

**AGENDA**  
**WYOMING CITY COUNCIL MEETING**  
**CITY COUNCIL CHAMBERS**  
**TUESDAY, SEPTEMBER 4, 2018, 7:00 P.M.**

- 1) Call to Order**
- 2) Invocation** – Pastor Stephen Dudek, Holy Name of Jesus Catholic 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 August 20, 2018 Regular Meeting and Closed Session
- 7) Approval of Agenda**
- 8) Public Hearings**  
*If you wish to speak to an item during a public hearing you are welcome to do so. It is important to note this is not an opportunity for dialog or debate; this is an opportunity to provide comment to the City Council. Comments made during a public hearing may become part of the meeting's permanent record. Upon approaching the podium, please begin by providing your name and address. There is a 3 minute limit per person.*
- 9) Public Comment on Agenda Items**  
*This public comment period is reserved for comment on agenda items only. If you wish to speak about an item that is not on the agenda, please hold your comments until the acknowledgement of visitors at the end of the meeting. It is important to note this is not an opportunity for dialog or debate; this is an opportunity to provide comment to the City Council. Upon approaching the podium, please begin by providing your name and address. There is a 3 minute limit per person.*
- 10) Presentations and Proclamations**
  - a) Presentations
  - b) Proclamations
- 11) Petitions and Communications**
  - a) Petitions
  - b) Communications
    1. Letter Requesting a Public Hearing from David Douglas
- 12) Reports from City Officers**
  - a) From City Council
  - b) From City Manager
- 13) Budget Amendments**
  - a) Budget Amendment No. 27 – To Appropriate an Additional \$1,000.00 of Additional Budgetary Authority to Fund the Purchase of Banners Along Division Avenue Requested by the Division Avenue Business Association
  - b) Budget Amendment No. 28 – To Appropriate \$6,890.00 of Additional Budgetary Authority to Fund the Replacement of the Roof of the Police Department Shooting Range

**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 Confirm the Reappointment of Canda Lomonaco as a Member of the Zoning Board of Appeals for the City of Wyoming

**15) Documents for Consideration of The Reserve**

- b) Resolution to Approve the Proposed Stipulated Final Order Settling *Granger Group of Companies LLC v City of Wyoming* Lawsuit and Authorize Actions to Finalize that Settlement
- c) Ordinance 14-18  
To Amend Section 90-32 of the Code of the City of Wyoming by Adding Subsection (110) to Conditionally Rezone Property for The Reserve at Rivertown PUD (Final Reading)
- d) Resolution to Approve Rivertown Valley Plats Phases IV-IX and Approve and Authorize the Signing of Plat Improvement Construction Agreement with the Plat's Developer

**16) Resolutions**

- e) To Authorize the Mayor and City Clerk to Execute an Amendment to the Streetlighting Contract with Consumers Energy Company
- f) To Authorize the Mayor and City Clerk to Execute an Agreement with Consumers Energy to Participate in the 2019 Demand Response Program
- g) To Approve and Authorize the Mayor and City Clerk to Sign a Municipal Services Agreement for 28WPhaseOne Limited Dividend Housing Association Limited Partnership Housing Project
- h) To Approve and Authorize the Mayor and City Clerk to Sign a Municipal Services Agreement for 28WPhaseTwo Limited Dividend Housing Association Limited Partnership Housing Project
- i) To Enter into a Contract with "The Haunt" and to Authorize the Mayor and City Clerk to Execute the Contract

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

- j) To Approve a Professional Services Agreement with PLB Planning Group LLC
- k) To Accept a Quote from Xylem Analytics for the Purchase of a UVT-254 Monitoring System
- l) To Accept a Quote from Dell Corporation for the Purchase of Ten Police Vehicle Computers Complete with Docking Stations
- m) To Accept a Quote for the Purchase and Installation of Network Servers, Storage, and Switches from Secant Technologies
- n) For Award of Bid
  - 1. Salt Storage Dome Re-Roofing

**18) Ordinances**

- 15-18 To Amend Chapter 2, Article IV, of the Code of Ordinances, City of Wyoming, Michigan, by Adding Division 7 to Provide for a Service Charge in Lieu of Taxes, Pursuant to 1966 PA 346, for the 28WPhaseOne Limited Dividend Housing Association LP Housing Project for Low Income Persons and Families to be

Financed with a Federally-Aided or MSHDA-Aided Mortgage Loan or a MSHDA Advance or Grant (Final Reading)

- 16-18 To Amend Chapter 2, Article IV, of the Code of Ordinances, City of Wyoming, Michigan, by Adding Sections 2-310A to 2-310E to Division 7 to Provide for a Service Charge in Lieu of Taxes, Pursuant to 1966 PA 346, for the 28WPhaseTwo Limited Dividend Housing Association LP Housing Project for Low Income Persons and Families to be Financed with a Federally-Aided or MSHDA-Aided Mortgage Loan or a MSHDA Advance or Grant (Final Reading)

**19) Informational Material**

**20) 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.*

**21) Closed Session (Pending Litigation)**

**22) Adjournment**

5847 Sage River Ct SW  
Wyoming Michigan, 49418

August 27<sup>th</sup>, 2018

To: Mayor Jack Poll, Members of the City Council and the city attorney in care of  
Keli Vandenberg Wyoming City Clerk

1155 28th St SW • Wyoming, MI 49509 •

From: David Douglas

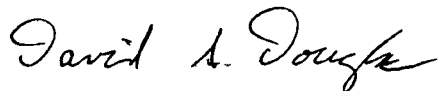
Subject: Request for Public Hearing,

Dear Mayor, City Council, and City Attorney

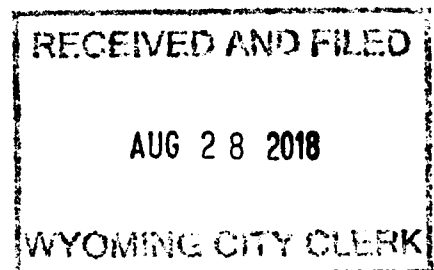
As a property owner in the Rivertown Valley Subdivision I am requesting that the City of Wyoming hold a public hearing on proposed zoning ordinance 14-18 regarding the Reserve. This meeting should be preceded by notice of a hearing as required by the Michigan Zoning Enabling Act (MCL 125.3401).

The public, property owners, community members have a right to be fully informed and voice their opinion on the latest revision of the Reserve development plan. Please honor this right.

With appreciation,



David Douglas



**CITY OF WYOMING BUDGET AMENDMENT**

**Date: September 4, 2018**


**Budget Amendment No. 027**

To the Wyoming City Council:

A budget amendment is requested for the following reason: To appropriate an additional \$1,000.00 of additional budgetary authority to fund the purchase of banners along Division Avenue requested by the Division Avenue Business Association (DABA). The City of Kentwood and individual business owners are also contributing.

<u>Description/Account Code</u>	<u>Current</u>	<u>Increase</u>	<u>Decrease</u>	<u>Amended</u>
<b><u>General Fund</u></b>				
City Council - City Council - Other Services				
101-101-10100-956.000	31,950.00	1,000.00		32,950.00
Balance/Working Capital (Fund 101)		-	1,000.00	

Recommended:   
Senior Accountant

  
City Manager

Motion by Councilmember \_\_\_\_\_, seconded by Councilmember \_\_\_\_\_ that the General Appropriations Act for Fiscal Year 2018-2019 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 BUDGET AMENDMENT**

**Date: September 4, 2018**

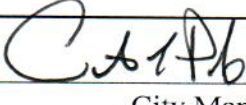
**Budget Amendment No. 028**

To the Wyoming City Council:

A budget amendment is requested for the following reason: To appropriate \$6,890.00 of additional budgetary authority to fund the replacement of the roof of the Police Department Shooting Range as per the attached staff report.

<u>Description/Account Code</u>	<u>Current</u>	<u>Increase</u>	<u>Decrease</u>	<u>Amended</u>
<b><u>General Fund</u></b>				
Police - Building - Capital Outlay				
101-305-30610-975.000	-	6,890.00		6,890.00
Balance/Working Capital (Fund 101)		-	6,890.00	

Recommended:   
Senior Accountant

  
City Manager

Motion by Councilmember \_\_\_\_\_, seconded by Councilmember \_\_\_\_\_ that the General Appropriations Act for Fiscal Year 2018-2019 be amended by adoption of the foregoing budget amendment.

Motion carried: Yes \_\_\_\_\_, No \_\_\_\_\_

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

\_\_\_\_\_  
City Clerk

## STAFF REPORT

Date: August 28, 2018  
Subject: Public Safety – Shooting Range Roof Replacement  
From: Captain Kip Snyder  
Meeting Date: September 4, 2018

### RECOMMENDATION:

It is recommended City Council approve the attached budget amendment in the amount of \$6,890.00 to fund the replacement of the Police Department shooting range roof.

### SUSTAINABILITY CRITERIA:

Environmental Quality – There is no impact on Environmental Quality for this contract adjustment.

Social Equity – The Public Safety function within the City of Wyoming provides the same high quality service to all areas of the City without regard to income level or socio-economic status.

Economic Strength – The Department strives to maintain excellence in fiscal responsibility. Without proper maintenance, including upgrades and replacements, our facilities fall into disrepair. Property maintenance has a direct impact on property values. Well maintained properties have a positive impact on their neighborhoods. Well maintained neighborhoods have a positive impact on their communities.

### DISCUSSION:

The City requested proposals for the removal of current roofing and furnishing and installing new roofing at the police shooting range building. The proposals received are as shown below:

Vander Kodde Construction	\$6,890.00
Rasmussen LLC	\$6,900.00

It is recommended the City Council accept the low proposal received from Vander Kodde Construction in the total estimated amount of \$6,890.00.

### BUDGET IMPACT:

Because there are no funds designated in our current budget for this repair, a budget amendment will be required and is in process. Funds will be reflected in Building Capital Outlay Account #101-305-30610-975-000.

### ATTACHMENTS:

Proposals (2)

# VANDER KODDE CONSTRUCTION CO INC

www.vanderkoddeconstruction.com

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May 17, 2018

Wyoming Police Dept. shooting range  
Wyoming, MI

## PROPOSAL SHINGLE REPLACEMENT

We are pleased to present for your consideration our quote for this project. Our price includes the following:

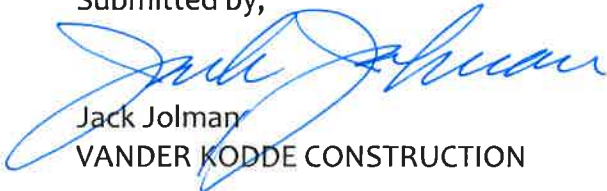
- Remove and dispose of existing one layer of shingles
- Install CertainTeed Landmark A.R. dimensional shingles over synthetic underlayment
- Install CertainTeed Swiftstart Starter shingles on all eaves.
- Install CertainTeed WinterGuard water/ice shield 6' at eaves
- New drip edge at roof edge
- New rubber boot flashing on roof vents (2)
- Install new vented ridge vent (remove and dispose existing)
- Install new hip vent (remove and dispose existing)
- Install CertainTeed Shadow Ridge cap shingles
- Five (3) year Vander Kodde Construction labor warranty plus shingle manufacturer's material warranty

**TOTAL COST = \$6890.00**

**NOTE:** extended CertainTeed SureStart standard 10 year warranty to a 25 yr. warrant included in pricing.

**NOTE:** 1. Repair or replace damaged roof decking to be done at cost of material plus 10% and \$40.00 per hr. labor.

Submitted by,



Jack Jolman  
VANDER KODDE CONSTRUCTION



**STANDARD  
LIFETIME SYSTEM  
FIBERGLASS CONTRACT**  
Fax 1-866-711-7755  
**1-800-949-0009**  
**1-800-4-MR-ROOF**



MASONRY - ROOFING - SIDING - WINDOWS

**Year After Year, Nobody Installs More New Roofs... Nobody!**

Name Wyoming Police Range (Joe Steffes) Date 8-15-18 Twp. \_\_\_\_\_  
Street 2352 Ivanrest Ave City Grandville Zip \_\_\_\_\_  
Telephone Number 616-530-7338 Telephone Number \_\_\_\_\_ Email steffesj@wyomingmf.gov  
Inspector Name FRED Belknap Inspector Phone Number 293-6088

- Prepare house to have roof removed, (tarp, etc.) to ensure debris does not damage any siding, shrubs, lawn, etc. Remove all old roofing material to original roof decking, secure any problem areas, remove and replace any rotten wood decking.
- The first 50 linear feet of 1" x 6" boards or 3500 4' x 8' sheets of O.S.B. is included. Thereafter, a charge of \$2.00 per foot of 1" x 6" and \$45.00 per each 4' x 8' sheet of O.S.B. will be added to the subtotal. Please initial X \_\_\_\_\_
- Install **THUNDER EDGE** high efficiency aluminum drip edge venting system along all heated eaves. This specialized product is used to create the necessary fresh air intake ventilation you must have to deter mold growth and reduce moisture in insulation, thus making it more energy efficient and creating a healthier, more comfortable environment. Install heavy duty 1.5" aluminum edging to all rake edges and non-heated eaves or install RAMJET INTAKE VENTS (Level 7)
- Install commercial grade rubberized ice guard a minimum of 6' up all eaves including valleys, flashing, chimneys, as needed. This provides a weather tight seal that deters water caused from ice dams from penetrating the roofing system. (Level 7)
- Install **THUNDER SHIELD**, a commercial grade **S.B.S.** synthetic underlayment, on remainder of roof deck. **THUNDER SHIELD** not only provides a secondary defense but most importantly it will reduce shingle scorching. (Level 7)
- Install limited **LIFETIME MANUFACTURERS WARRANTED PREMIUM 3.9 LB.** fiberglass architectural shingle.
- All shingles to be nailed using diamond cut, galvanized, high-wind barbed, roofing **HOOK NAILS**. (Level 7)
- Flash and counter flash chimneys, and walls where necessary. **FLASHING TO BE SAW CUT INTO THE BRICK**. This process binds the heavy gauge aluminum to the brick and guarantees zero water penetration. (Level 7)
- Install commercial grade neoprene vent stack collars to all stack pipes to ensure a watertight seal.
- Install **CLOSED CUT, RUBBERIZED** multiple layer valley system. (Level 7, commercial flat roof technology for the residential home.)
- Install a multiple layer high-wind perimeter system along eaves and rake edges. (Level 7)
- Install RAMJET VENTS. This **MR. ROOF EXCLUSIVE** vent exhausts the air from the top and will not allow water penetration no matter what the angle of the driving snow and blistering rain. (Level 7) \_\_\_\_\_' of low profile ridge system.
- Job to include thorough clean-up and proper disposal of all debris that day. All permits, fees and taxes are included in this proposal. Permits pulled by **MR. ROOF, NOT A SUBCONTRACTOR**.
- After the roof has settled, a quality control manager will re-inspect the roofing system to ensure the roof has settled correctly.
- Limited lifetime warranty, 10 year 100% coverage, no-leak guarantee and full waiver of lien. (Because **MR. ROOF** is the only single source company. Only **MR. ROOF** can provide a full waiver of lien on labor, materials, and disposal.)

ROOF PRICE	\$ <u>8400</u>
<u>Discount</u>	- \$ <u>1500.</u>
	\$ <u>6900.</u>
	\$ _____
	\$ _____
DEPOSIT	\$ ( _____ )
<b>SUBTOTAL</b>	\$ _____
<b>Est. Monthly Payment</b>	\$ _____

Squares	<u>21.60</u>
Layers	<u>1</u>
Pitch	<u>5/12</u>
S.S. Rake	<u>-</u>
S.S. Edge	<u>-</u>
Cap Feet	<u>125</u>
Vented Edge	<u>188</u>
Drip Edge	<u>=</u>
Valley Feet	<u>=</u>
Thun. Vent	<u>9</u>
Vent Color	BI Br Ww

Sh. Color	<u>?</u>
Flash	BI Br Wh
Drip	BI Br Wh Wick
Chimney	1 2 3
Ant./Dish	Stay Toss
Remove Gutters	Yes <u>(No)</u>
Gut. Color	_____
Insulation	Yes <u>(No)</u>
R-Value	_____
Solar Fan	Yes <u>(No)</u>

House Only	Yes	No
Garage	Yes	No
Stories	<u>1</u>	2 3
Bath Vents	0 1 2 3 4	
Ridge Vent	Yes No	Ft. _____
Flash Feet	_____	
Rubber Color	_____	Sq. _____
Redeck	Yes <u>(No)</u>	
Mold Kill	Yes <u>(No)</u>	
Gutter Prot.	Yes <u>(No)</u>	
Other Trade	_____	

Additional Work Will Only Be Performed If In Writing.

Notice of Right to Cancel - You the buyer may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction. See the back of this contract for the notice of cancellation form for an explanation of this right.

Owners X \_\_\_\_\_ Owners X \_\_\_\_\_ Date: \_\_\_\_\_

Inspector \_\_\_\_\_ **Circle Method of Final Payment**  
**FINAL PAYMENT DUE UPON COMPLETION** Finance Cash/Check Other \_\_\_\_\_

Price Given Is The Cash Or Check Price. If Paying By Credit Card, Please Add 3%. Additional Terms & Conditions On Back.

# TERMS AND CONDITIONS

- 1. ENTIRE AGREEMENT** - This document states the entire agreement between the Owner and Contractor. NO REPRESENTATIONS, PROMISES OR WARRANTIES, EXPRESSED OR IMPLIED, HAVE BEEN MADE BY THE OWNERS EXCEPT THOSE OF WHICH ARE STATED IN THIS CONTRACT. This agreement cannot be changed through any conversations between the Owner, Inspector, or Contractor. Any changes must be in writing and signed by the Owner and Contractor, Mr. Roof, or its Manufacturer may, at its sole discretion, upgrade a product to similar or higher quality.
- 2. CANCELLATION** - Unless this contract was solicited at your home, in which case you should see the cancellation form on this side, this contract may be rescinded or canceled by the buyer no later than 5pm on the business day following the date thereof by giving written notice of rescission to the Contractor or his agent at his place of business given in this contract by depositing a properly addressed certified letter in a United States Post Office or mail box, but if Owner rescinds after 5pm on the business day following, Owner is still entitled to offer defenses in mitigation of damages and to pursue any rights of action or defenses that arise out of the transaction.
- 3. RESULTANT DAMAGES** - The Contractor, Mr. Roof, assumes no liability for any resulting damages to premises or materials located on the premises. Nor shall the Contractor be liable for any damage to trees, shrubs, flowers, grass, concrete, driveways, or ruts in the ground. The replacement of joists or decking is based on the woods integrity not appearance or mold growth, there will be an additional charge for this labor and material. We will attach satellite dishes to the best of our ability, but customer is responsible for all costs to restore service. In the unlikely event of ceiling damage on the interior due to Contractors negligence, Mr. Roof will patch that area of the home and paint that section only. Mr. Roof assumes no liability for nail pops, cracks, or objects falling from the drywall unless this was caused by our negligence. Mr. Roof assumes no liability for gaps created from going from multiple shingle layers down to one. Mr. Roof assumes no liability for removing previous old tar, cement, or other material in order to flash a wall, chimney, or like. Mr. Roof assumes no liability for heating/cooling or electrical pipes or collars. Mr. Roof will do its best to seal these but always recommends having these replaced by a licensed electrician and or heating and cooling contractor.
- 4. TIME FOR PERFORMANCE** - It is understood by all parties that time is of the essence for this project, and all work contracted for shall be performed as soon as scheduling, materials, and weather conditions permit. Contractor shall not be liable for delays caused by weather conditions in obtaining material, permits, or other causes beyond its' control. Owner agrees to make available to Mr. Roof access to electrical service and running water. 99% of our installations are completed in 1 day. In the unlikely event we are unable to complete your home in 1 day, Mr. Roof will credit your account \$100.00. This guarantee excludes roofing add-ons, large decking replacement, and accessories.
- 5. STIPULATED DAMAGES** - If the owner cancels, rescinds, or otherwise terminates this contract after the expiration of the applicable cancellation period provided for in this contract, the contractor will incur costs in preparation, damages, and lost profits. The parties agree that the following formula is a reasonable estimate of the actual damages that the Contractor will incur if the Owner does not allow Contractor to perform this contract. If the Owner breaches this contract, the Owner agrees to pay liquidated damages, which include 1/3 of the current price, and Contractor's actual cost for any custom ordered products.
- 6. DISPUTE RESOLUTION**
  - A. Notice** - Except as to actions for payment of the contract sum, it is an express condition precedent to resorting to any outside dispute resolution process, for Owner to notify Contractor in writing of any issue of concern that has not been satisfactorily resolved. After giving such written notice, Owner and Contractor shall attempt to resolve the issue in good faith.
  - B. Mediation** - Prior to filing an arbitration demand, the Owner and Contractor shall first attempt to resolve the dispute using a mediation service.
  - C. Arbitration** - Any controversy or claim regarding this contract (except for nonpayment of the contract sum) shall be settled by binding arbitration in accordance with the rules of the Construction Industry Rule of American Arbitration Association. The arbitration award may be entered in a court of competent jurisdiction. Claims seeking payment of the contract sum may be brought either in arbitration or in a court of a competent jurisdiction.
- 7. BEYOND OUR CONTROL** - Contractor shall not be responsible for any code violations existing at the time of this contract. Many homes are not square and also have rafters that are not equal. These appearance dips and bows have nothing to do with the roof installation. It is not Mr. Roofs' responsibility nor is it part of its' scope of work to change the structure of the home or bring previous code violations up to code. This includes but not limited to interior smoke alarms, co2 detectors, or fire extinguishers. It's not uncommon for some debris to fall into the attic during the roof install. Homeowner should remove anything of value in the attic or garage prior to the day of installtion, since Mr. Roof assumes no liability. It is the homeowner's responsibility to remove anything that may dam up or stop the downward flow of water. Gutters are designed to divert water. During heavy downpours, a percentage of rain water will not be caught by the gutter system. This overflow is expected and standard.
- 8.** Mr. Roof accepts no liability whatsoever (past, present, or future) involving any type of mold in your structure, whether or not your structure has been treated by Mr. Roof or any other company. Furthermore, Mr. Roof does not replace wood due to surface mold unless requested prior to installation. Bathroom vent hoses separate if they become to heavy. Mr. Roof takes no liability whatsoever if a hose becomes disconnected.
- 9.** Job is complete and all terms of this contract are complete upon local building official inspection and approval.
- 10.** Homeowner and all signers of this contract shall assume all costs incurred in the collection of this debt, including but not limited to attorney fees, 12% interest, and court costs.
- 11.** All contracts must be approved by Mr. Roof management before any work is performed.

## NOTICE OF RIGHT TO CANCEL

Date of Transaction \_\_\_\_\_

I (WE) \_\_\_\_\_ Phone \_\_\_\_\_

Address \_\_\_\_\_ City \_\_\_\_\_ State: Michigan

You may CANCEL this transaction, without Penalty or Obligation, within THREE BUSINESS DAYS from the above date. If you cancel, any property traded in, any payments made by you under the contract or sales, and any negotiable instrument executed by you will be returned within TEN BUSINESS DAYS following receipt by the seller of your cancellation notice, any and security interest arising out of the transaction will be cancelled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale, or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your Notice of Cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, you remain liable for performance of all obligations under the contract.

To cancel this transaction, mail or deliver a signed and dated copy of this Cancellation Notice or any other written notice, or send a telegram, to Mr. Roof Ann Arbor, 3511 East Ellsworth, Ann Arbor, MI 48108 or Mr. Roof Grand Rapids, 3540 Jefferson, Wyoming, MI 49548.

Not later than midnight of \_\_\_\_\_

Hereinafter called the "Buyer", do hereby cancel our written agreement for goods and or services with Mr. Roof

Buyer's Signature \_\_\_\_\_ Date \_\_\_\_\_

Buyer's Signature \_\_\_\_\_ Date \_\_\_\_\_

Please deliver or mail the signed and dated top copy of this notice and keep a copy for your records.



PERFORMANCE LIFETIME SYSTEM
S.B.S. RUBBER SHINGLE WITH PROACTIVE SERVICE AGREEMENT

NATIONAL



GUARANTEED

1-DAY

INSTALLATION

MASONRY - ROOFING - SIDING - WINDOWS

1-800-4-MR-ROOF

Year After Year, Nobody Installs More New Roofs... Nobody!

Name Wyoming Police Range (Joe Steffes) Date 8-15-18

Street 2352 IVAN Rest Ave City Grandville Zip

Telephone Number 616-530-7338 Telephone Number E-mail

Inspector Name FRED Inspector Phone Number 616-293-6088

- 1. Prepare house to have roof removed, (tarp, etc.) to ensure debris does not damage any siding, shrubs, lawn, etc.
2. The first 50 linear feet of 1" x 6" boards or 2- 4' x 8' sheets of O.S.B. is included.
3. Install THUNDER EDGE high efficiency aluminum drip edge venting system along all heated eaves.
4. Install commercial grade rubberized ice guard a minimum of 6' up all eaves including valleys, flashing, chimneys, as needed.
5. Install THUNDER SHIELD, a commercial grade S.B.S. synthetic underlayment, on remainder of roof deck.
6. Install THUNDER GUARD non-prorated lifetime warranted RUBBERIZED shingle system.
7. All shingles to be nailed using diamond cut, galvanized, high-wind barbed, roofing HOOK NAILS.
8. Flash and counter flash chimneys walls and where necessary. FLASHING TO BE SAW CUT INTO THE BRICK.
9. Install 2-part commercial grade neoprene and S.B.S. rubber vent collars to all stack pipes to ensure a watertight seal.
10. Install CLOSED CUT, RUBBERIZED multiple layer valley system.
11. Install a multiple layer high-wind perimeter system along eaves and rake edges.
12. Install RAMJET VENTS. This MR. ROOF EXCLUSIVE vent exhausts the air from the top and will not allow water penetration no matter what the angle of the driving snow and blistering rain.
13. Job to include thorough clean up and proper disposal of all debris that day. All permits, fees and taxes are included in this proposal. Permits pulled by MR. ROOF, NOT A SUBCONTRACTOR.
14. After the roof has settled, a quality control manager will re-inspect the roofing system to ensure the roof has settled correctly.
15. MR. ROOF EXCLUSIVE PROACTIVE SERVICE PLAN. This 5 year re-inspection maintenance program will insure the integrity of all roofing components.
16. Lifetime, 100% coverage, written no-leak guarantee and full waiver of lien.

Table with columns for ROOF PRICE, DEPOSIT, SUBTOTAL, Est. Monthly Payment, and various roofing specifications like Squares, Layers, Pitch, S.S. Rake, S.S. Edge, Cap Feet, Vented Edge, Drip Edge, Valley Feet, Thun. Vent, Vent Color, Sh. Color, Flash, Drip, Chimney, Ant./Dish, Remove Gutters, Gut. Color, Insulation, R-Value, Solar Fan, House Only, Garage, Stories, Bath Vents, Ridge Vent, Flash Feet, Rubber Color, Redeck, Mold Kill, Gutter Prot., Other Trade.

Notice of Right to Cancel - You the buyer may cancel this transaction at any time prior to midnight of the third business day after the date of this transaction.

Owners X Owners X Date:

Inspector Circle Method of Final Payment FINAL PAYMENT DUE UPON COMPLETION Finance Cash/Check Other

Price Given Is The Cash Or Check Price. If Paying By Credit Card, Please Add 3%. Additional Terms & Conditions On Back.

# TERMS AND CONDITIONS

- 1. ENTIRE AGREEMENT** - This document states the entire agreement between the Owner and Contractor. NO REPRESENTATIONS, PROMISES OR WARRANTIES, EXPRESSED OR IMPLIED, HAVE BEEN MADE BY THE OWNERS EXCEPT THOSE OF WHICH ARE STATED IN THIS CONTRACT. This agreement cannot be changed through any conversations between the Owner, Inspector, or Contractor. Any changes must be in writing and signed by the Owner and Contractor, Mr. Roof, or its Manufacturer may, at its sole discretion, upgrade a product to similar or higher quality.
- 2. CANCELLATION** - Unless this contract was solicited at your home, in which case you should see the cancellation form on this side, this contract may be rescinded or canceled by the buyer no later than 5pm on the business day following the date thereof by giving written notice of rescission to the Contractor or his agent at his place of business given in this contract by depositing a properly addressed certified letter in a United States Post Office or mail box, but if Owner rescinds after 5pm on the business day following, Owner is still entitled to offer defenses in mitigation of damages and to pursue any rights of action or defenses that arise out of the transaction.
- 3. RESULTANT DAMAGES** - The Contractor, Mr. Roof, assumes no liability for any resulting damages to premises or materials located on the premises. Nor shall the Contractor be liable for any damage to trees, shrubs, flowers, grass, concrete, driveways, or ruts in the ground. The replacement of joists or decking is based on the woods integrity not appearance or mold growth, there will be an additional charge for this labor and material. We will attach satellite dishes to the best of our ability, but customer is responsible for all costs to restore service. In the unlikely event of ceiling damage on the interior due to Contractor's negligence, Mr. Roof will patch that area of the home and paint that section only. Mr. Roof assumes no liability for nail pops, cracks, or objects falling from the drywall unless this was caused by our negligence. Mr. Roof assumes no liability for gaps created from going from multiple shingle layers down to one. Mr. Roof assumes no liability for removing previous old tar, cement, or other material in order to flash a wall, chimney, or like. Mr. Roof assumes no liability for heating/cooling or electrical pipes or collars. Mr. Roof will do its best to seal these but always recommends having these replaced by a licensed electrician and or heating and cooling contractor.
- 4. TIME FOR PERFORMANCE** - It is understood by all parties that time is of the essence for this project, and all work contracted for shall be performed as soon as scheduling, materials, and weather conditions permit. Contractor shall not be liable for delays caused by weather conditions in obtaining material, permits, or other causes beyond its' control. Owner agrees to make available to Mr. Roof access to electrical service and running water. 99% of our installations are completed in 1 day. In the unlikely event we are unable to complete your home in 1 day, Mr. Roof will credit your account \$100.00. This guarantee excludes roofing add-ons, large decking replacement, and accessories.
- 5. STIPULATED DAMAGES** - If the owner cancels, rescinds, or otherwise terminates this contract after the expiration of the applicable cancellation period provided for in this contract, the contractor will incur costs in preparation, damages, and lost profits. The parties agree that the following formula is a reasonable estimate of the actual damages that the Contractor will incur if the Owner does not allow Contractor to perform this contract. If the Owner breaches this contract, the Owner agrees to pay liquidated damages, which include 1/3 of the current price, and Contractor's actual cost for any custom ordered products.
- 6. DISPUTE RESOLUTION**
  - A. Notice** - Except as to actions for payment of the contract sum, it is an express condition precedent to resorting to any outside dispute resolution process, for Owner to notify Contractor in writing of any issue of concern that has not been satisfactorily resolved. After giving such written notice, Owner and Contractor shall attempt to resolve the issue in good faith.
  - B. Mediation** - Prior to filing an arbitration demand, the Owner and Contractor shall first attempt to resolve the dispute using a mediation service.
  - C. Arbitration** - Any controversy or claim regarding this contract (except for nonpayment of the contract sum) shall be settled by binding arbitration in accordance with the rules of the Construction Industry Rule of American Arbitration Association. The arbitration award may be entered in a court of competent jurisdiction. Claims seeking payment of the contract sum may be brought either in arbitration or in a court of a competent jurisdiction.
- 7. BEYOND OUR CONTROL** - Contractor shall not be responsible for any code violations existing at the time of this contract. Many homes are not square and also have rafters that are not equal. These appearance dips and bows have nothing to do with the roof installation. It is not Mr. Roof's responsibility nor is it part of its' scope of work to change the structure of the home or bring previous code violations up to code. This includes but not limited to interior smoke alarms, co2 detectors, or fire extinguishers. It's not uncommon for some debris to fall into the attic during the roof install. Homeowner should remove anything of value in the attic or garage prior to the day of installation, since Mr. Roof assumes no liability. It is the homeowner's responsibility to remove anything that may dam up or stop the downward flow of water. Gutters are designed to divert water. During heavy downpours, a percentage of rain water will not be caught by the gutter system. This overflow is expected and standard.
- 8.** Mr. Roof accepts no liability whatsoever (past, present, or future) involving any type of mold in your structure, whether or not your structure has been treated by Mr. Roof or any other company. Furthermore, Mr. Roof does not replace wood due to surface mold unless requested prior to installation. Bathroom vent hoses separate if they become too heavy. Mr. Roof takes no liability whatsoever if a hose becomes disconnected.
- 9.** Job is complete and all terms of this contract are complete upon local building official inspection and approval.
- 10.** Homeowner and all signers of this contract shall assume all costs incurred in the collection of this debt, including but not limited to attorney fees, 12% interest, and court costs.
- 11.** All contracts must be approved by Mr. Roof management before any work is performed.

## NOTICE OF RIGHT TO CANCEL

Date of Transaction \_\_\_\_\_

I (WE) \_\_\_\_\_ Phone \_\_\_\_\_  
Address \_\_\_\_\_ City \_\_\_\_\_ State: Michigan

You may CANCEL this transaction, without Penalty or Obligation, within THREE BUSINESS DAYS from the above date. If you cancel, any property traded in, any payments made by you under the contract or sales, and any negotiable instrument executed by you will be returned within TEN BUSINESS DAYS following receipt by the seller of your cancellation notice, any and security interest arising out of the transaction will be cancelled.

If you cancel, you must make available to the seller at your residence, in substantially as good condition as when received, any goods delivered to you under this contract or sale, or you may, if you wish, comply with the instructions of the seller regarding the return shipment of the goods at the seller's expense and risk.

If you do make the goods available to the seller and the seller does not pick them up within 20 days of the date of your Notice of Cancellation, you may retain or dispose of the goods without any further obligation. If you fail to make the goods available to the seller, or if you agree to return the goods to the seller and fail to do so, you remain liable for performance of all obligations under the contract.

To cancel this transaction, mail or deliver a signed and dated copy of this Cancellation Notice or any other written notice, or send a telegram, to Mr. Roof Ann Arbor, 3511 East Ellsworth, Ann Arbor, MI 48108 or Mr. Roof Grand Rapids, 3540 Jefferson, Wyoming, MI 49548.

Not later than midnight of \_\_\_\_\_

Hereinafter called the "Buyer", do hereby cancel our written agreement for goods and or services with Mr. Roof

Buyer's Signature \_\_\_\_\_ Date \_\_\_\_\_

Buyer's Signature \_\_\_\_\_ Date \_\_\_\_\_

Please deliver or mail the signed and dated top copy of this notice and keep a copy for your records.

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

RESOLUTION TO CONFIRM THE REAPPOINTMENT OF CANDALOMONACO  
AS A MEMBER OF THE ZONING BOARD OF APPEALS  
FOR THE CITY OF WYOMING

WHEREAS:

1. The term of office for Canda Lomonaco expired on June 30, 2018.
2. It is the desire of the City Council that Canda Lomonaco be reappointed as a member of the Zoning Board of Appeals.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council for the City of Wyoming, Michigan does hereby reappoint Canda Lomonaco as a member of the Zoning Board of Appeals for the City of Wyoming, Michigan, for the regular term ending June 30, 2021.

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 September 4, 2018.

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

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

RESOLUTION TO APPROVE THE PROPOSED STIPULATED FINAL ORDER  
SETTLING *GRANGER GROUP OF COMPANIES LLC v CITY OF WYOMING*  
LAWSUIT AND AUTHORIZE ACTIONS TO FINALIZE THAT SETTLEMENT

WHEREAS:

1. The Granger Group of Companies, LLC and others sued the City in the case of *Granger Group of Companies, LLC, et al. v City of Wyoming*, case number 2018-03060-AW, pending in the Kent County Circuit Court; and
2. After extensive communications, reviews by City staff, reviews by the City Council, reviews, recommendations and approvals of the Planning Commission, the City Manager and the City's legal counsel have recommended settlement of that lawsuit in accordance with a proposed Stipulated Final Order which has been signed by the plaintiffs in that lawsuit; and
3. The City Council finds that the proposed settlement as documented by that proposed Stipulated Final Order will result in a development project that is improved over what was originally considered with more details addressing issues and concerns of citizens, City staff and Council Members; and
4. The City Council believes settlement of that lawsuit in accordance with the proposed Stipulated Order is in the best interests of the City, its citizens and its taxpayers.

NOW, THEREFORE BE IT RESOLVED:

1. The Stipulated Final Order is approved in substantially the form presented during this City Council meeting (the "Order") subject to such changes as are approved by the Mayor, City Manager and City Attorney.
2. The Mayor, City Clerk, other City officers and the City's legal counsel are authorized and directed to take any needed actions to enter the Order and finalize the settlement.
3. All resolutions and parts of resolutions are, to the extent any conflict with this Resolution, rescinded.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes

No

CERTIFICATION

I hereby certify that this resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on September 4, 2018.

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

ATTACHMENTS: Staff Report  
Proposal

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

## Staff Report

Date: August 29, 2018  
Subject: Agenda items related to Granger Group  
From: Curtis Holt, City Manager  
Scott Smith, City Attorney

Meeting Date: September 4, 2018

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### Background:

On April 5, 2018, the Granger Group of Companies, LLC and other entities having ownership interests in the proposed Rivertown Valley PUD property and its development (also called "The Reserve at Rivertown") sued the City in the Kent County Circuit Court. Beginning early in July, Granger Group representatives and City staff have worked to resolve the lawsuit and, in doing so, address myriad development-related issues.

Several agenda items are related to this issue. The agenda deviates from your usual agenda order so that all issues may be simultaneously discussed and then considered in an appropriate order.

### Recommendation:

Staff recommends the following actions:

1. Approve agenda item 15-b, "Resolution to Approve the Proposed Stipulated Final Order Settling *Granger Group Of Companies LLC V City Of Wyoming* Lawsuit and Authorizing Actions to Finalize that Settlement" thereby approving the terms of the settlement of the lawsuit as provided in the proposed Stipulated Final Order and authorizes and directs the Mayor, City Clerk, City Attorney and attorneys from Johnson, Rosati, Schultz & Joppich P.C. to sign and take all actions needed to enter that order and effectuate the settlement.
2. Adopt agenda item 15-c (Ordinance No. 14-18) conditionally rezoning the Granger Group property to the PUD-1 zoning district.
3. Approve agenda item 15-d, "Resolution to Approve Rivertown Valley Plat Phases IV - IX and Approve and Authorize the Signing of Plat Improvement Construction Agreement with the Plat's Developer" that conditionally approves the Rivertown Valley Plat Phases IV-IX and the Plat Improvements Construction Agreement, and authorizes and directs the Mayor and City Clerk to sign that agreement.

### Sustainability Criteria:

Environmental Quality – Approval (i) preserves wetlands, other environmental areas and open spaces, and (ii) limits overall density as required by the City's zoning

other ordinances. Approval will also specify some design elements that are improvements over what was previously proposed.

Social Equity – Approval will enable development of a project that provides a variety of housing options.

Economic Strength – Approval will settle a lawsuit in a manner acceptable to the City without payment of additional defense costs or any damages. The approved development would increase the City's tax base. Settlement terms will ensure adequate funding to maintain the development's common areas and amenities consistent with comparable City-owned amenities.

Quality Customer Service – Approval (i) provides the property owner needed initial approvals to develop the property, (ii) provides amenities for those residing in the development without cost to City taxpayers, (iii) addresses walkability and pedestrian safety, (iv) allows for housing options meeting varying market demands, and (v) ends a lawsuit that could result in a development that is far less desirable.

Discussion:

The proposed Council actions resolve the lawsuit. All the proposed actions are needed to do so. The developer will settle the lawsuit only if the Council also approves the development-related actions.

Lawsuits are costly. One estimate of legal costs to defend the lawsuit is over \$350,000. An award of monetary damages could be very costly. The outcome of a lawsuit is uncertain. Therefore, the only way to know the outcome of a lawsuit is to agree to settlement terms.

The proposed Council actions give needed approvals for a development that is modified to address previously expressed concerns and requests for changes. The Planning Commission approved revised overall development plan ("ODP") on August 21, 2018. It is a revision to the ODP approved by the Planning Commission on February 20, 2018, following public hearings on January 16, 2018 and on February 20, 2018. The rezoning is the same rezoning that Council considered in March with the addition of conditions to address expressed concerns. These conditions tie the rezoning to the ODP and to settlement of the lawsuit. The proposed plat is the same plat the Planning Commission tabled in August 2017, with modifications to address staff concerns including modifications to the plat name and phase number. To avoid confusion, attempts have been made to cross-reference the various project names.

The revised ODP very slightly increase the open space acreage but does not change the total number of units and the overall density remains under the 4 units per acre maximum set in the zoning ordinance. The ODP's details for single-story flats (thought to be generally attractive to downsizing "empty-nesters") have proposed building footprints, features, exterior finishes and contemplated price points that differ from the townhouses previously contemplated for that portion of the development. The luxury apartment/townhouse component provides building footprints, features, exterior finishes,

and contemplated price points that are improved over the larger, multi-story buildings in the current ODP.

Attachments:

Resolution to Approve the Proposed Stipulated Final Order Settling *Granger Group Of Companies LLC v City Of Wyoming* Lawsuit and Authorizing Actions to Finalize that Settlement

Stipulated Final Order

Ordinance to Amend Section 90-32 of the Code of the City of Wyoming by Adding Subsection (110) to Conditionally Rezone Property for the Reserve at Rivertown PUD

Resolution to Approve Rivertown Valley Plat Phases IV – IX and Approve and Authorize the Signing of Plat Improvement Construction Agreement with the Plat’s Developer

Plat Improvement Construction Agreement

DRAFT “Master Declaration of Covenants, Conditions, and Restrictions – The Reserve at Rivertown” submitted to the City Attorney by e-mail on Tuesday, August 28, 2018

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF KENT

GRANGER GROUP OF COMPANIES, LLC  
a Michigan limited liability company; WILSON  
ROAD DEVELOPMENT, LLC, a Michigan  
Limited liability company; TMGB WILSON, LLC,  
a Michigan limited liability company, and  
Z FARM ENTERPRISES, LLC, a Michigan limited  
liability company,

Plaintiffs,

Case No. 2018-03060-AW  
Hon. Dennis B. Lieber

-vs-

CITY OF WYOMING,  
a Michigan municipal corporation,

Defendant.

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HONIGMAN MILLER SCHWARTZ AND COHN, LLP  
JEFFREY D. SMITH (P 31101)  
CHRISTOPHER J. ZDARSKY (P 81809)  
Attorney for Plaintiffs  
650 Trade Centre Way, Suite 200  
Kalamazoo, MI 49002-0402  
(269) 337-7722

JOHNSON, ROSATI, SCHULTZ & JOPPICH, P.C.  
CAROL A. ROSATI (P 32288)  
ANNE McCLOREY McLAUGHLIN (P 40455)  
Attorneys for Defendant  
27555 Executive Drive, Suite 250  
Farmington Hills, MI 48331-3550  
(248) 489-4100

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**STIPULATED FINAL ORDER**

At a session of said Court held in the City of Grand  
Rapids, Kent County, Michigan on \_\_\_\_\_, 2018.

PRESENT: Dennis B. Lieber  
Circuit Court Judge

Upon the stipulation and consent of the parties, by their respective attorneys, and otherwise being advised in the premises, this court finds:

1. Plaintiffs own property consisting of approximately 98.4 acres and 11 separate parcels, located generally southeast of the corner of 56th Street and Wilson Avenue in the City of Wyoming, described on the attached Exhibit 1 (the "Property"), and, including that previously developed in the existing Rivertown Valley planned unit development totals 187.26 acres, also referred to as "The Reserve at Rivertown" ("Rivertown Valley PUD").

2. Defendant is a municipal corporation, organized and existing under 1909 PA 279, MCL 117.1 *et seq.*, located in Kent County, Michigan.

3. Defendant has a duly adopted zoning ordinance, Chapter 90 of the City Code of Ordinances (the "Zoning Ordinance").

4. The Property was located in the following zoning districts set forth in the Zoning Ordinance:

- a. ER, Estates Residential;
- b. B-2, General Business;
- c. B-1, Local Business;
- d. RO-1, Restricted Office; and
- e. The additional land is part of the Rivertown Valley PUD

5. On December 14, 2017, Plaintiffs filed an application ("Plaintiff's Application") to rezone the Property to PUD-1, Low Density Planned Unit Development, and for approval of an overall development plan for the development of the Property under the PUD-1 provisions in the Zoning Ordinance (the "ODP").

6. Defendant's Planning Commission held public hearings on Plaintiffs' Application and the ODP on January 16, 2018, and February 20, 2018, and on February 20, 2018, the Planning Commission voted approve the ODP and to recommend that Defendant's City Council approve the rezoning.

7. On March 5, 2018, Defendant's City Council (with 6 members duly seated due to the resignation of a member) voted 4 to 2 in favor of approving consideration of the first reading of the rezoning ordinance.

8. As a result of a protest petition being filed, Defendant's City Council discontinued action on the rezoning application and ODP.

9. On April 5, 2018, Plaintiffs filed this lawsuit against Defendant seeking both equitable relief and monetary damages.

10. As a result of settlement discussions, Plaintiffs revised the ODP as reflected in the attached Exhibit 2 entitled "The Reserve at Rivertown," dated August 7, 2018, (the "ODP-Rev.").

11. At a meeting on August 13, 2018, Defendant's City Council again considered the proposed rezoning ordinance and voted 5 to 1 to approve a first reading (introduction) of that ordinance (Ordinance No. 14-18).

12. At its meeting on August 21, 2018, Defendant's Planning Commission reviewed and had an opportunity to comment on a draft of the below paragraphs 2 through 6 of this Final Order and approved the ODP-Rev. with conditions.

13. While no public hearings were formally noticed or held on the rezoning ordinance, the ODP-Rev. or this proposed final order after the filing of this lawsuit (none were required under the Zoning Enabling Act, 2006 PA 110, MCL 125.3101 *et seq.* or the Zoning Ordinance), Defendant's City Council notified leaders of groups opposed to the rezoning or ODP-Rev. and considered all comments made during its August 13 and September 4, 2018 meetings and the August 21, 2018 Planning Commission meeting, as well as any materials filed with the City concerning the rezoning or the ODP-Rev. The court also notes that as Defendant's

legislative body, the City Council is vested with the authority to settle lawsuits filed against Defendant.

14. At its meeting on September 4, 2018, Defendant's City Council approved Ordinance No. 14-18 for the rezoning conditioning that approval on (i) the requirement that the property be developed as provided in the ODP-Rev. in the form attached as Exhibit 2 and further subject to conditions regarding the ODP-Rev. stated in that ordinance and (ii) on entry of this Final Order. At that same meeting, the City Council also approved the terms and conditions of this Final Order and tentatively approved the preliminary plat for the Rivertown Valley Plat Phases IV – IX subject to specified conditions.

15. Because they all believe it is in their respective best interests to do so, the parties desire to settle this lawsuit in accordance with the terms and conditions of this Final Order to avoid further costs and expenses and the uncertainty of a trial and to resolve their disputes relative to this matter without any admissions of liability or the merit of the other party's legal positions.

This Final Order is presented to the court pursuant to stipulation of the parties, and the court has determined that, as proposed, this Final Order is reasonable and just.

**IT IS HEREBY ORDERED** that:

1. Rezoning. The rezoning of the Property to the PUD-1 zoning was validly completed.

2. ODP-Rev. The ODP-Rev. includes all drawings attached within Exhibit 2 including all of the following:

A. The title page (page 1) dated August 07, 2018, identifying the project as "The Reserve at Rivertown" ("ODP-Rev. P. 1").

B. Page 2 labeled "The Reserve at Rivertown Component Narrative" dated August 07, 2018, prepared by Ryan Granger ("ODP-Rev. P. 2").

C. Page 3 consisting of the Spacewerks conceptual plan of the development of the Property dated August 21, 2018, labeling various components of the development "Area 1 – 175 Additional Single Family Homes" ("Area 1"), "Area 2 – 138 Single Story Flats" ("Area 2"), and "Area 3 – 110 Town Homes – 190 Luxury Apartments" ("Area 3"), together with depictions of roads, pedestrian/non-motorize pathways, and other common areas and amenities ("ODP-Rev. P. 3") The exact sizes and layout of the units are subject to site plan approval and may be modified from what is shown on the ODP-Rev. to address (i) topographical challenges, (ii) Planning Commission comments, direction and conditions during site plan review, (iii) changes required during plat approvals processes, and, (iv) with the consent of the City Council, changes the developer may request due to changing market conditions. The table on ODP-Rev. P. 3 refers to Area 1 as "Development Area A," Area 2 as "Development Area B," and Area 3 as "Development Area C."

D. Pages 4 through 8, dated August 07, 2018, depicting typical perspectives, typical elevations, typical footprints, and illustrative interior floor plans of Area 2 ("ODP-Rev. P. 4-8"). The illustrative interior floor plans are for information only and are not being approved as part of the ODP-Rev.

E. Page 9, dated August 07, 2018, depicting a typical elevation, typical footprint, and illustrative interior floor plans for the townhomes to be developed within Area 3 ("ODP-Rev. P. 9"). The illustrative interior floor plans are for information only and are not being approved as part of the ODP-Rev.

F. Page 10, dated August 07, 2018, depicting a typical elevation and typical footprint for the luxury apartment buildings to be developed within Area 3 (“ODP-Rev. P. 10”).

G. Page 11 labeled “Proposed Exterior Finishes,” dated August 07, 2018 (“ODP-Rev. P. 11”). As depicted on this page, within the Area 2 and Area 3, the railings shall be of metal construction, the roofs shall have asphalt shingles, the siding may be vinyl and shall be varied to include horizontal and vertical siding as well as some appearing to be shake. Stone or brick (or stone or brick panels) shall be included. The percentage of exterior walls covered with stone or brick (or stone or brick panels) shall be the same percentage as shown in the elevation drawings for Area 2 and for Area 3.

H. Page 12 dated August 21, 2018, that is similar to page 3 except it does not contain the labeling of the areas (“ODP-Rev. P. 12”). A larger version of ODP\_Rev. P. 12 was presented to the Planning Commission at its August 21, 2018 meeting and was signed by Planning Commission Chair. The table on ODP-Rev. P. 12 refers to Area 1 as “Development Area A,” Area 2 as “Development Area B,” and Area 3 as “Development Area C.”

I. The colors of the exterior finishes depicted on ODP-Rev. P. 4-8, ODP-Rev. P. 9, ODP-Rev. P. 10, Proposed Exterior Finishes on ODP-Rev. P. 11 are illustrative and may be varied or modified by the developer without consent of the City or this court. ODP-Rev. P. 4-8, ODP-Rev. P. 9 and ODP-Rev. P. 10 show varying roof lines and exterior walls, porches, garage door details, window details, contrasting trim details, window placements and other architectural and design elements that add interest, demonstrate quality, and are aesthetically pleasing. The developer may request substituting those specific architectural and design elements. The City Planner may approve those

requested changes as part of the site plan approval for Area 2 or for Area 3 if they are determined to be minor and reasonably acceptable to the City Planner. If the City Planner determines they are significant, those request changes shall require approval by the City Council.

3. Narratives. The ODP-Rev. also includes the following narratives describing the development of Area 1, Area 2 and Area 3.

Area 1 – Single Family Component

This component will offer 175 additional single-family homes. There are three home types for each lot: (1) standard basement, (2) daylight basement, and (3) walkout basement. There are no lots greater than one acre. The developer is interested in partnering with higher quality home builders to increase the tax base of the City's panhandle area.

Area 2 – Apartment Home Component

This component will include 138 units. Nine units will be larger units with (1) views over the natural wooded areas to the south, (2) larger patios to accommodate residents with higher space needs, and (3) attached garages. The remaining 129 units will range from 1,200 to 1,600 square feet and have two-stall attached garages. Patio options will also be available for end units.

Area 3 – Luxury Apartment/Townhouse Component

The Luxury Apartment Component will offer 190 units ranging from 800 to 1,600 square feet with attached garages and separate entrances via garage and exterior. The units will be situated with a green belt between each to supplement the overall greenspace.

The Townhouse Component will offer 110 units ranging from 1,600 to 2,000 square feet for residents looking for an alternative to the luxury apartment living. Each unit will offer an attached garage, separate entrances, and two floors of living space.

4. Building and Other Permits. The City shall issue building permits and other permits necessary to enable Plaintiffs to construct the improvements shown on the ODP-Rev. as detailed in the preceding paragraphs 2 and 3 of this Final Order (the "Project") after proper application by the developer for those permits, the payment of applicable application and permit fees, and compliance with all applicable building codes and engineering and zoning standards. Final site plan approval, any plat approvals, approvals of street and other infrastructure plans, and any other City or other governmental approvals or permits required of any planned unit development after approval of the rezoning and an overall development plan shall be required for development of Project in accordance with the OPD-Rev. The City shall not unreasonably withhold or delay issuance of permits and other approvals.

5. Features of the Project. The Project shall include:

A. Area 1 shall have 175 or fewer platted single family home sites.

B. Area 2 shall have 138 or fewer single story flat (apartment) homes.

C. Area 3 shall have 300 or fewer multi-family homes comprised of the following rough breakdown which may be altered to meet market demand, to address topographical or other design challenges, or for other reasons, upon approval by the City Planner:

1. Approximately 190 luxury apartments as shown on ODP-Rev P 10.

2. Approximately 110 townhouse apartments as shown on ODP-Rev P 9.

D. A total of 9.02 acres of open space, exclusive of any wetlands or other environmental areas with a total of 30.26 acres of open space inclusive of the environmental areas. The storm water detention area conveyed to the City is not included and shall not be included in the open space calculations.

E. The total acreage of the development including the Rivertown Valley PUD (also known as "The Reserve at Rivertown") includes 187.26 total acres.

F. The total density of the Project shall not exceed 4 units per acre as required by the City's sanitary sewer service limitations and the Zoning Ordinance.

6. Conditions. The following conditions shall apply to the ODP-Rev. and rezoning, unless changes are approved by the City Council as provided in MCL 125.3504(5):

A. Pedestrian-Non-motorized Pathway Only. No direct vehicular access shall be constructed connecting Area 3 with Area 1. However, a pedestrian and non-motorized pathway shall be constructed to connect those components of the development.

B. Roads and Access Drives.

1. Entry drives into Area 2 shall have only two points of entry from Reserve Drive (Nile drive extended) per area. For Area 2 west of the swale, entry locations to the north and south shall directly oppose one another. For Area 2 east of the swale (and opposite the single-family homes), the two entry locations shall be opposite the single-family lot lines to minimize headlights splash and driveway conflicts. All Area 2 entry locations shall be located away from other intersections as much as reasonable, and in no event, less than 150 feet apart. The interior roads or drive aisles shall be sized and configured at their terminating ends to meet the City Fire Department requirements.

2. Traffic calming is required for the long north-south street (Amur/Yukon) and the long east-west street (Danube) in Area 1. Unless an alternative is otherwise approved by the City Engineer, this traffic calming shall be located at the intersection of the two streets with street intersection encroachments for enhanced pedestrian safety and a 4-way stop.

3. All newly constructed traffic circles shall include medians on approaches to prevent wrong way left turns. Lot adjustments shall be made if needed to accommodate these medians.

4. All work on Wilson Avenue shall be coordinated with the construction of Reserve Drive (Nile Drive extended) and shall include the following:

a. The existing entry location from Wilson Avenue (that shall no longer serve as an entry) shall be closed.

b. The Wilson Avenue median opening and associated left-turn lane that were constructed to accommodate that entry shall also be closed.

c. All work within Wilson Avenue shall be in accordance with the City's Standard Specification and the Wilson Avenue design specifications.

5. The commercial area component of the Project (shown in yellow west of Area 3 on the ODP-Rev. P. 3) shall be accessed only from the entry drive to the Area 3. There shall be no direct curb cut on Wilson Avenue.

6. Nile Drive shall be fully resurfaced from Chestnut to the west end of Nile Drive (pavement patching is not acceptable) when the sewer laterals are added to serve lots on the south and east sides of Nile Drive.

B. Pedestrian/Non-Motorized Pathways.

1. The pedestrian/non-motorized pathway currently shown in Area 1 between single family lots 173 and 174 on ODP-Rev. P. 3 and ODP-Rev. P. 12 shall be aligned as closely as possible with the sidewalk along the west side of Kaveri Drive and the pedestrian/non-motorized pathway currently shown between single family lots 167, 166 and 2722 in Area 1 on ODP-Rev. P. 3 and ODP-Rev. P. 12 shall be eliminated, and a separate pedestrian/non-motorized pathway shall be constructed in Area 1 either between single family lots 274 and 275, or between single family lots 275 and 276.

2. Except as otherwise provided in these conditions, all pedestrian/non-motorized pathways shall be constructed as shown on the ODP-Rev. within easements for the benefit of the occupants of all the Property, except the commercial areas shown in yellow on ODP-Rev. P 3 west of Area 3.

3. All pedestrian/non-motorized pathways shall be of the size and configured to meet AASHTO standards for similar facilities.

C. Amenities.

1. In addition to the "clubhouse" amenity shown at the northwest corner of Kaveri Drive and Reserve Drive (Nile Drive continued), a clubhouse amenity shall also be constructed within the Area 3.

2. A parking pad with 6 spaces shall be constructed on the south side of the bend of Nile Drive within the green space between Area 1 lots 127 and 138 as depicted on ODP-Rev. P. 3 and ODP-Rev. P. 12.

D. Homeowner's Association(s).

1. The developer shall encourage the owners of lots in the Single-Family lot phases of the Rivertown Valley PUD that were developed prior to entry of this

Final Order to join a homeowners association (“HOA”) authorized and empowered to collect dues for the oversight, governance, operation, maintenance, repair, replacement, and, if desired, improvement of common amenities such as the clubhouse and related amenities constructed at the northwest corner of Kaveri Drive and Reserve Drive (Nile Drive extended), the tennis courts constructed in Area 1 to the west of platted single-family lots 143 and 144, the pathways, the green areas, and any other amenities. If the developer wishes to do so, the developer may require HOA membership and the payment of HOA dues in order for owners of these lots that have already been developed to use the amenities.

2. After entry of this Final Order, the developer shall require membership in and payment of dues and special assessments to a HOA by owners of the lots in Area 1, and the buildings in Area 2 and Area 3. The dues shall be allocated among participants in such a manner to be reasonably fair, and shall be reviewed and approved by the City Manager. Dues and other amounts collected by the HOA shall at all times be sufficient to pay all costs of the oversight, governance, operation, maintenance, repair, replacement, and, if desired, improvement of common amenities to ensure they are and remain in a condition at least as good as the City provides for comparable City-owned amenities. The HOA shall have the authority to compel payments of dues and special assessments by the owners of all the lots in Area 1, and the buildings in Area 2 and Area 3.

E. Wetlands/Conservation Easement. ODP-Rev. P. 3 and ODP-Rev. P. 12 shall be corrected if needed to correctly, fully and completely depict the scope of the wetlands

and conservation easement(s) on the Property. It is noted (and developer representatives have admitted), for example, that the wetlands and conservation easement might not be fully and accurately depicted in the area of the “clubhouse” amenity and property shown at the northwest corner of Kaveri Drive and Reserve Drive (Nile Drive continued) as that area extends into Area 3. This change shall be made and corrected on ODP-Rev. P. 3 and ODP-Rev. P. 12 added to the ODP-Rev. after verification and signing by the City Planner and City Engineer.

7. Mutual Release. Plaintiffs for themselves, and each of their respective members, directors, officers, owners and employees, successors and assigns, and Defendant for itself and each of its council members, officers, employees, officials, boards, commissions, independent contractors, consultants, and attorneys, mutually release and forever discharge each other of and from any and all claims, demands, actions, causes of action, suits, debts, judgments, executions, damages and rights of whatever nature in law, equity or otherwise, which now exist or which may subsequently accrue by reason of any acts, events or facts arising out of or related to this lawsuit and existing on the date of this Final Order, whether known or unknown on that date; provided, however, that this release shall not release the Plaintiffs or Defendant from liability, if any, which may exist related to the environmental condition or contamination of the Property under state and federal law. This Mutual Release shall not bar claims brought to enforce the provisions of this Final Order.

8. Enforcement of Consent Judgment. In the event of a proceeding to enforce any term or provision of this Final Order, either party may seek to recover costs and attorney fees in addition to any other applicable and available relief.

9. Good Faith. The parties and their respective successors and assigns shall treat each other in good faith and shall neither take any action which is contrary to or interferes with

the spirit of this Final Order, nor omit any action which is necessary or convenient to or consistent with the spirit and intent of this Final Order.

10. Merger and Dismissal. All claims contained in this litigation are merged in this Final Order and dismissed with prejudice and without the payment of any damages, costs, or attorney fees.

11. Recordation. This Consent Judgment shall be recorded with the Kent County Register of Deeds which shall constitute the required recordation under MCL 125.3504(5), and the covenants contained in this Final Order are declared to be covenants running with the land and all portions or divisions thereof, and the obligations, duties and rights herein shall be binding on the respective heirs, successors, grantees, and assigns of the parties, and the Kent County Register of Deeds is ordered to record a true copy of this Consent Judgment in the land records of Kent County.

12. Authority. By their execution of this Final Order, Plaintiffs, Granger Group of Companies, L.L.C., Wilson Road Development, L.L.C., TMGB Wilson, L.L.C. and Z Farm Enterprises, L.L.C. and the Defendant City warrant that they have the authority to execute this Final Order and bind their respective entities, successors and assigns to its terms and conditions.

13. Conflicting Provisions. To the extent that this Final Order conflicts with any City ordinance or regulation, or the ODP-Rev., the terms of this Final Order shall control. To the extent that the Final Order is silent on issues regulated by City ordinances or regulations, then the City ordinances and regulations shall control.

14. Amendment. The terms of this Final Order may be amended, changed or modified but only by written agreement executed by the parties hereto and later approved and

ordered by this Court. Modifications to the ODP-Rev., may be modified as previously provided or in accordance with MCL 125.3504(5) without having to amend this Final Order.

15. Severability. Each restriction and clause is intended to be severable and in the event that any restriction is for any reason held void, it shall not affect the validity of the remainder of this Final Order.

16. Clerical Errors. Any clerical errors or mistakes in document or exhibit descriptions contained in this Final Order may be corrected by the parties, and all parties agree to cooperate in making such corrections in order to effectuate the spirit and intent of the parties in entering into this Final Order.

17. Judgment and Exhibits. This Final Order include all exhibits attached hereto and the ODP-Rev, said exhibits and ODP-Rev. being incorporated made a part hereof as fully and to the same extent as if the contents of the exhibits and the ODP-Rev. were set out in their entirety in the body of this Final Order. All references to this Final Order are deemed to be a reference to the body of this Final Order and to the exhibits and the ODP-Rev.

18. Continuing Jurisdiction. This court retains continuing jurisdiction to assure enforcement and compliance with the terms of this Final Order.

**THIS CONSENT JUDGMENT RESOLVES ALL PENDING CLAIMS AND CLOSES THIS CASE.**

\_\_\_\_\_  
HONORABLE DENNIS B. LIEBER  
Circuit Court Judge

Approved: \_\_\_\_\_, 2018

Approved by the parties and their attorneys:

GRANGER GROUP OF COMPANIES, L.L.C.

WILSON ROAD DEVELOPMENT, L.L.C.

\_\_\_\_\_  
By:  
Its:

\_\_\_\_\_  
By:  
Its:

TMGB WILSON, L.L.C.

Z FARM ENTERPRISES, L.L.C.

\_\_\_\_\_  
By:  
Its:

\_\_\_\_\_  
By:  
Its:

CITY OF WYOMING

By: \_\_\_\_\_  
Jack A. Poll, Mayor

Approved as to form:

By: \_\_\_\_\_  
Kelli A. Vandenberg, Clerk

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

Exhibit 1 – Legal Description of the "Property"

Exhibit 2 – Overall Development Plan dated August 7, 2018 ("ODP-Rev.")

Exhibit 1  
Legal Description

That part of Section 32, Town 6 North, Range 12 West, City of Wyoming, Kent County, Michigan, described as: **COMMENCING** at the West one-quarter corner of said Section 32; thence South 89°20'00" East 208.71 feet along the East-West one-quarter line of said section; thence South 00°30'42" West 33.00 feet parallel with the West line of said section to the **PLACE OF BEGINNING**; thence South 89°20'00" East 535.02 feet parallel with the East-West one-quarter line of said section; thence South 00°05'41" East 132.00 feet parallel with the East line of the Northwest one-quarter of the Southwest one-quarter of said section; thence South 89°20'00" East 357.50 feet parallel with the East-West one-quarter line; thence South 00°05'41" East 206.50 feet parallel with aforesaid East line; thence South 89°20'00" East 194.50 feet parallel with the East-West one-quarter line; thence South 00°05'41" East 286.41 feet along aforesaid East line; thence South 89°15'46" East 1302.35 feet along the South line of the North one-quarter of the Southwest one-quarter of said section; thence South 00°41'53" East 645.99 feet along the North-South one-quarter line of said section; thence South 88°51'19" East 155.69 feet along the South line of Rivertown Valley No. 2; thence South 78°38'37" East 74.80 feet; thence South 89°11'36" East 170.99 feet along said plat; thence South 01°05'02" West 759.73 feet along the West line of Rivertown Valley No. 3; thence South 89°40'08" East 263.67 along said plat line; thence Easterly 607.46 feet along said plat line on a 530.00 foot radius curve to the left, the chord of which bears North 58°05'47" East 574.75 feet; thence South 67°58'59" East 35.08 feet along said plat line; thence Southeasterly 65.22 feet along said plat line on a 180.00 foot radius curve to the left, the chord of which bears South 78°21'50" East 64.87 feet; thence South 88°44'53" East 89.09 feet along said plat line; thence South 00°58'14" East 849.30 feet along the East line of the Southwest one-quarter of the Southeast one-quarter of said section; thence North 88°44'39" West 1320.76 feet along the South line of said section to the South one-quarter corner of said section; thence North 89°03'22" West 590.93 feet; thence North 00°55'52" East 24.89 feet; thence North 64°00'47" East 244.37 feet; thence North 00°09'52" East 69.00 feet; thence North 79°08'21" West 220.27 feet; thence North 00°55'52" East 53.06 feet; thence North 79°14'20" West 39.28 feet; thence North 88°22'48" West 225.95 feet; thence North 00°55'52" East 35.20 feet; thence North 89°05'48" West 545.98 feet; thence North 46°50'27" West 87.16 feet; thence North 77°12'44" West 40.33 feet; thence North 89°04'08" West 78.37 feet; thence South 56°10'58" West 192.21 feet; thence South 51°25'18" West 82.57 feet; thence South 57°16'21" West 141.62 feet; thence North 89°59'59" West 646.88 feet; thence North 20°57'58" West 74.90 feet; thence North 00°30'42" East 717.87 feet parallel with the West line of said section; thence South 89°11'36" East 830.00 feet parallel with the North line of said section; thence North 00°30'42" East 370.00 feet parallel with the West line of said section; thence North 89°11'36" West 607.00 feet along the South line of the North one-half of the Northwest one-quarter of said section; thence North 00°30'46" East 495.17 feet; thence North 89°17'12" West 217.64 feet; thence North 00°17'13" West 77.24 feet; thence North

12°58'33" East 62.02 feet; thence North 00°30'42" East 88.70 feet; thence North 23°15'36" West 43.85 feet; thence North 00°30'42" East 342.50 feet parallel with the West line of said section; thence North 89°20'00" East 158.70 feet parallel with the East-West one-quarter line; thence North 00°30'42" East 175.71 feet parallel with the West line of said section to the place of beginning.

**ALSO** that part of the Northwest one-quarter of Section 5, Town 5 North, Range 12 West, City of Wyoming, Kent County, Michigan, described as: **COMMENCING** at the Northwest corner of said Section 5; thence South 01°18'49" West 41.42 feet along the West line of said section; thence North 88°41'11" West 50.00 feet perpendicular to said West line to the **PLACE OF BEGINNING**; thence North 51°57'16" East 48.07 feet; thence South 89°16'09" East 152.92 feet; thence South 40°00'36" East 129.11 feet; thence South 08°04'56" East 33.22 feet; thence South 36°18'05" East 27.99 feet; thence South 13°39'09" East 31.33 feet; thence South 49°22'44" East 35.55 feet; thence South 73°54'42" East 45.81 feet; thence North 88°14'37" East 44.28 feet; thence South 47°29'32" East 50.61 feet; thence South 89°03'23" East 570.41 feet parallel with the North line of said section; thence North 00°56'41" East 152.46 feet; thence South 89°03'22" East 156.51 feet parallel with the North line of said section; thence South 51°09'35" East 207.91 feet; thence South 89°03'22" East 656.30 feet parallel with the North line of said section; thence North 00°55'52" East 235.25 feet; thence South 89°03'22" East 590.93 feet along the North line of said section; thence South 01°05'59" West 279.99 feet along the North-South one-quarter line of said section; thence North 89°03'23" West 2145.19 feet parallel with the North line of said section; thence North 46°59'48" West 49.61 feet; thence South 88°14'37" West 39.71 feet; thence North 73°54'42" West 53.30 feet; thence North 49°22'44" West 46.34 feet; thence North 13°39'09" West 33.77 feet; thence North 36°18'05" West 29.01 feet; thence North 08°04'56" West 32.52 feet; thence North 40°00'36" West 114.22 feet; thence North 89°16'09" West 136.72 feet; thence South 51°57'16" West 57.43 feet; thence North 01°18'49" East 25.87 feet parallel with the West line of said section to the place of beginning.

Exhibit 2  
Overall Development Plan

*The Reserve*  
*at Rivertown*  
**AUGUST 07, 2018**

Exhibit 2  
Overall Development Plan

TMGB, LLC  
The Reserve at Rivertown Component Narrative  
August 7, 2018  
Prepared by: Ryan Granger

**\*\* FOR CONCEPTUAL AND SETTLEMENT PURPOSES ONLY \*\***

THE SINGLE FAMILY COMPONENT - AREA 1

The single family home component will offer 175 additional single family homes. There are three home types for each lot: standard basement, daylight basement and walkout basement. There are no lots greater than 1 acre. The developer is interested in partnering with higher quality home builders to increase the tax base of the Wyoming panhandle area.

THE FLATS COMPONENT – AREA 2

This component will include 138 units. 9 units will be larger units with views over the natural wooded areas to the south. The patios on these 9 units will be larger to accommodate resident with higher space needs. These units will have attached garages. The remaining 129 units will have 2-stall, attached garages with and will offer patio options on the end units. The units will range from 1200 s.f. to 1600 s.f.

THE LUXURY APARTMENT – AREA 3

The luxury apartment component will offer 190 units with attached garages and separate entrances via garage, or exterior. The units will be situated with a green belt between the units adding to the overall greenspace without effecting the greenspace calculation. Luxury apartments will range from 800 s.f. to 1600 s.f.

THE TOWNHOUSE COMPONENT – AREA 3

The townhouse component will offer 110 units to residents looking for an alternative to the luxury apartment living. Each unit will offer an attached garage, separate entrance and 2 floors of living space. These townhouses will vary in size from 1600 s.f. to 2000 s.f.

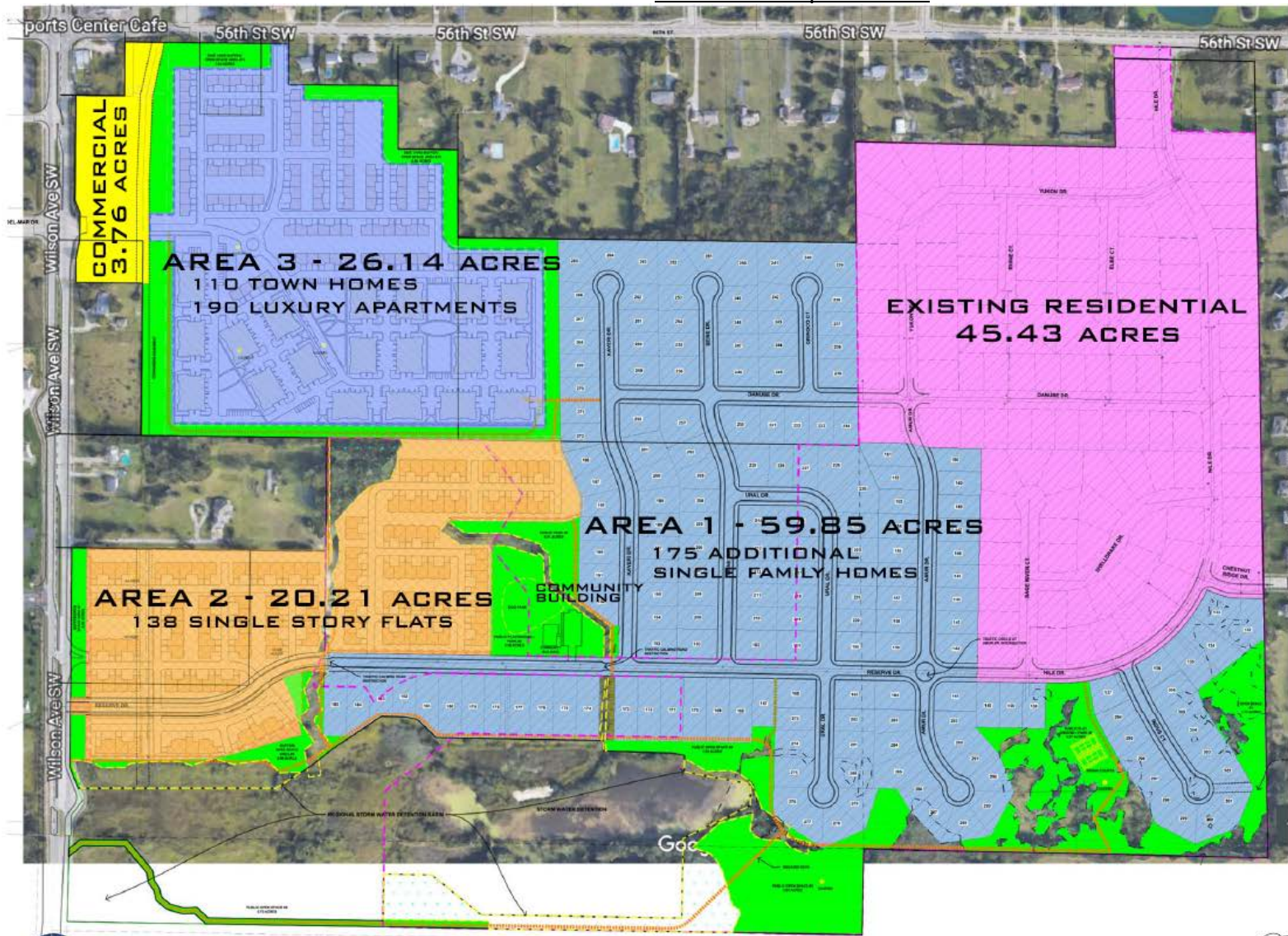


AUGUST 07, 2018

2

*The Reserve*

Exhibit 2  
Overall Development Plan



**AREA CALCULATIONS**

USE	UNITS	AREA	COVERAGE
OPEN SPACE	0	26.14 ACRES	16.7%
COMMERCIAL	0	3.76 ACRES	2.3%
EXISTING RESIDENTIAL	190 UNITS	45.43 ACRES (2.23 ACRES/UNIT)	28.0%
DEVELOPMENT AREA 'A'	110 UNITS	26.14 ACRES (2.38 ACRES/UNIT)	16.8%
DEVELOPMENT AREA 'B'	138	20.21 ACRES	12.9%
DEVELOPMENT AREA 'C'	175	59.85 ACRES	38.1%
TOTAL	473 UNITS	115.39 ACRES	73.3% COVERAGE

**OPEN SPACE SUMMARY**

OPEN SPACE #	AREA	OPEN SPACE #	AREA
1	1.74 ACRES	6	3.8 ACRES
2	1.27 ACRES	9	20 ACRES
3	1.24 ACRES	10	48 ACRES
4	1.58 ACRES	11	148 ACRES
5	0.19 ACRES	12	80 ACRES
8	0.08 ACRES	TOTAL	115.39 ACRES (100% DEVELOPMENT COV.)
7	0.08 ACRES		

- LEGEND**
- COMMERCIAL
  - OPEN SPACE
  - DEVELOPMENT AREA
  - SINGLE FAMILY UNITS
  - MULTI FAMILY UNITS
  - PROPOSED PUD BOUNDARY
  - ORIGINAL PUD BOUNDARY
  - IMPAVED WALKING PATHS
  - PROPOSED BIKEWAYS



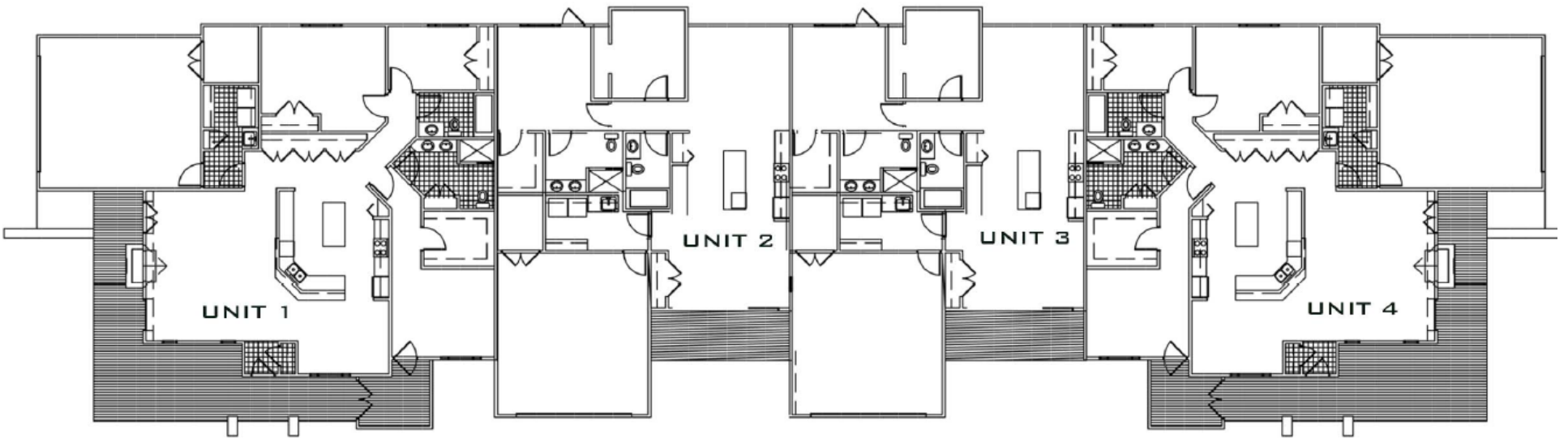
FOR CONCEPTUAL AND SETTLEMENT PURPOSES ONLY  
AUGUST 21, 2018

*The Reserve*

Exhibit 2  
Overall Development Plan



FRONT ELEVATION



AREA 2 - THE FLATS - CONCEPT PLAN/ELEVATION  
FOR CONCEPTUAL AND SETTLEMENT PURPOSES ONLY  
AUGUST 07, 2018



*The Reserve*

Exhibit 2  
Overall Development Plan



**AREA 2 - THE FLATS - CONCEPT PERSPECTIVE  
FOR CONCEPTUAL AND SETTLEMENT PURPOSES ONLY  
AUGUST 07, 2018**

*The Reserve*



Exhibit 2  
Overall Development Plan



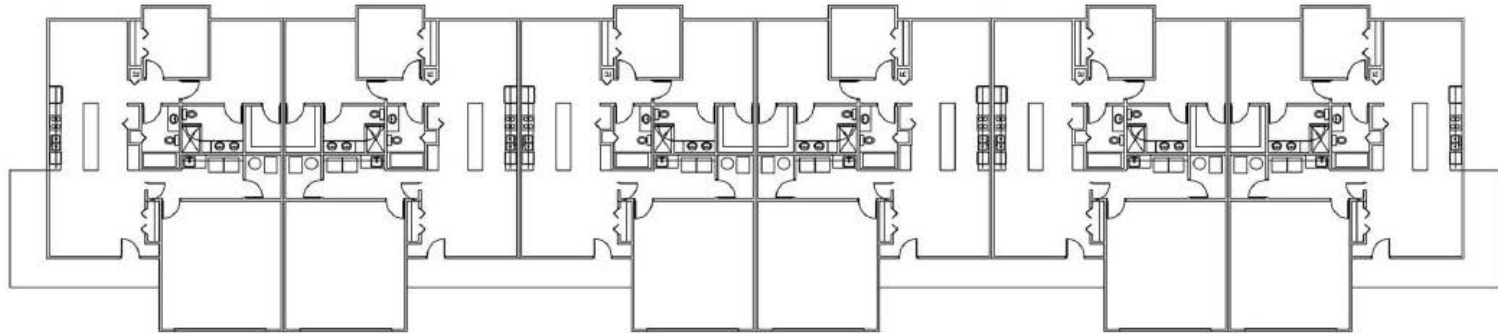
**AREA 2 - THE FLATS - CONCEPT PERSPECTIVE**  
**FOR CONCEPTUAL AND SETTLEMENT PURPOSES ONLY**  
**AUGUST 07, 2018**

*The Reserve*

Exhibit 2  
Overall Development Plan



TYPICAL FRONT ELEVATION OF APARTMENT HOMES



TYPICAL 6 UNIT CLUSTER



AREA 2 - THE FLATS - CONCEPT PLAN/ELEVATION  
FOR CONCEPTUAL AND SETTLEMENT PURPOSES ONLY  
AUGUST 07, 2018

*The Reserve*

Exhibit 2  
Overall Development Plan



**AREA 2 - THE FLATS - CONCEPT PERSPECTIVE  
FOR CONCEPTUAL AND SETTLEMENT PURPOSES ONLY  
AUGUST 07, 2018**

*The Reserve*

Exhibit 2  
Overall Development Plan



TYPICAL TOWNHOME ELEVATION



GRADE LEVEL



UPPER LEVEL

AREA 3 - TOWNHOMES - CONCEPT PLAN/ELEVATION  
FOR CONCEPTUAL AND SETTLEMENT PURPOSES ONLY  
AUGUST 07, 2018

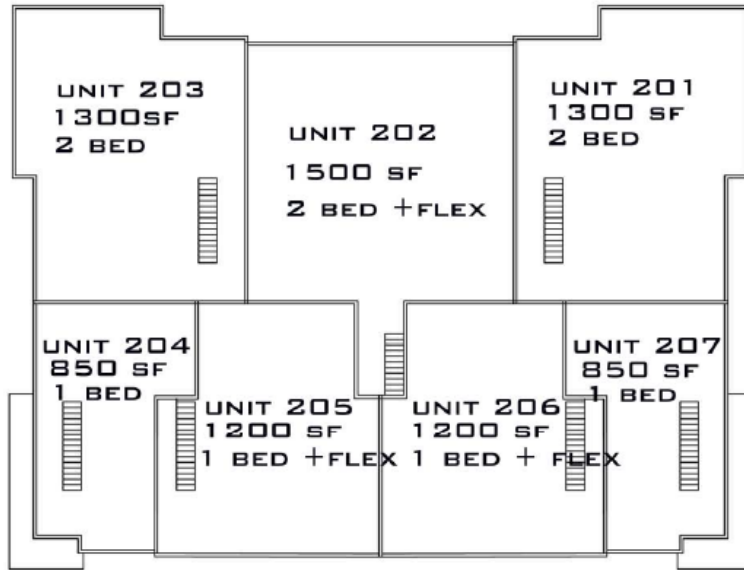


*The Reserve*

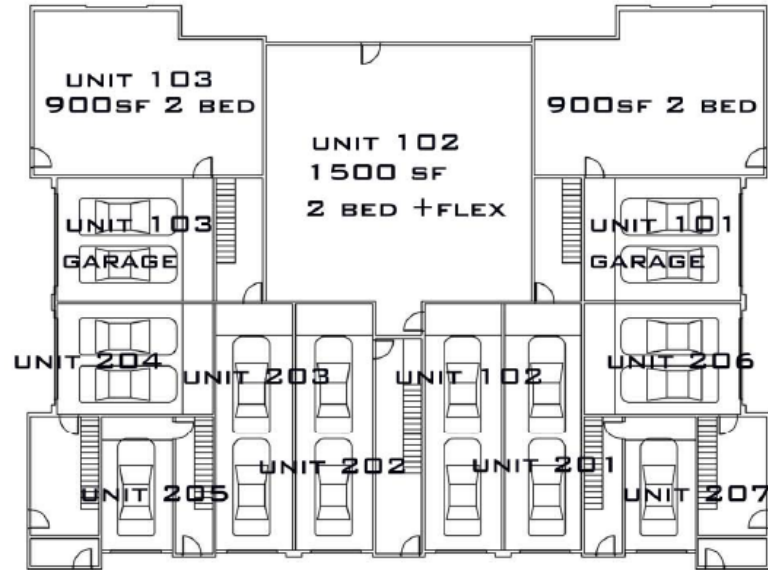
Exhibit 2  
Overall Development Plan



TYPICAL LUXURY APARTMENT GARAGE FACADE



SECOND LEVEL PLAN



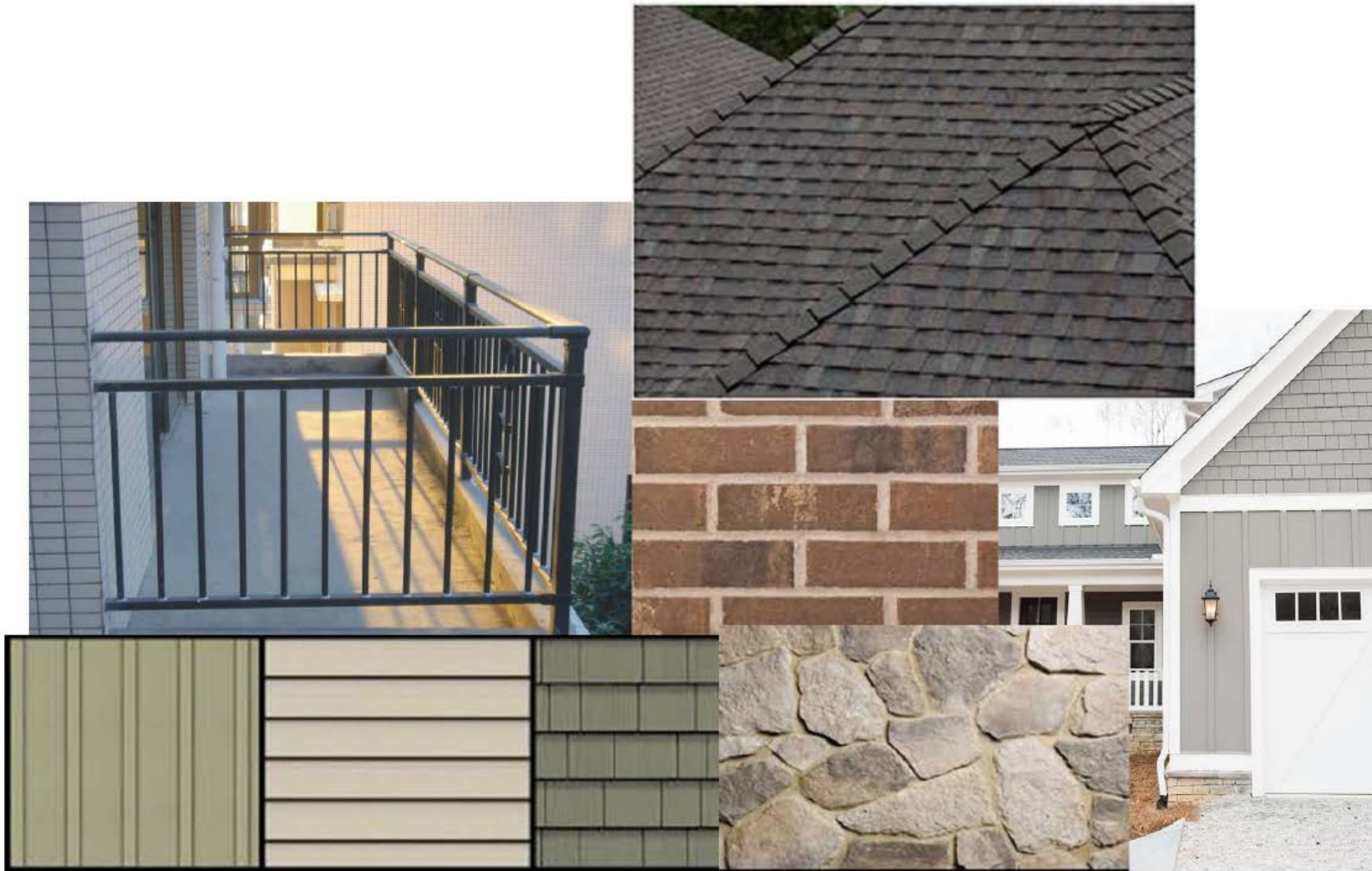
GRADE LEVEL PLAN

AREA 3 - LUXURY APARTMENT - CONCEPT PLAN/ELEVATION  
FOR CONCEPTUAL AND SETTLEMENT PURPOSES ONLY  
AUGUST 07, 2018

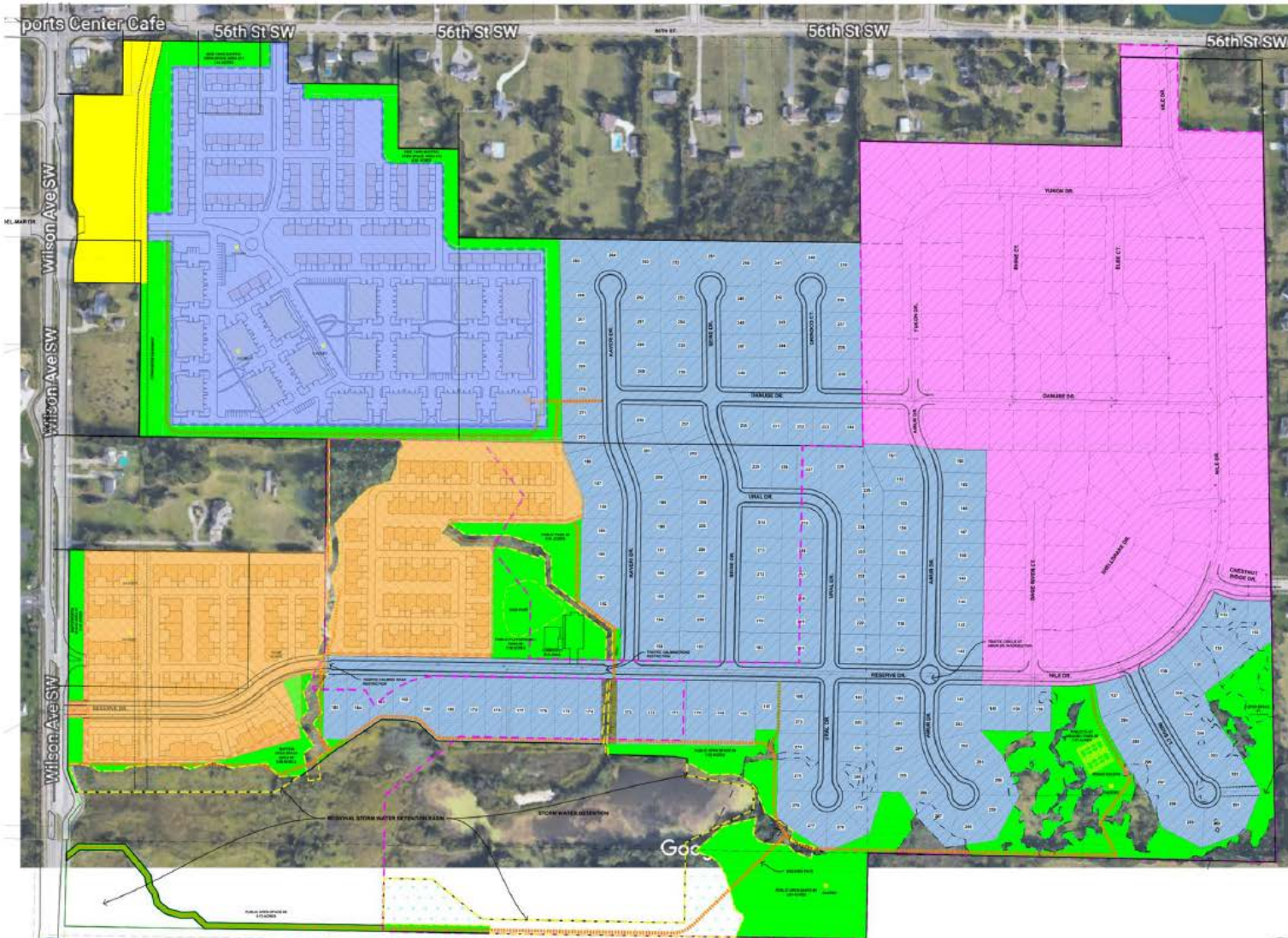


*The Reserve*

Exhibit 2  
Overall Development Plan



## Exhibit 2 Overall Development Plan



AREA CALCULATIONS			
USE	UNITS	AREA	COVERAGE
OPEN SPACE		32.8 ACRES	15.1%
COMMERCIAL		2.9 ACRES	2.0%
ENVIRONMENTAL	101 UNITS	46.4 ACRES (222 ACRES/CHORD)	24.3%
DEVELOPMENT AREA 'B'	101 UNITS	28.4 ACRES (222 ACRES/CHORD)	13.4%
DEVELOPMENT AREA 'C'	101	32.1 ACRES	
DEVELOPMENT AREA 'D'	101	24.4 ACRES	
UNITS	404	101.0 ACRES	50.7% (TOTAL)

OPEN SPACE SUMMARY			
OPEN SPACE #	AREA	OPEN SPACE #	AREA
1	1.11 ACRES	8	1.7 ACRES
2	1.17 ACRES	9	1.61 ACRES
3	2.34 ACRES	10	1.60 ACRES
4	1.00 ACRES	11	1.60 ACRES
5	6.13 ACRES	ENVIRONMENTAL	46.4 ACRES
6	2.38 ACRES	TOTAL	101.0 ACRES (222 ACRES/CHORD ENVIRONMENTAL AREA)
7	2.81 ACRES		

- LEGEND**
- COMMERCIAL
  - OPEN SPACE
  - ENVIRONMENTAL FIELDS
  - SINGLE FAMILY UNITS
  - MULTI FAMILY UNITS
  - PROPOSED PUD BOUNDARY
  - UNPAVED WALKING PATHS
  - PAVED WALKING PATHS



**FOR CONCEPTUAL AND SETTLEMENT PURPOSES ONLY  
AUGUST 21, 2018**

*The Reserve*

ORDINANCE NO. 14-18

AN ORDINANCE TO AMEND SECTION 90-32 OF THE CODE OF THE CITY OF  
WYOMING BY ADDING SUBSECTION (110) TO CONDITIONALLY REZONE  
PROPERTY FOR THE RESERVE AT RIVERTOWN PUD

THE CITY OF WYOMING ORDAINS:

Section 1. That Section 90-32 of the Code of the City of Wyoming is amended by adding subsection (110) to read as follows:

(110) “The Reserve at Rivertown”

(a) To rezone 98.4 Acres from ER Estate Residential (66.9 Acres), B-2 General Business (9.5 Acres), B-1 Local Business (15.7 Acres), and R0-1 Restricted Office (6.3 Acres) to PUD-1 Low Density Planned Unit Development. The Properties are Located at 3928- 56th Street, 3950- 56th Street, 3952- 56th Street, 5700 Wilson Avenue, 5850 Wilson Avenue, 5950 Wilson Avenue, 5972 Wilson Avenue, 5988 Wilson Avenue, 6002 Wilson Avenue, 6010 Wilson Avenue, and 6030 Wilson Avenue, legally described on the attached Exhibit 1.

(b) This rezoning is subject to the following conditions.

1. Rezoning. Rezoning is solely for the purpose of development the above described property (the “Property”) as “The Reserve at Rivertown” planned unit development as described in the Overall Development Plan dated August 7, 2018, as approved by the Planning Commission at its meeting of August 21, 2018, and as more fully described in the following paragraphs 2 and 3 (the “ODP-Rev.”), that is also conditionally approved as provided in the succeeding paragraphs.

2. ODP-Rev. The overall development plan as modified consists of the pages and elements detailed in this condition 2 and the following condition 3 (the “ODP-Rev.”). Specifically, the ODP-Rev. includes all the following drawings signed and dated by the City Planner following the August 21, 2018 Planning Commission meeting:

A. The title page (page 1) dated August 07, 2018, identifying the project as “The Reserve at Rivertown” (“ODP-Rev. P. 1”).

B. Page 2 labeled “The Reserve at Rivertown Component Narrative” dated August 07, 2018, prepared by Ryan Granger (“ODP-Rev. P. 2”).

C. Page 3 consisting of the Spacewerks conceptual plan of the development of the Property dated August 21, 2018, labeling various components of the development “Area 1 – 175 Additional Single Family Homes” (“Area 1”), “Area 2 – 138 Single Story Flats” (“Area 2”), and “Area 3 – 110 Town Homes – 190 Luxury Apartments” (“Area 3”), together with depictions of roads, pedestrian/non-motorize pathways, and other common areas and amenities (“ODP-Rev. P. 3”) The exact sizes and layout of the units are subject to site plan approval and may be modified from what is shown on the ODP-Rev. to address (i) topographical challenges, (ii) Planning Commission comments, direction and conditions during site plan review, (iii) changes required during plat approvals processes, and, (iv) with the consent of the City Council,

changes the developer may request due to changing market conditions. The table on ODP-Rev. P. 3 refers to Area 1 as “Development Area A,” Area 2 as “Development Area B,” and Area 3 as “Development Area C.”

D. Pages 4 through 8, dated August 07, 2018, depicting typical perspectives, typical elevations, typical footprints, and illustrative interior floor plans of Area 2 (“ODP-Rev. P. 4-8”). The illustrative interior floor plans are for information only and are not being approved as part of the ODP-Rev.

E. Page 9, dated August 07, 2018, depicting a typical elevation, typical footprint, and illustrative interior floor plans for the townhomes to be developed within Area 3 (“ODP-Rev. P. 9”). The illustrative interior floor plans are for information only and are not being approved as part of the ODP-Rev.

F. Page 10, dated August 07, 2018, depicting a typical elevation and typical footprint for the luxury apartment buildings to be developed within Area 3 (“ODP-Rev. P. 10”).

G. Page 11 labeled “Proposed Exterior Finishes,” dated August 07, 2018 (“ODP-Rev. P. 11”). As depicted on this page, within the Area 2 and Area 3, the railings shall be of metal construction, the roofs shall have asphalt shingles, the siding may be vinyl and shall be varied to include horizontal and vertical siding as well as some appearing to be shake. Stone or brick (or stone or brick panels) shall be included. The percentage of exterior walls covered with stone or brick (or stone or brick panels) shall be the same percentage as shown in the elevation drawings for Area 2 and for Area 3.

H. Page 12 dated August 21, 2018, that is similar to page 3 except it does not contain the labeling of the areas (“ODP\_Rev. P. 12”). A larger version of ODP\_Rev. P. 12 was presented to the Planning Commission at its August 21, 2018 meeting and was signed by Planning Commission Chair. The table on ODP\_Rev. P. 12 refers to Area 1 as “Development Area A,” Area 2 as “Development Area B,” and Area 3 as “Development Area C.”

I. The colors of the exterior finishes depicted on ODP-Rev. P. 4-8, ODP-Rev. P. 9, ODP-Rev. P. 10, Proposed Exterior Finishes on ODP-Rev. P. 11 are illustrative and may be varied or modified by the developer without consent of the City or the court. ODP-Rev. P. 4-8, ODP-Rev. P. 9 and ODP-Rev. P. 10 show varying roof lines and exterior walls, porches, garage door details, window details, contrasting trim details, window placements and other architectural and design elements that add interest, demonstrate quality, and are aesthetically pleasing. The developer may request substituting those specific architectural and design elements. The City Planner may approve those requested changes as part of the site plan approval for Area 2 or for Area 3 if they are determined to be minor and reasonably acceptable to the City Planner. If the City Planner determines they are significant, those requested changes shall require approval by the City Council.

3. Narratives. The ODP-Rev. also includes the following narratives describing the development to occur in Area 1, Area 2 and Area 3.

#### Area 1 – Single Family Component

This component will offer 175 additional single-family homes. There are three home

types for each lot: (1) standard basement, (2) daylight basement, and (3) walkout basement. There are no lots greater than one acre. The developer is interested in partnering with higher quality home builders to increase the tax base of the City's panhandle area.

#### Area 2 – Single Story Flat Component

This component will include 138 units. Nine units will be larger units with (1) views over the natural wooded areas to the south, (2) larger patios to accommodate residents with higher space needs, and (3) attached garages. The remaining 129 units will range from 1,200 to 1,600 square feet and have two-stall attached garages. Patio options will also be available for end units.

#### Area 3 – Luxury Apartment/Town Home Component

The Luxury Apartment Component will offer 190 units ranging from 800 to 1,600 square feet with attached garages and separate entrances via garage and exterior. The units will be situated with a green belt between each to supplement the overall greenspace.

The Townhouse Component will offer 110 units ranging from 1,600 to 2,000 square feet for residents looking for an alternative to the luxury apartment living. Each unit will offer an attached garage, separate entrances, and two floors of living space.

4. Features of the Project. The Project shall include:
  - A. Area 1 shall have 175 or fewer platted single family home sites.
  - B. Area 2 shall have 138 or fewer single story apartment homes.
  - C. Area 3 shall have 300 or fewer multi-family homes comprised of the following rough breakdown which may be altered to meet market demand, to address topographical or other design challenges, or for other reasons, upon approval by the City Planner:
    1. Approximately 190 luxury apartments as shown on ODP-Rev P 10.
    2. Approximately 110 townhouse apartments as shown on ODP-Rev P 9.
  - D. A total of 9.02 acres of open space, exclusive of any wetlands or other environmental areas with a total of 30.12 acres of open space inclusive of the environmental areas. The storm water detention area conveyed to the City is not included and shall not be included in the open space calculations.
  - E. The total acreage of the development including the Rivertown Valley PUD includes 187.26 total acres.
  - F. The total density of the Project shall not exceed 4 units per acre as limited in the City's sanitary sewer service limits and the Zoning Ordinance.
6. Conditions. The following specific conditions shall apply to the ODP-Rev. and rezoning, unless changes are approved by the City Council as provided in subsection 504(5) of the Michigan Zoning Enabling Act, MCL 125.3504(5):

A. Pedestrian-Non-motorized Pathway Only. No direct vehicular access shall be constructed connecting Area 3 with Area 1. However, a pedestrian and non-motorized pathway shall be constructed to connect those components of the development.

B. Roads and Access Drives.

1. Entry drives into Area 2 shall have only two points of entry from Reserve Drive (Nile drive extended) per area. For Area 2 west of the swale, entry locations to the north and south shall directly oppose one another. For Area 2 east of the swale (and opposite the single-family homes), the two entry locations shall be opposite the single-family lot lines to minimize headlights splash and driveway conflicts. All Area 2 entry locations shall be located away from other intersections as much as reasonable, and in no event, less than 150 feet apart. The interior roads or drive aisles shall be sized and configured at their terminating ends to meet the City Fire Department requirements.

2. Traffic calming is required for the long north-south street (Amur/Yukon) and the long east-west street (Danube) in Area 1. Unless an alternative is otherwise approved by the City Engineer, this traffic calming shall be located at the intersection of the two streets with street intersection encroachments for enhanced pedestrian safety and a 4-way stop.

3. All newly constructed traffic circles shall include medians on approaches to prevent wrong way left turns. Lot adjustments shall be made if needed to accommodate these medians.

4. All work on Wilson Avenue shall be coordinated with the construction of Reserve Drive (Nile Drive extended) and shall include the following:

a. The existing entry location from Wilson Avenue (that shall no longer serve as an entry) shall be closed.

b. The Wilson Avenue median opening and associated left-turn lane that were constructed to accommodate that entry shall also be closed.

c. All work within Wilson Avenue shall be in accordance with the City's Standard Specification and the Wilson Avenue design specifications.

5. The commercial area component of the Project (shown in yellow west of Area 3 on the ODP-Rev. P. 3) shall be accessed only from the entry drive to the Area 3. There shall be no direct curb cut on Wilson Avenue.

6. Nile Drive shall be fully resurfaced from Chestnut to the west end of Nile Drive (pavement patching is not acceptable) when the sewer laterals are added to serve lots on the south and east sides of Nile Drive.

B. Pedestrian/Non-Motorized Pathways.

1. The pedestrian/non-motorized pathway currently shown in Area 1 between single family lots 173 and 174 on ODP-Rev. P. 3 and ODP-Rev. P. 12 shall be aligned as closely as possible with the sidewalk along the west side of Kaveri Drive and the pedestrian/non-motorized pathway currently shown between single

family lots 167, 166 and 2722 in Area 1 on ODP-Rev. P. 3 and ODP-Rev. P. 12 shall be eliminated, and a separate pedestrian/non-motorized pathway shall be constructed in Area 1 either between single family lots 274 and 275, or between single family lots 275 and 276.

2. Except as otherwise provided in these conditions, all pedestrian/non-motorized pathways shall be constructed as shown on the ODP-Rev. within easements for the benefit of the occupants of all the Property, except the commercial areas shown in yellow on ODP-Rev. P 3 west of Area 3.

3. All pedestrian/non-motorized pathways shall be of the size and configured to meet AASHTO standards for similar facilities.

C. Amenities.

1. In addition to the “clubhouse” amenity shown at the northwest corner of Kaveri Drive and Reserve Drive (Nile Drive continued), a clubhouse amenity shall also be constructed within the Area 3.

2. A parking pad with 6 spaces shall be constructed on the south side of the bend of Nile Drive within the green space between Area 1 lots 127 and 138 as depicted on on ODP-Rev. P. 3 and ODP-Rev. P. 12.

D. Homeowner’s Association(s).

1. The developer shall encourage the owners of lots in the Single-Family lot phases of the Rivertown Valley PUD that were developed prior to entry of this Final Order to join a homeowners association (“HOA”) authorized and empowered to collect dues for the oversight, governance, operation, maintenance, repair, replacement, and, if desired, improvement of common amenities such as the clubhouse and related amenities constructed at the northwest corner of Kaveri Drive and Reserve Drive (Nile Drive extended), the tennis courts constructed in Area 1 to the west of platted single-family lots 143 and 144, the pathways, the green areas, and any other amenities. If the developer wishes to do so, the developer may require HOA membership and the payment of HOA dues in order for owners of these lots that have already been developed to use amenities.

2. The developer shall require membership in and payment of dues and special assessments to a HOA by owners of the lots in Area 1, and the buildings in Area 2 and Area 3. The dues shall be allocated among participants in such a manner to be reasonably fair, and shall be reviewed and approved by the City Manager. Dues and other amounts collected by the HOA shall at all times be sufficient to pay all costs of the oversight, governance, operation, maintenance, repair, replacement, and, if desired, improvement of common amenities to ensure they are and remain in a condition at least as good as the City provides for comparable City-owned amenities. The HOA shall have the authority to compel payments of dues and special assessments by the owners of all the lots in Area 1, and the buildings in Area 2 and Area 3.

7. Lawsuit Settlement. This approval of the ODP-Rev. is also conditional upon the dismissal of the *Granger Group of Companies, LLC, et al. v City of Wyoming*, case number 2018-03060-AW, pending in the Kent County Circuit Court in accordance with a

final order approved by the City Council, and the specific agreement of the parties.

8. Compliance with Other Requirements. This developer shall comply with all other requirements applicable to the development, including, without limitation, obtaining any needed permits and other approvals from federal, state, county or city agencies or officials for related to street and utility construction, storm water and drainage, wetlands, platting, construction codes, final site plans, etc.

9. Wetlands/Conservation Easement. ODP-Rev. P. 3 and ODP-Rev. P. 12 shall be corrected if needed to correctly, fully and completely depict the scope of the wetlands and conservation easement(s) on the Property. It is noted (and developer representatives have admitted), for example, that the wetlands and conservation easement might not be fully and accurately depicted in the area of the “clubhouse” amenity and property shown at the northwest corner of Kaveri Drive and Reserve Drive (Nile Drive continued) as that area extends into Area 3. This change shall be made and corrected on ODP-Rev. P. 3 and ODP-Rev. P. 12 added to the ODP-Rev. after verification and signing by the City Planner and City Engineer.

Section 2. This ordinance shall be in full force and effect on \_\_\_\_, 2018.

Exhibit 1 – Legal Description

Exhibit 2 – Overall Development Plan dated August 7, 2018 (“ODP-Rev.”)

Ordinance No. 14-18

Exhibit 1  
Legal Description

That part of Section 32, Town 6 North, Range 12 West, City of Wyoming, Kent County, Michigan, described as: **COMMENCING** at the West one-quarter corner of said Section 32; thence South 89°20'00" East 208.71 feet along the East-West one-quarter line of said section; thence South 00°30'42" West 33.00 feet parallel with the West line of said section to the **PLACE OF BEGINNING**; thence South 89°20'00" East 535.02 feet parallel with the East-West one-quarter line of said section; thence South 00°05'41" East 132.00 feet parallel with the East line of the Northwest one-quarter of the Southwest one-quarter of said section; thence South 89°20'00" East 357.50 feet parallel with the East-West one-quarter line; thence South 00°05'41" East 206.50 feet parallel with aforesaid East line; thence South 89°20'00" East 194.50 feet parallel with the East-West one-quarter line; thence South 00°05'41" East 286.41 feet along aforesaid East line; thence South 89°15'46" East 1302.35 feet along the South line of the North one-quarter of the Southwest one-quarter of said section; thence South 00°41'53" East 645.99 feet along the North-South one-quarter line of said section; thence South 88°51'19" East 155.69 feet along the South line of Rivertown Valley No. 2; thence South 78°38'37" East 74.80 feet; thence South 89°11'36" East 170.99 feet along said plat; thence South 01°05'02" West 759.73 feet along the West line of Rivertown Valley No. 3; thence South 89°40'08" East 263.67 along said plat line; thence Easterly 607.46 feet along said plat line on a 530.00 foot radius curve to the left, the chord of which bears North 58°05'47" East 574.75 feet; thence South 67°58'59" East 35.08 feet along said plat line; thence Southeasterly 65.22 feet along said plat line on a 180.00 foot radius curve to the left, the chord of which bears South 78°21'50" East 64.87 feet; thence South 88°44'53" East 89.09 feet along said plat line; thence South 00°58'14" East 849.30 feet along the East line of the Southwest one-quarter of the Southeast one-quarter of said section; thence North 88°44'39" West 1320.76 feet along the South line of said section to the South one-quarter corner of said section; thence North 89°03'22" West 590.93 feet; thence North 00°55'52" East 24.89 feet; thence North 64°00'47" East 244.37 feet; thence North 00°09'52" East 69.00 feet; thence North 79°08'21" West 220.27 feet; thence North 00°55'52" East 53.06 feet; thence North 79°14'20" West 39.28 feet; thence North 88°22'48" West 225.95 feet; thence North 00°55'52" East 35.20 feet; thence North 89°05'48" West 545.98 feet; thence North 46°50'27" West 87.16 feet; thence North 77°12'44" West 40.33 feet; thence North 89°04'08" West 78.37 feet; thence South 56°10'58" West 192.21 feet; thence South 51°25'18" West 82.57 feet; thence South 57°16'21" West 141.62 feet; thence North 89°59'59" West 646.88 feet; thence North 20°57'58" West 74.90 feet; thence North 00°30'42" East 717.87 feet parallel with the West line of said section; thence South 89°11'36" East 830.00 feet parallel with the North line of said section; thence North 00°30'42" East 370.00 feet parallel with the West line of said section; thence North 89°11'36" West 607.00 feet along the South line of the North one-half of the Northwest one-quarter of said section; thence North 00°30'46" East 495.17 feet; thence North 89°17'12" West 217.64 feet; thence North 00°17'13" West 77.24 feet; thence North

12°58'33" East 62.02 feet; thence North 00°30'42" East 88.70 feet; thence North 23°15'36" West 43.85 feet; thence North 00°30'42" East 342.50 feet parallel with the West line of said section; thence North 89°20'00" East 158.70 feet parallel with the East-West one-quarter line; thence North 00°30'42" East 175.71 feet parallel with the West line of said section to the place of beginning.

**ALSO** that part of the Northwest one-quarter of Section 5, Town 5 North, Range 12 West, City of Wyoming, Kent County, Michigan, described as: **COMMENCING** at the Northwest corner of said Section 5; thence South 01°18'49" West 41.42 feet along the West line of said section; thence North 88°41'11" West 50.00 feet perpendicular to said West line to the **PLACE OF BEGINNING**; thence North 51°57'16" East 48.07 feet; thence South 89°16'09" East 152.92 feet; thence South 40°00'36" East 129.11 feet; thence South 08°04'56" East 33.22 feet; thence South 36°18'05" East 27.99 feet; thence South 13°39'09" East 31.33 feet; thence South 49°22'44" East 35.55 feet; thence South 73°54'42" East 45.81 feet; thence North 88°14'37" East 44.28 feet; thence South 47°29'32" East 50.61 feet; thence South 89°03'23" East 570.41 feet parallel with the North line of said section; thence North 00°56'41" East 152.46 feet; thence South 89°03'22" East 156.51 feet parallel with the North line of said section; thence South 51°09'35" East 207.91 feet; thence South 89°03'22" East 656.30 feet parallel with the North line of said section; thence North 00°55'52" East 235.25 feet; thence South 89°03'22" East 590.93 feet along the North line of said section; thence South 01°05'59" West 279.99 feet along the North-South one-quarter line of said section; thence North 89°03'23" West 2145.19 feet parallel with the North line of said section; thence North 46°59'48" West 49.61 feet; thence South 88°14'37" West 39.71 feet; thence North 73°54'42" West 53.30 feet; thence North 49°22'44" West 46.34 feet; thence North 13°39'09" West 33.77 feet; thence North 36°18'05" West 29.01 feet; thence North 08°04'56" West 32.52 feet; thence North 40°00'36" West 114.22 feet; thence North 89°16'09" West 136.72 feet; thence South 51°57'16" West 57.43 feet; thence North 01°18'49" East 25.87 feet parallel with the West line of said section to the place of beginning.

Exhibit 2  
Overall Development Plan (“ODP-Rev.”)

*The Reserve*  
*at Rivertown*  
AUGUST 07, 2018

Exhibit 2  
Overall Development Plan (“ODP-Rev.”)

TMGB, LLC  
The Reserve at Rivertown Component Narrative  
August 7, 2018  
Prepared by: Ryan Granger

\*\* FOR CONCEPTUAL AND SETTLEMENT PURPOSES ONLY \*\*

THE SINGLE FAMILY COMPONENT - AREA 1

The single family home component will offer 175 additional single family homes. There are three home types for each lot: standard basement, daylight basement and walkout basement. There are no lots greater than 1 acre. The developer is interested in partnering with higher quality home builders to increase the tax base of the Wyoming panhandle area.

THE FLATS COMPONENT – AREA 2

This component will include 138 units. 9 units will be larger units with views over the natural wooded areas to the south. The patios on these 9 units will be larger to accommodate resident with higher space needs. These units will have attached garages. The remaining 129 units will have 2-stall, attached garages with and will offer patio options on the end units. The units will range from 1200 s.f. to 1600 s.f.

THE LUXURY APARTMENT – AREA 3

The luxury apartment component will offer 190 units with attached garages and separate entrances via garage, or exterior. The units will be situated with a green belt between the units adding to the overall greenspace without effecting the greenspace calculation. Luxury apartments will range from 800 s.f. to 1600 s.f.

THE TOWNHOUSE COMPONENT – AREA 3

The townhouse component will offer 110 units to residents looking for an alternative to the luxury apartment living. Each unit will offer an attached garage, separate entrance and 2 floors of living space. These townhouses will vary in size from 1600 s.f. to 2000 s.f.

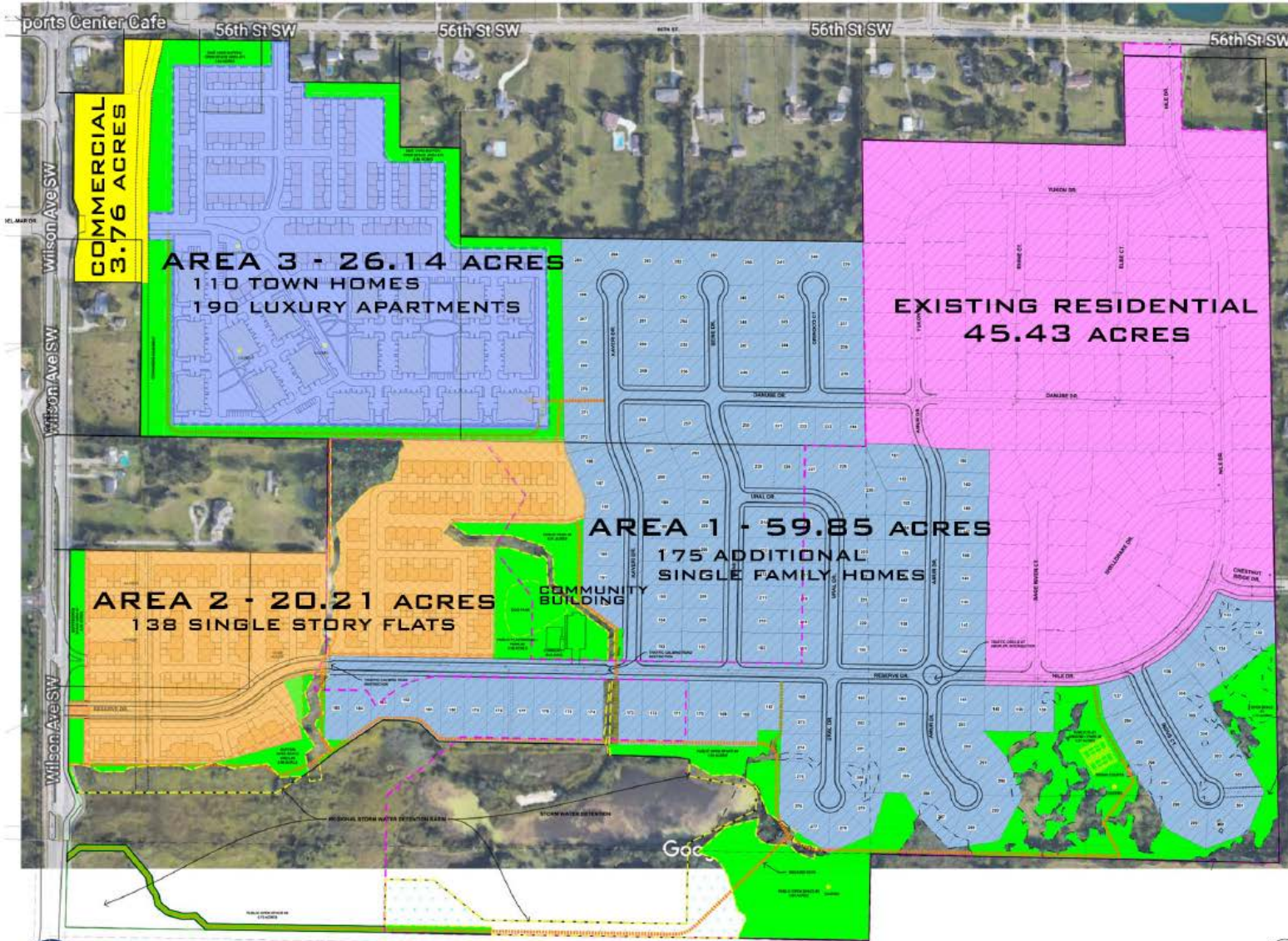


AUGUST 07, 2018

2

*The Reserve*

Exhibit 2  
Overall Development Plan ("ODP-Rev.")



LOCATION MAP  
NO SCALE



AREA CALCULATIONS			
USE	UNITS	AREA	COVERAGE
OPEN SPACE		26.28 ACRES	18.1%
COMMERCIAL		3.76 ACRES	2.6%
EXISTING RESIDENTIAL	191 UNITS	45.43 ACRES (2.08 ACRES=HOM)	32.6%
DEVELOPMENT AREA 'A'	175 UNITS	59.85 ACRES (2.08 ACRES=HOM)	43.8%
DEVELOPMENT AREA 'B'	138	20.21 ACRES	14.6%
DEVELOPMENT AREA 'C'	389	26.14 ACRES	19.1%
TOTAL	703 UNITS	142.52 ACRES	100.0%

OPEN SPACE SUMMARY			
OPEN SPACE #	AREA	OPEN SPACE #	AREA
1	1.71 ACRES	8	3.10 ACRES
2	2.07 ACRES	9	3.91 ACRES
3	1.94 ACRES	10	4.80 ACRES
4	1.80 ACRES	11	1.80 ACRES
5	2.12 ACRES	ENVIRONMENTAL	10.00 ACRES
6	3.08 ACRES	TOTAL	34.54 ACRES (100% ENVIRONMENTAL AND OPEN SPACE)
7	3.58 ACRES		

- LEGEND**
- COMMERCIAL
  - OPEN SPACE
  - ENVIRONMENTAL AREAS
  - SINGLE FAMILY UNITS
  - MULTI FAMILY UNITS
  - PROPOSED PUD BOUNDARY
  - ORIGINAL PUD BOUNDARY
  - UNPAVED WALKING PATHS
  - PAVED WALKING PATHS



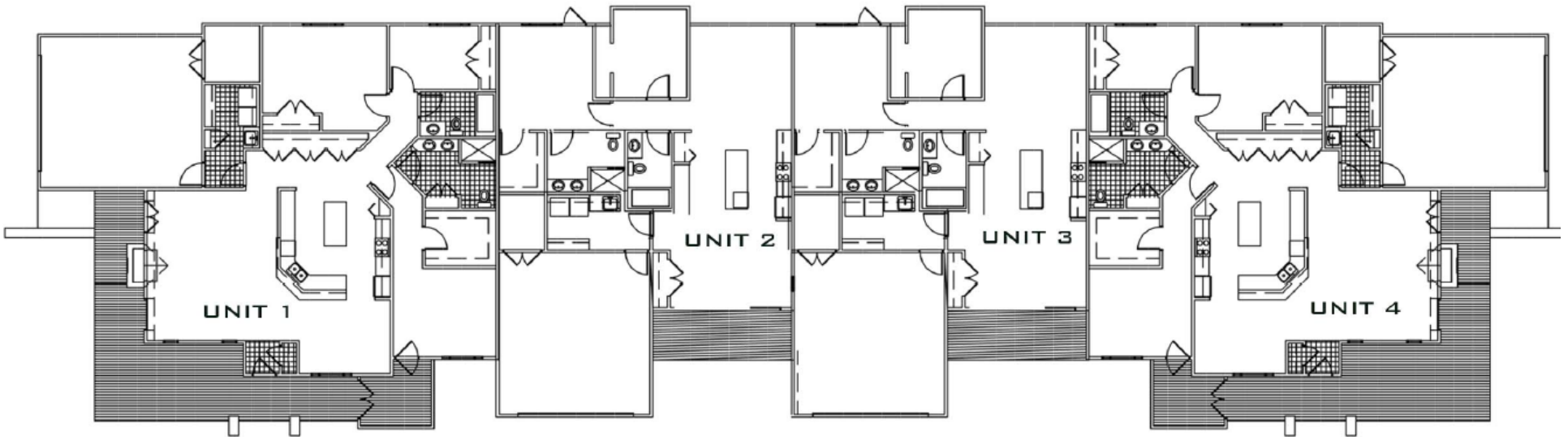
FOR CONCEPTUAL AND SETTLEMENT PURPOSES ONLY  
AUGUST 21, 2018

*The Reserve*

Exhibit 2  
Overall Development Plan ("ODP-Rev.")



FRONT ELEVATION



AREA 2 - THE FLATS - CONCEPT PLAN/ELEVATION  
FOR CONCEPTUAL AND SETTLEMENT PURPOSES ONLY  
AUGUST 07, 2018



*The Reserve*

Exhibit 2  
Overall Development Plan ("ODP-Rev.")



**AREA 2 - THE FLATS - CONCEPT PERSPECTIVE  
FOR CONCEPTUAL AND SETTLEMENT PURPOSES ONLY  
AUGUST 07, 2018**

5

*The Reserve*

Exhibit 2  
Overall Development Plan ("ODP-Rev.")



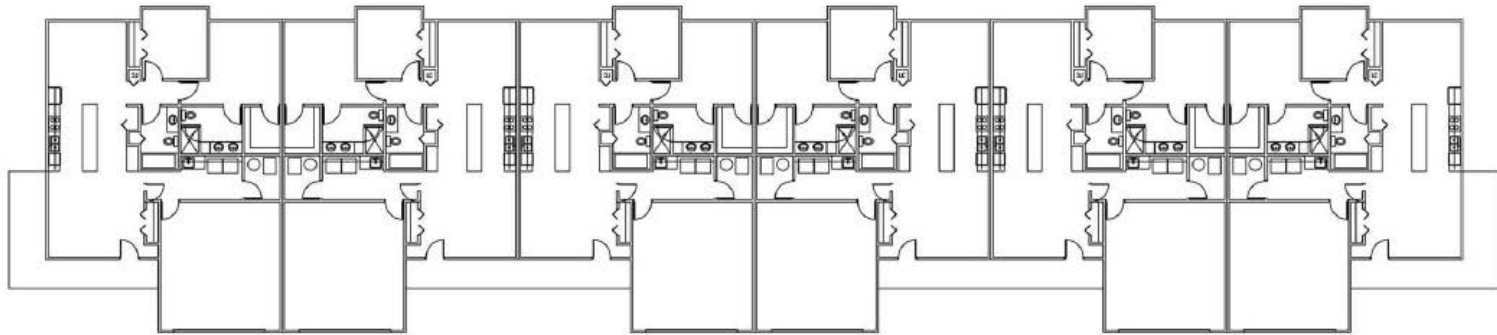
**AREA 2 - THE FLATS - CONCEPT PERSPECTIVE  
FOR CONCEPTUAL AND SETTLEMENT PURPOSES ONLY  
AUGUST 07, 2018**

*The Reserve*

Exhibit 2  
Overall Development Plan ("ODP-Rev.")



TYPICAL FRONT ELEVATION OF APARTMENT HOMES



TYPICAL 6 UNIT CLUSTER

AREA 2 - THE FLATS - CONCEPT PLAN/ELEVATION  
FOR CONCEPTUAL AND SETTLEMENT PURPOSES ONLY  
AUGUST 07, 2018



*The Reserve*

Exhibit 2  
Overall Development Plan ("ODP-Rev.")



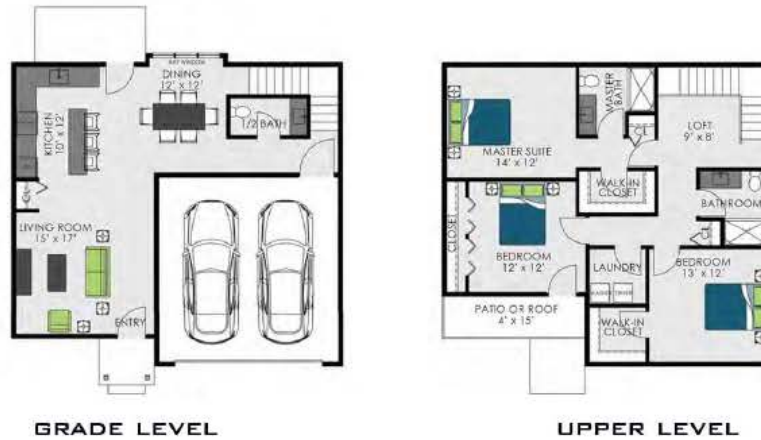
**AREA 2 - THE FLATS - CONCEPT PERSPECTIVE  
FOR CONCEPTUAL AND SETTLEMENT PURPOSES ONLY  
AUGUST 07, 2018**

*The Reserve*

Exhibit 2  
Overall Development Plan ("ODP-Rev.")



TYPICAL TOWNHOME ELEVATION



AREA 3 - TOWNHOMES - CONCEPT PLAN/ELEVATION  
FOR CONCEPTUAL AND SETTLEMENT PURPOSES ONLY  
AUGUST 07, 2018

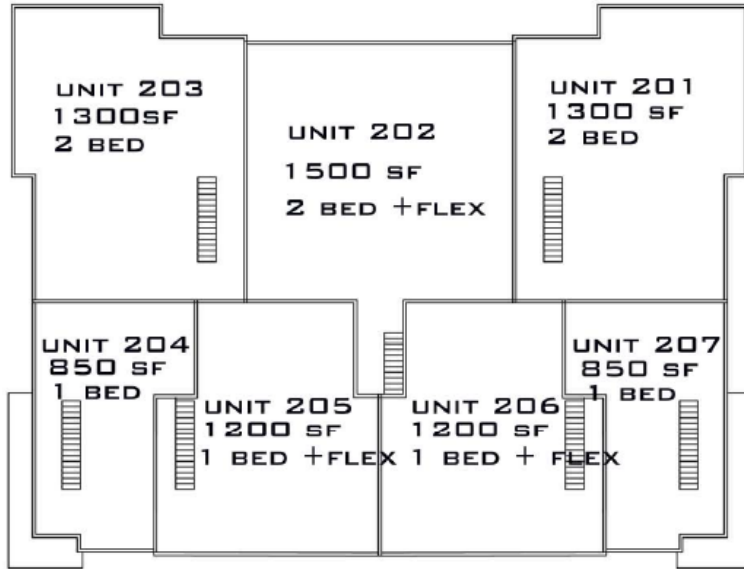


*The Reserve*

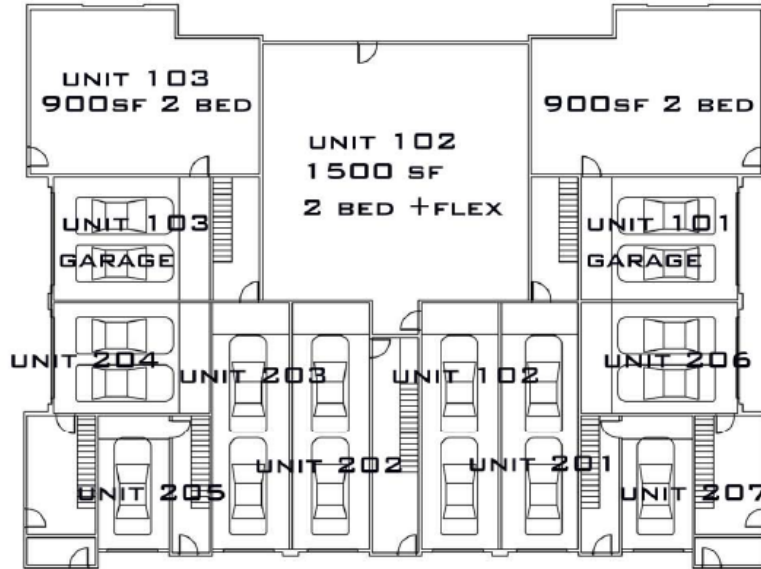
Exhibit 2  
Overall Development Plan ("ODP-Rev.")



TYPICAL LUXURY APARTMENT GARAGE FACADE



SECOND LEVEL PLAN



GRADE LEVEL PLAN

AREA 3 - LUXURY APARTMENT - CONCEPT PLAN/ELEVATION  
FOR CONCEPTUAL AND SETTLEMENT PURPOSES ONLY  
AUGUST 07, 2018



*The Reserve*

Exhibit 2  
Overall Development Plan ("ODP-Rev.")

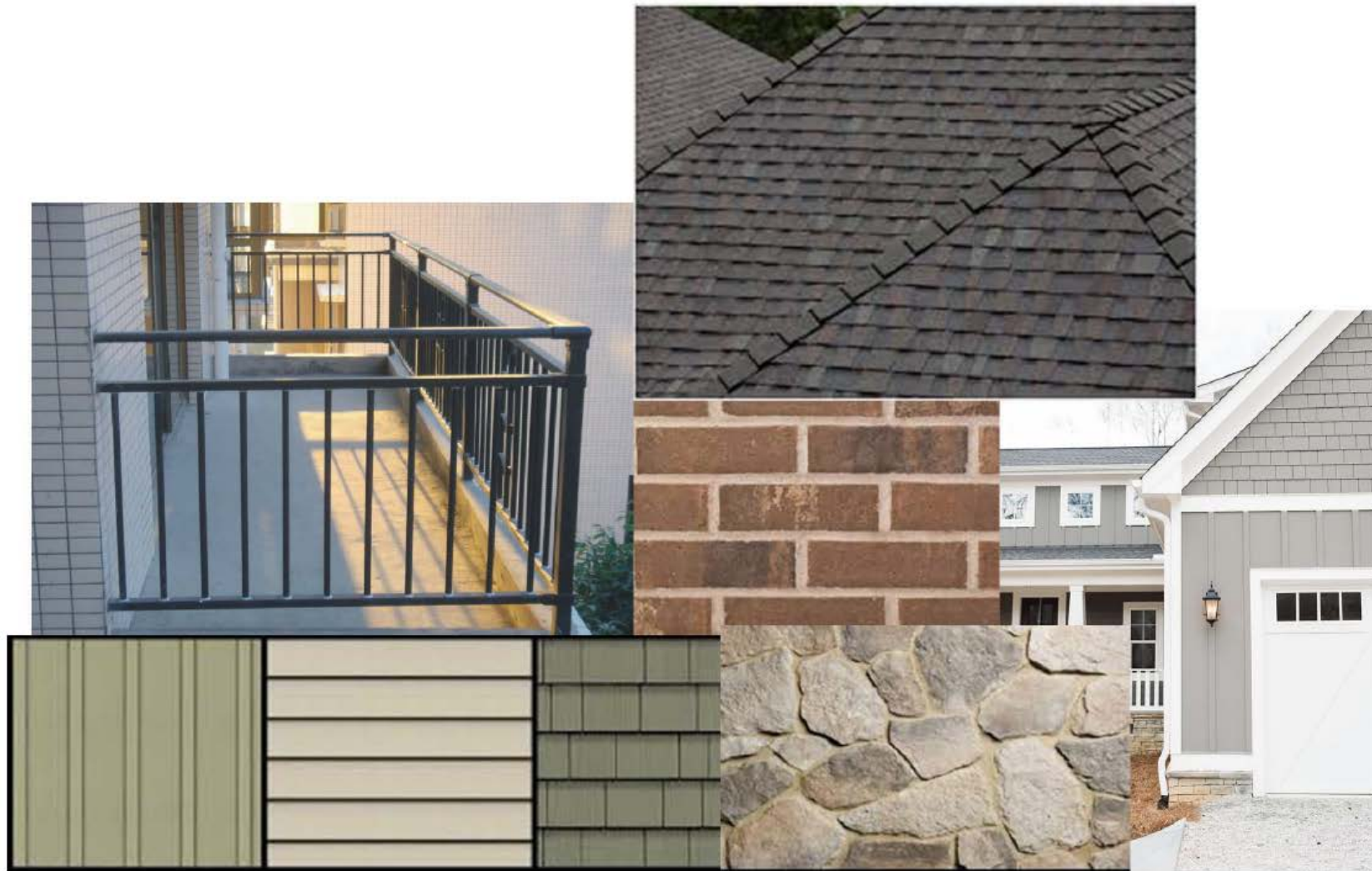
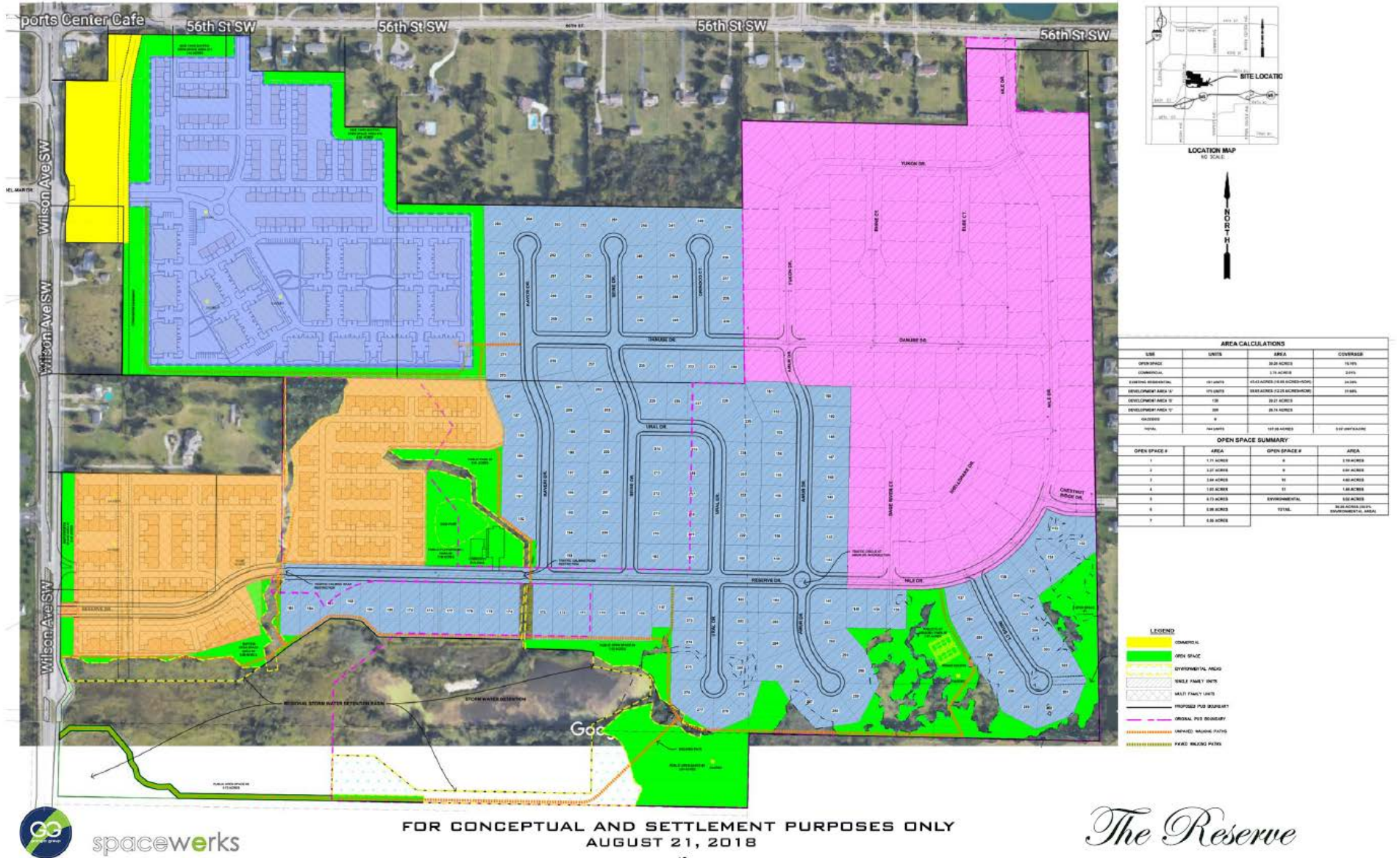


Exhibit 2  
Overall Development Plan ("ODP-Rev.")



CERTIFICATION

I certify that this Ordinance was adopted by the City of Wyoming at a regular session of the City Council held on September 4, 2018.

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Kelli A. Vandenberg, Wyoming City Clerk

Ordinance No. 14-18

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

RESOLUTION TO APPROVE RIVERTOWN VALLEY PLATS IV – IX AND  
APPROVE AND AUTHORIZE THE SIGNING OF PLAT IMPROVEMENT  
CONSTRUCTION AGREEMENT WITH THE PLAT’S DEVELOPER

WHEREAS:

1. At a special meeting on August 30, 2018, the Planning Commission recommended tentative approval of the Rivertown Valley Plat phases IV through IX (also known as “The Reserve at Rivertown” and previously referred to as “The Reserve Phases 1-6”) subject to the following conditions (the “Plat”); and
  1. The conditions in section 105 of the Land Division Act, 1967 PA 288, MCL 560.105.
  2. City Council approval of Ordinance No. 14-18 rezoning the property to the PUD-1 zoning district.
  3. Dismissal of the lawsuit of *Granger Group of Companies, LLC, et al. v City of Wyoming*, case number 2018-03060-AW, pending in the Kent County Circuit Court in accordance with a final order approved by the City Council.
  4. Entry of an agreement with the City for construction of all required improvements.
  5. A deed restriction or covenant requiring owners of each lot in the plat to be a member of and obligated to pay dues and special assessments imposed by a homeowners’ association to be formed by the developer prior to the sale of any lot in any phase of the plat as required by the (i) conditions imposed on the Planning Commission’s approval on September 21, 2018, of the Overall Development Plan for the Rivertown Valley PUD also known as “The Reserve at Rivertown,” (ii) the terms of the court order dismissing the lawsuit referred to in condition 3, and (iii) by Ordinance No. 14-18 rezoning the property included in the plat. The draft of the proposed “Master Declaration of Covenants, Conditions, and Restrictions – The Reserve at Rivertown” submitted to the City Attorney by e-mail on Tuesday, August 28, 2018, meets this requirement.
  6. Compliance with all conditions of the Planning Commission’s approval on September 21, 2018, of the Overall Development Plan for the Rivertown Valley PUD also known as “The Reserve at Rivertown” as they relate to the plat, including, without limitation, amenities to be constructed within or available to occupants of the plat, or any improvements comprising or within the plat.
  7. A drainage plan that (i) complies with City ordinance requirements, (ii) shows any needed public and private easements, and (iii) establishes minimum floor/building opening elevations where needed, shall be submitted before preliminary plat final approval.
  8. The rear yard setback for Lot 133 must comply with the 35-foot rear yard setback.
  9. The driveways for Lots 133, 136, 137, 141, 142, 159, 160, 161, 162, 163, 164, 165, 166, and 193 shall not connect to Nile or Reserve Drive, but shall connect to the other streets on which those lots front.
2. The City Council concurs with the Planning Commission’s recommendation; and

3. The agenda for this City Council meeting includes consideration of the final adoption of Ordinance No. 14-18; and
4. The agenda for this City Council meeting also includes consideration of a resolution approving the terms, conditions and wording of a proposed final consent order resulting in the dismissal of the lawsuit of *Granger Group of Companies, LLC, et al. v City of Wyoming*, case number 2018-03060-AW, pending in the Kent County Circuit Court; and
5. Under subsection 74-64(5) of the City Code, a requirement for preliminary plat approval is an agreement between the developer of a plat and the City for construction of all required improvements and the Plat Improvement Construction Agreement in the form attached as Exhibit A meets that requirement (the “Agreement”); and
6. The City Council wishes to encourage and facilitate development of the Plat and the remainder of “The Reserve at Rivertown.”

NOW, THEREFORE BE IT RESOLVED:

1. The Plat is tentatively approved subject to the following conditions:
  1. The conditions in section 105 of the Land Division Act, 1967 PA 288, MCL 560.105.
  2. City Council approval of Ordinance No. 14-18 rezoning the property to the PUD-1 zoning district.
  3. Dismissal of the lawsuit of *Granger Group of Companies, LLC, et al. v City of Wyoming*, case number 2018-03060-AW, pending in the Kent County Circuit Court in accordance with a final order approved by the City Council, and the specific agreement of the parties.
  4. Entry of an agreement with the City for construction of all required improvements as required by subsection 74-64(5) of the Code of Ordinances, City of Wyoming, Michigan.
  5. A deed restriction or covenant requiring owners of each lot in the plat to be a member of and obligated to pay dues and special assessments imposed by a homeowners’ association to be formed by the developer prior to the sale of any lot in any phase of the plat as required by the (i) conditions imposed on the Planning Commission’s approval on September 21, 2018, of the Overall Development Plan for the Rivertown Valley PUD also known as “The Reserve at Rivertown,” (ii) the terms of the court order dismissing the lawsuit referred to in condition 3, and (iii) by Ordinance No. 14-18 rezoning the property included in the plat. The draft of the proposed “Master Declaration of Covenants, Conditions, and Restrictions – The Reserve at Rivertown” submitted to the City Attorney by e-mail on Tuesday, August 28, 2018, meets this requirement.
  6. Compliance with all conditions of the Planning Commission’s approval on September 21, 2018, of the Overall Development Plan for the Rivertown Valley PUD also known as “The Reserve at Rivertown” as they relate to the plat, including, without limitation, amenities to be constructed within or available to occupants of the plat, or any improvements comprising or within the plat.
  7. A drainage plan that (i) complies with City ordinance requirements, (ii) shows any needed public and private easements, and (iii) establishes minimum floor/building

opening elevations where needed, shall be submitted before preliminary plat final approval.

8. The rear yard setback for Lot 133 must comply with the 35-foot rear yard setback.
9. The driveways for Lots 133, 136, 137, 141, 142, 159, 160, 161, 162, 163, 164, 165, 166, and 193 shall not connect to Nile or Reserve Drive, but shall connect to the other streets on which those lots front.
2. The Agreement is approved in substantially the form attached as Exhibit A, subject to such modifications as are approved by and acceptable to the Mayor, City Manager, and City Attorney, and the Mayor and City Clerk are authorized and directed to sign the Agreement on behalf of the City.
3. All resolutions and parts of resolutions are, to the extent any conflict with this Resolution, rescinded.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried    Yes

                          No

#### CERTIFICATION

I hereby certify that this resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on September 4, 2018.

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

ATTACHMENTS:    Staff Report  
                          Proposal

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

## Staff Report

Date: August 29, 2018  
Subject: Agenda items related to Granger Group  
From: Curtis Holt, City Manager  
Scott Smith, City Attorney

Meeting Date: September 4, 2018

---

### Background:

On April 5, 2018, the Granger Group of Companies, LLC and other entities having ownership interests in the proposed Rivertown Valley PUD property and its development (also called "The Reserve at Rivertown") sued the City in the Kent County Circuit Court. Beginning early in July, Granger Group representatives and City staff have worked to resolve the lawsuit and, in doing so, address myriad development-related issues.

Several agenda items are related to this issue. The agenda deviates from your usual agenda order so that all issues may be simultaneously discussed and then considered in an appropriate order.

### Recommendation:

Staff recommends the following actions:

1. Approve agenda item 15-b, "Resolution to Approve the Proposed Stipulated Final Order Settling *Granger Group Of Companies LLC V City Of Wyoming* Lawsuit and Authorizing Actions to Finalize that Settlement" thereby approving the terms of the settlement of the lawsuit as provided in the proposed Stipulated Final Order and authorizes and directs the Mayor, City Clerk, City Attorney and attorneys from Johnson, Rosati, Schultz & Joppich P.C. to sign and take all actions needed to enter that order and effectuate the settlement.
2. Adopt agenda item 15-c (Ordinance No. 14-18) conditionally rezoning the Granger Group property to the PUD-1 zoning district.
3. Approve agenda item 15-d, "Resolution to Approve Rivertown Valley Plat Phases IV - IX and Approve and Authorize the Signing of Plat Improvement Construction Agreement with the Plat's Developer" that conditionally approves the Rivertown Valley Plat Phases IV-IX and the Plat Improvements Construction Agreement, and authorizes and directs the Mayor and City Clerk to sign that agreement.

### Sustainability Criteria:

Environmental Quality – Approval (i) preserves wetlands, other environmental areas and open spaces, and (ii) limits overall density as required by the City's zoning

other ordinances. Approval will also specify some design elements that are improvements over what was previously proposed.

Social Equity – Approval will enable development of a project that provides a variety of housing options.

Economic Strength – Approval will settle a lawsuit in a manner acceptable to the City without payment of additional defense costs or any damages. The approved development would increase the City's tax base. Settlement terms will ensure adequate funding to maintain the development's common areas and amenities consistent with comparable City-owned amenities.

Quality Customer Service – Approval (i) provides the property owner needed initial approvals to develop the property, (ii) provides amenities for those residing in the development without cost to City taxpayers, (iii) addresses walkability and pedestrian safety, (iv) allows for housing options meeting varying market demands, and (v) ends a lawsuit that could result in a development that is far less desirable.

#### Discussion:

The proposed Council actions resolve the lawsuit. All the proposed actions are needed to do so. The developer will settle the lawsuit only if the Council also approves the development-related actions.

Lawsuits are costly. One estimate of legal costs to defend the lawsuit is over \$350,000. An award of monetary damages could be very costly. The outcome of a lawsuit is uncertain. Therefore, the only way to know the outcome of a lawsuit is to agree to settlement terms.

The proposed Council actions give needed approvals for a development that is modified to address previously expressed concerns and requests for changes. The Planning Commission approved revised overall development plan ("ODP") on August 21, 2018. It is a revision to the ODP approved by the Planning Commission on February 20, 2018, following public hearings on January 16, 2018 and on February 20, 2018. The rezoning is the same rezoning that Council considered in March with the addition of conditions to address expressed concerns. These conditions tie the rezoning to the ODP and to settlement of the lawsuit. The proposed plat is the same plat the Planning Commission tabled in August 2017, with modifications to address staff concerns including modifications to the plat name and phase number. To avoid confusion, attempts have been made to cross-reference the various project names.

The revised ODP very slightly increase the open space acreage but does not change the total number of units and the overall density remains under the 4 units per acre maximum set in the zoning ordinance. The ODP's details for single-story flats (thought to be generally attractive to downsizing "empty-nesters") have proposed building footprints, features, exterior finishes and contemplated price points that differ from the townhouses previously contemplated for that portion of the development. The luxury apartment/townhouse component provides building footprints, features, exterior finishes,

and contemplated price points that are improved over the larger, multi-story buildings in the current ODP.

Attachments:

Resolution to Approve the Proposed Stipulated Final Order Settling *Granger Group Of Companies LLC v City Of Wyoming* Lawsuit and Authorizing Actions to Finalize that Settlement

Stipulated Final Order

Ordinance to Amend Section 90-32 of the Code of the City of Wyoming by Adding Subsection (110) to Conditionally Rezone Property for the Reserve at Rivertown PUD

Resolution to Approve Rivertown Valley Plat Phases IV – IX and Approve and Authorize the Signing of Plat Improvement Construction Agreement with the Plat’s Developer

Plat Improvement Construction Agreement

DRAFT “Master Declaration of Covenants, Conditions, and Restrictions – The Reserve at Rivertown” submitted to the City Attorney by e-mail on Tuesday, August 28, 2018

## PLAT IMPROVEMENTS CONSTRUCTION AGREEMENT

This Plat Improvement Construction Agreement is made as of September 5, 2018, between the City of Wyoming, a Michigan municipal corporation of 1155 28<sup>th</sup> Street SW, Wyoming, MI 49509 (the “**City**”) and Granger Group of Companies, LLC, a Michigan limited liability company of 2221 Health Drive SW, Suite 2200, Wyoming, MI 49519 (the “**Developer**”) pursuant to subsection 74-64(5) of the Code of Ordinances, City of Wyoming, Michigan (“**City Code**”).

### RECITALS

A. At its meeting of August 30, 2018, the City’s Planning Commission recommended tentative approval of the preliminary plat for the Rivertown Valley Plat Phases IV – IX also known as “The Reserve at Rivertown” (the “**Plat**”), subject to specified conditions.

B. At its meeting of September 4, 2018, the City Council tentatively approved the Plat subject to the following conditions:

1. The conditions in section 105 of the Land Division Act, 1967 PA 288, MCL 560.105.
2. City Council approval of Ordinance No. 14-18 rezoning the property to the PUD-1 zoning district.
3. Dismissal of the lawsuit of *Granger Group of Companies, LLC, et al. v City of Wyoming*, case number 2018-03060-AW, pending in the Kent County Circuit Court in accordance with a final order approved by the City Council.
4. Entry of an agreement with the City for construction of all required improvements.
5. A deed restriction or covenant requiring owners of each lot in the plat to be a member of and obligated to pay dues and special assessments imposed by a homeowners’ association to be formed by the developer prior to the sale of any lot in any phase of the plat as required by the (i) conditions imposed on the Planning Commission’s approval on September 21, 2018, of the Overall Development Plan for the Rivertown Valley PUD also known as “The Reserve at Rivertown,” (ii) the terms of the court order dismissing the lawsuit referred to in condition 3, and (iii) by Ordinance No. 14-18 rezoning the property included in the plat. The draft of the proposed “Master Declaration of Covenants, Conditions, and Restrictions – The Reserve at Rivertown” submitted to the City Attorney by e-mail on Tuesday, August 28, 2018, meets this requirement.
6. Compliance with all conditions of the Planning Commission’s approval on September 21, 2018, of the Overall Development Plan for the Rivertown Valley PUD also known as “The Reserve at Rivertown” as they relate to the plat, including, without limitation, amenities to be constructed within or available to occupants of the plat, or any improvements comprising or within the plat.
7. A drainage plan that (i) complies with City ordinance requirements, (ii) shows any needed public and private easements, and (iii) establishes minimum floor/building opening elevations where needed, shall be submitted before preliminary plat final approval.
8. The rear yard setback for Lot 133 must comply with the 35-foot rear yard setback.
9. The driveways for Lots 133, 136, 137, 141, 142, 159, 160, 161, 162, 163, 164, 165, 166, and 193 shall not connect to Nile or Reserve Drive, but shall connect to the other streets on which those lots front.

C. This Agreement is intended to fulfill condition 4.

### TERMS AND CONDITIONS

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

#### 1. Approvals.

A. The Developer shall submit to the City Engineer for review and acceptance plans and specifications for all (i) streets, (ii) water and sanitary sewer mains, stubs, laterals and other facilities, (iii) drains and

storm sewer mains, connections and other facilities, (iv) street lights, (v) sidewalks, (vi) any other improvements to be placed within any rights-of-way or easements to be dedicated to the City, (vii) any connections to City water, sewer, or storm sewer facilities, (viii) all connections to or intersections with existing City infrastructure, (ix) any other infrastructure or facilities to be conveyed or dedicated to the City, and (x) any other improvements for which City approval of plans or specifications is required by law (the “**Improvements**”).

B. The plans and specifications shall comply with all applicable City requirements and standards, and with applicable requirements and standards of any other governmental entity, agency or official of competent jurisdiction. Where no such requirements or standards apply, then the plans and specifications shall comply with standard engineering, right-of-way, and utility practices.

C. The City will review, comment on, accept, require changes in or reject the submitted plans and specifications in accordance with its normal practices and procedures.

## 2. Construction.

A. The Developer shall construct the improvements in accordance with the accepted plans and specifications.

B. The Developer shall enable the City to inspect all work on such Improvements before it is covered or unable to be viewed and tested.

C. The Developer shall test the Improvements as needed to comply with (i) City requirements and standards, (ii) applicable requirements and standards of any other governmental entity, agency or official of competent jurisdiction, and (iii) standard engineering, construction and utility practices. City representatives shall be enabled to attend, observe and participate in such testing as is common practice.

3. Acceptance. If the Improvements are designed, constructed, inspected and tested as required by this Agreement, the City shall accept dedication and conveyance in a form and manner acceptable to the City Engineer, City Manager and City Attorney. All dedications and conveyances shall be accompanied by any easements or other property rights the City attorney deems necessary.

## 4. General Provisions.

A. This is the entire agreement between the parties as to its subject matter. It shall not be amended or modified except in writing signed by all the parties. It shall not be affected by any course of dealing and the waiver of any breach shall not constitute a waiver of any subsequent breach of the same or any other provision.

C. This Agreement and the rights and obligations of the parties under this Agreement shall be governed by, and construed and interpreted in accordance with, the laws of the State of Michigan.

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

F. This Agreement and the rights and obligations under this Agreement are unassignable and non-transferable without the consent of the other parties. It shall, however, be binding upon any successors or permitted assigns of the parties.

G. This Agreement shall be enforceable only by the parties and no other person shall have the right to enforce any provision.

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

I. To the extent permitted by law, the jurisdiction and venue for any action brought pursuant to, arising from or to enforce any provision of this Agreement shall be solely in the state courts in Kent County, Michigan and the prevailing party in any such action shall, in addition to any other remedy, be entitled to recover its costs, including, without limitation, actual, reasonable filing fees, legal fees, expert fees, discovery expenses and other costs incurred to investigate, bring, maintain or defend any such action for its first accrual or first notice thereof through all appellate and collection proceedings.

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

CITY OF WYOMING

GRANGER GROUP OF COMPANIES, LLC

By: \_\_\_\_\_  
Jack A. Poll, Mayor

By: \_\_\_\_\_  
Gary Granger, Member

By: \_\_\_\_\_  
Kelli A. Vandenberg, Clerk

Date signed: \_\_\_\_\_, 2018

Date signed: \_\_\_\_\_, 2018

Approved as to form:

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

**DRAFT – SUBJECT TO CHANGE**

**MASTER DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS**

**THE RESERVE AT RIVERTOWN**

THIS MASTER DECLARATION OF COVENANTS, CONDITIONS, AND RESTRICTIONS (“**Declaration**”) is made effective as of this \_\_\_\_ day of \_\_\_\_\_, 201\_, by \_\_\_\_\_ LLC, a Michigan limited liability company (“**Declarant**”), whose address is \_\_\_\_\_.

**RECITALS**

A. Declarant is the owner of the real property situated in the City of Wyoming, County of Kent, and State of Michigan described on attached Exhibit A (the “**Development**”).

B. The Development consists of four separate Areas (each, an “**Area**”, and collectively, the “**Areas**”), as approximately shown on the site plan on attached Exhibit B (the “**Site Plan**”). The respective Areas are presently planned to be developed in accordance with the Site Plan.

C. Declarant desires to subject the Development to the covenants, conditions, restrictions, easements, charges, and liens set forth in this Declaration, which are for the benefit of the Development and each owner of land within the Development (each an “**Owner**” and collectively, the “**Owners**”).

NOW, THEREFORE, in consideration of the mutual benefits to be derived by the Declarant, its successors and assigns, and all intending purchasers, future owners and tenants of the lands within the Development, the undersigned Declarant for itself, its successors and assigns does hereby publish, declare and make known to all intending purchasers, future owners and tenants of lands within the Development, that the same will and shall be used, held, developed and/or sold expressly subject to the terms and conditions of this Declaration, which shall run with the land and be binding upon all grantees of lands within the Development and on their respective heirs, personal representatives, successors and assigns.

**ARTICLE I**

**ASSOCIATION OF OWNERS**

Section 1. Establishment of Association.

The Declarant has established The Reserve at Rivertown Community Association, as an association of all of the Owners of the Areas (including Resulting Lots as defined herein) (the “**Association**”). The Association is a non-profit corporation and shall have such powers as are set forth in

this Declaration, as well as those set forth in the corporate Bylaws for the Association and/or as are assigned to the Association from Declarant as permitted herein.

Notwithstanding the foregoing, although the Commercial Area is part of the Development, it does not have the right to use Common Areas, it is not responsible for any assessments and it does not have voting rights unless otherwise provided herein or otherwise agreed to by the Owner of the Commercial Area (or portion thereof) and the Association.

Section 2. Common Areas.

“**Common Areas**” shall mean those areas of land within the Development (including the improvements thereto) now or hereafter identified by the Declarant as areas in the Development that are available for the use, enjoyment and benefit of the Development as a whole. The initial Common Areas shall include, but not be limited to, the areas of the Development identified on Exhibit B attached hereto. To the extent not included on Exhibit B, the Common Areas shall also include (i) the roadways and alleys throughout the Development to the extent such roadways are not dedicated to a public body; (ii) the utility systems and service lines throughout the Development (including storm water drainage and retention facilities, if any) to the extent not dedicated to a public body; (iii) the community buildings to be established within the Development; (iv) the tennis courts and parking areas and (v) any present or future walking or bicycle path or trail throughout the Development. The Common Areas do not include public land and/or any land, road, drive, walk or area that has been dedicated or granted to a public body.

The Declarant shall have the right, in its sole discretion, to add additional Common Areas anywhere within the Development (including those portions of the Development that have been previously conveyed to third parties), and/or to expand, contract, change or modify previously designated Common Areas. The Declarant may establish such Common Areas by transferring fee title to the Common Areas to the Association; granting an easement for use of the Common Areas to the Association; amending this Declaration; or otherwise designating and identifying the Common Areas in a manner determined by the Declarant.

Unless otherwise provided in any easement or grant or designation, and except as otherwise provided herein (including without limitation as contemplated by the following paragraphs), the use and enjoyment of the Common Areas, including the community buildings and the tennis courts, shall be solely for the benefit of the Association and all of its members (i.e. the Owners), and their respective tenants, employees, contractors, invitees, successors, heirs and assigns. Unless otherwise provided in any easement, grant or designation, the Association shall be responsible for the use, maintenance, repair, replacement, operation, management and insurance of the Common Areas and all costs related thereto. As members of the Association, each Owner shall participate in such costs as provided in this Declaration.

Notwithstanding the foregoing, the Association shall have the right to enter agreements (which may take the form of an easement or reciprocal easement) with the Rivertown Valley Association (as defined herein) and/or owners of Phase Two and/or Phase Three (as defined herein) that allow the members of the Rivertown Valley Association and/or the owners of land within Phase Two and/or Phase Three to use the community buildings and/or the tennis courts and/or other Common Areas even though such members and owners are not members of the Association. The terms and conditions of any agreement (or easement) between the Association and the Rivertown Valley Association and/or of the owners in Phase Two and/or Phase Three, shall be negotiated and determined by the respective parties in their sole discretion.

In addition to, and notwithstanding the foregoing, as part of the agreements and potential shared use arrangements contemplated in the preceding paragraph, the Association and the Rivertown Valley Association may enter an arrangement in which the Association agrees to perform all of the repair, maintenance, administration, assessment, collection and financial work and/or services that are currently being performed by the Rivertown Valley Association. If the parties desire to enter such an agreement, the terms and conditions shall be set forth in a written agreement that is mutually acceptable to the parties.

Section 3. Membership.

Every Owner of land in the Development shall be a member of the Association; provided, however, Owners shall not include public entities or governmental bodies that own or control interests in any roads, rights of way, utility systems or other infrastructure only and/or the grantees of any easements, or licenses. Membership in the Association is, and shall be, appurtenant to, and may not be separated from, ownership of real property within the Development. Notwithstanding the foregoing, the termination of any person's ownership interest, and the consequent termination of such person's membership in the Association, shall not relieve such person from any debt or obligation which accrued or arose during the period such person was an Owner. In addition, as provided above, the Commercial Area shall not be entitled to use Common Areas, shall have no voting rights and shall have no obligation to pay assessments.

Section 4. Membership Voting Rights.

(a) Except as otherwise provided herein, the Declarant shall have the exclusive right to vote on all matters requiring a vote of the members of the Association including the election of the members of the Board of Directors of the Association (the "**Board**"), and the other Owners of real property within the Development shall not have the right to vote on any matters related to the Association or the Development until the Transfer Date as provided in Section 5 of this Article III below.

(b) To the extent that the members are entitled to vote, they shall vote based on the number of votes assigned to each Area as set forth on Exhibit C attached hereto. In the event an Area is legally subdivided (which may occur by recording of a plat, recording of a Master Deed or pursuant to a land division under the Michigan Land Division Act or otherwise divided among individual dwellings or space by lease; then the Declarant shall allocate the voting rights that are assigned to the Area being so divided among the resulting lots, units, dwellings or space (each a "**Resulting Lot**") as reasonably determined by Declarant and Declarant shall record an amendment to this Declaration, or other reasonable instrument, that sets forth the allocation of such Area's voting rights among the Resulting Lots. In the event the Resulting Lots within an Area are consolidated, modified or further subdivided, the Declarant shall also have the right to reallocate voting rights with regard to such modified Resulting Lot as reasonably determined by Declarant and Declarant shall record an amendment to this Declaration, or other reasonable instrument, that sets forth the modified allocation of voting rights.

Notwithstanding the foregoing, voting rights in Area 1 shall be allocated among Resulting Lots on a one vote per one Resulting Lot, and potential Resulting Lot, basis. As such, the Resulting Lots established by the recording of a plat (or the recording of a Master Deed with respect to a site condominium) shall be entitled to one vote each and the remaining potential Resulting Lots shall continue to be entitled to the remaining votes that are allocated to Area 1. The value of voting rights assigned to an Area is subject to change based on any change in the number of potential Resulting Lots.

For example, if a plat is recorded in Area 1 that establishes 24 new Resulting Lots, the Owners of the Resulting Lots would be entitled to one vote each (a total of 24) and the Owner of the remainder of

Area 1 would be entitled to the remaining 151 votes (based on the remaining potential Resulting Lots). In addition, the Owners of Areas 2 and 3 would continue to be entitled to cast all of the votes allocated to Areas 2 and 3 as set forth in Exhibit C (even though the potential Resulting Lots and/or dwelling units have not been constructed at the time of the vote).

(c) The Association may suspend the voting rights by an Owner for any period during which any assessment against their Area or Resulting Lot remains unpaid, and for a period not to exceed sixty (60) days per violation for any violation of this Declaration or the ACC's published rules and regulations.

Section 5. Board of Directors; Transfer Date.

(a) As more fully provided in the Bylaws of the Association, the affairs, business and operation of the Association shall be conducted by the Board. The initial Board shall consist of the following three (3) individuals: Ryan Granger, Gary Granger and Greg Markvlower. Each Director shall have their position for a one year term. The number of Directors may be increased or decreased, and their respective terms of office may be increased or decreased, as determined by the Declarant until the Transfer Date, thereafter such decisions shall be made by vote of the members of the Association.

(b) Elections or re-elections of the Board shall occur in accordance with the Association Bylaws. The Declarant shall have the sole right to vote as a member of the Association, and the consequent right to appoint the Board, until such date (the "**Transfer Date**") as shall be the earlier to occur of: (i) twenty (20) years from the date of recording of this Declaration; (ii) the date that Declarant no longer owns any portion of the Development; or (iii) such earlier date as may hereafter be designated in writing by the Declarant. From and after the Transfer Date, the Board shall be elected by, and other actions of the members of the Association shall be authorized by, the combined vote of all of the members of the Association.

Section 6. General Assessments.

(a) Each Owner, by acceptance of a deed therefor, is deemed to covenant and agree to pay to the Association general and special assessments or charges in relation to the real property that they own to cover the ordinary costs and expenses experienced by the Association in the ordinary course of the operation and administration of the Development (including the Common Area). The assessments levied by the Association shall be used to promote the recreation, health, safety, security and welfare of the Development as determined by the Board in its sole discretion, including, but not limited to, for costs and expenses related to the Common Areas.

(b) Unless otherwise determined by the Board, the general assessment shall be a projected annual amount that is payable in quarterly installments. The amount of the annual assessment shall be determined on an annual basis by the Board. The Board shall notify each Owner of their respective portion of the general assessment and the due date for such installments. Failure by the Association to send such written notice shall not permit any Owner to avoid paying the assessment, but shall delay such Owner's assessment due date until thirty (30) days following the date that such notice of assessment is eventually sent. The Association shall, upon demand, and for a reasonable charge, furnish a certificate signed by an officer of the Association setting forth whether the assessments in relation to a specified Resulting Lot have been paid. A properly executed certificate of the Association as to the status of assessments on an Area or Resulting Lot shall be binding upon the Association as of the date of its issuance.

(c) All assessments shall be allocated to the respective Areas based on the percentages set forth on Exhibit C attached hereto. In the event an Area is subdivided (which may occur by recording of a plat, recording of a Master Deed or pursuant to a land division under the Michigan Land Division Act or such other manner as reasonably determined by the Declarant), the Declarant shall allocate the share of the assessments that are assigned to the Area being subdivided among the Resulting Lots (defined above) as reasonably determined by Declarant and Declarant shall record an amendment to this Declaration, or other reasonable instrument, that sets forth the allocation of such Area's assessment obligations among the Resulting Lots. In the event the Resulting Lots within an Area are consolidated, modified or further subdivided, the Declarant shall also have the right to reallocate responsibility for assessments with regard to such modified Resulting Lot(s) as reasonably determined by Declarant and Declarant shall record an amendment to this Declaration, or other reasonable instrument, that sets forth the modified allocation of assessment obligations. The Declarant shall also have the right to modify responsibility for assessments, including by Area or Resulting Lots, in the event that there is a change in the number of potential Resulting Lots.

Notwithstanding the foregoing, assessment obligations within in Area 1 shall be allocated among Resulting Lots (and potential Resulting Lots) on a pro rata basis. As such, each Resulting Lot established by the recording of a plat (or the recording of a Master Deed with respect to a site condominium) and the remaining potential Resulting Lots shall each be responsible for 1/613<sup>th</sup> (or .1%) of the amount of general assessments of the Association. Area 2, Area 3 and the Commercial Area are not presently intended to be subdivided. As such, the Owner of such Areas shall be responsible for all of the entire assessment obligations assigned to such Areas.

For example, if the annual general assessment is \$10,000, then each Owner of a Resulting Lot, and a potential Resulting Lot, in Area 1 would be responsible for \$16.13 (for a total of \$2,850 for Area 1); the Owner of Area 2 would be responsible for a total of \$2,250; and the Owner of Area 3 would be responsible for \$4,900.

(d) In addition, and notwithstanding the foregoing, the Owners of Areas 2 and 3 shall have the right to recapture assessments, and/or to assign responsibility for payment of assessments, to tenants, occupants, guests, users and/or licensees of apartments, townhomes, flats and/or commercial space that is established within such Areas. The Owner of Areas 2 and 3 shall also have the right to withhold or deny use of Common Areas and/or Association amenities (such as the community buildings or tennis courts) in connection with arrangements made between an Owner of such Areas and its tenants, occupants, guests, users and/or licensees.

#### Section 7. Special Assessments.

(a) In addition to the general assessments authorized above, the Association may levy a special assessment for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction, repair, replacement or maintenance of any improvement upon the Common Areas and other areas, facilities and amenities which now or hereafter may be under the control of the Association and/or for matters that do not arise in the ordinary course of the Association's business or that arise from unexpected events or emergencies. Special assessments may be levied generally against the entire Development, or against the portion of the Areas or Resulting Lots that benefit from the special assessment. Special assessments that apply generally to the Development shall be allocated among the Areas, Resulting Lots, potential Resulting Lots, and paid by the respective Owners, in accordance with the calculation process set forth in Article I, Section 6(c) above.

(b) The Development is adjacent to the planned unit development known as Rivertown Valley ("**Rivertown Valley**") which consists of the plat recorded in Liber \_\_\_\_, Page \_\_\_\_, of

Kent County records (“**Phase One**”), the plat recorded in Liber \_\_\_\_, Page \_\_\_\_, of Kent County records (“**Phase Two**”) and the plat recorded in Liber \_\_\_\_, Page \_\_\_\_, of Kent County records (“**Phase Three**”). Phase One of Rivertown Valley is operated, managed and administered by Rivertown Valley Community Association, a Michigan nonprofit corporation (“**Rivertown Valley Association**”). However, the declarations of restrictions related to Phase Two and Phase Three of Rivertown Valley failed to require such phases to participate in or be a part of the Rivertown Valley Association. In connection with obtaining approval of the PUD Ordinance, the Declarant agreed to attempt to persuade owners in Phase Two and Phase Three to record a declaration against their lots that would join their lots to, and make their lots a part of, either the Rivertown Valley Association or the Association and which would require such lots to pay the required assessments to the association that they join. To the extent owners of lots in Phase Two and/or Phase Three fail or refuse to join either of the associations, the Association has agreed to be responsible for any shortfall that results from the failure of such owners to pay regular assessments to an association. In addition, to the extent the Association is ever obligated to cover such assessments on behalf of such owners, or to a third party, the Association also hereby simultaneously imposes a special assessment on and against Area 3 for the full amount of such charge or assessment that may be payable to cover assessments that would otherwise be payable by the owners in Phase Two and/or Phase Three.

Section 8. Lien; Effect of Nonpayment of Assessments.

The general and special assessments, together with interest thereon, late payment fees and collection costs, including reasonable attorney’s fees, shall be a charge against the Owner’s real property and shall be a continuing lien against such real property. Each such assessment, together with interest thereon, late payment fees and costs of collection thereof, including reasonable attorney’s fees, shall also be the personal obligation of the person who was the Owner at the time the assessment fell due. Any assessment not paid in full within thirty (30) days following its due date shall bear interest from the due date at the rate of ten (10%) percent per annum and shall be subject to a late payment fee equal to fifteen (15%) percent of the amount of the assessment to cover the cost of collection by the Association. The aggregate amount of the unpaid assessment, interest, late payment fee, and the Association’s related collection costs shall be a lien against the real property corresponding to the unpaid assessment. The Association may bring an action at law against the Owner personally obligated to pay the assessment, interest, late payment fee and Association’s collection costs, and may foreclose the lien against the real property. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of their real property.

Section 9. Management Agent.

The Board shall be permitted to retain the services of a management agent to aid it in administering and carrying out the purposes of the Association, and may utilize a portion of the assessments that it collects to pay such management agent a fee deemed reasonable by the Board.

ARTICLE II  
ARCHITECTURAL CONTROL

Section 1. Architectural Control Committee.

The Architectural Control Committee (the “**ACC**”) is initially composed solely of the Declarant. The Declarant shall have the power to appoint additional members to the ACC until such time as Declarant chooses, in its sole discretion, to assign such right as described below. The number of ACC members may be increased or decreased at any time by Declarant in its sole discretion.

Section 2. Establishment of Improvements & Division and Subdivision of Areas.

Without the prior written consent of the ACC, no Owner shall (i) commence or construct any improvements on any portion of any Area or Resulting Lot (including, but not limited to, any building, dwelling, fence, landscaping, infrastructure, utility or other physical improvements); (ii) divide or subdivide an Area or Resulting Lot into individual lots and/or condominium units or create a condominium; or (iii) make any lot line adjustments or other modifications to the dimensions, sizes, or boundaries of an Area or Resulting Lot. In addition, all of the foregoing actions shall comply with all applicable laws, ordinances, and regulations, including, but not limited to, the Michigan Land Division Act, the PUD Ordinance and/or the Michigan Condominium Act (as applicable). If an Owner desires to take any of the foregoing actions, such Owner or its agent shall submit an application to the ACC which shall include a professionally drawn site plan and professionally drawn plans and specifications showing: (i) the size, boundary locations and topography of the resulting properties; (ii) the location of utilities, storm water drainage and improvements within each affected Area or Resulting Lot; (iii) the nature, kind, size, shape, height, materials, location, dimensions and detail of the proposed improvements (if applicable); (iv) the location, dimensions and detail of all proposed landscaping; (v) all proposed vehicular and pedestrian accesses including any curb cuts, driveways or roadways; and (vi) any additional plans and specifications or other documents requested by the ACC. Upon receipt of such information, the ACC shall consider such application in accordance with the terms and conditions set forth herein and standards that may be established by the ACC from time to time in its sole discretion, including those set forth in Section 4 below.

Section 3. Preliminary Plans.

Prior to submitting plans and specifications for final approval, preliminary plans and specifications may first be submitted to the ACC for preliminary approval. If the preliminary materials are disapproved or approved subject to conditions, the ACC shall state in writing the reasons for disapproval or the conditions to be met.

Section 4. Approval Standards.

The ACC may disapprove plans and specifications because of noncompliance with any of the restrictions set forth in this Declaration or other standards established by the ACC from time to time, or because of the ACC's dissatisfaction with the grading and drainage plan, the proposed location of the improvements or unit or lot lines, impact on traffic, parking and/or connections to, from and within the Development, the materials or color scheme to be used, the finished design, proportions, shape, height, style, or appropriateness of the proposed improvements, landscaping, or because of any matter or thing, which in the sole discretion of the ACC, would render the proposed improvements and/or resulting s, and/or units and/or the improvements thereon, inharmonious or out of keeping with the objectives of the ACC or with the Development as a whole. The ACC may, but is not required to, establish design standards which set forth detailed design, architectural and aesthetic requirements for the establishment of improvements and/or landscaping within any or all of the respective Area or Resulting Lot. Such requirements or standards will be in addition to any requirements or standards set forth herein. Such standards may address the unique topography and/or features of the particular involved Areas or Resulting Lots. All Owners, by accepting ownership of lands within the Development, acknowledge that the primary purpose for providing for architectural control is to ensure the proper and harmonious development of the Development and its blending with the surrounding area, and to enhance the Development. To this end, the ACC shall have broad discretion in its decision-making hereunder.

Section 5. Supplements and Re-Submittals; Duration of Approvals.

In the event a submission to the ACC requires a supplement or a re-submittal, the Owner seeking approval from the ACC shall promptly submit such additional or revised materials that the ACC requires. Determinations of the ACC shall be effective for a period of two (2) years from the date of their approval. If construction is not commenced prior to the expiration of such periods, the ACC approval shall lapse and terminate and a new approval shall be required.

Section 6. Evidence of Approval.

ACC approval shall be deemed given if the plans and specifications submitted for final approval are marked or stamped as having been approved by a majority of the ACC (or, during the period that the Declarant is the sole member of the ACC, by the Declarant), and are dated and signed by a majority of the members of the ACC who were validly serving on the ACC on the date of such approval (or, during the period that the Declarant is the sole member of the ACC, by the Declarant).

Section 7. No Liability.

In no event shall either Declarant or the ACC have any liability whatsoever to any person or entity for their approval or disapproval of plans and specifications, regardless of whether such alleged liability is based on negligence, tort, express or implied contract, fiduciary duty or otherwise. By way of example, neither Declarant nor the ACC shall have liability to anyone for approving or disapproving plans and specifications which provide for improvements or subdivisions of Areas or Resulting Lots that are not in conformity with the provisions of this Declaration. In addition, the ACC shall not be required to pass upon, and the approval by the ACC does not mean that the ACC has passed upon, any technical aspects of construction or whether the proposed construction or subdivision meets zoning, building codes, safety requirements, municipal ordinances, or requirements. The ACC's approval shall merely mean that the plans and specifications are in compliance with the intent and purpose of this Declaration as interpreted by, and the standards developed by, the ACC at the time. Owner shall be responsible for compliance with all laws and regulations and shall not look to the ACC for assistance or advice in complying with the same.

Section 8. Assignment of Appointment Powers.

Declarant may, in Declarant's sole discretion, assign, transfer and delegate its power to appoint members to the ACC to the Association (defined below) or to other third parties upon such terms and conditions as Declarant deems acceptable in its sole discretion.

ARTICLE III  
EASEMENTS

Section 1. Dedications by the Declarant.

The Declarant shall have the right, but shall not be obligated, to dedicate all or any portion of the roads, storm water drainage system, sanitary sewers, water mains, other utility lines and mains, and pumping stations located or to be located on or under the Development, electric, gas, cable television, telecommunications or other similar service lines to the City of Wyoming, the County of Kent, State of Michigan and/or any other appropriate governmental authorities or a quasi-governmental service provider. The Declarant shall also have the right to grant appropriate easements, licenses, or other contractual rights to the above governmental bodies or any appropriate public or private utility company or service provider over any portion of the Development for the purpose of installing, maintaining and/or

repairing any storm sewers, sanitary sewers, water mains, other utility lines and mains, pumping stations, electric, gas, cable, internet, telecommunications, or other similar services, whether or not the same are dedicated. All of the Owners and mortgagees of lands within the Development and other persons interested or who become interested in the Development from time to time shall be deemed to have irrevocably and unanimously consented to such easements, licenses, or contracts as are necessary, in the Declarant's sole discretion, to effectuate the purposes of this Article and all such persons irrevocably appoint the Declarant, its successors and assigns, as agent and attorney-in-fact for the purpose of execution of such agreements as may be necessary to effectuate the purposes of this Article. The Declarant shall also have the right to add or remove land, open areas, easement areas or other facilities to the Common Area.

Section 2. Easements on Common Areas.

Each Owner shall have an easement to use the Common Areas in a manner that does not interfere with the other Owners' use and enjoyment of the Common Areas or the Association's, Declarant's, or ACC's rights under this Declaration. Such easement shall not be personal, but shall be considered to be appurtenant to the Areas and Resulting Lots and shall pass with the title to the Areas and/or Resulting Lots whether or not specifically set forth in the deeds of conveyance of the Areas and/or Resulting Lots. The Association may suspend the right to use the Common Areas by an Owner for any period during which any assessment against their Area or Resulting Lots remains unpaid, and for a period not to exceed sixty (60) days per violation for any violation of this Declaration or the ACC's published rules and regulations. As described herein, the Association shall have the right to add land located in Phase Two and/or Phase Three to the Association and/or to enter agreements with the Rivertown Valley Association that permit its members to use the Common Areas. In either event, such owners and members shall also have an easement to use the Common Areas. In addition, and notwithstanding the foregoing, the Association shall have the right (but not the obligation) to grant additional easements that include the right to use the Common Areas based on terms and conditions that are acceptable to the Association in its sole discretion.

The Association shall have an easement over the Common Areas and the adjoining areas of the Areas and/or Resulting Lots as may be necessary for the maintenance, repair, and replacement of the Common Areas.

The Owner of an Area or Resulting Lot may permit or deny the use of the Common Areas by their tenants, occupants, guests, users and/or licensees of apartments, townhomes, flats and/or commercial space that is established within such Areas. The Owners may condition, restrict or limit rights to use the Common Areas (including the community buildings and tennis courts) as determined by the Owner.

Section 3. Indemnification.

Each Owner, or other person or entity, having rights with respect to an easement granted under this Declaration shall indemnify and hold the Owner whose real property is subject to the easement harmless from and against all claims, liabilities and expenses (including reasonable attorneys' fees) relating to accidents, injuries, loss, or damage of or to any person or property arising from the negligent, intentional or willful acts or omissions of such Owner (or other person or entity), its contractors, employees, tenants, subtenants, unit owners, agents, or others acting on behalf of such Owner (or other person or entity) in relation to the use of such easement(s).

ARTICLE IV  
USE RESTRICTIONS ON AREA 1

Section 1. General Restrictions. In addition to the covenants, conditions and restrictions set forth herein, Area 1 is further subject to the following limitations and restrictions:

(i) Use. Except as otherwise expressly provided herein, all Resulting Lots shall be used for single family residence purposes only, and no building of any kind whatsoever shall be erected, re-erected, moved or maintained thereon except one single family residence. Such residence shall be designed and erected for the occupation by a single private family. A private attached garage, for the sole use of the Owner or occupant of the residence constructed upon the Resulting Lot, must also be erected and maintained, and said garage must be constructed in compliance with the requirements of Section 1(iii) of this Article. No pre-built, manufactured or modular homes shall be allowed within Area 1.

(ii) Character and Size of Buildings. No residence shall be permitted on any Resulting Lot unless the living area thereof shall not be less than [1,300] square feet in the case of a one-story residence, and not less than [1,600] square feet in the case of any other residence. All computations of square footage shall be determined exclusive of basements (whether or not of the "walk-out" variety), garages, porches, terraces, breezeways and other unenclosed or unheated areas. The exterior of the buildings are to be of wood, brick, stone, aluminum, vinyl or a combination of these or comparable materials. No buildings shall be constructed of exposed cement block or feature asbestos shingles. Only new materials shall be used in the construction of residences.

(iii) Garages. All residences within Area 1 must include a private attached garage that is constructed at the time of the construction of the residence. All garages must be attached to the residence, and no garage shall provide space for less than two (2) automobiles. Carports are specifically prohibited.

(iv) Minimum Resulting Lot Size. In the event that one or more Resulting Lots or parts of Resulting Lots are developed for use as a site for a single residence, all restrictions set forth herein shall apply to such resulting site. In any event, no residence shall be erected, altered, placed on or permitted to remain on any Resulting Lot in Area 1 unless such Resulting Lot has a width at the front building setback line of at least \_\_\_\_\_ feet in the case of an interior Resulting Lot, and \_\_\_\_\_ feet in the case of a corner Resulting Lot, and an area of at least \_\_\_\_\_ square feet.

(v) Soil Removal. Soil removal shall not be permitted, except as required for construction purposes and as permitted by the ACC. In addition, all construction shall be subject to the requirements of the Michigan Soil Erosion and Sedimentation Control Act, as amended, and all other applicable statutes, ordinances, rules and regulations of all governmental agencies having jurisdiction over such activities. All soil removed from Resulting Lots within Area 1, either in grading or excavation, shall become the property of \_\_\_\_\_, unless designated otherwise by the ACC, and when removed, shall be dumped at the place designated by \_\_\_\_\_ at the sole cost and expense of said Owner removing the soil.

(vi) Construction and Landscaping. Once construction of a residence has begun, such construction must be completed within eight (8) months of the date of commencement. No building shall be erected on any Resulting Lot except by a contractor licensed by the State of Michigan for such purpose. Upon completion of construction of a

residence on, the Owner shall cause the lot to be finish graded, sodded, irrigated and landscaped in accordance with the plans approved by the ACC, and the landscaping must be completed within twelve (12) months of the completion of the residence.

(vii) Trees. Owners must place two (2) trees on each Resulting Lot, except that in the case of a corner Resulting Lot Owners must place three (3) trees on such a corner Resulting Lot. All trees required by this section must be at least one and one-half inch (1.5") caliper. Trees must be planted at the sole cost and expenses of the Owner, and all trees required by this section shall be planted within nine (9) months of the completion of the dwelling on the Resulting Lot. If any Owner shall fail to build a dwelling on a Resulting Lot within five (5) years after the date of this Declaration, then the Owner shall plant the trees required by this section on the Resulting Lot at the Owner's sole cost and expense.

(viii) Driveways. Access driveways and other paved areas for vehicular use shall have a base of compacted sand, gravel, crushed stone or other approved base material and shall have a wearing surface of concrete. Plans for driveways, pavement edging or markers must be approved by the ACC in writing prior to commencing any construction in accordance with such plans and comply with the ordinances and any applicable engineering standards of the City.

(ix) Fences. No fences of any shape, size or material shall be constructed on any Resulting Lot such that the fence extends beyond the front façade of any residence. All fences must be completely white in color and made of either all vinyl or all treated wood.

(x) Mailboxes. All mailboxes located on Resulting Lots shall be black and shall not be encased in any manner.

(xi) Temporary Structures. No structure of a temporary character, trailer, commercial vehicle, recreation vehicle, boat, boat trailers, camping trailers, shack, garage, barn, storage shed, tent or other similar outbuilding may be used or occupied at any time, on any Resulting Lot, either temporarily or permanently, except that (a) an appurtenant swimming pool bathhouse may be maintained on any Resulting Lot, and (b) a temporary storage building for the storage or materials and supplies to be used in connection with the construction of a residence may be kept and maintained during the period of such construction.

(xii) Outbuildings. One, single outbuilding per Resulting Lot of identical color and material to those of the primary dwelling may be placed on the Resulting Lot provided that (a) the size of such outbuilding does not exceed one hundred (100) square feet, and (b) the outbuilding lies within the setback provisions of the City of Wyoming Zoning Ordinance.

(xiii) Vehicles. No trailer, motor home, mobile home, camper trailer, snowmobile trailer, snowmobile, motorcycle, boat, boat trailer or any type of similar recreation vehicle or any non-functioning motor vehicle of any kind may be stored, parked or placed on any lot outside of buildings for longer than a total of fourteen (14) consecutive days, unless they are located behind the front of the residence. No semi-trucks, whether tractor or trailer, or both, shall be permitted to park within Area 1. No maintenance or repair of any motor vehicle, including but not limited to oil changing, shall be permitted within Area 1 except completely within garages located on a Resulting Unit.

(xiv) Animals.

(a) No farm animals, livestock, poultry or wild animals shall be kept, bred or harbored on any Resulting Lot, nor shall any animals be kept or bred for commercial purposes. Without written permission of the Association, not more than two (2) domesticated animals commonly deemed to be household pets may be kept on any Resulting Lot by the Owner and members of their household so long as such pets shall have such care so as not to be objectionable or offensive to others due to noise, odor or unsanitary conditions. The Owner of such household pets shall be responsible for cleaning up after such pets. Pet owners will have full responsibility for damage to persons or property caused by their pet(s). No animal that exhibits savage or dangerous behavior will be permitted within the Development at any time.

(b) Any dog or cat kept on a Resulting Lot shall be kept either on a leash or within an invisible fence system. Invisible fence systems shall be at back at least \_\_\_\_ from the Resulting Lot boundaries. No dog pens shall be permitted within Area 1.

(c) No Owner shall cause, nor permit or suffer any occupant of any residence on a Resulting Lot which he owns, or their or their invitees or guests, to cause the molestation, harm or destruction of wild fowl or other wildlife on, in or over any portion of their Resulting Lot.

(d) Any Owner who causes any animal to be brought or kept within the Development shall indemnify and hold harmless the Association for any loss, damage or liability which the Association may sustain as the result of the presence of such animal, whether or not the Association has given its permission therefore. The Association may, without liability to the Owner, remove or cause to be removed any animal from the Development which it determines to be in violation of these restrictions.

(xv) Fireworks and Weapons. No Owner shall use, or permit the use by any occupant, agent, tenant, invitee, guest or member of his family of any firearms, air rifles, pellet guns, B-B guns, bows and arrows, fireworks or other dangerous weapons, projectiles or devices anywhere in or about the Development.

(xvi) Trash. All trash is to be placed in sealed plastic bags and placed in trash receptacles that shall be maintained inside the garage at all times and shall not be permitted to remain outside a Resulting Lot except for such short periods of time as may be reasonably necessary to permit periodic collection of trash.

(xvii) Decks and Patios. No unsightly condition shall be maintained upon any deck or patio, and only furniture and equipment consistent with ordinary deck or patio use shall be permitted to remain there during seasons when such areas are reasonably in use, and no unsightly furniture or equipment of any kind shall be stored on decks or patios during seasons when such areas are not reasonably in use.

(xviii) Satellite Dishes. No television aerials, television satellite dishes, radio aerials or other aerial installation of any type or nature in excess of thirty-six (36) inches in diameter shall be permitted on any Resulting Lot. If such an aerial is installed, care should be given to locate the same so that it is not visible from the street on which the Resulting Lot fronts. Subject to applicable law, the ACC may require that such items be completely screened from view and ground-mounted.

(xix) Signs. No signs or any kind shall be displayed to the public view on any Resulting Lot excepting one (1) professional sign of not more than five (5) square feet advertising the property for sale or rent. Such signs as are allowed must be maintained in good condition at all times and removed on the termination of their use.

(xx) Encumbrances. Easements for installation and maintenance of utilities and drainage are reserved as shown on recorded plat for the Development. Within these easements, no structures, planting or other material shall be placed or permitted to remain that may damage or interfere with the installation and maintenance of utilities and drainage. The easement area of each Resulting Lot and all improvements in it shall be maintained continuously by the Owner of the lot, except for those improvements for which a public authority or utility company is responsible.

Section 2. Sales Center. Notwithstanding anything to the contrary contained in this Declaration, Declarant and/or any third parties which it may designate may construct and maintain a sales agency and business office for the sale of any portions of the Development or other property owned by Declarant or its affiliates, and may use portions of the Development for the construction of a model house or unit.

Section 3. Additional Restrictions; Waiver by ACC. The ACC may impose additional covenants, conditions and restrictions on all or any portions of the Development after the date hereof. The ACC, in its sole discretion, may waive any of the restrictions contained in this Article IV. Any such waiver shall be in writing, shall be limited to the terms contained in such writing, and shall in no event be deemed a waiver of the right to enforce the terms of this Article V with respect to any other uses.

ARTICLE V  
CITY OF WYOMING PROVISIONS

Section 1. Declaration Subject to PUD Ordinance and Court Order.

This Declaration is subject and subordinate to the PUD Ordinance. This Declaration is also subject and subordinate to the Stipulated Final Order entered in that certain lawsuit between and among Granger Group of Companies, LLC, Wilson Road Development, LLC, TMGB Wilson, LLC, Z Farm Enterprises, LLC and the City of Wyoming in Kent County Circuit Court having Case No. 2018-03060-AW (the "**Order**"). The terms and conditions of the Order are hereby incorporated by reference.

ARTICLE VI  
REMEDIES

Section 1. Self-Help.

Whenever a violation of this Declaration or any approvals of the ACC or any rules and regulations promulgated by the ACC exists (including, but not limited to, the failure of an Owner to maintain its Area or Resulting Lot as required under this Declaration), the Declarant, the Association, the ACC or their agents, after providing the violating Owner with seven (7) days' notice (except in the case of emergency, in which case no notice shall be required), shall have the right, but not the obligation, to enter upon the applicable Areas or Resulting Lots to abate, remove, or remedy the violation, or conduct such action that an Owner has failed to conduct as required under this Declaration, and invoice the Owner for all costs related thereto. Any such action shall not be deemed a trespass or make the entering party liable for any damages as a result of such action.

Section 2. Suit for Damages.

Civil proceedings may be instituted by the Declarant, the Association, the ACC or any Owner for recovery of damages against those violating or attempting to violate this Declaration or rules and regulations adopted by the ACC or an approval of the ACC.

Section 3. Injunctive Relief.

Civil proceedings may be instituted by the Declarant, the Association, the ACC or any Owner against those violating or attempting to violate this Declaration, or any ACC approval or any rules and regulations adopted by the ACC for the purpose of preventing or enjoining all or any such violations or attempted violations.

Section 4. Assessment of Fines. The violation by any Owner, or by any owner, tenant, resident, guest, or occupant with rights to the indemnifying Owner's , of any provisions of this Declaration shall be grounds for assessment by the Association, acting through its duly constituted Board, of monetary fines against the applicable Owner of the on which such violation occurred. Such Owner shall be deemed responsible for such violations whether they occur as a result of its personal action or the actions of any owner, tenant, resident, guest, or occupant with rights to the indemnifying Owner's.

(i) Procedures. Upon any such violation being alleged by the Board, the following procedures will be followed:

(a) Notice. Notice of the violation, including the Declaration provision violated, together with a description of the factual nature of the alleged offense set forth with such reasonable specificity as will place the Owner on notice as to the violation, shall be sent by overnight courier or first class mail, postage prepaid, or personally delivered to the representative of such Owner's last known address.

(b) Opportunity to Defend. The offending Owner shall have an opportunity to appear before the Board and offer evidence in defense of the alleged violation. The appearance before the Board shall be at its next scheduled meeting but in no event shall the Owner be required to appear less than ten (10) days from the date of the notice. The offending Owner may, at his option, elect to forego the appearance as provided herein by delivery of a written response to the Board.

(c) Default. Failure to respond to the notice of violation constitutes a default.

(d) Hearing and Decision. Upon appearance by the Owner before the Board and presentation of evidence of defense, or, in the event of the Owner's default, the Board shall, by majority vote of a quorum of the Board, decide whether a violation has occurred. The Board's decision is final.

(ii) Amount Guidelines. Upon violation of any of the provisions of this Declaration and after default of the offending Owner or upon the decision of the Board as recited above, the amount of the fine levied against the offending Owner shall be determined by the Board based upon a consideration of the facts and circumstances surrounding the offense and the offending Owner, including, but not limited to whether the offense constitutes a repeated

violation, whether the offending Owner has poor recidivism history with respect to violation of the Declaration, the gravity of the violation itself, and such other considerations as the Board may determine to be relevant, in its sole discretion. Without limiting the generality of the foregoing, the following fines shall be considered general guidelines to the Board's judgment:

- (a) First Violation. One Hundred Dollars (\$100.00).
- (b) Second Violation. Five Hundred Dollars (\$500.00).
- (c) Third and Subsequent Violations. One Thousand Dollars (\$1,000.00).

(iii) Collection. The fines levied pursuant to this Section 4 shall be assessed against the Owner and shall be due and payable together with the regular assessment on the first of the next following month. Failure to pay the fine will subject the Owner to all liabilities set forth in the Declaration and Association Bylaws for the non-payment of assessments.

(iv) Violations and Fines at Level. All of the terms of this Article VIII shall apply at the level, and the Association shall have no obligation to provide notices, collect fines, or interact with any individual owners, tenants, or occupants of any portions of a that are divided or subdivided pursuant to this Declaration.

(v) Declarant Exempt From Fines. The Association shall not be entitled to assess fines against the Declarant for any alleged violations of this Declaration but shall be remitted solely to its other legal remedies for redress of such alleged violations.

## ARTICLE VII GENERAL PROVISIONS

### Section 1. Severability; No Waiver.

Invalidation of any one of these covenants or restrictions by judgment or court order shall in no way affect any other provisions, which other provisions shall remain in full force and effect. Failure of the Declarant, Association, ACC or any Owner to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter.

### Section 2. Amendment.

The provisions of this Declaration shall be perpetual and shall run with and bind the Development (including each Area and Resulting Lot) from the date this Declaration is recorded. To the maximum extent permitted under applicable law, the Declarant may amend any of the terms and conditions of this Declaration in its sole discretion, without the consent of the Owners, Board, ACC, or any other party. Such amendments, if any, shall be made and imposed in the sole discretion of Declarant or its successor or assign and shall be effective upon execution and recording by Declarant or its successor or assign, and may include, but are not limited to, the addition or removal of land to or from the Development (whether adjacent to the Development or not), or the addition or removal of rights under this Declaration.

### Section 3. Annexation of Additional Land and/or Common Areas.

Declarant reserves the right at any time to amend this Declaration by adding to it additional land (which may or may not be adjacent to the Development). Such additional land may or may not contain

additional Common Areas. Any such amendments shall provide that the Owners of such future areas shall be required to be members of the Association and shall be subject to the terms of this Declaration. Declarant may enter into any such amendments without the consent or approval of the Association, ACC, or any Owner.

Section 4. Assignment or Transfer of Rights and Powers.

Declarant hereby reserves the unequivocal right to assign to the Association, the ACC or other party, in whole or in part, from time to time, any or all of the rights and powers, titles, easements and estates hereby reserved or given to Declarant herein, including the right and power to approve or disapprove any use, act, proposed action, or any other matter or thing. Any such permitted assignment or transfer shall be made by appropriate instrument, in writing, and such assignee shall thereupon have the same rights and powers, and be subject to the same obligations and duties as herein given and reserved to and assumed by Declarant under this Agreement, and such instrument, when executed by such assignee, shall without further act release the Declarant from all obligation, duties and liability in connection therewith.

Section 5. Deviations.

The Declarant, Association, or ACC shall have the right at any time to enter into agreements with any Owners, without the consent of any other Owners, to deviate from any or all of the terms and conditions set forth in this Declaration and/or any rules or regulations established for the Development. Any such deviation (which shall be manifested by an agreement in writing) shall not constitute a waiver of any such covenant as to the remaining s or as to any future requests or applications.

**[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK;  
SIGNATURE PAGE FOLLOWS.]**

IN WITNESS WHEREOF, the undersigned has executed this Master Declaration of Covenants, Conditions, and Restrictions as of the date first set forth above.

**DECLARANT:**

,  
a Michigan limited liability company

By: \_\_\_\_\_

Print:

Its: Authorized Representative

STATE OF MICHIGAN                    )  
  ) ss.  
COUNTY OF KENT                    )

The foregoing instrument was acknowledged before me in \_\_\_\_\_ County, Michigan, on this \_\_\_\_\_ day of \_\_\_\_\_, 201\_\_, by \_\_\_\_\_, the Authorized Representative of \_\_\_\_\_ LLC, a Michigan limited liability company, on behalf of the company.

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
Notary Public, \_\_\_\_\_ County, \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_  
Acting in County of \_\_\_\_\_

THIS INSTRUMENT DRAFTED BY AND  
WHEN RECORDED RETURN TO:

J. Patrick Lennon, Esq.  
Honigman Miller Schwartz and Cohn LLP  
650 Trade Centre Way  
Suite 200  
Kalamazoo, Michigan 49002

**EXHIBIT A**

**THE DEVELOPMENT**

**EXHIBIT B**

**THE COMMON AREAS**

[See drawing attached hereto.]

**EXHIBIT C**

**VOTING RIGHTS AND ASSESSMENT OBLIGATIONS**

<b><u>Area</u></b>	<b><u>Number of Votes</u></b>	<b><u>Area Assessment Responsibility*</u></b>	<b><u>Assessment Responsibility Per Potential Resulting Lot</u></b>
1	175	28.5%	.163%
2	138	22.5%	.163%
3	300	49%**	.163%
Commercial	0%	0%	0%
Total	613	100%	100%

\* Assessment responsibility is based on relative percentage of Resulting Lots or living units expected to be established within each Area. The Area assessment responsibility and assessment responsibility per potential Resulting Lot are subject to change in the event that the number of potential Resulting Lots is modified.

\*\* As set forth in Article I, 7(b), the Association has agreed to cover the financial obligations of owners in Phase Two and/or Phase Three that fail or refuse to join an association or that otherwise fail to contribute their property's share of assessments. In the event that the Association is ever obligated to cover such assessments on behalf of such owners, then the Association also simultaneously imposes a special assessment on and against Area 3 for the full amount necessary to cover what would be the financial contributions of Phase Two and/or Phase Three. The foregoing special assessment of Area 3 shall be in addition to any obligation of Area 3 to pay other general and special assessments to the Association.

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

RESOLUTION TO AUTHORIZE THE MAYOR AND CITY CLERK  
TO EXECUTE AN AMENDMENT TO THE STREETLIGHTING  
CONTRACT WITH CONSUMERS ENERGY COMPANY

WHEREAS:

1. The City has had a contract with Consumers Energy Company (CE) for CE owned streetlights throughout the City for many years.
2. The City desires to have Consumers Energy Company remove 569 MV cobrahead streetlight fixtures and replace them with 569 LED cobrahead fixtures.
3. The proposed streetlight upgrades will be placed in multiple locations in the northwesterly portion of the City of Wyoming.
4. Consumers Energy has submitted the two attached modifications to the streetlighting contract to address this change.

NOW, THEREFORE, BE IT RESOLVED:

1. That the Mayor and City Clerk are hereby authorized to execute the attached Authorization for Change in Standard Streetlighting Contract and the accompanying Consumers Energy Resolution.

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 September 4, 2018.

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

ATTACHMENTS:

Authorization for Change in Standard Lighting Contract and Resolution (removal)

Authorization for Change in Standard Lighting Contract and Resolution (installation)



**AUTHORIZATION FOR CHANGE IN  
STANDARD LIGHTING CONTRACT  
(COMPANY-OWNED) FORM 547**

Contract Number: 100000339505

Consumers Energy Company is authorized as of \_\_\_\_\_, by the City of Wyoming, to make changes, as listed below, in the lighting system(s) covered by the existing Standard Lighting Contract between the Company and the City of Wyoming, dated 12/1/2012.

Lighting Type:

General Service Unmetered Lighting Rate GUL, Standard High Intensity Discharge

Notification Number(s):

1043597609

Construction Work Order Number(s):

Except for the changes in the lighting system(s) as herein authorized, all provisions of the aforesaid Standard Lighting Contract dated 12/1/2012 shall remain in full force and effect.

City of Wyoming

By:

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed)

Its

\_\_\_\_\_  
(Title)

This Agreement may be executed and delivered in counterparts, including by a facsimile or an electronic transmission thereof, each of which shall be deemed an original. Any document generated by the parties with respect to this Agreement, including this Agreement, may be imaged and stored electronically and introduced as evidence in any proceeding as if original business records. Neither party will object to the admissibility of such images as evidence in any proceeding on account of having been stored electronically.

**RESOLUTION**

RESOLVED, that it is hereby deemed advisable to authorize Consumers Energy Company to make changes in the lighting service as provided in the Standard Lighting Contract between the Company and the City of Wyoming, dated 12/1/2012, in accordance with the Authorization for Change in Standard Lighting Contract dated \_\_\_\_\_,

heretofore submitted to and considered by this  commission  council  board ;and

RESOLVED, further, that the \_\_\_\_\_ Clerk be and are authorized to execute such authorization for change on the behalf of the City.

STATE OF MICHIGAN  
COUNTY OF Kent

I, \_\_\_\_\_, Clerk of the City of Wyoming, do hereby certify that the foregoing resolution was duly adopted by the  commission  council  board of said municipality, at the meeting held on \_\_\_\_\_.

\_\_\_\_\_

Dated:

Municipal Customer Type: City

\_\_\_\_\_

## GENERAL SERVICE UNMETERED LIGHTING RATE GUL, STANDARD HIGH INTENSITY DISCHARGE

<i>Number of Luminaires</i>	<i>Nominal Watts</i>	<i>Luminaire Type</i>	<i>Fixture Type</i>	<i>Fixture Style</i>	<i>Install Remove</i>	<i>Location</i>
464	<u>175</u>	<u>MV</u>	<u>Cobrahead</u>		<u>Remove</u>	various
77	<u>250</u>	<u>MV</u>	<u>Cobrahead</u>		<u>Remove</u>	various
28	<u>400</u>	<u>MV</u>	<u>Cobrahead</u>		<u>Remove</u>	various



**AUTHORIZATION FOR CHANGE IN  
STANDARD LIGHTING CONTRACT  
(COMPANY-OWNED) FORM 547**

Contract Number: 103016902985

Consumers Energy Company is authorized as of \_\_\_\_\_, by the City of Wyoming, to make changes, as listed below, in the lighting system(s) covered by the existing Standard Lighting Contract between the Company and the City of Wyoming, dated 2/1/2013.

Lighting Type:

General Unmetered Experimental Lighting Rate GU-XL

Notification Number(s):

1043597609

Construction Work Order Number(s):

Except for the changes in the lighting system(s) as herein authorized, all provisions of the aforesaid Standard Lighting Contract dated 2/1/2013 shall remain in full force and effect.

City of Wyoming

By:

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed)

Its

\_\_\_\_\_  
(Title)

This Agreement may be executed and delivered in counterparts, including by a facsimile or an electronic transmission thereof, each of which shall be deemed an original. Any document generated by the parties with respect to this Agreement, including this Agreement, may be imaged and stored electronically and introduced as evidence in any proceeding as if original business records. Neither party will object to the admissibility of such images as evidence in any proceeding on account of having been stored electronically.

**RESOLUTION**

RESOLVED, that it is hereby deemed advisable to authorize Consumers Energy Company to make changes in the lighting service as provided in the Standard Lighting Contract between the Company and the City of Wyoming, dated 2/1/2013, in accordance with the Authorization for Change in Standard Lighting Contract dated \_\_\_\_\_,

heretofore submitted to and considered by this  commission  council  board ;and

RESOLVED, further, that the \_\_\_\_\_ Clerk be and are authorized to execute such authorization for change on the behalf of the City.

STATE OF MICHIGAN  
COUNTY OF Kent

I, \_\_\_\_\_, Clerk of the City of Wyoming, do hereby certify that the foregoing resolution was duly adopted by the  commission  council  board of said municipality, at the meeting held on \_\_\_\_\_.

\_\_\_\_\_

Dated:

Municipal Customer Type: City

\_\_\_\_\_

## GENERAL UNMETERED EXPERIMENTAL LIGHTING RATE GU-XL

<i>Number of Luminaires</i>	<i>Nominal Watts</i>	<i>Luminaire Type</i>	<i>Fixture Type</i>	<i>Fixture Style</i>	<i>Install Remove</i>	<i>Location</i>
531	<u>54</u>	<u>LED</u>	<u>Cobrahead</u>		<u>Install</u>	various
8	<u>72</u>	<u>LED</u>	<u>Cobrahead</u>		<u>Install</u>	various
30	<u>85</u>	<u>LED</u>	<u>Cobrahead</u>		<u>Install</u>	various

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

RESOLUTION TO AUTHORIZE THE MAYOR AND CITY CLERK  
TO EXECUTE AN AGREEMENT WITH CONSUMERS ENERGY  
TO PARTICIPATE IN THE 2019 DEMAND RESPONSE PROGRAM

WHEREAS:

1. As detailed in the attached Staff Report, Consumers Energy has provided the Clean Water Plant and Water Treatment Plant with an agreement to participate in Consumers Energy 2019 Demand Response Program through October 1, 2019.
2. It is recommended the City Council accept the agreement.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby authorize the Mayor and City Clerk to execute an agreement with Consumers Energy.

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 September 4, 2018.

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

ATTACHMENTS:

Staff Report  
Agreement

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

## Staff Report

Date: August 27, 2018  
Subject: Demand Response Agreement with Consumers Energy  
From: Tom Wilson, Utility Maintenance Manager  
Meeting Date: September 4, 2018

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### RECOMMENDATION:

We recommend authorizing the Mayor and City Clerk to sign an agreement necessary to enter into a money-saving relationship with Consumers Energy at both utility plants. The estimated savings are approximately \$40,000 per year at both plants.

### SUSTAINABILITY CRITERIA:

Environmental Quality – The City’s utility plants are actively engaged in the protection of Michigan’s natural water environment and the public health of Wyoming’s citizens.

Social Equity – The Utility function within the City of Wyoming provides the same high quality service to all areas of the City without regard to income level or socio-economic status. All of Wyoming’s residents enjoy equal access to the benefits of our state-of-the-art wastewater and drinking water treatment technologies.

Economic Strength – The relationship with Consumers Energy is projected to result in rebates to both utility plants’ energy budgets of \$40,000 each.

### QUALITY SERVICE IMPACT:

It is incumbent upon us as public utility employees to keep our costs as low as possible. This program will realize annual savings of \$80,000 across the Water Fund and Sewer Fund, enabling us to keep our rates as low as possible.

### DISCUSSION:

This is the second year that Wyoming has an opportunity to enter into an agreement with Consumers Energy that will reward us for running our plant generators at certain high power demand times of the year. The program gives us a base annual credit of \$25/KW across an agreed-upon amount of 1600 KW for our participation, and we will receive an additional \$0.05/KW-hr for any running event. We will not be asked to run our generators more than 5 times per year, and each run event will last 4 hours. The program period runs from June 1 through September 30, not including holidays or weekends. A typical annual scenario would therefore look like this:

Capacity Rebate	$\$25/\text{KW} \times 1600 \text{ KW}$	\$40,000.00
1 <sup>st</sup> Run Event	$\$0.05/\text{KW-hr} \times 1600 \text{ KW} \times 4\text{hours}$	\$320.00
<b>Total Annual Credit per Plant</b>		<u>\$40,320.00</u>

**BUDGET IMPACT:**

This agreement would result in significant rebate receipts in both utility plants' energy budget.



## 2019 EMERGENCY WITH GENERATOR COMMERCIAL AND INDUSTRIAL DEMAND RESPONSE CUSTOMER AGREEMENT

Customer and Consumers Energy are referred to herein collectively as the "Parties" and each individually as a "Party" to this Agreement.

Effective Date of Agreement: \_\_\_\_\_  
(Month/Day/Year)

Company:  
**CONSUMERS ENERGY COMPANY**  
a Michigan Corporation

Customer:  
The City of Wyoming  
(Legal Name)

ONE ENERGY PLAZA  
JACKSON MI 49201-2357

2350 Ivanrest Avenue SW  
(Street & Number)

Wyoming, MI 49418  
(City, State & Zip Code)

1. **Program Term.** This Agreement shall commence on April 15, 2019 and continue until October 1, 2019.
2. **Program Description.** Participants in the Consumers Energy 2019 Demand Response Program ("Program") help reduce peak demand when energy use is the highest and maintain a ready supply of energy for Michigan. The Program is offered to Consumers Energy customers with an energy demand greater than 100 kilowatts. Participants will receive monetary incentives after the load control season is complete, and the incentives will vary based on actual energy reductions.
3. **Administration Solutions.** Customer agrees to work with Consumers Energy to develop an appropriate energy reduction plan for Customer's business; and (ii) to provide Consumers Energy access and use of contact, billing and energy usage data, and facility information concerning each Site Address (as defined below) ("Customer Data"). Consumers Energy shall manage Customer's curtailable electrical capacity in the Program and upon notification by Consumers Energy and acceptance by Customer, provide real-time support to Customer during demand response events ("Demand Response Events"); and enable data transfer, monitoring and reporting of meter data system ("System") and provide technical assistance, maintenance, repair and hosting of the System. In addition, as necessary, Consumers Energy will coordinate with Customer to capture kilowatt-hour ("kWh") pulses from Customer's primary utility meter to provide Customer near real-time, Internet-enabled power monitoring.
4. **System.** Consumers Energy may equip one or more of Customer facility addresses (each address is referred to as a "Site Address") as identified on the Site Address Attachment attached hereto with the System, which includes site devices owned by Consumers Energy that can enable direct load management, power metering, data collection, near real-time data communication, and Internet-based reporting and analytics. There shall be no cost to the Customer associated with the System equipment or installation of the System equipment.
5. **Customer Support Requirements.**
  - a. **Representations and Warranties.** Customer holds all applicable licenses and/or permits pursuant to the Agreement that are required for the proper participation in the Program.
  - b. **Demand Response Performance.** Customer has the intent and ability to generate and/or reduce electrical demand to achieve Accepted Capacity (as defined below) at each Site Address when notified by Consumers Energy during Demand Response Events. Customer understands that the curtailable electrical capacity identified in the Site Address Attachment does not represent Accepted Capacity and is solely the Customer's best estimate of performance and that Accepted Capacity may vary.
  - c. **Acceptance Testing.** At each Site Address where the site devices are installed, Customer agrees to collaborate with Consumers Energy in a timely manner in testing, enabling and maintaining the System.

- d. **Energy Reduction Plan.** Customer must provide to Consumers Energy their Energy Reduction Plan describing the equipment and steps that will be taken to meet their curtailment nomination.
- e. **Environmental Recordkeeping and Reporting.** Pursuant to any and all applicable U.S. Environmental Protection Agency and or Michigan Department of Environmental Quality rules and regulations, Customer understands and agrees to maintain, certify, permit and report the use of all equipment necessary to respond to any Demand Response Events, as applicable. Consumers Energy is not responsible for any reporting to any governmental agency or MISO as a result of this Agreement, nor is Consumers Energy responsible for any fines, costs or penalties associated with generation or a generator subject to the Agreement.

6. **Program Rules.** The terms of this Agreement reflect the current Program terms and conditions, which may be amended from time to time by Consumers Energy. The current terms are summarized below:

<b>Program Availability</b>	During the Program period of June 1 – September 30 (“Program Period”), Demand Response Events may be called Monday – Friday between the hours of 11 am – 7 pm, excluding nationally recognized holidays (Fourth of July and Labor Day).
<b>Event Frequency and Duration</b>	<b>Emergency Events</b> – Up to five (5) events during the Program Period, each with duration of four hours.
<b>Advanced Notification</b>	<b>Emergency Events</b> – Customer will receive at least a thirty (30) minute but no more than a twelve (12) hour notice in advance of an Emergency Event.
<b>Dispatch Readiness Test</b>	After Customer’s Energy Reduction Plan has been reviewed by Consumers Energy and Customer’s site installation has been completed, Customer will receive an email from Consumers Energy asking Customer to select a date to participate in a Dispatch Readiness Test of Customer’s Energy Reduction Plan. The duration of the Dispatch Readiness Test will be 30 minutes. The Dispatch Readiness Test is optional to the Customer but recommended by Consumers Energy.
<b>Audit</b>	Consumers Energy may call one (1), one-hour audit (“Audit”) per Program Period to confirm Accepted Capacity. (as defined below). If called this audit is required as the Customer’s program payment will be determined by performance.
<b>Emergency Events</b>	Consumers Energy may call certain emergency Demand Response Events under the Program in response to Midcontinent Independent System Operator, Inc. (“MISO”) grid operator reliability triggers (“Emergency Event(s)”).
<b>Online Portal</b>	Customer will have access to an online portal “Dashboard” where Customer can monitor their performance during both an Emergency and Economic Event. Portal will be activated before the season starts on June 1 <sup>st</sup> and will remain active until the season concludes on September 30 <sup>th</sup> .

7. **Customer capacity.**

- a. **Accepted Capacity.** For purposes of this Agreement, “Accepted Capacity” shall represent the best estimate of Customer’s performance (in kilowatts (“kW”)) based on analysis of consumption data and pre-enrollment testing.
- b. **Delivered Capacity.**
  - i. For purposes of this Agreement, an event’s “Delivered Capacity” shall be defined as the average of the Delivered Capacity for each hour in a Demand Response Event. Delivered Capacity for each event hour is the difference between the measured energy demand and the baseline energy demand, factoring in the performance thresholds described in section 7(b)(ii) below. Consumers Energy will use approved MISO methods of determining baseline energy usage. MISO’s default measurement and verification method (“M&V Method”) is to use the 10-days prior to the event to establish the baseline. Consumers Energy, at its discretion, can make an adjustment to the baseline determined by the M&V Method up to plus or minus 20% based on the energy usage three hours prior to the beginning of the Emergency Event.

- ii. Delivered Capacity is capped at 120% of Accepted Capacity for each Demand Response Event hour. If Delivered Capacity is less than 70% of Accepted Capacity in a single Demand Response Event-hour, then the Delivered Capacity for that Demand Response Event hour will equal zero (0) kW. Consumers may, at their sole discretion, remove minimum and maximum caps on a case-by-case basis. If there is more than one (1) Emergency Event during the Program Period, then Delivered Capacity for that Program Period will equal the average of the Delivered Capacity from each Emergency Event hour in the Program Period. If there are no Emergency Events during the Program Period, then Delivered Capacity for that Program Period will equal the performance during the Audit. If an Audit is not called during the Program Period, then Delivered Capacity for that Program Period will equal Customers Accepted Capacity.
8. **Environmental.** In order for the engine to be considered an emergency stationary engine under 40 CFR Part 60 Subpart IIII, 40 CFR Part 60 Subpart JJJJ and/or 40 CFR Part 63 Subpart ZZZZ any operation other than emergency operation, maintenance and testing, emergency demand response, and operation in non-emergency situations for up to 50 hours per calendar year, as described in the applicable regulation(s), is prohibited. If Customer does not operate the engine according to these requirements, the engine will not be considered an emergency engine and must meet all requirements for non-emergency engines in the applicable regulations.

Emergency Demand Response Events per this contract are considered non-emergency situations (not to exceed 50 hours per calendar year). Power supplied as part of a financial arrangement with Consumers must meet all of the following conditions:

- a. The engine is dispatched by the local balancing authority or local transmission and distribution system operator.
  - b. The dispatch is intended to mitigate local transmission and/or distribution limitations so as to avert potential voltage collapse or line overloads that could lead to the interruption of power supply in a local area or region.
  - c. The dispatch follows reliability, emergency operation or similar protocols that follow specific NERC, regional, state, public utility commission or local standards or guidelines.
  - d. The power is provided only to the facility itself or to support the local transmission and distribution system.
  - e. The owner or operator (Customer) identifies and records the entity that dispatches the engine and the specific NERC, regional, state, public utility commission or local standards or guidelines that are being followed for dispatching the engine. The local balancing authority or local transmission and distribution system operator may keep these records on behalf of the engine owner or operator.
9. **Payments to Customer.**
    - a. **Emergency Capacity Payments.** Consumers Energy will pay Customer a capacity rate of \$25/kW ("Capacity Rate") of Delivered Capacity per Program Period as defined in section 7(b)(ii) above. If there are multiple Emergency Events, the Delivered Capacity is averaged between all Emergency Events. If there are no Emergency Events, Consumers Energy will pay Customer the Capacity Rate multiplied by the Accepted Capacity, unless an audit takes place, in which case the Customer's Delivered Capacity would be determined by the audit. The Capacity Payment will be made at the end of the Program Period.
    - b. **Emergency Event Energy Payments.** In Program Periods when one or more Emergency Events are called, Consumers Energy will pay to Customer an Emergency Event energy payment for Customer participation during any Emergency Event equal to \$50/MWh multiplied by the event's Delivered Capacity multiplied by the hours for each such event as defined in section 7(b)(ii) above.
    - c. **Underperformance.** Customer will be assessed a surcharge in the event that the Customer's Delivered Capacity for an Emergency Event does not meet 100% of their Accepted Capacity as described in Section 12 below. Customer may also have future Accepted Capacity and/or payments reduced to reflect Delivered Capacity as described in Section 7(b) above. Notwithstanding the above, in no event shall Accepted Capacity and/or payments be reduced due to Customer's underperformance or non-performance resulting from Consumers Energy's non-compliance with the Advanced Notification provisions hereunder or the Program System's malfunction.
  10. **Payment Timing.** After the Program Period is over and the Delivered Capacity has been verified, Consumers Energy shall make all payments associated with Customer's participation in the Program and such payments shall be made by the issuance of credits to the Customer's bill.

- 11. Surcharge for Failure to Perform.** If Customer fails to deliver 100% of their total nominated kW for an Emergency Event ordered by Consumer Energy, as provided for in this Agreement, the following shall occur: (i) Customer shall forego all payments if the average delivered capacity for the event is less than 70% and (ii) Customer shall be assessed the real time commodity price (\$/MWh), as determined by the MISO Midwest Energy Market, for the kW curtailment which was underperformed per event. The real time commodity price is capped at \$1,000 / MWh.
- 12. Cancellation.** Customer may cancel this agreement any time before December 31, 2018. Cancellation requests must be submitted in writing to: [ConsumersEnergy.DemandResponseProgram@cmsenergy.com](mailto:ConsumersEnergy.DemandResponseProgram@cmsenergy.com). If Customer cancels after program equipment has been installed, Customer will incur a cancellation fee of \$300.
- 13. Confidentiality.**
- a. Nondisclosure to Third Parties.** In performing under the Agreement, each Party to this Agreement will be exposed to certain Confidential Information (as hereinafter defined) of the other Party. Each Party on its own behalf and on behalf of its employees, contractors and agents (collectively, "Representatives") agrees not to, except as required by applicable law or regulation, use or disclose such Confidential Information without the prior written consent of the other Party, either during or after the Term. To protect Confidential Information, each Party agrees to: (i) limit dissemination of Confidential Information to only those Representatives having a "need to know"; (ii) advise each Representative who receives Confidential Information of the confidential nature of such information; and (iii) have appropriate agreements, policies and/or procedures in place with such Representatives sufficient to enable compliance with the confidentiality obligations contained herein. The term "Confidential Information" means all information which is disclosed, either orally or in written form, by either Party or its Representatives and shall be deemed to include: (w) any notes, analyses, compilations, studies, interpretations, memoranda or other documents prepared by either Party or its Representatives which contain, reflect or are based upon, in whole or in part, any Confidential Information furnished to a receiving Party or its Representatives pursuant hereto; (x) any information concerning the business relationship between the Parties; and (y) Customer Data.
- b. Exclusions from Confidential Information.** Notwithstanding the obligations in Section 13(a) above, Confidential Information does not include any information that:
- i. is or becomes generally known to the public without breach of any obligation owed to the disclosing Party;
  - ii. was known to the receiving Party prior to its disclosure by the disclosing Party without breach of any obligation owed to the disclosing Party;
  - iii. is received from a third party without the receiving party having any knowledge of any breach by such third party of any obligation owed to the disclosing Party; or
  - iv. was independently developed by the receiving Party without reference to or reliance upon the disclosing Party's Confidential Information.
- 14. Limitation of Liability.** Consumers Energy's and its contractors' and subcontractors' liability hereunder is limited to direct actual damages as the sole and exclusive remedy, and total damages under the Agreement shall not exceed \$100,000 or the total amounts paid to Consumers under the Agreement, whichever is less. In no event shall either Party, its parent, officers, directors, partners, shareholders, employees or affiliates, or any contractor or subcontractor or its employees or affiliates, be liable to the other Party for special, indirect, exemplary, punitive, incidental or consequential damages of any nature whatsoever connected with or resulting from performance or non-performance of obligations under the Agreement, including without limitation, damages or claims in the nature of lost revenue, income or profits, loss of use, or cost of capital, irrespective of whether such damages are reasonably foreseeable and irrespective of whether such claims are based upon negligence, strict liability contract, operation of law or otherwise.

**15. Additional Terms.**

- a. Customer also agrees, with respect to Consumers Energy's management of the System, it:
- i. receives a limited, revocable, non-transferrable and non-exclusive right to use and access during the Term the System and shall use the System solely for its internal use subject to the terms of the Agreement and not for the benefit of any third party. Except as expressly permitted in the Agreement, Customer agrees that it shall not receive any right, title or interest in, or any license or right to use or access, the System or any patent, copyright, trade secret, trademark or other intellectual property rights therein by implication or otherwise;
  - ii. shall use the System in accordance with all applicable law;
  - iii. shall not and shall prohibit causing or permitting, the copying, reverse engineering, disassembly, decompilation or attempting to derive the source code of the System, or other intellectual property of Consumers Energy or creation of any derivative work thereof;
  - iv. expressly disclaims any passing of title to the System, any trade names, trade dress, trademarks, service marks, commercial symbols, copyrightable material, designs, logos and/or any other intellectual property to Customer;
  - v. shall not delete, alter, cover, or distort any copyright or other proprietary notices or trademarks from the System and to use reasonable care to prevent the System and Consumers Energy's intellectual property rights contained in the software from damage and unauthorized use.
- b. **Miscellaneous.** Customer may not assign any of its rights or delegate any of its performance obligations hereunder without the prior written consent of Consumers Energy. The Agreement, including all attachments, constitutes the entire agreement between Customer and Consumers Energy and may only be amended in writing signed by each of the Parties. If any of its provisions shall be held invalid or unenforceable, this Agreement shall be construed as if not containing those provisions and the rights and obligations of the Parties hereto shall be construed and enforced accordingly. This Agreement shall be binding upon the Parties together with their successors and permitted assigns. Each Party shall be responsible for its Representatives' compliance with the Agreement. Customer shall promptly notify Consumers Energy in writing of any changes occurring during the Term to the Customer address(es) set forth in this Agreement.
- c. **Force Majeure.** The Parties to this Agreement shall be excused from any failure or delay in the performance of their obligations if such obligations are prevented from being fulfilled due to Force Majeure. A Party unable to fulfill any obligation hereunder (other than an obligation to pay money when due) by reason of Force Majeure, shall give notice and the full particulars of such Force Majeure to the other Party in writing or by telephone as soon as reasonably possible after the occurrence of the cause relied upon. Telephone notices given pursuant to this article shall be confirmed in writing as soon as reasonably possible and shall specifically state full particulars of the Force Majeure, the time and date when the Force Majeure occurred and when the Force Majeure is reasonably expected to cease. The Party affected shall exercise due diligence to remove such disability with reasonable dispatch, but shall not be required to accede or agree to any provision not satisfactory to it in order to settle and terminate a strike or other labor disturbance. A "Force Majeure" shall include any act, event, or occurrence beyond the Party's reasonable control, which the Party, despite its best efforts, is unable to prevent, avoid, overcome, delay or mitigate, including but not limited to: floods, epidemics, earthquakes, quarantine, blockade, war, insurrection or civil strife or terrorism, provided, however, that Force Majeure shall in no event include (i) failure of Subcontractors or Suppliers to deliver services, materials or components or receipt from any Subcontractor or Supplier of defective services, material or components unless same were themselves caused by a Force Majeure Event; (ii) technological impossibility; (iii) a governmental act or failure to act, or order or injunction, caused by any act or failure to act of the Seller or any Subcontractor or Supplier; (iv) strikes or work stoppages; or (v) inclement weather.
- d. **Warranty Limitations.** THE SYSTEM (AND ANY SOFTWARE, HARDWARE, OR OTHER COMPONENT THEREOF) AND ALL SERVICES HEREUNDER ARE PROVIDED AS IS BY CONSUMERS ENERGY WITHOUT ANY WARRANTY OF ANY KIND. ALL WARRANTIES, WHETHER EXPRESS OR IMPLIED, INCLUDING BUT NOT LIMITED TO ALL WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ARE EXPRESSLY DISCLAIMED TO THE FULLEST EXTENT PERMISSIBLE UNDER APPLICABLE LAW.

e. **Governing Law; Actions; Etc.:** This Agreement shall be deemed a Michigan contract and shall be governed by and interpreted in accordance with the laws of the State of Michigan; excluding any conflicts of laws principles that would result in this Agreement being interpreted in accordance with any different law. Venue for any lawsuit arising out of or in connection with this Agreement shall be exclusively in the courts of the State of Michigan or a Federal court sitting in the State of Michigan. Any legal action against Consumers Energy relating to this Agreement or the breach thereof shall be commenced within one year from the date on which the claimed breach, default or other cause of action arose (and, without limiting the foregoing, in all events not later than one year after the date of completion or other cessation of performance of the work hereunder). This Agreement is intended for the benefit of the parties herein only and does not grant any rights to any third parties unless otherwise specifically stated herein. If Customer defaults in the timely performance of any of its obligations hereunder, then Consumers Energy may, at its option, and in addition to any and all other rights or remedies it may have hereunder or at law or equity, terminate this Contract by written notice to Customer.

IN WITNESS WHEREOF, and intending to be legally bound, the Parties have duly executed this Agreement by their authorized representatives as of the Effective Date.

CONSUMERS ENERGY COMPANY

By: \_\_\_\_\_

  
(Signature)

JOHARA CARPENTER  
(Print or Type Name)

8/27/18  
(Date)

The City of Wyoming

\_\_\_\_\_  
(Customer)

By: \_\_\_\_\_

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Print or Type Name)

\_\_\_\_\_  
(Date)

Approved as to form

  
Scott G. Smith, City Attorney

Date: Aug 23, 2018



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

RESOLUTION TO APPROVE AND AUTHORIZE MAYOR AND CITY  
CLERK TO SIGN MUNICIPAL SERVICES AGREEMENT FOR  
28WPHASEONE LIMITED DIVIDEND HOUSING ASSOCIATION  
LIMITED PARTNERSHIP HOUSING PROJECT

WHEREAS:

1. Magnus Capital Partners has proposed development by 28WPhaseOne Limited Dividend Housing Association Limited Partnership of a housing project on the north side of Prairie Parkway but is seeking certain incentives from the Michigan State Housing Development Authority ("MSHDA"); and
2. To qualify for those incentives, it is necessary for the City to approve an exemption from *ad valorem* general property taxes for the project and the property on which it will be located; and
3. MSHDA allows the payment to the City of a municipal services fee pursuant to a municipal services agreement to partially pay the cost of municipal services provided by the City to the project and the property on which it is located.

NOW, THEREFORE BE IT RESOLVED:

1. The Municipal Services Agreement for the 28WPhaseOne Limited Dividend Housing Association Limited Partnership project is approved in substantially the form attached as Exhibit A subject to such changes as the Mayor, City Manager and City Attorney may approve. The Mayor and City Clerk are authorized and directed to that agreement on behalf of the City.
2. All resolutions and parts of resolutions are, to the extent any conflict with this Resolution, rescinded.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried    Yes  
                              No

CERTIFICATION

I hereby certify that this resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on September 4, 2018.

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

ATTACHMENT:

Exhibit A: Municipal Services Agreement for 28WPhaseOne LDHA Limited Partnership

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

## Staff Report

Date: August 29, 2018  
Subject: Payment in Lieu of Taxes for Apartments at 28 West  
From: Megan Sall, Assistant City Manager  
Meeting Date: September 4, 2018

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### Recommendation:

Staff recommends approval of the following:

Resolution Approving a Municipal Services Agreement for 28WPhaseOne Limited Dividend Housing Association Limited Partnership Housing Project (phase I of the Apartments at 28 West).

Resolution Approving a Municipal Services Agreement for 28WPhaseTwo Limited Dividend Housing Association Limited Partnership Project (phase II of the 2 Apartments at 28 West).

Ordinance 15-18 approving a tax exemption for the 28WPhaseOne Limited Dividend Housing Association Limited Partnership Housing Project (phase I of the Apartments at 28 West).

Ordinance 16-18 approving a tax exemption for the 28WPhaseTwo Limited Dividend Housing Association Limited Partnership Housing Project (phase II of the Apartments at 28 West).

Together, these agreements and ordinances will have the effect of granting a property tax exemption for phases I and II of the Apartments at 28 West development (assuming the projects receive MSHDA approval for the LIHTCs and assisted mortgages) and the corresponding payments a 1% payment in lieu of taxes (PILOT) and a 2% municipal services fee by the entities owning those phases of the Apartments at 28 West development, a mixed-income housing project located at the former Studio 28 property in the Downtown Development Authority district.

### Sustainability Criteria:

Environmental Quality – Approval of this action will allow for the redevelopment of a large, obsolete parcel, thereby affecting both the environmental and aesthetic qualities of the site.

Social Equity – Approval of this action will create affordable housing opportunities for local residents of all socio-economic levels.

Economic Strength – Approval of this action will allow for the redevelopment of an empty parcel, thereby leading to increased property values and additional support for local commercial businesses. It will also encourage further development within the corridor.

#### Discussion:

Apartments at 28 West is a proposed 3-phase mixed-income project located on the former Studio 28 site. This project will occupy approximately the southern 13 acres leaving the frontage along 28 West Place Street for mixed use development. Phase one will consist of 152 apartment units and Phase II will add an addition 84 units. The developer wishes to break ground the spring of 2019.

In order to assist with the feasibility of the project, the developer is requesting a property tax exemption in conjunction with other assistance from the Michigan State Housing Development Authority (MSHDA) and the Michigan Economic Development Corporation (MEDC). Under the proposed PILOT ordinances and municipal services agreements, the entities owning each phase will pay the City of Wyoming 3% of the rents collected as a PILOT (1%) and municipal services fee (2%), versus property taxes based upon taxable value of the entire site. These payments will be made and the tax exemption will remain in effect as long as the MSHDA loan funding agreement is in existence. In this case the 3% on both phases will be approximately 50% more than the taxes currently generated on the vacant land value. However, at completion of the project the 3% is expected to generate less funds for the City than the taxes that would normally be collected on the property.

The developer wishes to simultaneously apply for the financing for phases I and II, as it will enable them to concurrently build out significant portions of the project. In turn, the developer is requesting the tax exemption on both phases.

The former Studio 28 site is a high profile economic development priority for City staff and leadership. Staff have worked closely with the developer to create an attractive, aesthetically pleasing, affordable rental community. In addition to providing much-needed housing options, staff believe the the proposed project will support further commercial and retail growth by increasing the local population base. Overall, it has the potential to be a catalytic project that results in benefits that outweigh a temporary loss of taxes.

The timing of this approval process is designed to be completed by October 1, 2018. This allows the developer to meet the MSHDA application schedule for project financing. All required Planning Commission approvals and Council approvals are still necessary.

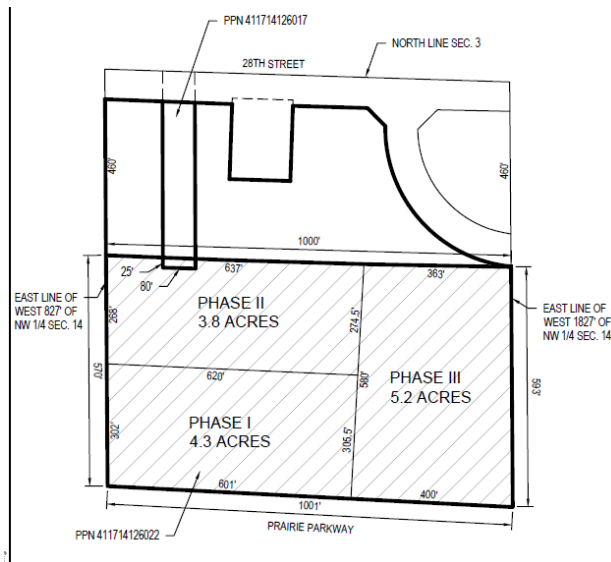
## MUNICIPAL SERVICES CONTRACT

(28WPhaseOne Limited Dividend Housing Association Limited Partnership Housing Project)

This Municipal Services Contract is made as of September 5, 2018, between the City of Wyoming, a Michigan municipal corporation of 1155 28<sup>th</sup> Street SW, Wyoming, MI 49509 (the "**City**"), and 28WPhaseOne Limited Dividend Housing Association Limited Partnership, a Michigan limited partnership, with offices at 733 3rd Avenue, 16th Floor, New York, NY 10017 (the "**Sponsor**").

### RECITALS

A. The Sponsor has applied for low income housing tax credits and a federally- or MSHDA-aided mortgage from the Michigan State Housing Development Authority ("**MSHDA**") in order to develop Phase I of the housing development depicted on the Site Concept Plan attached as **Exhibit A** (the "**Project**") on the property depicted as "Phase I" on the following diagram and legally described on **Exhibit C**, tax parcel number 41-17-14-126-022 (the "**Property**").



B. The State Housing Development Authority Act of 1966, 1996 PA 346, MCL 126.1401 *et seq.* (the "**Act**"), empowers municipalities to grant property tax exemptions for such housing developments.

C. The City has adopted Ordinance No. 15-18 providing that the Project is eligible for a property tax exemption under the Act, a copy of which is attached as **Exhibit B** (the "**Ordinance**").

D. The City wishes to ensure the Sponsor acquires, constructs, owns and operates the Project as depicted in Exhibit A within the promised time.

E. The Sponsor wishes to ensure that municipal services will be provided to residents of the Housing Development throughout the period when the Project is exempt from property taxes.

### TERMS AND CONDITIONS

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

#### 1. Development.

A. The Sponsor will acquire, construct, own and operate the Project on the Property with construction

beginning not later than January 1, 2020.

B. If construction has not begun (by the pouring of footings and foundations following the issuance of building permits for the buildings and other improvements comprising the Project), by January 1, 2020, the City Council may choose to repeal the Ordinance and terminate this Agreement. Before undertaking action to do so, the City shall give the Sponsor and the MSHDA written notice of the meeting at which such action will be considered and provide the Sponsor and MSHDA an opportunity to address the City Council before any such action is formally considered.

2. Municipal Services. The City shall provide municipal services to the Property, the Project and the Project's occupants just as it does for all similar property in the City.

3. Municipal Services Fee.

A. There shall be paid to the City a municipal services equal to 2.0% of the Annual Shelter Rent (as defined in the Ordinance) collected for the Project during each operating year.

B. The annual municipal services fee for each operating year shall be payable not later than each August 31 immediately following the conclusion of that operating year and thereafter will be subject to interest and penalties shall be collectible in the same manner as for *ad valorem* property taxes under the City Charter, this Code of Ordinances and the General Property Tax Act, 1893 PA 206, MCL 211.1 *et seq.*

C. The amounts paid pursuant to this agreement shall be in addition to the amounts paid pursuant to the Ordinance.

4. Annual Reporting. Beginning in the year in which the Sponsor first receives the benefit of the tax exemption granted under the Ordinance (the "**Tax Exemption**"), the Sponsor shall annually submit to the city assessor on or before April 30 an audit report showing the Annual Shelter Rent collected and the utilities paid by the Sponsor in the prior year.

5. Term. This agreement shall take effect as of the date first written about and shall remain in effect for each year that the tax exemption provided under the Ordinance remains in effect.

6. General Provisions.

A. Any notice, request or other communication given pursuant to this Agreement to either party shall be in writing and shall be deemed given when (i) delivered personally, (ii) when actually delivered by FedEx, UPS or similar delivery service, or (iii) when delivered and acknowledged by e-mail to the other party at the addresses first set forth above, unless the other party has designated in writing a different address for the serving of notices by a notice given in compliance with this subsection 16.A.

B. This is the entire agreement between the parties as to its subject matter. It shall not be amended or modified except in writing signed by all the parties. It shall not be affected by any course of dealing and the waiver of any breach shall not constitute a waiver of any subsequent breach of the same or any other provision.

C. This Agreement and the rights and obligations of the parties under this Agreement shall be governed by, and construed and interpreted in accordance with, the laws of the State of Michigan.

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

F. This Agreement and the rights and obligations under this Agreement are unassignable and non-transferable without the consent of the other parties. It shall, however, be binding upon any successors or permitted assigns of the parties.

G. This Agreement shall be enforceable only by the parties and no other person shall have the right to enforce any provision.

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

I. To the extent permitted by law, the jurisdiction and venue for any action brought pursuant to, arising from or to enforce any provision of this Agreement shall be solely in the state courts in Kent County, Michigan and the prevailing party in any such action shall, in addition to any other remedy, be entitled to recover its costs, including, without limitation, actual, reasonable filing fees, legal fees, expert fees, discovery expenses and other costs incurred to investigate, bring, maintain or defend any such action for its first accrual or first notice thereof through all appellate and collection proceedings.

J. A copy of this Agreement shall be recorded with the Kent County Register of Deeds.

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

**CITY OF WYOMING**

**STATE OF MICHIGAN  
COUNTY OF KENT**

By: \_\_\_\_\_  
Jack A. Poll, Mayor

On \_\_\_\_\_, 2018, Jack A. Poll and Kelli A. Vandenberg, known to me as the Mayor and Clerk, respectively for the City of Wyoming, acknowledged their signatures before me.

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

\_\_\_\_\_  
\*  
Notary public, \_\_\_\_\_ County, MI  
Acting in Kent County, MI  
My commission expires: \_\_\_\_\_

Approved as to form:

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

**28WPHASEONE LIMITED DIVIDEND HOUSING  
ASSOCIATION LIMITED PARTNERSHIP**

**STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_**

By: \_\_\_\_\_  
Vishal Arora, \_\_\_\_\_

On \_\_\_\_\_, 2018, Vishal Arora, known to me as the \_\_\_\_\_ for 28WPhaseOne Limited Dividend Housing Association Limited Partnership, acknowledged his signature before me.

\_\_\_\_\_  
\*  
Notary public, \_\_\_\_\_ County, \_\_\_  
Acting in \_\_\_\_\_ County, \_\_\_\_\_  
My commission expires: \_\_\_\_\_

**No state or county transfer tax is due because no interest is conveyed by this document.**

Drafted by:  
Scott G. Smith, City Attorney  
City of Wyoming  
1155 28<sup>th</sup> Street SW  
Wyoming, MI 49509

When recorded, return to:  
Kelli A. Vandenberg, City Clerk  
City of Wyoming  
1155 28<sup>th</sup> Street SW  
Wyoming, MI 49509

Exhibit A: Depiction of Project  
Exhibit B: Ordinance No. 15-18  
Exhibit C: Legal Description

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

RESOLUTION TO APPROVE AND AUTHORIZE MAYOR AND CITY  
CLERK TO SIGN MUNICIPAL SERVICES AGREEMENT FOR  
28WPHASETWO LIMITED DIVIDEND HOUSING ASSOCIATION  
LIMITED PARTNERSHIP HOUSING PROJECT

WHEREAS:

1. Magnus Capital Partners has proposed development by 28WPhaseTwo Limited Dividend Housing Association Limited Partnership of a housing project on the north side of Prairie Parkway but is seeking certain incentives from the Michigan State Housing Development Authority ("MSHDA"); and
2. To qualify for those incentives, it is necessary for the City to approve an exemption from *ad valorem* general property taxes for the project and the property on which it will be located; and
3. MSHDA allows the payment to the City of a municipal services fee pursuant to a municipal services agreement to partially pay the cost of municipal services provided by the City to the project and the property on which it is located.

NOW, THEREFORE BE IT RESOLVED:

1. The Municipal Services Agreement for the 28WPhaseTwo Limited Dividend Housing Association Limited Partnership project is approved in substantially the form attached as Exhibit A subject to such changes as the Mayor, City Manager and City Attorney may approve. The Mayor and City Clerk are authorized and directed to that agreement on behalf of the City.
2. All resolutions and parts of resolutions are, to the extent any conflict with this Resolution, rescinded.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried    Yes  
                              No

CERTIFICATION

I hereby certify that this resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on September 4, 2018.

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

ATTACHMENT:

Exhibit A: Municipal Services Agreement for 28WPhaseTwo LDHA Limited Partnership

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

## Staff Report

Date: August 29, 2018  
Subject: Payment in Lieu of Taxes for Apartments at 28 West  
From: Megan Sall, Assistant City Manager  
Meeting Date: September 4, 2018

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### Recommendation:

Staff recommends approval of the following:

Resolution Approving a Municipal Services Agreement for 28WPhaseOne Limited Dividend Housing Association Limited Partnership Housing Project (phase I of the Apartments at 28 West).

Resolution Approving a Municipal Services Agreement for 28WPhaseTwo Limited Dividend Housing Association Limited Partnership Project (phase II of the 2 Apartments at 28 West).

Ordinance 15-18 approving a tax exemption for the 28WPhaseOne Limited Dividend Housing Association Limited Partnership Housing Project (phase I of the Apartments at 28 West).

Ordinance 16-18 approving a tax exemption for the 28WPhaseTwo Limited Dividend Housing Association Limited Partnership Housing Project (phase II of the Apartments at 28 West).

Together, these agreements and ordinances will have the effect of granting a property tax exemption for phases I and II of the Apartments at 28 West development (assuming the projects receive MSHDA approval for the LIHTCs and assisted mortgages) and the corresponding payments a 1% payment in lieu of taxes (PILOT) and a 2% municipal services fee by the entities owning those phases of the Apartments at 28 West development, a mixed-income housing project located at the former Studio 28 property in the Downtown Development Authority district.

### Sustainability Criteria:

Environmental Quality – Approval of this action will allow for the redevelopment of a large, obsolete parcel, thereby affecting both the environmental and aesthetic qualities of the site.

Social Equity – Approval of this action will create affordable housing opportunities for local residents of all socio-economic levels.

Economic Strength – Approval of this action will allow for the redevelopment of an empty parcel, thereby leading to increased property values and additional support for local commercial businesses. It will also encourage further development within the corridor.

#### Discussion:

Apartments at 28 West is a proposed 3-phase mixed-income project located on the former Studio 28 site. This project will occupy approximately the southern 13 acres leaving the frontage along 28 West Place Street for mixed use development. Phase one will consist of 152 apartment units and Phase II will add an addition 84 units. The developer wishes to break ground the spring of 2019.

In order to assist with the feasibility of the project, the developer is requesting a property tax exemption in conjunction with other assistance from the Michigan State Housing Development Authority (MSHDA) and the Michigan Economic Development Corporation (MEDC). Under the proposed PILOT ordinances and municipal services agreements, the entities owning each phase will pay the City of Wyoming 3% of the rents collected as a PILOT (1%) and municipal services fee (2%), versus property taxes based upon taxable value of the entire site. These payments will be made and the tax exemption will remain in effect as long as the MSHDA loan funding agreement is in existence. In this case the 3% on both phases will be approximately 50% more than the taxes currently generated on the vacant land value. However, at completion of the project the 3% is expected to generate less funds for the City than the taxes that would normally be collected on the property.

The developer wishes to simultaneously apply for the financing for phases I and II, as it will enable them to concurrently build out significant portions of the project. In turn, the developer is requesting the tax exemption on both phases.

The former Studio 28 site is a high profile economic development priority for City staff and leadership. Staff have worked closely with the developer to create an attractive, aesthetically pleasing, affordable rental community. In addition to providing much-needed housing options, staff believe the the proposed project will support further commercial and retail growth by increasing the local population base. Overall, it has the potential to be a catalytic project that results in benefits that outweigh a temporary loss of taxes.

The timing of this approval process is designed to be completed by October 1, 2018. This allows the developer to meet the MSHDA application schedule for project financing. All required Planning Commission approvals and Council approvals are still necessary.



1. Development.

A. The Sponsor will acquire, construct, own and operate the Project on the Property with construction beginning not later than January 1, 2020.

B. If construction has not begun (by the pouring of footings and foundations following the issuance of building permits for the buildings and other improvements comprising the Project), by January 1, 2020, the City Council may choose to repeal the Ordinance and terminate this Agreement. Before undertaking action to do so, the City shall give the Sponsor and the MSHDA written notice of the meeting at which such action will be considered and provide the Sponsor and MSHDA an opportunity to address the City Council before any such action is formally considered.

2. Municipal Services. The City shall provide municipal services to the Property, the Project and the Project's occupants just as it does for all similar property in the City.

3. Municipal Services Fee.

A. There shall be paid to the City a municipal services equal to 2.0% of the Annual Shelter Rent (as defined in the Ordinance) collected for the Project during each operating year.

B. The annual municipal services fee for each operating year shall be payable not later than each August 31 immediately following the conclusion of that operating year and thereafter will be subject to interest and penalties shall be collectible in the same manner as for *ad valorem* property taxes under the City Charter, this Code of Ordinances and the General Property Tax Act, 1893 PA 206, MCL 211.1 *et seq.*

C. The amounts paid pursuant to this agreement shall be in addition to the amounts paid pursuant to the Ordinance.

4. Annual Reporting. Beginning in the year in which the Sponsor first receives the benefit of the tax exemption granted under the Ordinance (the "**Tax Exemption**"), the Sponsor shall annually submit to the city assessor on or before April 30 an audit report showing the Annual Shelter Rent collected and the utilities paid by the Sponsor in the prior year.

5. Term. This agreement shall take effect as of the date first written about and shall remain in effect for each year that the tax exemption provided under the Ordinance remains in effect.

6. General Provisions.

A. Any notice, request or other communication given pursuant to this Agreement to either party shall be in writing and shall be deemed given when (i) delivered personally, (ii) when actually delivered by FedEx, UPS or similar delivery service, or (iii) when delivered and acknowledged by e-mail to the other party at the addresses first set forth above, unless the other party has designated in writing a different address for the serving of notices by a notice given in compliance with this subsection 16.A.

B. This is the entire agreement between the parties as to its subject matter. It shall not be amended or modified except in writing signed by all the parties. It shall not be affected by any course of dealing and the waiver of any breach shall not constitute a waiver of any subsequent breach of the same or any other provision.

C. This Agreement and the rights and obligations of the parties under this Agreement shall be governed by, and construed and interpreted in accordance with, the laws of the State of Michigan.

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

F. This Agreement and the rights and obligations under this Agreement are unassignable and non-transferable without the consent of the other parties. It shall, however, be binding upon any successors or permitted assigns of the parties.

G. This Agreement shall be enforceable only by the parties and no other person shall have the right to enforce any provision.

H. No delay on the part of either party in the exercise of any right or remedy shall operate as a waiver of

such right or any other right; a waiver on any one occasion shall not be construed as a bar to or waiver of any subsequent breach of the same or any other provision of this Agreement on a future occasion.

I. To the extent permitted by law, the jurisdiction and venue for any action brought pursuant to, arising from or to enforce any provision of this Agreement shall be solely in the state courts in Kent County, Michigan and the prevailing party in any such action shall, in addition to any other remedy, be entitled to recover its costs, including, without limitation, actual, reasonable filing fees, legal fees, expert fees, discovery expenses and other costs incurred to investigate, bring, maintain or defend any such action for its first accrual or first notice thereof through all appellate and collection proceedings.

J. A copy of this Agreement shall be recorded with the Kent County Register of Deeds.

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

**CITY OF WYOMING**

**STATE OF MICHIGAN  
COUNTY OF KENT**

By: \_\_\_\_\_  
Jack A. Poll, Mayor

On \_\_\_\_\_, 2018, Jack A. Poll and Kelli A. VandenBerg, known to me as the Mayor and Clerk, respectively for the City of Wyoming, acknowledged their signatures before me.

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

\_\_\_\_\_  
\*  
Notary public, \_\_\_\_\_ County, MI  
Acting in Kent County, MI  
My commission expires: \_\_\_\_\_

Approved as to form:

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

**28WPHASETWO LIMITED DIVIDEND HOUSING  
ASSOCIATION LIMITED PARTNERSHIP**

**STATE OF \_\_\_\_\_  
COUNTY OF \_\_\_\_\_**

By: \_\_\_\_\_  
Vishal Arora, \_\_\_\_\_

On \_\_\_\_\_, 2018, Vishal Arora, known to me as the \_\_\_\_\_ for 28WPhaseTwo Limited Dividend Housing Association Limited Partnership, acknowledged his signature before me.

\_\_\_\_\_  
\*  
Notary public, \_\_\_\_\_ County, \_\_\_  
Acting in \_\_\_\_\_ County, \_\_\_\_\_  
My commission expires: \_\_\_\_\_

**No state or county transfer tax is due because no interest is conveyed by this document.**

Drafted by:  
Scott G. Smith, City Attorney  
City of Wyoming  
1155 28<sup>th</sup> Street SW  
Wyoming, MI 49509

When recorded, return to:  
Kelli A. VandenBerg, City Clerk  
City of Wyoming  
1155 28<sup>th</sup> Street SW  
Wyoming, MI 49509

Exhibit A: Depiction of Project  
Exhibit B: Ordinance No. 16-18  
Exhibit C: Legal Description

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

RESOLUTION TO ENTER INTO A CONTRACT WITH "THE HAUNT"  
AND TO AUTHORIZE THE MAYOR AND CITY CLERK  
TO EXECUTE THE CONTRACT

WHEREAS:

1. As detailed in the attached Police Support Contract, "The Haunt" will operate in a building located in the Wyoming Town Square between September 14 and November 3, 2018.
2. The Wyoming Public Safety/Police will provide some additional services and the owners of "The Haunt" will pay for those services.
3. It is recommended the City Council accept the Police Support Contract with "The Haunt".

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby authorize acceptance of the Police Support Contract with "The Haunt".
2. The City Council does hereby authorize the Mayor and City Clerk to execute the contract.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried      Yes  
                                    No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on September 4, 2018.

ATTACHMENTS:  
Police Support Contract  
Photo

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

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

## POLICE SUPPORT CONTRACT

(THE HAUNT)

This Police Support Contract is made as of September 5, 2018, between the City of Wyoming, a Michigan municipal corporation of 1155 28<sup>th</sup> Street SW, Wyoming, MI 48509 (the “**City**”) and Scare Michigan LLC, a Michigan limited liability company doing business as “The Haunt,” of which is 336 W. First Street, Suite 113, Flint, MI 48502, with a local address of 1256 28<sup>th</sup> Street SW, Wyoming, MI 40509 (the “**Company**”).

### RECITALS

A. The Company intends to operate a “haunted experience” called “The Haunt” with 144 “rooms,” over 100 actors, and 62 animations (the “**Experience**”), in a building in the Wyoming Town Square, accessible from 28 West Street on the north, Prairie Parkway on the south, and Michael Street on the east as depicted in the attached Exhibit A (“**Company’s Premises**”) with parking in the surrounding parking lots as also depicted on the attached Exhibit A (“**Haunt Parking Areas**”).

B. The Company expects do draw thousands of patrons on the evenings it is open, generally from 7:00 p.m. to 11:00 p.m. on Friday and Saturday, and from 7:00 p.m. to 10:00 p.m. on Sundays and some weekdays between September 15 and November 3, 2018, with special trick or treat hours and kids hours (“**Operation Hours**”).

C. The Company intends to sell tickets for between \$20 and \$55 with payments at the gate of \$30 to \$55 and also intends to sell related merchandise.

D. Some Operation Hours will overlap with football games occurring at Wyoming High School nearly directly across Prairie Parkway from the Company’s Premises and Haunt Parking Areas and football fans generally rely on parking near the Haunt Parking Areas as spill over parking for the football games.

E. While it has its own security team, the Company, as part of an overall cooperative and foresighted effort to attend to the safe operation of the Experience, believes a local police presence within the Haunt Parking Areas will help the Company ensure the safety of Company patrons, the general public and Company personnel during the operation of the Experience.

F. The City is amenable to assigning police officers to provide that local police presence in accordance with this Contract.

### TERMS AND CONDITIONS

In exchange for the consideration in and referred to by this contract, the City and the Company agree:

1. Assignment. The City will schedule 2 police officers selected by the City Police Department to be in the Haunt Parking Areas and other areas surrounding the Company’s Premises in accordance with the scheduled hours that comprise the written operations plan agreed upon between the Company and the City Police Department Community Service Team.

A. This Contract provides for City Police presence, not any special or enhanced duties or services. Assigned officers will be under normal City Police Department command and will act in accordance with City Police Department policies, procedures and protocols. Company 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 Police Department direction, policies, procedures and protocols. If Company personnel believe different actions or responses are appropriate, Company personnel may direct any such concerns to City Police Department command personnel.

B. Assigned officers will remain outside the Company’s Premises unless summoned by Company personnel to address a particular situation within the Company’s Premises.

C. One or both assigned officers will accompany Company personnel as they make deposits at the bank located near the Company’s Premises.

D. Assigned officers will use their discretion, as provided within City Police Department direction, policies, procedures and protocols to attend to vehicular traffic, pedestrian travel, specific situations, and particular incidents around the Company’s Premises, the surrounding streets, and the Haunt Parking Areas. Assigned officers shall have no special duties or special obligations to the Company, Company

personnel, Company patrons or the general public. This Contract provides for City Police presence, not any special or enhanced duties or services.

E. In accordance with its normal practice, the City will assign other officers to duties related to the football games.

F. If, in the sole discretion of City Police Department command personnel, another situation away from the Company's Premises and the Haunt Parking Areas requires an intensive police response, City Police Department command personnel acting in their sole discretion, may dispatch the officers assigned to the areas around the Company's Premises to that other situation until, in the sole discretion of City Police Department command personnel, the other situation has been addressed in a manner that those officers (or replacement officers) can be returned to the areas around the Company's Premises to resume the services provided pursuant to this Contract. If such a circumstance occurs, the assigned officers will notify Company personnel that they are leaving and the Company will be provided a direct contact number for City Police Department command personnel on duty that evening.

G. It is intended the officers assigned to perform services under this Contract will interact with Company personnel, Company patrons and the general public in a manner similar to that in which such officers would interact during similar events and assignments.

H. Similarly, it is intended that the Company and Company personnel will interact with the assigned police officers in a manner similar to that of other businesses, organizations, events and individuals interacting with City police officers in similar situations.

I. Nothing in this Contract shall limit the lawful authority of or the lawful exercise of that authority by the City, the City Police Department or any City Police Department personnel, including without limitation, any officers who may from time-to-time be involved in providing services pursuant to this Contract.

2. Payment. The Company will pay the City for the service provided under this Contract at the rate of \$72.48 per officer per hour. The Company and City currently estimate 222 hours will be paid under this Contract for a total of \$16,090.56. If the hours worked are more or less than the estimated number of hours, the Company will be billed for only those hours actually worked or reimbursed for any hours for which it has paid but officer did not work.

A. The Company will pay \$8,000.00 to the City not later than September 24, 2018, as a deposit toward the amount to be paid under this Contract.

B. Not later than November 14, 2018, the City will provide the Company an invoice detailing any additional amounts due or the amount to be refunded to the Company from the deposited amount.

C. Any payment or refund shall be paid within 15 days of the date of the invoice.

3. Responsibility for Personnel. Both the City and the Company 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.

4. Term. This Contract shall take effect as of the date first written about and shall remain in effect until all amounts required to be paid under this Contract have been paid in full.

5. General Provisions.

A. This is the entire agreement between the parties as to its subject matter. It shall not be amended or modified except in writing signed by both parties. It shall not be affected by any course of dealing and the waiver of any breach shall not constitute a waiver of any subsequent breach of the same or any other provision.

B. This Contract and the rights and obligations of the parties under this Contract shall be governed by, and construed and interpreted in accordance with, the laws of the State of Michigan.

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

D. This Contract and the rights and obligations under this Contract are unassignable and non-transferable without the consent of the other parties. It shall, however, be binding upon any successors or permitted assigns of the parties.

E. This Contract shall be enforceable only by the parties and no other person shall have the right to enforce any provision.

F. To the extent permitted by law, the jurisdiction and venue for any action brought pursuant to, arising from or to enforce any provision of this Contract shall be solely in the state courts in Kent County, Michigan and the prevailing party in any such action shall, in addition to any other remedy, be entitled to recover its costs, including, without limitation, actual, reasonable filing fees, legal fees, expert fees, discovery expenses and other costs incurred to investigate, bring, maintain or defend any such action for its first accrual or first notice thereof through all appellate and collection proceedings.

G. Each individual signing this Contract on behalf of a party attests and promises she/he has the authority to sign this Contract on behalf of that party.

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

CITY OF WYOMING

SCARE MICHIGAN LLC, d/b/a "THE HAUNT"

By: \_\_\_\_\_  
Jack A. Poll, Mayor

By: \_\_\_\_\_  
Doug Sheldon, Chief Executive Officer

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

Date signed: \_\_\_\_\_, 2018

Date signed: \_\_\_\_\_, 2018

Approved as to form:

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

Exhibit A – Depiction of Company Premises & Haunt Parking Areas



Imagery ©2018 Google, Map data ©2018 Google 100 ft

Set a home address

Set a work address

Updated 2 min ago



Light traffic in this area  
Typical conditions >

Wyoming 72° ...

- Restaurants
- Hotels
- Bars
- Coffee
- More

Hide

# HAUNT

GRAND RAPIDS, MICHIGAN

September

Sun	Mon	Tues	Wed	Thurs	Fri	Sat
9	10	11	12	13	14	15
16	17	18	19	20	21	22
23	24	25	26	27	28	29
30						

October

	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	31	1	2	3

Friday / Saturday  
7PM-11PM

Sunday / Weekdays  
7PM-10PM

TRUNK OR TREAT 3PM-6PM  
KIDS HAUNT 4PM-6PM  
NORMAL HAUNT HOURS IN EVENING

Fri/Sat - BLACKOUT  
7pm-10pm

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

RESOLUTION TO APPROVE A PROFESSIONAL SERVICES AGREEMENT  
WITH PLB PLANNING GROUP LLC

WHEREAS:

1. From time to time the City needs to engage the services of a professional planner to augment its own planning staff.
2. PLB Planning Group provides professional planning services to local governments, businesses and other clients.
3. PLB Planning Group is highly regarded, is locally based enabling it to provide on-site services for the City, and has the current capacity to address the City's foreseeable needs for professional planning services.

NOW, THEREFORE BE IT RESOLVED:

1. The Professional Services Contract with the PLB Planning Group LLC is approved in the form attached as Exhibit A and the Mayor and City Clerk are authorized and direct to sign it on behalf of the City.
2. All resolutions and parts of resolutions are, to the extent any conflict with this Resolution, rescinded.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried    Yes  
                              No

I hereby certify that this resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on September 4, 2018.

---

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:    Professional Services Contract

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

## EXHIBIT A

### **PROFESSIONAL SERVICES CONTRACT** (PLANNING SERVICES)

This Professional Services Contract is made as of August 29, 2018, between the City of Wyoming, a Michigan municipal corporation of 1155 28<sup>th</sup> Street SW, Wyoming, MI 49509 (the "City"), and PLB Planning Group, LLC, a Michigan limited liability company of 8964 Conservancy Drive, Ada, MI 49301 ("PLB").

#### RECITALS

- A. From time to time the City wishes to engage the services of a professional planner to augment its own planning staff.
- B. PLB provides professional planning services to local governments, businesses and other clients.
- C. PLB is highly regarded, PLB is locally based enabling it to provide on-site services for the City, and PLB has the current capacity to address the City's foreseeable needs for professional planning services.

#### TERMS AND CONDITIONS

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

##### 1. Qualifications.

A. PLB represents that it and its personnel have the professional qualifications, including, without limitation, any required licenses, certifications and other governmental or organizational approvals, required to provide professional planning services in Michigan. If, at any time, whether temporarily or permanently, PLB or its personnel do not have such professional qualifications or actions are underway that may result in PLB or its personnel losing such professional qualifications, whether such loss may be temporary or permanent, PLB shall immediately notify the City. If PLB or its personnel do not have the professional qualifications to provide professional planning services as provided in this Contract, the City may terminate this Contract and will be obligated to compensate PLB for services provided by PLB only through the date of that termination and only for such time prior to the date of termination that PLB and its personnel had the required professional qualifications to provide those services.

B. Paul LeBlanc is a principal of PLB and is the person who will be providing services for the City under this Contract. If Paul LeBlanc is no longer providing such services, the City may terminate this Contract and will be obligated to compensate PLB for services provided by PLB only through the date of that termination.

2. Services. PLB shall provide professional planning services for the City as from time-to-time requested or directed by the City Manager, City Planning Director or the City Planner. Such services may include, for example and not for limitation, (i) consultation on or drafting of proposed zoning ordinance amendments, (ii) review of special use or PUD applications, (iii) review of site and other plans, (iv) interpretation of the zoning ordinance and other development-related ordinances and laws, and their application to specific circumstances, (v) review of Zoning Board of Appeals applications, (vi) attendance at City Council, Planning Commission, and Zoning Board of Appeals meetings, (vii) preparation of staff reports to those bodies, (viii) responses to requests for "zoning verification," (ix) addressing planning and zoning inquiries, some of which may be unscheduled "walk-in" inquiries or by telephone, (x) interacting with property owners, developers, local businesses and others, (xi) interacting and consulting with the City Manager, Assistant City Manager, City Planning Director, City Planner, City legal counsel, and other City personnel, (xii) participation in master plan preparation, (xiii) interacting with officers and other members of the Planning Commission and Zoning Board of Appeals in preparation for meetings or in response to inquiries, and (xiv) other communications and activities as from time to time requested by the City Manager, City Planning Director or City Planner. If, from time to time, requested by the City Planning Director or City Manager, PLB shall arrange with the City Planning Director a schedule to be present in City Hall for an average of at least 2 half-days each week.

##### 3. Compensation.

A. The City shall compensate PLB at the rate of \$150 per hour for general services under this Contract. If PLB personnel are required to provide expert testimony in planning or zoning litigation, including in any enforcement proceeding, the City shall compensate PLB at the rate of \$200 per hour. Such time will be reported and invoiced in 1/10 hour increments.

B. The City will also reimburse PLC for any expenses PLB incurs under this Contract. Mileage shall be paid at the IRS established rate for reimbursement. Other expenses shall be billed without any mark-up or multiplier. PLB will obtain City approval prior to incurring any single expense exceeding \$100. Meals for PLB personnel shall ordinarily not be reimbursed, but may be reimbursed with prior approval.

C. The City will provide a work space for PLB personnel while working in City Hall and will provide a computer with access to needed City networks and other equipment. The City will also provide any needed copiers, paper supplies and other items needed for the performance PLB's services while PLB personnel are at the City Hall.

D. PLB will invoice the City monthly for services rendered the preceding month. Invoices will detail the date of services, the PLB personnel providing those services, a description of the services, and the time expended in providing the service, with separate entries for each day services are provided.

E. Unless there is a correction to be made or a dispute concerning any amount, invoice will be paid within 30 days of receipt. If there is a dispute, any undisputed amount will be paid within 30 days. If a correction is to be made, the invoice will be paid within 30 days after receipt of the corrected invoice.

#### 4. Information, Communications, and Work Product.

A. From time to time developers and other persons may make confidential inquiries of City staff about possible development projects, plans, sites, etc. Similarly, City staff may from time to time engage in confidential communications regarding current, past, or contemplated plans, desires, goals, enforcement actions, litigation, or other matters that are exempt from mandatory disclosure under applicable laws. PLB may, from time to time, be privy to such information. Except as required by law or legal process, PLB personnel shall not disclose any of that confidential information to any other entity or individual without the City's prior consent.

B. Conversely, BLP acknowledges the City is subject to the Freedom of Information Act, the Open Meetings Act, and other disclosure requirements and that the City's general policy is to operate with transparency. Accordingly, BLP and its personnel shall ensure their communications and conduct comply with such legal requirements and general policy and so that if those communications or conduct were to be publicly disclosed, they would reflect positively on the City and City officers and staff.

C. All communications, documents and other work product produced by PLB or PLB's personnel pursuant to this Contract shall be and remain the property of the City that the City may use in any manner or for any purpose.

5. Term. The term of this Contract shall begin August 29, 2018. This Contract shall be for an indefinite term. Either party may terminate this Contract upon 30-days written notice to the other party. This Contract may be immediately terminated by the City as provided above. PLB may terminate this Contract upon 7-days written notice for nonpayment of invoices as provided in this Contract unless payment is rendered within that 7-day notice period.

#### 6. General Provisions.

A. This is the entire agreement between the parties as to its subject matter. It shall not be amended or modified except in writing signed by both parties. It shall not be affected by any course of dealing and the waiver of any breach shall not constitute a waiver of any subsequent breach of the same or any other provision.

B. This Contract and the rights and obligations of the parties under this Contract shall be governed by, and construed and interpreted in accordance with, the laws of the State of Michigan.

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

D. This Contract and the rights and obligations under this Contract are unassignable and non-transferable without the consent of the other party. It shall, however, be binding upon any successors or permitted assigns of either party.

E. This Contract shall be enforceable only by the parties and no other person shall have the right to enforce any provision.

F. To the extent permitted by law, the jurisdiction and venue for any action brought pursuant to, arising from or to enforce any provision of this Contract shall be solely in the state courts in Kent County,

Michigan and the prevailing party in any such action shall, in addition to any other remedy, be entitled to recover its costs, including, without limitation, actual, reasonable filing fees, legal fees, expert fees, discovery expenses and other costs incurred to investigate, bring, maintain or defend any such action for its first accrual or first notice thereof through all appellate and collection proceedings.

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

CITY OF WYOMING

PLB PLANNING GROUP, LLC

By: \_\_\_\_\_  
Jack A. Poll, Mayor

By: \_\_\_\_\_  
Paul LeBlanc, Principal

By: \_\_\_\_\_  
Kelli A. Vandenberg, Clerk

Date signed: \_\_\_\_\_, 2018

Date signed: \_\_\_\_\_, 2018

Approved as to form:



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

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

RESOLUTION TO ACCEPT A QUOTE FROM XYLEM ANALYTICS  
FOR THE PURCHASE OF A UVT-254 MONITORING SYSTEM

WHEREAS:

1. As detailed in the attached Staff Report, Xylem Analytics provided the City with a quote for the purchase of a UVT-254 monitoring system in the total amount of \$16,868.00.
2. It is recommended City Council accept the quote from Xylem Analytics.
3. Funds for the purchase are budgeted in the Sewer Fund Capital Outlay account number 590-590-54400-986444.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby accept a quote from Xylem Analytics for the purchase of a UVT-254 Monitoring System in the total amount of \$16,868.00.
2. The City Council does hereby waive the provisions of Sections 2-252, 2-253, 2-254, and 2-256 of the City Code regarding publication and posting of bid notices, notification of bidders and the bid opening procedure.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried        Yes  
                                  No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on September 4, 2018.

ATTACHMENTS:

Staff Report

Quotation

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

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

## STAFF REPORT

Date: July 31, 2018

Subject: UVT-254 Monitoring Equipment

From: Jon Burke, Clean Water Plant Superintendent

Meeting Date: September 4, 2018

---

### **RECOMMENDATION:**

It is recommended that the City Council approve the purchase of a new UVT-254 monitoring system from Xylem Analytics at a cost of \$16,868.00 including shipping to our plant.

### **SUSTAINABILITY CRITERIA:**

#### Environmental Quality:

The Clean Water Plant is actively engaged in the protection of Michigan's natural water environment and the public health of Wyoming's citizens. As part of our efforts to continue making a positive impact on the environment, it is necessary that our infrastructure and the equipment that keeps it running are maintained in a safe, reliable, and optimal working condition.

#### Social Equity:

The Utility function within the City of Wyoming provides the same high quality service to all areas of the City without regard to income level or socio-economic status. All of Wyoming's residents enjoy equal access to the benefits of our state-of-the-art wastewater and drinking water treatment technologies.

#### Economic Strength:

The Clean Water Plant staff is always looking for ways to improve the efficiency of the treatment process. Performing this data gathering work will save time and money during the study phase of the planned disinfection study that is budgeted for later this year.

### **QUALITY SERVICE IMPACT:**

Proper monitoring of the wastewater through the treatment process is a critical part of ensuring that the plant is running safely and optimally, which ultimately serves our rate payers and citizenry.

**DISCUSSION:**

The current treatment process at the CWP includes the use of chlorine gas for disinfection. Although very effective, it requires storage of large amounts of chlorine gas as well as sulfur dioxide, which is in turn used to remove any excess chlorine before the flow enters the Grand River. The storage and use of such large amounts of potentially hazardous compressed gases imposes significant safety, maintenance, and regulatory burdens.

To address this, there has been interest in moving from chlorine disinfection to an ultraviolet (UV) light disinfection system which is much safer to run and maintain. We budgeted to hire a consultant to study the options of installing a UV system during the current fiscal year, and the first step in this process is the gathering of UV transmittance data. This data will provide critical information to properly size and specify any new UV system.

Attached is a quote from System Specialties for the necessary equipment, which is manufactured by Xylem Analytics. We did not put this equipment out for bid because System Specialties is the only supplier in the Michigan region; however, we did obtain a comparative price on equivalent equipment from another manufacturer, which was over \$21,000. We have previous experience with both Xylem Analytics and System Specialties, and have been very happy with the ease of installation, operation, performance, and customer service offered by these two companies.

**BUDGET IMPACT:**

The cost of the new monitoring equipment is \$16,868.00. Sufficient funds exist in the Sewer Fund Capital Outlay Account #590.590.54400.986.444.

Attachments:

Xylem Analytics quote



## Quotation Submission



Company: Wyoming Clean Water Plant  
Address: Grandville, MI

ATTN: Jon Burke

Project Name: UVT Sensor

YSI, a Xylem brand, is pleased to offer the following quotation as per your request.

**Xylem Analytics** a xylem brand  
1700/1725 Brannum Lane  
Yellow Springs, Ohio 45387-1107

**Mark Vuksan**  
Phone: (905) 902-6634  
Fax: (905) 930-8115  
Email: [mark.vuksan@xyleminc.com](mailto:mark.vuksan@xyleminc.com)

Date: August 23, 2018  
QUOTE #: MV20180823-03  
Revision:

Part Number	Model	Description	Each	Qty	EXTENDED
<b>Controller and Mounting</b>					
470 024Y	MIQ/TC 2020 3G-H3 C6	System 2020 3G - 20 Channel Terminal/Controller with 6 Current outputs, power supply 100-240 VAC & USB interface. 5 available IQ SensorNet Connections	\$2,900	1	\$2,900.00
109 295Y	SSHIQ	IQ Sun Shield, Plastic, for 2020 & 282 module mounting, also used for mounting air cleaning box.	\$120	1	\$120.00
109 286Y	MR/SD 170	Rail mounting kit for SD.M 170, SD.M 170 and SSHIQ sun shields (dia. 25-60 mm)	\$96	1	\$96.00
480 025Y	MIQ/WL PS Set	Radio modules for wireless communication, includes Primary and Secondary radio modules with integrated power supply and 3 IQ SensorNet connection in each module.	\$1,225	1	\$1,225.00
<b>COD/BOD Sensor</b>					
481 038Y	IQ UVT-254 705	Optical UV absorption probe for UVT-254/SAC (total and soluble) with correlated parameters: COD, BOD, DOC and TOC, 5 mm path length, with integrated ultrasonic cleaning. Reports one parameter at a time. Supplied with multifunctional slide and Shock-Absorption-Rings, without connection cable (SACIQ order separately)	\$10,973	1	\$10,973.00
480 044Y	SACIQ-15.0	Sensor Connection cable, IQ, 15 m, 49.2 ft	\$153	1	\$153.00
109 276Y	BEM 170	Clamp fixture for direct masonry mounting of boom	\$176	1	\$176.00
109 272Y	EH.F 170-1.5	SensoClean Swing mounting assembly, boom length 1.5 m	\$245	1	\$245.00
481 073Y	MS Set/EH	Horizontal mounting kit for UVMS probes with Swing mount EH.F 170	\$155	1	\$155.00
481 079Y	MS C/SET	Universal cleaning kit for UVMS sensors. Includes 20 perforated textured (flocked) cleaning cloths in two sizes for 1 mm and 5 mm gap sensors. Includes cleaning solutions.	\$225	1	\$225.00
480 046YM-50	SNCIQ	IQ Cable, 2 Wire w/Shield, Specify length in meters, XX = length in meters (1 meter = 3.28 feet)	\$7	50	\$350.00
	Freight	Freight to site	\$250	1	\$250.00
<b>Total</b>					<b>\$16,868.00</b>

**Please note the following:**

- 1) This quotation is limited to supplying the equipment described above. It does not include power or current output cable, supports, or other materials except that which are specifically listed above.
- 2) YSI IQ SensorNet Equipment: Controllers have a 3 year warranty, sensors have a two year warranty. Consumables for pH have a 6 month warranty, DO consumables have a 2 year warranty.
- 3) Integrated lightning protection included on all YSI IQ SensorNet products when instruments & sensors are wired with approved IQ Cable model SNCIQ.
- 4) PVC extension poles that suspend the sensors in the process are to be supplied by others.

TERMS: Net 30 Days

FOB: Wyoming Clean Water Plant, Grandville, MI

Thank you for your interest in Xylem.

Best Regards:

*Mark Vuksan*

Mark Vuksan  
North Eastern Regional Sales Manager  
Xylem Analytics

*Kurt Somsel*

Kurt Somsel  
Sales Engineer  
Systems Specialties, YSI's Michigan Representative

**Ordering Instructions:**

Credit Card Reference This Quote Number	Call: (937) 767-7241 (Option 3)
Purchase Order Include a Copy of Quote with PO	Email: <a href="mailto:orders@ysi.com">orders@ysi.com</a> Fax: (937) 767-1058 Mail: <b>YSI Incorporated</b> Attn: Order Entry 1725 Brannum Lane Yellow Springs, OH 45387

- All purchase orders should be accompanied with a copy of this quote or clearly reference the quotation number.
- All purchase orders should have a complete billing and complete shipping address on the purchase order.
- For order acknowledgement please provide email address to send updates on order. Email Address: \_\_\_\_\_
- Taxes and Tariffs are additional and are not included in the above pricing unless explicitly stated as a line item.
- Shipping charges are additional and are not included in the above pricing unless explicitly stated as a line item.
- Tax Exempt customers must include their Tax ID on their Purchase Order. Proof of Tax Exempt status may be required.

**Business Information:**

**YSI Incorporated**  
Tax Identification #: 31-0526418  
DUNS #: 004246716

**Remit to Address for Orders:**  
**Checks (Drawn on US Banks Only)**  
**YSI Incorporated**  
PO Box 640373  
Cincinnati OH 45264-0373

**ACH (With ADDENDA Record)**  
US Bank NA  
Cincinnati, OH 45202  
Acct# 8506321; ABA# 042000013

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

RESOLUTION TO ACCEPT A QUOTE FROM DELL CORPORATION  
FOR THE PURCHASE OF TEN POLICE VEHICLE COMPUTERS  
COMPLETE WITH DOCKING STATIONS

WHEREAS:

1. As detailed in the attached Staff Report, Dell Corporation provided the City with a quote for the purchase of ten police vehicle computers complete with docking stations in the total amount of \$24,673.10.
2. It is recommended City Council accept the quote from Dell Corporation.
3. Funds for the purchase are budgeted in the General Fund/Information Technology/Operating Supplies Computer Equipment account number 101-258-25800-740200.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby accept a quote from Dell Corporation for the purchase of police vehicle computers complete with docking stations in the total amount of \$24,673.10.
2. The City Council does hereby waive the provisions of Sections 2-252, 2-253, 2-254 and 2-256 of the City Code regarding publication and posting of bid notices, notification of bidders and the bid opening procedure.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried      Yes  
                                    No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on September 4, 2018.

ATTACHMENTS:  
Staff Report  
Quotes

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

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

## STAFF REPORT

Date: August 29, 2018  
Subject: Department of Public Safety/Police Vehicle Computers  
From: Pat Firestone, Director of Information Technology  
Meeting Date: September 4, 2018

---

### **RECOMMENDATION:**

It is recommended that the City Council authorize the purchase of (10) Dell Latitude Rugged computers complete with (10) Havis Docking stations for the Public Safety Department police cruisers from Dell Corporation. These laptops will replace scheduled, older, computers that have been utilized in Public Safety vehicles for over five years and will continue to assist officers in performing required assignments and duties. The replacement of the docking stations is for the change of laptop model in the cars.

### **SUSTAINABILITY CRITERIA:**

Environmental Quality – Approval of this bid does not significantly impact environmental quality.

Social Equity – Information Technology staff continues efforts toward expanding and upgrading equipment as needed, which is consistent with our goal of maintaining our IT infrastructure to support technology solutions, facilitate interoperability and connectivity, and support technologies and computing assets that increase service to our employees and/or citizens.

Economic Strength – As with any technology, this equipment will age, become unreliable, and require updating, especially in the harsh conditions of a Police patrol vehicle. Information Technology staff are encouraged to implement a strategy of proactive updating of computing assets to minimize and prevent outages of the information networks to City employees and/or citizens looking for services.

### **DISCUSSION:**

There is no 'industry standard' per se regarding a replacement schedule, but most organizations who have developed a replacement policy have decided on a three-to-four year schedule. The three main reasons for computer equipment replacement are cost, productivity and maintenance. We have been stretching our equipment to a five year schedule and even longer in some instances. These replacements should ensure that our hardware keeps up-to-date with the latest enhancements of various software and technologies being used.

The Dell Latitude Rugged laptops with Havis Docking station were quoted by Dell Corporation and three other competitors, Dell was selected at a price of \$2,004.00 each for the Rugged laptop and \$463.31 each for the Havis Docks, for a total of \$24,673.10.

**BUDGET IMPACT:**

Funding (\$24,673.10) for the purchase of the Dell Rugged Laptops and Havis Docking Stations is budgeted and available in the General Fund/Information Technology/Operating Supplies Computer Equipment account #101-258-25800-740.200.

End of Report

## Curran, Todd

---

**From:** Nicki Meller <nicki@sehi.com>  
**Sent:** Tuesday, August 28, 2018 2:50 PM  
**To:** Curran, Todd  
**Cc:** Sondag, Lisa; Keith Broughton  
**Subject:** RE: Quote request for Havis Docking Station

DEVMT DOCKST DELL LAT12-14 SP

Manufacturer: Havis Inc  
Manufacturer Part #: DS-DELL-406  
\$675.00 each x 10 = \$6,750.00

**Nicki Meller**  
**1-800-233-7344 x. 215**  
**Thank you for Choosing Sehi!**  
**Please register for your pricing at [www.buysehiedu.com](http://www.buysehiedu.com)**

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**From:** Curran, Todd [mailto:currant@wyomingmi.gov]  
**Sent:** Tuesday, August 28, 2018 1:27 PM  
**Cc:** Sondag, Lisa <SondagL@wyomingmi.gov>  
**Subject:** Quote request for Havis Docking Station

Please quote the Havis DS-DELL-406 Basic Port Replication. We are looking to purchase 10.

Thank you,

**Todd Curran**  
IT Supervisor  
City of Wyoming  
1155 28th St SW  
Wyoming MI 49509  
(616)530-7221  
fax:(616)261-7152  
**#WeCare**

Quote # 100122320 - Dell Latitude 5414 XCTO Notebooks (Qty 10)  
Cust #: CO10284 ( City of Wyoming MI )  
Quote Date: Aug 29, 2018

<b>Sold to:</b>	<b>Ship to:</b>
Payable Accounts City of Wyoming 1155 28th St SW Wyoming, Michigan, 49509 T: 000-000-0000 currant@wyomingmi.gov	REF PO City of Wyoming 1155 28th St SW Wyoming, Michigan, 49509 T: 000-000-0000 currant@wyomingmi.gov
<b>Payment Method</b>	<b>Shipping Method:Free Shipping</b>
No Payment Information Required	Free Shipping  (Total Shipping Charges \$0.00)

Notes: \*\*Please review the configuration details before purchasing. Turnaround time from order to delivery is on average 1-3 weeks. This quote is valid for 30 days.\*\*

#	Products	SKU	Price	Qty	Subtotal
1	Dell Latitude 5414 XCTO - 14.0" FHD (1920x1080)	DEL-210-AJRP-1021	\$2,528.85	10	\$25,288.50
	Outdoor-Readable Touchscreen, Mic Only - Intel Dual-Band	589102693-CTO			
	Wireless-AC 8260 Wi-Fi + BT 4.2 - Intel Core i5-6300U				
	Processor (3M Cache, 2.40 GHz) without Security Bundle - Win				
	10 Pro - 8GB (1x8GB) 2133MHz DDR4 -				

\*\*Please review the configuration details before purchasing. Turnaround time from order to delivery is on average 1-3 weeks. This quote is valid for 30 days.\*\*

Subtotal: \$25,288.50  
Tax: \$0.00  
Grand Total (Incl. Tax): \$25,288.50

Thank you for your order. We value your business and will continue to provide you excellent service in addition to our comprehensive product line. All returns must be authorized and clearly marked with a valid RMA number. Returns are subject to restock fees when applicable.

Quotes are valid for 30-days unless otherwise noted.



Southern Computer Warehouse  
 1395 S. Marietta Parkway | Building 300-106  
 Marietta, GA 30067  
 (P) 877-468-6729  
 (F) 770-579-8937  
 SCW.com

Quote # 100122181 - Havis DS-DELL-406 Basic Port Replications (Qty 10)  
 Cust #: CO10284 ( City of Wyoming MI )  
 Quote Date: Aug 28, 2018

<b>Sold to:</b>	<b>Ship to:</b>
Accounts Payable City of Wyoming 1155 28th St SW Wyoming, Michigan, 49509 T: 000-000-0000 currant@wyomingmi.gov	REF PO City of Wyoming 1155 28th St SW Wyoming, Michigan, 49509 T: 000-000-0000 currant@wyomingmi.gov
	<b>Shipping Method:Free Shipping</b>

Notes: This product ships direct from the manufacturer. Please allow 2-4 weeks for delivery.

#	Products	SKU	Price	Qty	Subtotal
1	Havis Docking Station for Dell Latitude Rugged Extreme - for Notebook - Proprietary - 4 x USB Ports - 1 x USB 2.0 - 3 x USB 3.0 - Network (RJ-45) - Microphone - Docking	HVI-DS-DELL-406	\$599.92	10	\$5,999.20

This product ships direct from the manufacturer. Please allow 2-4 weeks for delivery.

Subtotal: \$5,999.20  
 Tax: \$0.00  
 Grand Total (Incl. Tax): \$5,999.20

Thank you for your order. We value your business and will continue to provide you excellent service in addition to our comprehensive product line. All returns must be authorized and clearly marked with a valid RMA number. Returns are subject to restock fees when applicable.

Quotes are valid for 30-days unless otherwise noted.

Michael Acosta  
 michael.acosta@scw.com  
 Southern Computer Warehouse  
 1395 S. Marietta Parkway | Building 300-106  
 Marietta, GA 30067  
 (P) 877-468-6729  
 (F) 770-579-8937

Hello Todd,

Please find your quote below. Let me know if you need anything else!

Thanks,  
Michelle Matyash



**Pricing Proposal**

Quotation #:	15432568
Description:	Dell Rugged 5414
Created On:	Jun-01-2018
Valid Until:	Jun-24-2018

**City of Wyoming**

**Todd Curran**  
1155 28th St. SW  
Wyoming, MI 49509  
United States  
Phone: (616)530-7221  
Fax:  
Email: ITCorrespondence@wyomingmi.gov

**Inside Account Manager**

**Michelle Matyash**  
290 Davidson Ave  
Somerset, NJ 08873  
Phone: 732-868-8769  
Fax:  
Email: michelle\_matyash@shi.com

[Click here to order this quote](#)

All Prices are in US Dollar(USD)

Product	Qty	Your Price	Total
1 Latitude 14 Rugged 5414 Dell - Part#: 3000025404779.1 Contract Name: Open Market Contract #: Open Market	1	\$2,333.77	\$2,333.77
2 Docking Station for Dell's Latitude 14 Rugged and Latitude 12 & 14 Rugged Extreme Notebooks with Power Supply (Advanced Port Replication) Dell - Part#: 3000025404780.1 Contract Name: Open Market Contract #: Open Market	1	\$560.73	\$560.73
		<b>Total</b>	<b>\$2,894.50</b>

**Additional Comments**

Thank you for choosing SHI International Corp! The pricing offered on this quote proposal is valid through the expiration date listed above. To ensure the best level of service, please provide End User Name, Phone Number, Email Address and applicable Contract Number when submitting a Purchase Order. For any additional information including Hardware, Software and Services Contracts, please contact an SHI Inside Sales Representative at (888) 744-4084.

SHI International Corp. is 100% Minority Owned, Woman Owned Business.  
TAX ID# 22-3009648; DUNS# 61-1429481; CCR# 61-243957G; CAGE 1HTF0

The Products offered under this proposal are subject to the SHI Return Policy, unless there is an existing agreement between SHI and the Customer.

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

RESOLUTION TO ACCEPT A QUOTE FOR THE PURCHASE AND  
INSTALLATION OF NETWORK SERVERS, STORAGE, AND SWITCHES  
FROM SECANT TECHNOLOGIES

WHEREAS:

1. As detailed in the attached Staff Report, it is recommended the City Council accept a quote from Secant Technologies for the purchase of network servers, storage and switches in the total estimated amount of \$60,258.16.
2. Funds for the purchase are budgeted in the Water Fund, Water Utility, Capital Outlay, Capital Outlay-Plant Expansion Phase 2 account number 591-591-57300-986444.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby authorize the purchase of network servers, storage and switches from Secant Technologies in the total estimated amount of \$60,258.16.
2. The Wyoming City Council does hereby waive the provisions of Sections 2-252, 2-253, 2-254 and 2-256 of the City Code regarding publication and posting of bid notices, notification of bidders and the bid opening procedure.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried        Yes  
                                  No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on September 4, 2018.

ATTACHMENTS:

Staff Report  
Tabulation Sheet  
Quotation

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

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

## STAFF REPORT

Date: August 28, 2018  
Subject: Recommend to Authorize Purchase of Network Servers, Storage, and Switches  
From: Pat Firestone, Director of Information Technology  
Meeting Date: September 4, 2018

---

### RECOMMENDATION:

It is recommended that the City Council authorize the purchase and installation of network servers, storage, and switches, in the amount of \$60,258.16 from Secant Technologies.

### SUSTAINABILITY CRITERIA:

Environmental Quality – Does not significantly impact this criterion.

Social Equity – Does not significantly impact this criterion.

Economic Strength – By maintaining a program of scheduled routine replacement of information technology assets, the City reduces the risk of loss due to hardware failure, or reduced protection of information resources.

### DISCUSSION:

Servers and storage hosting the virtual computing environment at the Wyoming Utilities Water Treatment Plant reached the end of their planned service life of five years in July, 2017. Due to the good health and reliability of the equipment, it was decided to extend the use of this equipment one additional year. Staff recommends replacement of the two servers, storage array (SAN), and two network switches now beginning its seventh year of service. This technology is a significant part of the infrastructure necessary to operate and support plant operations.

The State of Michigan has entered into the NASPO ValuePoint REMC (REMC) contract with Hewlett Packard (HP), and the NASPO ValuePoint DataCom Michigan contract with Cisco. These contracts have been used in previous years for the purchase of network servers and communications equipment as allowed by charter section 2-257 - cooperative purchasing plans.

The Information Technology Department has engaged with a trusted vendor and authorized NASCO/REMC reseller, Secant Technologies, to establish an appropriate configuration of replacement servers, SAN, and network switches. While researching the NASPO pricing, Secant provided alternate quotes at a cost savings of \$6,318.52 for identical items.

Whereas traditional networking hardware was purchased with an extended support contract, the Meraki platform requires a variety of license subscriptions to the management portal. Pricing obtained includes five (5) year enterprise licenses that include Meraki's 24X7 enterprise support, software updates, and cloud-management via Meraki's dashboard.

Installation of the new items will be performed by Secant Technologies, at a cost of \$7,832.50 (included in the total above)

**BUDGET IMPACT:**

Adequate funding was planned in the fiscal 2019 budget, in account 591-591-57300-986.444, Water Fund, Water Utility, Capital Outlay, Capital Outlay – Plant Expansion Phase 2.

City of Wyoming  
Information Technology Department  
Replacement of WTP Servers, Storage, Network Switches

8/28/2018

<u>ITEM</u>	<u>NASPO Pricing</u>	<u>Secant Quote</u>	<u>Savings</u>
2 Meraki Network Switches	\$ 9,873.50	\$ 8,895.66	\$ 977.84
2 HP ProLiant DL360 Gen10 Servers	\$ 29,054.00	\$ 29,054.00	\$ -
1 HP MSA 2050 Storage Area Network with twelve 1.2TB Drives	\$ 19,816.68	\$ 14,476.00	\$ 5,340.68
<b>Subtotal</b>	<b>\$ 58,744.18</b>	<b>\$ 52,425.66</b>	<b>\$ 6,318.52</b>
Installation Labor	#N/A	\$ 7,832.50	
		<b>\$ 60,258.16</b>	



6395 Technology Ave, Suite A  
 Kalamazoo MI 49009  
 269-375-8996 or 1-800-875-4222

# QUOTATION

Quote Number	PS- 3438
Salesperson	Merucci B
Date	08/15/18
Quote Tax Status	MI-NON Non Tax
Terms	NET 15
Page	01 of 01

*Prepared For:* CITY3647

**City of Wyoming**  
 PO Box 905  
 1155 28th Street  
 Wyoming MI 49509

*Thank you for the opportunity!*

TAXABLE CLIENTS: Compliance with Michigan Compiled Law 205.51 requires that tax be charged on the portion of labor expended for physical installation of equipment shown as included within a project. That amount will be represented as a separate labor line.

*This Quote is valid for 30 days.*

Part Number	Description	QTY	UOM	Price	EXT. Price
KIT Labor	Project Labor Kit <b>FLAT RATE LABOR</b> <b>MERAKI SWITCH INSTALLATION</b>	1.00	Each	\$2,652.50	<b>\$2,652.50</b>
KIT Labor	Project Labor Kit <b>FLAT RATE LABOR</b> <b>HPE SERVER &amp; SAN INSTALLATION</b> <b>VMWARE IMPLEMENTATION</b> <b>MOVING VIRTUAL SERVERS</b>	1.00	Each	\$5,180.00	<b>\$5,180.00</b>

Labor, where estimated, will be invoiced +/-10% before change orders.

DEPOSITS: A 50% deposit is required on all transactions over \$2500. To place your project into our scheduling queue and/or authorize the ordering of equipment, pre-payment is required for clients without a Secant Terms and Conditions on file.

<b>Subtotal :</b>	<b>\$7,832.50</b>
<b>Tax :</b>	<b>\$0.00</b>
<b>Quoted Total :</b>	<b>\$7,832.50</b>

CREDIT CARD: A handling fee of 3.5% will be applied to payments totaling more than \$2500.00. (Invoices may not be broken up)

*Quote accepted by:* \_\_\_\_\_ *Date:* \_\_\_\_\_ *Fax to:* 269-375-4222

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

RESOLUTION FOR AWARD OF BID

WHEREAS:

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

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby award the bid for the listed items as recommended in the attached Staff Reports and summarized below.

Item	Recommended Bidder	Cost
Salt Storage Dome Re-Roofing	American Classic Construction	\$59,849.00

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 September 4, 2018.

ATTACHMENT:  
Staff Report

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

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

## STAFF REPORT

Date: August 27, 2018  
Subject: Bid Award for Re-roofing Public Works Salt Storage Dome  
From: Lisa Barnes, Office Manager  
Meeting date: September 4, 2018

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### RECOMMENDATION:

It is recommended the City Council award the bid for Re-roofing the Public Works Salt Storage Dome to American Classic Construction in the amount of \$59,849 for the tear off/re-roof of the salt dome and \$35.00 per 4'x8' area of any bad or rotten decking discovered during shingle removal.

### SUSTAINABILITY CRITERIA:

#### Environmental Quality:

The salt storage dome provides an enclosed area to store the salt which prevents runoff into area ponds and storm sewers.

#### Social Equity:

The salt is used throughout the city during winter operations to provide safe road conditions for all traffic without regard to income level or socio-economic status.

#### Economic Strength:

The new shingles will provide a better protective shield from the weather and reduce maintenance expenses going forward.

### DISCUSSION:

On August 21, 2018 four bids were received for re-roofing the salt storage dome at the Public Works Facility. Seventy-five invitations were sent to prospective bidders.

The salt dome is 18 years old and many of the existing shingles have been repaired or replaced due to wind damage on the west side of the structure. A bid specification was developed to include removal and disposal of all the old shingles and replacement with shingles rated with a 130 mile per hour wind rating.

As the attached bid tabulation indicates, the low bidder, Rasmussen Exteriors, provided a 2 year warranty on their workmanship for the project with a 5 year full warranty for defects and a 6-40 year prorated warranty on the shingles. The second low bidder, American Classic Construction included a 10 year workmanship warranty with a 15 year non-prorated and 16-40 year prorated warranty on their shingles. The difference between the lowest and second lowest bidders is \$5,196. Because of the better warranty on both workmanship and shingles, it is recommended that the bid be awarded to the second low bidder, American Classic construction.

There may be an additional cost if there is damage to any plywood panels that would require replacement which won't be known until the existing shingles are removed. American Classic Construction's bid

states there will be an additional cost of \$35.00 each for replacing a 4'x8' sheet of plywood, the lowest bid of the four bids received.

The salt storage dome is a unique roof to shingle. We have confirmed that American Classic Construction has experience with roofing structures of similar style and height.



**BUDGET IMPACT:**

Sufficient funds are available in the Motor Pool Fund 661-441-58300-930.000.

**BID TABULATION:**

<b>Bidder</b>	<b>Bid</b>	<b>Brand/ Model of Shingle Bid</b>	<b>Bid Price to Replace Bad or Rotted Plywood Decking (per 4' x 8' sheet)</b>	<b>Bid Price to Install Ice and Water Shield on Entire Roof Area (Option)</b>	<b>Total with Option</b>
Rasmussen Exteriors	<b>\$ 54,653.00</b>	CertainTeed Landmark	\$ 50.00	\$ 8,333.00	\$ 62,986.00
American Classic Construction	<b>\$ 59,849.00</b>	IKO Dynasty	\$ 35.00	\$ 4,100.00	\$ 63,949.00
VanderKodde Construction	<b>\$ 61,200.00</b>	CertainTeed	\$ 55.00	\$ 4,532.00	\$ 65,732.00
Dome Corporation of North America	<b>\$ 88,596.00</b>	CertainTeed Landmark Premium	\$ 210.00	\$ 2,640.00	\$ 91,236.00

ORDINANCE NO. 15-18

AN ORDINANCE TO AMEND CHAPTER 2, ARTICLE IV, OF THE CODE OF ORDINANCES, CITY OF WYOMING, MICHIGAN, BY ADDING DIVISION 7 TO PROVIDE FOR A SERVICE CHARGE IN LIEU OF TAXES, PURSUANT TO 1966 PA 346, FOR THE 28WPHASEONE LIMITED DIVIDEND HOUSING ASSOCIATION LIMITED PARTNERSHIP HOUSING PROJECT FOR LOW INCOME PERSONS AND FAMILIES TO BE FINANCED WITH A FEDERALLY-AIDED OR MSHDA-AIDED MORTGAGE LOAN OR A MSHDA ADVANCE OR GRANT

THE CITY OF WYOMING ORDAINS:

Section 1. Amendment. That Chapter 2, Article IV, of Code of Ordinances, City of Wyoming, Michigan, is amended by adding Division 7 to read as follows:

DIVISION 7  
TAX EXEMPTION AND SERVICE CHARGE FOR 28WPHASEONE  
LIMITED DIVIDEND HOUSING ASSOCIATION LIMITED  
PARTNERSHIP HOUSING PROJECT

**Sec. 2-306. Purpose.**

- (a) Pursuant to section 15a of the Act, MCL 125.1415a, the city may encourage the development of low and moderate income housing by providing a service charge in lieu of property taxes. The city is authorized by that statute to establish or change the service charge to be paid in lieu of taxes by classes of housing exempt from property taxation under that statute at an amount the chooses, not to exceed the taxes that would be paid.
- (b) The city finds that (i) housing Low Income Persons and Families is a public necessity, (ii) the city will be benefited and improved by such housing, (iii) the encouragement of the development of such housing by providing a property tax exemption for such housing is a valid public purpose, (iv) the provisions of this ordinance for tax exemption and the service charge in lieu of taxes during the period provided by this Division are essential to the determination of economic feasibility of housing developments which are constructed and financed in reliance on such tax exemption, and (v) development of such housing will further related public purposes such as development of the Project to enhance the downtown area of the city.
- (c) The Sponsor has offered, subject to receipt of an allocation under the LIHTC Program by the Authority and a Mortgage Loan, to acquire and construct, own and operate the Project to serve Low Income Persons and Families and the Sponsor has offered to pay the city on account of the Project an annual service charge for public services in lieu of all *ad valorem* property taxes.

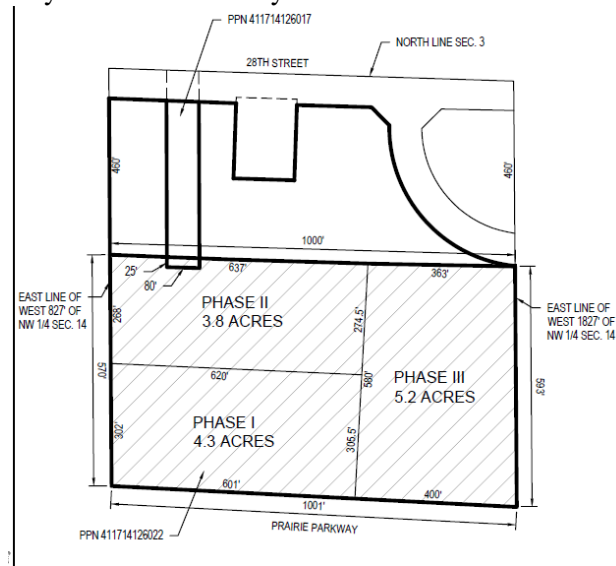
**Sec. 2-307. Definitions.**

- (a) *Act* means the State Housing Development Authority Act of 1966, 1966 PA 346, 125.1401 *et seq.*
- (b) *Authority* means the Michigan State Housing Development Authority.
- (c) *Annual Shelter Rent* means the total collections during an agreed annual period from or paid on behalf of all occupants of the Project for rent or occupancy charges, exclusive of Utilities charges.
- (d) *LIHTC Program* means the Low Income Housing Tax Credit program administered by the Authority under section 42 of the United States Internal Revenue Code of 1986, 26 USC §42.
- (e) *Low Income Persons and Families* means persons and families eligible to move into

a housing project.

(f) *Mortgage Loan* means a loan that is federally-aided (as defined in section 11 of the Act) or a loan or grant made or to be made by the Authority to the Sponsor for the construction, rehabilitation, acquisition and/or permanent financing of a housing project, and secured by a mortgage on the Project.

(g) *Project* means the housing project for Low Income Persons and Families and related amenities and development located on the north side of Prairie Parkway in the city (tax parcel number 41-17-14-126-022) on the property depicted as Phase I, acquired, constructed, owned and operated by the Sponsor, subject to income and rent restrictions under the LIHTC Program and a Mortgage Loan, in accordance with the Site Concept Plan prepared by Progressive AE, labeled “APARTMENTS AT 28 WEST | 1350 29TH STREET | 2018 08 17 | PROJECT # 8501001,” submitted to the City by email on August 17, 2018, subject to such changes as may be (i) required by planning, zoning, construction code and other governmental permits and approvals or (ii) approved by the City Council of the city.



(h) *Sponsor* means 28WPhaseOne Limited Dividend Housing Association Limited Partnership and any entity that receives or assumes a Mortgage Loan for the Project on the Property.

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

**Sec. 2-308. Property Tax Exemption.**

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

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

**Sec. 2-309. Annual Service Charge.**

(a) There shall be paid to the city an annual service charge in lieu of *ad valorem* property taxes equal to 1.0% of the Annual Shelter Rent collected for the Project during each operating year.

(b) The annual service charge for each operating year shall be payable not later than each

August 31 immediately following the conclusion of that operating year and thereafter will be subject to interest and penalties shall be collectible in the same manner as for *ad valorem* property taxes under the City Charter, this Code of Ordinances and the General Property Tax Act, 1893 PA 206, MCL 211.1 *et seq.*

(c) The amounts paid pursuant to this section shall be in addition to the amounts paid pursuant to any municipal services agreement between the Sponsor and the city.

**Sec. 2-310. Reliance.**

The Authority and the Sponsor are relying on this adoption and continued effect of this Division to determine the Project's financial feasibility and its qualification for the LIHTC Program and Mortgage Loan. The city is relying on (i) the allocation under the LIHTC Program and the making of the Mortgage Loan for the Project, (ii) on the acquisition, construction, ownership and operation of the Project as defined in this Division, and (iii) on the obligation to pay the annual service charge in its decision to adopt this Division and to keep it in effect.

Section 2. Effective Date. This ordinance shall take effect on the later of either 15 days after its adoption or upon its publication as required by law.

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

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

CERTIFICATION

I certify that this ordinance was adopted by the City of Wyoming at a regular session of the City Council held on September 4, 2018.

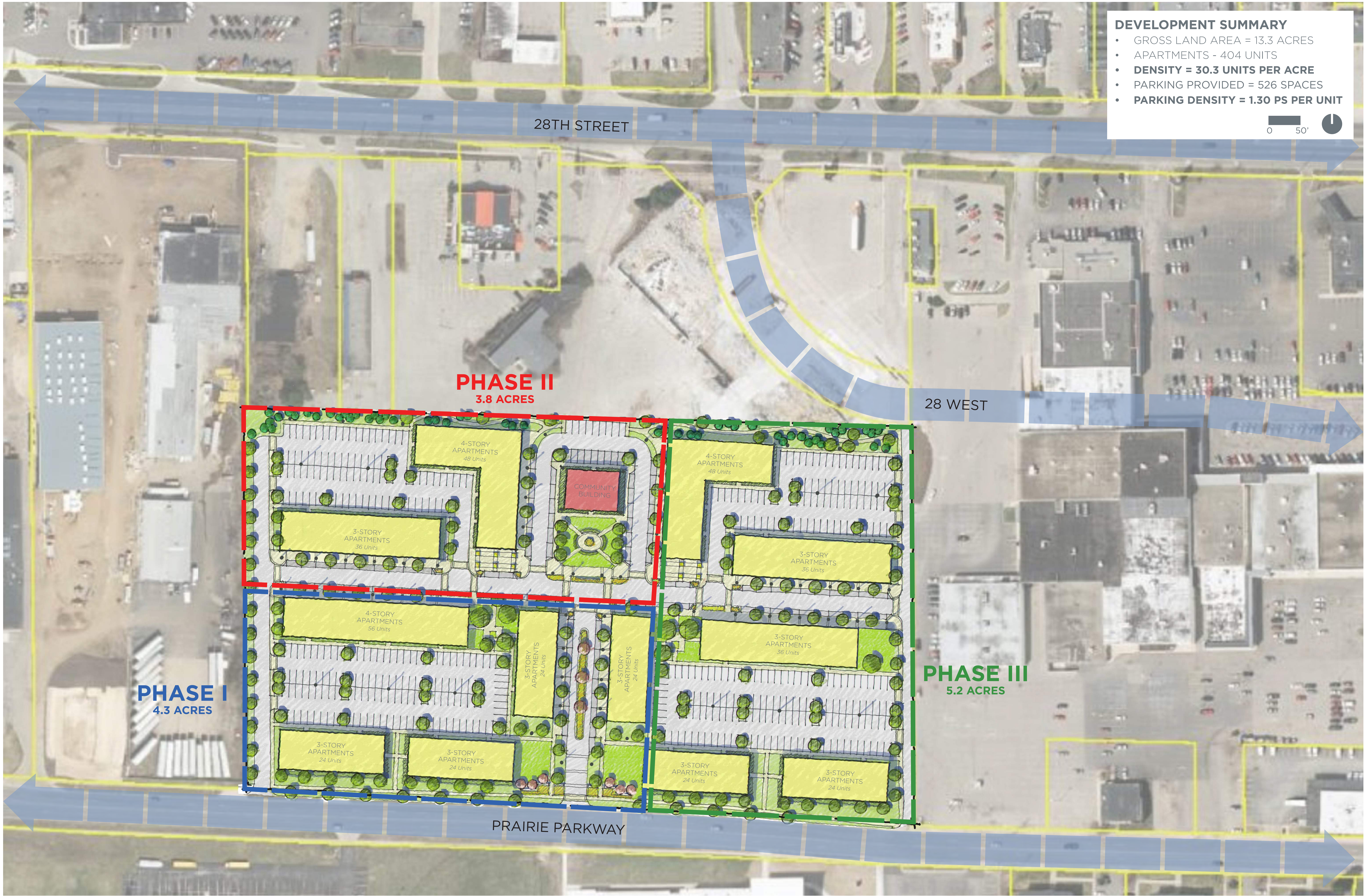
\_\_\_\_\_  
Kelli A. VandenBerg, Wyoming City Clerk

Ordinance 15-18

**DEVELOPMENT SUMMARY**

- GROSS LAND AREA = 13.3 ACRES
- APARTMENTS - 404 UNITS
- **DENSITY = 30.3 UNITS PER ACRE**
- PARKING PROVIDED = 526 SPACES
- **PARKING DENSITY = 1.30 PS PER UNIT**

0 50'



**SITE CONCEPT PLAN**

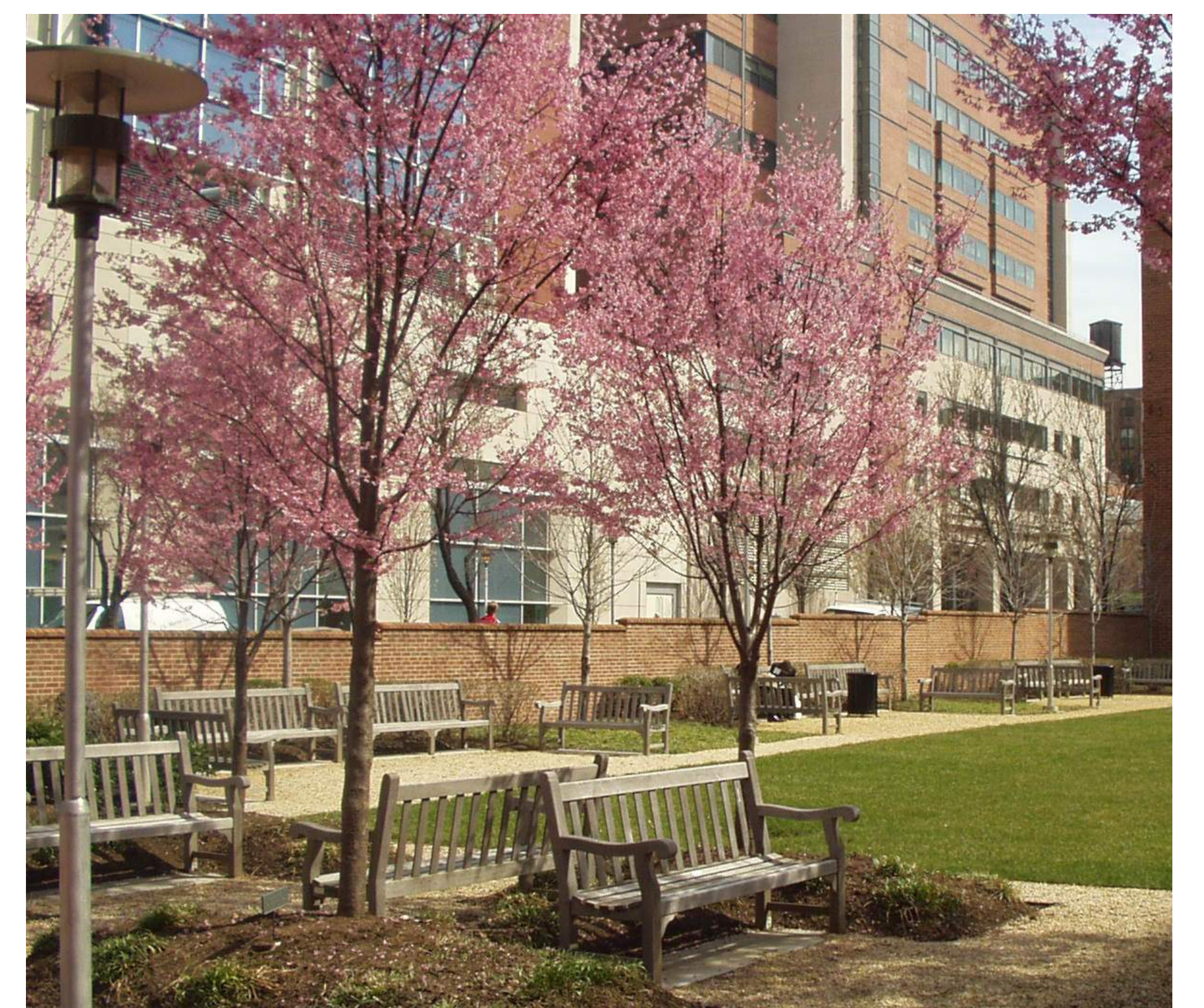
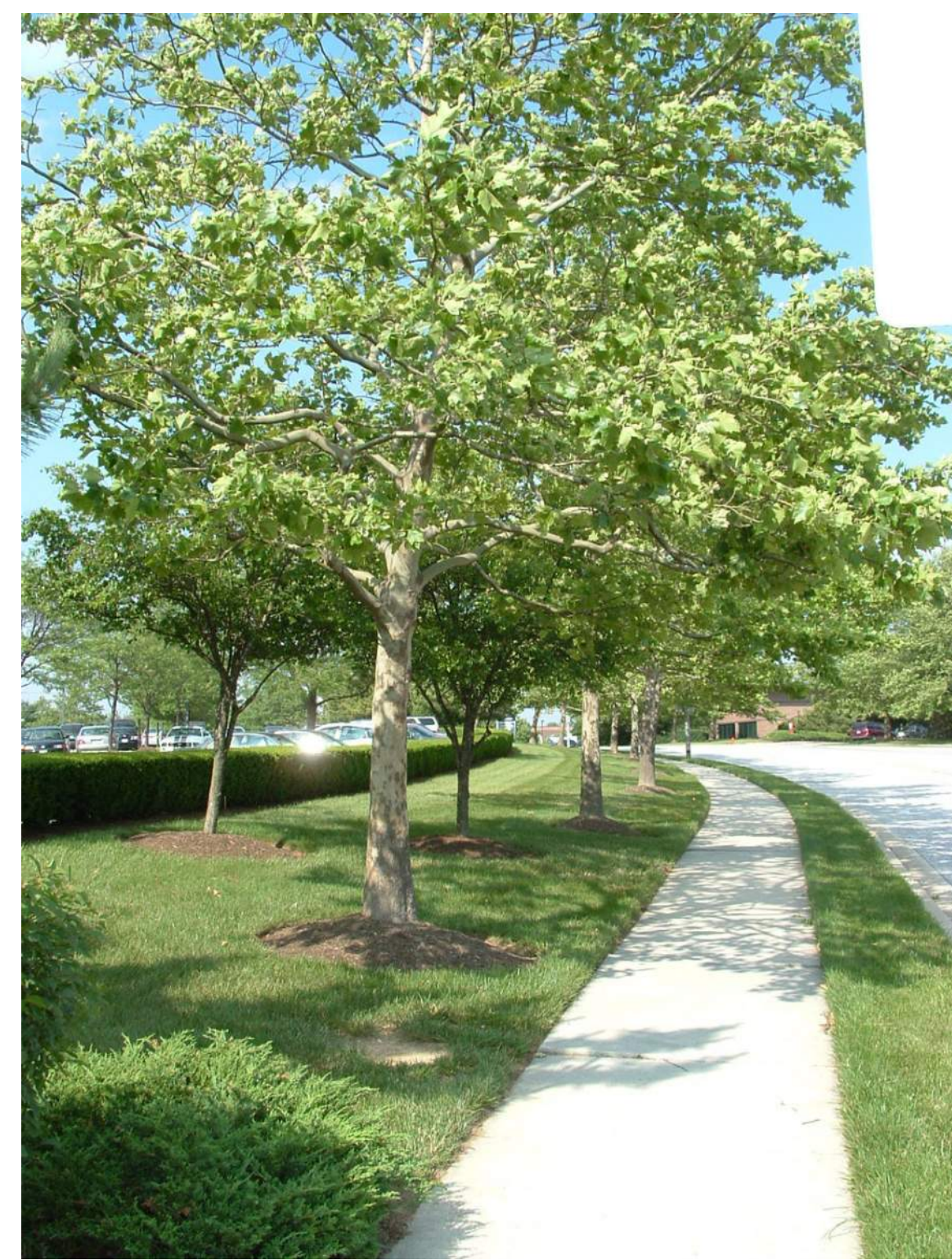
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# SITE CONCEPT PLAN ENLARGEMENT

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ORDINANCE NO. 16-18

AN ORDINANCE TO AMEND CHAPTER 2, ARTICLE IV, OF THE CODE OF ORDINANCES, CITY OF WYOMING, MICHIGAN, BY ADDING SECTIONS 2-310A TO 2-310E TO DIVISION 7 TO PROVIDE FOR A SERVICE CHARGE IN LIEU OF TAXES, PURSUANT TO 1966 PA 346, FOR THE 28WPHASETWO LIMITED DIVIDEND HOUSING ASSOCIATION LIMITED PARTNERSHIP HOUSING PROJECT FOR LOW INCOME PERSONS AND FAMILIES TO BE FINANCED WITH A FEDERALLY-AIDED OR MSHDA-AIDED MORTGAGE LOAN OR A MSHDA ADVANCE OR GRANT

THE CITY OF WYOMING ORDAINS:

Section 1. Amendment. That Chapter 2, Article IV, of Code of Ordinances, City of Wyoming, Michigan, is amended by adding Division 7 to read as follows:

DIVISION 7  
TAX EXEMPTION AND SERVICE CHARGE FOR 28WPHASETwo  
LIMITED DIVIDEND HOUSING ASSOCIATION LIMITED  
PARTNERSHIP HOUSING PROJECT

**Sec. 2-310A. Purpose.**

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

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

(c) The Sponsor has offered, subject to receipt of an allocation under the LIHTC Program by the Authority and a Mortgage Loan, to acquire and construct, own and operate the Project to serve Low Income Persons and Families and the Sponsor has offered to pay the city on account of the Project an annual service charge for public services in lieu of all *ad valorem* property taxes.

**Sec. 2-310B. Definitions.**

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

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

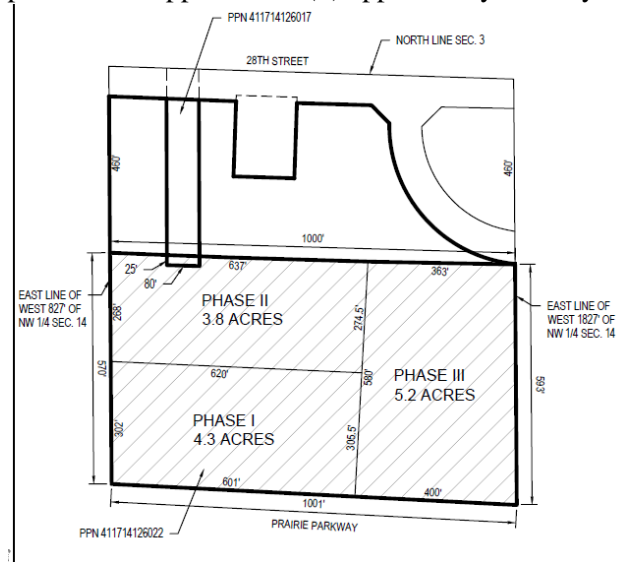
(c) *Annual Shelter Rent* means the total collections during an agreed annual period from or paid on behalf of all occupants of the Project for rent or occupancy charges, exclusive of Utilities charges.

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

(e) *Low Income Persons and Families* means persons and families eligible to move into a housing project.

(f) *Mortgage Loan* means a loan that is federally-aided (as defined in section 11 of the Act) or a loan or grant made or to be made by the Authority to the Sponsor for the construction, rehabilitation, acquisition and/or permanent financing of a housing project, and secured by a mortgage on the Project.

(g) *Project* means the housing project for Low Income Persons and Families and related amenities and development located on the north side of Prairie Parkway in the city (tax parcel number 41-17-14-126-022 and a part of tax parcel number 41-17-14-126-017) on the property depicted as Phase II, acquired, constructed, owned and operated by the Sponsor, subject to income and rent restrictions under the LIHTC Program and a Mortgage Loan, in accordance with the Site Concept Plan prepared by Progressive AE, labeled "APARTMENTS AT 28 WEST | 1350 29TH STREET | 2018 08 17 | PROJECT # 8501001," submitted to the City by email on August 17, 2018, subject to such changes as may be (i) required by planning, zoning, construction code and other governmental permits and approvals or (ii) approved by the City Council of the city.



(h) *Sponsor* means 28WPhaseTwo Limited Dividend Housing Association Limited Partnership and any entity that receives or assumes a Mortgage Loan for the Project on the Property.

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

**Sec. 2-310C. Property Tax Exemption.**

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

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

**Sec. 2-310D. Annual Service Charge.**

(a) There shall be paid to the city an annual payment in lieu of *ad valorem* property taxes equal to 1.0% of the Annual Shelter Rent collected for the Project during each operating year.

(b) The annual payment in lieu of taxes for each operating year shall be payable not later than each August 31 immediately following the conclusion of that operating year and thereafter will be subject to interest and penalties shall be collectible in the same manner as for *ad valorem* property taxes under the City Charter, this Code of Ordinances and the General Property Tax Act, 1893 PA 206, MCL 211.1 *et seq.*

(c) The amounts paid pursuant to this section shall be in addition to the amounts paid pursuant to any municipal services agreement between the Sponsor and the city.

**Sec. 2-310E. Reliance.**

The Authority and the Sponsor are relying on this adoption and continued effect of this Division to determine the Project's financial feasibility and its qualification for the LIHTC Program and Mortgage Loan. The city is relying on (i) the allocation under the LIHTC Program and the making of the Mortgage Loan for the Project, (ii) on the acquisition, construction, ownership and operation of the Project as defined in this Division, and (iii) on the obligation to pay the annual service charge in its decision to adopt this Division and to keep it in effect.

Section 2. Effective Date. This ordinance shall take effect on the later of either 15 days after its adoption or upon its publication as required by law.

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

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

CERTIFICATION

I certify that this ordinance was adopted by the City of Wyoming at a regular session of the City Council held on September 4, 2018.

---

Kelli A. VandenBerg, Wyoming City Clerk

Ordinance No. 16-18

**DEVELOPMENT SUMMARY**

- GROSS LAND AREA = 13.3 ACRES
- APARTMENTS - 404 UNITS
- **DENSITY = 30.3 UNITS PER ACRE**
- PARKING PROVIDED = 526 SPACES
- **PARKING DENSITY = 1.30 PS PER UNIT**

0 50'



**SITE CONCEPT PLAN**

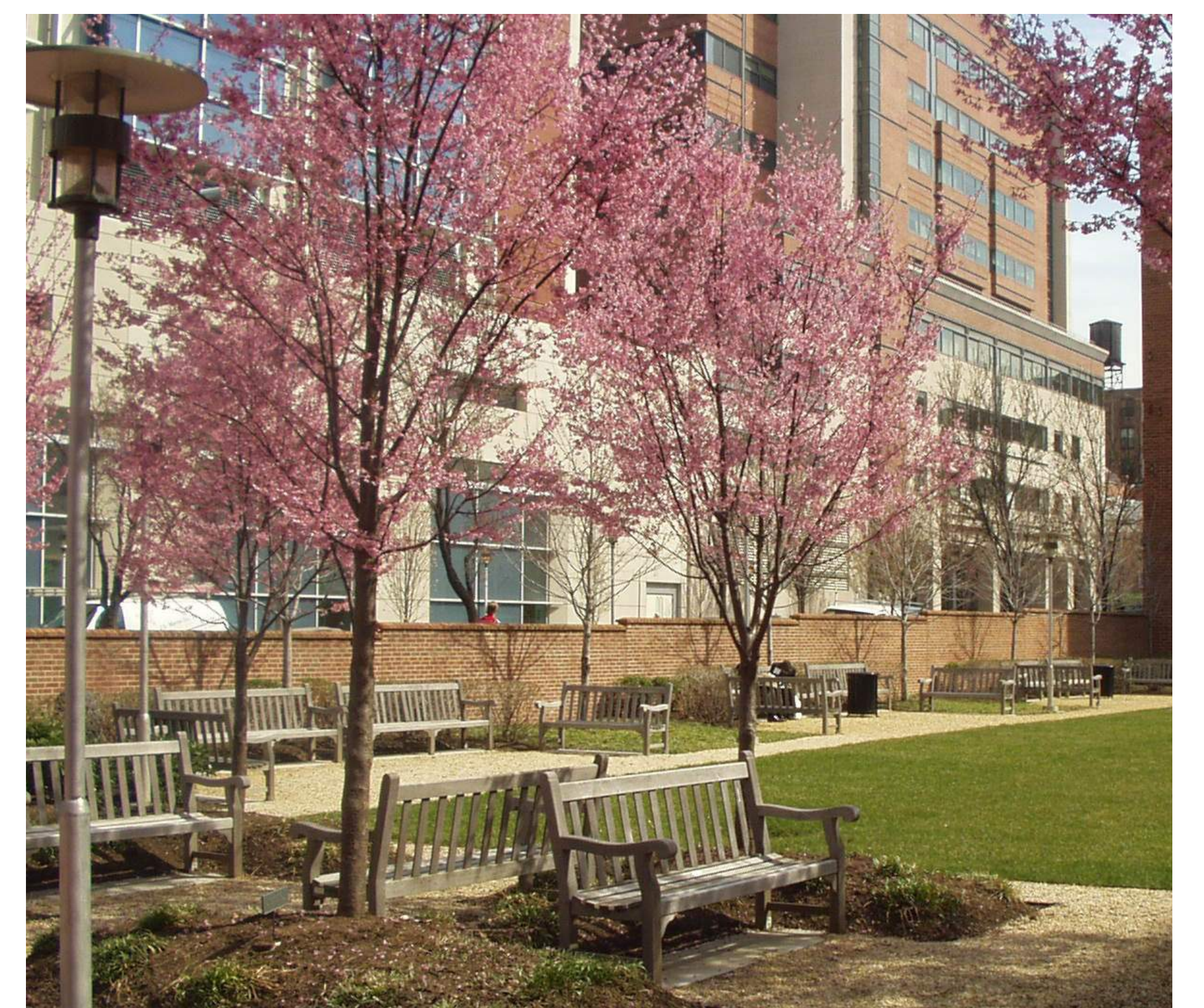
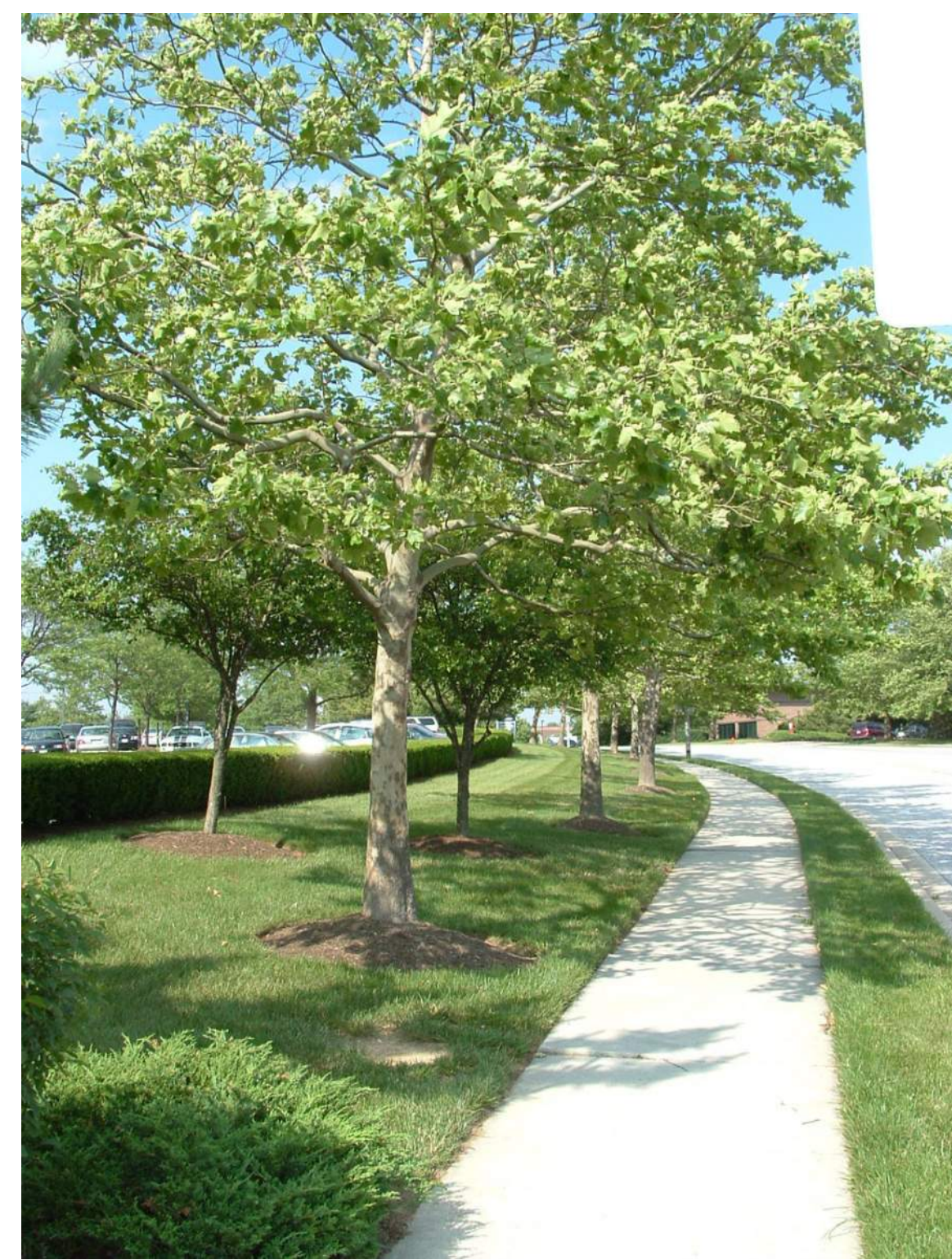
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