT to configure a single Conversational AI application for CLIENT’s Information Technology department with an initial set of 25-35 Intents.

CLIENT Responsibilities:

- Determine initial set of Intents for the Conversational AI Information Technology application.
- Provide 3-5 sample utterances for each Conversational AI Intent.
- Determine appropriate responses and conversation flows based on intents.
- Decide on business processes to handle “Transfer to Live Agent” interactions.
- Communicate business process changes to TeamDynamix ITSM users.

TeamDynamix Responsibilities:

- Provide insight and feedback on list of CLIENT-provided intents.
- Assist with creating additional utterances using Conversational AI tools.
- Oversee intent, utterance, and response configuration to ensure CLIENT is following best practices.
- Assist CLIENT with tuning the Conversational AI tool to help improve intent matching.
- Setup the standard TeamDynamix ITSM Ticket creation from Conversational AI response scenario.
- Determine appropriate meeting cadence during Conversational AI configuration period.
- Respond to CLIENT questions and support CLIENT during Conversational AI configuration.

Implementation Closure

Solution Testing

CLIENT Responsibilities:

- Create any necessary system test scripts and/or user acceptance test scripts required to meet internal testing requirements.
- Plan and perform system and/or user acceptance testing.
- Coordinate internal resources involved in the testing processes.

TeamDynamix Responsibilities:

- Provide go-live checklists and support client through configuration testing by responding and working to resolve issues.
- Perform unit testing on any workflow or integration activities developed by TeamDynamix consultants.

Solution Training

TeamDynamix

TeamDynamix provides training services as part of its implementations to prepare TDNext users for go-live. CLIENT and TeamDynamix will work together to coordinate training for TDNext users. TDNext users training is accomplished via a combination of training sessions, workshops, standard training videos, and knowledge base articles.

CLIENT Responsibilities:

- Identify resources that shall be the TeamDynamix System Administrators.
- Ensure the availability of the designated System Administrators throughout the course of the implementation.
- Coordinate and communicate TeamDynamix training plan to TDNext users prior to training sessions.
- If TeamDynamix training is performed on-site, CLIENT must provide a training lab with internet-connected computers.
- Communicate business processes that are changing as a result of the implementation. Additionally, create any supplemental documentation to support the changing business processes.

TeamDynamix Responsibilities:

- Provide Administrative training to individuals (typically 1-3) assigned as TeamDynamix Administrators by CLIENT. Administrative training takes place throughout the implementation, not via a dedicated Administration training course.
- Provide up to 1 live, instructor-led TeamDynamix application training sessions. CLIENT and TeamDynamix will decide on the training agendas during the implementation planning process. CLIENT may record training sessions for internal-use only.
- Provide up to 1 open-house/workshop session (60-90 minutes each) for staff to receive answers to questions about the TeamDynamix application. CLIENT may record open-house/workshop sessions for internal-use only.
- Provide access to standard training support materials available at the time of implementation.

Go-Live Support

TeamDynamix and CLIENT shall collaborate on a go-live strategy during the implementation. Following a 30-day go-live support period, the project will be closed out.

CLIENT Responsibilities:

- Communicate the go-live strategy to key stakeholders and the user community.
- Determine how work items from legacy applications will be addressed post go-live.
- Provide access to resources and systems to support the go-live.
- Participate in project close-out meeting and take full ownership of the TeamDynamix configuration.
- Understand that future changes to TeamDynamix configuration are the responsibility of the CLIENT.
- Direct future questions and issues to the TeamDynamix Support organization

TeamDynamix Responsibilities:

- Provide early life support to quickly identify and provide resolution to issues.
- Facilitate project close-out meeting and ensure CLIENT has necessary information to maintain solution going forward.
- Ensure CLIENT has any necessary credentials and access information related to the configuration.
- Provide support information and make introductions to TeamDynamix Customer Success Representatives.

TeamDynamix

Out-of-Scope

The following items are considered out-of-scope:

- TeamDynamix iPaaS SaaS Deployment
- TeamDynamix Asset Discovery
- TeamDynamix Work Management Project Management Essentials
- TeamDynamix Work Management Advanced Project Portfolio Management
- Capabilities of the TeamDynamix solution not mentioned in the above Scope of Services
- Capabilities of the TeamDynamix Conversational AI solution not mentioned in the above Scope of Services

Cost Summary

Description	Total
Professional Services - Implement TeamDynamix applications	\$7,500.00
Total TeamDynamix Professional Services	\$7,500.00

Payment Schedule

1. One third (33%) of total Consulting Services fees following the implementation planning phase or eight (8) weeks after the contract execution date, whichever comes first.
2. One third (33%) of total Consulting Services fees following the completion of configuration of TeamDynamix or sixteen (16) weeks after the contract execution date, whichever comes first.
3. Remaining percentage (34%) of total Consulting Services fees following the completion of End User Training activities or twenty-four (24) weeks after contract execution date, whichever comes first.

Acceptance

By signing below, CLIENT acknowledges that they have completely read and fully understand this Statement of Work document. CLIENT understands that (a) a complete set of requirements is necessary before TeamDynamix can begin any configuration or integration services; (b) additional requirements introduced after requirements approval may not be possible to incorporate or may require a change order for additional services; (c) timely feedback is necessary to complete any configuration or integration services on schedule; (d) they must take ownership of the applications, configuration, and/or integrations delivered by TeamDynamix Professional Services and future changes are the responsibility of CLIENT or must be made as part of an additional Professional Services engagement; (e) active participation during and after training sessions is crucial to CLIENT’s success; (f) frequent meeting cancellations, “no shows”, or changes to CLIENT project resources will have an impact on timelines and repetitive occurrences may result in additional costs and/or changes to schedules.

TeamDynamix

TeamDynamix Solutions LLC

City of Wyoming, MI

Signature DocuSigned by:
Ken Benvenuto
95EE6856FE894E1...

Signature _____

Print Ken Benvenuto

Print _____

Title CEO

Title _____

Date 7/19/2024

Date _____

24415852v3

RESOLUTION NO. _____

RESOLUTION TO ACCEPT A PROPOSAL FROM SENTINEL TECHNOLOGIES INC.
FOR INCIDENT RESPONSE RETAINER

WHEREAS:

1. As detailed in the attached staff report, it is recommended City Council accept a proposal from Sentinel Technologies Inc. for an incident response retainer in the total estimated amount of \$20,520.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council accepts a proposal from Sentinel Technologies Inc. for an incident response retainer.
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 proposals 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 August 5, 2024.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Staff Report
Proposal

Resolution No. _____

STAFF REPORT

Date: July 22, 2024
Subject: Incident Response Retainer
From: Paul Gerndt, Director of Information Technology
Meeting Date: August 5, 2024

RECOMMENDATION:

It is recommended City Council authorize the Mayor and City Clerk to accept the contract for an incident response retainer from Sentinel Technologies Inc. in the amount of \$20,520.

ALIGNMENT WITH STRATEGIC PLAN:

- PILLAR 1 – STEWARDSHIP
 - GOAL 2 – Enhance the efficiency and effectiveness of City operations and services.

DISCUSSION:

On June 20, 2022, City Council approved a contract for managed security event and incident management (SEIM) services with Sentinel Technologies, Inc. On Thursday, August 3, 2023, the city experienced a cybersecurity incident at the drinking water plant. Security experts from CISA, Michigan State Police, and Sentinel Technologies were instrumental in helping staff identify the source and extent of the attack and affirm the effectiveness of mitigations implemented by city staff. Sentinel continued to monitor city systems into the evening and over the following weekend to provide a level of certainty that no data was lost and that no lasting effects resulted from the attack.

As prescribed in the City's security incident response plan, staff conducted a post-mortem incident review to determine the effectiveness of controls and response protocols in place and identify improvements for future consideration. Key findings include the following:

- Michigan State Police can provide secondary incident response assistance
- CISA's primary roles are related to prevention and information sharing

- City staff and our commercial cybersecurity partners carry the primary burden of incident response and remediation
- Valuable time and attention were lost to establish an incident response contract with Sentinel Technologies, including receiving the proposed contract from the vendor, sending the contract for legal review, obtaining a signature from the City Manager, finalizing the contract with the vendor.

Staff approached Sentinel Technologies to discuss ways to expedite access to incident response resources, and the company provided the proposal included with this staff report. The proposal being recommended establishes in advance the terms and conditions for response to a future security incident – it puts Sentinels security operations center (SOC) just a phone call away.

Benefits of the incident response (IR) retainer include:

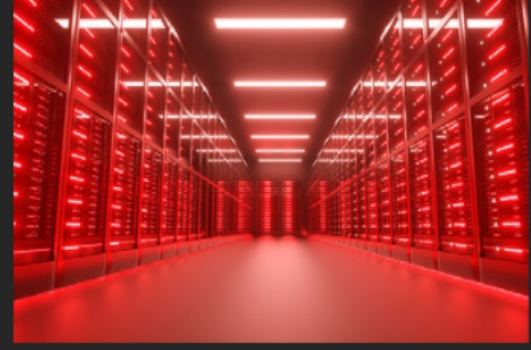
- Significant time savings from elimination of ad hoc contract approval process.
- Customers with an IR retainer receive priority attention over other customers
- Pre-defined play books
- Reduced hourly rates for IR retainer customers
- Unused hours in the retainer can be used before the end of the contract for other value-add services such as internal and external network penetration testing, tabletop exercises, etc.
- Seamless transition from detection to response

The IR retainer will improve our capacity to rapidly respond to future cyber incidents. This retainer includes up to 40 hours of response services or value-add services, after which time the contracted rates apply. Value to the city will be assured by requesting internal and external network penetration tests in the fourth quarter of the contract.

BUDGET IMPACT:

Funds are budgeted in account number 101-228-22800-801.000.

Attachment:
Contract



IR Retainer

Contract # 012109


Version 2

Prepared for:

City Of Wyoming

Paul Gerndt

paul.gerndt@wyomingmi.gov

 Appendix A

-

This Appendix A is governed by the Master Services Agreement by and between Sentinel Technologies, Inc., (Contractor) with principal offices at 2550 Warrenville Road, Downers Grove, Illinois 60515, and City of Wyoming (Customer) with principal offices at PO Box 905, Wyoming, MI 49509.

 Fortis Statement of Work - ActiveRecovery

Incident Response Retainer

Fortis ActiveRecovery Retainer

When customers partner with Sentinel for an Incident Response Retainer (IRR) with Fortis™, they have the advantage of using our full spectrum of proactive services, including tabletop exercises and readiness assessments. As with our Reactive Incident Response, Sentinel takes a holistic approach that goes beyond simple threat identification, eradication, and consultative guidance. Fortis by Sentinel's Incident Response consultants are always standing by and ready to engage when you need them most.

Typical consultants treat Incident Response, Post Incident Recovery, and Forensics as independent engagements, creating confusion and delays during an incident. Fortis™ by Sentinel brings them all together under one retainer package to ensure that your organization's response to an incident is all-inclusive. We partner with Cisco, the industry leader in threat intelligence, to deliver a full suite of cybersecurity tools that include Cisco Secure Endpoint, Umbrella, Stealthwatch, and Duo Multi-Factor Authentication. Fortis™ by Sentinel's robust team of 250+ analysts and engineers have decades of experience that is unmatched in the industry to strengthen your response, knowledge, and overall resiliency when you need it the most.


Our flexible, all-inclusive Incident Response Retainer can not only reduce damage and exposure, but our proactive service inclusion can help enhance the protection of your organization so you're not caught off guard by an attack.

Incident Response

- Threat identification.
- Endpoint detection & response.
- Actionable remediation guidance.
- Decryption assistance.

Post Incident Recovery

- Stop the spread of ransomware.
- Critical business systems recovery.
- Recover systems from backup.
- Harden perimeter defenses.
- Harden critical systems defenses.

 Fortis Statement of Work - ActiveRecovery

- Vulnerability remediation & patching.

Forensics

- Collect & preserve forensics data.
- Real-time threat detection & eradication.
- Identify the initial infiltration, lateral movement, privilege escalation, and any potential data exfiltration.

Service Components

The following services are included in the contract delivered under Fortis™ by Sentinel's Cybersecurity Incident Response Retainer between the Parties.

Reactive Incident Response Service

The Reactive Incident Response Service is engaged once the Customer declares an Incident and Fortis™ will provide Digital Forensics, Incident Response & Recovery resources to perform services related to the incident remotely or begin deploying on-site within 24 hours upon receipt of written request, barring travel restrictions. The Incident Response resources will work with the customer to perform the following services subject to applicable technology fees, as needed:

- Crisis management services including task ownership assignment and tracking across internal and third-party resources.
- Deployment of and support for Fortis™ by Sentinel's triage tools, if necessary.
- Deployment of next generation defense tools including Endpoint Detection & Response (EDR), Multi-Factor Authentication (MFA), DNS & Network Security and others as necessary using authorized licensing available to Customer.
- Sweeping and forensics analysis to plan an appropriate remediation strategy.
- Provide actionable guidance to quarantine or isolate active threats and/or threat actors.
- Perform the short-term and long-term containment and post-incident activities as necessary to contain and remediate the incident.
- Tenant provisioning and execution of external vulnerability scans to aid triage and remediation through critical vulnerability identification.
- Investigate and analyze telemetry from the remediation tools, data from sweeping, and available firewall, flow, proxy, and email logs, as relevant, to understand the root cause, scope, and impact.
- Forensically sound disk level or artifact level forensics on endpoint systems, as necessary.
- Forensically copy mailbox level artifacts on accounts, as necessary.
- Sandbox analysis of malware, scripts, and files as deemed necessary by Fortis by Sentinel.
- Evaluate mail systems to identify potential backdoor access, applications, and connectors affiliated with Threat Actor (TA) activity.
- Perform a physical firewall port configuration review and cleanup to ensure appropriate configurations are in place and secure. Validate and confirm firewall rules which expose internal servers to the internet. Reduce exposed ports to the

Fortis Statement of Work - ActiveRecovery

essential minimum.

- Review global configurations associated with any of the following services or methodologies in use, and commonly targeted by Threat Actors (TA) to ensure their integrity:
 - Active Directory, DNS, DHCP & Certificate Services.
 - Group Policy Objects.
 - Microsoft System Center Configuration Manager (SCCM), Windows Server Update Services (WSUS) and/or Deployment & Patch Management Tools.
 - EDR/Antivirus Tools.
 - Data Loss Prevention Systems.
 - Remote Management & Monitoring (RMM) & Remote Access (RA) Tools.
 - Login, Deployment, Logoff, or Automation Scripts.
 - VPN Services.
 - End User Remote Access Systems (e.g., Citrix, VMware Horizon, Microsoft RDP).
- Monitor the environment throughout the engagement to ensure the overall health of the environment and provide endpoint isolation services where supported.
- Perform decryption tasks should a decryption tool be made available including backup and testing of data prior to production decryption.
- Recovery from backup, rebuilding, or restoration of critical business systems, as necessary.
- Imaging or re-installation of desktops and laptops; to include provisioning an imaging server, as necessary.
- Perform additional immediate containment, remediation, or recovery actions as advised and requested by Customer.
- Status reporting including, upon request, an incident investigation report.

Fortis by Sentinel's Incident Response Team will use best efforts, pursuant to the Incident Response Services Rate stated herein, in addressing the Incident. The Incident Response Team will remain engaged until Customer expressly declares and acknowledges in writing that its normal state of operation has been restored.

The initial retainer balance provides for a set number of Reactive Incident Response Services as defined in the Detailed Summary section. The available hours will decrease as services are provided.

Reactive Incident Response Deliverables

The following Deliverables may be produced during this engagement, as requested:

- Status Reporting. Regular status reporting that summarizes the activities completed, critical issues, remediation guidance, and findings. Status reporting will be provided via virtual meetings (e.g., WebEx or Microsoft Teams) and will be limited, where required, to parties under privilege.
- Engagement Report. Upon request, Fortis by Sentinel will provide a report at the completion of the engagement summarizing the forensic activities taken, analysis details, and go forward recommendations.
- Vulnerability Scan Results. Fortis by Sentinel will provide a report summarizing the findings of the external vulnerability scanning and remediation recommendations.

Fortis Statement of Work - ActiveRecovery

- Intelligence reports, presentations, forms, questionnaires, threat specific remediation materials, or any other written information are considered Fortis™ by Sentinel's Intellectual Property and are not Deliverables under this engagement.

On-Boarding Services

The following are provided as a one-time service and do not deduct from the retainer balance.

- The Fortis by Sentinel team will work with the Customer to have Sentinel identified as the responder on Customer's cybersecurity insurance policy.
- At the Customer's request, Sentinel will deploy Microsoft LAPS in the Customer's domain(s) where technically feasible.
- At the Customer's request, Sentinel will create a honey account and provide details on what logs to alert on for threat actor activity.
- At the Customer's request, Sentinel will change the KRBTGT account password (twice within a 72 hour period).

Flexible Use Services

The retainer balance can be utilized for the following services at any time during the term of the agreement unless currently in an active Incident Response. The actual time used will be deducted from the retainer balance at the Incident Response Rates for services outside of a declared incident.

- Small ticket engagements for up to two hours per incident, limited to two tickets per twenty-four-hour period for cybersecurity related issues.
- Any other Fortis™ by Sentinel labor services delivered on a time and materials basis.

Optional Proactive Services

The retainer balance can be utilized for the following optional services at any time during the term of the agreement unless in an active Incident Response. The fixed-fee charges for the services at the time of engagement will be deducted from the retainer balance. Any charges in excess of the available balance will be invoiced to the customer. A quote for the services can be provided upon request.

Enterprise Cybersecurity Tabletop Exercise

A tabletop exercise with the Customer and Fortis™ by Sentinel incident response teams will be conducted based on the NIST SP 800-61r2, SANS PICERL & Center for Internet Security Standards to cover one scenario evaluation. The objective of this cybersecurity tabletop exercise (TTX) is to assess the organization's readiness to respond to a significant cybersecurity incident. The TTX will focus on the following areas:

- Communication and coordination between internal and external stakeholders.
- Decision-making and problem-solving abilities.
- Incident response procedures and plans.

Fortis Statement of Work - ActiveRecovery

- Overall effectiveness of the organization's cybersecurity posture.

The scenario will be a verbally simulated event following established detection and monitoring functions to truly evaluate the investigation, communication, and escalation processes within the organization. Fortis by Sentinel will evaluate the exercise as it evolves and inject deviations into the event to simulate a real incident and evaluate organizational adaptation. Upon completion of the event, a final report with a lessons learned meeting covering recommendations for improvement will be supplied.

The TTX will be conducted with a cross-functional team of participants from across the organization, including representatives from IT, security, business operations, executives, human resources, and communications.

The following deliverables will be produced as a result of the TTX:

- Customized Exercise Scenario.
- Participant Roster.
- After Action Review.

The meeting time for the Tabletop exercise will be approximately 4 hours in duration for the exercise, and the Fortis™ by Sentinel team during the event will include one facilitator and one observer.

Incident Response Readiness Assessment(s)

An incident response readiness assessment will be performed leveraging best practices and industry experience to evaluate the organization's current capabilities and identify areas for improvement in its ability to respond to a cybersecurity incident. This is not a Security Assessment, and is intended to only provide insight into the organizational capability to respond to an active incident from a process and technical perspective.

The assessment will focus on the following areas:

- Incident Response Planning.
- Backup & Snapshot Systems.
- Endpoint Management.
- Networking Systems.
- Account/Password Management.
- Monitoring, Logging, & Alerting.
- Infrastructure Systems.
- Data Management.

The assessment includes a hands-on (or customer guided), technical review and an evaluation of feedback from up to four, two hour technical stakeholder interview sessions.

The following deliverables will be produced as a result of the assessment, in one consolidated document:

- Assessment Report: The assessment report will identify the organization's strengths and weaknesses in its incident response capabilities, as well as provide recommendations for improvement.
- Prioritized Action Plan: The prioritized action plan will outline the most important steps that the organization can take to

 Fortis Statement of Work - ActiveRecovery

improve its incident response readiness.

ActiveRecovery Enterprise End-Point Compromise Assessment

Fortis by Sentinel will perform an endpoint compromise assessment service to determine if the organization is currently, or has been, compromised in the past. The analysis is performed by enriching, correlating, and analyzing all available data sources in the server and desktop endpoint environment and correlating them to indicators of compromise or risk. Includes in-depth technical analysis to identify:

- Data Exfiltration & Sabotage.
- Command & Control Activity.
- Suspicious User Account Activity.
- Malware & Persistence Tools.
- Suspicious Network, Host, & Application Configurations.

The assessment will be conducted on a sample of endpoints (targeting 80% sample rate) from across the organization, including laptops, desktops, and servers.

The assessment will include the following activities:

- Deployment of a self-removing lightweight forensics agent using customer provided software distribution system or PDQ deploy hosted on a customer provided server to gather file metadata, logs, and other forensics details off all sample endpoints.
- Gathering of Active Directory configuration data for analysis.
- Analysis of network traffic to identify any suspicious activity, such as anomalous traffic patterns or connections to known malicious IP addresses.
- Analysis of endpoint logs to identify any suspicious activity, such as failed login attempts, unauthorized file access, or unusual system activity.
- Analysis of endpoint systems for malware and other malicious scripts or software.
- If no compromise is detected, focus shifts to risks detected.

The following deliverables will be produced as a result of the assessment:

- Assessment Report: The assessment report will identify any evidence of compromise on the organization's endpoints, describe the impact of any compromise, and provide recommendations for improving the organization's endpoint security posture.
- Raw Finding Data: The assessment team will provide a list of all endpoints and any associated findings in a raw data format for findings correlation.
- Prioritized Action Plan: The assessment team will provide a list of recommended remediation steps for addressing any compromised endpoints and improving the organization's endpoint security posture.

ActiveRecovery M365 Compromise Assessment

Fortis by Sentinel will perform an M365 compromise assessment service to determine if the organizations email tenant is currently, or has been, compromised in the past. This includes analysis of the M365 tenant to identify common signs of Business Email Compromise (BEC) and unauthorized access to determine current or previous signs of compromise. The analysis is

Fortis Statement of Work - ActiveRecovery

performed by enriching, correlating, and analyzing all available data sources in the tenant, unified logs, and related security center data correlating them to indicators of compromise or risk. Includes in-depth technical analysis to identify:

- Mail rule analysis.
- Geolocation Access analysis.
- Multi-factor Authentication (MFA) bypass analysis.
- Message trace log analysis.
- Account activity analysis.

The assessment will include the following activities:

- Gathering of full tenant logs and configuration data for analysis.
- Analysis of network traffic to identify any suspicious activity, such as anomalous traffic patterns or connections to known malicious IP addresses.
- Analysis of authentication logs to identify any suspect login attempts.
- Identification of suspect impossible travel and VPN related access.
- If no compromise is detected, focus shifts to risks detected.

The following deliverables will be produced as a result of the assessment:

- Assessment Report: The assessment report will identify any evidence of compromise on the organization's M365 tenant, describe the impact of any compromise, and provide recommendations for improving the organization's M365 security posture.
- Prioritized Action Plan: The assessment team will provide a list of recommended remediation steps for addressing any compromise(s) and improving the organization's M365 security posture.

Advisory Impact Methodology (AIM) – Incident Response Plan Development

The Fortis™ by Sentinel Advisory Team will leverage best practices to review and/or create an Incident Response Plan for the customer to include the following, as necessary:

- Incident Response program objectives.
- Characterizations of Incidents, including types of confidential or sensitive information.
- Planning scenarios.
- Communication plans.
- Roles and responsibilities.
- Determination of physical assembly procedures.
- Authorization protocol.
- Declaration procedures.
- Personnel impact.
- Employee protocol by role.
- Known exposure points or risks.

Fortis Statement of Work - ActiveRecovery

- Cyber security insurance information.
- Law enforcement interactions.
- Reporting requirements.
- Revision history.

The final deliverable will be a customized Incident Response Plan tailored to the business needs and risks.

Incident Response Rates & Terms

Declared Incident Rate

The rate is per hour blended (includes off-hours) per individual, per hour for all Incident Response Services performed during a declared incident as defined in the Detailed Summary. The hours incurred during the incident will be deducted from the available hours remaining on the retainer. Any additional time incurred will be invoiced and sent to Customer on a weekly basis, which shall include all labor, materials, and expenses from the prior week's services.

Non-Declared Incident Rate

The rate is per hour (does not include off-hours) per individual, per hour for all hourly Incident Response Services performed outside a of declared incident as defined in the Detailed Summary.

Incident Response Tools & Systems

Fortis™ by Sentinel may utilize an assortment of technologies and tools during the handling of the incident. Fortis™ by Sentinel will determine the technology that is required to support the services provided. Customer agrees to pay the technology fees from the date of installation. All fees associated with the use of the tools are invoiced monthly or annually as defined and charged to the nearest whole month. All fees are watermark calculated at the highest unit count during the billing period. It is the Customer's responsibility to ensure that units are removed from the services when no longer needed or online. The fees will be billed monthly or annually as noted below until notified by the customer, via a case submission, of their desire to terminate or transition one or more of the tool services at the end of the current term. The technology fees are subject to change.

Customer acknowledges that Fortis™ by Sentinel can leverage existing technologies and tools installed in the Customer environment if it is determined by Fortis™ by Sentinel that the technology can support the requirements necessary to perform the services.

CISCO SECURE ENDPOINT (AMP)

Unit Description	Price Per Unit
Up to 100 Endpoints	\$700 Per Month
Up to 500 Endpoints	\$2,100 Per Month
Up to 1,000 Endpoints	\$4,100 Per Month
Up to 2,500 Endpoints	\$10,200 Per Month

Fortis Statement of Work - ActiveRecovery

Up to 5,000 Endpoints	\$20,300 Per Month
Up to 10,000 Endpoints	\$40,750 Per Month
Additional Endpoints Beyond 10,000	\$4.10 Per Additional Endpoint

CISCO UMBRELLA SECURITY ADVANTAGE

Unit Description	Price Per Unit
Up to 100 Seats	\$550 Per Month
Up to 500 Seats	\$2,000 Per Month
Up to 1,000 Seats	\$2,900 Per Month
Up to 2,500 Seats	\$7,100 Per Month
Up to 5,000 Seats	\$13,800 Per Month
Up to 10,000 Seats	\$27,000 Per Month
Additional Seats Beyond 10,000	\$2.70 Per Additional Seat

DUO ACCESS MULTI-FACTOR AUTHENTICATION

Unit Description	Price Per Unit
Up to 100 Accounts	\$950 Per Month
Up to 500 Accounts	\$3,825 Per Month
Up to 1,000 Accounts	\$7,700 Per Month
Up to 2,500 Accounts	\$19,100 Per Month
Up to 5,000 Accounts	\$38,100 Per Month
Up to 10,000 Accounts	\$75,800 Per Month
Additional Accounts Beyond 10,000	\$7.57 Per Additional Account

ILLUMIO ZERO TRUST SEGMENTATION

Unit Description	Price Per Unit
Up to 100 Servers	\$950 Per Month
Up to 500 Servers	\$3,400 Per Month

Fortis Statement of Work - ActiveRecovery

Up to 1,000 Servers	\$6,450 Per Month
Up to 100 Endpoints (Requires Servers)	\$550 Per Month
Up to 500 Endpoints (Requires Servers)	\$2,250 Per Month
Up to 1,000 Endpoints (Requires Servers)	\$4,500 Per Month
Up to 5,000 Endpoints (Requires Servers)	\$21,250 Per Month
Up to 10,000 Endpoints (Requires Servers)	\$41,500 Per Month
Additional Servers Beyond 1,000	\$6.05 Per Additional Server
Additional Endpoints Beyond 10,000	\$4.05 Per Additional Endpoint

TENABLE CLOUD VULNERABILITY SCANNER

Unit Description	Price Per Unit
Up to 10 Assets	\$3,750 Per Year
Up to 25 Assets	\$4,225 Per Year
Up to 100 Assets	\$6,500 Per Year
Up to 500 Assets	\$10,500 Per Year
Up to 1,000 Assets	\$17,525 Per Year
Up to 2,500 Assets	\$37,225 Per Year
Up to 5,000+ Assets	\$69,600 Per Year
Up to 10,000+ Assets	\$137,200 Per Year
Additional Assets Beyond 10,000	\$13.71 Per Additional Asset

ACTIVEDEFENSE SECURITY OPERATIONS CENTER EDR MONITORING, ALERTING, & ISOLATION

Unit Description	Price Per Unit
Up to 100 Endpoints	\$2100 Per Month
Up to 500 Endpoints	\$2,750 Per Month
Up to 1,000 Endpoints	\$3,200 Per Month
Up to 2,500 Endpoints	\$4,750 Per Month

Fortis Statement of Work - ActiveRecovery

Up to 5,000 Endpoints	\$6,225 Per Month
Up to 10,000 Endpoints	\$9,225 Per Month
Additional Endpoints Beyond 10,000	\$0.93 Per Additional Endpoint

EVIDENCE STORAGE

Unit Description	Price Per Unit
100TB Secure Cloud Storage	\$250 Per Month
10TB Portable USB 3.0 Evidence Drive	\$300 Per Each
Domestic USB Drive Shipping & Handling	\$125 Per Each
International USB Drive Shipping & Handling	\$250 Per Each

ON-SITE TEMPORARY STORAGE SERVER APPLIANCE

Unit Description	Price Per Unit
Per Appliance	\$500 Per Month
Domestic Appliance Shipping & Handling	\$500 Per Appliance
International Appliance Shipping & Handling	\$1000 Per Appliance

Incident Response Services Rate Terms

- Customer acknowledges that, failure to follow recommendations from the Fortis™ by Sentinel Incident Response team including, but not limited to password reset protocols, isolation protocols, perimeter hardening, systems imaging, or vulnerability remediation that leads to a secondary attack or infection will incur additional charges.
- Travel time will be charged in accordance with the applicable Incident Response Rate.
- Customer shall be charged for all out-of-pocket expenses related to the provision of Incident Response Services.
- Customer shall be charged mileage at the applicable IRS Standard Mileage Rate.
- The provision of Incident Response Services not requiring travel will carry a one (1) hour minimum charge.
- The provision of Incident Response Services requiring travel will carry a four (4) hour minimum charge.
- Unless otherwise agreed upon by the Parties, the Incident Response Rate(s) shall be fixed for the terms of the agreement from the date of document execution, after which point the rates will be subject to change via a new agreement executed between the Parties.
- A balance of \$2,500 must be held in the retainer until 90 days prior to end of the contract term in order to maintain the discounted rate(s) for Incident Response Services. If the balance drops below the minimum, a true up invoice will be

 Fortis Statement of Work - ActiveRecovery

issued.

- Any unused balance at the end of the term will be lost.

Service Level Agreement (SLA)

Customer acknowledges that, due to the often complex and unpredictable nature of such Incidents, there is no guarantee that Fortis™ by Sentinel will be able to provide root cause, scope, and/or impact, that all systems/services can be recovered and agrees to hold Sentinel Technologies, Inc. harmless from any damages that result from its handling of any such Incident, besides damages arising from any willful misconduct.

The restoration SLA is contracted as defined in the Detailed Summary.

Exclusions

Reverse engineering of malware/ransomware is not in scope.

Terms & Assumptions

Solution Specific Terms & Assumptions

- Customer acknowledges that the Services do not provide a guarantee or warranty of complete protection against security breaches or attacks now or in the future.
- Access to the Customer environment and devices necessary to perform Incident Response Services documented in this statement of work will be required. Access shall include, but is not limited to, device network reach ability into and through Customer's network and device credentials with sufficient rights to allow analysts to properly diagnose, troubleshoot and resolve issues. Sentinel shall not be responsible for any delays in responding to, or resolving any issues on Customer devices due to Customer's failure to provide sufficient access to Customer devices.
- Services provided under this retainer, beyond threat triage and eradication, are not guaranteed to be 24x7x365 services.
- The Customer is responsible for all licensing of third-party products used by Customer. In the event that data need to be restored, Sentinel will only be responsible for restoring to the last validated restore point available, and there is no guarantee that Sentinel will be able to restore all or any Customer data.
- Customer acknowledges that restoration of systems from backup, snapshots, or other point in time media presents a risk of restoring compromised systems.
- The provisions of this Appendix A shall commence on the date of signature below and shall continue for the Term of months as defined in the Detailed Summary. Upon the expiration of the Term, the parties may re-negotiate a new retainer contract.
- Any additions or deletions to the covered inventory during the term of this Agreement will be adjusted monthly, as required, and reflected in the monthly billing provided to the Customer.
- Reports and deliverables will be provided to the Customer or Customer's legal counsel only for distribution.
- If a tri-party agreement is needed to ensure privilege in relation to an event, Sentinel will permit the unused balance on the retainer to be applied to a new tri-party agreement at the rates and terms established herein.

Solution-Specific Terms & Assumptions

Terms & Assumptions

- Fixed Fee Services will be progress billed monthly based on percentage of completion. Generally, services for all non-business impacting tasks are quoted at a standard rate for labor from 9:00 a.m. – 5:00 p.m. If Customer requires, Contractor can perform some of these services outside of normal business hours at an overtime labor rate. Notwithstanding the above, services related to migrations, cutovers, or changes to critical core infrastructure are assumed to be performed outside of business hours and are included in the services pricing provided in this contract. For the fixed charges listed, the Contractor shall furnish all of the materials and perform all of the work shown on the drawings and/or described in the specifications entitled Appendix A, as annexed hereto as it pertains to work to be performed at designated customer locations. Any alteration or deviation from the above specifications, including but not limited to any such alteration or deviation involving additional material and/or labor costs, will be executed only upon a written order for same, signed by Customer and Contractor, and if there is any charge for such alteration or deviation, the additional charge will be added to the contract price detailed above.
- Sentinel will charge for travel time (at the hourly rate) and expenses (at the applicable mileage rate) for any travel to a Customer site that exceeds 70 miles from a Sentinel office (i.e. Customer will be charged only for the time that exceeds the 70 mile threshold).

Fortis Non-Recurring Pricing

Description	One-Time Price
ActiveRecovery™ Expert Enhanced Incident Response Retainer • Included - 40 Hours W/2 Hours Response SLA	\$20,520.00

Subtotal: \$20,520.00



Invoicing, General Terms and Assumptions

Labor Invoicing

Prepaid

By issuing a purchase order in response to this quote or contract, Customer hereby agrees to be bound by the below terms and conditions, which shall prevail in the event of a conflict with any terms and conditions included within Customer's purchase order.

- The manufacturer/support provider has the right to inspect any products that have either never had support coverage or have not had support coverage for an extended period to determine their eligibility for maintenance/support. Devices subject to inspection will be flagged as such and are subject to a non-refundable inspection fee, which shall be the responsibility of Customer. Sentinel will work with the manufacturer/support provider on Customer's behalf until device eligibility is determined. Devices that do not pass the inspection will be ineligible for support.
- For products purchased pursuant to this agreement, Contractor agrees to provide storage at no additional charge for up to 90 days. If the storage period exceeds 90 days, Customer agrees to the following: a.) Customer will be responsible to pay a fee of 2% per month for storage of purchased products from that point forward, b.) Customer will be invoiced and will be responsible to pay the unpaid balance for any products purchased from Contractor that have not been paid in full and, c.) Ownership will transfer from Contractor to Customer.
- For all products purchased, it is assumed that prior to order execution with Contractor, Customer has reviewed, understood, and agreed to each manufacturer's respective terms and conditions governing the purchase of products, including, but not limited to, applicable warranties, order cancellation, and return policies. In the event of a return request, Sentinel may assist Customer by facilitating the request between Customer and the manufacturer. In addition, product return requests will be subject to Sentinel's own return policies, which may include restocking fees and/or shipping and handling costs.
- Under no circumstances will Customer have the right to withhold payment to Sentinel due to an alleged breach of any express or implied warranties with regard to the products purchased herein. Any such claim shall be handled directly between the manufacturer and Customer. If Contractor receives any financial relief or incentives intended for Customer as a result of a settlement between Customer and the manufacturer, Contractor agrees to pass through the incentives or financial relief to Customer.
- Regarding the resale of any products, pricing may be subject to a manufacturer price increase before the expiration date of the quote.
- Total Project - Project Total Cost is based on the combined purchase of all Hardware/Software, Professional Services and Solution Maintenance from Sentinel as detailed in the attached Bill of Materials. Unbundling or materially reducing any of these essential elements of the solution may result in modifications to the cost of the remaining elements.

Invoicing, General Terms and Assumptions

Sentinel North America Standard

The Standard applies to Sentinel owned locations, and facilities in North America. These standards are based on the Universal Declaration for Human Rights and certain conventions of International Labor Organization. These standards may be revised from time to time by Sentinel, and notice of such modifications will be posted in Sentinel's client proposals.

- **Legal Compliance:** Sentinel undertakes to adhere to all applicable laws of the countries in which it operates, including those pertaining to employee health and safety, terms and conditions of employment and the environment.
- **Employee Health and Safety:** Sentinel undertakes to provide a safe operating environment that meets the higher of either the applicable legal standards or industry workplace standards.
- **Employment standards - Sentinel undertakes to comply with the following:**
 - **Minimum age of workers:** Sentinel will not employ workers that are younger than 14 years of age or the minimum age established by law, whichever is greater. Sentinel will observe all legal requirements for work of employees under 18 years of age, including those pertaining to hours of work and working conditions.
 - **Voluntary employment:** Sentinel will not use involuntary or forced labor, indentured, bonded or otherwise. Sentinel will not participate in human trafficking or unfair detainment.
 - **Wages and employment benefits:** Sentinel will pay at least minimum total compensation required by applicable local law, including any and all applicable mandated wages and overtime rates, allowances and benefits.
 - **Working hours:** Sentinel will maintain reasonable employee work hours in compliance with applicable law.
 - **Non-Discrimination:** Sentinel is an equal opportunity/affirmative action employer committed to a diverse and inclusive workplace. All hiring decisions are based on nondiscriminatory factors without regard to person's race, color, religion, sex, sexual orientation, gender identity or expression, national origin, age, marital status, genetics, disability, pregnancy, veteran status or any other basis protected by law. In addition, Sentinel Technologies, Inc. engages in affirmative action efforts, where appropriate, to employ, train and promote qualified minorities, women, the disabled, and veterans.
 - **Freedom of association:** Sentinel recognizes and respects the right of its workers to exercise lawful rights of free association, including joining or not joining any association.
 - **Fair treatment:** Sentinel will provide a work environment free of harassment, abuse or corporal punishment in any form.
- **Environment:** Sentinel will adhere to all applicable environmental laws of the country, region and city of operation. Sentinel will strive to surpass such requirements so as to reduce the environmental impact of their operations. Sentinel is committed to providing a safe workplace.
- **Ethics:** Sentinel has developed a policy and procedure establishing a Code of Business Conduct and Ethics. Sentinel strives to uphold the highest ethical standards.
- **Management Systems:** Sentinel has developed management systems to ensure compliance with all applicable law, regulation and any particular contractual requirements.

Payment Terms - Services

-

All Invoices: Net 30

Fortis™ ActiveRecovery™ Incident Response Retainer	
Monthly Recurring Provisioned Minimum Commit (MRC)	\$ -
Annual Recurring (ARC - 12 Months)	\$ -
Non-Recurring (NRC)	\$ 18,000.00
Provisioning Non Recurring (NRC)	\$ 2,520.00
Hardware and/or Appliances (NRC)	\$ -

Fortis™ ActiveRecovery™ Incident Response Retainer	
ActiveRecovery™ Expert Enhanced Incident Response Retainer <ul style="list-style-type: none"> • Discounted rate per hour/per resource versus reactive incident response rates • No per-incident minimums during the contract term • Cyber insurance review and named responder process assistance • Leverages dedicated national incident response & forensics team • Full access to Fortis MSSP products for incident response • Contracted SLA Terms • Adds flexible consumption to engage expert analysts on an as needed basis • Proactive deployment of Microsoft LAPS • Proactive Golden Ticket mitigation • Utilize unused hours towards discounted proactive services 	Included
ActiveRecovery™ Incident Response Retainer Hours	40
ActiveRecovery™ Incident Response Retainer Response SLA	2 Hours
ActiveRecovery™ Incident Response Retainer Term	12 Months
Existing/New ActiveDefense™ Customer	No
Declared Incident Rate	\$450.00
Non-Declared Incident Rate	\$315.00

IR Retainer

Prepared by:
Sentinel Technologies, Inc
Corey Doll
cdoll@sentinel.com

Prepared for:
City Of Wyoming
1155 28th St Sw
Wyoming, MI 49509-2825
Paul Gerndt
+16165307228
paul.gerndt@wyomingmi.gov

Contract Information:
Contract #: 012109
Version: 2
Delivery Date: 06/12/2024
Expiration Date: 07/12/2024

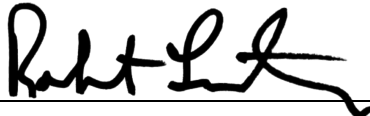
Quote Summary

Description	Amount
Fortis Non-Recurring Pricing	\$20,520.00

Taxes, shipping, handling and other fees may apply. We reserve the right to cancel orders arising from pricing or other errors

Sentinel Technologies, Inc

City Of Wyoming

Signature: 

Name: Robert Lenartowicz

Title: Chief Operating Officer

Date: 06/12/2024

Signature: _____

Name: _____

Title: _____

Date: _____

Approved as to form:



Scott G. Smith, City Attorney

RESOLUTION NO. _____

RESOLUTION TO ACCEPT AGREEMENTS FROM
NATIONAL HOSE TESTING SPECIALTIES, INC. FOR TESTING AND
CERTIFICATION OF THE CITY FIRE HOSES, LADDERS, AND AERIAL DEVICES

WHEREAS:

1. As detailed in the attached staff report, it is recommended City Council accept an agreement from National Hose Testing Specialties, Inc. for testing and certification of the City fire hoses, ladders, and aerial devices in the total estimated amount of \$13,559.60.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council accepts an agreements from National Hose Testing Specialties, Inc. for testing and certification of the City fire hoses, ladders, and aerial devices.
2. The City Council authorizes the Mayor and City Clerk to sign the agreements.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on August 5, 2024.

Kelli A. Vandenberg, Wyoming City Clerk

ATTACHMENTS:

Staff Report
Agreements

Resolution No. _____

STAFF REPORT

Date: July 23, 2024
Subject: Annual Fire Hose and Ladder Testing
From: Dennis Van Tassell, Fire Chief
CC: Kim Koster, Public Safety Chief
Kip Snyder, Deputy Public Safety Chief
Meeting Date: August 5, 2024

RECOMMENDATION:

It is recommended City Council authorize National Hose Testing Specialties, Inc. to perform annual testing and certification for Fire Department hoses, ladders, and aerial devices for an amount not to exceed \$13,559.60. This is an estimate based on the amount of hose the department owns, the amount of hose that may fail, and the number of heat sensor labels necessary for ground ladders.

ALIGNMENT WITH STRATEGIC PLAN:

- PILLAR 2 – SAFETY
 - GOAL 1 – Implement and adopt more proactive public safety initiatives.

DISCUSSION:

Fire hose, ladder, and aerial testing and certification is completed annually. Testing and certification of this equipment ensures that equipment meets standards set by the National Fire Protection Association (NFPA) and is ready to serve our community.

There are a limited number of companies that perform fire equipment testing in the State of Michigan and National Hose Testing Specialties, Inc. is one of them. National Hose Testing Specialties has performed this testing for the fire department the last four years and are familiar with our equipment.

Quotes were requested from the three companies that perform fire equipment testing in the State of Michigan. These companies include National Hose Testing Specialties, Inc., FireCatt, and Waterway. We were informed by FireCatt and Waterway Inc. that they do not perform aerial testing at this time. The only company that conducts the three tests and certifications we require is National Hose Testing Specialties, Inc.

BUDGET IMPACT

The department will utilize funds from account 205-336-33900-930.000.

ATTACHMENTS

Contract

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 28th St SW, Wyoming, MI 49509.

Contractor means: National Hose Testing Specialties, Inc.
[Name of contracting entity]
An Oregon corporation
[State and type of entity, e.g., corporation, limited liability company, etc.]
3941 Eastern
[Contractor's street address]
Wyoming, MI 49548
[Contractor's city, state & zip]

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

Effective Date means: August 6, 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 in 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: National Hose Testing Specialties, Inc.

By: Brooke Osterhouse
[Signature officer, director, or principal of Contractor]
Brooke Osterhouse Admin.
[Typed/Printed Name & Title of Person Signing for Contractor] Supervisor

Date signed: July 30, 2024



Fire Hose, Ground Ladder & Aerial Testing

National Hose Testing Specialties, Inc.

Great Lakes Division
3941 Eastern - Wyoming, MI 49548 (616) 554-6487



Prepared on: July 30, 2024

Wyoming Fire Department

Dear Valued Customer,

Dept. ID: MI335

State: MI

Thank you for your interest in National Hose Testing Specialties, Inc. (NHTS).

We appreciate your business and base on the information provided to us, we have prepared the following agreements for the service(s) you are requesting. Here is a brief description of the service and pricing that NHTS is offering.

<u>Description</u>	<u>Rates</u>	<u>Quantity</u> <u>Estimates</u>	<u>Total Cost</u> <u>Estimates</u>
Fire Hose Testing – Unload, inspect, pressure test, re-roll and re-load all fire hoses. Documentation provided for your records.	\$0.48 (cents/ft.)	23,915 (feet)	\$11,479.20
Ground Ladder Testing – Conduct physical inspection, horizontal bending test, roof hook test and hardware test. Input and install heat sensors as needed. Documentation provided for your records.	\$3.30 (per foot)	199 (feet)	\$1,280.40
Heat Sensor Labels – Labels to be applied as needed. (Worn, missing or expired)	\$2.75 (each)	N/A	?
Aerial Testing – Perform a visual, operational, performance, waterway and load test to aerial(s) as well as obtain a hydraulic oil sample. Documentation provided for your records.	\$800.00 (each)	1	\$800.00
5 Year Aerial Testing- Perform a visual, operational, performance, NDT inspections, waterway and load test to aerial(s) as well as obtain a hydraulic oil sample. Documentation provided for your records. (5 Year NDT Inspection)	\$1,400.00 (each)	0	\$1,400.00

FOR SCHEDULING PURPOSES, PLEASE CONFIRM QUANTITY ESTIMATES ARE CORRECT. SHOULD NHTS HAVE TO RETURN TO COMPLETE TESTING A TRIP CHARGE WILL BE APPLIED.

We appreciate your business and look forward to being of service to your department.

Sincerely,

Troy Smith, Great Lakes Division Manager
National Hose Testing Specialties, Inc.

PLEASE SEE THE ATTACHED "DEPARTMENT INFORMATION SHEET"



National Hose Testing Specialties, Inc.

Great Lakes Division
3941 Eastern - Wyoming, MI 49548 (616) 554-6487

DEPARTMENT INFORMATION SHEET

Please return the signed agreement(s) and THIS completed page to:

Mail: National Hose Testing Specialties, Inc.
3941 Eastern Wyoming, MI 49548
Email: glagreements@nhts.com or

Department Name:	Wyoming Fire Department
Contact Name/Title:	
Contact Telephone #:	
Contact Email Address:	
Department Telephone #:	
Hose Test Site Address:	
Ladder Test Site Address:	
City/State/Zip Code:	
Send Invoices to the Attention:	
Mailing Address:	
City/State:	
Contact Email Address:	
Send Documentation to the Attention:	
Mailing Address:	
City/State:	
Contact Email Address:	
Secondary Contact Name/Title:	
Secondary Contact Email:	
Secondary Contact Telephone#:	
Number of Apparatuses:	

PO # (if applicable) _____

NHTS ID #: MI335 STATE: **MI**

Payment: Full payment is due upon delivery by NHTS, Inc. of its final test documentation. A **Convenience Fee of 2.5%** will be assessed on the total payment amount for **credit & debit transactions**.

Acceptance

Please review and sign the agreement(s) for the services you wish to schedule. We will contact you after receiving your signed agreement(s) to set up a test date and discuss any further questions you may have.



WWW.NHTS.COM

National Hose Testing Specialties, Inc.

2024 FIRE HOSE TESTING AGREEMENT

Date issued: July 30, 2024

Dept. ID # **MI335**

This agreement is entered into by and between National Hose Testing Specialties, Inc., a corporation (hereinafter known as, **National**) and **"Wyoming Fire Department"**, a municipal corporation, district or political subdivision of the State of **WY** (hereinafter known as, **Department**).

THIS DOCUMENT MUST BE SIGNED AND RETURNED PRIOR TO YOUR SERVICE TEST DATE.

1. **Department** hereby engages **National** and **National** agrees to unload, pressure test, re-load, conduct physical inspections of apparatuses on first floor only and to provide test documentation on the fire hoses of **Department** per **Department's** Special Instructions, if any, and according to the National Fire Protection Association 1962 Standard for the Care, Use, Inspection, Service Testing and Replacement of Fire Hose, Couplings and Nozzles and Fire Hose Appliances, utilizing the 2018 Edition, or current edition, (hereinafter known as, NFPA Standard).
 - a. **National** shall conduct a physical inspection, prior to pressure testing, as specified in the NFPA Standard. All hoses failing physical inspection shall be identified and tagged for removal from service, without being pressure tested. **Department** shall be responsible to store or discard any hose tagged by **National**. If **Department** elects to place back into service any hose tagged by **National**, **Department** shall be responsible for service testing the hose prior to placing it back into service.
 - b. **National** shall conduct service pressure test in accordance with Chapter 4 of NFPA Standard, 2018 Edition.
 - c. **National** shall service test all attack fire hose to a minimum of 300 psi and all supply fire hose to a minimum of 200 psi regardless of manufactured date unless specified differently by **Department**. See **Department's** Special Instructions for requested test pressure changes. **National** shall not test any hoses higher than 400 psi, this being agreed with the **Department**, by the signing of this agreement.
 - d. **National** shall inspect all apparatus after completion of testing and reloading for accuracy as found or requested by department prior to releasing to **Department**.
 - e. **Department** shall inspect all hose loads and connections on all apparatus prior to placing back into service.
 - f. **National**, within thirty (30) days of completed service, shall deliver to **Department** final test documentation. Documentation provided electronically to include date of test, service test pressure, diameter, length, hose identification number, test results as to each length of hose. A hard copy of summary reports for all hoses tested and in inventory provided upon request.
 - g. **National** shall provide hydrostatic equipment required to perform **Department's** hose test.
 - h. **Department** shall provide **National** a suitable location for performance of the service test (150ft by 150ft). Fire hose shall not be tested in dirt, gravel, or grass. The location shall include an adequate water source for **National's** hydrostatic equipment, of which water shall be provided by **Department**. **Department** will be charged \$100 per man per hour for noncompliance.
 - i. **Department** shall have one employee on site for the duration of hose testing. **Department** employee will move every apparatus to its testing position and back into station.
 - j. **Department** shall rotate trucks with no more than one hour of transition time total. **Department** will be charged \$100 per man per hour for time exceeding one hour total.
 - k. **Department** may be subject to a "trip charge" if **National** is to return due to "out of service" or retest. Rate for testing and "trip charge" shall be agreed by both **Department** and **National** prior to rescheduling.
 - l. **Department** shall make available to **National** all hoses to be tested at the time and place established for the conduct of the service testing and shall disclose to **National** any known defects or dangerous conditions therein.
 - m. **Department** will assemble any specialty hose packs (i.e. grass packs, forestry packs) following testing by **National**.
2. The service test date(s) will be established by agreement between the parties.
3. Based on the footage estimate provided, **Department** agrees to pay **National** **\$0.48** cents per foot, times **23,915** feet, with actual hose tested per documentation being used for billing which may increase or decrease rate per foot.
4. Fire hoses handled by **National** that are to be removed from apparatus or service at the **Department's** request due to age or other factors and not pressure tested will be subject to **14 cents** per foot handling fee. Full payment is due upon delivery by **National** of its final test documentation.
5. In the event of suit or litigation arising out of or relating to this agreement, the prevailing party in such action shall be entitled to recover judgment for its reasonable attorney fees as may be awarded by the Court in which such suit or action is tried, heard or decided, and any appeal there from.

DEPARTMENT'S SPECIAL INSTRUCTIONS: _____ (Nat'l Initial)

6. **National** will not be bound by any of Department's Special Instructions unless it has agreed to be bound and signed or initialed the Special Instructions prior to testing. If agreed, **National** shall return an initialed copy to **Department**.

Dated: **July 30, 2024**

Dated: _____

NATIONAL HOSE TESTING SPECIALTIES, INC.

AUTHORIZED DEPARTMENT REPRESENTATIVE

Troy Smith

Signature _____
Troy Smith, Great Lakes Division Manager

Signature _____
Title: _____

Return to: National Hose Testing Specialties, Inc., 3941 Easter Wyoming, MI 49548 or fax to (616) 839-6000

Note: The terms of this agreement are void if not signed and returned within three months of date of issue (sign & submit copy to **National**).

A **Convenience Fee of 2.5%** will be assessed on the total payment amount for **credit & debit transactions**.



National Hose Testing Specialties, Inc.

2024 GROUND LADDER TESTING AGREEMENT

Date issued: July 30, 2024

Dept. ID # **MI335**

This agreement is entered into by and between National Hose Testing Specialties, Inc., a corporation (hereinafter known as, **National**) and "**Wyoming Fire Department**", a municipal corporation, district or political subdivision of the State of **MI** (hereinafter known as, **Department**).

THIS DOCUMENT MUST BE SIGNED AND RETURNED PRIOR TO YOUR SERVICE TEST DATE.

1. **Department** hereby engages **National** and **National** agrees to conduct physical inspection, horizontal bending test, roof hook test, hardware test, and to provide test documentation on the ground ladders of **Department**, per **Department's** Special Instructions (if any) and according to the National Fire Protection Association 1932 Standard for the Use, Maintenance, and Service Testing of In-Service Fire Department Ground Ladders, 2020 edition, or current edition (hereinafter known as, NFPA Standard).
 - a. **National** shall conduct a visual inspection, as specified in Chapter 6.1.3 of NFPA Standard. All ladders failing visual inspection shall be tagged for removal of service or repaired by **Department**.
 - b. **National** shall conduct service testing in accordance with Chapter 7 of NFPA Standard. Service testing will be as specified in Chapter 7.1 of NFPA Standard, unless **Department** specifies altered service testing. (See **Department's** Special Instructions).
 - c. **National** shall inspect and replace heat sensors as in Chapter 6.2.10.1.
 - d. **National**, within thirty - (30) days of completed service, shall deliver to **Department** final test documentation. Documentation to include but not limited to the Ground Ladder record information as in Chapter 7.1.7. Documentation is provided electronically. A hardcopy of summary reports for all ground ladders tested and in inventory provided upon request.
 - e. **National** shall provide service-testing equipment required to perform **Department's** ground ladder service test.
 - f. **Department** shall provide **National** a suitable location for performance of the service test.
 - g. **Department** shall make available to **National** all ground ladders to be tested at the time and place established for the conduct of the service testing and shall disclose to **National** any known defects or dangerous conditions therein.
 - h. **Department** may be subject to a "trip charge" if **National** is to return due to "out of service" or retest. Rate for testing and "trip charge" shall be agreed by both **Department** and **National** prior to rescheduling.
 - i. **Department** shall be responsible for all repairs deemed necessary in accordance with manufacturer's instructions, as specified in Chapter 6.1.4.2 of NFPA Standard.
 - j. **National** shall inspect all apparatus after completion of testing and reloading for accuracy as found or requested by department prior to releasing to **Department**.
 - k. **Department** shall inspect all apparatus prior to placing back into service.
2. The service test date(s) will be established by agreement between the parties.
3. Based on the footage estimate provided, **Department** agrees to pay **National** **\$3.30** per foot, times **199** feet; with actual footage tested per documentation being used for billing. Full payment is due upon delivery of final test documentation by **National**.
4. **Department** agrees to pay **National** for heat sensor labels installed based on the following cost each: **\$2.75** per label plus any state and local sales tax as required.
5. In the event of suit or litigation arising out of or relating to this agreement, the prevailing party in such action shall be entitled to recover judgment for its reasonable attorney fees as may be awarded by the Court in which such suit or action is tried, heard or decided, and any appeal there from.

DEPARTMENT'S SPECIAL INSTRUCTIONS: _____ (Nat'l Initial)

6. **National** will not be bound by any of Department's Special Instructions unless it has agreed to be bound and signed or initialed the Special Instructions prior to testing. If agreed, **National** shall return an initialed copy to **Department**.

Dated: July 30, 2024

NATIONAL HOSE TESTING SPECIALTIES, INC.

Troy Smith

Signature
Troy Smith, Great Lakes Division Manager

AUTHORIZED DEPARTMENT REPRESENTATIVE

Signature
Title: _____

Return to: National Hose Testing Specialties, Inc., 3941 Eastern Wyoming, MI 49548 or fax to (616) 839-6000
Note: The terms of this agreement are void if not signed and returned within three months of date of issue (sign & submit copy to **National**).
A **Convenience Fee of 2.5%** will be assessed on the total payment amount for **credit & debit transactions**.



National Hose Testing Specialties, Inc.

2024 ANNUAL AERIAL TESTING AGREEMENT

Date issued: July 30, 2024

Dept. ID # **MI335**

This agreement is entered into by and between National Hose Testing Specialties, Inc., a corporation (hereinafter known as, **National**) and **"Wyoming Fire Department"**, a municipal corporation, district or political subdivision of the State of **MI** (hereinafter known as, **Department**).

THIS DOCUMENT MUST BE SIGNED AND RETURNED PRIOR TO YOUR SERVICE TEST DATE.

1. **Department** hereby engages **National** and **National** agrees to conduct a visual, operational, performance, waterway and load test, and to provide test documentation on the aerial(s) of **Department**, according to the National Fire Protection Association 1911 Standard for the Inspection and Maintenance of Aerial(s), 2020 edition, or current edition (hereinafter known as, NFPA Standard).
 - a. **National** shall conduct a visual inspection, as specified in Chapter 22.4 of NFPA Standard. All aerial(s) failing visual inspection shall be tagged for removal of service or repaired by **Department**. Although results of test will be issued to **Department**, proof of aerial repair shall be submitted to **National** before a certificate of completion is signed and delivered to **Department**.
 - b. **National** shall conduct inspecting and testing in accordance with Chapter 22.8 of NFPA Standard. Inspecting and testing will be as specified in Chapter 22.8.1 of NFPA Standard, unless **Department** specifies altered service testing. (See **Department's** Special Instructions).
 - c. **National** shall take a hydraulic oil sample for spectrochemical analysis as in Chapter 22.8.11. Results will be sent to **Department** following analysis.
 - d. **National**, within thirty - (30) days of completed service, shall deliver to **Department** final test documentation. Documentation to include but not limited to the aerial records information as in Chapter 22.8.12. Documentation is provided electronically, to include but not limited to, visual, operational, performance, waterway and load test results.
 - e. **National** shall provide service-testing equipment required to perform **Department's** aerial(s) service test.
 - f. **Department** shall provide **National** a suitable location for performance of the service test.
 - g. **Department** shall make available to **National** all aerial(s) to be tested at the time and place established for the conduct of the service testing and shall disclose to **National** any known defects or dangerous conditions therein.
 - h. **Department** may be subject to a "trip charge" if **National** is to return due to "out of service" or retest. Rate for testing and "trip charge" shall be agreed by both **Department** and **National** prior to rescheduling.
 - i. **Department** shall be responsible for all repairs deemed necessary in accordance with manufacturer's instructions, as specified in Chapter 22.1.3 of NFPA Standard.
 - j. **National** shall inspect all aerials after completion of testing prior to releasing to **Department**.
 - k. **Department** shall inspect all aerials prior to placing back in service.
 - l. **National** shall note corrosion as seen during visual inspection. **Department** shall have corrosion repaired as deemed necessary in accordance with manufactures instructions, as specified in Chapter 22.1.3 of NFPA Standard.
2. The service test date(s) will be established by agreement between the parties.
3. Pricing.
 - a. Annual Testing. Based on the information provided, **Department** agrees to pay **National** **\$800.00** per aerial, times **1** aerial(s).
 - b. Full payment is due upon delivery of final test documentation by **National**.
4. In the event of suit or litigation arising out of or relating to this agreement, the prevailing party in such action shall be entitled to recover judgment for its reasonable attorney fees as may be awarded by the Court in which such suit or action is tried, heard or decided, and any appeal there from.

DEPARTMENT'S SPECIAL INSTRUCTIONS: _____ (Nat'l Initial)

5. **National** will not be bound by any of **Department's** Special Instructions unless it has agreed to be bound and signed or initialed the Special Instructions prior to testing. If agreed, **National** shall return an initialed copy to **Department**.

Dated: July 30, 2024

NATIONAL HOSE TESTING SPECIALTIES, INC.

AUTHORIZED DEPARTMENT REPRESENTATIVE

Troy Smith

Signature

Troy Smith, Great Lakes Division Manager

Signature

Title: _____

PLEASE SIGN ONLY IF ANNUAL TEST IS TO BE PERFORMED. NO NEED TO SIGN 5-YEAR.

Return to: National Hose Testing Specialties, Inc., 3941 Eastern Wyoming, MI 49548 or fax to (616) 839-6000

Note: The terms of this agreement are void if not signed and returned within three months of date of issue (**sign & submit copy to National**).

A **Convenience Fee of 2.5%** will be assessed on the total payment amount for **credit & debit transactions**.



National Hose Testing Specialties, Inc.

2024 5-YEAR AERIAL TESTING AGREEMENT

Date issued: July 30, 2024

Dept. ID # **MI335**

This agreement is entered into by and between National Hose Testing Specialties, Inc., a corporation (hereinafter known as, **National**) and **"Wyoming Fire Department"**, a municipal corporation, district or political subdivision of the State of **MI** (hereinafter known as, **Department**).

THIS DOCUMENT MUST BE SIGNED AND RETURNED PRIOR TO YOUR SERVICE TEST DATE.

1. **Department** hereby engages **National** and **National** agrees to conduct a visual, operational, performance, waterway and load test, and to provide test documentation on the aerial(s) of **Department**, according to the National Fire Protection Association 1911 Standard for the Inspection and Maintenance of Aerial(s), 2020 edition, or current edition (hereinafter known as, NFPA Standard).
 - a. **National** shall conduct a visual inspection, as specified in Chapter 22.4 of NFPA Standard. All aerial(s) failing visual inspection shall be tagged for removal of service or repaired by **Department**. Although results of test will be issued to **Department**, proof of aerial repair shall be submitted to **National** before a certificate of completion is signed and delivered to **Department**.
 - b. **National** shall conduct inspecting and testing in accordance with Chapter 22.8 of NFPA Standard. Inspecting and testing will be as specified in Chapter 22.8.1 of NFPA Standard, unless **Department** specifies altered service testing. (See **Department's** Special Instructions).
 - c. **National** shall take a hydraulic oil sample for spectrochemical analysis as in Chapter 22.8.11. Results will be sent to **Department** following analysis.
 - d. **National**, within thirty - (30) days of completed service, shall deliver to **Department** final test documentation. Documentation to include but not limited to the aerial records information as in Chapter 22.8.12. Documentation is provided electronically, to include but not limited to, visual, operational, performance, waterway and load test results.
 - e. **National** shall provide service-testing equipment required to perform **Department's** aerial(s) service test.
 - f. **Department** shall provide **National** a suitable location for performance of the service test.
 - g. **Department** shall make available to **National** all aerial(s) to be tested at the time and place established for the conduct of the service testing and shall disclose to **National** any known defects or dangerous conditions therein.
 - h. **Department** may be subject to a "trip charge" if **National** is to return due to "out of service" or retest. Rate for testing and "trip charge" shall be agreed by both **Department** and **National** prior to rescheduling.
 - i. **Department** shall be responsible for all repairs deemed necessary in accordance with manufacturer's instructions, as specified in Chapter 22.1.3 of NFPA Standard.
 - j. **National** shall inspect all aerials after completion of testing prior to releasing to **Department**.
 - k. **Department** shall inspect all aerials prior to placing back in service.
 - l. **National** shall note corrosion as seen during visual inspection. **Department** shall have corrosion repaired as deemed necessary in accordance with manufactures instructions, as specified in Chapter 22.1.3 of NFPA Standard.
2. The service test date(s) will be established by agreement between the parties.
3. Pricing.
 - a. 5 - Year Testing. (includes annual and NDT inspections) Based on the information provided to **National**, **Department** agrees to pay **National** \$1,400.00 per aerial, times 0 aerial(s).
 - b. Full payment is due upon delivery of final test documentation by **National**.
4. In the event of suit or litigation arising out of or relating to this agreement, the prevailing party in such action shall be entitled to recover judgment for its reasonable attorney fees as may be awarded by the Court in which such suit or action is tried, heard or decided, and any appeal there from.

DEPARTMENT'S SPECIAL INSTRUCTIONS: _____ (Nat'l Initial)

5. **National** will not be bound by any of Department's Special Instructions unless it has agreed to be bound and signed or initialed the Special Instructions prior to testing. If agreed, **National** shall return an initialed copy to **Department**.

Dated: July 30, 2024

NATIONAL HOSE TESTING SPECIALTIES, INC.

AUTHORIZED DEPARTMENT REPRESENTATIVE

Troy Smith
Signature
Troy Smith, Great Lakes Division Manager

Signature
Title: _____

PLEASE SIGN ONLY IF 5-YEAR TEST IS TO BE PERFORMED. NO NEED TO SIGN ANNUAL.

Return to: National Hose Testing Specialties, Inc., 3941 Eastern Wyoming, MI 49548 or fax to (616) 839-6000

Note: The terms of this agreement are void if not signed and returned within three months of date of issue (sign & submit copy to **National**).

A **Convenience Fee of 2.5%** will be assessed on the total payment amount for **credit & debit transactions**.

RESOLUTION NO. _____

RESOLUTION TO APPROVE THE CITY MANAGER TO ENTER INTO
AN AGREEMENT WITH GREATER LEVEL LLC FOR SPECIAL EVENT
AND POLICE SERVICES FOR THE 2024 METRO CRUISE

WHEREAS:

1. Metro Cruise has been in operation in the City of Wyoming since 2008, bringing an estimated 42,000 attendees to 28th Street.
2. Metro Cruise provides free entertainment for Wyoming resident and businesses, including live music and cars shows, among other things. These free activities provide a tangible public good to our community.
3. The City of Wyoming recognizes the public value presented by this event and, through in-kind services provided via this agreement, seeks to support the event this year.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. City Council authorizes the City Manager to enter into an agreement with Great Level LLC to establish parameters for roles and responsibilities before, during and after the event.
2. City Council authorizes the waiver of special event permit fees and the assessment of \$6,000 flat fee for Public Safety in lieu of charging actual incurred costs.
3. The City Manager may approve addendums to this contract at his discretion.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I certify that this resolution was adopted by the City Council of the City of Wyoming a regular meeting held on August 5, 2024.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Staff Report
Contract

Resolution No. _____

Staff Report

Date: July 31, 2024
Subject: Metro Cruise Special Event Agreement
From: Krashawn Martin, Director of Parks and Recreation
CC: John Shay, City Manager
Meeting Date: August 5, 2024

RECOMMENDATION:

It is recommended City Council authorize the City Manager to sign a special event agreement for the 2024 Metro Cruise event.

ALIGNMENT WITH STRATEGIC PLAN:

- PILLAR 1 – COMMUNITY
 - GOAL 3 – Enhance community engagement and recreational opportunities for our residents.
 - OBJECTIVE 1 – Cultivate signature community events

DISCUSSION:

Metro Cruise has been in Wyoming since its inception 2008. It is by far the largest event in Wyoming, bringing in an estimated 42,000 people to Roger's Plaza last year. Historically, the event was put on by the Wyoming-Kentwood Chamber of Commerce. In March 2023, City Staff were notified that the event had sold to Greater Level LLC, a private firm, a few months prior. At that point, the Interim City Manager notified City Council and Mayor that we would pursue reimbursement for services provided to support the event and began working with staff to determine the best path forward. In prior years, the Wyoming-Kentwood Chamber of Commerce owned the event, with profits going the Chamber. The City waived fees for this event, understanding that the profits would be reinvested in the business community in Wyoming through the Chamber. After the January 2024 work session discussion and February meeting with Mr. Simmons, it was agreed that Metro Cruise would reimburse the City for Public Safety Services in full over a four-year period. For 2024, the reimbursement is a flat rate of \$6,000.

The 2024 Metro Cruise event is taking place August 23-24 with the Main Event activities taking place at Rogers Plaza.

BUDGET IMPACT:

There is no budget impact. The event fee will go to Public Safety to reimburse services.

Attachment(s):

Contract



METRO CRUISE SPECIAL EVENT AGREEMENT

This Special Event Agreement is made as of August 6, 2024, between the City of Wyoming, a Michigan municipal corporation of 1155 28th St SW, PO Box 905, Wyoming, MI 49509-0905 (“**City**”) and Greater Level, LLC, a Michigan limited liability company the registered business address of which is 753 Wilson Ave SW, Grandville, MI 49534, the mailing address of which is PO Box 501, Grandville, MI 49468, the e-mail address of which is metrocrui@gmail.com, (“**Sponsor**”). Sponsor’s contact person is Brandon Simmons whose cell/text number is 231.735.5179.

BACKGROUND

- A. Sponsor wishes to hold and applied for approval with the application attached as **Exhibit A** (the “**Application**”) of the 2024 28th Street Metro Cruise from 12:00 p.m. (noon), Friday, August 23, 2023 to 9:00 p.m., Saturday, August 24, 2024 (the “**Event**”) in the Roger’s Plaza shopping center parking lot at 950 28th St SW, Wyoming, Michigan (“**Location**”) and other Wyoming locations as depicted on the event layout plan attached as **Exhibit B** (“**Event Layout**”).
- B. The Event will require City supplies listed on (“**City Supplies**”) and services from City (“**City Services**”) described in the attached **Exhibit C**.
- C. City police services will be in accordance with the Public Safety Services Contract attached as **Exhibit F** (“**Public Safety Terms and Conditions**”).

TERMS AND CONDITIONS

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

1. Event Approval. City approves the Event with the Event Layout at the Location during the dates and times stated in paragraph A above.
- A. The Event will comply with the following limitations on the dates and times of certain activities:
 1. Friday night, August 23, 2024:
 - a. All Event music must cease at 9:00 p.m.
 - b. All food and other sale lines will be cut-off at 8:45 p.m. All food sales will cease at 9:00 p.m.
 - c. Staff and volunteers shall begin disbursing all participants, patrons and other attendees at 9:00 p.m.
 - d. Unless waived by the City’s Public Safety Department, the Event Area shall be cleared of all participants, patrons and other attendees no later than 9:30 p.m.
 2. Saturday, August 24, 2024.
 - a. No food or other sales shall begin before 11:00 a.m.
 - b. Event music shall not start before 11:00 a.m. and must cease no later than 9:00 p.m.
 - c. All food and other sale lines will be cut-off at 8:45 p.m. All food sales will cease at 9:00 p.m.
 - d. Staff and volunteers shall begin disbursing all participants, patrons and other attendees at 9:00 p.m.
 - e. Unless waived by the City’s Public Safety Department, the Event Area shall be cleared of all participants, patrons and other attendees no later than 9:30 p.m.
 3. Event staff, volunteers and contracted personnel may arrive before and remain after the times required above for the purposes of set-up and preparation, clean-up, take-down, security, and, on Friday night, resupply.
 4. A failure to comply with this schedule will result in additional City costs such as additional City Police and other City overtime. Therefore, if the Event fails to comply with these time requirements, City will invoice Sponsor for and Sponsor agrees to pay all costs, City incurs due to the failure to comply with these time requirements.
- B. The Event may deviate from the following City requirements during the dates and times detailed below:
 1. Amplified sound will be allowed only as detailed on the attached Layout, Security, Emergency Plans.
 2. No other variances from City ordinances have been requested or granted.
- C. The Event will comply with the Severe Weather and Other Emergency Plan attached as **Exhibit D**.
2. City Support. City will support the Event with City Supplies and City Services provided as detailed in **Exhibit C**. Sponsor is responsible for the care and return of any City Supplies.
3. Special Conditions.
- A. The Event must comply with the following conditions:

1. Event organizer will present positive messaging around safety for event attendees, specifically noting burnouts are prohibited. Consistent signage must be posted regarding Event hours and prohibited burnouts. Messaging to Event participants and patrons should, when practical, state that burnouts, wheelies, and other hazardous driving activities are prohibited. Event schedules, including the time requirements in subsection 1.A above must be accurately reflected in all Event promotional materials and in all communications with Event staff, volunteers, vendors, participants, patrons, and other attendees.
2. Key Event personnel shall be identified to City Police before the Event and text, cellphone and e-mail contact information must be provided with that identification. Event personnel and volunteers shall wear shirts identifying them as such at all times they are "on duty."
3. Any 28th St SW lane closures will require MDOT permits, copies of which must be provided to City's Police Department.
4. The Sponsor shall post signage or provide direction that only "street licensed" vehicles shall be driven on public road ways.
5. Emergency vehicle access must be maintained at all times. Sponsor and Key Event Personnel will work with the City Police to ensure traffic on area streets is flowing sufficiently that emergency access to the Location, any other Wyoming Event locations, and area businesses and residences is not unreasonably impaired or impeded.
6. Must maintain fire access to the buildings at the Location and a drive path throughout the Location.
7. All food trucks must have a current Wyoming Food Truck license and an inspection with a fire department in the Food Truck Area Consortium. Inspection forms must be submitted to the fire department a minimum 20 days prior to the event. If food trucks do not have current inspection, one must be obtained 20 days prior to event. Must follow all food truck rules/set-up, distance from each other, etc. City will provide information sheets. City Fire personnel will be on site on the Friday of set-up.
8. Metal trash cans are required in cooking areas.
9. Fire extinguishers located minimum 50' from food trucks.
10. No propane/cooking fuels shall be stored within 20' of cooking areas.
11. Any use of extension cords shall comply with the National Electrical Code, including section 525.23.
12. Exit doors/egress paths from buildings cannot be blocked, narrowed or otherwise impeded.
13. Sufficient dumpsters must be provided and emptied as necessary to ensure all refuse can be placed in dumpsters throughout the duration of the event.
14. Sponsor shall coordinate with City Police and Fire personnel in the planning and throughout the event.

Either Brandon Simmons or the person designated below to act on Sponsor's behalf if Brandon is unavailable shall be available to City's Police and Fire personnel by cell phone and text from 8:00 a.m. Friday, August 23, 2024 through 11:59 p.m., Saturday, August 24, 2024.

Cell phone calls from City Police or Fire personnel shall be answered immediately whenever possible. Voice messages from City Police or Fire personnel or from Sponsor shall be promptly responded to unless more time is allowed in the voice message (e.g., stating "get back to me when convenient") or extenuating circumstances exist.

Unless the text otherwise indicates (e.g., "respond when convenient") or extenuating circumstances exist, a text message from City Police or Fire personnel or from Sponsor shall require immediate response by a cell phone call to the number indicated in the text message.

Brandon Simmons' designee is: Roger Brands

That person's title or position with the Sponsor is: Security Director

That person's cell phone/text number is: 616-318-6043

15. The Sponsor must provide a security team with communication capabilities at all Event locations in Wyoming. The Event security team must coordinate with City Police and Fire personnel.
16. If directed by City Police Command staff, adjustments will be made to Event procedures, processes, practices, and schedules to address City public safety concerns. Without limiting their discretion to give such direction and for explanation, City Police Command Staff will normally do so only when in their judgment it is reasonably necessary or prudent to (i) protect the health, safety or welfare of the Event staff, volunteers, participants, patrons, or other individuals, (ii) to prevent damage to property, or (iii) to ensure compliance with applicable laws, rules, or regulations.
17. Parking on City property will be limited to the areas and times designated in the Event Layout Plan. Event parking on private property shall occur only with the express permission of the property owner or the property owner's designee (e.g., often a tenant).

18. No vehicles shall be parked within any areas between public sidewalks and curbs or within any clear vision areas near driveways and intersections.

19. No Event vendors shall place tents or signs, or sell any goods within any areas between public sidewalks and curbs or within any clear vision areas near driveways and intersections.

B. In addition, the Event, Sponsor and all participants must comply with:

1. The terms and conditions in this agreement;
2. All applicable federal, state and local laws, ordinances, rules, regulations, and requirements of any permits or other approvals;
3. Any printed use directions, instructions or other information located on or provided with City Supplies;
4. Any direction or instruction of City staff assigned to liaison with Sponsor, or providing the City Supplies; and
5. Any direction from City public safety officers.
6. The Public Safety Services Terms and Conditions attached at Exhibit F.

4. Fees and Charges.

A. The Event Fee of \$6,000.00 must be paid in full not later than 4:00 p.m. on August 15, 2024.

B. City will invoice Sponsor for any additional charges and fees and payment will be due within 30 days of the invoice date. Charges and fees unpaid when due will bear interest at the rate of 1.0% per month or part of a month that it remains unpaid after the due date. Such charges may be assessed for damage caused by the Sponsor due to the Event and may include any costs City incurs to clean up the Location, repair or replace damaged City Supplies or other City property that was supplied by the City for the Event. It will include all costs incurred by City, including any personnel costs.

5. Risk Allocation and Insurance.

A. Sponsor is solely responsible for the Event, including (i) all event planning and oversight, (ii) all activities occurring during or as part of the Event, (iii) Event operation, (iv) the conduct of Sponsors personnel and agents, and (v) the conduct of all Event participants. City is not a sponsor of, does not endorse, is not a planner of, and is in no way responsible for the any part of the Event. City has made no representation as to the suitability or fitness of the Location, City Services, or City Supplies for the Event.

B. If City property is used during or as part of the Event, such use can involve personal risks of injury, property damage, and exposure to or contracting illness. The most diligent efforts cannot eliminate such risks. City is not representing it has minimized or will minimize risks of use of the City property. Accordingly, those using City property do so at their own risk.

C. City is not and will not be responsible or liable for injuries, property damage or other loss suffered or experienced by Sponsor or those attending or participating in the Event.

D. If Sponsor uses permission slips or liability waivers for those attending or otherwise participating in Event, City and City's officers, employees, volunteers and other agents must be included among those listed for waiver or indemnification in those permission slips or liability waivers.

E. Sponsor holds City (including, for purposes of this provision, City's officers, employees, volunteers and other agents) harmless from, indemnifies it for, and must defend it against claims, demands, lawsuits, administrative actions, judgments, awards, or other losses suffered or experienced by (i) Sponsor, (ii) Sponsor's officers, employees or volunteers, (iii) Sponsor's other agents, (iv) those attending or otherwise participating in the Event, or (v) any others during or as a result of the Event except to the extent caused solely by the negligence or wrongdoing of City or City's personnel.

F. **Not later than August 15, 2024**, Sponsor must provide City's Special Events Coordinator a certificate of commercial general liability insurance in minimum coverage amounts of \$2,000,000 of liability per person per incident and \$5,000,000 of aggregate coverage that names City and City's officers, employees, volunteers and other agents as insureds or additional insureds. It must provide that such coverage is primary, and any insurance carried by City is secondary or additional. If requested, Sponsor must also provide copies of endorsements and policies showing such coverage.

6. Remedies.

A. **Deadlines in this agreement are of its essence. Sponsor's failure to comply with a deadline in this agreement may result in City's termination of this agreement.**

B. **Any other failure to comply with this agreement may also result in its termination.**

C. **If this agreement is terminated, approval of the Event is rescinded and the Event must immediately end.**

7. Respect for Persons. City is committed to courtesy, respect, equity, fairness, impartiality, and nondiscrimination in all its programs, benefits, and actions, including in its contracts and in any activities that contractors others engage in using City property, City facilities, City supplies, or City Services. Sponsor, and all individuals and other persons participating in the Event at Sponsor's behest or on Sponsor's behalf, must treat all individuals with fairness, equity, impartiality, courtesy and respect, and in a manner that does not discriminate based on race, color, religion, national

origin, age, sex, gender, gender identity or expression, sexual orientation, height, weight, marital status, familial status, mental or physical disability, genetic information, or any other reason prohibited by law.

8. General Provisions.

A. This is the entire agreement between the parties as to its subject matter. It may be modified only in writing signed by both parties and will not be affected by any course of dealing. Waiver of a breach will not waive a subsequent breach of the same or another provision. Captions are for reference only and will not affect the agreement's interpretation. But the background is an integral part of this agreement.

B. This agreement was made in Kent County, Michigan and the rights and obligations of the parties under this Contract will be governed by, and construed and interpreted in accordance with, Michigan law.

C. Except as prohibited by law, jurisdiction and venue for actions related to this agreement is solely in state courts in Kent County, Michigan, and the prevailing party will, in addition to any other remedy, be entitled to recover costs, including, for example, filing fees, legal fees, expert fees, discovery expenses and other costs incurred to investigate, bring, maintain, or defend the action from first accrual or first notice through all appellate and collection proceedings.

D. No individuals or entities other than the parties are intended to be beneficiaries of this agreement.

E. Reference to a City representative or City staff by title includes the person's designees and superiors.

F. The Exhibits are all incorporated into this agreement.

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

CITY OF WYOMING

GREATER LEVEL, LLC

By: _____
John Shay, City Manager

By: _____
Brandon Simmons, Member

Date signed: August __, 2024

Date signed: August __, 2024

Approved as to form:

Scott G. Smith, City Attorney

- Exhibit A – Special Event Application
- Exhibit B – Event Layout Drawing
- Exhibit C – Descriptions of City Supplies and City Services
- Exhibit D – Severe Weather and Emergency Plan
- Exhibit E – Street Closure Permit
- Exhibit F – Public Safety Services Terms and Conditions

EXHIBIT A
SPECIAL EVENT APPLICATION

Special Event Application Report

Form: Special Event Application

Event will be held on/at	Private property
Please indicate the specific location requested	Rogers Plaza Mall parking lot
Event Name/Title	28th Street Metro Cruise
Event start date	25-Aug-2023
Event end date	26-Aug-2023
Type of event	Other
If "Other", please explain	Large community event
Event Description	Metro Cruise is the biggest event of the year in Wyoming, centered around the "Main Event" site at Rogers Plaza. We host collector car parking, live music, food vendors, kid's entertainment area, and much more.
Was this event held last year?	Yes
If yes, when and where was it held?	Same place and same weekend.
Is this a multi-day event?	Yes
Is there an admission fee?	No
What is the method of admittance (tickets, wristband, fee)?	None, open admission
What is the anticipated attendance (If multi-day event, please give daily attendance expected)?	15000
Previous year's attendance (If applicable)?	15000
Set-Up date & time	24-Aug-2023 09:00 AM





EXHIBIT A CONT.
SPECIAL EVENT APPLICATION

End date & time	25-Aug-2023 02:00 PM
Tear-Down date & time	27-Aug-2023 03:00 PM
Organization Name	GGreater Level
Type of organization	LLC
Organization's Mailing Address	PO Box 501, Grandville, MI, 49468
If mailing address is the same as physical address, select box and skip "Physical Address".	true
Organization's Physical Address	
Event Organizer's Name	Brandon, Simmons
Event Organizer's email	metrocruise@gmail.com
Event Organizer's phone number	6165702120
Event Organizer's Mailing Address	PO Box 501, Grandville, MI, 49468
On-Site Contact	Brandon, Simmons
On-Site Contact phone number	(231) 735-5179
Closure Start	25-Aug-2023 12:00 PM
Closure End	26-Aug-2023 09:30 PM
Street Name(s)	Michael Ave
The purpose of the proposed street closure is:	To aid in traffic flow around the Rogers Plaza area.
Will there be food and beverage?	Yes
Will there be alcohol?	No

EXHIBIT A CONT.
SPECIAL EVENT APPLICATION

If yes to either food and beverage, or alcohol, please describe what will be served and the source/distributor of the food/drink	Numerous food units - trucks, trailers, concessionaires.
Will there be food/drink vendors (the selling of food/drink)?	Yes
Will amplification of music or speakers be used?	Yes
Will you provide volunteer staff for safety and security?	Yes
If yes, how many volunteers?	100
Will you request Public Safety personnel to be present (fire, police, EMS)?	Yes
Will there be signage in the area for the event?	Yes
If yes, please specify location of signage	Multiple throughout Rogers Plaza area.
Will there be retail sales at the event?	No
Will you have any tents at the event?	Yes
If yes, how large (square foot)?	1800
Will there be any inflatables in the event area?	No
If yes, how many?	
Will you provide portable toilets?	Yes
If yes, how many?	50
Will you have a stage at the event?	Yes, will apply to use the city's stage

EXHIBIT A CONT.
SPECIAL EVENT APPLICATION

Will you need access to electrical?	No
Will you need access to potable water?	No
Will you need access to general water?	No
Are you seeking City of Wyoming co-sponsorship?	Yes
UPLOAD: Your site plan/map	 PROGRAM_Venue_Map_Layouts_2022_Main_Event_ROGERS.pdf
UPLOAD: Severe Weather and Emergency Plan	 Lost_Child_Weather_policy_Metro_Cruise_2022.docx
UPLOAD: Written Permission from Property Owner	 Hold_Harmless_-_Permission_Rogers_Plaza_2022.pdf
Please check box to affirm that you've read the above statement and that it is true of your application.	true
Signature	
Date	21-Feb-2023

Added Time	21-Feb-2023 05:58:04
Referrer Name	https://www.wyomingmi.gov/
Task Owner	martink@wyomingmi.gov

**EXHIBIT B
EVENT LAYOUT PLAN**

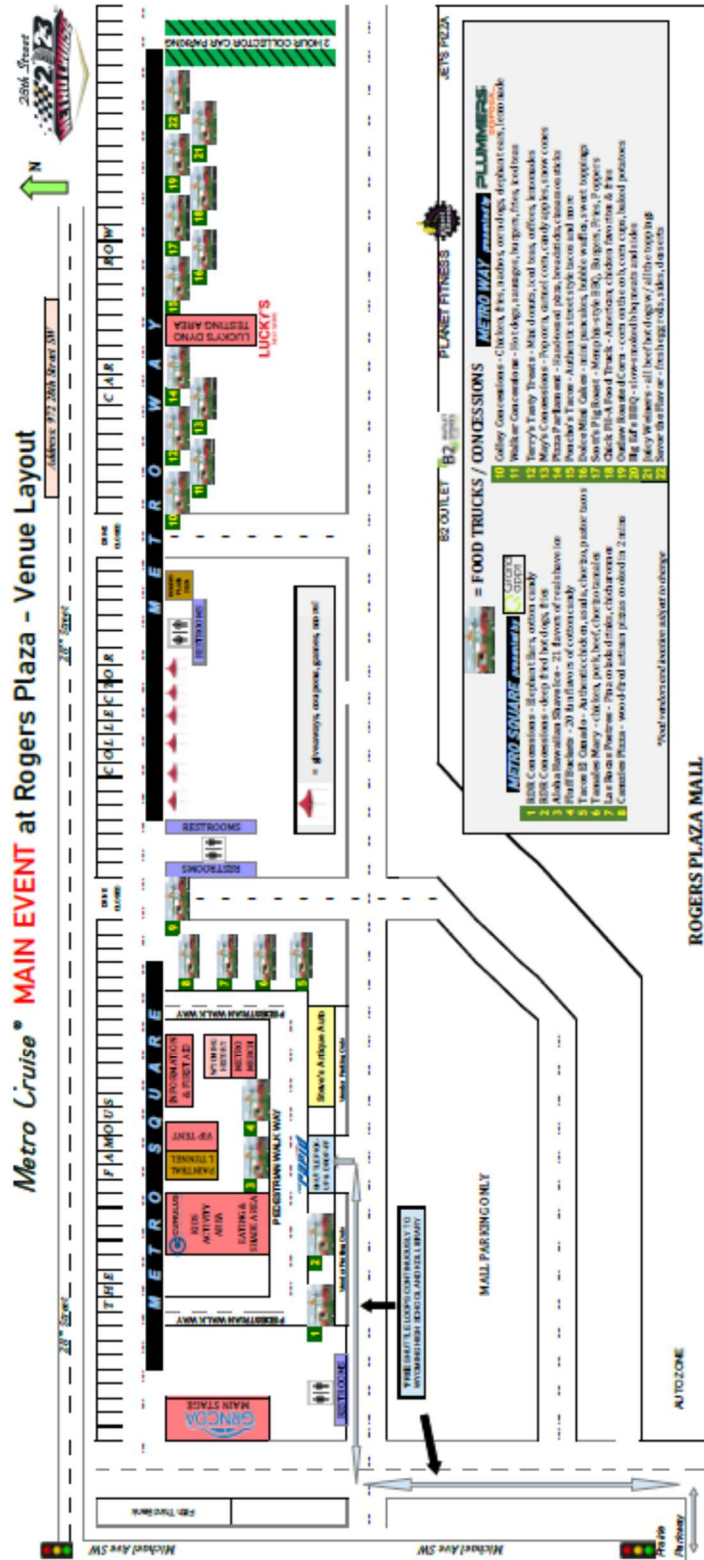


EXHIBIT C
CITY SUPPLIES AND SERVICES FOR EVENT

City Supplies

Barriacdes will be provided.

The City's stage and bleachers will be provided pursuant to the application for them, i.e., to be delivered to the Event Venue after 10:00 a.m., Thursday, August 22, 2024, and picked up from the Event Venue anytime after the Event ends.

City Services

City services include those provided in this Agreement and in the Public Safety Services Terms and Conditions attached as Exhibit F.

EXHIBIT D
SEVERE WEATHER AND EMERGENCY PLAN

All outdoor events must have a severe weather and emergency plan to evacuate the premises or move persons to a safe location in case of a severe storm or other emergencies.

SEVERE WEATHER POLICY

During the event of severe weather, all volunteers, participants, and vendors are to seek shelter in a safe enclosed structure. All Metro Cruise® activities will be suspended if any of the following occur:

- When lightning is within a 6-mile radius of Rogers Plaza or Woodland Mall
- City of Wyoming/Kentwood warning sirens are used or an emergency air horn is sounded
- Metro Cruise organizers identify an approaching strong storm

The event and activities may resume thirty minutes following the last flash of lightning per the NWS warning system or lightning detection equipment.

The suspension, cancellation, and resumption of Metro Cruise® will be announced from the Metro-Main Stage at Rogers Plaza, the Metro Cruise® Facebook page, and on WLAV 96.9 FM. In an effort to host all of our scheduled activities, we will attempt to delay events rather than cancel a missed event due to weather.

For the most up-to-date event information, please check the Facebook home page [f / metrocruise](https://www.facebook.com/metrocruise).

LOST CHILD OR VULNERABLE ADULTS

If you are at the Rogers Plaza OR Woodland Mall Main Event sites, and you become separated from your child, parent, or vulnerable adult, please proceed to the Metro Cruise® Information tent (Red & White Canopy tent), First Aid & Security tents, or find a Security or Official member.

EXHIBIT E
SPECIAL HIGHWAY USE PERMIT



City of Wyoming
TRAFFIC DEPARTMENT
SPECIAL HIGHWAY USE PERMIT

Permit No: 2004
Permit Fee: \$0.00

2660 Burlingame Ave SW
Wyoming, MI 49509
Phone: 616-530-7263
Fax: 616-249-3487
tra_info@wyomingmi.gov

Street Closure

Date: **7/10/2024**
Account No: 202-483.000

Applicant:	Brandon Simmons	Organization:	28th St. Metro Cruise
Street:	P.O. Box 501	Phone:	231-735-5179
City:	Grandville	Fax:	
State:	MI	Zip:	49468

Applicant's signature: per Special Event Agreement

Event Type: Block Party
 Graduation
Other: Metro Cruise

Event Date: 8/23/2024	Start Time: 10:00 a.m.	End Time: 10:00 p.m.
------------------------------	-------------------------------	-----------------------------

Location:

Street closure for special event at Rogers Plaza:
Michael Ave. (28th St. to 28 West Place)
email: metrocruise@gmail.com

Special Requirements:

Traffic Dept. staff to prep signs, cones, and barricades for event setup on Thur. Aug. 22. Street closure to be set up beginning at 10:00 a.m. on Fri. Aug. 23 through Sat. Aug. 24, 10:00 p.m.

Additional cones will be provided for Public Safety Department's use to block 28th St. EB right-turn lane & WB left turn-lane at Michael Ave. during the event. Closure may be removed temporarily if warranted by traffic conditions.

MDOT permit for the lane closure on 28th St. is required.

Approved by: Brandon Sch Date: 7/10/2024

EXHIBIT F

PUBLIC SAFETY SERVICES TERMS AND CONDITIONS

BACKGROUND

- A. Sponsor intends to host its annual Metro Cruise event in the City (the "Site") from **August 23, 2024**, through **August 24, 2024** (the **Event**), in accordance with the 2024 Metro Cruise Special Event Agreement between the City and the Sponsor dated as of **July 15, 2024** (the **Agreement**).
- B. Sponsor expects to draw many vendors, participants, patrons, Event staff and volunteers, and other attendees to the Event during the hours specified in the Agreement.
- C. While it has its own security team, Sponsor, as part of an overall cooperative effort agree that presence of police and fire personnel during and immediately following the Event's hours on Friday and Saturday will help ensure the safety of Event staff, volunteers, participants, patrons, the general public an during the Event.

TERMS AND CONDITIONS

1. Assignment.

- A. City will provide a public safety presence at the Event generally anticipated to be as follows:
 - 1. Approximately 46 city Police personnel providing a total of 460 hours of services with 20 assigned officers on Friday, 11 assigned officers on Saturday morning, and 15 assigned officers on Saturday afternoon and evening. The estimated total cost to the City to provide the assigned police personnel is between \$25,000 and \$28,000.
 - 2. Some City Fire personnel will serve during the Event.
 - 3. City estimates approximately 400 hours of mutual aid will also be provided by law enforcement personnel from other area jurisdictions.
- B. City's personnel will be selected, assigned and deployed by City at the Event in accordance with these Terms and Conditions, City policies and practices, and as provided in the Agreement.
- C. This Contract provides for City Public Safety personnel (and anticipated mutual aid law enforcement personnel) presence, not any special or enhanced duties or services. Assigned officers will be under normal City Public Safety Department command and will act in accordance with City Public Safety Department policies, procedures and protocols. Event personnel shall have no ability to direct the assigned police officers. Company personnel may make requests of the assigned officers who will respond to those requests in accordance with City Public Safety Department direction, policies, procedures and protocols. If Event personnel believe different actions or responses are appropriate, Event personnel may direct any such concerns to City Public Safety Department command personnel.
- D. Except as Sponsor may otherwise allow or as otherwise provided by law or City policies and practices, assigned City personnel will generally remain outside the areas of the Event Venue that are open only to Sponsor's personnel and not to the general public.
- E. In accordance with its normal practice, City may assign other personnel to duties related to the Event.
- F. If, in City Public Safety Department command personnel's sole discretion, a situation away from the Event Venue requires a Public Safety response, City Public Safety Department command personnel may dispatch City personnel assigned to the Event to that other situation until, in the sole discretion of City Public Safety Department command personnel, the other situation has been addressed in a manner that those personnel (or replacement personnel) can be returned to the Event to resume the services provided in these Terms and Conditions. If such a circumstance occurs, the assigned officers will notify Event personnel that they are leaving, and the Sponsor will be provided a direct contact number for City Public Safety Department command personnel on duty that time.
- G. It is intended the City personnel assigned to perform services under these Terms and Conditions will interact with Event personnel, participants, patrons and the general public in a manner similar to that in which such City personnel would interact during similar events and assignments. Similarly, it is intended that the Sponsor and Sponsor's personnel will interact with the assigned City personnel in a manner similar to that of other businesses, organizations, events and individuals interacting with City personnel in similar situations.
- H. Nothing in the Agreement or these Terms and Conditions shall limit the lawful authority of or the lawful exercise of that authority by City or any City personnel.

2. Payment. Sponsor will pay City as provided in the Agreement.

- 3. Responsibility for Personnel. City and Sponsor will be solely responsible for the statements, acts, and omissions of their respective personnel. Neither party shall be responsible for the statements, acts and omissions of the other party's personnel. Neither party shall be responsible to insure the other party or the other party's personnel.

RESOLUTION NO. _____

RESOLUTION TO CONCUR WITH THE EMERGENCY REPAIR OF A 15" STORM
SEWER AND AUTHORIZE PAYMENT TO WASTE RECOVERY SYSTEMS, INC.

WHEREAS:

1. As detailed in the attached staff report, it is recommended City Council concur with the emergency repair of a broken 15" storm sewer and authorize payment to Waste Recovery Systems, Inc. in the total amount of \$11,557.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council concurs with the emergency repair of a 15" storm sewer.
2. The City Council authorizes payment to Waste Recovery Systems, Inc.
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 hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on August 5, 2024.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Staff Report
Invoice

STAFF REPORT

Date: July 23, 2024
Subject: Authorize Payment for Madelyn Drive Storm Sewer Repair
From: Jay VanDyke, Assistant Director of Public Works – Maintenance
CC: Myron Erickson, Director of Public Works
Meeting Date: August 5, 2024

RECOMMENDATION:

It is recommended that the City Council authorize the payment of \$11,557.00 to Waste Recovery Systems, Inc for work related to an emergency repair of a broken 15” storm sewer.

ALIGNMENT WITH STRATEGIC PLAN:

- Pillar 3 - Stewardship
 - Goal 3 – Improve city infrastructure and service reliability. Enhance the efficiency and effectiveness of City operations and services.

DISCUSSION:

In June of 2024, the Public Works Department was notified of a sinkhole that formed in an easement between two houses near Madelyn Drive. It was determined through a camera investigation that a 15” concrete storm sewer pipe had fractured and was allowing sand and gravel to infiltrate. This caused the ground to settle significantly. Because of the location of the sinkhole and the difficulty of accessing the broken section of pipe, it was determined that the best way to repair the pipe was to line it by curing-in-place (CIPP).



The City Manager was made aware of the situation and authorized the emergency repair. Waste Recovery Systems, Inc was contacted, and they started almost right away. They also agreed to honor their cured-in-place (CIPP) contract price from the prior fiscal year. The installation was completed on July 16, 2024.



Cured-in-place pipe lining (CIPP) is a trenchless technology that does not require excavation to rehabilitate a pipeline that is either leaking or structurally unsound. A resin-saturated felt tube is inverted or pulled through a manhole into a damaged pipe. The resin is then cured, creating a new pipe inside of the host pipe.

BUDGET IMPACT:

Sufficient funds are available in the Major Streets Capital Outlay Storm Sewer Account: 202-441-46300-972.452.

Attachment:
Invoice

Application and Certificate for Payment

TO OWNER: City of Wyoming 1155 28th St, SW Wyoming, MI 49509	PROJECT: City of Wyoming - CIPP 2024	APPLICATION NO: 1 PERIOD TO: CONTRACT FOR: CONTRACT DATE: PROJECT NOS: / /	Distribution to: OWNER <input type="checkbox"/> ARCHITECT <input type="checkbox"/> CONTRACTOR <input checked="" type="checkbox"/> FIELD <input type="checkbox"/> OTHER <input type="checkbox"/>
FROM CONTRACTOR: Waste Recovery Systems, Inc. 4750 Clyde Park Ave. SW Wyoming, MI 49509	VIA ARCHITECT:		

CONTRACTOR'S APPLICATION FOR PAYMENT

Application is made for payment, as shown below, in connection with the Contract. AIA Document G703[®], Continuation Sheet, is attached.

1. ORIGINAL CONTRACT SUM	\$ 11,557.00
2. NET CHANGE BY CHANGE ORDERS	\$ 0
3. CONTRACT SUM TO DATE (Line 1 ± 2)	\$ 11,557.00
4. TOTAL COMPLETED & STORED TO DATE (Column G on G703)	\$ 0
5. RETAINAGE:	
a. 0 % of Completed Work (Columns D + E on G703)	\$ _____
b. 0 % of Stored Material (Column F on G703)	\$ 0
Total Retainage (Lines 5a + 5b, or Total in Column I of G703)	\$ 0
6. TOTAL EARNED LESS RETAINAGE	\$ 11,557.00
(Line 4 minus Line 5 Total)	
7. LESS PREVIOUS CERTIFICATES FOR PAYMENT	\$ 0
(Line 6 from prior Certificate)	
8. CURRENT PAYMENT DUE	\$ 11,557.00
9. BALANCE TO FINISH, INCLUDING RETAINAGE	\$ 0
(Line 3 minus Line 6)	

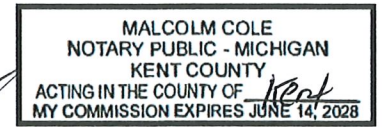
CHANGE ORDER SUMMARY	ADDITIONS	DEDUCTIONS
Total changes approved in previous months by Owner	\$ 0	\$ 0
Total approved this month June	\$ 0	\$ 0
TOTAL	\$ 0	\$ 0
NET CHANGES by Change Order	\$ 0	

The undersigned Contractor certifies that to the best of the Contractor's knowledge, information and belief the Work covered by this Application for Payment has been completed in accordance with the Contract Documents, that all amounts have been paid by the Contractor for Work for which previous Certificates for Payment were issued and payments received from the Owner, and that current payment shown herein is now due.

CONTRACTOR:
 By: Lauren Fridsma *Lauren Fridsma* Date: 7/23/24
 State of: Michigan
 County of: Kent

Subscribed and sworn to before me this 23rd day of July 2024

Notary Public: Malcolm Cole *Malcolm Cole*
 My commission expires: June 14, 2028



ARCHITECT'S CERTIFICATE FOR PAYMENT

In accordance with the Contract Documents, based on on-site observations and the data comprising this application, the Architect certifies to the Owner that to the best of the Architect's knowledge, information and belief the Work has progressed as indicated, the quality of the Work is in accordance with the Contract Documents, and the Contractor is entitled to payment of the AMOUNT CERTIFIED.

AMOUNT CERTIFIED \$ _____
 (Attach explanation if amount certified differs from the amount applied. Initial all figures on this Application and on the Continuation Sheet that are changed to conform with the amount certified.)

ARCHITECT:
 By: _____ Date: _____

This Certificate is not negotiable. The AMOUNT CERTIFIED is payable only to the Contractor named herein. Issuance, payment and acceptance of payment are without prejudice to any rights of the Owner or Contractor under this Contract.

Continuation Sheet

AIA Document G702[®], Application and Certificate for Payment, or G732[™], Application and Certificate for Payment, Construction Manager as Adviser Edition, containing Contractor's signed certification is attached. Use Column I on Contracts where variable retainage for line items may apply.

APPLICATION NO:
APPLICATION DATE:
PERIOD TO:
ARCHITECT'S PROJECT NO:

A ITEM NO.	B DESCRIPTION OF WORK	C SCHEDULED VALUE	D WORK COMPLETED		F MATERIALS PRESENTLY STORED <i>(Not in D or E)</i>	G		H BALANCE TO FINISH <i>(C - G)</i>	I RETAINAGE <i>(If variable rate)</i>
			FROM PREVIOUS APPLICATION <i>(D + E)</i>	THIS PERIOD		TOTAL COMPLETED AND STORED TO DATE <i>(D+E+F)</i>	% <i>(G ÷ C)</i>		
1	CIPP on Madelyn	11,557.00		11,557.00			100%	\$0.00	\$0.00
	GRAND TOTAL	11,557.00	\$0.00	11,557.00	\$0.00	\$0.00	100%	\$0.00	\$0.00

RESOLUTION NO. _____

RESOLUTION FOR THE PURCHASE OF A XYLEM YSI NITRITE PROBE

WHEREAS:

1. As detailed in the attached staff report, it is recommended City Council accept a quote for the purchase of a Xylem YSI nitrite probe from Xylem Water Solutions USA, Inc. d/b/a YSI in the total estimated amount of \$15,992.75.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council authorizes the purchase of a Xylem YSI nitrite probe.
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 August 5, 2024.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Staff Report
Contract/Quote

Resolution No. _____

STAFF REPORT

Date: July 23, 2024

Subject: Replacement of Xylem YSI Nitrite Probe

From: Kevin Lynch, CWP Operations Supervisor

CC: Myron Erickson, Director of Public Works
Jon Burke, Clean Water Plant Superintendent

Meeting Date: August 5, 2024

RECOMMENDATION:

It is recommended that the City accept the quote from Xylem Water Solutions U.S.A., Inc. for the replacement probe in the attached quote at a cost of \$15,992.75.

ALIGNMENT WITH STRATEGIC PLAN:

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

DISCUSSION:

The Clean Water Plant utilizes various probes in its three aeration basins to obtain live data and monitor the biological conditions of the treatment process in real time. The system that monitors the critical nitrogen parameters of ammonia, nitrite, and nitrate was originally installed in 2015. To minimize expense, a pair of nitrogen probes were installed in only the middle basin.

One of the original 2015 probes was recently sent in for repair when the calibration had fallen out of specification. While the probes can sometimes be repaired, Xylem (the manufacturer) was unable to make the necessary repairs in this instance but did offer a new replacement probe at a discounted price. A comparable quote was also obtained from System Specialties, the only Xylem sales representative in Michigan.

The lowest quote was supplied by Xylem YSI at a cost of \$15,992.75.



Aeration basin (left) and nitrogen probe (right).

TABULATION:

Quotes Received by:	Quote Price:
Xylem YSI	\$15,992.75
Systems Specialties	\$18,815.00

BUDGET IMPACT:

Sufficient funding is available in the FY25 Sewer Fund account 590-536-54300-775.000.

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 28th St SW, Wyoming, MI 49509.

Contractor means: Xylem Water Solutions U.S.A., Inc. d/b/a YSI
[Name of contracting entity]
A Delaware corporation
[State and type of entity, e.g., corporation, limited liability company, etc.]
1725 Brannum Lane
[Contractor's street address]
Yellow Springs, OH 45387
[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: August 6, 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:

- Contractor will perform the Work and supply the Goods as detailed in the Proposal.
- City will pay the Contractor in accordance with the Proposal.
- 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.

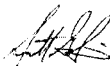
City of Wyoming

By: _____
Kent Vanderwood, Mayor

By: _____
Kelli A. VandenBerg, City Clerk

Date signed: _____, 20__

Approved as to form:



Scott G. Smith, City Attorney

Contractor: Xylem Water Solutions U.S.A., Inc. d/b/a YSI

Bill Littleton

Digitally signed by Bill Littleton
DN: cn=Bill Littleton, o=Xylem, ou=YSI,
email=bill.littleton@xylem.com, c=US
Date: 2024.07.16 14:17:58 -04'00'

By: _____
[Signature officer, director, or principal of Contractor]
Repair Center Manager

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

Date signed: _____, 20__

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 MIOSHA 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). 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 a completed IRS W-9 form (available at 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
COMMERCIAL GENERAL LIABILITY	
Minimal Limits: \$2,000,000 Each Occurrence Limit \$2,000,000 Personal & Advertising Injury Limit \$2,000,000 General Aggregate Limit \$2,000,000 Products/Completed Operations	Coverage shall include 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.
AUTOMOBILE LIABILITY INSURANCE	
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.
WORKERS' COMPENSATION/ EMPLOYERS' LIABILITY	

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 waived is prohibited by law.
EXCESS/UMBRELLA INSURANCE	
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.
OWNERS CONTRACTORS PROTECTIVE	
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.
ENVIRONMENTAL/POLLUTION LIABILITY	
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.
BUILDERS RISK PROPERTY INSURANCE	
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**

Bill To:

Wyoming, City Of
2350 Ivanrest Ave Sw
Clean Water Plant
Wyoming, Mi-49418

Customer # : 4509

Quoted by : Baxter, Jason

Please Contact me at

Phone # : 937-749-0608

Fax # : 937-767-7104

Email : ysi.repairs@xylem.com

Email/Fax: CWPINVOICE@WYOMINGMI.GOV,
KURT.HUIZENGA@WYOMINGMI.GOV
Contact: KURT HUIZENGA Phone#: 1-616-8889088

Repair #: 414910

Order #: 6013285

Part #/ Customer Item ID	Description	List Price	Qty.	Charged Price
R481056Y	REPAIR,NITRAVIS 701 IQ NI			
481 056YM	Nitravis 701 Iq Ni,Iq Sensomet Optical Uv Nitrite/Nitrate Probe,Integrated Ultrasonic Cleaning, 1 Mm Measurement Gap	\$18,815.00	1	\$15,992.75
LABOR-IQ-PROBE TS	Labor-Iq-Sensomet Probe Labor Charge	\$190.00	1	\$0.00

Technician's Notes:	MODEL: NITRAVIS 701NI (481 056Y) SN: 15440649	Total for this Repair:	\$15,992.75
	REPORTED SYMPTOM: NONE		
	TECHNICIAN NOTES: UPDATED FW TO CURRENT (2.45).		
	CLEANED OPTICAL CELL. PERFORMED ZERO CHECK. ZERO CHECK VARIES WILDLY; RANGING FROM -32,000 TO +31,000.		
	REPLACE SENSOR WITH PART# 481 056YM. WAIVE LABOR. APPLY 15% DISCOUNT TO NEW SENSOR.		
Total for this Service Request:			\$15,992.75

SHIPMENT TERMS: Once approval is received and parts are available.
Purchase order or Prepayment
Net 30 days
INCOTERMS: 2010 - TBD
MasterCard, Visa, and American Express accepted.

FREIGHT TERMS: Prepaid and added to Invoice

NOTES: This quote does not include any applicable Taxes, and this quote is valid up to 30 days from the date of issue.

Please email or fax a copy of your purchase order or contact us with your credit card payment to complete the repairs. No action is required if your product/s are covered under warranty. If you have any questions concerning the quote or want to use a credit card please call the number listed above.

RESOLUTION NO. _____

RESOLUTION FOR AWARD OF BIDS

WHEREAS:

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

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council awards the bids listed below as recommended in the attached staff reports and summarized below.

Item	Recommended Bidder	Cost
Wyoming Senior Center Accessible Entrance Renovation	Vander Kodde Construction	\$39,750.00
Lemery Park and Palmer Park Field Scoreboards	Architectural Systems Group, LLC	\$11,930.00

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

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 meeting held on August 5, 2024.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:
Staff Reports
Contracts

Resolution No. _____

STAFF REPORT

Date: July 16, 2024

Subject: Wyoming Senior Center Accessible Entrance Renovation

From: Lynn Clarke, Assistant Director
Chad Boprie, WSC Manager

Cc: Krashawn Martin, Director of Parks and Recreation
Paul Smith, Assistant Director of Community and Economic Development

Meeting Date: August 5, 2024

RECOMMENDATION:

It is recommended City Council authorize the purchase of design and renovation of the entry ways at the west and south entrance of the WSC with a total project cost of \$39,750. This cost includes an optional \$3000 in asphalt repair.

ALIGNMENT WITH STRATEGIC PLAN:

- PILLAR 1 – COMMUNITY
 - GOAL 3 – Enhance community engagement and recreational opportunities for our residents.

DISCUSSION:

On May 7, 2024, the City received two bids for the WSC Accessible Entrance Renovation project. Thirty-two (32) invitations to bid were sent to and/or downloaded by prospective bidders. Parks and Recreation staff evaluated each bid based on the understanding of the project, detail specifications provided, and references. After reviewing the bids Vander Kodde Construction was found to have the most competitive price and met all specifications of the bid.

Therefore, it is recommended the City Council award the bid for the Accessible Entrance Renovation project to Vander Kodde Construction, Inc for the bid prices shown on the attached tabulation sheet.

BUDGET IMPACT:

Funds for this project are budgeted in account number 251-701-69424-975.000.

TABULATION SHEET:

Bidder	Total Bid Price	Notes
Mugen Construction, Inc.	\$63,980.00	Accessible entrance on west and south
Vander Kodde Construction	\$36,750.00	Accessible entrance on west and south
Vander Kodde Construction	\$3,000.00	Optional asphalt patch in front of sidewalk

Attachment:
Contract

CITY OF
Wyoming
MICHIGAN

WYOMING SENIOR CENTER (WSC) ACCESSIBLE ENTRANCE RENOVATION 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 28th St SW, Wyoming, MI 49509.

Contractor means:

VANDER KODAE CONSTRUCTION
(Name of contracting entity)
A CORPORATION
(State and type of entity, e.g., corporation, limited liability company, etc.)
441 44th St SW
(Contractor's street address)
GRAND RAPIDS, MICHIGAN 49548
(Contractor's city, state & zip)

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

Effective Date means: _____, 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 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: _____

By: [Signature]
(Signature of officer, director, or principal of Contractor)
Tim VanderKode V-P
(Typed/Printed Name & Title of Person Signing for Contractor)

Date signed: 7-24, 2024

STAFF REPORT

Date: July 30, 2024

Subject: Lemery Park and Palmer Park Field Scoreboards

From: Lynn Clarke, Assistant Director
Josh Sweedyk, Athletics and Recreation Programmer

Cc: Krashawn Martin, Director of Parks and Recreation

Meeting Date: August 5, 2024

RECOMMENDATION:

It is recommended City Council authorize the purchase of two new electronic softball scoreboards in the amount of \$11,930.00.

ALIGNMENT WITH STRATEGIC PLAN:

- PILLAR 1 – COMMUNITY
 - GOAL 3 – Enhance community engagement and recreational opportunities for our residents.

DISCUSSION:

On July 30, 2024, the City received two bids for the replacement of the softball scoreboards and Lemery Park and Palmer Park Field project. Twenty-six (26) invitations to bid were sent to and/or downloaded by prospective bidders. Parks and Recreation staff evaluated each bid based on the understanding of the project, detail specifications provided, and references. After reviewing the bids, Architectural Systems Group, LLC was found to have the most competitive price and met all specifications of the bid.

Therefore, it is recommended the City Council award the bid for the scoreboard replacement at Lemery Park and Palmer Park Field to Architectural Systems Group, LLC for the bid prices shown on the attached tabulation sheet.

BUDGET IMPACT:

Funds for this project are budgeted in account number 272.267.75600.975.007

TABULATION SHEET:

Architectural Systems Group, LLC	\$11,930.00	Lemery Park and Palmer Park Field Scoreboard Replacement
Buist Electric	\$25,560.00	Lemery Park and Palmer Park Field Scoreboard Replacement

Attachment:
Contract

CITY OF
WYOMING

Softball Field Scoreboards – Lemery Park and Palmer Park 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 28th St SW, Wyoming, MI 49509.

Contractor means:

Architectural Systems Group, LLC
[Name of contracting entity]
A **Michigan Limited Liability Company**
[State and type of entity, e.g., corporation, limited liability company, etc.]
92 Veterans Drive
[Contractor's street address]
Holland, Michigan 49423
[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 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

Contractor: **Architectural Systems Group, LLC**

By: _____
Kent Vanderwood, Mayor

By: _____
[Signature officer, director, or principal of Contractor]
Terry Edewaard - President
[Typed/Printed Name & Title of Person Signing for Contractor]

By: _____
Kelli A. VandenBerg, City Clerk

Date signed: _____, 20__

Date signed: _____, 20__

Approved as to form:



ORDINANCE NO. 6-24

ORDINANCE TO AMEND SECTION 90-515 OF THE CODE OF ORDINANCES BY
ADDING SUBSECTION (143) TO REZONE 152-158 36TH STREET SE FROM
R-3 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 (143) to read as follows:

- (143) (a) To rezone the following described property at 152-158 36th Street SE (parcel number 41-18-19-103-026) from R-3 Residential District to R-4 Residential District:

PARCEL NUMBER 41-18-19-103-026, AS SURVEYED:
LOTS 1, 2, & 3, NIXON PLAT, EXCEPT THE SOUTH 25 FEET OF LOT 3, PART OF
THE NW 1/4 OF SECTION 19, T6N, R11W, CITY OF WYOMING, KENT COUNTY,
MICHIGAN.

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 meeting of the City Council held on August 5, 2024.

Kelli A. VandenBerg
Wyoming City Clerk

CITY OF WYOMING

Community and Economic Development | 1155 28th St. SW, Wyoming, MI 49509
616.530.7259 | wyomingmi.gov

August 5, 2024

Ms. Kelli A. Vandenberg
City Clerk
Wyoming, MI

Subject: Request for a rezoning from R-3 Residential District to R-4 Residential District at 152-158 36th Street SE (Section 19) (Bill Norris, Kentwood Properties LLC).

Recommendation: To approve the subject rezoning request.

Dear Ms. Vandenberg,

The above referenced request was reviewed by the Wyoming Planning Commission at its regular meeting on July 16, 2024. At the meeting, a motion was made by Hall, supported by Gilreath-Watts, 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 0.32 acres and currently zoned R-3, which permits one- and two-family residential. This parcel is currently used as a four-suite office building, which is a non-conforming use. The applicant proposes to convert the four office suites to four apartments. The housing units across 36th Street are zoned R-4 and this parcel would merely extend the existing R-4 Residential district.

The applicant has struggled to fill the commercial office suites in the current real estate market and demand for such units is expected to be soft for some time. Meanwhile, the multifamily residential market is very tight and the proposed units are expected to be filled promptly upon completion of renovations.

Both the principal permitted uses and special land uses for the proposed R-4 zoning district are appropriate. The principal permitted uses in the R-4 zoning district are consistent with the residential character of the surrounding neighborhood and uses permitted with special use approval are mostly professional office uses that are in keeping with both the intended future use and the existing use of the building.

The parcel and the existing building do not meet the dimensional standards for R-4 and the property owner has a hearing before the Board of Zoning Appeals on August 19 to seek the necessary variances. Those requests should be approved or denied before the

second reading of this rezoning ordinance. The R-4 parcels directly across 36th Street from the subject parcel required similar variances at the time of their approval.

The site's developer spoke briefly about the proposed housing units and the importance of creating housing at this location. No members of the public offered comment on this agenda item.

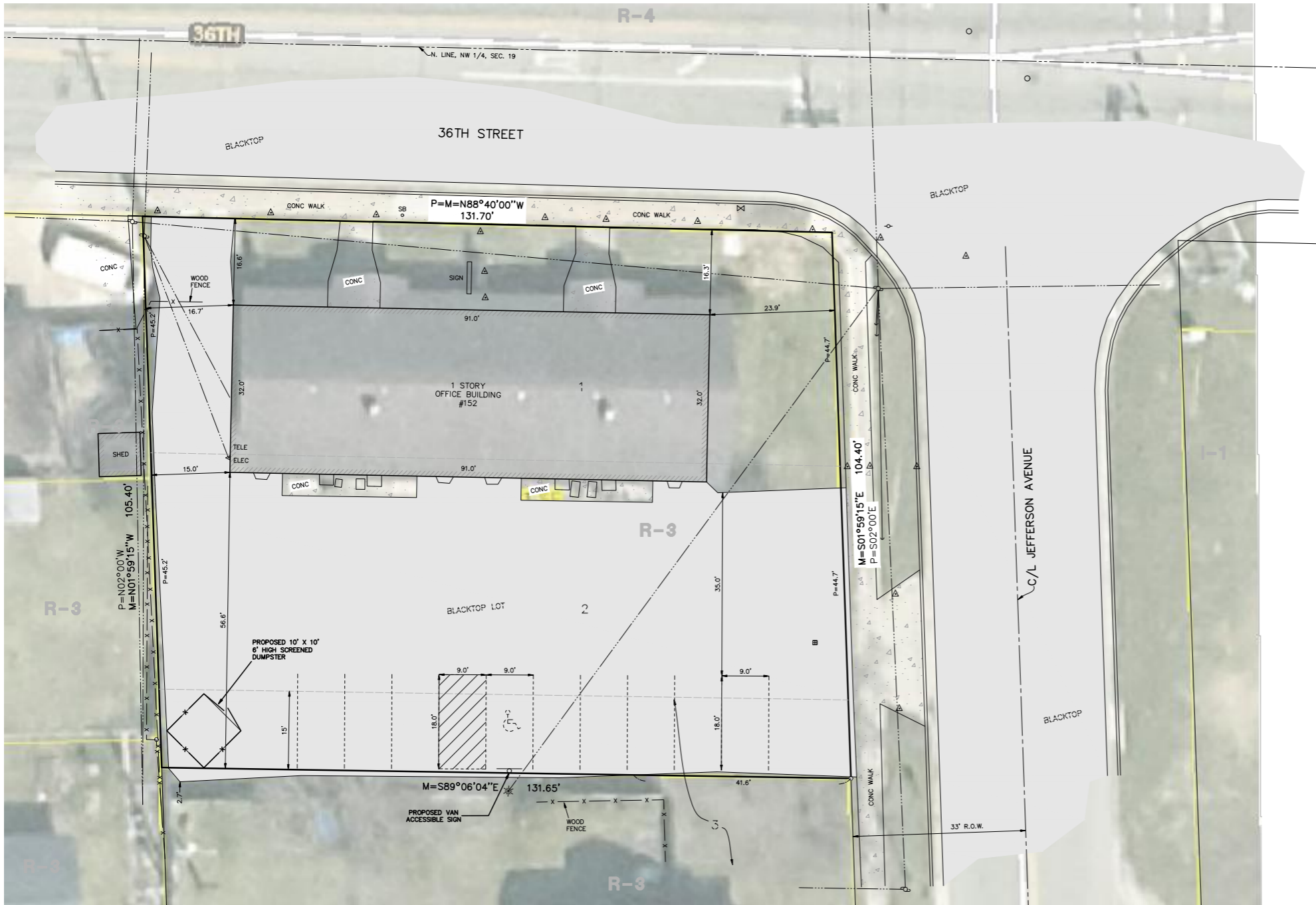
If approved for the proposed rezoning, the property owner would need to submit for formal site plan review prior to any new development occurring at the site. A copy of the proposed rezoning survey is attached to this letter.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Nicole Hofert". The signature is fluid and cursive, with the first name "Nicole" and last name "Hofert" clearly distinguishable.

Nicole Hofert, Director of Community and Economic Development
Community and Economic Development Department

Cc: John Shay, City Manager



- GENERAL NOTES:**
- PROPERTY INFORMATION:**

PARCEL DESCRIPTION:
DESCRIPTION OF REMAINDER PARCEL:
LAND IN THE CITY OF WYOMING, KENT COUNTY, MI, DESCRIBED AS FOLLOWS:

LOTS 1, 2 & 3, NIXON PLAT, EXCEPT THE SOUTH 25 FEET OF LOT 3, PART OF THE NW 1/4 OF SECTION 19, T6N, R11W, CITY OF WYOMING, KENT COUNTY, MICHIGAN.

PROPERTY ADDRESS: 152 36TH ST SE, WYOMING, MI. 49548

PARCEL NUMBER: 41-18-19-103-026

PARCEL SIZE: 0.32 ACRES
 - MAPPING:**

THIS SURVEY WAS MADE FROM THE DESCRIPTION SHOWN ABOVE. THE DESCRIPTION SHOULD BE COMPARED WITH THE ABSTRACT OF TITLE OR TITLE POLICY FOR ACCURACY, EASEMENTS, AND EXPECTATIONS.
 - EXISTING ZONING: R-3 RESIDENTIAL DISTRICT**

MINIMUM BUILDING SETBACKS FROM STREET RIGHT-OF-WAYS:	REQUIRED	PROVIDED
FRONT YARD	= 35'	16.3' N.E. CORNER
SIDE YARD	= 8'	16.7' W SIDE/ 23.9' E. SIDE
SIDE YARD (TOTAL)	= 20'	40.6'
REAR YARD	= 35'	56.6' S.W. CORNER
 - PROPOSED ZONING: R-4 RESIDENTIAL DISTRICT**

MINIMUM BUILDING SETBACKS FROM STREET RIGHT-OF-WAYS:	REQUIRED	PROVIDED
FRONT YARD	= 35'	16.3' N.E. CORNER
SIDE YARD	= 20'	16.7' W SIDE/ 23.9' E. SIDE
SIDE YARD (TOTAL)	= 40'	40.6'
REAR YARD	= 35'	56.6' S.W. CORNER
 - BUILDING**

PROPOSED USE: RESIDENTIAL / MULTIPLE-FAMILY DWELLING

	REQUIRED	PROVIDED
MAXIMUM BUILDING HEIGHT	35'	UNCHANGED
MAXIMUM BUILDING SIZE	40% LOT COVERAGE	2908 SF (21%)
 - IMPACT ON PUBLIC SERVICES**

PROJECT WILL NOT RESULT IN ADVERSE IMPACT TO PUBLIC SERVICES, INCLUDING POLICE AND FIRE PROTECTION, UTILITIES, TRAFFIC OR ROADWAYS.
 - IMPACT TO SURROUNDING PROPERTIES**

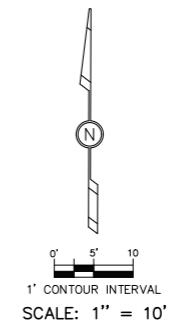
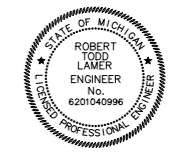
USE OF PROPERTY WILL BE CONSISTENT WITH OTHER USES IN THIS ZONING DISTRICT AND IN THE SURROUNDING AREA. USE OF THE PROPERTY WILL NOT GENERATE ADVERSE LEVELS OF NOISE, VIBRATION, SMOKE, LIGHT, GLARE, OR OTHER PROBLEMATIC CONDITIONS.
 - PARKING**

USE: MULTIPLE-FAMILY RESIDENTIAL DWELLING (PER ORDINANCE)

NUMBER OF DWELLING UNITS: 4 (2 SPACES REQUIRED FOR EACH DWELLING UNIT)

TOTAL SPACES REQUIRED PER ORDINANCE: 8
TOTAL OWNER ESTIMATED PARKING SPACES NEEDED: 8
TOTAL SPACES PROVIDED ON SITE: 9 (1 BARRIER FREE SPACE)
(BARRIER FREE SPACES REQUIRED: 1 STANDARD)
 - DENSITY BY RESIDENTIAL UNIT:**

4 DWELLING UNITS / 0.32 ACRES = 12.5 DWELLING UNITS / ACRE



SKETCH PLAN
152-158 36TH ST. SE
FOR: KENTWOOD PROPERTIES LLC
ATTN: BILL NORRIS
2000 28TH ST. SW
WYOMING, MI 49519
PART OF THE NW 1/4, SECTION 19, T6N, R11W, CITY OF WYOMING, KENT COUNTY, MICHIGAN

DATE	REVISION	BY	APPROVED BY:	PROJ. SURV.:	DATE:	SHEET
					06/05/2024	1 of 1

excel engineering, Inc.
planners • engineers • surveyors
5252 Clyde Park, S.W. • Grand Rapids, MI 49509
Phone: (616) 531-3660 www.excelengineering.com

DRAWN BY: [blank] PROJ. ENG.: [blank]
APPROVED BY: [blank] FILE NO.: 241476
DATE: [blank] DATE: 06/05/2024

P:\Projects\2024\241476\Drawings\241476.dwg, SKETCH PLAN, 6/12/2024, 1:19:04 PM, l.wander

care facility for the care of seven or more people at 2220 Clarion.

Weller asked what it means by “seven or more” to which commissioners responded 12 was the max number.

A vote on the motion passed unanimously.

A motion was made by Randall, supported by Smart to grant site plan approval at 2200 Clarion Ave SW.

A vote on the motion passed unanimously.

AGENDA ITEM NO. 3

Request for a Rezoning from R-3 Residential District to R-4 Residential District at 152-158 36th St SE (Section 19) (Bill Norris, Kentwood Properties LLC)

Smith explained that the site is zoned R-3 Residential District Zoning and outlined the various uses of the surrounding land.

Smith said that this parcel is currently zoned R-3, which permits one- and two-family residential. This parcel is currently used as a four-suite office building, which is a non-conforming use. The applicant proposes to convert the four office suites to four apartments. Both the office use and the multi-family use would conform to R-4 standards.

CONFORMANCE WITH ORDINANCE STANDARDS AND FINDINGS OF FACT:

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 Neighborhood Commercial, which calls for mixed use developments and nearby multifamily residential. In the context of this Neighborhood Commercial center, the addition of multifamily residential provides for a mix of compatible uses.

(b) *Compatibility of the allowed uses with existing and future land uses;*

The adaptive reuse of the existing building is compatible with the multifamily uses in R-4 zoning districts and the mix of uses envisioned for Neighborhood Commercial.

(c) *Capability of the property to be served by public services;*

The existing building is served by public services and utilities.

(d) *Ability of the property to be used as currently zoned; and*

The applicant has struggled to fill the commercial office suites in the current real estate market and demand for such units is expected to be soft for some time. Meanwhile, the multifamily residential market is very tight and the proposed units are expected to be filled promptly upon completion of renovations.

(e) *Appropriateness of all uses allowed within the proposed district at the property location.*

Both the principal permitted uses and special land uses for the proposed R-4 zoning district are appropriate. The principal permitted uses in the R-4 zoning district are consistent with the residential character of the surrounding neighborhood and uses permitted with special use approval are mostly professional office uses that are in keeping with both the future land use and the existing use of the building.

Smith shared the following staff comments:

(a) *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.

(b) *Dimensional Standards*

The lot does not meet all of the minimum dimensional standards for R-4 zoning, so two variances will be required:

- The minimum lot area for R-4 is 43,560 square feet. 152-158 36th Street SE is 13,939 square feet, so a variance for the minimum lot area is necessary.
- The minimum lot width for R-4 is 120 feet. 152-158 36th Street SE is 131 feet wide, so no variance is necessary.
- The minimum front and rear yard setbacks are 35 feet. The building at 152-158 36th Street SE has a front yard setback of 16 feet and a rear yard setback of 56 feet, so a variance for the front yard setback is necessary.

(c) *Location*

This parcel is located adjacent to another R-4 district, which did not meet the minimum dimensional requirements and received corresponding variances in the course of its development process.

(d) *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.

- July 16 – Planning Commission considers rezoning request.
- August 5 – City Council hears the first reading of the rezone request.
- August 19 – Board of Zoning Appeals hears the variance request.
- September 2 – City Council hears the second reading of the rezone request.

Smith explained that the Development Review Team recommends the Planning Commission grant the R-4 rezoning request at 152-158 36th St SE and recommend the same to City Council.

Micele opened the public hearing at 7:26PM. There was no public comment, and the public hearing was closed.

Ed McNeely, representing Norris Properties, read an excerpt from the master plan to commissioners regarding future residential developments.

A motion was made by Hall supported by Gilreath-Watts to grant the R-4 rezoning at 152-158 36th St SE and recommend the same to City Council.

Lamer asked the developer how many bedrooms were going to be in these units.

McNeely responded that all the units would have 2 bedrooms. Bill Norris (also on behalf of developer) spoke to commissioners and said all the units would have a small full kitchen and everything would be remodeled.

Lamer asked what was going to happen with the tenants that are in the suites currently.

The developer responded that he owned other properties within the City, and he would be offering one of the spaces to the tenants.

A vote on the motion passed unanimously.