

AGENDA
WYOMING CITY COUNCIL MEETING
CITY COUNCIL CHAMBERS
MONDAY, JULY 1, 2019, 7:00 P.M.

1) Call to Order

2) Invocation – Pastor Wayne Ondersma, The Pier Church

If you wish and are able, please stand for the invocation. The Pledge of Allegiance will immediately follow the invocation.

3) Pledge of Allegiance

4) Roll Call

5) Student Recognition

6) Approval of Minutes

From the June 17, 2019 Regular Meeting

7) Approval of Agenda

8) Public Hearings

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

7:01 p.m. To Consider the Vacation of an Alley Located West of Division Avenue South, South of 39th Street, Adjacent to 3945 Division Avenue South

9) Public Comment on Agenda Items

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

10) Presentations and Proclamations

a) Presentations

1. Public Safety Annual Report
2. Fire Department Grant

b) Proclamations

11) Petitions and Communications

a) Petitions

b) Communications

12) Reports from City Officers

a) From City Council

b) From City Manager

- 19-02 Acceptance of a Non-Motorized Pathway Trail Connection Easement for Frog Hollow Trail – Permanent Easement (Land Metro, LLC)

13) Budget Amendments

- a) Budget Amendment No. 1 – To Appropriate an Additional \$26,731 of Budgetary Authority and Recognize Related Grant Revenue of \$26,738 for the Cooperative 21st Century Learning Center Agreement (Cohort I-1) with Wyoming Public Schools
- b) Budget Amendment No. 2 – To Appropriate an Additional \$23,025 of Budgetary Authority and Recognize Related Grant Revenue of \$23,031 for the Cooperative 21st Century Learning Center Agreement (Cohort I-2) with Wyoming Public Schools
- c) Budget Amendment No. 3 – To Appropriate an Additional \$389,926 of Budgetary Authority and Recognize Related Grant Revenue of \$389,931 for the Cooperative 21st Century Learning Center Agreement (Cohort K) with Wyoming Public Schools
- d) Budget Amendment No. 4 – To Appropriate an Additional \$567,385 of Budgetary Authority and Recognize Related Grant Revenue for the Cooperative 21st Century Learning Center Agreement (Cohort L-1) with Wyoming Public Schools
- e) Budget Amendment No. 5 – To Appropriate an Additional \$228,472 of Budgetary Authority and Recognize Related Grant Revenue for the Cooperative 21st Century Learning Center Agreement (Cohort L-2) with Wyoming Public Schools

14) Consent Agenda

15) Resolutions

- a) To Vacate the Alley Located West of Division Avenue South, South of 39th Street, Adjacent to 3495 Division Avenue South
- b) To Approve and to Authorize and Direct the Mayor and City Clerk to Sign the 1st Amendment to a Helipad License Agreement

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

- c) To Authorize the Mayor and City Clerk to Amend an Existing Agreement with Progressive AE to Modify the Scope of Work to Include the Design of Capacity Improvements on 54th Street West of US-131
- d) To Authorize the Mayor and City Clerk to Execute an Agreement with the Michigan Department of Transportation for the Widening of 54th Street from Haughey Avenue to US-131
- e) To Accept a Proposal from Pine Rest for Employee Assistance Program Services and to Authorize the Mayor and City Clerk to Execute the Contract
- f) To Approve a Change Order for the Purchase of Aluminum Sulfate (Alum)

17) Ordinances

- 10-19 To Amend Chapter 70 of the City Code by Repealing Article II, Division 5, Entitled “Snow Plowing,” by Repealing Article III, Division 1, Section 70-207 Entitled “Removal of Snow and Other Obstructions,” and by Adding Article IV Entitled “Snow Plowing and Removal” to Address Snow Plowing and Removal Activities on Public Rights-of-Way and Private Property and Providing Penalties for Violations (Final Reading)
- 11-19 To Amend the City Code by Amending Sections 1-20, 1-27 and 1-28 to Clarify the Officers Who Can Issue Citations and Penalties for Violations of the City Code; and by Adding Section 1-29, Repealing Section 14-54, and Amending Sections 14-52, 14-53, 14-117, 15-7, 15-8, and 22-38 to Provide the Procedure for License Denials, Suspensions, and Revocations, and for Appeals to the City Council (Final Reading)

- 12-19 To Amend the City Code by Adding Section 66-23 to Provide for Single Lot Special Assessments (Final Reading)
- 14-19 To Amend Chapter 90, Article 3, Section 90-329 of the City Code Addressing Standards for Radio, Television, Microwave and Wireless Telecommunications Towers and Facilities (Final Reading)
- 15-19 To Amend Chapter 90 of the City Code by Amending Section 90-1410 (4.0) Corridor Edge Area Special Land Uses and Table 90-1410 Corridor Edge Area in Article 11 (First Reading)
- 16-19 To Amend Section 90-32 of the City Code by Adding Subsection (119) to Rezone 5.5 Acres at 1207 56th Street SW from R-1 to R-2 (First Reading)

18) Informational Material

19) Acknowledgment of Visitors

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

20) Closed Session (as necessary)

21) Adjournment

STAFF REPORT

Date: June 26, 2019
Subject: Enhancing Realistic Training for Complex Patients
From: Brad Dornbos, EO/EMS Coordinator
Meeting Date: July 1, 2019

RECOMMENDATION:

It is recommended that City Council be provided information regarding a grant submission for \$91,611.85 from Metro Health U of M. If received, these grant funds will be utilized for the purchase of a high fidelity manikin.

COMMUNITY, SAFETY, STEWARDSHIP:

This grant request represents the Community, Safety, and Stewardship motto by simply that: The Fire Department will serve the community with the best training possible and at the highest attainable level of service. Safety will also play a part as the residents will be served by the highest competent EMS providers in the area. They will perform safe medical procedures while also providing high level patient care. The stewardship portion shall be fulfilled by utilizing this training for other local departments so that they can train and administer high level care as well.

DISCUSSION:

This grant will allow our department to train for complex EMS medical patients and enhance EMS pre-hospital care. Enhanced realistic training capabilities will provide a training environment that represents and focuses on the conditions and medical emergencies expected on current and potential calls for EMS service. Training events must be complex and incorporate multiple complications to consider and overcome. The training must represent the stressors that are associated with certain calls for service, while providing moral, ethical, and protocol driven care.

BUDGET IMPACT:

There is no required match to receiving these grant funds therefore there will be no impact to the budget.

July 1, 2019

Wyoming City Council
Wyoming, Michigan

City Manager's Report No. 19-02

Subject: Acceptance of a Non-Motorized Pathway Trail Connection Easement for
Frog Hollow Trail - Permanent Easement (Land Metro, LLC)

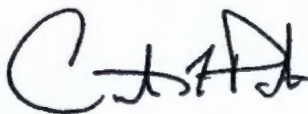
Councilmembers:

Land Metro, LLC, owners of Unit 9 – Metro Health Village located at 1980 Metro Ct, SW, have submitted the following described Non-Motorized Pathway Trail Connection Permanent Easement. The permanent easement conveys rights for the Frog Hollow Trail, a strip of land along the west property boundary of their property, connecting the M-6 Trail to Metro Court. The permanent easement area is shown on the attached easement Exhibit A.

Grantor:	Land Metro, LLC
Parcels:	41-21-03-600-025
Right-of-way Size	7,691 sf – Permanent Easement
Consideration:	\$1.00

It is recommended that the City Council accept the Non-Motorized Pathway Trail Connection Permanent Easement which has been approved as to form by the City Attorney.

Respectfully submitted,



Curtis L. Holt
City Manager

Attachments: Non-Motorized Pathway Trail Connection Easement



CITY COUNCIL

Sheldon DeKryger

Dan Burrill

Kent Vanderwood

Marissa Postler

Robert Posterna

Sam Bolt

Jack A. Poll, Mayor

NON-MOTORIZED PATHWAY TRAIL CONNECTION EASEMENT

Land-Metro, LLC, a Michigan limited liability company of 5900 Bryon Center Ave SW, Wyoming, MI 49519 ("Grantor"), for the consideration of \$1.00, the receipt and sufficiency of which is acknowledged, grants, and warrants to the City of Wyoming, a Michigan municipal corporation of 1155 28th St SW, Wyoming, MI 49509 ("City") a permanent easement within the area shown on the attached Exhibit A to construct and install, repair and maintain, operate and use, and, as needed, improve and replace a paved, non-motorized, pedestrian and bicycle pathway ("Path") for use of the general public and connecting the sidewalk within the Metro Court right-of-way with the Fred Meijer M-6 Trail together with fencing and a retaining wall as shown on Exhibit A, subject to the terms and conditions in this Easement.

1. This Easement will terminate should the M-6 Trail to which it connects cease to be open for use by the general public. In that event, Grantor may unilaterally record a termination of this Easement.
2. Grantor may, at Grantor's expense, from time to time relocate the Easement and the Path and improvements constructed and installed thereon to another location connecting the Metro Court right-of-way with the Fred Meijer M-6 Trail that is reasonably acceptable to City, Kent County, and, if needed, the Michigan Department of Transportation.
3. City (but not the general public) may, upon previous reasonable notice to Grantor and without interfering with Grantor's operations on or use of the Parent Parcel described on Exhibit B, (a) access the Easement by way of the then-existing drives on the Parent Parcel for the limited purpose of performing construction, installation, repair and maintenance work on the Easement, and (b) temporarily use a portion of the parent parcel designated or agreed in advance by Grantor (the minimum portion of the Parent Parcel reasonably necessary) for temporary staging of City's construction, installation, repair or maintenance work within the Easement, only during the limited term of such work. Promptly upon completion of such work, City shall restore any of the Parent Parcel lying outside the Easement to a condition that is the same or better than the condition it was in prior to such access over and use of any part of the Parent Parcel lying outside the Easement.
4. The rights set forth in Section 3 above are granted to the City only, and not to the general public. The general public (a) shall have NO rights to access the Easement by way of the Parent Parcel, (b) is prohibited from parking upon the Parent Parcel. City agrees to install, and to perpetually maintain during the term of the Easement, prominent City "No Parking for M-6 Trail" (or similarly messaged) signs in a location approved by Metro along the Easement or on the Parent Parcel parking area adjacent to the Easement. Nothing in this Easement will be deemed to be a gift or dedication of any portion of the Parent Parcel to the general public, it being the intention of the parties that this Easement will be strictly limited to and for the purposes expressed in this Easement. There are no intended third party beneficiaries of any provisions of this Agreement.
5. Except for any existing Easements, Grantor shall not grant an easement on or within the Easement to any other party and shall not grant any other party a license or other permission to use the Easement except with City's prior written consent.
6. Grantor shall not construct or install any improvements within the Easement or take any other actions that would interfere with or impede any use of the Easement that is expressly provided herein.
7. Maintenance responsibility, risk allocation, indemnification and insurance obligations are as follows:
 - A. City will, without cost to Grantor, maintain the Easement in reasonably good and safe condition, reasonably free of debris, hazards and "eye sores," and in compliance with applicable laws and regulations.

City releases Grantor from any and all responsibility or liability for maintenance, repair, security, safety, condition, operation, oversight and control of the Easement and Path.

B. City will preserve and, except as shown on plans consented to by Grantor prior to the execution of this Easement, will not (without the consent of Grantor) cut down any of the trees located to the East of the Path, whether located on or adjacent to the Easement.

C. City will construct and perpetually maintain a fence on the East side of the Path, on the Easement, to separate the Path from the Parent Parcel and to discourage Path users from accessing the Easement from the Parent Parcel or parking on the Parent Parcel.

D. City will not permit any liens to attach to the Easement or Parent Parcel and shall immediately discharge them if they occur.

E. Grantor will not have any oversight or control of City's use of the Easement, City's exercise of City's rights hereunder, or the use of the Easement by the general public.

F. Grantor shall not be responsible for any personal injuries, property damage or other losses incurred by any persons who use the Easement or exercise any of City's rights hereunder, except any personal injury, property damage or other loss arising from Grantor's negligence, gross negligence or wrongful intentional actions or those of Grantor's officers, employees or agents.

G. Neither City nor Grantor are waiving any governmental immunity or other immunity from liability, such as, for example and without limitation, under MCL 324.73301.

H. City will maintain public liability and property damage insurance covering the Easement in an amount of not less than \$1,000,000 per occurrence. The parties acknowledge that such insurance is subject to a \$500,000 self-insured risk retention, but that the City maintains a reserve of not less than \$1,500,000 in its general liability insurance fund and also has an unrestricted general fund budget with a targeted minimum annual fund balance of not less than 15.0% of its general fund budget with an estimated fiscal year 2019-20 unrestricted general fund balance budgeted to be over \$9,600,000. In addition, in case of any judgment or award exceeding such reserves and fund balances, Michigan law, including MCL 600.6093 and MCL 600.6097, authorizes City to levy a millage and/or issue municipal bonds to pay that judgment.

I. If any claim, demand, lawsuit, administrative proceeding, arbitration proceeding is made or initiated that arises from the design, construction, installation, maintenance, repair, replacement, improvement, use or operation of the Path, City or City's insurer shall undertake the defense of any such claim, including a defense of Grantor, without expense to Grantor. Grantor shall (i) promptly notify City of any such claim, demand, lawsuit, administrative proceeding, arbitration proceeding Grantor receives, (ii) reasonably cooperate in its investigation and defense, and (iii) not interfere with and consent to any settlement City may wish to enter provided it does not result in any payment by or judgment against Grantor or any of Grantor's directors, officers, employees, agents or representatives.

J. Grantor shall have no obligation to pay any amount arising from or related to any claim, demand, lawsuit, administrative proceeding, arbitration proceeding, judgment or award that allegedly arises from the design, construction, installation, maintenance, repair, replacement, improvement, use or operation of the Path. If a judgment, award or other requirement to pay is rendered against Grantor or any of Grantor's directors, officers, employees, agents or representatives as a result of the design, construction, installation, maintenance, repair, replacement, improvement, use or operation of the Path, City shall ensure it is appealed, dismissed, satisfied, paid, or otherwise addressed without cost to Grantor or any of Grantor's directors, officers, employees, agents or representatives.

8. In addition to all remedies available to Grantor at law or in equity, in the event that Grantor notices that the Easement is materially unsafe, in material disrepair, the subject of persistent or serious criminal activity or personal injuries, a persistent "eye sore," a nuisance, or results in persistent or material property damage to the Parent Parcel or persistent or material interference with the operations upon the Parent Parcel, or City is otherwise in breach of this Easement, then Grantor may provide notice of same to City, and City will meet with Grantor to mutually agree on a plan of action, and City will take action within thirty (30) days or such other shorter or longer period agreed by the parties, to reasonably address the issue.

9. No delay or omission on the part of either party in exercising any rights, power, or remedy provided for in this Easement, will be construed as a waiver thereof or acquiescence in any breach of this Easement. No right of action will accrue nor will any action be brought or maintained by anyone whatsoever against any party for or on account of a failure to bring any action on account of any breach of this Easement.

10. This Easement will be binding upon the parties, their grantees, successors and assigns, and the Easement, rights, powers and obligations created here will run with the land. Notwithstanding the foregoing, this Easement is not assignable by City, except to another governmental authority with the prior written consent of Grantor.

LAND-METRO, LLC

STATE OF MICHIGAN
COUNTY OF KENT

By: Joshua Wilda
Joshua Wilda, Manager

Acknowledged before me in Kent County, Michigan, on June 21, 2019, by Joshua Wilda, known to me as the Manager of Land-Metro, LLC.

Approved for signature
Legal Department
LL-DW/PB

Carol Coffey
Notary Public
Oshtemo County, Michigan
Acting in Kent County, Michigan
My commission expires: April, 2021

Acknowledging and consenting to terms and conditions:

CITY OF WYOMING

STATE OF MICHIGAN
COUNTY OF KENT

By: _____
Jack A. Poll, Mayor

Acknowledged before me in Kent County, Michigan, on _____, 2019, by Jack A. Poll, Mayor of the City of Wyoming, and Kelli A. Vandenberg, City Clerk of the City of Wyoming.

By: _____
Kelli A. Vandenberg, Clerk

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

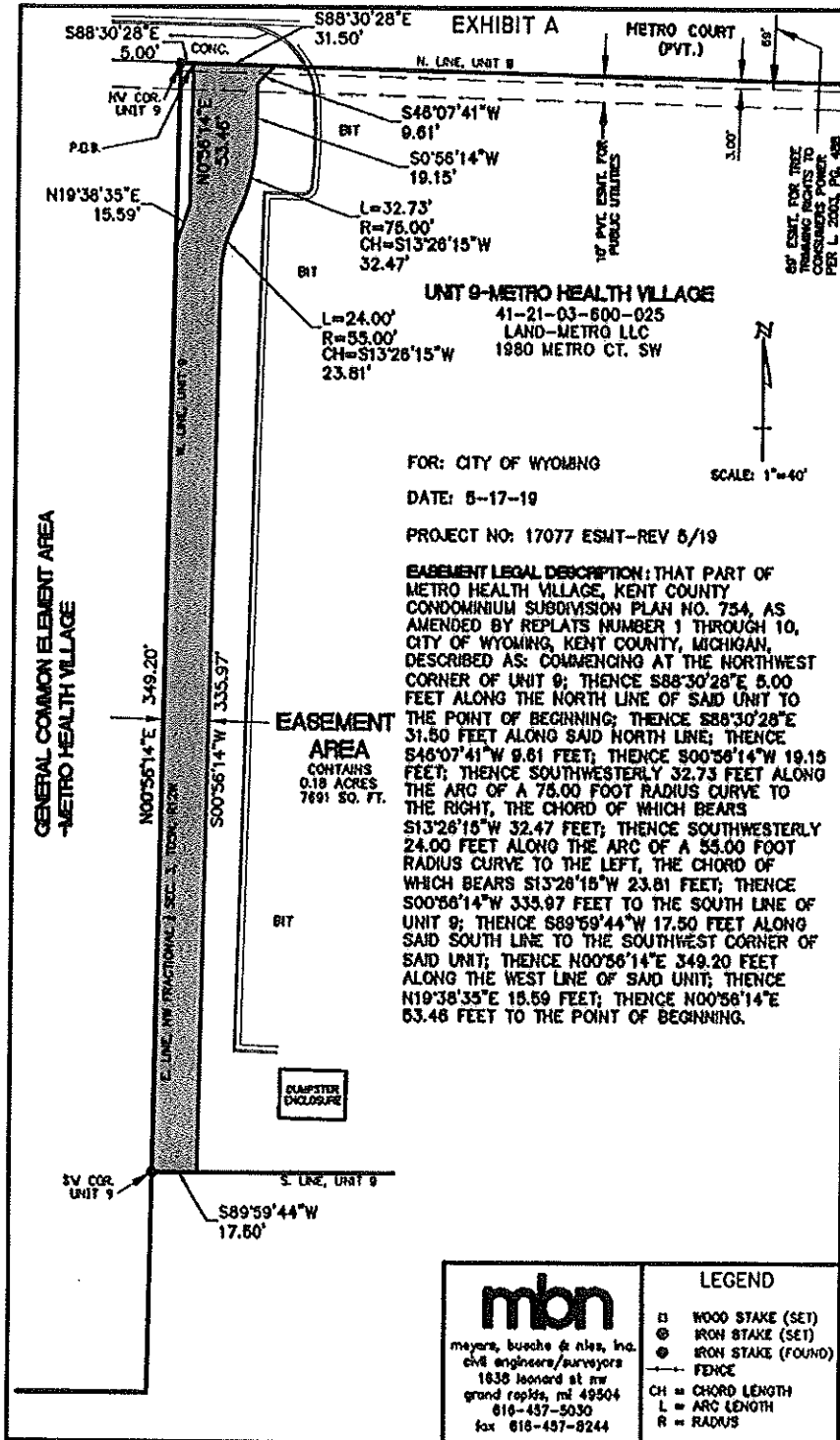
_____, Notary Public
Kent County, Michigan
Acting in Kent County, Michigan
My commission expires: _____

State transfer tax exempt under MCL 207.526(a); county transfer tax exempt under MCL 207.505(a).

Drafted by:
Scott G. Smith, City Attorney
Wyoming City Hall
1155 28th Street SW
Wyoming, MI 49509

When recorded, return to:
Kelli A. Vandenberg, City Clerk
Wyoming City Hall
1155 28th Street SW
Wyoming, MI 49509

**EXHIBIT A
DEPICTION AND DESCRIPTION OF EASEMENT**



GRAPIDS 50266-5 563717v1

CITY OF WYOMING BUDGET AMENDMENT

Date: July 1, 2019

Budget Amendment No. 001

To the Wyoming City Council:

A budget amendment is requested for the following reason: To appropriate an additional \$26,731 of budgetary authority and recognize related grant revenue of \$26,738 for the Cooperative 21st Century Learning Center Agreement (Cohort I-1) with Wyoming Public Schools as per resolution 26426 approved June 17, 2019.

<u>Description/Account Code</u>	<u>Current</u>	<u>Increase</u>	<u>Decrease</u>	<u>Amended</u>
<u>Parks and Recreation Fund</u>				
Federal Grant 21st Century Cohort I-1				
208-526.004	29,294.00	26,738.00		56,032.00
Parks and Recreation - 21st Century Cohort I-1 - Salaries				
208-752-76110-706.000	6,821.00		6,821.00	-
Parks and Recreation - 21st Century Cohort I-1 - Salaries - Temporary Salaries				
208-752-76110-707.000	14,610.00	33,747.00		48,357.00
Parks and Recreation - 21st Century Cohort I-1 - FICA				
208-752-76110-715.000	1,649.00	2,056.00		3,705.00
Parks and Recreation - 21st Century Cohort I-1 - Hospitalization				
208-752-76110-716.000	2,343.00		1,183.00	1,160.00
Parks and Recreation - 21st Century Cohort I-1 - Life Insurance				
208-752-76110-717.000	10.00		10.00	-
Parks and Recreation - 21st Century Cohort I-1 - Pension				
208-752-76110-718.000	2,088.00		2,088.00	-
Parks and Recreation - 21st Century Cohort I-1 - Pension DC Plan				
208-752-76110-718.100	546.00		546.00	-
Parks and Recreation - 21st Century Cohort I-1 - Pension Retiree Health				
208-752-76110-718.200	292.00		292.00	-
Parks and Recreation - 21st Century Cohort I-1 - Workers Comp Insurance				
208-752-76110-719.000	347.00	1,394.00		1,741.00
Parks and Recreation - 21st Century Cohort I-1 - CIP and Longevity				
208-752-76110-721.000	123.00		123.00	-
Parks and Recreation - 21st Century Cohort I-1 - Insurance Liability				
208-752-76110-910.000	472.00	597.00		1,069.00
Fund Balance/Working Capital (Fund 208)				
		7.00	-	

Recommended: *Kate Bayford*
Senior Accountant

C. J. DA
City Manager

Motion by Councilmember _____, seconded by Councilmember _____ that the General Appropriations Act for Fiscal Year 2019-2020 be amended by adoption of the foregoing budget amendment.

CITY OF WYOMING BUDGET AMENDMENT

Date: July 1, 2019

Budget Amendment No. 001

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: July 1, 2019

Budget Amendment No. 002

To the Wyoming City Council:

A budget amendment is requested for the following reason: To appropriate an additional \$23,025 of budgetary authority and recognize related grant revenue of \$23,031 for the Cooperative 21st Century Learning Center Agreement (Cohort I-2) with Wyoming Public Schools as per resolution 26426 approved June 17, 2019.

<u>Description/Account Code</u>	<u>Current</u>	<u>Increase</u>	<u>Decrease</u>	<u>Amended</u>
<u>Parks and Recreation Fund</u>				
Federal Grant 21st Century Cohort I-2				
208-526.005	29,296.00	23,031.00		52,327.00
Parks and Recreation - 21st Century Cohort I-2 - Salaries				
208-752-76111-706.000	6,821.00		6,821.00	-
Parks and Recreation - 21st Century Cohort I-2 - Salaries - Temporary Salaries				
208-752-76111-707.000	14,610.00	29,966.00		44,576.00
Parks and Recreation - 21st Century Cohort I-2 - FICA				
208-752-76111-715.000	1,650.00	1,767.00		3,417.00
Parks and Recreation - 21st Century Cohort I-2 - Hospitalization				
208-752-76111-716.000	2,343.00		603.00	1,740.00
Parks and Recreation - 21st Century Cohort I-2 - Life Insurance				
208-752-76111-717.000	10.00		10.00	-
Parks and Recreation - 21st Century Cohort I-2 - Pension				
208-752-76111-718.000	2,088.00		2,088.00	-
Parks and Recreation - 21st Century Cohort I-2 - Pension DC Plan				
208-752-76111-718.100	546.00		546.00	-
Parks and Recreation - 21st Century Cohort I-2 - Pension Retiree Health				
208-752-76111-718.200	292.00		292.00	-
Parks and Recreation - 21st Century Cohort I-2 - Workers Comp Insurance				
208-752-76111-719.000	347.00	1,260.00		1,607.00
Parks and Recreation - 21st Century Cohort I-2 - CIP and Longevity				
208-752-76111-721.000	123.00		123.00	-
Parks and Recreation - 21st Century Cohort I-2 - Insurance Liability				
208-752-76111-910.000	472.00	515.00		987.00
Fund Balance/Working Capital (Fund 208)		6.00	-	

Recommended: *Kati Baer*
Senior Accountant

Chris P. ...
City Manager

Motion by Councilmember _____, seconded by Councilmember _____ that the General Appropriations Act for Fiscal Year 2019-2020 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: July 1, 2019

Budget Amendment No. 003

To the Wyoming City Council:

A budget amendment is requested for the following reason: To appropriate an additional \$389,926 of budgetary authority and recognize related grant revenue of \$389,931 for the Cooperative 21st Century Learning Center Agreement (Cohort K) with Wyoming Public Schools as per resolution 26426 approved June 17, 2019.

<u>Description/Account Code</u>	<u>Current</u>	<u>Increase</u>	<u>Decrease</u>	<u>Amended</u>
<u>Parks and Recreation Fund</u>				
Federal Grant 21st Century Cohort K				
208-526.006	146,480.00	389,931.00		536,411.00
Parks and Recreation - 21st Century Cohort K - Salaries				
208-752-76112-706.000	54,562.00		12,441.00	42,121.00
Parks and Recreation - 21st Century Cohort K - Salaries - Temporary Salaries				
208-752-76112-707.000	36,874.00	328,575.00		365,449.00
Parks and Recreation - 21st Century Cohort K - FICA				
208-752-76112-715.000	7,070.00	24,112.00		31,182.00
Parks and Recreation - 21st Century Cohort K - Hospitalization				
208-752-76112-716.000	18,741.00	9,125.00		27,866.00
Parks and Recreation - 21st Century Cohort K - Life Insurance				
208-752-76112-717.000	76.00		17.00	59.00
Parks and Recreation - 21st Century Cohort K - Pension				
208-752-76112-718.000	16,702.00		6,984.00	9,718.00
Parks and Recreation - 21st Century Cohort K - Pension DC Plan				
208-752-76112-718.100	4,365.00		994.00	3,371.00
Parks and Recreation - 21st Century Cohort K - Pension Retiree Health				
208-752-76112-718.200	2,333.00		647.00	1,686.00
Parks and Recreation - 21st Century Cohort K - Workers Comp Insurance				
208-752-76112-719.000	2,770.00	11,866.00		14,636.00
Parks and Recreation - 21st Century Cohort K - CIP and Longevity				
208-752-76112-721.000	980.00		980.00	-
Parks and Recreation - 21st Century Cohort K - Operating Supplies				
208-752-76112-740.000	-	21,285.00		21,285.00
Parks and Recreation - 21st Century Cohort K - Software Services				
208-752-76112-806.000	-	313.00		313.00
Parks and Recreation - 21st Century Cohort K - Travel and Training				
208-752-76112-860.000	-	2,000.00		2,000.00
Parks and Recreation - 21st Century Cohort K - Insurance Liability				
208-752-76112-910.000	2,012.00	6,957.00		8,969.00
Parks and Recreation - 21st Century Cohort K - Other Services				
208-752-76112-956.000	-	7,756.00		7,756.00
Fund Balance/Working Capital (Fund 208)		5.00	-	

CITY OF WYOMING BUDGET AMENDMENT

Date: July 1, 2019

Budget Amendment No. 003

Recommended: *Kate Balfour*
Senior Accountant

C. J. Hobbs
City Manager

Motion by Councilmember _____, seconded by Councilmember _____
that the General Appropriations Act for Fiscal Year 2019-2020 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: July 1, 2019

Budget Amendment No. 004

To the Wyoming City Council:

A budget amendment is requested for the following reason: To appropriate an additional \$567,385 of budgetary authority and recognize related grant revenue for the Cooperative 21st Century Learning Center Agreement (Cohort L-1) with Wyoming Public Schools as per resolution 26426 approved June 17, 2019.

<u>Description/Account Code</u>	<u>Current</u>	<u>Increase</u>	<u>Decrease</u>	<u>Amended</u>
<u>Parks and Recreation Fund</u>				
Federal Grant 21st Century Cohort L-1				
208-526.007	-	567,385.00		567,385.00
Parks and Recreation - 21st Century Cohort L-1 - Salaries				
208-752-76113-706.000	-	42,121.00		42,121.00
Parks and Recreation - 21st Century Cohort L-1 - Salaries - Temporary Salaries				
208-752-76113-707.000	-	354,893.00		354,893.00
Parks and Recreation - 21st Century Cohort L-1 - FICA				
208-752-76113-715.000	-	30,375.00		30,375.00
Parks and Recreation - 21st Century Cohort L-1 - Hospitalization				
208-752-76113-716.000	-	26,691.00		26,691.00
Parks and Recreation - 21st Century Cohort L-1 - Life Insurance				
208-752-76113-717.000	-	59.00		59.00
Parks and Recreation - 21st Century Cohort L-1 - Pension				
208-752-76113-718.000	-	9,730.00		9,730.00
Parks and Recreation - 21st Century Cohort L-1 - Pension DC Plan				
208-752-76113-718.100	-	3,371.00		3,371.00
Parks and Recreation - 21st Century Cohort L-1 - Pension Retiree Health				
208-752-76113-718.200	-	1,700.00		1,700.00
Parks and Recreation - 21st Century Cohort L-1 - Workers Comp Insurance				
208-752-76113-719.000	-	14,257.00		14,257.00
Parks and Recreation - 21st Century Cohort L-1 - Operating Supplies				
208-752-76113-740.000	-	66,198.00		66,198.00
Parks and Recreation - 21st Century Cohort L-1 - Software Services				
208-752-76113-806.000	-	313.00		313.00
Parks and Recreation - 21st Century Cohort L-1 - Travel and Training				
208-752-76113-860.000	-	2,000.00		2,000.00
Parks and Recreation - 21st Century Cohort L-1 - Insurance Liability				
208-752-76113-910.000	-	8,737.00		8,737.00
Parks and Recreation - 21st Century Cohort L-1 - Other Services				
208-752-76113-956.000	-	6,940.00		6,940.00
Fund Balance/Working Capital (Fund 208)		-	-	

CITY OF WYOMING BUDGET AMENDMENT

Date: July 1, 2019

Budget Amendment No. 004

Recommended: *Kate Berglund*
Senior Accountant

C. J. P. A.
City Manager

Motion by Councilmember _____, seconded by Councilmember _____
that the General Appropriations Act for Fiscal Year 2019-2020 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: July 1, 2019

Budget Amendment No. 005

To the Wyoming City Council:

A budget amendment is requested for the following reason: To appropriate an additional \$228,472 of budgetary authority and recognize related grant revenue for the Cooperative 21st Century Learning Center Agreement (Cohort L-2) with Wyoming Public Schools as per resolution 26426 approved June 17, 2019.

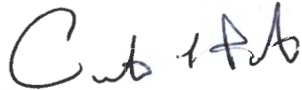
<u>Description/Account Code</u>	<u>Current</u>	<u>Increase</u>	<u>Decrease</u>	<u>Amended</u>
<u>Parks and Recreation Fund</u>				
Federal Grant 21st Century Cohort L-2				
208-526.008	-	228,472.00		228,472.00
Parks and Recreation - 21st Century Cohort L-2 - Salaries				
208-752-76114-706.000	-	16,046.00		16,046.00
Parks and Recreation - 21st Century Cohort L-2 - Salaries - Temporary Salaries				
208-752-76114-707.000	-	144,028.00		144,028.00
Parks and Recreation - 21st Century Cohort L-2 - FICA				
208-752-76114-715.000	-	12,249.00		12,249.00
Parks and Recreation - 21st Century Cohort L-2 - Hospitalization				
208-752-76114-716.000	-	12,057.00		12,057.00
Parks and Recreation - 21st Century Cohort L-2 - Life Insurance				
208-752-76114-717.000	-	24.00		24.00
Parks and Recreation - 21st Century Cohort L-2 - Pension				
208-752-76114-718.000	-	3,703.00		3,703.00
Parks and Recreation - 21st Century Cohort L-2 - Pension DC Plan				
208-752-76114-718.100	-	1,284.00		1,284.00
Parks and Recreation - 21st Century Cohort L-2 - Pension Retiree Health				
208-752-76114-718.200	-	643.00		643.00
Parks and Recreation - 21st Century Cohort L-2 - Workers Comp Insurance				
208-752-76114-719.000	-	5,750.00		5,750.00
Parks and Recreation - 21st Century Cohort L-2 - Operating Supplies				
208-752-76114-740.000	-	26,169.00		26,169.00
Parks and Recreation - 21st Century Cohort L-2 - Software Services				
208-752-76114-806.000	-	120.00		120.00
Parks and Recreation - 21st Century Cohort L-2 - Travel and Training				
208-752-76114-860.000	-	750.00		750.00
Parks and Recreation - 21st Century Cohort L-2 - Insurance Liability				
208-752-76114-910.000	-	3,525.00		3,525.00
Parks and Recreation - 21st Century Cohort L-2 - Other Services				
208-752-76114-956.000	-	2,124.00		2,124.00
Fund Balance/Working Capital (Fund 208)		-	-	

CITY OF WYOMING BUDGET AMENDMENT

Date: July 1, 2019

Budget Amendment No. 005

Recommended: 
Senior Accountant


City Manager

Motion by Councilmember _____, seconded by Councilmember _____
that the General Appropriations Act for Fiscal Year 2019-2020 be amended by adoption of the
foregoing budget amendment.

Motion carried: Yes _____, No _____

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

City Clerk

RESOLUTION NO. _____

RESOLUTION TO VACATE THE ALLEY LOCATED WEST OF DIVISION AVENUE SOUTH, SOUTH OF 39TH STREET, ADJACENT TO 3945 DIVISION AVENUE SOUTH

WHEREAS:

1. The Wyoming Planning Commission held a public hearing on May 21, 2019 and has recommended that the alley south of 39th Street and west of Division Avenue adjacent to 3945 Division Avenue South be vacated by the City.
2. The Wyoming City Council held a public hearing on July 1, 2019 to consider the request.
3. The property owner at 3945 Division Avenue South owns all adjacent property and requested the alley vacation to improve the property's redevelopment potential.

NOW, THEREFORE, BE IT RESOLVED:

1. The Wyoming City Council does hereby vacate the alley south of 39th Street and west of Division Avenue South.

BE IT FURTHER RESOLVED:

2. The City Clerk shall record a certified copy of this resolution with the Kent County Register of Deeds.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on July 1, 2019.

Kelli A. VandenBerg, Wyoming City Clerk

May 28, 2019

Ms. Kelli A. VandenBerg
City Clerk
Wyoming, MI

Subject: Vacate alley south off of 39th Street and west of Division Ave.

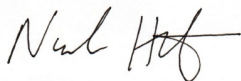
Recommendation: To approve the request to vacate the alley.

Dear Ms. VandenBerg,

The above referenced request was reviewed by the Wyoming Planning Commission at its regular meeting on May 21, 2019. A motion was made by Arnoys, supported by Weller, to recommend that the City Council vacate the alley south of 39th Street and west of Division Avenue. The motion passed unanimously following discussion. A detailed review of the request is available in the attached Planning Commission minutes and supportive material. Following please find some general information.

The owner of 3945 Division Avenue S. requested the vacation of the alley adjacent to their parcel. The alley is surrounded by property owned by the same entity. The alley vacation will enhance the redevelopment potential of the site.

Respectfully submitted,



Nicole Hofert, City Planner
Department of Community Services

Cc: Curtis Holt, City Manager
Rebecca Rynbrandt, Director of Community Services



CITY COUNCIL

Sheldon DeKryger

Dan Burrill

Kent Vanderwood

Marissa Postler

Robert Postema

Sam Bolt

Jack A. Poll, Mayor

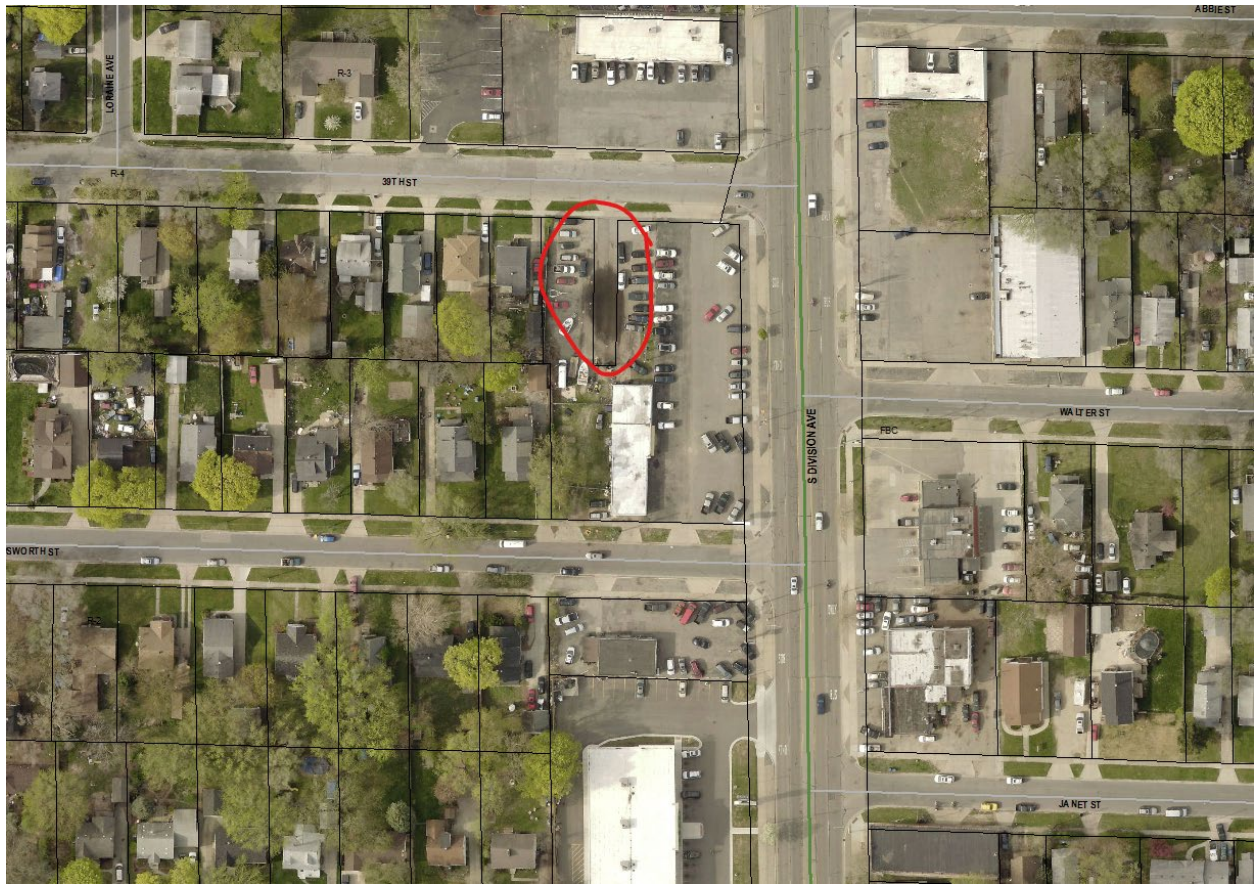
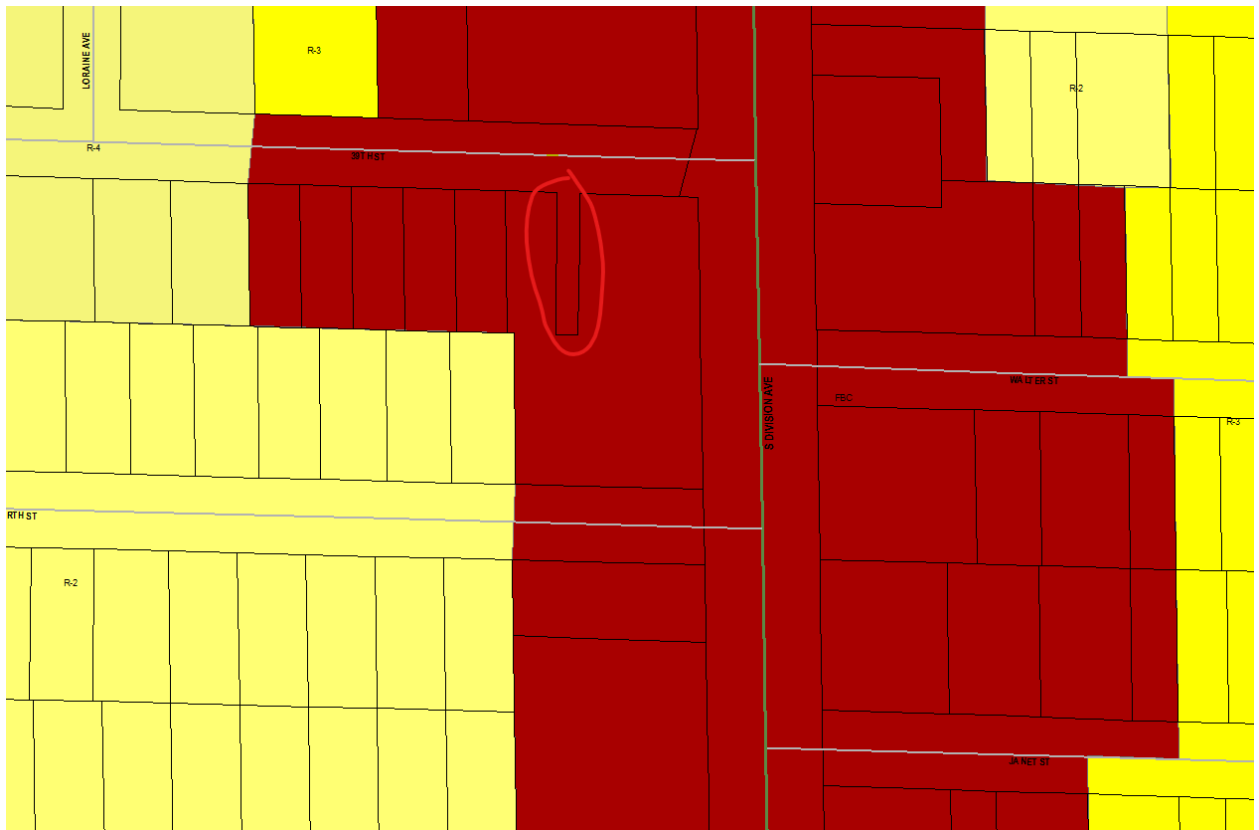
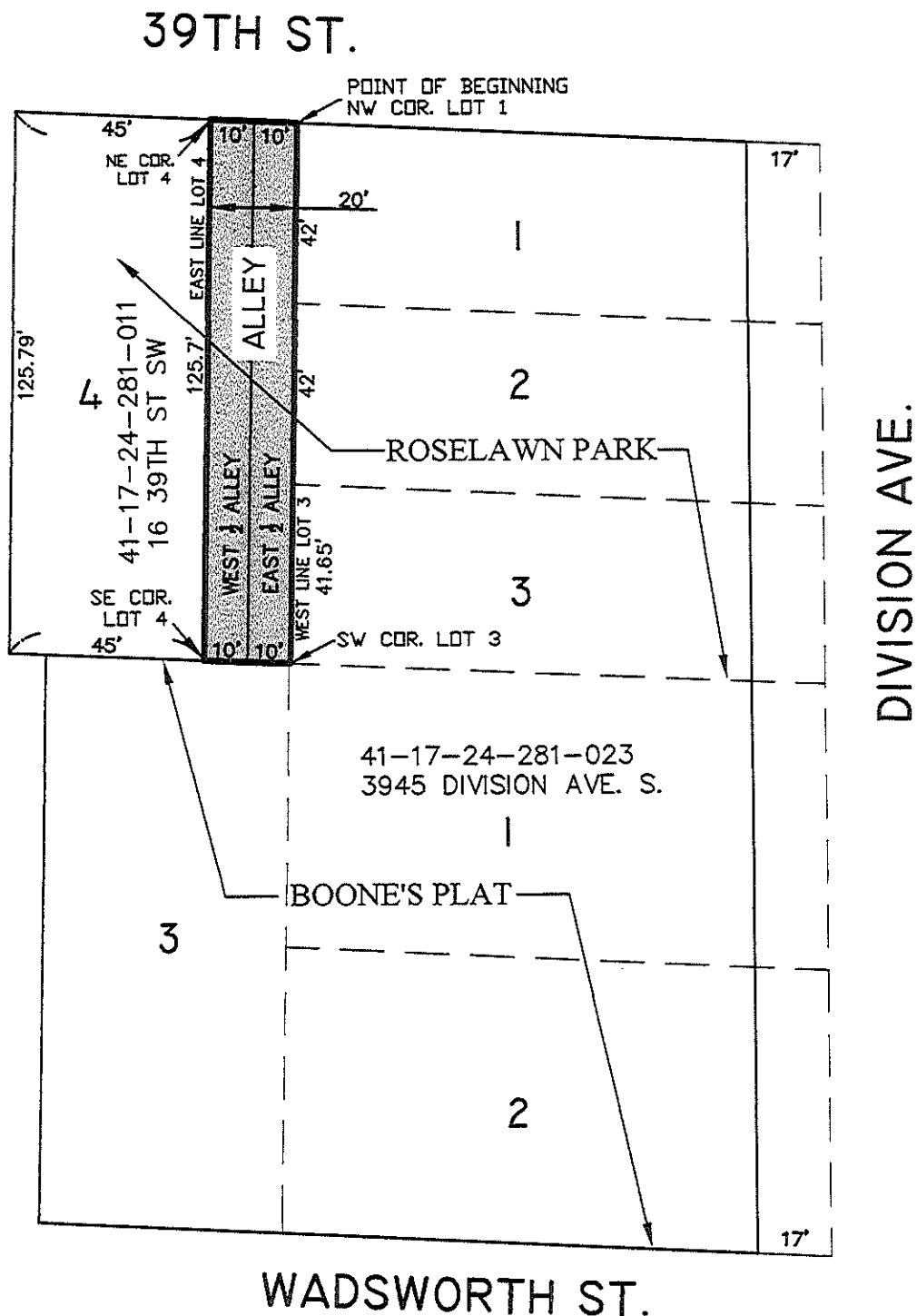


EXHIBIT A

DESCRIPTION:

A 20 FOOT WIDE ALLEY DESCRIBED AS: BEGINNING AT THE NORTHWEST CORNER OF LOT 1, ROSELAWN PARK, PART OF SECTION 24, CITY OF WYOMING, KENT COUNTY, MICHIGAN; THENCE SOUTHERLY 125.65 FEET ALONG THE WEST LINES OF LOTS 1, 2, AND 3 TO THE SOUTHWEST CORNER OF SAID LOT 3; THENCE WESTERLY 20 FEET TO THE SOUTHEAST CORNER OF LOT 4; THENCE NORTHERLY 125.7 FEET ALONG THE EAST LINE OF LOT 4 TO THE NORTHEAST CORNER OF SAID LOT; THENCE EASTERLY 20 FEET TO THE POINT OF BEGINNING.



FOR: CITY OF WYOMING

DATE: 7-2-18

PROJECT NO: 18027

RE: ALLEY VACATION DESCRIPTION

SCALE: 1"=40'

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

mbn

meyers, bueche & nies, inc.
civil engineers/surveyors
1638 leonard st nw
grand rapids, mi 49504
616-457-5030
fax 616-457-8244

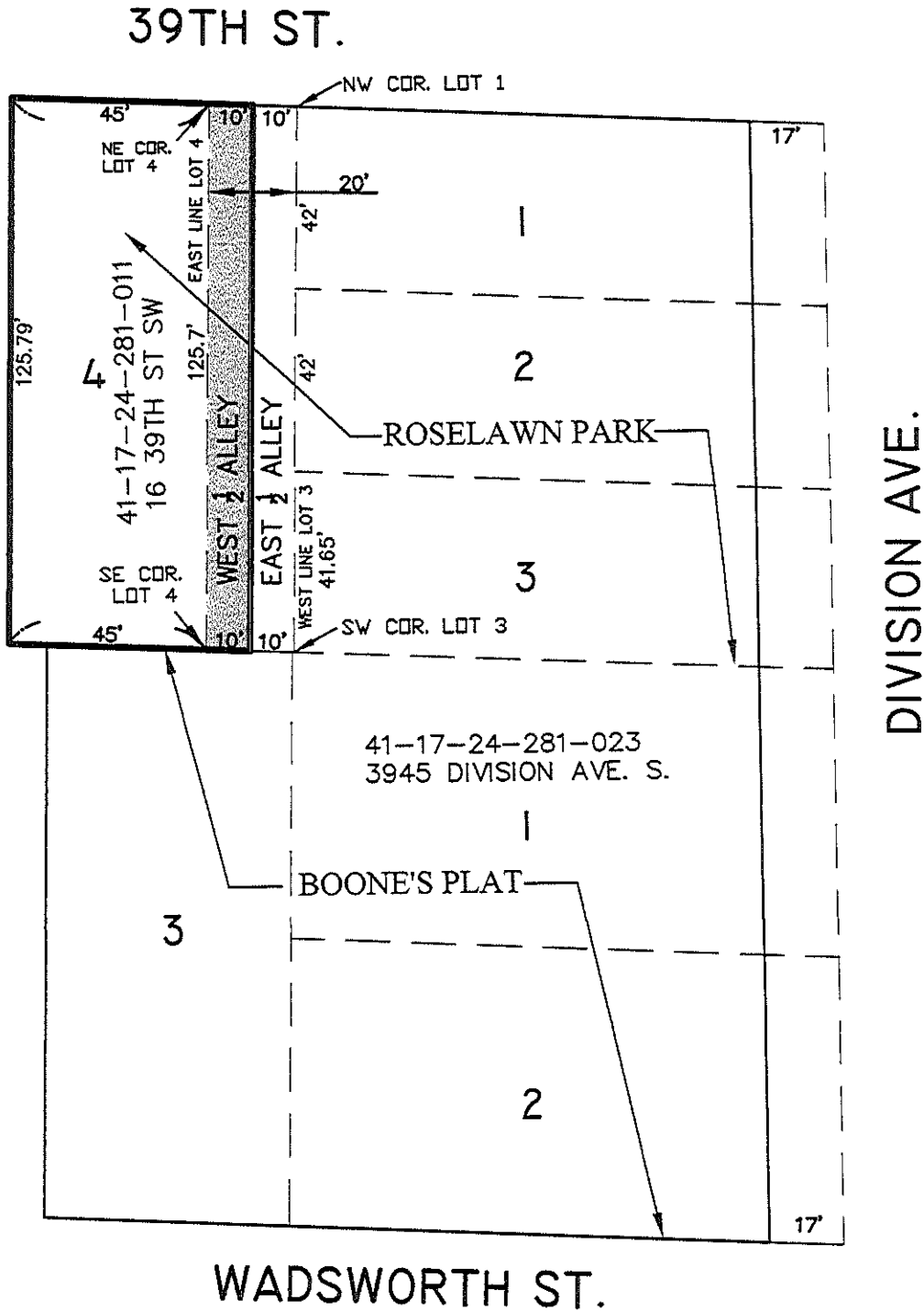
LEGEND

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

EXHIBIT A

DESCRIPTION:

LOT 4, ROSELAWN PARK, ALSO THE WEST $\frac{1}{2}$ OF ALLEY ADJACENT TO SAID LOT, PART OF SECTION 24, CITY OF WYOMING, KENT COUNTY, MICHIGAN.



FOR: CITY OF WYOMING


DATE: 7-2-18

PROJECT NO: 18027

RE: 16 39TH ST. SW.

SCALE: 1"=40'



 meyers, bueche & nies, inc. civil engineers/surveyors 1638 leonard st nw grand rapids, mi 49504 616-457-5030 fax 616-457-8244	LEGEND
	<ul style="list-style-type: none"> ☐ WOOD STAKE (SET) ⊙ IRON STAKE (SET) ● IRON STAKE (FOUND) — FENCE M = MEASURED P = PLATTED

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

of allowing higher ratios in other communities and the potential for revenue sharing opportunity for the City. Disselkoen stated that he is concerned how this proposed ordinance will impact options for smaller companies that have purchased billboards based upon the scarcity value and spacing of the signs which will be eliminated if reduced to the recommended MDOT standard of 1,750 ft.. Disselkoen recommended that the distance remain at 4,000 ft. and a higher trade in ratio like other municipalities nationwide are doing should be implemented potentially with a revenue sharing option.

Public Hearing was closed at 7:06 pm

AGENDA ITEM NO. 1

Request for vacation of an alley south of 39th Street and west of Division Avenue adjacent to 3945 S. Division Avenue. (Section 24) (Wyoming Engineering)

Hofert explained that the owner of 3945 Division Avenue requested the vacation of the alley adjacent to his parcel. The alley is completely surrounded by property owned by the same entity. Hofert stated that the applicant requested to vacate the alley so it will not bisect his property and improve the redevelopment potential of the site.

Hofert explained the benefits and impact of this request in the following:

- Alley vacations have no impact on the environmental quality of Wyoming.
- Alley vacations have no impact on social equity in Wyoming.
- Vacation of the alley will reduce the maintenance responsibility of the City and allow the surrounding parcels to have more land to potentially redevelop.

Hofert stated that it is in the best interest of Wyoming to vacate the alley and be relieved of the maintenance responsibility and recommends that the Planning Commission recommend to City Council that the City vacate the alley south of 39th Street and west of Division Avenue.

Public Hearing was opened at 7:08 pm

Public Hearing was closed at 7:09 pm

Motion by Arnoys and supported by Weller, to recommend that the City vacate the alley south of 39th Street and west of Division Avenue. No discussion followed

A vote on the motion carried unanimously.

AGENDA ITEM NO. 2

Request for Special Use Approval for a community center for Lighthouse Community Ministries. The property is located at 3500 Byron center Ave. (Includes Site Plan Approval) (Section 15) (Calvary Christian Reformed Church)

RESOLUTION NO. _____

RESOLUTION TO APPROVE AND TO AUTHORIZE AND DIRECT THE
MAYOR AND CITY CLERK TO SIGN THE 1ST AMENDMENT TO A
HELIPAD LICENSE AGREEMENT

WHEREAS:

1. The City entered into a Helipad License Agreement, dated February 5, 2018, with Metro Health – University of Michigan Health (“Metro”) to allow Metro to temporarily use a parking lot and drives on the City’s Gezon Parkway fire station property for landing helicopters and access by ambulances and personnel providing emergency services (the “License Agreement”).
2. Metro’s plans to construct a permanent helipad on its own property have taken longer to develop than initially projected.
3. Metro wishes to better assure it can continue to use temporary helipad at the fire station.
4. Representatives of Metro and the City have prepared a 1st Amendment to Helipad License Agreement (the “Amendment”) to provide that additional assurance.
5. The temporary helipad improves emergency medical services for City and other area residents, so its continued use is in the City’s best interests.

NOW, THEREFORE, BE IT RESOLVED:

1. The Amendment is approved in substantially the form attached and the Mayor and City Clerk are authorized and directed to sign it on the City’s behalf.
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 the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on July 1, 2019.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Staff Report

1st Amendment to Helipad License Agreement

Resolution No. _____

STAFF REPORT

Date: June 25, 2019
Subject: Helipad License Agreement Amendment
From: Scott Smith, City Attorney
Meeting Date: July 1, 2019

RECOMMENDATION:

It is recommended that the City Council approve the Resolution to Approve and Authorize and Direct the Mayor and City Clerk to Sign 1st Amendment to Helipad License Agreement.

COMMUNITY, SAFETY, STEWARDSHIP:

Community – The proposed 1st Amendment to Helipad License Agreement (the “Amendment”) provides Metro Health – University of Michigan Health (“Metro”) reasonable assurance of continued use of the temporary helipad on the Gezon Parkway fire station property.

Safety – Helicopters transport emergency patients from remote areas to Metro more quickly than ground transport improving the chances of a favorable outcome from emergency treatment.

Stewardship – Cooperative arrangements with area institutions, such as temporary use of City property that is not now being used for other purposes, made good use of City resources without added costs being incurred by residents. Metro has paid and will pay for any maintenance or improvements needed to continue to accommodate its use as a temporary helipad.

DISCUSSION:

Metro, in collaboration with the City and the developer of Metro Health Village, has continued its efforts to develop plans for its Wyoming campus at Metro Health Village, including plans for a permanent helipad. While those efforts progress, continued use of the temporary helipad at the Gezon Parkway fire station does not adversely affect City use of the property and serves City and other area citizens by providing for faster transport to Metro for emergency medical treatment.

BUDGET IMPACT:

There is not budget impact.

1ST AMENDMENT TO HELIPAD LICENSE AGREEMENT

This 1st Amendment to Helipad License Agreement is made as of July 1, 2019 (this "1st Amendment"), to amend the Helipad License Agreement dated February 5, 2018 (the "License Agreement"), between Metro Health – University of Michigan Health, a Michigan nonprofit corporation of 5900 Byron Center Ave SW, Wyoming, MI 49519 ("Licensee"), and the City of Wyoming, a Michigan municipal corporation of 1155 28th St SW, Wyoming, MI 49509 ("Licensor").

BACKGROUND

Licensee's plans for and construction of a permanent helipad on Licensee's property have not progressed as quickly as initially anticipated, the arrangement made use of Licensor's property for Licensee's temporary helipad has continued to be mutually satisfactory, and Licensee seeks additional assurance that its use of the temporary helipad on Licensor's property can continue.

AMENDMENT

1. **Paragraph 4.** Paragraph 4 of the License Agreement is amended to read as follows:

4. **TERM.** The term of this Agreement commenced on February 5, 2018 and shall end on February 4, 2028. However, either party may terminate this Agreement upon 90 days' written notice to the other party. If Licensor wishes to consider early termination of this Agreement, Licensor shall give at least 14 days' written notice to Licensee of the date and time of the City Council meeting at which such early termination will be considered and Licensee shall have an opportunity to address the City Council and present written materials to the City Council prior to its consideration of a motion or resolution to terminate this Agreement.

2. **Paragraph 6.** Paragraph 6 of the License Agreement is amended by adding the following sentences at the end of the paragraph.

The insurance provided by the parties under this provision shall cover any public liability or property damage occurring during the term of this Agreement and any renewal or holdover regardless of whether the claim is made during or after the term of this Agreement.

The parties have signed this 1st Amendment as of the date first written above.

METRO HEALTH – UNIVERSITY OF MICHIGAN
HEALTH

CITY OF WYOMING

By: _____

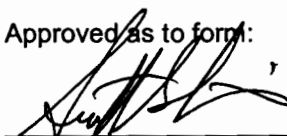
By: _____
Jack A. Poll, Mayor

Date signed: July __, 2019

By: _____
Kelli A. VandenBerg, Clerk

Date signed: July __, 2019

Approved as to form:



Scott G. Smith, City Attorney

RESOLUTION NO. _____

RESOLUTION TO AUTHORIZE THE MAYOR AND CITY CLERK
TO AMEND AN EXISTING AGREEMENT WITH PROGRESSIVE AE TO MODIFY
THE SCOPE OF WORK TO INCLUDE THE DESIGN OF CAPACITY IMPROVEMENTS
ON 54TH STREET WEST OF US-131

WHEREAS:

1. The City of Wyoming has been authorized to receive Michigan Department of Transportation (MDOT) funding for capacity improvements on 54th Street from Clyde Park Avenue to US-131 in 2020.
2. The project includes relocating a Meijer access, adding and extending turn lanes and storage, adding a third, eastbound lane and adding MDOT ramp storage all to improve the progression of vehicles through the corridor.
3. The project is a complicated design requiring coordination with the Michigan Department of Transportation (MDOT), Federal Highway Administration (FHWA), Meijer, and the City of Wyoming.
4. The City entered an agreement with Progressive AE at the inception of the project due to their expertise in traffic studies, design and coordination with MDOT and FHWA.
5. Due to the complicated nature of the project, staff has requested Progressive AE provide a proposal to amend their existing agreement to include the project design in preparation for bidding through MDOT.
6. On June 20, 2019, Progressive AE submitted the attached proposal to amend the existing agreement to include preparation of a design and specifications of capacity improvement of 54th Street west of US-131 adding \$82,500 to the existing agreement.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council hereby authorizes the Mayor and City Clerk to amend the existing agreement with Progressive AE to modify their scope of work to include a design of capacity improvements on 54th Street west of US-131 in the amount of \$82,500.

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

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on July 1, 2019.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:
Staff Report
Agreement
Proposal

STAFF REPORT

Date: June 20, 2019

Subject: Amend Progressive AE Agreement to include Design

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

Meeting Date: July 1, 2019

Recommendation:

Staff recommends City Council authorize the Mayor and Clerk amend the existing agreement with Progressive AE to modify their scope of work to include a design of capacity improvements on 54th Street west of US-131 in the amount of \$82,500.

Community, Safety, Stewardship:

The design will improve the progression of vehicles along the 54th Street corridor and reduce delay west of US-131 by Meijer. The improvements will reduce pollution, vehicular delay, improve safety and access to local businesses.

Discussion:

In the current Grand Rapids area Transportation Improvement Plan (TIP), the City of Wyoming was awarded funding to improve capacity of 54th Street, west of US-131. Improvements include relocating access to Meijer, extending turn lanes, adding capacity to MDOT's southbound off ramp and other related improvements. The project involves a complicated design to satisfy the requirements of MDOT, FHWA, Meijer and other businesses. Progressive AE was asked to amend their existing agreement to include the preparation of plans and specifications due to their intimate knowledge of the project and unique requirements. On June 20, 2019, Progressive AE submitted a proposal to amend their scope of work to include the design and preparation of specifications, adding \$82,500.

Budget Impact:

Sufficient funds are available in the Capital Improvements Program.

CITY OF
Wyoming
MICHIGAN

**AMENDMENT TO
STANDARD CITY PROFESSIONAL SERVICES CONTRACT
CITY OF WYOMING, MICHIGAN**

This Amendment to Standard Professional Services Contract is made as of the Effective Date between the City and the Professional to amend the Contract to provide for the Additional Services.

"Additional Services" means professional transportation design services related to road work being proposed along 54th Street in the City as detailed in the Proposal.

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

"Contract" means the Standard Professional Services Contract between the City and the Professional with an effective date of May 7, 2019.

"Effective Date" means: July 1, 2019.

"Professional" means Progressive AE, a Michigan corporation, 1811 4 Mile Road NE, Grand Rapids, MI 49525.

"Proposal" means the Professional's proposal for the Services dated June 20, 2019 attached as Exhibit A.

TERMS AND CONDITIONS

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

1. The Professional will perform the Additional Services as detailed in the Proposal. Except as otherwise provided in the Proposal, the Professional will provide all qualified personnel, supplies and tools needed to perform the Additional Services as described in the Proposal.
2. The City will pay the Professional in accordance with the Proposal. The City will, on a timely basis, provide any information and services the Proposal identifies as being provided by the City, so the Professional can perform the Additional Services as described by the Proposal.
3. Except as modified in the Proposal or this Amendment, all terms and conditions of the Contract shall remain in effect.

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

CITY OF WYOMING

PROGRESSIVE AE

By: _____
Jack A. Poll, Mayor

By: Theresa S. Petko
~~Nicholas D. LaGros, PE, PTOE~~ THERESA PETKO
Senior Transportation Engineer MANAGING PRINCIPAL

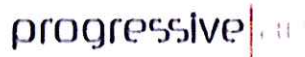
By: _____
Kelli A. Vandenberg, City Clerk

Date signed: June 24, 2019

Date signed: July __, 2019

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

EXHIBIT A
PROPOSAL



June 20, 2019

Mr. Russ Henckel
City of Wyoming
2880 Burlingame Avenue SW
Grand Rapids, MI 49509

Re: Proposal for Transportation Engineering Services -- Amendment 2
54th Street, Wyoming, Michigan

Dear Mr. Henckel:

Progressive AE is pleased to submit this proposal for additional professional transportation design services related to the road work being proposed along 54th Street in the City of Wyoming, Michigan. Our understanding of the requested services is based upon our ongoing work with the traffic analysis portion of the project, Michigan Department of Transportation Local Agency Program (MDOT LAP) guidelines, and discussions with you.

PROJECT UNDERSTANDING

The City of Wyoming is moving forward with plans to improve 54th Street between Clyde Park Avenue and US-131. The work includes adding a new driveway to the existing Meijer site opposing the US-131 southbound off-ramp terminal and restricting the westbound left-turn movement into the existing Meijer driveway west of the ramp terminal. Several additional improvements are also included in the project as follows:

- The existing eastbound right-turn lane to the US-131 on-ramp will be extended westerly through the ramp terminal intersection to Clyde Park Avenue.
- An additional right-turn lane will be constructed on the southbound US-131 off-ramp approach to US-131.
- The existing median along 54th Street will be reconfigured to accommodate the proposed roadway improvements.
- The existing traffic signal will be updated to accommodate the proposed roadway improvements.

As part of the preliminary planning for the project, Progressive AE prepared the traffic analysis and corridor report recommending the above improvements. This report was submitted to the Michigan Department of Transportation (MDOT) and the Federal Highway Administration (FHWA) for review and approval. In general, MDOT and FHWA were in favor of the proposed improvements and minor modifications to the draft report are currently being completed for resubmittal.

Based on the anticipated scope of work, Progressive AE has the necessary prequalification categories through MDOT, including the following:

- Design -- Roadway
- Design -- Hydraulics I
- Design -- Traffic: Capacity & Geometrics Analysis
- Design -- Traffic: Pavement Markings
- Design -- Traffic: Signal
- Design -- Traffic: Signal Operations
- Design -- Traffic: Work Zone Maintenance of Traffic
- Design -- Utilities: Roadway Lighting
- Surveying (Williams & Works)

In addition to preparing the corridor study for the project, Progressive AE was also the design engineer for the recently completed Chick-fil-A site development project adjacent to the project site. As part of the site design and planning process, Progressive AE developed preliminary plans anticipating the proposed Meijer access driveway to ensure the layout of the Chick-fil-A site would not impact the city's plans for the project.

Following approval of the corridor study, the design phase for the project can begin. The City of Wyoming has secured approximately \$1.25M dollars (\$1.0M federal, \$250K local match) for the construction of the project. These funds are currently scheduled to be obligated in FY2019. As federal funds will be utilized for the project, the design process will need to follow the MDOT LAP process for design and construction. As such, all design aspects of the project will be completed based on MDOT LAP design guidelines, standard specifications and special provisions, and the Michigan Manual on Uniform Traffic Control Devices.

SCOPE OF BASIC SERVICES

Progressive AE proposes to perform the following scope of services based on MDOT guidelines for LAP projects as follows:

Program Application

For this project, MDOT will require submittal of the Program Application for Local Agency Projects (form 0260). We will complete the form and provide all necessary documentation to be included with it.

Survey

Progressive AE proposes to subcontract with Williams & Works to provide a topographical survey along 54th Street from and including the intersection with Clyde Park east to the bridge over US-131. This survey will include a sewer structure inventory with inverts compiled. The establishment of the rights-of-way for 54th Street and US-131 in the area of the project limits would also be included. Lane closures are not anticipated to be necessary in order to complete the topographical survey.

While the need to acquire additional permanent right-of-way for the project is not anticipated, it is expected that temporary grading/construction permits will be necessary from Meijer for the actual drive construction. This work will be completed in accordance with MDOT guidelines.

The MDOT limited access right-of-way along the south side of 54th Street will need to be modified to allow for the construction of the proposed driveway.

Road Design

Progressive AE will provide a typical set of roadway design plans for the improvements described in the project understanding, including the following elements:

Drainage

The existing stormwater drainage system will require minor modifications due to the additional turn lane and the new driveway approach. These modifications will likely include moving catch basins to the new low points and extending storm sewer to those basins. Additionally, it is anticipated that the new drive to the Meijer site will require storm sewer, which would connect to the existing drainage network for the Meijer site.

Pavement Markings and Signage

Existing signage and pavement markings along 54th Street will be reviewed and updated as required for the proposed configuration, including modifications to existing signage and lane designations along the US-131 southbound off-ramp approach to 54th Street. Progressive AE will work with the City and the Grand Rapids Transportation Service Center (TSC) on the desired permanent pavement marking design and materials (recessed, polyurea, thermoplastic, paint, etc.). All pavement marking and signage plans will follow applicable Michigan MUTCD standards.

Traffic Signal Design

Progressive AE will develop plans to modify the existing signal at the 54th Street/US-131 SB ramp terminal intersection to accommodate the new intersection configuration. New signal heads will be necessary for the proposed northbound approach and the westbound left-turn movement into the Meijer site. Progressive AE will work with the Grand Rapids TSC to determine the requirements for the signal design as MDOT may require the traffic signal to be modernized as part of the project.

Minor signal modifications to the signal pole, located on the southeast corner of the 54th Street/Clyde Park Avenue intersection, will also be required to extend the turn lane to the Clyde Park Avenue intersection.

Maintenance of Traffic

Maintenance of traffic (MOT) plans will consider staging concepts that will limit any required lane closures along 54th Street and the southbound off-ramp and 54th Street. Developing plans for two stages of construction is anticipated. The first stage will include closing one eastbound lane along 54th Street and one southbound lane along the southbound off-ramp to perform construction of the proposed roadway widening and the Meijer approach. A second stage may include closing both inside through lanes along 54th Street to perform work on the center median. Temporarily narrowing and/or shifting through lanes for both stages of construction will be considered to reduce the extent and duration of any necessary lane closures. The mobility analysis completed as part of the Transportation Management Plan (TMP) will help guide the decision-making process on the timing and duration of the lane closures.

Roadway Lighting

One existing roadway light pole along the south side of 54th Street will likely need to be relocated as part of the project. The overhead light, span wire, and pole at the existing Meijer driveway will also need to be relocated and/or removed as part of the project. The city may also want to consider additional roadway lighting at the 54th Street intersection with the US-131 ramp terminal and along the proposed Meijer access driveway.

Project Specifications and Special Provisions

Construction documents will include a project proposal that will utilize MDOT 2012 standard specifications for construction as well as developing special provisions for those items required by the City of Wyoming, but not addressed by MDOT. City of Wyoming special provisions will be incorporated into this project as appropriate.

Construction Cost Estimates

Progressive AE will use the Michigan Engineers' Resource Library (MERL) to develop cost estimates for this project. MDOT standard pay items and MERL output will be used as a part of the bidding process.

Utility Coordination

It is anticipated that private utility services will be impacted by the widening along the south side of 54th Street. Progressive AE will work with the private utility companies to identify those impacted and work with them to develop a plan for relocating the necessary poles and overhead lines. This work will need to begin early in the design process to allow for adequate time for the private utilities to move their infrastructure so as not to impact the schedule for the road improvements.

Permits

All permits pertaining to the design process, including any design exceptions, will be obtained as necessary.

Progressive AE will submit for an MDOT permit for all work to be completed within MDOT right-of-way. This would include work along the southbound off-ramp and at the ramp terminal intersection, including the signal modifications.

A Soil Erosion and Sedimentation Control (SESC) permit will be required to be completed and submitted to Kent County as part of the project.

Transportation Management Plan

It is anticipated this project will be deemed "significant" per MDOT guidelines as portions of the work will be within MDOT right-of-way and lane closures will be necessary for portions of the project construction. Progressive AE will work with the Grand Rapids TSC to develop a TMP for the project that will consist of the MOT plans and specifications, a Transportation Operations Plan, and a Public Information Plan. Progressive AE will provide drafts of each of these items for City of Wyoming review initially, with submittal to MDOT as part of the GI package. A final TMP will be completed based on comments received from MDOT and/or the city.

As part of the TMP, a mobility analysis will be completed to determine the anticipated user delays along the corridor during construction. Recommendations to modify the existing signal timings at Clyde Park Avenue and the US-131 ramp terminal will likely be recommended during construction stages where lane closures are needed.

Project Submittals

The project will follow the MDOT LAP Project Planning Guide. Submittals for the project include the program application, the grade inspection package, then the final plans and proposal for bidding. It is anticipated that review by the City of Wyoming would occur prior to each of those submittal deadlines. Each submittal will also include an updated cost estimate.

CLARIFICATIONS

The scope of basic services above is intended to cover preliminary engineering. Progressive AE typically seeks teaming opportunities with other prequalified firms, or the local agency itself, for the construction engineering phase as there can be a benefit to having the design engineer involved during the construction phase. A separate agreement would be recommended for the construction engineering phase of the project.

The scope of basic services assumes no permanent right-of-way or easements will be required from the adjacent property owners. Additional compensation will need to be negotiated should permanent right-of-way or easements be required to construct the improvements.

SCHEDULE

Progressive AE will follow the planning guide for the 2019 LAP projects prepared by MDOT. It is anticipated the letting date for the project will be in late winter/early spring of 2020 for construction during the 2020 construction season. The program application will be prepared and submitted to MDOT to allow for the obligation of funds during FY 2019, with an anticipated summer submittal date.

The above schedule assumes authorization from the City of Wyoming to begin work on the project by June 14, 2019.

PROFESSIONAL COMPENSATION

Based upon the identified scope of services herein, Progressive AE proposes professional compensation to complete the scope of basic services for a stipulated sum of \$82,500 (eighty-two thousand five hundred dollars). Expenses are included in the stipulated sum. Progressive AE will provide additional services upon written request, such as meeting/presentation attendance, etc., on a time and expense basis to be billed in accordance with the attached Schedule of Invoice Rates.


Progressive AE has prepared this proposal for the City of Wyoming only and request that it is treated as confidential and not copied or distributed for any reason other than evaluation for our hire.

We are looking forward to working with the City of Wyoming on the completion of this transportation design effort. Please do not hesitate to contact us if you have any questions.

Sincerely,



Nicholas D. LaCroix, PE, PTOE
Senior Transportation Engineer



Christopher E. Zull, PE
Transportation Practice Leader

Schedule of Invoice Rates - 2019

Hourly Staff Charges

Class 9 Personnel:	Principals	\$215/hour
Class 8 Personnel:	Principals and Senior Project Managers	\$185/hour
Class 7 Personnel:	Senior Project Managers, Architects, Engineers, Landscape Architects, Senior Interior Designers, Environmental Analysts and Construction Administrators	\$150/hour
Class 6 Personnel:	Senior Project Managers, Architects, Engineers, Landscape Architects, Senior Interior Designers, Environmental Analysts and Construction Administrators	\$125/hour
Class 5 Personnel:	Project Managers, Architects, Engineers, Landscape Architects, Environmental Analysts, Construction Administrators, Designers, Interior Designers and Surveyors	\$110/hour
Class 4 Personnel:	Project Managers, Intermediate Architects, Engineers, Designers, Interior Designers, Landscape Architects, Environmental Analysts, Construction Administrators and Surveyors	\$95/hour
Class 3 Personnel:	Graduate Architects, Engineers, Designers, Interior Designers, Environmental Analysts, Construction Administrators, Technicians, Project Assistants and Surveyors	\$80/hour
Class 2 Personnel:	Technicians, Interior Designers, Project Assistants, Graduate Architects and Surveyors	\$65/hour
Class 1 Personnel:	Project Assistants and Technicians	\$50/hour

Reimbursable Expenses

1. Fees for Program, Financial or Procurement Management services when the Owner has engaged a supplier and Architect is subject to a fee.
2. Building permit fees and plan review fees as required by the authorities having jurisdiction over projects at cost plus 10%.
3. Outside services, consultants, travel and lodging at cost plus 10%.
4. Copies, telephone, cell phone voice and data charges and office supplies will be charged through a \$25 per month Misc. Office Expense charge. This charge will not be applied to invoices under \$1,000.
5. CAD black/white plotting at 15¢ per square foot; CAD color plotting at 25¢ per square foot; CAD low density color images at 30¢ each; CAD high density color images at 50¢ each; large-format color plotting at \$9 per square foot. Postage, shipping, and lab tests at cost. Files written to CD will be minimum \$100 per drawing or \$500 maximum. Passenger vehicle mileage on projects at the IRS Standard Rate (currently 58¢ per mile). Lodging, meals, and airfare at cost. Machine rental GPS at \$250 per day. Traffic Counters at \$60 per count. Surveying supplies at 50¢ per stake.
6. Overtime expenses requiring higher than normal rates if authorized by owner.

Notes:

1. Invoices are due upon receipt. Unpaid invoices shall bear interest at a rate of 1 percent per month if not paid within 30 days of the date of the invoice.
2. Special media requests may be at higher rate.
3. Hourly staff charges and expenses subject to change annually.

STD RATE:

April 10, 2019

Progressive AE | 1811 4 Mile Road NE | Grand Rapids, MI 49525 | 616.361.2664 | progressiveae.com

7/1/19

Engineering/RJH:

RESOLUTION NO. _____

RESOLUTION TO AUTHORIZE THE MAYOR AND CITY CLERK TO EXECUTE AN AGREEMENT WITH THE MICHIGAN DEPARTMENT OF TRANSPORTATION FOR THE WIDENING OF 54TH STREET FROM HAUGHEY AVENUE TO US-131

WHEREAS:

1. The City of Wyoming in cooperation with the Michigan Department of Transportation (MDOT) proposes to add an additional westbound lane on 54th Street from Haughey Avenue to US-131.
2. Proposed improvements include widening the existing westbound 54th Street, widening the bridge over Buck Creek, modifying signals, storm sewer, concrete curb and gutter, concrete sidewalk ramps, permanent signing and pavement markings, along with related railroad signal modifications.
3. The Michigan Department of Transportation has submitted the attached City-State Agreement outlining the rights and obligations for the parties.
4. The anticipated cost for Wyoming's share, based upon the engineer's estimate, is approximately \$295,288.68, which can be financed out of the Capital Improvements Fund Account No. 400-441-50200-972.502.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council hereby authorizes the Mayor and City Clerk to execute the attached Agreement with MDOT for the widening of 54th Street from Haughey Avenue to US-131.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on July 1, 2019.

Kelli A. Vandenberg, Wyoming City Clerk

ATTACHMENT:

Agreement

Resolution No. _____

TED (C)
FED

CAB
Control Section EDCF 41000; EDC 41000
Job Number 130613CON; 206564CON
Project 1900(782)
CFDA No. 20.205 (Highway Research
Planning & Construction)
Contract No. 19-5286

PART I

THIS CONTRACT, consisting of PART I and PART II (Standard Agreement Provisions), is made and entered into this date of _____, by and between the MICHIGAN DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the "DEPARTMENT"; and the CITY OF WYOMING, a Michigan municipal corporation, hereinafter referred to as the "REQUESTING PARTY"; for the purpose of fixing the rights and obligations of the parties in agreeing to the following improvements, in the City of Wyoming, Michigan, hereinafter referred to as the "PROJECT" and estimated in detail on EXHIBIT "I", dated June 3, 2019, attached hereto and made a part hereof:

PART A – EDCF 41000; JOB # 130613CON; 1900(782); FEDERAL AND STATE PARTICIPATION

Hot mix asphalt surfacing and pavement widening work along 54th Street from Highway US-131 easterly to Haughey Avenue; including, storm sewer, concrete curb and gutter, concrete sidewalk ramp, guardrail installation, pavement marking, traffic signal, water main, and structure rehabilitation work for the structure along 54th Street over Buck Creek; and all together with necessary related work.

PART B – EDC 41000; JOB # 206564CON; 1900(782); STATE PARTICIPATION (RR FORCE ACCOUNT)

Cantilever and gate relocation work to accommodate adjacent road work at the at-grade crossing of the tracks of Grand Elk Railroad, L.L.C, hereinafter referred to as "RAILROAD", with 54th Street (National Inventory #545-751-Y); and all together with necessary related work.

WITNESSETH:

WHEREAS, the PROJECT has been approved for financing in part with funds appropriated to the Transportation Economic Development Fund, hereinafter referred to as "TED FUNDS", pursuant to PA 234 of the Public Acts of 1987, MCL 247.660; and

WHEREAS, it was determined that the PROJECT as described by this contract qualifies for funding pursuant to PA 231, Section 11(3)(c); Public Act of 1987 and categorized as:

C FUNDED PROJECT

WHEREAS, the reference "FHWA" in PART I and PART II refers to the United States Department of Transportation, Federal Highway Administration; and

WHEREAS, the PROJECT, or portions of the PROJECT, at the request of the REQUESTING PARTY, are being programmed with the FHWA, for implementation with the use of Federal Funds under the following Federal Program(s) or funding:

SURFACE TRANSPORTATION PROGRAM
EQUITY BONUS FUNDS

WHEREAS, the Federal Equity Bonus Funds will be used as TED FUNDS Category C; and

WHEREAS, the parties hereto have reached an understanding with each other regarding the performance of the PROJECT work and desire to set forth this understanding in the form of a written contract.

NOW, THEREFORE, in consideration of the premises and of the mutual undertakings of the parties and in conformity with applicable law, it is agreed:

1. The parties hereto shall undertake and complete the PROJECT in accordance with the terms of this contract.

The PART B portion of the PROJECT work will be performed by the RAILROAD pursuant to the contract #09-5086 dated April 29,2009, by and between the DEPARTMENT and the RAILROAD, hereinafter referred to as "ADDENDUM A" and attached hereto. The REQUESTING PARTY does hereby acknowledge its acceptance of the terms of ADDENDUM A with respect to this PROJECT.

No charges will be made by DEPARTMENT to the PROJECT for any inspection work or construction engineering.

The parties agree that programming and/or authorization of the construction of the PROJECT for Federal funding does not void or compromise in any way the statutory obligations which may be imposed by safety orders issued under the authority of 1909 PA 283, 1921 PA 270,1873 PA 198, and/or 1993 PA 354, or may be imposed under 1993 PA 354.

2. The term "PROJECT COST", as herein used, is hereby defined as the cost of the physical construction necessary for the completion of the PROJECT, including costs incurred by the RAILROAD for the PART B portion of the PROJECT and any other costs incurred by the DEPARTMENT as a result of this contract, except for construction engineering and inspection.

No charges will be made by the DEPARTMENT to the PROJECT for any inspection work or construction engineering

The costs incurred by the REQUESTING PARTY for preliminary engineering, construction engineering, construction materials testing, inspection, and right-of-way are excluded from the PROJECT COST as defined by this contract.

3. The DEPARTMENT is authorized by the REQUESTING PARTY to administer on behalf of the REQUESTING PARTY all phases of the PROJECT including advertising and awarding the construction contract for the PROJECT or portions of the PROJECT. Such administration shall be in accordance with PART II, Section II of this contract.

It is understood that the DEPARTMENT, by written authorization, will directly authorize the RAILROAD to commence performance of the PART B portion of the PROJECT work.

Any items of the PROJECT COST incurred by the DEPARTMENT may be charged to the PROJECT.

4. The REQUESTING PARTY, by execution of this contract, certifies that, at no cost to the PROJECT or the DEPARTMENT, it will:

- A. Design or cause to be designed the plans for the PROJECT.
- B. Appoint a project engineer who shall be in responsible charge of the PROJECT and ensure that the plans and specifications are followed.
- C. Perform or cause to be performed the construction engineering, construction materials testing, and inspection services necessary for the completion of the PROJECT.
- D. Place and maintain advance warning signs and pavement markings in full accord with the Michigan Manual of Uniform Traffic Control Devices and the provisions of 1993 PA 354 and that it will not install, or permit to be installed, any signs, signals or markings not in conformance with the standards approved by the FHWA, pursuant to 23 USC 109(d).

- E. Perform, as may be necessary, in conjunction with the highway-railroad crossing improvement, all approach work so as to provide a smooth-riding crossing.
- F. Assume responsibility for work zone traffic control for railroad improvements by coordinating with the railroad authority as necessary to ensure appropriate traffic controls and protection during project operations in full accord with the Michigan Manual of Uniform Traffic Control Devices.
- G. Provide and maintain detour routes necessary to accommodate traffic when required during the construction of the PROJECT and ensure that these detour routes are signed in accordance with the Michigan Manual of Uniform Traffic Control Devices.
- H. Enact and enforce such ordinances or regulations as may be necessary to prohibit parking along either side of the roadway within 50 feet of the nearest rail of the grade crossing in compliance with MCL 257.674(i).
- I. Maintain the approaches and those portions of the PROJECT under the REQUESTING PARTY'S jurisdiction pursuant to the provisions of MCL 691.1402, 1993 PA 354, and the requirements of the FHWA.

The REQUESTING PARTY will furnish the DEPARTMENT proposed timing sequences for trunkline signals that, if any, are being made part of the improvement. No timing adjustments shall be made by the REQUESTING PARTY at any trunkline intersection, without prior issuances by the DEPARTMENT of Standard Traffic Signal Timing Permits.

- 5. The PROJECT COST shall be met in accordance with the following:

PART A

The PART A portion of the PROJECT COST shall be met by contributions by the Federal Government and/or TED FUNDS. Federal Equity Bonus Funds being used as TED FUNDS Category C shall be applied to the eligible items of the PART A portion of the PROJECT COST at a participation ratio equal to 81.85 percent up to an amount not to exceed \$1,308,004.50. The remaining balance of the PART A portion of the PROJECT COST, after deduction of Federal Funds and/or TED FUNDS, shall be charged to and paid by the REQUESTING PARTY in the manner and at the times hereinafter set forth.

PART B

The PART B portion of the PROJECT COST shall be met in part by contributions by State TED FUNDS. State TED FUNDS Category C shall be applied to the eligible items of PROJECT COST at a participation ratio equal to 80 percent up to an amount not to exceed \$243,713.80. The remaining balance of the PART B portion of the PROJECT COST, after deduction of State TED FUNDS, shall be charged to and paid by the REQUESTING PARTY in the manner and at the times hereinafter set forth.

In order to fulfill the obligations assumed by the REQUESTING PARTY under the provisions of this contract, the REQUESTING PARTY shall make prompt payments of its share, if any, of the PROJECT COST upon receipt of progress billings from the DEPARTMENT as herein provided. All payments will be made within 30 days of receipt of billings from the DEPARTMENT. Billings to the REQUESTING PARTY will be based upon the REQUESTING PARTY'S share of the actual costs incurred less Federal Funds and/or TED FUNDS earned as the PROJECT progresses.

Any items of PROJECT COST not reimbursed by Federal Funds and/or TED FUNDS will be the sole responsibility of the REQUESTING PARTY.

6. It is understood that the RAILROAD, at its sole expense, pursuant to ADDENDUM A, will own, operate, and maintain the railroad facilities unless otherwise provided between the REQUESTING PARTY and the RAILROAD.

7. A working capital deposit by the REQUESTING PARTY will not be required for this PROJECT.

8. Upon completion of construction of the PROJECT, the REQUESTING PARTY will promptly cause to be enacted and enforced such ordinances or regulations as may be necessary to prohibit parking in the roadway right-of-way throughout the limits of the PROJECT.

9. The performance of the entire PROJECT under this contract, whether Federally funded or not, will be subject to the provisions and requirements of PART II that are applicable to a Federally funded project.

In the event of any discrepancies between PART I and PART II of this contract, the provisions of PART I shall prevail.

Buy America Requirements (23 CFR 635.410) shall apply to the PROJECT and will be adhered to, as applicable, by the parties hereto.

10. The REQUESTING PARTY certifies that a) it is a person under the Natural Resources and Environmental Protection Act, MCL 324.20101 et seq., as amended, (NREPA) and is not aware of and has no reason to believe that the property is a facility as defined in the NREPA; b) the REQUESTING PARTY further certifies that it has completed the tasks required by MCL 324.20126 (3)(h); c) it conducted a visual inspection of property within the existing right of way on which construction is to be performed to determine if any hazardous substances were present; and at sites on which historically were located businesses that involved hazardous substances, it performed a reasonable investigation to determine whether hazardous substances exist. This reasonable investigation should include, at a minimum, contact with local, state and federal environmental agencies to determine if the site has been identified as, or potentially as, a site containing hazardous substances; d) it did not cause or contribute to the release or threat of release of any hazardous substance found within the PROJECT limits.

The REQUESTING PARTY also certifies that, in addition to reporting the presence of any hazardous substances to the Department of Environmental Quality, it has advised the DEPARTMENT of the presence of any and all hazardous substances which the REQUESTING PARTY found within the PROJECT limits, as a result of performing the investigation and visual inspection required herein. The REQUESTING PARTY also certifies that it has been unable to identify any entity who may be liable for the cost of remediation. As a result, the REQUESTING PARTY has included all estimated costs of remediation of such hazardous substances in its estimated cost of construction of the PROJECT.

11. If, subsequent to execution of this contract, previously unknown hazardous substances are discovered within the PROJECT limits, which require environmental remediation pursuant to either state or federal law, the REQUESTING PARTY, in addition to reporting that fact to the Department of Environmental Quality, shall immediately notify the DEPARTMENT, both orally and in writing of such discovery. The DEPARTMENT shall consult with the REQUESTING PARTY to determine if it is willing to pay for the cost of remediation and, if applicable, with the FHWA, to determine the eligibility, for reimbursement, of the remediation costs. The REQUESTING PARTY shall be charged for and shall pay all costs associated with such remediation, including all delay costs of the contractor for the PROJECT, in the event that, if applicable, remediation and delay costs are not deemed eligible by the FHWA. If the REQUESTING PARTY refuses to participate in the cost of remediation, the DEPARTMENT shall terminate the PROJECT. The parties agree that any costs or damages that the DEPARTMENT incurs as a result of such termination shall be considered a PROJECT COST.

12. If federal and/or state funds administered by the DEPARTMENT are used to pay the cost of remediating any hazardous substances discovered after the execution of this contract and if there is a reasonable likelihood of recovery, the REQUESTING PARTY, in cooperation with the Department of Environmental Quality and the DEPARTMENT, shall make a diligent effort to recover such costs from all other possible entities. If recovery is made, the DEPARTMENT shall be reimbursed from such recovery for the proportionate share of the amount paid by the FHWA and/or the DEPARTMENT and the DEPARTMENT shall credit such sums to the appropriate funding source.

13. The DEPARTMENT'S sole reason for entering into this contract is to enable the REQUESTING PARTY to obtain and use funds provided by the state and/or the FHWA.

Any and all approvals of, reviews of, and recommendations regarding contracts, agreements, permits, plans, specifications, or documents, of any nature, or any inspections of work by the DEPARTMENT pursuant to the terms of this contract are done to assist the REQUESTING PARTY in meeting program guidelines in order to qualify for available funds. Such approvals, reviews, inspections and recommendations by the DEPARTMENT shall not relieve the REQUESTING PARTY and the local agencies, as applicable, of their ultimate control and shall not be construed as a warranty of their propriety or that the DEPARTMENT is assuming any liability, control or jurisdiction.

The providing of recommendations or advice by the DEPARTMENT does not relieve the REQUESTING PARTY and the local agencies, as applicable, of their exclusive jurisdiction of the highway and responsibility under MCL 691.1402 et seq., as amended.

When providing approvals, reviews and recommendations under this contract, the DEPARTMENT is performing a governmental function, as that term is defined in MCL 691.1401 et seq., as amended, which is incidental to the completion of the PROJECT.

14. The DEPARTMENT, by executing this contract, and rendering services pursuant to this contract, has not and does not assume jurisdiction of the highway, described as the PROJECT for purposes of MCL 691.1402 et seq., as amended. Exclusive jurisdiction of such highway for the purposes of MCL 691.1402 et seq., as amended, rests with the REQUESTING PARTY and other local agencies having respective jurisdiction.

15. The REQUESTING PARTY shall approve all of the plans and specifications to be used on the PROJECT and shall be deemed to have approved all changes to the plans and specifications when put into effect. It is agreed that ultimate responsibility and control over the PROJECT rests with the REQUESTING PARTY and local agencies, as applicable.

16. The REQUESTING PARTY agrees that the costs reported to the DEPARTMENT for this contract will represent only those items that are properly chargeable in accordance with this contract. The REQUESTING PARTY also certifies that it has read the contract terms and has made itself aware of the applicable laws, regulations, and terms of this contract that apply to the reporting of costs incurred under the terms of this contract.

17. Each party to this contract will remain responsible for any and all claims arising out of its own acts and/or omissions during the performance of the contract, as provided by this contract or by law. In addition, this is not intended to increase or decrease either party's liability for or immunity from tort claims. This contract is also not intended to nor will it be interpreted as giving either party a right of indemnification, either by contract or by law, for claims arising out of the performance of this contract.

18. The parties shall promptly provide comprehensive assistance and cooperation in defending and resolving any claims brought against the DEPARTMENT by the contractor, vendors or suppliers as a result of the DEPARTMENT'S award of the construction contract for the PROJECT. Costs incurred by the DEPARTMENT in defending or resolving such claims shall be considered PROJECT COSTS.

19. The REQUESTING PARTY and other local agencies, as applicable parties, understand and agree that the highway(s) or street(s) being improved under the terms of this agreement and funded with Transportation Economic Development Funds, shall not be subject to any restriction by local authorities in using certain commercial vehicles on such highway(s) or street(s). Such restrictions are in conflict with the basic concept of the Transportation Economic Development Program and Funding. The REQUESTING PARTY, by signing this agreement, agrees to obtain concurrence from other local governmental agencies within whose jurisdiction or control the highway(s) or street(s) are being improved.

20. The DEPARTMENT shall require the contractor who is awarded the contract for the construction of the PROJECT to provide insurance in the amounts specified and in accordance with the DEPARTMENT'S current Standard Specifications for Construction, and to:

- A. Maintain bodily injury and property damage insurance for the duration of the PROJECT.
- B. Provide owner's protective liability insurance naming as insureds the State of Michigan, the Michigan State Transportation Commission, the DEPARTMENT, and its officials, agents and employees, the REQUESTING PARTY and any other county, county road commission, or municipality in whose jurisdiction the PROJECT is located, and their employees, for the duration of the PROJECT and to provide, upon request, copies of certificates of insurance to the insureds. It is understood that the DEPARTMENT does not assume jurisdiction of the highway described as the PROJECT as a result of being named as an insured on the owner's protective liability insurance policy.
- C. Comply with the requirements of notice of cancellation and reduction of insurance set forth in the current standard specifications for construction and to provide, upon request, copies of notices and reports prepared to those insured.

21. This contract shall become binding on the parties hereto and of full force and effect upon the signing thereof by the duly authorized officials for the parties hereto and upon the adoption of the necessary resolution approving said contract and authorizing the signatures thereto of the respective officials of the REQUESTING PARTY, a certified copy of which resolution shall be attached to this contract; and with approval by the State Administrative Board.

IN WITNESS WHEREOF, the parties hereto have caused this contract to be executed the day and year first above written.

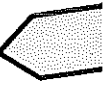
CITY OF WYOMING

MICHIGAN DEPARTMENT
OF TRANSPORTATION

By _____
Title:

By _____
Department Director MDOT

By _____
Title:



June 3, 2019

EXHIBIT I

CONTROL SECTION EDCF 41000; EDC 41000
JOB NUMBER 130613CON; 206564CON
PROJECT 1900(782)

ESTIMATED COST

CONTRACTED WORK

	<u>PART A</u>	<u>PART B</u>	<u>TOTAL</u>
Estimated Cost	\$1,329,100.00	\$ -0-	\$1,329,100.00

FORCE ACCOUNT WORK (by RAILROAD thru DEPARTMENT)

Crossing Surface Work	\$ -0-	\$270,688.68	\$ 270,688.68
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GRAND TOTAL	\$1,329,100.00	\$270,688.68	\$1,599,788.68
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COST PARTICIPATION

GRAND TOTAL ESTIMATED COST	\$1,329,100.00	\$270,688.68	\$1,599,788.68
Less Federal Equity Bonus Funds being used as TED FUNDS*	\$1,087,900.00	\$ -0-	\$1,087,900.00
Less State TED FUNDS**	\$ -0-	\$216,600.00	\$ 216,600.00
BALANCE (REQUESTING PARTY'S SHARE)	\$ 241,200.00	\$ 54,088.68	\$ 295,288.68

* Federal Equity Bonus Funds being used as TED FUNDS shall be applied to the eligible items of the PART A portion of the PROJECT COST at a participation ratio equal to 81.85 percent up to an amount not to exceed \$1,308,004.50.

**State TED FUNDS shall be applied to the eligible items of the PART B portion of the PROJECT COST at a participation ratio equal to 80 percent up to an amount not to exceed \$243,713.80.

NO DEPOSIT

ADDENDUM A

Contract 09-5086

MICHIGAN DEPARTMENT OF TRANSPORTATION

and

GRAND ELK RAILROAD, L.L.C.

MASTER AGREEMENT

for

HIGHWAY-RAILROAD GRADE CROSSING AND GRADE SEPARATION IMPROVEMENTS
ON PUBLIC HIGHWAYS

COPY

THIS MASTER AGREEMENT, made and entered into this day of APR 29 2009, between the Michigan Department of Transportation, hereinafter referred to as the "DEPARTMENT", and the Grand Elk Railroad L.L.C., a Delaware Corporation, admitted to do business under the laws of the State of Michigan and other states, hereinafter referred to as the "RAILROAD".

WITNESSETH:

WHEREAS, the RAILROAD owns and operates railroad lines within the State of Michigan that cross various public highways at grade; and

WHEREAS, the public highways herein referred to include state trunkline highways under the jurisdiction of the DEPARTMENT and public highways and roadways under the jurisdiction of various counties, and incorporated cities and villages which are hereinafter referred to individually as the ROAD AUTHORITY; and

WHEREAS, the parties hereto anticipate that they and the appropriate ROAD AUTHORITY, in the interest of public safety and convenience, will desire to improve, install, modify, relocate, or retire active highway-railroad traffic control devices and grade separation structures, and make additional improvements as may be eligible and necessary, at such highway-railroad grade crossings and grade separations of the RAILROAD with public highways as shall be agreed to from time to time by the parties hereto and appropriate ROAD AUTHORITY, which improvements are hereinafter referred to individually as PROJECTS; and

WHEREAS, PROJECTS for improvements to crossings of highways or roadways which are not under the jurisdiction of the DEPARTMENT will require advance written approval by the ROAD AUTHORITY which shall be obtained by the DEPARTMENT, and which in each instance shall include but not be limited to, acceptance of the terms of this agreement, commitment to

provide such project engineering, traffic control and roadway work as is mutually determined to be required and financial participation in the overall PROJECT cost where such is required; and

WHEREAS, it is recognized that a highway grade crossing or grade separation may be subject to an order issued under the provisions of Public Act 354 of 1993, cited as "the Railroad Code of 1993"; and

WHEREAS, Title 23, United States Code, as amended, provides federal funding by the Federal Highway Administration, hereinafter referred to as "FHWA" for the type of improvements contemplated herein and the State of Michigan, Act 51 of the Public Acts of 1951, as amended by Public Act 294 of 1993 provides for an annual appropriation to the state trunkline fund for subsequent deposit in the State Rail Grade Crossing Account for the type of grade crossing improvements contemplated herein for all public highways; and

WHEREAS, the parties hereto have reached an understanding with each other regarding the accomplishment of such desired PROJECTS, using the aforesaid funds or other comparable federal and state program funds, and desire to set forth their understanding in the form of a written MASTER AGREEMENT.

NOW, THEREFORE, in consideration of the premises and the performance of the mutual undertakings of the parties hereto, it is agreed as follows:

1. The DEPARTMENT, in cooperation with the RAILROAD and ROAD AUTHORITY, will select and determine the scope of each PROJECT to be undertaken pursuant to this agreement and will select the type of funding to be utilized.
2. Any PROJECTS to which this agreement is applied shall be subject to all appropriate federal and state laws, rules and regulations, and orders issued pursuant thereto.
3. The cost of each PROJECT is understood to include, within the limitations of each PROJECT authorization and this MASTER AGREEMENT, up to 100 percent of the actual cost incurred by the RAILROAD and the DEPARTMENT for labor, equipment and materials for construction, preliminary and construction engineering, inspection services and the preparation of plans, material lists, specifications and cost estimates. If less than 100 percent of the cost of the PROJECT will be covered by state or federal funds, the applicable cost sharing arrangement and the other party(ies) responsible for PROJECT costs will be clearly stated in the funding authorization. If federal funds are utilized, such costs shall be borne by federal funds to the extent determined by the type of federal funding selected and the classification of each PROJECT in accordance with the FHWA's Federal-Aid Policy Guide, hereinafter referred to as the "FAPG", Chapter I, Subchapter G, Part 646, Subpart B, Sections 646.200 through 646.220, dated December 9, 1991, and amendments thereto.
4. For grade separation projects, a separate agreement may be needed to satisfy the requirements of Section 319 of Public Act 294 of 1993 concerning new or totally reconstructed grade separations.

5. The RAILROAD will prepare necessary plans, a list of equipment, materials, specifications, and an estimate of cost for complete performance of its portion of each proposed PROJECT.

6. The DEPARTMENT, or ROAD AUTHORITY for non-state trunkline PROJECTS, will prepare a cost estimate for complete performance of its portion of each proposed PROJECT and a plan sufficient for each proposed PROJECT. The DEPARTMENT will assemble and correlate the data submitted by the RAILROAD and the ROAD AUTHORITY and will distribute the information to the parties involved in each PROJECT.

7. The DEPARTMENT will process each PROJECT with the FHWA when using federal funds or the DEPARTMENT when using state funds and, upon approval and obligation of the use of selected funds by the FHWA, the DEPARTMENT and other approval entities as appropriate, and execution of a contract, when required, between the DEPARTMENT and the ROAD AUTHORITY for non-state trunkline PROJECTS, will issue a formal authorization to the RAILROAD to proceed with each PROJECT. Work performed prior to such approval and funding obligation by the FHWA or DEPARTMENT, as appropriate and approval by the ROAD AUTHORITY when required, for the PROJECT ultimately covered by this agreement shall not be eligible for reimbursement except for preliminary engineering costs incurred subsequent to on-site inspections or reviews. The authorization will describe the work to be performed by each party, the estimated costs, the source of funds, the anticipated completion time period and the cost of operation and maintenance of RAILROAD facilities as provided in Section 14 hereof. Any substantial change in the PROJECT cost, scope of work or completion time period contained in the authorization will require a written revision to the authorization and, if necessary, an amendment to the contract for non-state trunkline PROJECTS.

8. The DEPARTMENT, at PROJECT expense, will provide a project engineer who shall be in charge of the PROJECT work to such extent as is necessary to meet state and federal requirements.

The ROAD AUTHORITY at no cost to the PROJECT, will provide a project engineer/manager for non-state trunkline projects.

It is understood that the RAILROAD, at PROJECT expense, will perform the construction engineering and inspection services necessary for its portion of each PROJECT.

The RAILROAD hereby agrees to contact the DEPARTMENT, and ROAD AUTHORITY for non-state trunkline projects, prior to the start of work on any PROJECT to coordinate all aspects of each PROJECT which shall include, but not be limited to, PROJECT geometrics, roadway and track lines, grades and elevations, construction details, work schedules and traffic control measures. The elevation relating to the top of rails and to the roadway shall not be raised or lowered by either party unless provided for on the approved plans or otherwise specifically agreed to in writing.

9. All work performed or caused to be performed, and materials furnished or caused to be furnished by the RAILROAD pursuant to a contract authorization under this agreement, will be performed on a force account basis or lump sum cost basis as stipulated in the contract

authorization, billed by the RAILROAD, and reimbursed by the DEPARTMENT as defined and as provided in the FHWA's FAPG, Chapter 1, Subchapter B, Part 140, Subpart I, Sections 140.900 through 140.922, dated December 9, 1991, and amendments thereto, incorporated herein by reference as if the same were repeated in full herein.

The RAILROAD will credit to the PROJECT the value of materials recovered from temporary or permanent use on the PROJECT in accordance with the provisions of the FHWA's FAPG, Chapter 1, Subchapter B, Part 140, Subpart I, Section 140.908, dated December 9, 1991, and amendments thereto.

The RAILROAD shall afford the DEPARTMENT, the ROAD AUTHORITY, and the FHWA, if applicable, a reasonable opportunity to inspect materials recovered prior to disposal by sale or scrap.

10. Upon completion of authorized work and receipt of progress or final billings therefore, the DEPARTMENT will reimburse the RAILROAD (from funds provided therefore, and in accordance with said FAPG) withholding until the time of final payment, a retainage as hereinafter set forth in Appendix C. The retainage may be released to the RAILROAD following PROJECT acceptance by the DEPARTMENT, receipt of the RAILROAD'S all inclusive final billing, and provided the DEPARTMENT has reasonable assurance it can recover promptly any overpayment disclosed by the DEPARTMENT'S audit of the RAILROAD'S records. The RAILROAD will bear the full cost of any items for which they are responsible and which are determined to be not properly a part of the PROJECT.

11. The RAILROAD shall:

(a) Establish and maintain accurate cost records and accounts, in accordance with generally accepted accounting principles, of all costs and expenses incurred for which payment is sought or made under this agreement, said documents to be hereinafter referred to as the RECORDS. Separate RECORDS shall be established and maintained for each PROJECT authorized under this agreement.

(b) The RAILROAD shall maintain the RECORDS for at least three (3) years from the date final payment is made by the DEPARTMENT under this agreement. In the event of a dispute with regard to the allowable expenses or any other issue under this agreement, the RAILROAD shall thereafter continue to maintain the RECORDS at least until that dispute has been finally decided and the time for all available challenges or appeals of that decision has expired.

(c) The DEPARTMENT, or its representative, may inspect, copy, or audit the RECORDS at any reasonable time after giving reasonable notice.

(d) If any part of the work is subcontracted, the RAILROAD shall assure compliance with subsections (a), (b), and (c) above for all subcontracted work.

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(c) The DEPARTMENT, or its representative, may inspect, copy, or audit the RECORDS at any reasonable time after giving reasonable notice.

(d) If any part of the work is subcontracted, the RAILROAD shall assure compliance with subsections (a), (b), and (c) above for all subcontracted work.

IT IS FURTHER AGREED THAT:

In the event that an audit performed by or on behalf of the DEPARTMENT indicates an adjustment to the costs reported for any PROJECT authorized under this agreement, or questions the allowability of an item of expense, the DEPARTMENT shall promptly submit to the RAILROAD, a Notice of Audit Results and a copy of the audit report which may supplement or modify any tentative findings verbally communicated to the RAILROAD at the completion of an audit.

Within sixty (60) days after the date of the Notice of Audit Results, the RAILROAD shall:

- (a) provide written concurrence with the Notice of Audit Results, and/or
- (b) repay the amount of any overpayment to the DEPARTMENT, and/or
- (c) submit to the DEPARTMENT a written response to the Notice of Audit Results explaining the nature and basis for any disagreement as to a disallowed item of expense and/or,
- (d) submit to the DEPARTMENT a written explanation as to any questioned item of expense, hereinafter referred to as the RESPONSE. The RESPONSE shall be clearly stated and provide any supporting documentation necessary to resolve any disagreement or questioned item of expense. Where the documentation is voluminous, the RAILROAD may supply appropriate excerpts and make alternate arrangements to conveniently and reasonably make that documentation available for review by the DEPARTMENT. The RESPONSE shall refer to and apply the language of this agreement and the specific PROJECT authorization. The RAILROAD agrees that failure to submit a RESPONSE within the sixty (60) day period constitutes agreement with any disallowance of an item of expense and authorizes the DEPARTMENT to finally decide whether to allow or disallow any items of questioned cost.

The DEPARTMENT shall make its decision with regard to any Notice of Audit Results and RESPONSE within one hundred twenty (120) days after the date of the Notice of Audit Results. If the DEPARTMENT determines that an overpayment has been made to the RAILROAD, the RAILROAD shall repay that amount to the DEPARTMENT within thirty (30) days after the date of the written notice from the DEPARTMENT of that decision. If the RAILROAD fails to repay the overpayment or reach agreement with the DEPARTMENT on a repayment schedule within the thirty (30) day period, the RAILROAD agrees that the DEPARTMENT shall deduct all or a portion of the overpayment from any funds then or thereafter payable by the DEPARTMENT to the RAILROAD under other PROJECT authorizations pertaining to this agreement, or any other agreement. The RAILROAD expressly consents to this withholding or offsetting of funds under those circumstances, reserving the right to file a lawsuit in the Court of Claims to contest the DEPARTMENT'S decision only as to any item of expense the disallowance of which was disputed by the RAILROAD in a timely filed RESPONSE.

12. The DEPARTMENT shall maintain accurate records and accounts relative to the PROJECT and upon completion of the PROJECT, payment of all items of PROJECT cost and completion of final audit by the DEPARTMENT, shall make a final accounting to the RAILROAD and the ROAD AUTHORITY.

13. All contracts with subcontractors, including amendments, shall be submitted to the DEPARTMENT for review. All subcontracts in excess of Twenty Five Thousand Dollars (\$25,000.00) require formal approval by the DEPARTMENT prior to execution. Consent to sublet any portion of the PROJECT work shall not be construed to relieve the RAILROAD of any responsibility or obligation under, or for the fulfillment of a PROJECT authorization issued under this agreement.

Any such approval shall in no way be construed as a warranty of the subcontractor's qualifications, professional standing, ability to perform the work being contracted, or financial integrity.

14. Upon and after completion of the installation or improvement of active highway-railroad traffic control devices, crossing surfaces, or other RAILROAD facilities pursuant to this agreement, the RAILROAD will own, operate and maintain the same in proper working condition in accordance with Public Act 354 of 1993. Crossing surfaces installed, utilizing federal or state funds, shall be maintained for the useful life of the material. In the event that a federal or state law is hereinafter enacted which may govern the cost of operation and maintenance of such facilities, the provisions in this section of the agreement may be renegotiated by the DEPARTMENT, or ROAD AUTHORITY for non-state trunkline projects, and the RAILROAD.

15. In the event the highway is widened, or other changes made in the future which require the relocation or alteration of any active highway-railroad traffic control devices so installed, within or adjacent to the crossing area or alteration of a crossing surface becomes necessary, the expense thereof shall be borne pursuant to federal or state law applicable at the time same is to be done.

16. If at any time there shall be, at any grade crossing improved pursuant to this agreement, a separation of grades of the highway and railroad; or if, for any other reason, no further need exists for continuing operation of active highway-railroad traffic control devices or for crossing surfaces so installed, they shall be removed by the RAILROAD and may, subject to the approval of the DEPARTMENT or other ROAD AUTHORITY having jurisdiction over said highway, be reinstalled by the RAILROAD at another location to be then agreed upon, and the cost of such removal and reinstallation and the operation and maintenance of said highway-railroad traffic control devices or crossing surfaces after completion of the installation at such location, shall be borne pursuant to federal or state law applicable at the time same is to be done.

17. This MASTER AGREEMENT may be terminated by either party upon thirty days written notice to the other party and may be amended only in writing by mutual agreement. No deletion, modification, addition to or termination of this agreement, however, shall affect any project previously authorized pursuant to this agreement.

18. Any approvals, reviews and inspections of any nature by the DEPARTMENT, shall not be construed as a warranty or assumption of liability on the part of the DEPARTMENT. It is expressly understood and agreed that any such approvals are for the sole and exclusive purposes of the DEPARTMENT, which is acting in a governmental capacity under this agreement and that such approvals are a governmental function incidental to this agreement.

Any such approvals, reviews and inspections by the DEPARTMENT will not relieve the RAILROAD of its obligations hereunder, nor are such approvals, reviews and inspections by the DEPARTMENT to be construed as a warranty as to the propriety of the RAILROAD'S performance.

19. The RAILROAD shall comply with all applicable federal, state and local laws and ordinances.

20. In connection with the performance of work under this agreement, the RAILROAD (hereinafter in Appendix A referred to as the "contractor") agrees to comply with the State of Michigan provisions for "Prohibition of Discrimination in State Contracts", as set forth in Appendix A, dated August 1985, as amended, attached hereto and made a part hereof and will require a similar covenant on the part of any contractor or subcontractor employed in the performance of this work.

21. During the performance of this agreement, the RAILROAD for itself, its assignees, and successors in interest (hereinafter in Appendix B referred to as the "contractor") agrees to comply with the Civil Rights Act of 1964, being P.L. 88-352, 78 Stat. 241, as amended, being Title 42 U.S.C. Sections 1971, 1975a-1975d, and 2000a-2000h-6 and the Regulations of the Department of Transportation (49 C.F.R. Part 21) issued pursuant to said Act, including Appendix B, dated April 1979, as amended, attached hereto and made a part hereof and will require similar covenants on the part of any contractor or subcontractor employed in the performance of this agreement.

22. The Resolution of the State Administrative Board, dated May 1, 1979, as amended, entitled "Department of Transportation Construction and Maintenance Contracts" as set forth in Appendix C, is attached hereto and made a part hereof.

23. It is the intent of the parties that nothing in this agreement shall preclude the DEPARTMENT from exercising its statutory authority in connection with public safety at highway-railroad grade crossings. The pendency of a request for funding under this agreement shall not be deemed to relieve the RAILROAD of any obligations it may have under an order from the DEPARTMENT to improve safety conditions and/or devices at a highway-railroad grade crossing.

24. This MASTER AGREEMENT shall be effective and binding upon the parties hereto, their successors and assigns, when it has been fully executed and the Administrative Board of the State of Michigan has approved this agreement and authorized the DEPARTMENT to proceed therewith.

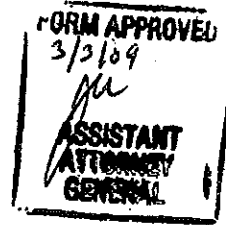
IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed by their proper and duly authorized officers.

GRAND ELK RAILROAD L.L.C.

By *R. T. Co*
Title: *General Manager*

MICHIGAN DEPARTMENT OF TRANSPORTATION

By *Paul A. Partle*
for Department Director MDOT



GRAND ELK RAILROAD, L.L.C.
ACTION OF SOLE MEMBER WITHOUT MEETING

The undersigned, being the only member of Grand Elk Railroad, L.L.C., a Delaware limited liability company (the "Company"), consents by this writing and pursuant to Delaware business laws to take the following action and to adopt the following resolutions:


WHEREAS, the Company desires to enter into certain agreements with the Michigan Department of Transportation;

WHEREAS, the Company desires that its General Manager Rodney Gordon, be authorized to execute and deliver said agreements on behalf of the Company;

NOW, THEREFORE BE IT RESOLVED, that Rodney Gordon, General Manager of the Company is hereby authorized to execute and deliver, in the name and on behalf of the Company any and all agreements, contracts or other documents with the Michigan Department of Transportation and said execution and delivery by Mr. Gordon shall be conclusive evidence of the approval thereof by Mr. Gordon and the Members of the Company.

I direct that this consent be filed with the minutes of the Members of the Company.

Dated this 1st day of March, 2009.


Water Transportation Services, Inc., Sole Member
By: Craig R. Ricken
Its: Exp. General Counsel

RESOLUTION NO. _____

RESOLUTION TO ACCEPT A PROPOSAL FROM PINE REST FOR EMPLOYEE ASSISTANCE PROGRAM SERVICES AND TO AUTHORIZE THE MAYOR AND CITY CLERK TO EXECUTE THE CONTRACT

WHEREAS:

1. The City provides an Employee Assistance Program to all employees.
2. As detailed in the attached staff report, it is recommended the City Council accept the proposal from Pine Rest.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby accept a proposal from Pine Rest for Employee Assistance Program services.
2. The City Council does hereby authorize the Mayor and City Clerk to execute the contract.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on July 1, 2019.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Staff Report

Employee Assistance Program Contract

Attachment A – Agreement

Attachment B – Professional Services Standard Terms and Conditions

Resolution No. _____

STAFF REPORT

Date: June 26, 2019
Subject: Employee Assistance Provider
From: Emily Vande Griend, Human Resources Specialist
Meeting Date: July 1, 2019

RECOMMENDATION:

It is recommended the City Council accept a proposal from Pine Rest and authorize the Mayor and City Clerk to execute an agreement to provide an Employee Assistance Program to City of Wyoming employees.

COMMUNITY, SAFETY, STEWARDSHIP:

The City of Wyoming has offered an Employee Assistance Program (EAP) to its employees since 1987. Employees are its most vital resource; providing means for our employees to maintain a productive, healthy lifestyle is one way we can show stewardship of our resources. Furthermore, mental health is key to employee safety and the safety of their family members and others. EAPs, such as the one offered by Pine Rest, help support employees in their work pursuits and personal lives so they can maintain a productive focus on the services they provide to the community.

DISCUSSION:

The City requested proposals from three well-respected EAPs in the area and received two proposals – one from the Employee Assistance Center and the other from Pine Rest.

A committee comprised of representatives from the Public Safety, Public Works, and Human Resources departments reviewed the proposals received, considering factors such as cost per employee per year, services provided, counseling session formats available, office locations, number of counselors on staff, and trainings available.

The quotation from Pine Rest includes counseling services, supervisor consultation, educational and awareness materials, an online library of articles and other resources, a 24-hour crisis hotline, four on-site educational presentations per year, and critical incident response for \$18 per employee per year, plus a \$100 annual administrative fee, for an approximate total of \$7,444. This will save the City a bit over \$850 for FY2019-2020.

BUDGET IMPACT:

Funds for EAP services are budgeted in the Administrative Offices professional services account 101-172-17200-801.000.

EMPLOYEE ASSISTANCE PROGRAM CONTRACT

This agreement is entered into as of the 1st day of August 2019, between Pine Rest Christian Mental Health Services with offices at 300 68th Street SE, Grand Rapids, MI 49548 and the City of Wyoming with offices located at 1155 28th St SW, PO Box 905, Wyoming, MI 49509.

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

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

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

2. Employee Assistance Program
 - a. The Program

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

- b. Eligibility for Services

EAP services will be provided to both full and part time employees during the course of their employment. Additionally, direct family members will also be eligible for services under this agreement.

- c. Nature of Services – See Attachment A

- d. Location of Services

Multiple campus and clinic locations throughout West Michigan.

3. Term of Agreement

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

- b. This agreement may be terminated by either party with 30 days notice. This agreement shall remain in effect for one year and will be automatically renewed for successive terms of one year each unless there is notification prior to the anniversary date of the contract by either party to terminate the agreement. In the event of any rate change, written notification will be given 90 days prior to the anniversary date of the contract.

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

d. Pine Rest acknowledges Attachment B that is the City Professional Services Contract Standard Terms and Conditions for the City of Wyoming as part of this Employee Assistance Program Contract.

4. Fees

Employer agrees to pay Pine Rest EAP: \$100 yearly administration fee
Annual billing based on per-employee, per-year (PEPY) rate:
\$18 x 408 employees = \$7,344. Other fees spelled out in attachment A.

5. Records

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

6. Program Audit

a. Quarterly Report

A quarterly written report on program activity will be provided by Pine Rest EAP to Employer. This report shall contain the number of Employees assessed.

b. Annual Report

A yearly written report on program activity will be provided and shall contain information regarding number of Employees assessed, problem categories, Employee statistical data, and monitoring results.

7. Coordinator

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

8. Waiver

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

9. Severability and Law Governing

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

10. Independent Contractor Status

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

11. Indemnification

Pine Rest EAP shall assume all responsibility for, and indemnify and save Employer harmless from all expenses, claims or liability for injury to any person, including death or damages, and also for any property damage, which in any manner are connected with or arise from any action or operation hereunder or the performance of the services which are the subject of this contract,



provided Pine Rest EAP shall not be required to indemnify Employer for such injury or damage caused by Employer's sole negligence.

12. Entire Agreement

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

13. All notices required by the provisions of this agreement shall be given in writing and may be delivered personally or may be served by certified or registered mail. Notices to Employer shall be delivered or mailed to the Mayor and City Clerk's Office of the City of Wyoming, 1155 28th St SW, PO Box 905, Wyoming, MI 49509.

Notices to Pine Rest EAP shall be delivered or mailed to Pine Rest Corporate offices, attention to the Employee Assistance Program, Pine Rest Christian Mental Health Services, 300 - 68th Street, SE, P.O. Box 165, Grand Rapids, Michigan, 49501-0165. Notices delivered by mail shall be effective on the date mailed.

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

PINE REST CHRISTIAN MENTAL HEALTH SERVICES

By: Thomas G. Elzinga
Thomas G. Elzinga, Vice President, General Services
Pine Rest Christian Mental Health Services

JUNE 26 2019
Date Signed

By: _____
City of Wyoming

Date Signed

Approved as to form
Scott G. Smith
Scott G. Smith, City Attorney
Date: 6/26/2019

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

Pine Rest EAP will provide the following services:

1. Diagnostic Assessment and Referral

A diagnostic therapist with approved State credentials will provide to Employees confidential assessment and referral for any type of personal problem and, where appropriate, short-term counseling and problem resolution. Employee may call the Hotline 24 hours per day - 7 days per week to explore their concerns with MSW or PhD staff counselor. Telephone calls are returned within one hour of initial contact by professional staff. Employee is entitled to up to five (5) face-to-face consultations per problem for purposes of assessment and, if needed, referral. Appointments will be provided within 48 hours of initial contact to the program.

2. Consultation on Program

Pine Rest EAP will provide ongoing training and consultation to Employer concerning behavioral health/management issues and appropriate development and improvement of the EAP Program. Employer may engage Pine Rest EAP for four hours of on-site educational presentations per year.

3. Elder Care Consultation

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

4. Legal Consultation

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

5. Financial Consultation

Pine Rest EAP will provide Employees with access to one free 30 minute telephonic consultation with a CPA from VMDE plus a 20% discount from standard rates on any subsequent financial services within that year. Sample issues include budgeting, managing credit card debt, tax preparation, and wealth management. It is understood that Pine Rest simply makes this discounted service available through its relationship with VMDE and that this service then occurs within the relationship between the Employee and VMDE.

6. Personal Advantage Web-based Resources

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

7. Critical Incident Response Services Specially trained trauma counselors can be onsite quickly to help support individual and organizational resilience after workplace tragedies. This service will be provided at no charge.

8. Materials Pine Rest EAP will furnish announcement letters, posters and information pamphlets as required to make the availability of services known to Employees.

CITY OF
Wyoming
MICHIGAN

CITY PROFESSIONAL SERVICES CONTRACT STANDARD TERMS AND CONDITIONS

1. **Applicability.** These Standard Terms and Conditions apply to all professional services contracts to which the City of Wyoming (the "City") is a party ("City Contracts") except as expressly modified in writing signed by the Mayor and City Clerk or the City Manager. By signing a City Contract or acknowledging below, the party contracting with the City ("Professional") attests it and any subcontractors comply with and will comply with these Standard Terms and Conditions.

2. **Legal Compliance.** Professional will comply with all applicable (i) laws, rules, regulations, codes, and ordinances, (ii) license and permit requirements, and (iii) orders of any governmental agency, official or court of competent jurisdiction.

3. **Qualifications.** Professional represents and promises that:

A. Professional has and will maintain and any personnel Professional engages to provide services under the City Contract have and will maintain any needed licenses, registrations, certifications, memberships, or other approvals needed to perform such services or work in Michigan.

B. Neither Professional nor its principals, officers, key employees, or directors: (i) are presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency; (ii) have within 3-years preceding the City Contract been convicted of or had a judgment against them for fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public transaction or contract under a public transaction; violating federal or state antitrust statutes or for embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; (iii) are presently indicted for or otherwise criminally charged by a governmental entity any of the offenses stated in this certification; or (iv) have within 3-years preceding the City Contract had one or more public transactions terminated for cause or default.

C. Professional is not on and will remain off the Federal Excluded Parties List ("EPLS").

D. Professional is not an "Iran linked business" under Michigan's Iran Economic Sanctions Act, 2012 PA 517.

3. **Diversity and Inclusion.** Professional will not discriminate against an employee or applicant for employment with respect to hiring, tenure, terms, conditions, or privileges of employment, or directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, marital status, mental or physical disability, or any other reason prohibited by law (e.g., Elliott-Larsen Civil Rights Act, 1976 PA 453, Persons with Disabilities Civil Rights Act, 1976 PA 220, and <https://www.eeoc.gov/>).

4. **Ethical Standards.** Professional and its directors, members, partners, officers and employees, as well as any parent, affiliate,


or subsidiary organization of Professional has not and will refrain from: (i) holding or acquiring an interest that would conflict with the City Contract; (ii) undertaking an action creating an appearance of impropriety regarding the award or performance of the City Contract; (iii) attempting or appearing to influence a City elected or appointed officer or employee by directly or indirectly offering anything of value; or (iv) paying or agreeing to pay a person, other than its employees and consultants, consideration contingent upon the award of the City Contract. No director, officer, member, or key employee of Professional and no owner, director, officer, member, partner or key employee of any parent, affiliate, or subsidiary organization of Professional is a spouse, parent, child, grandchild, or sibling of the mayor, city council member, or any other elected or appointed officer or board/commission member of the City except as already disclosed in writing to the City. Professional will immediately notify the City of any change of these circumstances.

5. **Intellectual Property Guaranty.** Professional guarantees the sale or use of software, records or other intellectual property provided under or used to perform the City Contract will not infringe any intellectual property rights. Professional will, without expense to the City, defend actions against the City or the City's officers or employees for alleged infringement of intellectual property rights by reason of their use as part of the City Contract and will pay all costs, damages, and profits recoverable in any such action.

6. **Records.** Because the City is a public entity that receives funds from other governmental agencies, it is required to retain, be able to obtain, and/or audit records related to City contracts. Professional will retain copies of all records related to the City Contract for at least 6 years after completion of the City Contract and will, upon the City's request to the extent not prohibited by laws regarding medical/mental health records, allow inspection, auditing and copying of those records.

ACKNOWLEDGEMENT

Professional acknowledges receipt of these Standard Terms and Conditions and acknowledges that, unless modified by the City Contract, (i) they apply to the City Contract and (ii) Professional complies with and will comply with them.



[Signature]
Thomas G. Elzinga V.P. General Services

[Printed Name and Title of Person Signing]

[Printed Name of Professional]

Date signed: JUNE 26 2019

RESOLUTION NO. _____

RESOLUTION TO APPROVE A CHANGE ORDER FOR THE
PURCHASE OF ALUMINUM SULFATE (ALUM)

WHEREAS:

1. On June 3, 2019, City Council adopted Resolution number 26411 authorizing the purchase of aluminum sulfate (alum) from USALCO, Michigan City Plant, LLC. using the City of Grand Rapids cooperative bid at a cost of \$326.44 per ton.
2. As detailed in the attached Staff Report, the bid allowed price increases based on proof of cost increases to the supplier.
3. The City of Grand Rapids authorized a temporary price increase at a cost of \$352.41 per ton.
4. Funds for the purchase are budgeted in account number 591-591-55300-740.000.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby approve a change order for the purchase of aluminum sulfate (alum).

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on July 1, 2019.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Staff Report

Email

Change Order

Resolution No. _____

STAFF REPORT

Date: June 20, 2019

Subject: Purchase of Aluminum Sulfate (Alum)

From: Robert Veneklasen, Water Plant Superintendent

Meeting Date: July 1, 2019

RECOMMENDATION:

I recommend the City accept the temporary cost increase to the current bid price from the City of Grand Rapids cooperative purchase for Aluminum Sulfate (Alum) from USALCO at a cost of \$352.41 per ton FOB; an increase of nearly 11% or \$25.97 per ton. This increase is effective June 18, 2019 through September 1, 2019 when the cost will return to \$326.44 per dry ton.

COMMUNITY, SAFETY, STEWARDSHIP:

The purchase of aluminum sulfate is for use as a coagulant in the treatment of the City's drinking water. The proper use of the coagulant ensures that all water customers receive the same public health benefit of a safe water supply.

DISCUSSION:

The City of Grand Rapids has accepted bids and awarded contracts for the purchase of Aluminum Sulfate. The original bid was received by the City of Grand Rapids as part of the cooperative purchasing strategy with participation by the Cities of Wyoming, Holland, Grand Rapids, Grand Haven, Muskegon Heights, and Muskegon. The City of Wyoming has participated in this cooperative purchasing program for more than fifteen years.

The approved bid price from our vendor, USALCO, for the third year of the agreement is \$326.44 per dry ton. USALCO has subsequently requested a temporary increase of their bid price. The City of Grand Rapids contract allows vendors to request price increases for items, such as chemicals, that are in a rapidly changing marketplace. This also allows vendors to submit multi-year bids while remaining competitive in the marketplace. Any cost increase request must be evidenced with documents supporting the request and level of increase. Grand Rapids has approved this increase by a change order to the contract.

The aluminum sulfate vendor, USALCO, has requested a temporary cost increase to cover the additional cost for delivery of the raw material needed for production – Aluminum Tri-Hydrate (ATH). This supply of ATH is currently interrupted due to the closing of portions of the Mississippi river to barge traffic.

Upon evaluation of the original bid, third year extension, and requested temporary increase, it is my recommendation that the City continue to participate in the cooperative purchase for Alum from USALCO at the extended cost of \$352.41 per dry ton FOB until September 1, 2019 due to

the vendor's inability to utilize their nearest manufacturing terminal.

Included is email correspondence from the City of Grand Rapids Purchasing Department along with their approved change order to the current contract.

BUDGET IMPACT:

Based on the average chemical use, the period of time covering the temporary price increase equates to approximately 40% of the total annual chemical use. The temporary cost increase will result in \$13,500.00 in added cost for aluminum sulfate. The revised annual cost for aluminum sulfate is expected to be \$320,659.00.

Galligan, Rhonda

From: Wierenga, Sue Ann <swiereng@grand-rapids.mi.us>
Sent: Thursday, June 20, 2019 7:59 AM
To: Veneklasen, Robert
Subject: Alum Sulfate - USALCO Temp Price Increase
Attachments: USALCO - Year 3 Temp Price Increase.pdf

Hello Robert,

The City of GR decided to accept a request from USALCO for a temporary price increase for bulk liquid aluminum sulfate (see attached). Their Michigan City, IN plant is experiencing problems and not receiving any barges of ATH which come up from the Gulf of Mexico through the Mississippi River. This is due to significant flooding in the Midwest which has closed portions of the Mississippi River and other waterways. They expect this temporary price increase to last until September 1.

If you have any questions please let me know.

Sue Ann Wierenga, CPPB

Buyer, Purchasing Dept.
City of Grand Rapids
300 Monroe Ave NW 7th Floor
Grand Rapids MI 49503
Direct: 616.456.3959



Change Order to Contract

Contract Number: MA233 17000265

Date: June 18, 2019

Vendor: USALCO Michigan City Plant, LLC
1750 East US Highway 12
Michigan City IN 46360

Departments: Lake Filtration – City of Grand Rapids
West Michigan Cooperative Agencies

Contract Title: Bulk Chemicals – Liquid Aluminum Sulfate

Term Contract Change: XX

To Extend Contract Period To: June 12, 2020

Bid File: #885-77-15

Vendor Note Change as Follows:

Contract Change to Temporary Unit Cost Increase:

Effective June 18, 2019 through September 1, 2019, the temporary unit cost for bulk liquid aluminum sulfate shall be \$352.41/dry ton.

Effective September 2, 2019 through June 12, 2020 the unit price for bulk liquid aluminum sulfate shall be \$326.44/dry ton.

All other contract terms, conditions, requirements, specifications remain in full force and effect.

Annual expenditures for the City of Grand Rapids shall not exceed \$377,000.00.

Purchasing Buyer: Sue Ann Wierenga

cc: Department
Bid Pack

ORDINANCE NO. 10-19

ORDINANCE TO AMEND CHAPTER 70 OF THE CITY CODE BY REPEALING ARTICLE II, DIVISION 5, ENTITLED "SNOW PLOWING," BY REPEALING ARTICLE III, DIVISION 1, SECTION 70-207 ENTITLED "REMOVAL OF SNOW AND OTHER OBSTRUCTIONS," AND BY ADDING ARTICLE IV ENTITLED "SNOW PLOWING AND REMOVAL" TO ADDRESS SNOW PLOWING AND REMOVAL ACTIVITIES ON PUBLIC RIGHTS-OF-WAY AND PRIVATE PROPERTY AND PROVIDING PENALTIES FOR VIOLATIONS

THE CITY OF WYOMING ORDAINS:

Section 1. That Chapter 70 of the Code of the City of Wyoming, Michigan, is amended by adding Article IV to read as follows:

ARTICLE IV. - SNOW PLOWING AND REMOVAL

DIVISION 1. – REMOVAL AND PLACEMENT

Sec. 70-401. – Sidewalk clearing.

(a) Within 24 hours of the weather event or other circumstance resulting in the accumulation of snow, ice, leaves, branches, or other obstruction on the sidewalk, the occupant or owner of property abutting upon public sidewalks shall clear those sidewalks of such materials and shall keep those sidewalks clear of such materials.

(b) If a property occupant or owner fails to clear snow, ice, leaves, branches, or other obstruction on the sidewalk within 48 hours of being notified by the city of such violation in accordance with section 1-25 of this Code, the city may remove or contract for removal of such snow, ice, leaves, branches, or other obstruction. The cost of removal will be billed to the occupant or owner of the property. The cost shall also be a lien against the property as a single lot special assessment as provided in section 66-23.

(c) Failure of a property occupant or owner to clear a sidewalk of snow, ice, leaves, branches or other obstruction as provided in this section, constitutes a municipal civil infraction punishable by a fine of \$25.00 for first offense in any 12-month period, a fine of \$150.00 for a second offense in any 12-month period, and a fine of \$500.00 for any third or subsequent offense in any 12-month period. Each 24-hour period of noncompliance constitutes a separate offense.

Sec. 70-402. – Depositing removed materials.

(a) Snow and ice removed from any private property shall not be deposited (i) on the paved portion of any street, sidewalk or other public right-of-way, (ii) in any public park, (iii) in the median of any public right-of-way or (iv) except as otherwise permitted by the property owner, in any other place not owned or legally controlled by the person depositing that snow or ice. This subsection does not prohibit depositing snow or ice removed from the paved portion of a street, sidewalk or other right-of-way onto the unpaved portion of the right-of-way immediately adjacent to the paved portion of the right-of-way from which it was removed.

(b) Snow and ice removed from the paved portion of any public street, sidewalk or other right-of-way by any individual or entity who is not an officer, employee, contractor or other agent of the city shall not be piled or deposited (i) on the paved portion of any street, sidewalk or other public right-of-way, (ii) in any public park, (iii) in the median of any public right-of-way or (iv) except as otherwise permitted by the property owner, in any other place not owned or legally controlled by the person depositing that snow or ice. This subsection does not prohibit depositing snow or ice removed from the paved portion of a street, sidewalk or other right-of-

way onto the unpaved portion of the right-of-way immediately adjacent to the paved portion of the right-of-way from which it was removed.

(c) Except as provided in subsection 70-402(a), leaves, branches or other obstructions removed from any private property shall not be deposited (i) on or within any street, sidewalk or other public right-of-way, (ii) in any public park, or (iii) except as otherwise permitted by the property owner, in any other place not owned or legally controlled by the person removing and depositing the leaves, branches or other obstruction. This subsection 70-401(c) does not prohibit timely placing properly contained, bagged, or bound leaves, branches and other refuse at curbside outside the paved portion of a right-of-way for a scheduled removal by a public or private refuse removal service.

(d) Snow, ice, leaves, branches and other materials shall not be moved, piled, stacked or otherwise placed so as to (i) conceal, obstruct or hinder access to any fire hydrant, (ii) obstruct or hinder access to any mailbox, (iii) impair the clear vision of the driver of any vehicle at any intersection, (iv) impair the vision of the driver of any vehicle when exiting a driveway into a right-of-way or when turning from a right-of-way into a driveway, or (v) impair the clear vision of any pedestrian approaching or using a crosswalk.

(e) This section is not applicable to actions of officers, employees or other agents of the city, Kent County, the state or other governmental entity or agency when engaged in (i) clearing snow, ice, leaves, branches, debris or other materials or obstructions from any public rights-of-way, (ii) constructing, installing, repairing, maintaining, improving or replacing any part of any right-of-way, any public utility line or facility, or other publicly-owned infrastructure, or (iii) when acting to address the aftermath of a weather event or emergency.

(f) The city engineer may grant temporary approval to move, pile, stack or otherwise place materials in violation of this section to a utility company's agents or to a contractor engaged in excavation or other construction within a right-of-way or adjacent property. That approval shall be for a period no longer than is necessary to complete the adjacent work and to remove such materials so they are no longer violating this section. Any approval shall be in writing and shall state a duration that generally shall not exceed 7 days, but which may be longer if the city engineer, in the city engineer's professional opinion, determines a longer time is necessary and will not adversely affect the public health, safety or welfare.

(g) A violation of this section is a municipal civil infraction punishable by a fine of \$25.00 for a first offense in any 12-month period, a fine of \$150.00 for a second offense in any 12-month period, and fine of \$500.00 for any third or subsequent offense in any 12-month period. Each 24-hour period of noncompliance constitutes a separate offense.

DIVISION 2. – SNOW PLOWING

Sec. 70-421. – City license required.

Except as provided in subsections (a) and (b) no individual or entity shall engage in the business of moving, removing or plowing snow on any public or private property without a current snow plowing license issued by the city and with any other license that may be required by the city or any other governmental official, agency or entity.

(a) This requirement does not apply to officers, employees or other agents of the city or another governmental agency moving, removing or plowing snow or ice from any public right-of-way, other public property, or property under the control of the city or other governmental agency.

(b) This requirement does not apply to those moving, removing or plowing snow or ice from any premises owned, leased, or under the legal control of the individual or entity engaged in that activity.

Sec. 70-422. – License application.

Any individual or entity desiring a snowplowing license shall file an application, license fee and related materials with the city clerk on forms provided by the city clerk. The application shall include (i) the applicant's name, address, and telephone number, (ii) the name, address, telephone number, cell phone number, and e-mail address of the principal contact(s) for the applicant, (iii) and a description including the manufacturer, model, color, vehicle identification or serial number, and, if licensed for use on public roads, the license plate number of each truck, tractor, loader, or other vehicle the applicant may use when moving, removing or plowing snow in the city.

(a) The application shall be accompanied by a license fee in an amount established by resolution of the city council. The amount of the fee may be based on the number of vehicles that may be used for moving, removing or plowing snow in the city.

(b) The application shall be accompanied by current certificates of insurance showing the applicant has no-fault automobile and commercial general liability insurance coverage for the applicant's vehicles and business.

(c) An applicant (or, once a license is issued, a licensee) shall update the list of vehicles that may be used to provide services in the city to coincide with vehicles actually used within the city by sending written notification to the city clerk referring to the name on its city license, its city license number, and a description including the manufacturer, model, color, vehicle identification or serial number, and, if licensed for use on public roads, the license plate number of each additional vehicle used in the city.

(d) Dump trucks or other vehicles used exclusively for hauling snow shall be exempt from the licensing provisions of this division. Dump trucks or other vehicles with blades, buckets, blowers or other equipment used to move, load, or lift snow or ice are not exempt from the licensing provisions of this division.

Sec. 70-422. – Grounds for denial, suspension, revocation or nonrenewal.

In addition to grounds set forth elsewhere in this Code, any of the following are grounds for denying a license or for the suspension, revocation, or nonrenewal of a license after it is issued:

(a) Violation of this Chapter 70, Article IV or of any other provision of this Code.

(b) Failure to repair any damage to any public or private property resulting from any activities undertaken pursuant to a license issued under this division.

(c) Failure to pay any property taxes, fees, or other amounts due the city related to any property or activities of the (i) applicant/licensee, or (ii) a director, officer, member, or owner of more than a 10% interest in the applicant/licensee.

(d) Information about incidents involving (i) the applicant/licensee, (ii) any of the applicant/licensee's directors, members, officers, or employees, or (iii) agents of the applicant/licensee, such as, for example, individuals operating any vehicles or other equipment for the applicant/licensee that lead the city clerk to determine that activities of the applicant/licensee or those identified in subparagraphs (i) through (iii) under a license issued pursuant to this division may result in injuries to individuals or damage to property.

(e) Information about incidents involving (i) the applicant/licensee, (ii) any of the applicant/licensee's directors, members, officers, or employees, or (iii) agents of the applicant/licensee, such as, for example, individuals operating any vehicles or other equipment for the applicant/licensee that lead the city clerk to determine that the applicant/licensee's business practices have violated or may violate applicable laws, rules or regulations.

(f) Information that the applicant/licensee's insurance coverage has expired, lapsed, been terminated or is otherwise reduced.

(g) The applicant/licensee or the applicant/licensee's owner was convicted of, entered a guilty plea to, or entered another plea having the same effect as a guilty plea for sentencing purposes to a crime involving the destruction of property, "road rage," driving under the influence of or while impaired by alcohol, marijuana, or a controlled substance, fraud, deceit, trespass, unlawful entry, or theft.

Sec. 70-423. – License issuance, term and possession.

(a) The city clerk shall review the application and supporting materials to determine whether they are complete and include all required information. In the city clerk's discretion, the city clerk may consult with others to determine whether any grounds exist for denying issuance or renewal of a snow plowing license.

(b) If the city clerk determines after reasonable review that an application and supporting materials for a snow plowing license are complete, the applicable fee(s) paid, and there are no grounds for denial or nonrenewal, the city clerk shall issue the snow plowing license in a form prepared by the city clerk. The clerk shall provide sufficient certified copies of the license to enable the licensee to keep one certified copy in each of the licensee's vehicles used in the city.

(c) The license term shall expire on September 30 following its issuance unless the license is issued after July 1 of any year, in which case it shall expire on September 30 of the following calendar year.

(d) Provided the city clerk determines there are no grounds for nonrenewal, a snow plowing license may be renewed for successive 1-year terms upon payment of the annual license fee to the city clerk and filing of updated information on the application with updated supporting materials.

(e) A licensee shall keep a certified copy of a license issued under this division in each of the licensee's vehicles used to provide services in the city. That certified copy shall be presented, upon request, to any city police officer, fire fighter, code inspector, or other city officer or employee authorized to issue municipal civil infraction citations or traffic citations or otherwise charged with enforcing city ordinances.

Sec. 70-424. – License denial, suspension, revocation or nonrenewal.

If the city clerk determines there are grounds for denial, suspension, revocation or nonrenewal of a snow plowing license as provided in this division, the city clerk shall notify the applicant/licensee in writing addressed to the applicant/licensee's e-mail address and street address as provided in the most recent application or application update filed with the city clerk by the applicant/licensee. Notice shall be given by e-mail and shall also be either personally served, delivered by postage prepaid certified mail with return receipt requested, or delivered by courier service such as FedEx, UPS or similar carrier. The notice shall (i) state the reason for denial, suspension, revocation or nonrenewal, (ii) state the date on which any suspension or revocation is to commence, (iii) state the length and other terms of any suspension (such as, for example, the need to pay taxes or fees, the need to repair or restore damaged property, or other condition of ending the suspension), and (iv) inform the applicant/licensee of the appeal procedure under section 1-29 of this Code.

Sec. 70-425. – Special equipment and identification.

(a) In addition to all equipment and lighting required by state law or another provision of this Code, any vehicle used for services provided in the city shall be equipped with a flashing, oscillating or rotating amber light placed in such position as to be visible throughout 360 degrees, which light shall be operated at all times that the vehicle is being used to move, remove or plow snow.

(b) Any vehicle used to provide services in the city shall plainly display on both sides of the vehicle, with letters and numbers at least 3 inches in height, the licensee's name and telephone or cell phone number as they appear on the licensee's application.

Sec. 70-426. – Violation as municipal civil infractions.

Violations of this division are a municipal civil infraction punishable by a fine of \$25.00 for first offense, a fine of \$150.00 for a second offense, and fine of \$1500.00 for any third or subsequent offense. Each premises in the city that is plowed or otherwise serviced in violation of this division constitutes a separate offense.

Section 2. That Chapter 70, Article II, Division 5 of the Code of the City of Wyoming, Michigan, entitled, "Snow Plowing," and Chapter 70, Article III, Division 1, Section 70-207 entitled "Removal of snow and other obstructions," are repealed.

Section 3. That this ordinance shall take effect on _____, 2019.

Kelli A. Vandenberg
Wyoming City Clerk

Ordinance No. 10-19

STAFF REPORT

Date: May 28, 2019
Subject: 3 Proposed Ordinances
From: Scott Smith, City Attorney
Meeting Date: July 1, 2019

Background:

The 3 proposed ordinances may be best referred to by their ordinance numbers (10, 11 and 12) as their titles and subject are long and broad.

Ordinance No. 10-19 entitled “Ordinance to Amend Chapter 70 of the City Code by Repealing Article II, Division 5, Entitled ‘Snow Plowing,’ by Repealing Article III, Division 1, Section 70-207 Entitled ‘Removal of Snow and Other Obstructions,’ and by Adding Article IV Entitled ‘Snow Plowing and Removal’ to Address Snow Plowing and Removal Activities on Public Rights-of-Way and Private Property and Providing Penalties for Violations”

Ordinance No. 11-19 entitled “Ordinance to Amend the City Code by Amending Sections 1-20, 1-27 and 1-28 to Clarify the Officers Who Can Issue Citations and Penalties for Violations of the City Code; and by Adding Section 1-29, Repealing Section 14-54, and Amending Sections 14-52, 14-53, 14-117, 15-7, 15-8, and 22-38 to Provide the Procedure for License Denials, Suspensions, and Revocations, and for Appeals to the City Council”

Ordinance No. 12-19 entitled “Ordinance to Amend the City Code by Adding Section 66-23 to Provide for Single Lot Special Assessments”

The 3 proposed ordinances arise from a confluence of circumstances including a review of city ordinances related to snow removal, leaves and grass maintenance, snow plow licensing, and an inquiry from our fire department. One issue led to another until it seemed best to offer 3 ordinances for your consideration, one of which involves several disparate Code sections. Because they are somewhat interrelated, it seemed best to address them in a single staff report.

Recommendation:

It is recommended that the Council adopt all three ordinances.

Discussion:

Proposed Ordinance No. 10 addresses the concerns about snow removal and snow plowing addressed in the staff report discussed at the Council’s May 13, 2019 work session. It also clarifies that leaves, branches and other materials are not to be deposited on streets, sidewalks or other public places. More specifically, proposed Ordinance No. 10:

- A. Requires clearing of snow from sidewalks within 24 hours and allows the City to clear them 48 hours after giving notice to the property owner or occupant. Violations are municipal civil infractions with fines of \$25, \$150 and \$500.
- B. Prohibits depositing snow, ice, leaves, branches and other materials in rights-of-way, other public places or property owned by others. It allows deposits of snow and ice in the unpaved area of the right-of-way between the sidewalk and street. It provides exceptions for governmental work and during construction. Violations are municipal civil infractions with the same fines as above.
- C. It requires that those engaged in snowplowing in the City be licensed (except for governments and for those plowing only their own property). It provides a licensing procedure. That includes grounds for denying, suspending, revoking or not renewing a license. It continues the equipment requirements of the former provisions.

D. It refers to the City Council hearing provision in proposed Ordinance No. 11 and provides for a single lot special assessment as would be provided by proposed Ordinance No. 12.

Proposed Ordinance No. 11 was initially intended to provide a single, detailed procedure for hearings before the City Council. Currently, a number of Code provisions allow for hearings before the City Council or to be held by the City Manager. Because the City Manager is normally aware of and consulted during the decisions being appealed, an appeal to the City Manager likely does not meet due process requirements. (Removing the City Manager from the initial decision to preserve the City Manager's ability to decide an appeal seems a poor idea in an organizational structure as flat as the City's.) The current provisions also provide varying procedures and, in some, very little detail, so it seemed best to provide a single procedure.

The proposed hearing procedure is intended to provide for a hearing more like that before a zoning board of appeals rather than like a court. It provides sufficient notice and record requirements to ensure that due process is provided. It allows flexibility to modify the procedure if the appellant and City agree and the Council approves.

Proposed Ordinance No. 11 also addresses outdated provisions in sections 1-27 and 1-28. Those sections referred to state laws that have been repealed and replaced, referred improperly to some state laws, referred City staff positions that have been renamed, failed to empower certain City officials to issue citations, etc. Section 1-20 was modified to provide that referring to an officer or office in the Code will include the officer's superiors and designees as well as any successor officer or office assuming those duties under any reorganization or reassignment of duties.

Finally, proposed Ordinance No. 12 provides for single lot special assessments. This simply adds a tool the City may use and does not require its use. Because special assessments impose liens that are paid in bankruptcy and survive a tax sale, there are advantages to imposing them. Many communities annually impose a number of single lot special assessments to address various grass cutting, snow removal, trash removal and other nuisance-type remedies the City engaged in on single lots. This occurs before the unpaid fee is added to the tax bill, making its collection more likely even in the case of financial insolvency.

Sustainability Criteria:

Environmental Quality – Ordinance 10 will protect environmental quality by prohibiting deposits of materials in public and private property except as appropriate in certain situations.

Social Equity – Approval will ensure all can be held accountable for clearing snow, ice and another materials; when special City involvement is needed for a particular parcel, such as to mow overgrown grass or rid it of trash, the city can recover the costs from the property owner; and all appeals to the City Council will be addressed in a similar manner.

Economic Strength – The ordinances place the onus on owners and occupants of property to maintain that property or to pay the consequences of their failure to do so. A single lot special assessment can prevent discharges of an obligation to pay certain charges in bankruptcy or in property tax sales.

Quality Customer Service – Appropriate licensing of snow plow businesses provides information needed if problems arise from plowing. A clear appeals process increases transparency and removes uncertainty for interested parties. Updating Code provisions with correct references and more generic authorization of City staff enhances understanding of those provisions and lessens needs for future amendments resulting from reorganizations, reassignments of duties, combining positions, reclassifying positions, etc.

ORDINANCE NO. 11-19

ORDINANCE TO AMEND THE CITY CODE BY AMENDING SECTIONS 1-20, 1-27 AND 1-28 TO CLARIFY THE OFFICERS WHO CAN ISSUE CITATIONS AND PENALTIES FOR VIOLATIONS OF THE CITY CODE; AND BY ADDING SECTION 1-29, REPEALING SECTION 14-54, AND AMENDING SECTIONS 14-52, 14-53, 14-117, 15-7, 15-8, AND 22-38 TO PROVIDE THE PROCEDURE FOR LICENSE DENIALS, SUSPENSIONS, AND REVOCATIONS, AND FOR APPEALS TO THE CITY COUNCIL

THE CITY OF WYOMING ORDAINS:

Section 1. That sections 1-20, 1-27 and 1-28 of Chapter 1 of the Code of the City of Wyoming, Michigan, are amended to read as follows:

Sec. 1-20. - Reference to offices.

References in this Code to a city officer shall include (i) that officer's superiors and designees, and (ii) any city office, officer or employee exercising the powers, duties or functions contemplated in the provision regardless of any transfer of functions or change in title.

Sec. 1-27. - Municipal civil infractions; generally.

- (a) "Municipal civil infraction" means any violation of a provision of this Code or any rule or regulation adopted pursuant to a provision of this Code, but which is not a crime under this Code, rule or regulation, and for which civil sanctions, including, without limitation, fines, damages, expenses and costs, may be ordered, as authorized by chapter 87 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8701 *et seq.*
- (b) Unless otherwise provided by this Code, a violation of a provision of this Code or a rule or regulation adopted pursuant to this Code, shall be a municipal civil infraction, the sanction for which shall be a civil fine in the amount as provided by this Code, plus any costs, damages, expenses, orders to comply with or correct violations of this Code, and other sanctions, as authorized by chapter 87 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8701 *et seq.*, and any other applicable law.
- (c) A violation of a provision of this Code or a rule or regulation adopted or issued pursuant to this Code shall not constitute a municipal civil infraction if that same act or omission constitutes a crime under any of the following:
 - (1) Article 7 or section 17766a of the public health code, 1978 PA 368, MCL 333.7101 *et seq.* and 333.17766a;
 - (2) The Michigan Penal Code, 1931 PA 328, MCL 750.1 *et seq.*;
 - (3) The Michigan vehicle code, 1949 PA 300, MCL 257.1 *et seq.*;
 - (4) The Michigan liquor control act of 1998, 1998 PA 58, MCL 436.1101 *et seq.*;
 - (5) Chapter 4, Subchapter 5 entitled "Watercraft and Marine Safety" of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80101 *et seq.*;
 - (6) The aeronautics code of the state of Michigan, 1945 PA 327, MCL 259.1 *et seq.*;
 - (7) Chapter 4, Subchapter 6 entitled "Motorized Recreational Vehicles" of the natural resources and environmental protection act, 1994 PA 451, MCL 324.81101 *et seq.*;
 - (8) Any state law under which the act or omission is punishable by imprisonment for more than 90 days; or
 - (9) Any state law superseding and replacing a law referred to in subsections (1) through (7) above.

- (d) No ordinance or any provision of this Code may designate a violation as a municipal civil infraction if that violation may be designated as a civil infraction under:
 - (1) The Michigan vehicle code, 1949 PA 300, MCL 257.1 *et seq.*;
 - (2) 1969 PA 235, MCL 257.941 *et seq.*;
 - (3) 1956 PA 62, MCL 257.951 *et seq.*;
 - (4) Chapter 4, Subchapter 5 entitled “Watercraft and Marine Safety” of the natural resources and environmental protection act, 1994 PA 451, MCL 324.80101 *et seq.*; or
 - (5) Any state law superseding and replacing a law referred to in subsections (1) through (4) above.
- (e) Except as otherwise provided in this Code, all civil fines shall be \$75.00 for the first offense, \$250.00 for the second offense, \$500.00 for the third offense, provided that the second or third offenses are committed within one year of the first offense.
- (f) Each act of violation and every day upon which any such violation shall occur constitutes a separate offense.
- (g) In addition to any remedies available at law, the city may bring an action for an injunction or other process against a person to restrain, prevent or abate any violation of this Code or any rule or regulation adopted pursuant to this Code.
- (h) The following officials are authorized to issue municipal civil infraction citations or notices, as authorized by as authorized by chapter 87 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8701 *et seq.* and any other applicable law:
 - (1) The city manager, deputy city manager, director of public safety, police chief, police officers, fire chief, deputy fire chief, fire marshal, and fire inspector;
 - (2) When acting within the scope of their duties as from time-to-time assigned, the director of community services/parks and recreation, director of public safety, director of public works, deputy director of public works, city planner, parks and facilities supervisor, recreation supervisor, inspections supervisor, registered building official, building inspector, housing inspector, code enforcement officer/inspector, mechanical inspector, electrical inspector, plumbing inspector, heating inspector, police cadet, community policing officer, fire fighter, director of utilities, and city personnel assigned to the city’s industrial pretreatment enforcement.
 - (3) Any person designated by the city manager.
- (i) The city establishes a municipal ordinance violations bureau as authorized in section 8396 of the revised judicature act of 1961, 1961 PA 236, MCL 600.8396.
 - (1) The purpose of the bureau is to accept admissions of responsibility for municipal civil infractions and to collect and retain civil fines and costs as provided by this Code or any ordinance.
 - (2) The bureau shall be located in the Wyoming Justice Center building and under the supervision and control of the 62-A District Court which shall adopt rules and regulations for the operation of the bureau and appoint any necessary, qualified city employees to administer the bureau in accordance with existing city policies and procedures for employment and the current city budget.
 - (3) Municipal civil infraction violation notices shall be issued, served and disposed of as authorized by the revised judicature act of 1961, 1961 PA 236, MCL 600.8701 *et seq.* and any other applicable law.
- (j) Unless another penalty is expressly provided by this Code for any particular provision or section, the penalty for a misdemeanor violation shall be a fine of not more than \$500.00,

plus costs, or by imprisonment for not more than 90 days, or both such fine and imprisonment in the discretion of the court.

- (k) The penalties provided by this section, unless another penalty is expressly provided, shall apply to any amendment of or addition to this Code whether or not such penalty is made a part of such amendment or addition.

Sec. 1-28. - Uniform law citation; persons authorized to issue.

- (a) “Uniform law citation” means a complaint or written notice issued and subscribed by a police officer or other officials authorized by this section to issue it, directing a designated person to appear in a designated local criminal court at a designated future time in connection with his alleged commission of a designated violation of state law or local ordinance for which the maximum permissible penalty does not exceed 90 days in jail and a fine of \$500.00.
- (b) The following officials are authorized to issue uniform law citations upon reasonable cause to believe that the person to whom the appearance ticket is issued has committed the violation indicated.
 - (1) The city manager, deputy city manager, director of public safety, police chief, police officers, fire chief, deputy fire chief, fire marshal, and fire inspector;
 - (2) When acting within the scope of their duties as from time-to-time assigned, the director of community services/parks and recreation, director of public safety, director of public works, deputy director of public works, city planner, parks and facilities supervisor, recreation supervisor, inspections supervisor, registered building official, building inspector, housing inspector, code enforcement officer/inspector, mechanical inspector, electrical inspector, plumbing inspector, heating inspector, police cadet, community policing officer, fire fighter, director of utilities, and city personnel assigned to the city’s industrial pretreatment enforcement.
 - (3) Any person designated by the city manager.

Section 2. That Chapter 1 of the Code of the City of Wyoming, Michigan, is amended by adding section 1-29 to read as follows:

Sec. 1-29. – Appeals to city council.

Unless another procedure is expressly provided by another provision of this Code or by other applicable law, whenever a provision of this Code allows for an appeal of an issue to the city council, the following procedure shall apply:

- (a) If a person, who has rights to appeal to the city council from a city decision or action, that person may initiate the appeal by filing a written appeal to the city manager within 21 days of the receipt of the written notice or within 21 days of the city decision or action being appealed.
- (b) The written appeal shall (i) set forth in detail all facts and legal arguments supporting the appellant’s position, (ii) include any supporting documents, photos, videos or other records, (iii) identify any individuals known by the appellant to have information relevant to the appeal, and (iv) include any other information the appellant believes to be relevant or helpful in deciding the appeal. The appeal shall be delivered to the city manager by personal service, by postage prepaid certified mail with return receipt requested, or by courier service such as FedEx, UPS or similar carrier.
- (c) After receiving an appeal, the city manager may, within 21 days, either (i) grant the relief sought in the appeal or (ii) schedule a hearing on the appeal before the city council at a city council meeting to occur within 60 days after the date the city manager received the appeal.

- (d) Written notice of the date and time of the city council hearing shall be delivered to the appellant by personal service, by postage prepaid certified mail with return receipt requested, or by a courier service such as FedEx, UPS or similar carrier.
- (e) In a hearing before the city council:
 - (1) The mayor pro tem shall preside.
 - (2) The city attorney may advise the council on legal matters and may also explain and opine on the city's determination regarding the matter being appealed.
 - (3) Time limits for presentations by the appellant, city representatives, and others shall be imposed. Unless the city council decides otherwise, the appellant and city representatives shall each be provided up to 15 minutes for a presentation and others shall be limited to 3 minutes. The city council may, in its discretion, allow additional time for rebuttals which shall generally be limited to 5 minutes each for the appellant and city representatives.
 - (4) Witnesses will not be sworn in, will not formally testify, and will not be subject to cross examination. However, city council members, city staff members designated by the city council, or other city representatives designated by the city council may question any persons who speak on the appeal.
 - (5) The city council may consider information normally relied upon by persons making serious decisions. Formal rules of evidence will not apply. But the presiding officer may preclude the presentation of information deemed redundant, irrelevant, immaterial, unduly prejudicial, inflammatory, or outside of civil discourse. The presiding officer may take necessary steps to ensure the proceeding maintains appropriate civility and decorum.
 - (6) The city council may hear from and inquire of those speaking about matters the city council deems material to its deliberation.
 - (7) Written arguments and other materials may be provided to the city council for consideration and shall be submitted to the city clerk at least 7 calendar days before the city council meeting. The city council may decide, if good cause is shown, to allow later submission of such materials.
 - (8) Unless requested and paid for by the appellant or unless requested and paid for by the city no court reporter shall be present and no verbatim record of the hearing shall be kept. The minutes of the meeting, together with any submitted materials shall constitute the hearing record.
 - (9) The city council may decide the appeal at the meeting at which the hearing is held or at a subsequent meeting.
 - (10) The city council may, but is not required to, modify this procedure by a resolution adopted at least 14 days before the scheduled hearing.
- (f) The decision of the city council shall be final. To the extent not prohibited by law, any action to seek review by any court shall be filed within 21 days of the city council's approval of the minutes of the meeting at which it made its decision on the appeal.
- (g) This provision does not prevent the appellant and city representatives from agreeing to a different procedure provided it is approved by resolution of the city council.

Section 3. That section 14-54 of Chapter 14 of the Code of the City of Wyoming, Michigan, entitled, "Hearing," is repealed.

Section 4. That sections 14-52, 14-53, 14-54 and 14-57 of Chapter 14 of the Code of the City of Wyoming, Michigan, are amended to read as follows:

Sec. 14-52. – Suspension and revocation.

A license, registration or permit issued by the city may be suspended or revoked for any of the following reasons:

- (1) Misrepresentation of any material fact on the application for obtaining such license, registration or permit.
- (2) Violation of any section of this chapter as it relates to the operation or business.
- (3) Violation of any state or federal statute or duly adopted federal, state or local rule and regulation as relates to the operation or business.
- (4) Failure to comply with an authorized requirement of any city official as relates to the operation or business.
- (5) Failure to perform any act or the performing of any act, either of which is contrary to or would endanger the public health, safety and welfare.

If a license is suspended or revoked, the city official who is suspending or revoking the license shall inform the licensee in writing as to the reasons for the suspension or revocation and its effective date. If there are conditions to be corrected, the notice shall inform the licensee of the needed corrections. The city official may lift such suspension if the city official finds that the conditions have been corrected. If the conditions cannot be corrected or if suitable time has been given for their correction and they have not been corrected the city official may revoke the license. A revocation shall not become effective until the time for an appeal to the city council under section 1-29 of this Code has expired or the city council has acted on the appeal.

Sec. 14-53. – Appeal of denial, suspension or revocation.

A person who has been denied a license, or whose license has been suspended or revoked, may appeal to the city council as provided in section 1-29 of this Code.

Sec. 14-117. - Issuance.

- (a) The city planning department shall approve the issuance of an adult business license to an applicant within 90 days after receipt of an application unless one or more of the following is determined to be true:
 - (1) An applicant is under 18 years of age;
 - (2) An applicant is overdue in payment to the city of taxes, fees, fines or penalties;
 - (3) An applicant has failed to provide information reasonably necessary for issuance of the license or has falsely answered a question or request for information on the application form;
 - (4) The premises to be used for the adult business have not been approved by the county health department, city fire department, building inspection department or planning department as being in compliance with applicable code provisions;
 - (5) The license fee required by this chapter has not been paid; or
 - (6) An applicant of the proposed establishment is in violation of or is not in compliance with any other provisions of this article.
- (b) The license, if granted, shall state on its face the name of the person to whom it is granted, the expiration date and the address of the adult business. The license shall be posted in a conspicuous place at or near the entrance to the adult business so that it may be easily read at any time.
- (c) A license issued pursuant to this chapter may be suspended or revoked for any of the following reasons.
 - (1) Misrepresentation of any material fact on the application for obtaining such license, registration or permit.

- (2) Violation of any section of this chapter as it relates to the operation or business.
- (3) Violation of any state or federal statute or duly adopted federal, state or local rule and regulation as relates to the operation or business.
- (4) Failure to comply with an authorized requirement of any city official as relates to the operation or business.
- (5) Failure to perform any act or the performing of any act, either of which is contrary to or would endanger the public health, safety and welfare.

If a license is suspended or revoked, the city official who is suspending or revoking the license shall inform the licensee in writing as to the reasons for the suspension or revocation and its effective date. If there are conditions to be corrected, the notice shall inform the licensee of the needed corrections. The city official may lift such suspension if the city official finds that the conditions have been corrected. If the conditions cannot be corrected or if suitable time has been given for their correction and they have not been corrected the city official may revoke the license. A revocation shall not become effective until the time for an appeal to the city council under section 1-29 of this Code has expired or the city council has acted on the appeal.

- (d) A person who has been denied a license, or whose license has been suspended or revoked, may appeal to the city council as provided in section 1-29 of this Code.

Section 5. That sections 15-7 and 15-8 of Chapter 15 of the Code of the City of Wyoming, Michigan, are amended to read as follows:

Sec. 15-7. - Review procedures.

Upon acceptance of the application by the city clerk, the submittal package shall be forwarded to the special event coordinator. The coordinator shall distribute pertinent information to the appropriate city departments for evaluation. The coordinator shall be a liaison between the applicant and respective city departments to align city services and required permits to best implement the proposed special event. Within 30 days of filing the application, the coordinator shall conclude the review and investigation and report the findings with a recommendation for approval including any conditions of operation, or denial, to the city manager or designee. If the permit is recommended for approval, applicant will be provided with an agreement by the special event coordinator addressing all requirements, fees, additional permits and expectations related to the special event. The permit may be denied if:

- (1) The applicant fails to comply with any or all requirements of this chapter, or with any or all conditions imposed, or with any other applicable provision of state or local law.
- (2) The applicant has knowingly made a false, misleading or fraudulent statement in the application or in any supporting documents.
- (3) For any other reason in the reasonable exercise of the city's discretion. Such reasons can include, but are not limited to: prior commitments of city services, schedule conflicts, facility capacities, prior performance of the applicant or his/her employees or agents, failure to follow city rules and regulations, lack of adequate city staff to provide support for the proposed special event, and for the protection of the city, city residents and event participants.

Appeals of denials may be made to the city council as provided in section 1-29 of this Code.

Sec. 15-8. - Revocation.

The special events coordinator may revoke a permit whenever the applicant, an employee or agent fails, neglects or refuses to fully comply with all provisions and requirements set forth in this chapter, any agreement entered into as part of the application process or with any other applicable provisions, regulations, ordinances, statutes or law. In the event the actions of the

applicant result in a danger to the health, safety and welfare of the citizens of the city or the patrons or participants of the special event, the special events coordinator may order an immediate revocation of the permit and require immediate cessation of all activities. Appeals of a revocation may be made to the city council as provided in section 1-29 of this Code.

Section 6. That section 22-38 of Chapter 22 of the Code of the City of Wyoming, Michigan, is amended to read as follows:

Sec. 22-38. - Denial, suspension or revocation; appeal.

After any denial, suspension or revocation, an applicant or permittee may file an appeal to the city council as provided in section 1-29 of this Code.

Section 7. That this ordinance shall take effect on _____, 2019.

Kelli A. Vandenberg
Wyoming City Clerk

Ordinance No. 11-19

ORDINANCE NO. 12-19

ORDINANCE TO AMEND THE CITY CODE BY ADDING SECTION 66-23 TO
PROVIDE FOR SINGLE LOT SPECIAL ASSESSMENTS

THE CITY OF WYOMING ORDAINS:

Section 1. That Chapter 66 of the Code of the City of Wyoming, Michigan, is amended by adding Section 66-23 to read as follows:

Sec. 66-23. – Single lot special assessments.

This section provides the circumstances for levying a special assessment against a single lot or parcel of land and the procedure to be used in doing so. The authority and procedure provided by this section is in addition to and separate from the authority and procedure for special assessments levied under other sections of this chapter.

(a) A special assessment against a single lot or parcel of land may be imposed pursuant to this section when:

- (1) The city incurs an expense upon or in respect to any single lot or parcel of land that is chargeable against that premises or the owner of that lot or parcel under the City Charter, any provision of this Code or other ordinance, or state law;
- (2) The cost incurred by the city due to the labor, materials or services provided by or on behalf of the city either (i) relates to a benefit to or relief of a burden upon that lot or parcel or its owner or (ii) is otherwise not of a type suitable for assessing against several lots and parcels of land in a special assessment district;
- (3) The city provided the owner of the lot or parcel a written invoice for the expense by first class mail addressed to the owner's address on the city's latest property tax roll; and
- (4) The invoiced amount remains unpaid 30 days after the invoice was mailed.

(b) If the circumstances in subsection (a) occur, the city manager, the city finance director or city treasurer may certify that information to the city council and the city council may adopt a resolution of intent to assess the single lot or parcel of land for the expense together with the costs incurred to date to collect such amount. The resolution of intent shall:

- (1) State the amount of the assessment.
- (2) Identify the address and tax parcel number of the lot or parcel to be assessed.
- (3) State the number of equal installments of principal and the dates they are due, if the city council wishes to allow payments of the assessment in installments.
- (4) State the interest rate for interest on the unpaid balance and the date interest will begin to accrue.
- (5) State the date on which interest will begin to accrue.
- (6) Set the date for a public hearing on the proposed assessment.
- (7) Authorize and direct the city clerk to provide written notice of the public hearing to the owner of the property to be assessed by first class mail at least 10 days prior to the date of the public hearing which shall be addressed to the address of the property owner on the city's last property tax roll.

(c) The resolution adopted under subsection (b) shall constitute the proposed special assessment roll. Such a resolution may include one or more than one special assessments against one or more single lots or parcels.

(d) The city clerk shall send the notice as directed by the city council's resolution adopted under subsection (b).

(1) The notice shall state the date, time and place for the public hearing, include the address and parcel number of the property to be assessed, and provide a copy of the city council's resolution adopted pursuant to subsection (b).

(2) The notice shall also inform the property owner that the property owner or property owner's agent must either appear in person to protest the special assessment or protest by a letter delivered to the city clerk not later than the end of the public hearing or the assessment cannot be appealed to the Michigan Tax Tribunal.

(3) The notice shall also inform the property owner that any appeal of the assessment to the Michigan Tax Tribunal must be filed within 30 days of the confirmation of the special assessment.

(e) Following the public hearing, the City Council may adopt a resolution confirming the special assessment as detailed in the resolution adopted under subsection (b). The resolution confirming the special assessment may either repeat the terms of the special assessment including the amount of the special assessment, the address and parcel number of the property assessed, the owner of the property assessed according to the city's last property tax roll, the date on which interest will begin to accrue, the number and due dates for installments, and the interest rate, or it may incorporate a copy of the resolution adopted under subsection (b).

(f) Upon adoption of the resolution confirming the special assessment as provided in subsection (e), the special assessment shall constitute a lien upon the single lot or parcel of land assessed until paid in full and the special assessment shall be due, payable and collected in the same manner as other city special assessments.

Section 2. That this ordinance shall take effect on _____, 2019.

Kelli A. VandenBerg
Wyoming City Clerk

Ordinance No. 12-19

ORDINANCE NO. 14-19

ORDINANCE TO AMEND CHAPTER 90, ARTICLE 3, SECTION 90-329 OF THE CITY
CODE ADDRESSING STANDARDS FOR RADIO, TELEVISION, MICROWAVE AND
WIRELESS TELECOMMUNICATIONS TOWERS AND FACILITIES

THE CITY OF WYOMING ORDAINS:

Section 1. That Chapter 90, Article 3, section 90-329 of the Code of Ordinances of the City of Wyoming, Michigan, is amended to read as follows:

Sec. 90-329 – STANDARDS FOR RADIO, TELEVISION, MICROWAVE OR WIRELESS
TELECOMMUNICATIONS TOWERS AND FACILITIES.

(1) *Compatibility with other law.* Regardless of any other provision in this Chapter 90, special use or other approvals or permits are required for radio, television, microwave or wireless telecommunications towers and facilities under this Chapter 90 only to the extent such requirements are not preempted by federal or state laws, rules, regulations or agency decisions or orders. All provisions of this section and any other provisions in this Chapter 90 requiring such approvals or permits and establishing the procedures or fees for such approvals or permits shall, to the extent possible, be interpreted in harmony with all applicable federal and state laws, rules, regulations and agency decisions and orders. Where unavoidable conflicts exist, the provisions of this Chapter that conflict with any applicable federal and state law, rule, regulation or agency decision or order shall be interpreted to be of no effect and any remaining provisions of this Chapter that do not conflict shall be applied without the conflicting provisions.

(2) *Non-exempt telecommunications facilities.* Except for those wireless telecommunications structures, towers and other facilities defined and addressed in subsection (3) and except as otherwise may be preempted by federal laws, rules, regulations, or agency orders, standards for issuing special use permits for radio, television, microwave or wireless communication towers shall be as follows:

(A) *Information required.* In addition to any information required for applications for special use permits pursuant to this section, and subsection 90-304, applicants for a special use permit for towers, structures or other facilities shall submit the following information:

- (1) A scaled site plan clearly indicating the location, type and height of the proposed facility, on-site land uses and zoning, adjacent land uses and zoning (including when adjacent to other municipalities), adjacent roadways, proposed means of access, setbacks from property lines, elevation drawings of the proposed facility and any other structures, topography, parking and other information deemed to be necessary to assess compliance with this ordinance.
- (2) Legal description of the parcel.
- (3) A landscape plan showing specific landscape materials.
- (4) Method of fencing and finished color and, if applicable, the method of camouflage and illumination.
- (5) A sworn statement by the applicant as to whether construction of the facility will accommodate location of additional antennas for future users.
- (6) A description of the suitability of the use of existing towers, other structures or alternative technology not requiring the use of towers or structures for the services to be provided through the use of the proposed new tower.

(7) A description of the feasible locations(s) of future towers or antennas within the City, based upon existing physical, engineering, technological or geographical limitations in the event the proposed tower is erected.

(B) *Factors considered in granting special use permits for towers.* In addition to any standards for consideration of special use permit applications in this Code, the Planning Commission shall consider the following factors in determining whether to issue a special use permit. The Planning Commission may waive or reduce the burden on the applicant of one or more of these criteria if the Planning Commission concludes that the goals of this subsection are better served thereby:

- (1) Height of the proposed tower;
- (2) Proximity of the tower to residential structures and residential district boundaries;
- (3) Nature of uses on adjacent and nearby properties;
- (4) Surrounding topography;
- (5) Surrounding tree coverage and foliage;
- (6) Design of the tower, with particular reference to design characteristics that have the effect of reducing or eliminating visual obtrusiveness;
- (7) Proposed ingress and egress;
- (8) Availability of suitable existing towers, other structures, or alternative technologies not requiring the use of facilities or structures.

(C) *Availability of suitable existing towers, other structures or alternative technology.* A new tower will not be permitted unless the applicant demonstrates to the reasonable satisfaction of the Planning Commission that no existing tower, structure or alternative technology that does not require the use of towers or structures can accommodate the applicant's proposed antenna. An applicant shall submit information requested by the planning commission related to the availability of suitable existing towers, other structures or alternative technology. Evidence submitted to demonstrate that no existing tower, structure or alternative technology can reasonably accommodate the applicant's proposed antenna may consist of any of the following:

- (1) No existing towers or structures are located within the geographic area which meet applicant's engineering requirements.
- (2) Existing towers or structures are not of sufficient height to meet applicant's engineering requirements.
- (3) Existing towers or structures do not have sufficient structural strength to support applicant's proposed antenna and related equipment.
- (4) The applicant's proposed antenna would cause electromagnetic interference with the antenna on the existing facilities or structures, or the antenna on the existing facilities or structures would cause interference with the applicant's proposed antenna.
- (5) The fees, costs, or contractual provision required by the owner in order to share an existing tower or structure or to adapt an existing facility or structure for sharing are unreasonable. Costs exceeding new tower development are presumed to be unreasonable.
- (6) The applicant demonstrates that there are other limiting factors that render existing towers and structures unsuitable.
- (7) The applicant demonstrates that an alternative technology that does not require the use of towers or structures (*e.g.* a cable microcell network using multiple low-powered transmitters/receivers attached to a wireline system) is unsuitable. Costs of alternative technology that exceed new tower or antenna development shall not be presumed to render the technology unsuitable.

(3) *Small cell facilities.* Small cell wireless facilities and related structures and facilities as defined in this subsection (3) are subject to the following:

(A) *General.*

(1) The co-location of a small cell wireless facility and associated support structure within a ROW is not subject to zoning reviews or approvals under this Chapter to the extent exempt from such reviews under Act 365. In such case, a utility pole in the ROW may not exceed 40 feet above ground level without special land use approval and a small cell wireless facility in the ROW shall not extend more than 5 feet above a utility pole or wireless support structure on which the small cell wireless facility is co-located.

(2) Co-location of a small cell wireless facility or installation of an associated support structure shall require that the wireless provider apply for and obtain a permit from the City consistent with this Chapter and other provisions of the City Code.

(3) Small cell wireless facilities and associated support structures not exempt from zoning reviews are only permitted in accordance with the provisions of this Chapter and Act 365, and upon application for and receipt from the City of a permit consistent with this Chapter and other provisions of the City Code.

(B) *Definitions.* The following definitions apply to this subsection (3). Words and phrases not defined below will, to the extent they are defined in Act 365, have the meanings provided in Act 365.

(1) *Act 365* means the Small Wireless Communications Facilities Deployment Act, 2018 PA 365, MCL 460.1301 *et seq.*

(2) *ADA* means the Americans with Disabilities Act of 1990, Public Law 101-336, 42 USC §12101 *et seq.*, and similar federal, state, or local standards regarding pedestrian access or movement.

(3) *Co-locate* means to install, mount, maintain, modify, operate, or replace wireless facilities on or adjacent to a wireless support structure or utility pole. "Co-location" has a corresponding meaning. Co-locate does not include make-ready work or the installation of a new utility pole or new wireless support structure.

(4) *MZEA* means the Michigan Zoning Enabling Act, 2006 PA 110, MCL 125.3101 *et seq.*

(5) *Public right-of-way* or *ROW* means the area within, on, below, or above a public roadway, highway, street, alley, bridge, sidewalk, or utility easement dedicated for compatible uses. Public right-of-way does not include any of the following:

(a) A private right-of-way.

(b) A limited access highway.

(c) Land owned or controlled by a railroad as defined in section 109 of the Railroad Code of 1993, 1993 PA 354, MCL 462.109.

(d) Railroad infrastructure.

(6) *Small cell wireless facility* means a wireless facility that meets both of the following requirements:

(a) Each antenna is located inside an enclosure of not more than 6 cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements would fit within an imaginary enclosure of not more than 6 cubic feet.

(b) All other wireless equipment associated with the facility is cumulatively not more than 25 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meters,

concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.

(7) *Utility pole* means a pole or similar structure that is or may be used in whole or in part for cable or wireline communications service, electric distribution, lighting, traffic control, signage, or a similar function, or a pole or similar structure that meets the height requirements in section 13(5) of the Act and is designed to support small cell wireless facilities. Utility pole does not include a sign pole less than 15 feet in height above ground.

(8) *Wireless facility* means equipment at a fixed location that enables provision of wireless services between user equipment and a communications network, including, but not limited to, radio transceivers, antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. Wireless facility includes a small cell wireless facility. Wireless facility does not include any of the following:

(a) The structure or improvements on, under, or within which the equipment is co-located.

(b) A wireline backhaul facility.

(c) Coaxial or fiber-optic cable that is between utility poles or wireless support structures or otherwise is not immediately adjacent to or directly associated with a particular antenna.

(9) *Wireless infrastructure provider* means any person, including a person authorized to provide telecommunications services in this state but not including a wireless services provider, who builds or installs wireless communication transmission equipment, wireless facilities, or wireless support structures and who, when filing an application with the city under this article, provides written authorization to perform the work on behalf of a wireless services provider.

(10) *Wireless provider* means a wireless infrastructure provider or a wireless services provider. Wireless provider does not include an investor-owned utility whose rates are regulated by the MPSC.

(11) *Wireless services* means any services, provided using permitted or unpermitted spectrum, including the use of Wi-Fi, whether at a fixed location or mobile.

(12) *Wireless services provider* means a person that provides wireless services.

(13) *Wireless support structure* means a freestanding structure designed to support or capable of supporting small cell wireless facilities. Wireless support structure does not include a utility pole.

(C) *Wireless communications equipment*. Regardless of any other provision of this Chapter, wireless communication equipment (but not a wireless communication support structure) is a permitted use and allowed in all zoning districts. Wireless communication equipment does not have to be related to the principal use of the site. Wireless communications equipment is not subject to zoning review and approval if all of the following requirements are met:

(1) The wireless communications equipment will be co-located on an existing wireless communications support structure or in an existing equipment compound.

(2) The existing wireless communications support structure or existing equipment compound is in compliance with this Chapter or was approved in accordance with this Chapter, any applicable portions of the Construction Code, and Chapter 77, Article V, of the City Code.

- (3) The proposed collocation will not do any of the following:
- (a) Increase the overall height of the wireless communications support structure by more than 20 feet or 10% of its original height, whichever is greater.
 - (b) Increase the width of the wireless communications support structure by more than the minimum necessary to permit co-location.
 - (c) Increase the area of the existing equipment compound to greater than 2,500 square feet.
- (4) The proposed co-location complies with the terms and conditions of any previous final approval of the wireless communications support structure or equipment compound in accordance with this Chapter and other provisions of the City Code.

(D) *Compliance with other requirements.* Notwithstanding the previous provision of this section, wireless communications equipment otherwise exempt must still comply with all other applicable City Code provisions and applicable Construction Code provisions including a requirement that the building inspector determines that the co-location will not adversely impact the structure to which it is attached.

(E) *Special land use review required.*

(1) A co-location that meets the requirements of subsections 90-329(3)(C)(1) and (2), but which does not meet subsections 90-329(3)(C)(3) or (4), is subject to special land use review by the Planning Commission in accordance with section 514 of the MZEA, MCL 125.3514. Any equipment placed in a residential district shall not be erected at a height that requires lighting. Any equipment placed adjacent to a residential district or use that requires lighting shall be a continuous red beacon at night.

(2) Wireless communications equipment that is not attached to an existing structure (thus requiring the installation of a new wireless communications support structure), is subject to special land use review consistent with this Chapter and with the Master Plan.

(F) *Special land use standards for wireless communication facilities.*

(1) A wireless communications support structure must be installed on a lawful lot for the zoning district in which it is located, either as a principal use or as an accessory use related to the principal use.

(2) A wireless communications support structure must be installed consistent with the standards stated in subsection 90-329(2)(B) which existed prior to the amendment adding this subsection 90-329(3).

(G) *Special land use standards for non-exempt small cell wireless facilities.*

The modification of existing or installation of new small cell wireless facilities or the modification of existing or installation of new wireless support structures used for such small cell wireless facilities that are not exempt from zoning review in accordance with Act 365 shall be subject to special land use review and approval in accordance with the following procedures and standards:

(1) Processing of an application is subject to all of the following requirements:

(A) Within 30 days after receiving an application under this subsection 90-329(3), the City Planner shall notify the applicant in writing whether the application is complete. If the application is incomplete, the notice tolls the running of the 30-day period.

(B) The running of the time period tolled under subdivision (A) resumes when the applicant makes a supplemental submission in response to the City Planner's notice of incompleteness.

(C) The City Planner shall approve or deny the application and notify the applicant in writing within 90 days after an application for a modification of a wireless support

structure or installation of a small cell wireless facility is received or 150 days after an application for a new wireless support structure is received. The time period for approval may be extended by mutual agreement between the applicant and the City Planner.

(2) The Planning Commission shall base its review of the special land use request on the standards contained in subsection 90-329(2); provided, however that a denial shall:

(a) Be supported by substantial evidence in a written record that is publicly released contemporaneously.

(b) Have a reasonable basis.

(c) Not discriminate against the applicant with respect to the placement of the facilities of other wireless providers.

(3) In addition to the provisions set forth in subsection 90-329(3)(G)(2), in the Planning Commission's review:

(A) An applicant's business decision about the type and location of small cell wireless facilities, wireless support structures, or technology to be used is presumed reasonable. This presumption does not apply with respect to the height of wireless facilities or wireless support structures.

(B) An applicant shall not be required to submit information about its business decisions with respect to any of the following:

(1) The need for a wireless support structure or small cell wireless facilities.

(2) The applicant's service, customer demand for the service, or the quality of service.

(C) The Planning Commission may impose reasonable requirements regarding the appearance of facilities, including those relating to materials used or arranging, screening, or landscaping.

(D) The Planning Commission may impose spacing, setback, and fall zone requirements substantially similar to spacing, setback, and fall zone requirements imposed on other types of commercial structures of a similar height in a similar location.

(4) The fee for zoning review of a special land use and associated site plan shall be as established from time to time by resolution of the City Council.

(5) Within 1 year after a zoning approval is granted, a small cell wireless provider shall commence construction of the approved structure or facilities that are to be operational for use by a wireless services provider, unless the City and the applicant agree to extend this period or the delay is caused by a lack of commercial power or communications facilities at the site. If the wireless provider fails to commence the construction of the approved structure or facilities within the time required the zoning approval is void.

Section 2. This ordinance shall take effect take on _____, 2019.

Kelli A. Vandenberg
Wyoming City Clerk

Ordinance No. 14-19

May 28, 2019

Ms. Kelli A. VandenBerg
City Clerk
Wyoming, MI

Subject: Proposed Zoning Ordinance Text Amendments to revise Standards for Radio, Television, Microwave or Wireless Communications Towers (Section 90-329)

Recommendation: To approve the subject Zoning Ordinance amendment.

Dear Ms. VandenBerg,

The above referenced request was reviewed by the Wyoming Planning Commission at its regular meeting on May 21, 2019. A motion was made by Smart, supported by Arnoys, to recommend to the City Council adoption of the recommended revised *Standards for Radio, Television, Microwave, or Wireless Communications Towers (Section 90-329)* Zoning Ordinance text amendment. The motion passed 7-2. A detailed review of the request is available in the attached Planning Commission minutes. Following please find some general information.

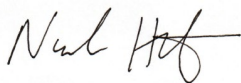
The Michigan legislature enacted 2018 PA 365 (“Act 365”) during the “lame duck” portion of the last legislative session. The bill took effect on March 12, 2019 and effectively:

- Limits municipalities’ ability to regulate placement of small cell facilities in City rights-of-way;
- Limits fees a municipality can charge for permits and applications; and
- Limits the procedures a municipality can require or use in reviewing and approving applications for small cell facility placement.

On September 26, 2018, the Federal Communications Commission (“FCC”) issued a declaratory ruling limiting time frames for local government small cell application reviews and approvals.

Currently Wyoming’s zoning and regulatory ordinances do not comply with the new legislation. This proposed ordinance and the regulatory ordinance being considered separately will bring the city back into conformance with the legislation.

Respectfully submitted,



Nicole Hofert, City Planner
Department of Community Services



CITY COUNCIL

Sheldon DeKryger

Dan Burrill

Kent Vanderwood

Marissa Postler

Robert Postema

Sam Bolt

Jack A. Poll, Mayor

Cc: Curtis Holt, City Manager
Rebecca Rynbrandt, Director of Community Services

Public Hearing opened at 7:11 pm (will remain open until the June meeting)

Chair Spencer explained that Agenda item #2 will be deferred until the June meeting due to an error in the public noticing process but will allow members of the public to provide comment today as well as at the next scheduled meeting.

Motion by Smart and supported by Micele to defer the request for Special Use Approval for a community center for Lighthouse Community Ministries to the next scheduled meeting. No discussion followed.

A vote on the motion carried unanimously.

AGENDA ITEM NO. 3

Request for Special Use Approval for a carwash at a proposed Auto Detail business. The property is located at 2691 Division Ave S. (Includes Site Plan Approval) (Section 12) (Jose Quintana)

Public Hearing opened at 7:13 pm (will remain open until the June meeting)

Chair Spencer explained that Agenda item #3 will be deferred until the June meeting due to an error in the public noticing process but will allow members of the public to provide comment today as well as at the next scheduled meeting.

Motion by Micele and supported by Hegyi to defer the request for Special Use Approval for a carwash at a proposed Auto Detail business to the next scheduled meeting. No discussion followed.

A vote on the motion carried unanimously.

AGENDA ITEM NO. 4

Request to amend Zoning Code Section 90-329 Standards for Radio, Television, Microwave or Wireless Communications Towers. (Wyoming Planning Department)

Hofert explained that the Michigan legislature enacted 2018 PA 365 (“Act 365”) during the “lame duck” portion of the last legislative session, which took effect on March 12, 2019, and which significantly limits a local government’s ability to regulate the placement of small cell facilities in City rights-of-way, limits the fees a local government can charge for permits and placements, and limits the procedures a local government can require or use in reviewing and approving applications for small cell facilities placements. On September 26, 2018, the Federal Communications Commission (“FCC”) issued a declaratory ruling limiting time frames for local government small cell application reviews and approvals.

Hofert also explained that the current Wyoming zoning ordinance and regulatory ordinance provisions do not comply with the new requirements and the City Council is currently considering a regulatory ordinance amendment and a resolution setting the application/permit fees. The Planning Commission was asked to consider a corresponding zoning ordinance amendment with City Council consideration to follow.

Hofert described the efforts of the Grand Valley Metropolitan Council (“GVMC”) to (i) assist area local governments with the implementation of the complex provisions of Act 365 and the FCC ruling and (ii) to promote a common area regulatory approach and framework. Hofert also stated that forms were developed by GVMC for a regulatory ordinance, zoning ordinance amendment, fee resolution, and small cell permit consistent with Act 365 and the FCC ruling. In keeping with GVMC’s leadership on this issue, these documents are based on the GVMC models with some changes to fit them into Wyoming’s ordinances.

Hofert described the sustainability criteria in the following:

- Environmental Quality – It might be argued that the proliferation of small cell facilities in public rights-of-way is unsightly. However, the legislature preempted the City’s ability to address that issue.
- Social Equity – It might be argued that small cellular providers will have a favorable status under this ordinance. But, the legislature has removed the City’s ability to address that issue.
- Economic Strength – It is unknown whether economic strength is affected because we do not know (i) how the small cell facilities in rights-of-way will affect maintenance and liability and (ii) whether the allowed fees cover costs. But, the legislature preempted the City’s ability to address this issue.
- Quality Customer Service – It is uncertain if approval will have a positive or negative overall effect on customer service. It will streamline service rendered small cellular providers. The effort to comply with that quicker process may affect service to others seeking City approvals. Allowing, small cellular facilities in rights-of-way may preclude accommodating others seeking use of City rights-of-way. However, the FCC and legislature preempted local discretion.

Hofert stated that staff recommends that the Planning Commission recommend City Council adoption of the proposed text amendment for Section 90-329 Standards for Radio, Television, Microwave or Wireless Communications Towers

Motion by Smart and supported by Arnoys, recommendation to the City Council to amend Zoning Code Section 90-329 Standards for Radio, Television, Microwave or Wireless Communications Towers. Discussion followed.

Public Hearing was opened at 7:15 pm.

Public Hearing was closed at 7:15 pm.

Bueche inquired about the agency that will be preparing the Site Plan. Hofert stated that the applicant who is developing the cell tower will be the agency preparing the Site Plan. Bueche inquired if they were capable to provide technical information required to support the Site Plan. Hofert stated that the applicant would hire a surveyor or engineering firm to assist them in obtaining the required technical information for the Site Plan.

Weller inquired if there were restrictions on where companies could install towers. Hofert informed the Commissioners that there have always been restrictions on the locations where

towers can be installed and that the Act 365 and the FCC ruling restricted where the municipalities could limit where the towers could be installed.

Micele inquired about what defines a small cell tower from a large cell tower. Rynbrandt stated that there is a distinct difference between a large tower and small tower and can be identified based upon their locations. Rynbrandt stated that small towers are affixed to poles or signs throughout residential neighborhoods and large towers stand independent.

Goodheart inquired if there were any setback requirements. Hofert replied that there are no setback limits.

Motion passed 7 to 2, with Hegyi and Bueche in the dissent.

AGENDA ITEM NO. 5

Request for Rezone from R-1 to R-2 for Greens of Wyoming. The property is located at 1207 56th Street SW. (Section 35) (Westview Capital, LLC).

Public Hearing opened at 7:24 pm (will remain open until the June meeting)

Chair Spencer explained that Agenda item #5 will be deferred until the June meeting due to the applicants request for a deferral until the next Planning Commission meeting. Since the rezone request was noticed correctly prior to the applicants request for a deferral, comments will be allowed today as well as at the next meeting.

A motion by Micele and supported by Smart to defer the request for Rezone from R-1 to R-2 for Greens of Wyoming to the next scheduled meeting. No discussion followed.

Motion passed unanimously.

AGENDA ITEM NO. 6

Request to approve proposed Zoning Ordinance Text Amendments to revise Off-Premises Advertising Signs (Section 90-709). ***(Public Hearing was held on March 19, 2019 – public comments on this item will only be accepted during the ‘Public Comment on Non-Public Hearing Agenda Items’)***

Hofert provided an overview and general history of this request to the Planning Commission. The City of Wyoming allows off-premise advertising signs, also commonly referred to as billboards, in I-1 and I-2 districts on property abutting a freeway right-of-way. Staff was asked to perform a review of the ordinance in light of the growth of the use of digital technology. Following an extensive review by the Community Services project team which included Rebecca Rynbrandt, Dave Rupert, Nicole Hofert, Bob Hoekwater, Ashley Dent, and Scott Smith, staff is recommending that the City amend the sign ordinance to allow the replacement of static billboard structures with digital structures and/or heads as long as certain conditions and requirements are met. The recommended changes include the formation of an exchange program that helps to encourage the removal of non-conforming signs while providing a means to utilize new digital technology along the freeway. Recommended restrictions included the following:

ORDINANCE NO. 15-19

ORDINANCE TO AMEND CHAPTER 90 OF THE CITY CODE BY AMENDING
SECTION 90-1410 (4.0) CORRIDOR EDGE AREA SPECIAL LAND USES AND
TABLE 90-1410 CORRIDOR EDGE AREA IN ARTICLE 11

THE CITY OF WYOMING ORDAINS:

Section 1. That Chapter 90, Article 11, section 90-1410 (4.0) of the Code of Ordinances, City of Wyoming, Michigan is amended by to read as follows:

Sec. 90-1410 SPECIAL LAND USES

The following are specific standards for Special Land Uses in the CE Area. See Division 2 for Special Land Use general review and approval procedures and Section 90-508 of the City of Wyoming Zoning Ordinance for specific standards for Special Land Uses.

- A. Automobile sales.
- B. Car wash.
- C. Dance hall/nightclub.
- D. Drive-through establishments. Drive through entries shall take access from secondary frontages.
- E. Funeral homes or mortuaries.
- F. Open air business.
- G. Parking structures. Parking structure entries shall take access from a Street, and not an Avenue, per Division 8, Thoroughfare Standards.
- H. Pool hall/billiards.
- I. Secondhand businesses.
- J. Self-storage facilities. These facilities are only permitted along Division Avenue, south of 56th Street. They are not permitted on corner lots.

Section 2. That Chapter 90, Article 11, Table 90-1410 of the Code of Ordinances, City of Wyoming, Michigan is amended as attached.

Section 3. This ordinance shall take effect on _____, 2019.

Kelli A. Vandenberg
Wyoming City Clerk

Ordinance No. 15-19

CONTEXT AREA AND USE STANDARDS : 90-1410 CORRIDOR EDGE AREA (CE)

TABLE 90-1410 CORRIDOR EDGE AREA (CE)

Specific Use	Mixed Use Building	Zero Lot Line Building	Retail Building	Live/Work Building	Apartment	Rowhouse	Two-Family House	Single-Family House	Civic Building
Accessory uses			P	P	P	P			P
Any use in retail sales of 20,000 square feet or more									
Apparel shop			P	P					
Art, including art work, art supplies and framing materials			P	P					
Automobile gasoline/convenience store			P						
Automobile repair and service entirely within an enclosed building, except body shops, painting and refinishing, automobile washes, automobile gasoline and automobile service stations			P						
Automobile sales			S						
Automobile, motorcycle, trailer, recreational vehicle or boat showrooms			P						
Baked goods			P	P					
Bank and financial institution									
Barbershop				P	P#				
Beauty shop				P	P#				
Bowling alley			P						
Bus transfer station			P						P
Business office			P ^D	P					
Business service establishments			P ^D	P					
Car wash			S						
Clothing services			P	P					
College or university			S						P
Commercial greenhouse			P						
Community center			P						
Convalescent or nursing homes					P				
Dance hall/nightclub			S						
Delicatessen			P	P					
Department store			P	P					
Drive-through establishments			S						
Drugstore			P	P					
Dry cleaning establishment (per 90-401B (5) (c))			P						
Eating and drinking establishments (without drive-through service)			P						

P = Permitted use. P^D = Permitted in Division Avenue Form Based Code Area only. P\$ = Permitted use on floors two and above. P# = Permitted use on first floor only. S = Special Land Use. Blank cell = Use not permitted.

i Introduction	1 Title, Purpose & Scope	2 Applicability & Procedures	3 General Provisions	4 Context Areas & Use	5 Subdivision & Access	6 Building Types
7 Private Frontages	8 Thoroughfare Guidelines	9 Off-Street Parking	10 Sign Standards	11 FBC Definitions	City of Wyoming Zoning Ordinance	

CONTEXT AREA AND USE STANDARDS : 90-1410 CORRIDOR EDGE AREA (CE)

TABLE 90-1410 CORRIDOR EDGE AREA (CE) (CONTINUED)

Specific Use	Mixed Use Building	Zero Lot Line Building	Retail Building	Live/Work Building	Apartment	Rowhouse	Two-Family House	Single-Family House	Civic Building
Flower shop			P	P					
Funeral homes or mortuaries			S						
General merchandise store			P	P					
Grocery			P	P					
Hardware store, paint and wallpaper			P	P					
Health and fitness					P#				
Hotel					P				
Indoor skating rink			P						
Indoor theater			P						
Medical office			P ^D	P					
Multiple family dwellings				P	P				
Municipal uses									P
Nursery schools, day nurseries, and dependent care facilities for seven or more people				P	P#				
Open air business			S						
Outdoor eating and drinking establishments having table service when part of an indoor eating and drinking establishment			P						
Parking structures			S						
Photographic studio			P	P					
Pool hall/billiards			P						
Printing and publishing				P					
Professional office			P ^D	P					
Religious or social service assembly									P
Secondhand business			S						
Self-service laundry and dry cleaning									
Self-storage facility			S						
Single-family detached dwelling									
State licensed residential facility									
Two-family dwellings/rowhouses						P	P		
Veterinary hospitals and clinics, excluding outdoor use of property for exercise yards or pens			P						

P = Permitted use. P^D = Permitted in Division Avenue Form Based Code Area only. P\$ = Permitted use on floors two and above. P# = Permitted use on first floor only. S = Special Land Use. Blank cell = Use not permitted.

June 25, 2019

Ms. Kelli A. VandenBerg
City Clerk
Wyoming, MI

Subject: Proposed Zoning Ordinance Text Amendments to add Self-Storage Facilities to Corridor Edge Special Land Uses (Section 90-1410 4.0)

Recommendation: To approve the subject Zoning Ordinance amendment.

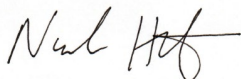
Dear Ms. VandenBerg,

The above referenced request was reviewed by the Wyoming Planning Commission at its regular meeting on June 18, 2019. A motion was made by Hegyi, supported by Micele, to recommend to the City Council adoption of the recommended revised *Corridor Edge Special Land Uses (Section 90-1410 4.0)* Zoning Ordinance text amendment. The motion passed unanimously following discussion. A detailed review of the request is available in the attached Planning Commission minutes and supportive materials. Following please find some general information.

The City of Wyoming restricts where self-storage uses are permitted in the city. Currently this use is only permitted in B-2 districts with Special Use Approval and in Industrial areas. No self-storage is permitted in Form Based Code Districts. Staff gets frequent requests to locate self-storage in the city. There are few sites in commercial districts that are appropriate for this use. Additionally, industrial land is very valuable and often not a good fit for the self-storage use. In researching possible sites for expanding self-storage as a permitted use in the city, staff identified the area along Division Avenue, south of 56th Street SW as a compatible location. The area is zoned Form-Based Code Corridor Edge.

The proposed text amendment is attached.

Respectfully submitted,



Nicole Hofert, City Planner
Department of Community Services

Cc: Curtis Holt, City Manager
Rebecca Rynbrandt, Director of Community Services



CITY COUNCIL

Sheldon DeKryger

Dan Burrill

Kent Vanderwood

Marissa Postler

Robert Postema

Sam Bolt

Jack A. Poll, Mayor

AGENDA ITEM NO. 4

Request to amend Zoning Code Section 90-1410 (4.0) Corridor Edge Area
Special Land Uses. (Wyoming Planning Department)

Hofert explained that the City of Wyoming currently restricts where self-storage uses are permitted in the city. Currently this use is only permitted in B-2 districts with Special Use Approval and in Industrial areas. No self-storage is permitted in Form Based Code Districts. Staff gets frequent requests to locate self-storage in the city. There are few sites in commercial districts that are appropriate for this use. Additionally, industrial land is very valuable and often not a good fit for the self-storage use.

Hofert stated that the purpose of the zoning amendment is to create additional areas where self-storage facilities would be allowed. Specifically the area along Division Avenue, south of 56th Street SW which is currently zoned Corridor Edge, would be a good fit. The parcels in this area are unique in that they are much deeper than other parcels along Division Avenue. The character of this area is industrial or heavy commercial. Hofert stated that there is currently one non-conforming self-storage facility in this area.

Hofert stated that staff recommends the following attached ordinance be approved by the Planning Commission to allow the ordinance to permit, with Special Use Approval, self-storage facilities in a limited capacity on Division Avenue south of 56th Street.

Public hearing closed at 8:02 pm.

A motion by Hegyi and supported by Micele to recommend to City Council to amend Zoning Code Section 90-1410 (4.0) Corridor Edge Area Special Land Uses was made.

Chair Spencer stated that she believed this was a brilliant idea and complemented staff for their work on this.

A vote on the motion carried unanimously.

AGENDA ITEM NO. 5

Request for Site Plan Approval for Metro Health Village Unit 51. This property is located at 2300 Health Drive (Section 24) (Granger Group)

Hofert explained that the applicant has accepted the recommendation from staff to defer the proposal until acceptance of an Overall Development Plan by the Planning Commission and City Council. Hofert stated that the applicant has requested that Planning Commission give feedback on what was presented in their packet. She said staff would give a condensed version of the presentation to possibly obtain feedback from the Planning Commission for the benefit of the applicant.

Hofert described the project. The submittal includes parking design and layout for portions of proposed Units 51 and 15. Hofert stated that the Commission should note that Unit 15 will need the Planning Commission Approval for any future development. Additionally, Unit 15 parking

CONTEXT AREA AND USE STANDARDS : 90-1409 CORRIDOR EDGE AREA (CE)

90-1409 CORRIDOR EDGE AREA

The following standards apply to the Corridor Edge Area:

1.0 Permitted Building Types

Refer to Division 6 for Building Type requirements.

- A. Retail Building
- B. Live/Work Building
- C. Apartment
- D. Rowhouse
- E. Two-family House
- F. Civic Building

2.0 Permitted Uses

- A. Refer to Table 90-1409 for Land Uses permitted in this Area for each Building Type that is permitted in the Area that are as follows:
 - Permitted by right (P)
 - Permitted by right in Division Avenue Form Based Code Area only (P^D)
 - Permitted by right, but not allowed on first floor (P*)
 - Permitted by right and only allowed on first floor (P#)
 - Permitted by Special Land Use Permit (S)
 - Uses indicated with a blank cell are not permitted in this Area.

3.0 Building Height by Context Area

- A. Number of stories for buildings is regulated by Context Area.
- B. Each Building Type has requirements for the height (in feet) of building stories. Refer to Division 6 for Building Type Standards.
- C. Building Height for all buildings:
 - Minimum: No minimum
 - Maximum: Three (3) stories, 45 feet
 - Retail Building: One (1) story building required

4.0 Special Land Uses

The following are specific standards for Special Land Uses in the CE Area. See Division 2 for Special Land Use general review and approval procedures and Section 90-508 of the City of Wyoming Zoning Ordinance for specific standards for Special Land Uses.

- A. Automobile sales.
- B. Car wash.
- C. Dance hall/nightclub.
- D. Drive-through establishments. Drive through entries shall take access from secondary frontages.
- E. Funeral homes or mortuaries.
- F. Open air business.
- G. Parking structures. Parking structure entries shall take access from a Street, and not an Avenue, per Division 8, Thoroughfare Standards.
- H. Pool hall/billiards.
- I. Secondhand businesses.

J. Self-storage facilities. These facilities are only permitted along Division Avenue, south of 56th Street. They are not permitted on corner lots.

CORRIDOR EDGE AREA DESCRIPTION:

Corridor Edge Area (CE): The Corridor Edge Area represents a district which transitions from more urban areas to the existing development pattern of the City. This Area promotes retail and residential uses with building placement that is more consistent with existing City development patterns and includes the flexibility of locating limited parking in the front of retail buildings that front on 28th Street and Division Avenue.

CORRIDOR EDGE AREA KEY MAP (28TH STREET):



CORRIDOR GENERAL AREA KEY MAP (DIVISION AVE): SECTION 1: 50TH ST. TO 60TH ST.

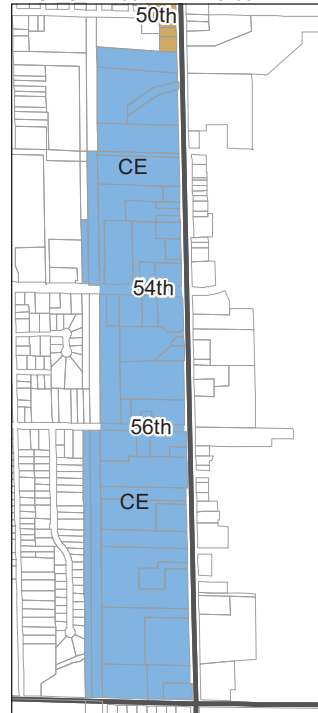


TABLE 90-1409 CORRIDOR EDGE AREA (CE)									
Specific Use	Mixed Use Building	Zero Lot Line Building	Retail Building	Live/Work Building	Apartment	Rowhouse	Two-Family House	Single-Family House	Civic Building
Accessory uses			P	P	P	P			P
Any use in retail sales of 20,000 square feet or more									
Apparel shop			P	P					
Art, including art work, art supplies and framing materials			P	P					
Automobile gasoline/convenience store			P						
Automobile repair and service entirely within an enclosed building, except body shops, painting and refinishing, automobile washes, automobile gasoline and automobile service stations			P						
Automobile sales			S						
Automobile, motorcycle, trailer, recreational vehicle or boat showrooms			P						
Baked goods			P	P					
Bank and financial institution									
Barbershop				P	P#				
Beauty shop				P	P#				
Bowling alley			P						
Bus transfer station			P						P
Business office			P ^D	P					
Business service establishments			P ^D	P					
Car wash			S						
Clothing services			P	P					
College or university			S						P
Commercial greenhouse			P						
Community center			P						
Convalescent or nursing homes					P				
Dance hall/nightclub			S						
Delicatessen			P	P					
Department store			P	P					
Drive-through establishments			S						
Drugstore			P	P					
Dry cleaning establishment (per 90-401B (5) (c))			P						
Eating and drinking establishments (without drive-through service)			P						

P = Permitted use. P^D = Permitted in Division Avenue Form Based Code Area only. P\$ = Permitted use on floors two and above. P# = Permitted use on first floor only. S = Special Land Use. Blank cell = Use not permitted.

CONTEXT AREA AND USE STANDARDS : 90-1409 CORRIDOR EDGE AREA (CE)

TABLE 90-1409 CORRIDOR EDGE AREA (CE) (CONTINUED)

Specific Use	Mixed Use Building	Zero Lot Line Building	Retail Building	Live/Work Building	Apartment	Rowhouse	Two-Family House	Single-Family House	Civic Building
Flower shop			P	P					
Funeral homes or mortuaries			S						
General merchandise store			P	P					
Grocery			P	P					
Hardware store, paint and wallpaper			P	P					
Health and fitness					P#				
Hotel					P				
Indoor skating rink			P						
Indoor theater			P						
Medical office			P ^D	P					
Multiple family dwellings				P	P				
Municipal uses									P
Nursery schools, day nurseries, and dependent care facilities for seven or more people				P	P#				
Open air business			S						
Outdoor eating and drinking establishments having table service when part of an indoor eating and drinking establishment			P						
Parking structures			S						
Photographic studio			P	P					
Pool hall/billiards			P						
Printing and publishing				P					
Professional office			P ^D	P					
Religious or social service assembly									P
Secondhand business			S						
Self-service laundry and dry cleaning									
Single-family detached dwelling									
State licensed residential facility									
Two-family dwellings/rowhouses						P	P		
Veterinary hospitals and clinics, excluding outdoor use of property for exercise yards or pens			P						

P = Permitted use. P^D = Permitted in Division Avenue Form Based Code Area only. P\$ = Permitted use on floors two and above. P# = Permitted use on first floor only. S = Special Land Use. Blank cell = Use not permitted.

Self- Storage Facilities **S**



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i	Introduction	1	Title, Purpose & Scope	2	Applicability & Procedures	3	General Provisions	4	Context Areas & Use	5	Subdivision & Access	6	Building Types
7	Private Frontages	8	Thoroughfare Guidelines	9	Off-Street Parking	10	Sign Standards	11	FBC Definitions	City of Wyoming Zoning Ordinance			

ORDINANCE NO. 16-19

AN ORDINANCE TO AMEND SECTION 90-32 OF THE CITY CODE BY ADDING
SUBSECTION (119) TO REZONE 5.5 ACRES AT 1207 56th STREET SW
FROM R-1 TO R-2

THE CITY OF WYOMING ORDAINS:

Section 1. That Section 90-32 of the Code of the City of Wyoming is amended by adding subsection (119) to read as follows:

- (119) To rezone the following described property at 1207 56th Street SW from R-1 Residential to R-2 Residential.

Part of the East 1/2 of the NW 1/4 of Section 35, T6N, R12W, city of Wyoming, Kent County, Michigan described as: COMMENCING at the North 1/4 corner of said Section 35; thence S01°32'00"E 1644.71 feet along the East line of said NW 1/4 to THE POINT OF BEGINNING; thence continuing S01°32'00"E 777.36 feet along said East line; thence N89°36'44"W 70.00 feet parallel with the South line of said NW 1/4; thence S01°32'00"E 230.00 feet to the South line of said NW 1/4; thence N89°36'44"W 136.43 feet along said South line; thence N00°23'16"E 489.72 feet; thence N89°36'44"W 136.00 feet to the West line of the East 326.00 feet of said NW 1/4; thence N01°32'00"W 460.69 feet along said West line; thence N88°28'00"E 192.82 feet; thence N01°32'00"W 45.74 feet; thence N88°28'00"E 133.00 feet to the point of beginning. Contains 5.52 acres.

Section 2. This ordinance shall take effect on _____, 2019.

Kelli A. VandenBerg
Wyoming City Clerk

June 25, 2019

Ms. Kelli A. VandenBerg
City Clerk
Wyoming, MI

Subject: Request to rezone 5.5 acres from R-1 Residential to R-2 Residential. The property is located at 1207 56th Street SW. (Section 35) (Westview Capital, LLC)

Recommendation: To deny the subject rezoning request.

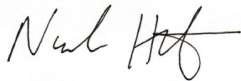
Dear Ms. VandenBerg,

The above referenced request was reviewed by the Wyoming Planning Commission at its regular meeting on June 18, 2019. A motion was made by Hegyi, supported by DeLange, to recommend to the City Council denial of the rezoning request. The motion passed unanimously following discussion. A detailed review of the request is available in the attached Planning Commission minutes. Following please find some background and other pertinent information.

The subject property is owned by Westview Capital, LLC. The Greens of Wyoming is a plat that currently has Preliminary Plat Final Approval (expires in September 2019). The plat is 13.15 acres with 39 lots. The development connects to the Palmer Park subdivision to the east. The plat extends Mulligan Drive and will eventually link all subdivisions over to Burlingame Avenue.

The proposal will rezone the southern portion of the plat (approximately 5.5 acres) from R-1 to R-2. The rezone results in two additional lots being added to the plat.

Respectfully submitted,



Nicole Hofert, City Planner
Department of Community Services

Cc: Curtis Holt, City Manager
Rebecca Rynbrandt, Director of Community Services



CITY COUNCIL

Sheldon DeKryger

Dan Burrill

Kent Vanderwood

Marissa Postler

Robert Postema

Sam Bolt

Jack A. Poll, Mayor

Bueche inquired if there was any field work completed on this Site Plan.

Speed stated that the Site Plan was developed as a PDF extracted from an official site survey.

A vote on the motion was made and carried with 6 yes and 2 no (Bueche and DeLange) votes.

AGENDA ITEM NO. 3

Request for Rezone from R-1 to R-2 for Greens of Wyoming. The property is located at 1207 56th Street SW. (Section 35) (Westview Capital, LLC).

Hofert explained that the Greens of Wyoming is a plat that currently has Preliminary Plat Final Approval. The plat is 13.15 acres with 39 lots. The development connects to the Palmer Park subdivision to the east. The plat extends Mulligan Drive and will eventually link all subdivisions over to Burlingame Avenue. Hofert stated that the proposed modification will rezone the southern portion of the plat (approximately 5.5 acres) to R-2. The rezone results in two additional lots being added to the plat.

Hofert described the following considerations:

1. The R-1 and R-2 zoning districts allow the same uses. There are no uses allowed in one that aren't also allowed in the other.
2. Minimum dimensional requirements vary slightly between R-1 and R-1, as follows:

Minimum Requirements	R-1	R-2
Lot Area (sq. ft.)	10,000	8,400
Width	75	65
Front Setback	35	35
Rear Setback	35	35
Side Setback (one side/total)	8/20	7/18
Ground Floor Area (sq. ft.)	1,280	1,040
2 Story Area (sq. ft.)	780	672

3. The approved lots to the north are 10,000 sq. ft. in area and 75 feet wide. The two single-family lots abutting the east side of the site are 31,000 sq. ft. and 7,000 sq. ft. in area. While the two single-family lots on the west side of the site are 1.3 acres and 6.9 acres.
4. All land to the north and west of the subject site is zoned R-1. There is no R-2 zoned property in the vicinity.
5. The current R-1 zoning allows a reasonable use of the property.
6. There is no apparent change of circumstances that warrants a change in zoning.

Hofert stated that the proposed rezone will result in smaller lots and will potentially detract from the current R-1 homes under development to the north. The plat was approved as an R-1 plat and that was how the plat was described to the existing homeowners.

Hofert explained that it is staff's recommendation that the Planning Commission deny the proposed rezoning based on a finding that:

1. The abutting development to the north, of which the subject site is a component, is zoned R-1.
2. The existing R-1 zoning allows a reasonable use of the property.
3. There is no other R-2 zoning in the vicinity of the subject site.
4. No change in circumstances has occurred to necessitate a change in zoning.
5. All but one of the existing single-family lots on the east and west sides of the site are substantially larger home sites than would be allowed in the R-2 District.
6. The presence of the condominiums along a portion of the eastern boundary of the site does not warrant a reduction in the minimum lot size or an increase in the number of lots to be developed.

Public Hearing closed at 7:46 pm.

Dan Larabel (Westview Capital, LLC) stated his involvement with the Greens of Wyoming and explained that his agency met with City of Wyoming staff and conducted a cost and zoning analysis of a potential mixed use (R-7) project in 2018. Larabel stated their agency determined an R-7 project was not a cost effective project and decided not to move forward with the project. Larabel stated that the owners decided to pursue the previously approved project and started the installation of storm and sanitary sewers and anticipate completion of the project by this summer prior to the expiration of the Preliminary Plat approval in September 2019. Larabel stated that their anticipation is to proceed with developing the southern portion at an R-2 standard. Larabel stated that the rezoning is a suitable use, due to the potential of transitioning from a higher density zone to a lower density zone. He felt this was a compatible use. Larabel described how it is possible to have different zonings next to each other but not have incompatible use. Larabel explained how all but one of the existing family lots east and west of the site are larger than what would be allowed in the R-2 zone and indicated there are multiple adjacent uses. Larabel stated that this proposal is a good use of land and did not see where there were any comments from staff that the proposal was not in compliance with the Master plan.

A motion by Hegyi and supported by DeLange to deny the request to rezone from R-1 to R-2 for Greens of Wyoming was made. Discussion followed.

Weller inquired if the plat that's already developed is R-1 lots.

Hofert stated that the existing plat was approved as R-1 lots.

DeLange stated that he was concerned due to the reduced home size permitted in the R-2 district and the effect that would have on the overall feel of the neighborhood and the gateway entry to the R-1 lots.

Arnoys stated that there would be a substantial impact to current R-1 zoned homeowners and felt they would not benefit from the zone change.

Chair Spencer stated that she felt the applicant brought up good points but would support the decision made by staff.

A vote on the motion carried unanimously.

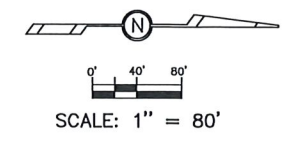
GREENS OF WYOMING PHASE 2 REZONE PLAN

CITY OF WYOMING, KENT CO., MICHIGAN

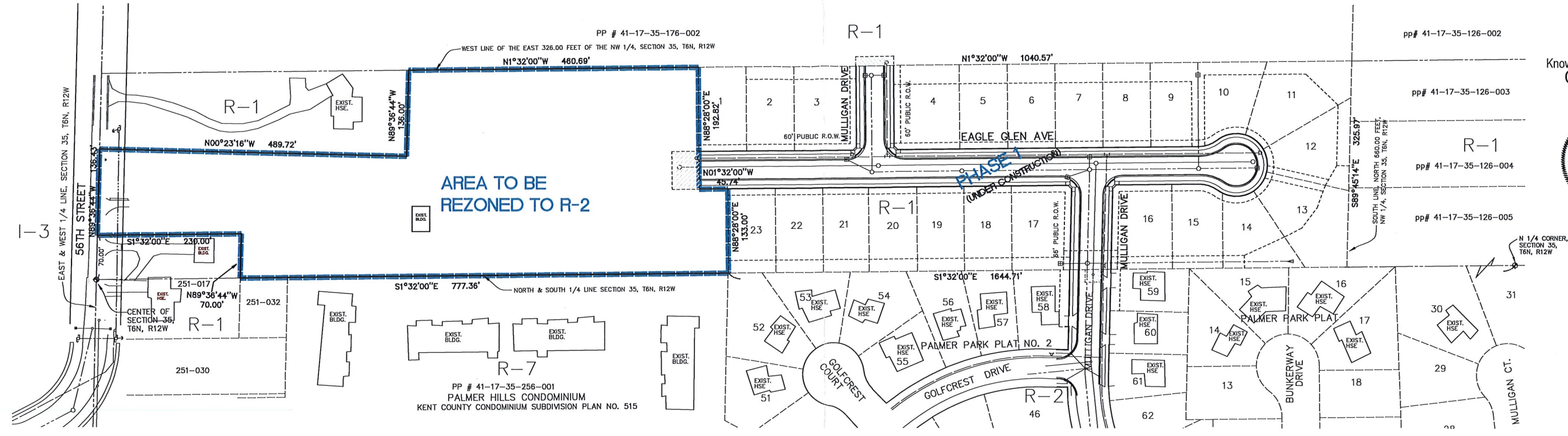
NW 1/4, SECTION 35, T6N, R12W

BM#100 ELEV. 705.26
TOP OF FLANGE BOLT UNDER
"E" OF "EJW" ON HYDRANT

BM#101 ELEV. 714.81
TOP OF FLANGE BOLT UNDER
"E" OF "EJW" ON HYDRANT



Know what's below.
Call before you dig.



GENERAL NOTES

ADDRESS: 1207 56TH STREET, SW
WYOMING, MI 49509
EXISTING ZONING: R-1 SINGLE FAMILY RESIDENTIAL
PROPOSED ZONING: R-2 SINGLE FAMILY RESIDENTIAL
MINIMUM REQUIREMENTS:
MIN LOT = 8,400 SF
MIN. WIDTH = 65 FT
FRONT YARD SETBACK = 35 FT
SIDE YARD SETBACK = 7 FT/18 FT
REAR YARD SETBACK = 35 FT

DESCRIPTION

REZONE PROPERTY DESCRIPTION:
PART OF THE EAST 1/2 OF THE NW 1/4 OF SECTION 35, T6N, R12W, CITY OF WYOMING, KENT COUNTY, MICHIGAN DESCRIBED AS: COMMENCING AT THE NORTH 1/4 CORNER OF SAID SECTION 35; THENCE S01°32'00"E 1644.71 FEET ALONG THE EAST LINE OF SAID NW 1/4 TO THE POINT OF BEGINNING; THENCE CONTINUING S01°32'00"E 777.36 FEET ALONG SAID EAST LINE; THENCE N89°36'44"W 70.00 FEET PARALLEL WITH THE SOUTH LINE OF SAID NW 1/4; THENCE S01°32'00"E 230.00 FEET TO THE SOUTH LINE OF SAID NW 1/4; THENCE N89°36'44"W 136.43 FEET ALONG SAID SOUTH LINE; THENCE N00°23'16"E 489.72 FEET; THENCE N89°36'44"W 136.00 FEET TO THE WEST LINE OF THE EAST 326.00 FEET OF SAID NW 1/4; THENCE N01°32'00"W 460.69 FEET ALONG SAID WEST LINE; THENCE N88°28'00"E 192.82 FEET; THENCE N01°32'00"W 45.74 FEET; THENCE N88°28'00"E 133.00 FEET TO THE POINT OF BEGINNING. CONTAINS 5.52 ACRES.

DATE	REVISIONS	BY

ORIGINAL PRELIMINARY PLAT AND CONSTRUCTION PLANS DESIGNED AND DRAFTED BY THE MERESTONE GROUP, LLC AND HULA ENGINEERING WITH SURVEYING DONE BY BURGESS SURVEYING, PLLC. PLAN REVISIONS MADE BY EXXEL ENGINEERING, INC. WITH CONSENT FROM THE MERESTONE GROUP, LLC AND HULA ENGINEERING.

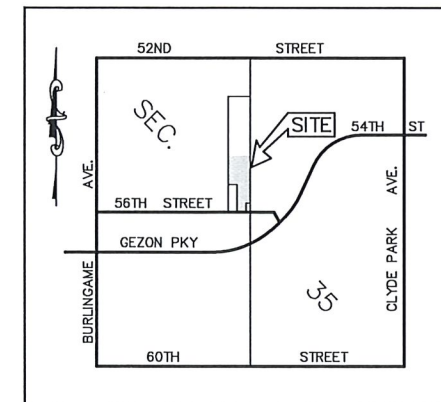
exxel engineering, inc.
planners • engineers • surveyors
3232 Clyde Park, S.W. • Grand Rapids, MI 49509
Phone: (616) 531-3660 www.exxelengineering.com

GREENS OF WYOMING REZONE PLAN

CITY OF WYOMING
ENGINEERING DEPARTMENT
WYOMING, MICHIGAN

IN: NW 1/4, SECTION 35, T6N, R12W
FROM: 56TH STREET
TO: MULLIGAN DRIVE

SCALE: 1" = 80'	ELECTRIC	GAS	TELEPHONE	CABLE TV
SYSTEM NO.				
SA. NO.				
PROJECT NO. 181006E				
DRAWN BY JDR				
DESIGNED BY DOG				
CHECKED BY				
SEC. NO. 35				
DATE DRAWN 03/06/2018	FILE NO.	1 OF 1		



LOCATION MAP
NO SCALE