

AGENDA
WYOMING CITY COUNCIL MEETING
AURORA POND
MONDAY, AUGUST 19, 2019, 7:00 P.M.

- 1) Call to Order**
- 2) Invocation** – Pastor Rick South, Abundant Life Church of God
If you wish and are able, please stand for the invocation. The Pledge of Allegiance will immediately follow the invocation.
- 3) Pledge of Allegiance**
- 4) Roll Call**
- 5) Student Recognition**
- 6) Approval of Minutes**
From the August 5, 2019 Regular Meeting and Closed Session
- 7) Approval of Agenda**
- 8) Public Hearings**
If you wish to speak to an item during a public hearing you are welcome to do so. It is important to note this is not an opportunity for dialog or debate; this is an opportunity to provide comment to the City Council. Comments made during a public hearing may become part of the meeting's permanent record. Upon approaching the podium, please begin by providing your name and address. There is a 3 minute limit per person.
- 9) Public Comment on Agenda Items**
This public comment period is reserved for comment on agenda items only. If you wish to speak about an item that is not on the agenda, please hold your comments until the acknowledgement of visitors at the end of the meeting. It is important to note this is not an opportunity for dialog or debate; this is an opportunity to provide comment to the City Council. Upon approaching the podium, please begin by providing your name and address. There is a 3 minute limit per person.
- 10) Presentations and Proclamations**
 - a) Presentations
 1. Wyoming Senior Center
 - b) Proclamations
- 11) Petitions and Communications**
 - a) Petitions
 - b) Communications
- 12) Reports from City Officers**
 - a) From City Council
 - b) From City Manager
- 13) Budget Amendments**
 - a) Budget Amendment No. 18 – To Reappropriate an Additional \$18,412.15 of Budgetary Authority and Recognize Related Grant Revenue for the Community Development Block Grant from the Grant Year Ending June 30, 2019
- 14) Consent Agenda**

15) Resolutions

- a) To Approve an Application and Set a Public Hearing Regarding the Edward Byrne Memorial Justice Assistance Grant (September 3, 2019 at 7:01 p.m.)
- b) To Approve and Authorize the Mayor and City Clerk to Sign an Assessment Consulting Contract
- c) To Authorize the Mayor and City Clerk to Enter into a Contract with the Michigan Economic Development Council (MEDC), in Support of the Wyoming (re)Imagined Master Plan and to Accept the Technical Assistance Grant

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

- d) To Award a Contract for the 2019 Wyoming Resurfacing Program
- e) To Authorize the Purchase of Seven Road Weather Information Systems and to Authorize the Mayor and City Clerk to Execute the Contract
- f) To Authorize the Purchase of Asphalt Concrete Crack Leveling Sealant
- g) To Concur with the Emergency Repairs of a Vactor Truck and to Authorize Payment to Valley Truck Parts Inc.
- h) To Concur with Additional Work Related to the Telescopic Articulating Aerial Bucket and Body Truck
- i) To Approve the Purchase of Onbase Redaction Software and to Authorize and Direct the Mayor and City Clerk to Sign the Agreement
- j) To Concur with the Execution of a Contract with All City Management Services to Provide Crossing Guard Services
- k) For Award of Bid
 - 1. Overhead Garage Doors and Openers

17) Ordinances

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

RESOLUTION NO. _____

RESOLUTION TO APPROVE APPLICATION AND SET A PUBLIC HEARING
REGARDING THE EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT

WHEREAS:

1. The City of Wyoming Department of Public Safety requests approval to submit an application for the Edward Byrne Memorial Justice Assistance Grant in the amount of \$26,743 to be used toward the procurement of equipment, technology, and other items directly related to basic law enforcement functions.
2. The City of Wyoming would accept \$26,743 in grant funds for the procurement of equipment, technology, and other items directly related to basic law enforcement functions.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council for the City of Wyoming does hereby set a public hearing to be held on Tuesday, September 3, 2019, at 7:01 p.m., for the purpose of receiving public comment on the use of the 2019 Edward Byrne Memorial Justice Grant Funds for program activities.
2. The City of Wyoming sets that the form of the notice to be published as follows:

Notice of Public Hearing
Edward Byrne Memorial Justice Assistance Grant

The City Council of the City of Wyoming will hold a public hearing on Tuesday, September 3, 2019, at 7:01 p.m. in the City Council Chambers for the purpose of receiving comment on the use of the 2019 Edward Byrne Memorial Justice Assistance Grant for program activities. The total amount of the funds to be received for 2019 is \$26,743. For information on the proposed program activities contact Wyoming Police Captain James Maguffee at maguffeej@wyomingmi.gov. Written comments may be submitted to the City Clerk at 1155 28th Street SW, Wyoming, MI 49509.

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

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on August 19, 2019.

 Kelli A. VandenBerg, Wyoming City Clerk

08.19.19
JS/City Manager

RESOLUTION NO. _____

RESOLUTION TO APPROVE AND AUTHORIZE THE MAYOR AND CITY CLERK
TO SIGN AN ASSESSMENT CONSULTING CONTRACT

WHEREAS:

1. After August 1, 2019, the Assessor's Office will be in need of assistance with pending Michigan Tax Tribunal cases through no later than December 31, 2019.
2. The City Manager recommends the City enter into the attached Assessment Consulting Contract with Anne Bouwhuis.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council approves and authorizes the Mayor and City Clerk to sign the attached Assessment Consulting Contract with Anne Bouwhuis.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on August 19, 2019.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENT:

Assessment Consulting Contract

Resolution No. _____

ASSESSMENT CONSULTING CONTRACT

This Assessment Consulting Contract is made as of _____, 2019, between the City of Wyoming, a Michigan municipal corporation the address of which is 1155 28th Street SW, Wyoming, MI 49509, Attn: City Manager (the "City") and Anne Bouwhuis, an individual whose address is 11002 8th AVE SW NW Grand Rapids MI 49 534 ("Ms. Bouwhuis").

RECITALS

- A. Ms. Bouwhuis is a Michigan Advanced Assessing Officer ("MAAO") who served the City for many years and has now entered her well-deserved retirement.
- B. The City's new City Assessor, Scott Engerson (the "Assessor"), who took office July 1, 2019, wishes to be able to consult with Ms. Bouwhuis to take advantage of her experience and expertise.
- C. There are also pending cases before the Michigan Tax Tribunal for which Ms. Bouwhuis prepared the valuation disclosure documents and her testimony at hearings on those cases could be instrumental in the City's defense of the true cash, assessed and tax values being challenged in those cases.
- D. Ms. Bouwhuis is amenable to consulting with the City in accordance with the terms of this Contract.

TERMS AND CONDITIONS

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

1. Services. From the date of her retirement until December 31, 2019, at the request of the City Assessor, City Manager, or City Attorney, Ms. Bouwhuis will provide background, information, Michigan Tax Tribunal testimony, and professional MAAO services as may be requested.

A. The parties anticipate such requests will be intermittent and but may require from Ms. Bouwhuis commitments of significant time over several days to prepare for and testify at Michigan Tax Tribunal hearings. Ms. Bouwhuis and the City Assessor will schedule mutually acceptable times for such consulting. When working at the City's offices Ms. Bouwhuis will be provided limited use of City computers, copiers and other equipment and needed supplies so she need not provide her own. When working outside of city offices, Ms. Bouwhuis will either take from city hall copies of such records as needed to perform her services or be provided limited remote access to the City's electronic records.

B. Ms. Bouwhuis will comply with all applicable (i) laws, rules, regulations, codes, and ordinances, (ii) professional standards, and (iii) orders of governmental agencies, officials and courts, including, without limitation, the State Tax Commission and Michigan Tax Tribunal. Ms. Bouwhuis will perform her services consistent with the standard of practice and care of Michigan MAAOs.

2. Qualifications. Ms. Bouwhuis represents and promises that:

A. She is and will maintain her status as a MAAO and any other licenses, registrations, certifications, memberships, or other approvals needed to perform the services under this Contract.

B. She (i) is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or agency; (ii) within 3-years preceding this Contract she has not been convicted of or have a judgment against them for fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state or local) transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property; (iii) is not presently indicted for or otherwise criminally charged by a governmental entity (federal, state or local) with commission of any of the offenses enumerated in this certification; and (iv) has not within 3-years preceding this Contract had one or more public transactions (federal, state or local) terminated for cause or default.

C. She is not on and will remain off the Federal Excluded Parties List ("EPLS"). If she is on the EPLS when signing or during the term of this Contract, in addition to any other remedies to which it may be entitled the City may recover all moneys paid to Ms. Bouwhuis, all consequential damages (including the loss of grant funding or the required return of grant funding), and reasonable attorney fees (including the costs of in-house counsel) sustained as a result of non-compliance with this representation and promise.

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

E. She has not engaged in and shall refrain from: (i) holding or acquiring an interest that would conflict with this Contract; (ii) engaging in any act that creates an appearance of impropriety with respect to the award or performance of this Contract; (iii) attempting to influence or appearing to influence any City elected or appointed officer or employee by a direct or indirect offer of anything of value; or (iv) paying or agreeing to pay any person any consideration contingent upon the award of this Contract. Ms. Bouwhuis is not 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. Ms. Bouwhuis will immediately notify the City of any change in this circumstance.

3. Independent Contractor.

A. Ms. Bouwhuis is an independent contractor wholly independent of the City. She is not a City officer or employee. She shall not represent herself to be a City officer or employee.

B. The City has no responsibility to supervise or insure Ms. Bouwhuis.

C. Ms. Bouwhuis may provide services for other municipalities provided they do not interfere with her work under this Contract.

4. Payment. For services she provides under this Contract, the City will pay Ms. Bouwhuis the amount of \$75. per hour.

A. Ms. Bouwhuis will submit to the City Assessor monthly invoices for services provided the preceding month billed in 1/10 hour increments. Invoices will provide the date services were performed, a description of the services provided, and the time expended providing the services. Invoices may also include out-of-pocket expenses paid by Ms. Bouwhuis such as any long-distance or other charges for use of her personal cell phone, postage or other costs. The City will also reimburse Ms. Bouwhuis for travel to attend Michigan Tax Tribunal hearings in accordance with the City's standard practice and at the City's standard rates for reimbursing travel expenses submitted by City employees.

B. The City will ordinarily pay Ms. Bouwhuis within 30 days of the date the City receives her invoice. If there is a payment dispute, the City will pay the undisputed portion of the payment and set aside the disputed portion until further information is obtained and the dispute is resolved.

C. Because Ms. Bouwhuis is an independent contractor, the City will not withhold from such payments or otherwise pay any amounts for Medicare or Social Security contributions, federal or state income taxes, insurance, retirement programs or other purposes. Ms. Bouwhuis shall be responsible to making any required for Medicare or Social Security contributions and federal and state income tax payments. Similarly, the City will not provide unemployment compensation, workers disability compensation, medical, dental, life, disability or any other insurance coverage for Ms. Bouwhuis or any of her dependents except to the extent any such insurance has been provided to her as a City retiree. Ms. Bouwhuis will be solely responsible to obtaining any unemployment compensation, workers disability compensation, medical, dental, life, disability or any other insurance coverage she desires for herself or her dependents.

D. Ms. Bouwhuis will, before beginning work complete and return by email to the City Finance Department at accountspayable@wyomingmi.gov an IRS W-9 form (available at www.IRS.gov).

5. Diversity and Inclusion. Ms. Bouwhuis will not discriminate against an employee or an applicant for employment in hiring, any terms and conditions of employment, or matters related to employment because of religion, race, color, national origin, age, sex, height, weight, marital status, partisan considerations, or a disability or genetic information that is unrelated to the employee's or applicant's ability to perform the duties of a particular job or position. Ms. Bouwhuis not discriminate, harass, or retaliate against a member of the public or City officer or employee because of religion, race, color, national origin, age, sex, height, weight, marital status, partisan considerations, or a disability or genetic information unless a federal or state law mandates contrary action.

6. Media Releases. Media releases (including promotional literature and advertisements) about this Contract will not be made without and only in accordance with the City Manager's prior written approval.

7. Document Ownership and Use. Documents Ms. Bouwhuis generates as part of her services under this Contract, whether in paper or electronic format, including, for example and without limitation, any drawings, valuation calculations and documents, and assessment records, will belong to the City and filed in the City Assessor's office.

8. Risk Allocation and Insurance.

A. Ms. Bouwhuis is solely responsible for (i) the means and methods of services provided under this Contract, (ii) her conduct, and (iii) any injuries or property damage she causes while providing services under this Contract. Ms. Bouwhuis will hold the City and the City's officers and employees harmless from and indemnify them for any claims made by persons other than the City for personal injuries or property damage she causes, but not for negligence or wrongdoing of the City or its officers or employees.

B. The City will provide general liability insurance to cover Ms. Bouwhuis while she is in City Hall or while she is otherwise engaged in activities under this Contract. Ms. Bouwhuis will provide her own automobile/motor vehicle insurance and THE CITY WILL NOT PROVIDE AUTOMOBILE/MOTOR VEHICLE INSURANCE covering Ms. Bouwhuis or vehicles she drives. Ms. Bouwhuis shall take steps to ensure her automobile/motor vehicle insurance provides primary coverage. She will provide the City copies certificates of insurance and, if requested, her policies of insurance and any endorsements for her automobile/motor vehicle insurance.

9. General Provisions.

A. This Contract was made in Kent County, Michigan and is the entire agreement between the parties as to its subject matter. It may not be amended or modified except in writing signed by both parties. It shall not be affected by any course of dealing and the waiver of a breach shall not constitute a waiver of a later breach of the same or any other provision. Captions are only for reference only and shall not affect its interpretation but the recitals are an integral part of this Contract. This Contract shall be governed by and interpreted under, Michigan law.

B. Reference by office to any City officer includes that City officer's designee.

C. Ms. Bouwhuis may not assign any of her duties or obligations under this Contract without the City's prior written consent and no other individuals or entities are intended to be beneficiaries of this Contract.

D. Either party may terminate this Contract at any time by written notice to the other party.

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

CITY OF WYOMING

ANNE BOUWHUIS

By: _____
Jack A. Poll, Mayor



Date signed: 8-1, 2019

By: _____
Kelli VandenBerg, Clerk

Date signed: _____, 2019

RESOLUTION NO. _____

RESOLUTION TO AUTHORIZE THE MAYOR AND CITY CLERK TO ENTER INTO A CONTRACT WITH THE MICHIGAN ECONOMIC DEVELOPMENT COUNCIL (MEDC), IN SUPPORT OF THE WYOMING (RE)IMAGINED MASTER PLAN AND TO ACCEPT THE TECHNICAL ASSISTANCE GRANT

WHEREAS:

1. The City of Wyoming is in the process of obtaining Redevelopment Ready Certification (RRC) from the MEDC.
2. The City of Wyoming must submit an updated Master Plan as part of the certification process.
3. The City of Wyoming has begun the process of creating a new Master Plan titled Wyoming (re)Imagined.

NOW, THEREFORE, BE IT RESOLVED:

1. The Wyoming City Council recognizes the total awarded grant amount of \$20,000 and authorizes the Mayor and City Clerk to enter into a contract to accept such funding from the MEDC.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on August 19, 2019.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Staff Report
Contract

Resolution No. _____

STAFF REPORT

Date: August 14, 2019

Subject: Contract & Grant Award for MEDC Technical Assistance Grant for the Wyoming (re)Imagined Master Plan

From: Nicole Hofert, City Planner

Cc: Rebecca Rynbrandt, Director of Community Services

Meeting Date: August 19, 2019

RECOMMENDATION:

It is recommended that the City Council approve a contract with the MEDC to provide funds to offset the costs of the current master planning effort, Wyoming (re)Imagined. An updated master plan is a required component in achieving RRC certification.

The contract includes a grant award in the amount of \$20,000 to provide technical assistance to help with the development of the plan.

COMMUNITY, SAFETY, STEWARDSHIP:

Master Plans help create a unified vision for a community and provide a framework, including policy recommendations and actions, that help to achieve a more equitable community.

A community must have an updated master plan in order to become RRC certified. Attainment of this certification allows the city to pursue various economic development incentives through the MEDC, most notably for mixed-use, mainstreet-type developments such as the projects the City is pursuing at 28 West.

Master Plans help to promote and make recommendations for Quality of Life initiatives, including park investments, sustainability measures, and municipal infrastructure projects.

City staff, developers, residents, and the Planning Commission and City Council use the Master Plan as a guide in assessing development proposals, economic development activities, and other land use and zoning reviews.

DISCUSSION:

The City has been engaged in a process to obtain Redevelopment Ready Certification (RRC) from the Michigan Economic Development Corporation (MEDC) which includes the development of a new City Master Plan. For almost two years, Wyoming has been actively engaged with the MEDC to be recognized as a Redevelopment Ready Community. One of the many requirements of the City in obtaining RRC certification is that the community must submit an updated Master Plan.

The City has entered into an agreement with Houseal and Lavigne in the amount of \$179,178, for the creation and delivery of a Master Plan, which includes an Analysis of Impediments to Fair Housing Choice and Housing Needs Assessment.

The plan is currently on target to be delivered for Planning Commission and City Council review and adoption in Spring 2020.

BUDGET IMPACT:

Budget for the Master Plan has already been allocated, the \$20,000 grant will offset a portion of the approved expense as in income to the General Fund. A budget amendment is not required.

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**MICHIGAN ECONOMIC DEVELOPMENT CORPORATION
GRANT WITH
CITY OF WYOMING**

The Michigan Economic Development Corporation (the "MEDC") enters into a binding agreement (the "Agreement") with City of Wyoming (the "Grantee"). As used in this Agreement, the MEDC and Grantee are sometimes individually referred to as a "Party" and collectively as "Parties."

Grantee: City of Wyoming
1155 28th Street SW
Wyoming, Michigan 49509-0905

I. NATURE OF SERVICES. The purpose of this Agreement is to provide funding to the Grantee to cover a portion of the City of Wyoming's Master Plan project (the "Grant Activities").

II. PERFORMANCE SCHEDULE.

Starting Date: May 15, 2019

Ending Date: April 30, 2020

The term of this Agreement (the "Term") shall commence on the Starting Date and shall continue until the occurrence of an event described in Section VIII of this Agreement.

III. PAYMENT SCHEDULE INFORMATION.

- A.** The MEDC agrees to pay the Grantee a sum not to exceed \$20,000 (the "Grant").
- B.** Payment under this Agreement shall be made by the MEDC to Grantee within thirty (30) days following execution of this Agreement.
- C.** MEDC requires that payments under this Agreement be processed by electronic funds transfer (EFT). Grantee is required to register to receive payments by EFT at the State Integrated Governmental Management Applications (SIGMA) Vendor Self Service (VSS) website (www.michigan.gov/VSSLogin).
- D.** The Grantee agrees that all funds shall be spent on Grant Activities. This Agreement does not commit the MEDC to approve requests for additional funds during or beyond this Grant period.

- IV. **MEDC GRANT ADMINISTRATOR.** The Grantee must communicate with the MEDC representative named below or his or her designee regarding this Agreement. The Grant Administrator may be changed, at any time, at the discretion of the MEDC.

Michelle Parkkonen (the "Grant Administrator")
Michigan Economic Development Corporation
300 North Washington Square
Lansing, Michigan 48913
parkkonenm@michigan.org

- V. **GRANTEE DUTIES.** The Grantee agrees to undertake, perform, and complete all of the following:

- A. Grantee will provide all draft documents to RRC Planner for review; and
- B. Provide a link to final adopted document.

- VI. **RELATIONSHIP OF THE PARTIES.**

- A. Due to the nature of the services described herein and the need for specialized skill and knowledge of Grantee, the MEDC is entering into this Agreement with Grantee. As a result, neither Grantee nor any of its employees or agents is or shall become an employee of the MEDC due to this Agreement.
- B. Grantee will provide the services and achieve the results specified in this Agreement free from the direction or control of the MEDC as to means and methods of performance.
- C. The MEDC is not responsible for any insurance or other fringe benefits, including, but not limited to, Social Security, Worker's Compensation, income tax withholdings, retirement or leave benefits, for Grantee or its employees. Grantee assumes full responsibility for the provision of all such insurance coverage and fringe benefits for its employees.
- D. All tools, supplies, materials, equipment and office space necessary to carry out the services described in this Agreement are the sole responsibility of Grantee unless otherwise specified herein.
- E. Grantee shall retain all control of its employees and staffing decisions independent of the direction and control of the MEDC.

- VII. **ACCESS TO RECORDS.** During the Term, and for Seven years after the Ending Date, the Grantee shall maintain reasonable records, including evidence that the services actually were performed and the identity of all individuals paid for such

services, and shall allow access to those records by the MEDC or their authorized representative at any time during this period.

VIII. TERMINATION. This Agreement shall terminate upon the earlier of the following:

A. The Ending Date.

B. Termination by the MEDC, by giving thirty calendar days prior written notice to the Grantee. In the event that the Legislature of the State of Michigan (the "State"), the State Government, or any State official, commission, authority, body, or employee or the federal government (a) takes any legislative or administrative action which fails to provide, terminates or reduces the funding necessary for this Agreement, or (b) takes any legislative or administrative action, which is unrelated to the source of funding for the Grant, but which affects the MEDC's ability to fund and administer this Agreement and other MEDC programs, provided, however, that in the event such action results in an immediate absence or termination of funding, cancellation may be made effective immediately upon delivery of notice to the Grantee.

C. Termination by the MEDC pursuant to Section XIX of this Agreement.

IX. MEDC EMPLOYEES. The Grantee will not hire any employee of the MEDC to perform any services covered by this agreement without prior written approval from the Chief Executive Officer of the MEDC.

X. CONFIDENTIAL INFORMATION. Except as required by law, the Grantee shall not disclose any information, including targeted business lists, economic development analyses, computer programs, databases and all materials furnished to the Grantee by the MEDC without the prior written consent of the MEDC. All information described in this Section shall be considered "Confidential Information" under this Agreement. Confidential Information does not include: (a) information that is already in the possession of, or is independently developed by, Grantee; (b) becomes publicly available other than through breach of this Agreement; (c) is received by Grantee from a third party with authorization to make such disclosures; or (d) is released with MEDC's written consent.

XI. PUBLICATIONS. Except for Confidential Information, the MEDC hereby agrees that researchers funded with the Grant shall be permitted to present at symposia, national, or regional professional meetings, and to publish in journals, theses or dissertations, or otherwise of their own choosing, the methods and results of their research. Grantee shall at its sole discretion and at its sole cost and expense, prior to publication, seek intellectual property protection for any Inventions (as described in Section XII) if commercially warranted. Grantee shall submit to the MEDC a listing of articles that Grantee has submitted for publication resulting from work performed hereunder in its quarterly report to the MEDC. Grantee shall

acknowledge the financial support received from the MEDC, as appropriate, in any such publication.

XII. INTELLECTUAL PROPERTY RIGHTS. Grantee shall retain ownership to the entire right, title, and interest in any new inventions, improvements, or discoveries developed or produced under this Grant, including, but not limited to, concepts know-how, software, materials, methods, and devices (“Inventions”) and shall have the right to enter into license agreements with industry covering Inventions.

XIII. CONFLICT OF INTEREST. Except as has been disclosed to the MEDC, Grantee affirms that neither the Grantee, nor its Affiliates or their employees has, shall have, or shall acquire any contractual, financial business or other interest, direct or indirect, that would conflict in any manner with Grantee’s performance of its obligations under this Agreement or otherwise create the appearance of impropriety with respect to this Agreement.

Grantee further affirms that neither Grantee nor any affiliates or their employees has accepted or shall accept anything of value based on an understanding that the actions of the Grantee or its affiliates or either’s employees on behalf of the MEDC would be influenced. Grantee shall not attempt to influence any MEDC employee by the direct or indirect offer of anything of value. Grantee also affirms that neither Grantee, nor its Affiliates or their employees has paid or agreed to pay any person, other than bona fide employees and consultants working solely for Grantee or its Affiliate, any fee, commission, percentage, brokerage fee, gift or any other consideration contingent upon or resulting from the execution of this Agreement.

In the event of change in either the interests or services under this Agreement, Grantee will inform the MEDC regarding possible conflicts of interest which may arise as a result of such change. Grantee agrees that conflicts of interest shall be resolved to the MEDC’s satisfaction or the MEDC may terminate this Agreement. As used in this Paragraph, “conflict of interest” shall include, but not be limited to, conflicts of interest that are defined under the laws of the State of Michigan.

XIV. INDEMNIFICATION AND GRANTEE LIABILITY INSURANCE. The Grantee shall indemnify, defend and hold harmless the MEDC, its corporate board of directors, executive committee members including its participants, its officers, agents, and employees (the “Indemnified Persons”) from any damages that it may sustain through the negligence of the Grantee pertaining to the performance of this Agreement.

The Grantee shall maintain such insurance to protect the Indemnified Persons from claims that might arise out of or as a result of the Grantee’s operations; however, Grantee’s indemnification obligation shall not be limited to the limits of liability imposed under the Grantee’s insurance policies. The Grantee will provide and maintain its own general liability, property damage, and workers compensation insurance. The insurance shall be written for not less than any limits of liability

required by law for the Grantee's obligation for indemnification under this Agreement.

- XV. TOTAL AGREEMENT.** This Agreement is the entire agreement between the Parties superseding any prior or concurrent agreements as to the services being provided, and no oral or written terms or conditions which are not contained in this Agreement shall be binding.
- XVI. ASSIGNMENT/TRANSFER/SUBCONTRACTING.** Except as contemplated by this Agreement, the Grantee shall not assign, transfer, convey, subcontract, or otherwise dispose of any duties or rights under this Agreement without the prior specific written consent of the MEDC. Any future successors of the Grantee will be bound by the provisions of this Agreement unless the MEDC otherwise agrees in a specific written consent. The MEDC reserves the right to approve subcontractors for this Agreement and to require the Grantee to replace subcontractors who are found to be unacceptable.
- XVII. COMPLIANCE WITH LAWS.** The Grantee is not and will not during the Term be in violation of any laws, ordinances, regulations, rules, orders, judgments, decrees or other requirements imposed by any governmental authority to which it is subject, and will not fail to obtain any licenses, permits or other governmental authorizations necessary to carry out its duties under this Agreement.
- XVIII. DEFAULT.** The occurrence of any one or more of the following events or conditions shall constitute an "Event of Default" under this Agreement, unless a written waiver of the Event of Default is signed by the MEDC: (a) any representation, covenant, certification or warranty made by the Grantee shall prove incorrect at the time that such representation, covenant, certification or warranty was made in any material respect; (b) the Grantee's failure generally to pay debts as they mature, or the appointment of a receiver or custodian over a material portion of the Grantee's assets, which receiver or custodian is not discharged within Sixty calendar days of such appointment; (c) any voluntary bankruptcy or insolvency proceedings are commenced by the Grantee; (d) any involuntary bankruptcy or insolvency proceedings are commenced against the Grantee, which proceedings are not set aside within Sixty calendar days from the date of institution thereof; (e) any writ of attachment, garnishment, execution, tax lien, or similar writ is issued against any property of the Grantee, which is not removed within Sixty calendar days. (f) the Grantee's failure to comply with the reporting requirements hereof; (g) the Grantee's failure to comply with any obligations or duties contained herein; (h) Grantee's use of the Grant funds for any purpose not contemplated under this Agreement.
- XIX. AVAILABLE REMEDIES.** Upon the occurrence of any one or more of the Events of Default, the MEDC may terminate this Agreement immediately upon notice to the Grantee. The termination of this Agreement is not intended to be the sole and exclusive remedy in case any Event of Default shall occur and each remedy shall be cumulative and in addition to every other provision or remedy given herein or now or

hereafter existing at law or equity.

XX. REIMBURSEMENT. If this Grant is terminated as a result of Section XIX(h) hereof, the MEDC shall have no further obligation to make a Grant disbursement to the Grantee. The Grantee shall reimburse the MEDC for disbursements of the Grant determined to have been expended for purposes other than as set forth herein as well as any Grant funds, which were previously disbursed but not yet expended by the Grantee.

XXI. NOTICES. Any notice, approval, request, authorization, direction or other communication under this Agreement shall be given in writing and shall be deemed to have been delivered and given for all purposes: (a) on the delivery date if delivered by electronic mail or by confirmed facsimile; (b) on the delivery date if delivered personally to the Party to whom the same is directed; (c) One business day after deposit with a commercial overnight carrier, with written verification of receipt; or (d) Three business days after the mailing date, whether or not actually received, if sent by U.S. mail, return receipt requested, postage and charges prepaid, or any other means of rapid mail delivery for which a receipt is available. The notice address for the Parties shall be the address as set forth in this Agreement, with the other relevant notice information, including the recipient for notice and, as applicable, such recipient's fax number or e-mail address, to be as reasonably identified by notifying Party. The MEDC and Grantee may, by notice given hereunder, designate any further or different addresses to which subsequent notices shall be sent.

XXII. AMENDMENT. This Agreement may not be modified or amended except pursuant to a written instrument signed by the Parties.

XXIII. GOVERNING LAW. This Agreement is made and entered into in the State of Michigan and shall in all respects be interpreted, enforced and governed under the laws of the State of Michigan without regard to the doctrines of conflict of laws. The terms of this provision shall survive the termination or cancellation of the Agreement

XXIV. COUNTERPARTS AND COPIES. The Parties hereby agree that the faxed signatures of the Parties to this Agreement shall be as binding and enforceable as original signatures; and that this Agreement may be executed in multiple counterparts with the counterparts together being deemed to constitute the complete agreement of the Parties. Copies (whether photostatic, facsimile or otherwise) of this Agreement may be made and relied upon to the same extent as though such copy was an original.

XXV. JURISDICTION. In connection with any dispute between the Parties under this Agreement, the Parties hereby irrevocably submit to jurisdiction and venue of the Michigan circuit courts of the State of Michigan located in Ingham County. Each Party hereby waives and agrees not to assert, by way of motion as a defense or otherwise in any such action any claim (a) that it is not subject to the jurisdiction of

such court, (b) that the action is brought in an inconvenient forum, (c) that the venue of the suit, action or other proceeding is improper or (d) that this Agreement or the subject matter of this Agreement may not be enforced in or by such court.

XXVI. SEVERABILITY. All of the clauses of this Agreement are distinct and severable and, if any clause shall be deemed illegal, void or unenforceable, it shall not affect the validity, legality or enforceability of any other clause or provision of this Agreement. To the extent possible, the illegal, void or unenforceable provision shall be revised to the extent required to render the Agreement enforceable and valid, and to the fullest extent possible, the rights and responsibilities of the Parties shall be interpreted and enforced to preserve the Agreement and the intent of the Parties. Provided, if application of this section should materially and adversely alter or affect a Party's rights or obligations under this Agreement, the Parties agree to negotiate in good faith to develop a structure that is as nearly the same structure as the original Agreement (as may be amended from time to time) without regard to such invalidity, illegality or unenforceability.

XXVII. PUBLICITY. At the request and expense of the MEDC, the Grantee will cooperate with the MEDC to promote the Grant Activities through one or more of the placement of a sign, plaque, media coverage or other public presentation at the project or other location acceptable to the Parties.

XXVIII. SURVIVAL. The terms and conditions of sections VII, VIII, XI, XV, XVII, XXIV, XXVI and XXVII shall survive termination of this Agreement.

(remainder of page intentionally left blank)

The signatories below warrant that they are empowered to enter into this Agreement.

GRANTEE ACCEPTANCE:

City of Wyoming

Dated: _____

By: Jack Poll
Its: Mayor

By: Kelli Vandenberg
Its: Clerk

MEDC ACCEPTANCE:

Michigan Economic Development Corporation

Dated: _____

By: Christin Armstrong
Its: Secretary

RESOLUTION NO. _____

RESOLUTION TO AWARD A CONTRACT FOR THE
2019 WYOMING RESURFACING PROGRAM

WHEREAS:

1. On July 9, 2019, the City received six (6) bids for the 2019 Resurfacing Program with Rieth-Riley Construction Co., Inc., submitting the low bid of \$4,460,627.
2. The bid is \$404,238 or 10% above the Engineer's estimate and is in the best interest of the City to perform the aforementioned work.
3. The scope of the resurfacing program has been reduced, thereby reducing the contract amount to \$3,935,395.71.
4. The costs for this project can be financed from the Major Street Fund as follows:

Resurfacing Contract	\$4,003,255.75
Engineering & Contingencies	<u>\$446,744.25</u>
Project Cost	\$4,450,000.00
Major Street Fund	\$4,200,000
Motor Pool Fund	\$100,000
City of Grandville Cost Sharing	<u>\$150,000</u>
Total Project Funding	\$4,450,000

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council hereby awards the 2019 Wyoming Resurfacing Program to Rieth-Riley Construction Co., Inc. in the amount of \$3,935,395.71.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on August 19, 2019.

 Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Staff Report

Bid Tab

Contract

Location Map

Resolution No. _____

STAFF REPORT

Date: August 14, 2019
Subject: 2019 Wyoming Resurfacing Program – Award of Bid
From: Jeffrey Oonk, Senior Civil Engineer
Meeting Date: August 19, 2019

RECOMMENDATION:

It is recommended City Council award the 2019 Wyoming Resurfacing Program to Rieth-Riley Construction Co., Inc. in the amount of \$3,935,395.71.

COMMUNITY, SAFETY, STEWARDSHIP:

Street resurfacing maintains the infrastructure that allows for safe, convenient and efficient vehicular travel within Wyoming.

DISCUSSION:

Part of the City of Wyoming’s annual major maintenance of streets includes rotomilling and resurfacing asphalt pavement. The 2019 Wyoming Resurfacing Program includes locations throughout the City as shown on the attached map. These streets are currently in need of repair to extend the life of the pavement section.

On July 9, 2019, the City of Wyoming received six (6) bids for the 2019 Wyoming Resurfacing Program. Rieth-Riley Construction Co., Inc. submitted the low bid of \$4,460,627 which is 10% above the Engineer’s Estimate.

BUDGET IMPACT:

The project costs are:

Resurfacing Contract (reduced scope)	\$3,935,395.71
Engineering & Contingencies	<u>\$464,604.29</u>
Total Project Cost	\$4,400,000.00

The project funding is:

Major Street Account No. 202-441-46300-972.510	\$4,150,000
Motor Pool Capital Outlay Account No. 662-441-58500-977.000	\$100,000
City of Grandville Cost Sharing	<u>\$150,000</u>
Total Project Funding	\$4,400,000

Bid Comparison

Contract ID: 2019.6
Description: Local Resurfacing
Location: 2019 Local Resurfacing
Projects(s): 2019.6

Rank	Bidder	Total Bid	% Over Low	% Over Est.
0	ENGINEER'S ESTIMATE	\$4,056,389.00	-9.06%	0.00%
1	(_21) Rieth-Riley Construction	\$4,460,627.00	0.00%	9.96%
2	(08551) Superior Asphalt, Inc.	\$4,545,545.00	1.90%	12.05%
3	(_23) Michigan Paving & Materials Co.	\$4,689,621.93	5.13%	15.61%
4	(_9) Kamminga & Roodvoets, Inc	\$4,741,958.98	6.30%	16.90%
5	(_1) Nagel Construction, Inc.	\$4,912,959.58	0.00%	*** Incomplete ***
6	(_14) Wyoming Excavators, Inc.	\$4,929,472.00	10.51%	21.52%

Line	Pay Item Code	Quantity	Units	(0) ENGINEER'S ESTIMATE		(1) Rieth-Riley Construction		(2) Superior Asphalt, Inc.	
				Bid Price	Total	Bid Price	Total	Bid Price	Total
0001	1000	1	LSUM	\$150,000.00	\$150,000.00	\$174,533.55	\$174,533.55	\$92,450.00	\$92,450.00
	MOBILIZATION								
0002	1008	9,210	Ft	\$8.00	\$73,680.00	\$12.00	\$110,520.00	\$8.25	\$75,982.50
	REMOVE CURB AND GUTTER								
0003	1035	3,563	Syd	\$8.00	\$28,504.00	\$12.00	\$42,756.00	\$11.00	\$39,193.00
	REMOVE SIDEWALK								
0004	1045	2,335	Syd	\$8.00	\$18,680.00	\$12.00	\$28,020.00	\$9.00	\$21,015.00
	REMOVE PAVEMENT								
0005	1142	391	Ea	\$250.00	\$97,750.00	\$250.00	\$97,750.00	\$261.00	\$102,051.00
	REMOVE EX COVER AND CASTINGS								
0006	1200	21,160	Syd	\$1.20	\$25,392.00	\$0.83	\$17,562.80	\$1.05	\$22,218.00
	COLD MILL - DEPTH PER PLAN 0"-1 1/4"								
0007	1200	24,194	Syd	\$1.75	\$42,339.50	\$1.00	\$24,194.00	\$1.50	\$36,291.00
	COLD MILL - DEPTH PER PLAN 6 inch								
0008	1208	18,930	Syd	\$1.20	\$22,716.00	\$0.75	\$14,197.50	\$1.10	\$20,823.00
	COLD MILL - 2"								
0009	1212	109,492	Syd	\$1.40	\$153,288.80	\$0.75	\$82,119.00	\$1.00	\$109,492.00
	COLD MILL - 3"								
0010	1220	9,248	Syd	\$1.50	\$13,872.00	\$0.92	\$8,508.16	\$1.25	\$11,560.00
	COLD MILL - 4.5"								
0011	4022	3	Ea	\$500.00	\$1,500.00	\$900.00	\$2,700.00	\$1,200.00	\$3,600.00
	CONCRETE FLAT TOP ON EX DRAINAGE STRUCTURE								
0012	4031	334	Ea	\$375.00	\$125,250.00	\$450.00	\$150,300.00	\$375.00	\$125,250.00
	COVER AND CASTING								
0013	4033	14	Ea	\$600.00	\$8,400.00	\$500.00	\$7,000.00	\$600.00	\$8,400.00
	CATCH BASIN COVER AND CASTING - DOUBLE								
0014	5065	27	Ea	\$420.00	\$11,340.00	\$300.00	\$8,100.00	\$500.00	\$13,500.00
	ADJUST EX VALVE BOX								
0015	5067	8	Ea	\$135.00	\$1,080.00	\$200.00	\$1,600.00	\$100.00	\$800.00
	NEW VALVE BOX, TOP ONLY								
0016	6210	18,450	Sft	\$4.10	\$75,645.00	\$3.40	\$62,730.00	\$3.75	\$69,187.50
	SIDEWALK RAMP, 4"								

Line	Pay Item Code	Quantity	Units	(0) ENGINEER'S ESTIMATE		(1) Rieth-Riley Construction		(2) Superior Asphalt, Inc.	
				Bid Price	Total	Bid Price	Total	Bid Price	Total
0017	6217	1,696	Ft	\$50.00	\$84,800.00	\$72.00	\$122,112.00	\$60.00	\$101,760.00
	DETECTABLE WARNING PLATES								
0018	6220	40	Ft	\$24.00	\$960.00	\$16.00	\$640.00	\$22.00	\$880.00
	CONCRETE GUTTER, 48"								
0019	6240	9,809	Ft	\$18.00	\$176,562.00	\$14.00	\$137,326.00	\$16.00	\$156,944.00
	CONCRETE CURB AND GUTTER, 30"								
0020	6270	12,045	Sft	\$4.00	\$48,180.00	\$2.60	\$31,317.00	\$3.30	\$39,748.50
	CONCRETE SIDEWALK, 4"								
0021	6289	44	Ea	\$100.00	\$4,400.00	\$225.00	\$9,900.00	\$360.00	\$15,840.00
	CASTING INSERTS								
0022	6295	467	Ea	\$340.00	\$158,780.00	\$350.00	\$163,450.00	\$375.00	\$175,125.00
	ADJUST CASTINGS								
0023	6305	110	Ton	\$140.00	\$15,400.00	\$175.00	\$19,250.00	\$160.00	\$17,600.00
	HAND PATCHING								
0024	6325	1,746	Ton	\$65.00	\$113,490.00	\$104.32	\$182,142.72	\$80.00	\$139,680.00
	ULTRA THIN LOW VOLUME								
0025	6348	336	Ton	\$70.00	\$23,520.00	\$83.28	\$27,982.08	\$95.00	\$31,920.00
	HMA MIXTURE - 5E3								
0026	6354	16,353	Ton	\$65.00	\$1,062,945.00	\$76.29	\$1,247,570.37	\$80.00	\$1,308,240.00
	HMA MIXTURE - 5E1								
0027	6362	19,628	Ton	\$63.00	\$1,236,564.00	\$73.58	\$1,444,228.24	\$75.00	\$1,472,100.00
	HMA MIXTURE - 3C								
0028	6430	534	Ft	\$10.00	\$5,340.00	\$10.00	\$5,340.00	\$10.00	\$5,340.00
	PAVT MRKG, INLAID COLD PLASTIC, 24" CROSSWALK								
0029	6431	320	Ft	\$10.00	\$3,200.00	\$10.00	\$3,200.00	\$10.00	\$3,200.00
	PAVT MRKG, INLAID COLD PLASTIC, 24" STOP BAR								
0030	6441	13	Ea	\$150.00	\$1,950.00	\$150.00	\$1,950.00	\$150.00	\$1,950.00
	PAVT MRKG, INLAID COLD PLASTIC, LEFT TURN ARROW								
0031	6590	3,750	Ft	\$0.10	\$375.00	\$0.10	\$375.00	\$0.10	\$375.00
	PAVT MRKG, WATERBORNE, 4" WHITE								

Line	Pay Item Code	Quantity	Units	(0) ENGINEER'S ESTIMATE		(1) Rieth-Riley Construction		(2) Superior Asphalt, Inc.	
				Bid Price	Total	Bid Price	Total	Bid Price	Total
0032	6592	18,210	Ft	\$0.10	\$1,821.00	\$0.10	\$1,821.00	\$0.10	\$1,821.00
	PAVT MRKG, WATERBORNE, 4" YELLOW								
0033	6594	29,197	Ft	\$0.10	\$2,919.70	\$0.14	\$4,087.58	\$0.14	\$4,087.58
	PAVT MRKG, WATERBORNE, 6" WHITE								
0034	6594	100	Ft	\$0.10	\$10.00	\$0.14	\$14.00	\$0.14	\$14.00
	PAVT MRKG, WATERBORNE, 6" WHITE								
0035	6600	50	Ea	\$25.00	\$1,250.00	\$95.00	\$4,750.00	\$95.00	\$4,750.00
	PAVT MRKG, WATERBORNE, BIKE SYMBOL								
0036	6601	50	Ea	\$25.00	\$1,250.00	\$95.00	\$4,750.00	\$95.00	\$4,750.00
	PAVT MRKG, WATERBORNE, BIKE ARROW								
0037	6602	11	Ea	\$50.00	\$550.00	\$150.00	\$1,650.00	\$150.00	\$1,650.00
	PAVT MRKG, WATERBORNE, SHARROW SYMBOL								
0038	7005	7,690	Syd	\$5.00	\$38,450.00	\$6.00	\$46,140.00	\$11.00	\$84,590.00
	TOP SOIL 4" SCREENED								
0039	7015	7,690	Syd	\$1.50	\$11,535.00	\$1.00	\$7,690.00	\$1.75	\$13,457.50
	CLASS A SEED HYDRO-MULCH								
0040	8000	1	LSUM	\$100,000.00	\$100,000.00	\$35,000.00	\$35,000.00	\$66,259.42	\$66,259.42
	FLAG CONTROL								
0041	8010	1	LSUM	\$75,000.00	\$75,000.00	\$83,950.00	\$83,950.00	\$100,250.00	\$100,250.00
	MINOR TRAFFIC CONTROL DEVICES								
0042	8115	600	Ea	\$19.00	\$11,400.00	\$23.00	\$13,800.00	\$23.00	\$13,800.00
	42 INCH CHANNELIZING DEVICE - FURNISHED								
0043	8116	600	Ea	\$1.00	\$600.00	\$1.00	\$600.00	\$1.00	\$600.00
	42 INCH CHANNELIZING DEVICE - OPERATED								
0044	8120	6	Ea	\$850.00	\$5,100.00	\$950.00	\$5,700.00	\$950.00	\$5,700.00
	LIGHTED ARROW TYPE A - FURNISHED								
0045	8121	6	Ea	\$100.00	\$600.00	\$250.00	\$1,500.00	\$250.00	\$1,500.00
	LIGHTED ARROW TYPE A - OPERATED								
0046	8122	4	Ea	\$4,500.00	\$18,000.00	\$4,450.00	\$17,800.00	\$4,450.00	\$17,800.00
	MESSAGE BOARD - FURNISHED								
0047	8123	4	Ea	\$500.00	\$2,000.00	\$500.00	\$2,000.00	\$500.00	\$2,000.00
	MESSAGE BOARD - OPERATED								

Line	Pay Item Code	Quantity	Units	(0) ENGINEER'S ESTIMATE		(1) Rieth-Riley Construction		(2) Superior Asphalt, Inc.	
				Bid Price	Total	Bid Price	Total	Bid Price	Total
Bid Totals:					\$4,056,389.00		\$4,460,627.00		\$4,545,545.00

Line	Pay Item Code	Quantity	Units	(3) Michigan Paving & Materials Co.		(4) Kamminga & Roodvoets, Inc		(5) Nagel Construction, Inc.	
				Bid Price	Total	Bid Price	Total	Bid Price	Total
0001	1000 MOBILIZATION	1	LSUM	\$185,000.00	\$185,000.00	\$236,000.00	\$236,000.00	\$0.00	\$0.00
0002	1008 REMOVE CURB AND GUTTER	9,210	Ft	\$12.00	\$110,520.00	\$8.00	\$73,680.00	\$10.50	\$96,705.00
0003	1035 REMOVE SIDEWALK	3,563	Syd	\$12.00	\$42,756.00	\$8.80	\$31,354.40	\$22.00	\$78,386.00
0004	1045 REMOVE PAVEMENT	2,335	Syd	\$12.00	\$28,020.00	\$9.50	\$22,182.50	\$18.00	\$42,030.00
0005	1142 REMOVE EX COVER AND CASTINGS	391	Ea	\$250.00	\$97,750.00	\$278.00	\$108,698.00	\$150.00	\$58,650.00
0006	1200 COLD MILL - DEPTH PER PLAN 0"-1 1/4"	21,160	Syd	\$4.65	\$98,394.00	\$1.26	\$26,661.60	\$1.05	\$22,218.00
0007	1200 COLD MILL - DEPTH PER PLAN 6 inch	24,194	Syd	\$5.50	\$133,067.00	\$1.43	\$34,597.42	\$1.50	\$36,291.00
0008	1208 COLD MILL - 2"	18,930	Syd	\$2.85	\$53,950.50	\$1.20	\$22,716.00	\$1.10	\$20,823.00
0009	1212 COLD MILL - 3"	109,492	Syd	\$5.25	\$574,833.00	\$1.20	\$131,390.40	\$1.00	\$109,492.00
0010	1220 COLD MILL - 4.5"	9,248	Syd	\$5.35	\$49,476.80	\$1.35	\$12,484.80	\$1.25	\$11,560.00
0011	4022 CONCRETE FLAT TOP ON EX DRAINAGE STRUCTURE	3	Ea	\$900.00	\$2,700.00	\$850.00	\$2,550.00	\$750.00	\$2,250.00
0012	4031 COVER AND CASTING	334	Ea	\$450.00	\$150,300.00	\$430.00	\$143,620.00	\$450.00	\$150,300.00
0013	4033 CATCH BASIN COVER AND CASTING - DOUBLE	14	Ea	\$500.00	\$7,000.00	\$545.00	\$7,630.00	\$800.00	\$11,200.00
0014	5065 ADJUST EX VALVE BOX	27	Ea	\$300.00	\$8,100.00	\$435.00	\$11,745.00	\$500.00	\$13,500.00
0015	5067 NEW VALVE BOX, TOP ONLY	8	Ea	\$200.00	\$1,600.00	\$145.00	\$1,160.00	\$150.00	\$1,200.00
0016	6210 SIDEWALK RAMP, 4"	18,450	Sft	\$3.40	\$62,730.00	\$4.35	\$80,257.50	\$3.75	\$69,187.50

Line	Pay Item Code	Quantity	Units	(3) Michigan Paving & Materials Co.		(4) Kamminga & Roodvoets, Inc		(5) Nagel Construction, Inc.	
				Bid Price	Total	Bid Price	Total	Bid Price	Total
0017	6217	1,696	Ft	\$72.00	\$122,112.00	\$42.00	\$71,232.00	\$60.00	\$101,760.00
	DETECTABLE WARNING PLATES								
0018	6220	40	Ft	\$30.00	\$1,200.00	\$26.00	\$1,040.00	\$22.00	\$880.00
	CONCRETE GUTTER, 48"								
0019	6240	9,809	Ft	\$15.00	\$147,135.00	\$25.00	\$245,225.00	\$16.00	\$156,944.00
	CONCRETE CURB AND GUTTER, 30"								
0020	6270	12,045	Sft	\$2.60	\$31,317.00	\$4.35	\$52,395.75	\$3.30	\$39,748.50
	CONCRETE SIDEWALK, 4"								
0021	6289	44	Ea	\$225.00	\$9,900.00	\$290.00	\$12,760.00	\$400.00	\$17,600.00
	CASTING INSERTS								
0022	6295	467	Ea	\$350.00	\$163,450.00	\$360.00	\$168,120.00	\$800.00	\$373,600.00
	ADJUST CASTINGS								
0023	6305	110	Ton	\$180.24	\$19,826.40	\$175.00	\$19,250.00	\$160.00	\$17,600.00
	HAND PATCHING								
0024	6325	1,746	Ton	\$61.18	\$106,820.28	\$92.72	\$161,889.12	\$88.00	\$153,648.00
	ULTRA THIN LOW VOLUME								
0025	6348	336	Ton	\$62.10	\$20,865.60	\$81.50	\$27,384.00	\$95.00	\$31,920.00
	HMA MIXTURE - 5E3								
0026	6354	16,353	Ton	\$55.55	\$908,409.15	\$76.83	\$1,256,400.99	\$83.00	\$1,357,299.00
	HMA MIXTURE - 5E1								
0027	6362	19,628	Ton	\$56.85	\$1,115,851.80	\$74.14	\$1,455,219.92	\$80.00	\$1,570,240.00
	HMA MIXTURE - 3C								
0028	6430	534	Ft	\$12.00	\$6,408.00	\$10.00	\$5,340.00	\$10.00	\$5,340.00
	PAVT MRKG, INLAID COLD PLASTIC, 24" CROSSWALK								
0029	6431	320	Ft	\$12.00	\$3,840.00	\$10.00	\$3,200.00	\$10.00	\$3,200.00
	PAVT MRKG, INLAID COLD PLASTIC, 24" STOP BAR								
0030	6441	13	Ea	\$150.00	\$1,950.00	\$150.00	\$1,950.00	\$150.00	\$1,950.00
	PAVT MRKG, INLAID COLD PLASTIC, LEFT TURN ARROW								
0031	6590	3,750	Ft	\$0.10	\$375.00	\$0.10	\$375.00	\$0.10	\$375.00
	PAVT MRKG, WATERBORNE, 4" WHITE								

Line	Pay Item Code	Quantity	Units	(3) Michigan Paving & Materials Co.		(4) Kamminga & Roodvoets, Inc		(5) Nagel Construction, Inc.	
				Bid Price	Total	Bid Price	Total	Bid Price	Total
0032	6592	18,210	Ft	\$0.07	\$1,274.70	\$0.10	\$1,821.00	\$0.10	\$1,821.00
	PAVT MRKG, WATERBORNE, 4" YELLOW								
0033	6594	29,197	Ft	\$0.10	\$2,919.70	\$0.14	\$4,087.58	\$0.14	\$4,087.58
	PAVT MRKG, WATERBORNE, 6" WHITE								
0034	6594	100	Ft	\$1.00	\$100.00	\$0.14	\$14.00	\$0.14	\$14.00
	PAVT MRKG, WATERBORNE, 6" WHITE								
0035	6600	50	Ea	\$40.00	\$2,000.00	\$95.00	\$4,750.00	\$95.00	\$4,750.00
	PAVT MRKG, WATERBORNE, BIKE SYMBOL								
0036	6601	50	Ea	\$40.00	\$2,000.00	\$95.00	\$4,750.00	\$95.00	\$4,750.00
	PAVT MRKG, WATERBORNE, BIKE ARROW								
0037	6602	11	Ea	\$40.00	\$440.00	\$150.00	\$1,650.00	\$150.00	\$1,650.00
	PAVT MRKG, WATERBORNE, SHARROW SYMBOL								
0038	7005	7,690	Syd	\$6.00	\$46,140.00	\$7.00	\$53,830.00	\$9.00	\$69,210.00
	TOP SOIL 4" SCREENED								
0039	7015	7,690	Syd	\$1.00	\$7,690.00	\$2.00	\$15,380.00	\$2.00	\$15,380.00
	CLASS A SEED HYDRO-MULCH								
0040	8000	1	LSUM	\$185,000.00	\$185,000.00	\$40,000.00	\$40,000.00	\$65,000.00	\$65,000.00
	FLAG CONTROL								
0041	8010	1	LSUM	\$135,000.00	\$135,000.00	\$164,107.00	\$164,107.00	\$149,000.00	\$149,000.00
	MINOR TRAFFIC CONTROL DEVICES								
0042	8115	600	Ea	\$23.00	\$13,800.00	\$12.00	\$7,200.00	\$23.00	\$13,800.00
	42 INCH CHANNELIZING DEVICE - FURNISHED								
0043	8116	600	Ea	\$1.00	\$600.00	\$1.00	\$600.00	\$1.00	\$600.00
	42 INCH CHANNELIZING DEVICE - OPERATED								
0044	8120	6	Ea	\$950.00	\$5,700.00	\$800.00	\$4,800.00	\$950.00	\$5,700.00
	LIGHTED ARROW TYPE A - FURNISHED								
0045	8121	6	Ea	\$250.00	\$1,500.00	\$10.00	\$60.00	\$250.00	\$1,500.00
	LIGHTED ARROW TYPE A - OPERATED								
0046	8122	4	Ea	\$4,450.00	\$17,800.00	\$2,500.00	\$10,000.00	\$4,450.00	\$17,800.00
	MESSAGE BOARD - FURNISHED								
0047	8123	4	Ea	\$500.00	\$2,000.00	\$100.00	\$400.00	\$500.00	\$2,000.00
	MESSAGE BOARD - OPERATED								

Line	Pay Item Code	Quantity	Units	(3) Michigan Paving & Materials Co.		(4) Kamminga & Roodvoets, Inc		(5) Nagel Construction, Inc.	
				Bid Price	Total	Bid Price	Total	Bid Price	Total
Description									
Bid Totals:					\$4,689,621.93		\$4,741,958.98		\$4,912,959.58

Line	Pay Item Code	Quantity	Units	(6) Wyoming Excavators, Inc.		Bid Price	Total	Bid Price	Total	Bid Price	Total
Description				Bid Price	Total						
0001	1000	1	LSUM	\$245,000.00	\$245,000.00			\$0.00			\$0.00
	MOBILIZATION										
0002	1008	9,210	Ft	\$9.00	\$82,890.00			\$0.00			\$0.00
	REMOVE CURB AND GUTTER										
0003	1035	3,563	Syd	\$9.00	\$32,067.00			\$0.00			\$0.00
	REMOVE SIDEWALK										
0004	1045	2,335	Syd	\$9.00	\$21,015.00			\$0.00			\$0.00
	REMOVE PAVEMENT										
0005	1142	391	Ea	\$150.00	\$58,650.00			\$0.00			\$0.00
	REMOVE EX COVER AND CASTINGS										
0006	1200	21,160	Syd	\$1.40	\$29,624.00			\$0.00			\$0.00
	COLD MILL - DEPTH PER PLAN 0"-1 1/4"										
0007	1200	24,194	Syd	\$1.50	\$36,291.00			\$0.00			\$0.00
	COLD MILL - DEPTH PER PLAN 6 inch										
0008	1208	18,930	Syd	\$1.40	\$26,502.00			\$0.00			\$0.00
	COLD MILL - 2"										
0009	1212	109,492	Syd	\$1.40	\$153,288.80			\$0.00			\$0.00
	COLD MILL - 3"										
0010	1220	9,248	Syd	\$1.60	\$14,796.80			\$0.00			\$0.00
	COLD MILL - 4.5"										
0011	4022	3	Ea	\$505.00	\$1,515.00			\$0.00			\$0.00
	CONCRETE FLAT TOP ON EX DRAINAGE STRUCTURE										
0012	4031	334	Ea	\$350.00	\$116,900.00			\$0.00			\$0.00
	COVER AND CASTING										
0013	4033	14	Ea	\$550.00	\$7,700.00			\$0.00			\$0.00
	CATCH BASIN COVER AND CASTING - DOUBLE										
0014	5065	27	Ea	\$618.00	\$16,686.00			\$0.00			\$0.00
	ADJUST EX VALVE BOX										
0015	5067	8	Ea	\$80.00	\$640.00			\$0.00			\$0.00
	NEW VALVE BOX, TOP ONLY										
0016	6210	18,450	Sft	\$4.00	\$73,800.00			\$0.00			\$0.00
	SIDEWALK RAMP, 4"										

Line	Pay Item Code	Quantity	Units	(6) Wyoming Excavators, Inc.		Bid Price	Total	Bid Price	Total
				Bid Price	Total				
0017	6217	1,696	Ft	\$62.00	\$105,152.00			\$0.00	\$0.00
	DETECTABLE WARNING PLATES								
0018	6220	40	Ft	\$22.00	\$880.00			\$0.00	\$0.00
	CONCRETE GUTTER, 48"								
0019	6240	9,809	Ft	\$16.00	\$156,944.00			\$0.00	\$0.00
	CONCRETE CURB AND GUTTER, 30"								
0020	6270	12,045	Sft	\$4.00	\$48,180.00			\$0.00	\$0.00
	CONCRETE SIDEWALK, 4"								
0021	6289	44	Ea	\$407.00	\$17,908.00			\$0.00	\$0.00
	CASTING INSERTS								
0022	6295	467	Ea	\$610.00	\$284,870.00			\$0.00	\$0.00
	ADJUST CASTINGS								
0023	6305	110	Ton	\$180.00	\$19,800.00			\$0.00	\$0.00
	HAND PATCHING								
0024	6325	1,746	Ton	\$94.00	\$164,124.00			\$0.00	\$0.00
	ULTRA THIN LOW VOLUME								
0025	6348	336	Ton	\$83.00	\$27,888.00			\$0.00	\$0.00
	HMA MIXTURE - 5E3								
0026	6354	16,353	Ton	\$79.00	\$1,291,887.00			\$0.00	\$0.00
	HMA MIXTURE - 5E1								
0027	6362	19,628	Ton	\$77.00	\$1,511,356.00			\$0.00	\$0.00
	HMA MIXTURE - 3C								
0028	6430	534	Ft	\$11.00	\$5,874.00			\$0.00	\$0.00
	PAVT MRKG, INLAID COLD PLASTIC, 24" CROSSWALK								
0029	6431	320	Ft	\$11.00	\$3,520.00			\$0.00	\$0.00
	PAVT MRKG, INLAID COLD PLASTIC, 24" STOP BAR								
0030	6441	13	Ea	\$165.00	\$2,145.00			\$0.00	\$0.00
	PAVT MRKG, INLAID COLD PLASTIC, LEFT TURN ARROW								
0031	6590	3,750	Ft	\$0.15	\$562.50			\$0.00	\$0.00
	PAVT MRKG, WATERBORNE, 4" WHITE								

Line	Pay Item Code	Quantity	Units	(6) Wyoming Excavators, Inc.					
Description				Bid Price	Total	Bid Price	Total	Bid Price	Total
0032	6592	18,210	Ft	\$0.15	\$2,731.50		\$0.00		\$0.00
	PAVT MRKG, WATERBORNE, 4" YELLOW								
0033	6594	29,197	Ft	\$0.20	\$5,839.40		\$0.00		\$0.00
	PAVT MRKG, WATERBORNE, 6" WHITE								
0034	6594	100	Ft	\$0.20	\$20.00		\$0.00		\$0.00
	PAVT MRKG, WATERBORNE, 6" WHITE								
0035	6600	50	Ea	\$100.00	\$5,000.00		\$0.00		\$0.00
	PAVT MRKG, WATERBORNE, BIKE SYMBOL								
0036	6601	50	Ea	\$100.00	\$5,000.00		\$0.00		\$0.00
	PAVT MRKG, WATERBORNE, BIKE ARROW								
0037	6602	11	Ea	\$155.00	\$1,705.00		\$0.00		\$0.00
	PAVT MRKG, WATERBORNE, SHARROW SYMBOL								
0038	7005	7,690	Syd	\$6.00	\$46,140.00		\$0.00		\$0.00
	TOP SOIL 4" SCREENED								
0039	7015	7,690	Syd	\$2.00	\$15,380.00		\$0.00		\$0.00
	CLASS A SEED HYDRO-MULCH								
0040	8000	1	LSUM	\$39,650.00	\$39,650.00		\$0.00		\$0.00
	FLAG CONTROL								
0041	8010	1	LSUM	\$206,450.00	\$206,450.00		\$0.00		\$0.00
	MINOR TRAFFIC CONTROL DEVICES								
0042	8115	600	Ea	\$24.00	\$14,400.00		\$0.00		\$0.00
	42 INCH CHANNELIZING DEVICE - FURNISHED								
0043	8116	600	Ea	\$2.00	\$1,200.00		\$0.00		\$0.00
	42 INCH CHANNELIZING DEVICE - OPERATED								
0044	8120	6	Ea	\$1,000.00	\$6,000.00		\$0.00		\$0.00
	LIGHTED ARROW TYPE A - FURNISHED								
0045	8121	6	Ea	\$250.00	\$1,500.00		\$0.00		\$0.00
	LIGHTED ARROW TYPE A - OPERATED								
0046	8122	4	Ea	\$4,500.00	\$18,000.00		\$0.00		\$0.00
	MESSAGE BOARD - FURNISHED								
0047	8123	4	Ea	\$500.00	\$2,000.00		\$0.00		\$0.00
	MESSAGE BOARD - OPERATED								

Line	Pay Item Code	Quantity	Units	(6) Wyoming Excavators, Inc.					
Description				Bid Price	Total	Bid Price	Total	Bid Price	Total
Bid Totals:					\$4,929,472.00				

CONTRACT

THIS CONTRACT AWARDED on the 19th day of August 2019 by and between the CITY OF WYOMING, Kent County, Michigan, party of the first part, hereinafter called the "City" and

**RIETH-RILEY CONSTRUCTION COMPANY, INC.
2100 CHICAGO DRIVE, SW
WYOMING, MICHIGAN 49519**

party of the second part, hereinafter called the "Contractor."

Witnesseth, that the City and the Contractor, for the considerations hereinafter mentioned, agree as follows:

ARTICLE I - THE CONTRACT

The following shall be deemed to be part of this Contract:

- A. Performance Bond, Payment Bond, and Resolution from Board of Directors**
- B. Standard Terms and Conditions (from Bid)**
- C. Bid Proposal Form (from Bid)**
- D. Award of Bid**
- E. Certificate of Insurance**
- F. Subcontract Provision (from Bid)**
- G. Letter of Credit (5% of Annual Contract Amount)**
- H. All Provisions required by law to be inserted in this contract, whether actually inserted or not.**
- I. Bid Specifications (from Bid)**
- J. Additional Bid Specifications (from Bid)**
- K. Special Specifications of the Project (from Bid)**

ARTICLE II - SCOPE OF THE WORK - SUBJECT MATTER

The Contractor hereby agrees to furnish all of the materials and all of the equipment and labor necessary to perform all of the work shown on the drawing and described in the specifications for the project entitled:

2019 WYOMING RESURFACING PROGRAM

all in accordance with the requirements and provisions of the Contract. The Contractor likewise agrees to do all incidental and appurtenant work in connection therewith.

ARTICLE III - TIME OF COMPLETION

The work to be performed under this contract shall be completed on or before June 1, 2020. Should the Contractor be obstructed or delayed in the prosecution or completion of his work by any act, neglect or default of the City, then the time herein fixed for completion of the work shall be extended for a period equivalent to the time lost by reason of such delay for the causes herein mentioned. The duration of such extension shall be determined by the City Manager or his authorized representative.

ARTICLE IV - LIQUIDATED DAMAGES

Should the work under this Agreement not be finished within the time specified, the City is hereby authorized to deduct out of the money which may be due or become due to the Contractor under this Agreement, as damages for the noncompletion of the work aforesaid, within the time hereinbefore stipulated for its completion, the sum of One Thousand Five Hundred Fifty Dollars (\$1,550.00) for each calendar day by which the Contractor shall fail to complete the work or any part thereof in accordance with the provisions hereof, and such liquidated damages shall not be considered as a penalty. It is understood that the City shall not forfeit its right to liquidated damages in the event that delay is partly caused by it. In this event, said damages shall be apportioned so that each day of delay attributable to the City shall be subtracted from the total days of delay, and the Contractor shall pay liquidated damages for the remainder.

ARTICLE V - THE CONTRACT SUM

The City agrees to pay and the Contractor agrees to accept the sum of:

THREE MILLION NINE HUNDRED THIRTY-FIVE THOUSAND THREE HUNDRED NINETY-FIVE DOLLARS AND 71/100 CENTS (\$3,935,395.71)

the amount named in the Proposal, as full compensation for all labor, supervision, equipment, materials, and incidental expense required in executing all of the work contemplated in this Contract, including also all loss or damage arising out of the nature of the work or from the action of the elements or from any unforeseen obstruction or difficulties which may be encountered in the prosecution of the same or from other causes of every description connected with the work.

It is further agreed that the sum named may be increased or decreased in accordance with the units of work actually completed at the Contract unit prices, and may be increased by the addition of items of work not included in the proposal items.

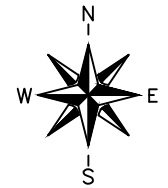
ARTICLE VI - CITY CHARTER TO BE GOVERNING DOCUMENT

The City Charter of the City shall be the governing document in all contractual relations with the City of Wyoming. In the prosecution of the work under this Contract, eight (8) hours shall constitute a day's labor. The City retains the right to determine finally all questions as to the proper performance under this Contract or any unfinished portion thereof, and in case of improper, dilatory or imperfect performance thereof to suspend the work at any time and to order the partial or entire reconstruction of the same. The City likewise retains full power to determine all questions arising under this Contract according to the true intent and meaning thereof.

ARTICLE VII - COMPLIANCE WITH LAWS, ORDINANCES AND REGULATIONS

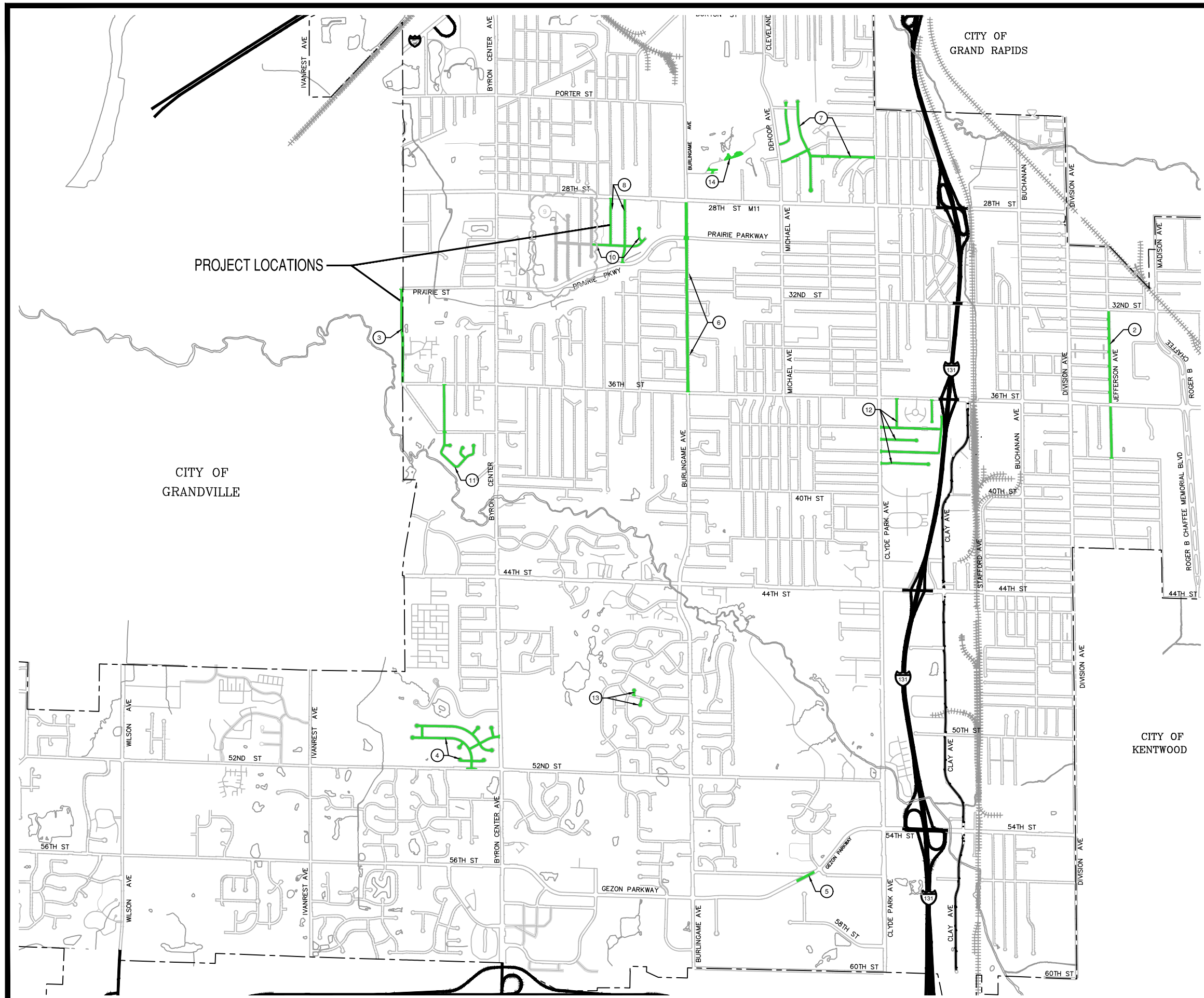
The Contractor shall keep himself fully informed of and shall at all time comply with all local, state, and federal laws, rules, and regulations applicable to this Contract and the work to be done hereunder.

2019 LOCAL RESURFACING



INDEX OF SHEETS

- 1 COVER SHEET
- 2 JEFFERSON AVE
- 3 WENTWORTH AVE
- 4 GOLFTON DR & CT, GOLFBURY DR & CT, DANTON DR & CT, WOODMARK LN & BOWENTON PL
- 5 GEZON PARKWAY
- 6 BURLINGAME AVE
- 7 NEWSTEAD AVE, LOCKSLEY ST, 26th ST, MICHAEL AVE & ROGERS LANE
- 8 TAFT AVE & MEYER AVE
- 9 "ELIMINATED"
- 10 30th & GARDENTOWN DR
- 11 WEDGEWOOD DR, WEDGEWOOD CT & LLEWELLYN CT
- 12 BADGER AVE, HIGHGATE AVE, OAKCREST AVE, BOSS AVE, MARCIA AVE, ARIEBILL AVE & WOODVIEW AVE
- 13 NORTH & SOUTH PLATEAU CT
- 14 PUBLIC WORKS SERVICE DRIVE
- 15-19 CLAY AVENUE BIKE LANES



PROJECT LOCATIONS

CITY OF GRANDVILLE

CITY OF GRAND RAPIDS

CITY OF KENTWOOD

RESOLUTION NO. _____

RESOLUTION TO AUTHORIZE THE PURCHASE OF
SEVEN ROAD WEATHER INFORMATION SYSTEMS AND TO
AUTHORIZE THE MAYOR AND CITY CLERK TO EXECUTE THE CONTRACT

WHEREAS:

1. As detailed in the attached Staff Report, it is recommended that the City Council authorize the purchase of seven road weather information systems from Frost Control Systems in the total amount of \$15,400 using the Kent County Road Commission bid.
2. Funds are available in the major and local street winter maintenance account numbers 202-441-46300-740.000 and 203-441-46300-775.000.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby authorize the purchase of seven road weather information systems from Frost Control Systems using the Kent County Road Commission bid.
2. The City Council does hereby authorize the Mayor and City Clerk to execute the contract.
3. The City Council does hereby waive the provisions of Sections 2-252, 2-253, 2-254 and 2-256 of the City Code regarding publication and posting of bid notices, notification of bidders and the bid opening procedure.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on August 19, 2019.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Staff Report

Contract

Resolution No. _____

STAFF REPORT

DATE: August 14, 2019

SUBJECT: Bid Award and Contract – Road Weather Information System

FROM: Aaron Vis, Assistant Director of Public Works - Maintenance

Date of Meeting: August 19, 2019

RECOMMENDATION:

It is recommended that the City Council utilize the Kent County Road Commission bid for Road Weather Information Systems and award the purchase of 7 units to Frost Control Systems at a cost of \$2,200 per unit for a total cost of \$15,400 and authorize the Mayor and City Clerk to sign the associated contract with Frost Control Systems.

COMMUNITY, SAFETY, STEWARDSHIP:

A Road Weather Information System (RWIS) is designed to provide near real-time road condition information to assist in winter maintenance activities. The information is used to make operational decisions such as when to salt, where to salt and how much salt to use in order to make our streets as safe as possible. Wyoming's 7 RWIS units are part of a larger 60-unit RWIS system that will be installed throughout Kent and Montcalm Counties, as well as our surrounding municipalities. This regional bidding and cooperation enables communities to receive the best pricing on products.

DISCUSSION:

On June 27, 2019, bids were received by the Kent County Road Commission for the Purchase of Road Weather Information Systems in a joint bid process. Frost Control Systems was the low bidder at a per unit cost of \$2,200. Wyoming intends to purchase 7 units for a total cost of \$15,400. This includes the hardware, software, maintenance and warranty commitments for a period of one year.

The RWIS units include multiple sensors that are pointed at the road surface to provide road temperature, air temperature, humidity and dew point information at 10 minute intervals. The units are inconspicuously mounted on traffic signal mast arms above the road surface, and are either battery powered or hard-wired to the existing traffic signal cabinets. The information is viewed on a web-based platform.



The City participated in a pilot RWIS program this past winter and was able to use the information to make critical winter operational decisions that resulted in salt, staff and vehicle savings. Participating in a regional RWIS network will provide more complete road condition information and further assist in providing the best possible winter road maintenance.

MASTER SERVICES AGREEMENT

This Master Service Agreement is made and effective as of September 1, 2019 (the "Agreement Date"), between Frost Control Systems, Inc., a Delaware corporation, located at 1400 E. Angela Blvd., South Bend, IN 46617 ("Frost Control Systems"), and City of Wyoming, a Michigan municipal corporation with offices at 1155 28th St SW, Wyoming, MI 49509 ("Customer").

RECITALS

- A. Seven local governmental entities in Kent County, Michigan (the Kent County Road Commission and the cities of East Grand Rapids, Grand Rapids, Grandville, Kentwood, Walker and Wyoming) solicited bids for road temperature sensors and related software/user interfaces.
- B. Frost Control Systems was the selected bidder.
- C. The parties are entering into this Agreement their mutual understanding of the terms and conditions applicable to that bid award.

TERMS AND CONDITIONS

In consideration of the mutual covenants, terms, and conditions set forth in this Agreement, and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

1. DEFINITIONS.

The following definitions will apply to terms used in this Agreement except where the context clearly indicates otherwise.

- 1.1. "**Agreement**" means, collectively, this Agreement, any Order Forms, Statements of Work.
- 1.2. "**Application Services**" means the online, internet-based software application(s) provided by Frost Control Systems pursuant to one or more Order Forms and which is accessed by Customer via the Internet. Except as expressly provided to the contrary, the Hardware supplied by Frost Control Systems for use in connection with the Application Services is included in the use of the Application Services.
- 1.3. "**Confidential Information**" means information in any form or medium (whether oral, written, electronic, or other) relating to any business, financial, operational or technical information provided by Frost Control System to Customer that is marked or otherwise identified as confidential or proprietary, or that the receiving party knows or should know is confidential or proprietary. In addition the Frost Control Systems name and the Frost Control Systems logo, are protected intellectual property of Frost Control Systems.
- 1.4. "**Customer Data**" means all information, data, and other content, in any form or medium, that is submitted, posted, supplied, results from processing Customer Data in connection with the Application Services or is otherwise transmitted by or on behalf of Customer to Frost Control Systems through the Services.
- 1.5. "**Hardware**" means sensors, transmitters, storage equipment or other tangible property provided by Frost Control Systems to Customer for use in connection with the Application Services.
- 1.6. "**Order Form**" means an order form executed by the parties that defines access to the Services, use allowances, and/or Professional Services purchased by Customer and is part of this Agreement. The Order Form may contain allowances and limitations that may subject Customer to additional fees if use exceeds such allowances following written notice by Frost Control Systems and the reasonable opportunity to reduce use to permitted allowances.
- 1.7. "**Professional Services**" means services provided by Frost Control Systems staff or contractors as set forth in the applicable Order Form.
- 1.8. "**Service Level Agreement**" means the Service Level Agreement attached hereto as Exhibit A.
- 1.9. "**User's Guide**" means Frost Control Systems' online user documentation for the Application Services, as updated from time to time by Frost Control Systems.

2. PROVISION OF SERVICES/RIGHTS OF USE

2.1. Subject to the terms and conditions of this Agreement, Frost Control Systems grants to Customer, and Customer accepts from Frost Control Systems, a non-exclusive, non-sublicensable, and non-transferable (except as set forth herein) license ("License"), to use the Application Services, including any updates, as expressly stated in an Order Form, for the Term defined in this Agreement. Frost Control Systems shall: (a) provide the Application Services in a manner consistent with general industry standards reasonably; (b) use commercially reasonable efforts to ensure that the Application Services perform in material compliance with the Specifications; (c) provide support to Customer as provided in the Order Form; (d) comply with applicable laws and regulations in the performance of such services and the operation, hosting and maintenance of the Application Services; and (e) use reasonable safeguards consistent with industry standards in providing the Services to prevent security breaches and protect its servers from unauthorized access.

2.2. Frost Control Systems reserves all rights not expressly granted to Customer in this Agreement. Except for the limited rights and licenses expressly granted under this Agreement, nothing in this Agreement grants, by implication, waiver, estoppel, or otherwise, to Customer or any third party any intellectual property rights or other right, title, or interest in or to the intellectual property of Frost Control Systems.

3. CUSTOMER RESPONSIBILITIES AND USE GUIDELINES

3.1. Customer shall use the Application Services as contemplated by this Agreement and Customer shall be responsible for its use of the Application Services.

3.2. Customer will: (a) have sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of all Customer Data; (b) prevent unauthorized access to, or use of, the Application Services, and notify Frost Control Systems promptly of any such unauthorized access or use; (c) review and, if acceptable, agree to and abide by any third party agreements or terms of service prior to using the Services; (d) comply with all applicable local, state, federal and foreign laws in using the Application Services; (e) not license, sublicense, sell, resell, rent, lease, transfer, assign, distribute, time share or otherwise commercially exploit or make the Application Services available to any third party except as set forth in this Agreement; (f) not transmit or store within the Application Services infringing, obscene, threatening, defamatory, fraudulent, abusive, or otherwise unlawful or tortious material, including material that is harmful to children or violates third party privacy rights; (g) not upload to, or store within the Application Services, any viruses, worms, time bombs, Trojan horses and other harmful or malicious code, files, scripts, agents or programs; (h) not interfere with or disrupt the integrity or performance of the Application Services or the data they contain; (i) not attempt to gain unauthorized access to the Application Services or its related systems or networks, or access the same in order to build a competitive product or service, or to copy any ideas, features, functions or graphics of the Application Services; (j) not modify, copy or create derivative works based on the Application Services; (k) not frame or mirror any content forming part of the Application Services, other than on Customer's own intranets or otherwise for its own internal business purposes; and (l) not reverse engineer or decompile the Application Services. Customer will not transfer or assign the License without Frost Control Systems' written consent. However, if the Application Services include a license requiring third party interaction, Customer may grant access to the Application Services to those third parties who are authorized by Customer to supply data. Customer's obligations under clause (g) shall be deemed fulfilled if Customer uses reasonable methods to prevent transmission of elicited code and does not intentionally transmit any of the same to Frost Control Systems or the Application Services.

4. SERVICE LEVEL AND SUPPORT

Subject to the terms and conditions of this Agreement, Frost Control Systems shall use commercially reasonable efforts to make the Services available in accordance with the service levels set out in Exhibit A.

5. FEES AND PAYMENT

5.1. Customer shall pay all fees specified in an Order Form, via a physical invoice or an electronic invoice. Customer shall make all payments in U.S. Dollars on or before the due date set forth in the invoice. Except as otherwise specified in an Order Form, (a) fees are based on Services purchased and not actual usage or Services provided; (b) payment obligations are non-cancelable; (c) fees paid are non-refundable; and (d) the Services purchased cannot be decreased during the relevant Term.

5.2. Frost Control Systems shall invoice in advance and in accordance with the applicable Order Form. All invoices are due as stated on the invoice, but if not stated, physical invoices shall be due within 45 days of the invoice date, without any right of set-off or deduction. Frost Control Systems may charge interest at the lesser of

the maximum amount allowed by law or 1.5% per month on payments not timely made pursuant to the applicable invoice. In addition to any other rights or remedies of Frost Control Systems, Frost Control Systems may discontinue access to the Application Services provided to Customer without liability to Customer, if any invoice is not paid within 45 days of the invoice date, until such amounts are paid in full. In any collection action relating to this Agreement, Frost Control Systems shall be entitled to recover its costs of collection, including reasonable attorney's fees.

5.3. Customer is a governmental entity exempt from sales and use taxes. If that status changes, Frost Control Systems may invoice Customer for and Customer will pay sales and use taxes in accordance with applicable law.

6. CONFIDENTIAL INFORMATION.

From time to time during the Term, either party may disclose or make available to the other party Confidential Information. Except as required by law, the receiving party shall not disclose the disclosing party's Confidential Information to any person or entity, except to the receiving party's employees who have a need to know the Confidential Information for the receiving party to exercise its rights or perform its obligations hereunder. Each party may disclose Confidential Information to the limited extent required (i) in order to comply with the order of a court or other governmental body, or as otherwise necessary to comply with applicable law, provided that the party making the disclosure first gives prompt written notice to the other party; or (ii) to establish a party's rights under this Agreement, including to make required court filings. Except as required by law, on the expiration or termination of the Agreement, the receiving party shall promptly return to the disclosing party all copies, whether in written, electronic, or other form or media, of the disclosing party's Confidential Information, or destroy all such copies and certify in writing to the disclosing party that such Confidential Information has been destroyed. Each party's obligations of non-disclosure regarding Confidential Information are effective as of the Agreement Date and will expire 5 years from the date first disclosed to the receiving party. However, with respect to any Confidential Information that constitutes a trade secret (as determined under applicable law), such obligations of non-disclosure will survive the termination or expiration of this Agreement for as long as such Confidential Information remains subject to trade secret protection under applicable law.

7. INTELLECTUAL PROPERTY RIGHTS

7.1. Except for the limited rights expressly granted in this Agreement, Frost Control Systems reserves all rights, title and interest in and to the Application Services, including all related intellectual property rights. No rights are granted to Customer other than as expressly stated in this Agreement. Frost Control Systems owns all rights, title and interest, including all intellectual property rights, in and to any improvements to the Application Services or any new programs, upgrades, modifications or enhancements developed by Frost Control Systems or Customer in connection with rendering the Application Services to a Customer, even when refinements and improvements result from Customer's request, unless expressly set forth in an Order Form for custom development. To the extent, if any, that ownership in such refinements and improvements does not automatically vest in Frost Control Systems by virtue of this Agreement or otherwise, Customer transfers and assigns to Frost Control Systems all rights, title, and interest which Customer may have in to such refinements and improvements.

7.2. As between Frost Control Systems and Customer, Customer exclusively owns all rights, to data or information submitted by Customer for use in the Application Services ("Customer Data"). As such, Customer has the right to and grants to Frost Control Systems the right to use Customer Data in connection with the Application Services and other services provided by Frost Control Systems. In addition, Customer grants Frost Control Systems a perpetual, royalty-free, revocable, non-transferable license to use the Customer Data for Frost Control Systems to improve the Application Services and for use with aggregated, de-identified data in benchmark and aggregate data sets.

8. WARRANTIES AND DISCLAIMERS

8.1. Each Party represents and warrants that it has the legal power to enter into this Agreement; that its signatory has the authority to bind it; and when executed and delivered, this Agreement is the legal, valid, and binding obligation of that Party, enforceable in accordance with its terms.

8.2. Frost Control Systems warrants that the Application Services (excluding the Hardware) will conform in all material respects to the service levels set forth in Exhibit A when accessed and used in accordance with the User's Guide. Frost Control Systems warrants that the Hardware will be free from material defects in materials or workmanship for the period from start date specified in a relevant Order Form and continues for the period

specified in any Order Form to Customer; provided the Hardware is used in conformity with the operating instructions and the warranty expressly disclaims physical damage to the Hardware and damage from adverse weather or environmental sources. Frost Control Systems does not make any representations or guarantees regarding uptime or availability of the Services unless specifically identified in Exhibit A.

8.3. Customer's exclusive remedies for breach of the warranties shall be the repair or replacement of the non-conforming Application Services, Hardware or Professional Services. Any claim for breach of warranty shall be made by providing written notice to Frost Control Systems together with a detailed explanation of the purported error. If repair or replacement is not possible within 45 days following Frost Control Systems' receipt of written notice of a breach of the warranty, Customer may terminate the license to the defective Application Services (excluding Hardware) by providing written notice of the same to Frost Control Systems. Customer shall then be entitled to receive a refund of the fees paid by Customer for the Application Services that are pre-paid and unused, for the period after termination.

8.4. EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED IN THIS AGREEMENT AND TO THE MAXIMUM EXTENT PERMITTED BY LAW, EACH PARTY EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES, CONDITIONS, REPRESENTATIONS, AND GUARANTEES WITH RESPECT TO THEIR OBLIGATIONS UNDER THIS AGREEMENT, WHETHER EXPRESS OR IMPLIED, ARISING BY LAW, CUSTOM, PRIOR ORAL OR WRITTEN STATEMENTS, OR OTHERWISE, INCLUDING, WITHOUT LIMITATION, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE. NO REPRESENTATION OR OTHER AFFIRMATION OF FACT, INCLUDING, WITHOUT LIMITATION, STATEMENTS REGARDING CAPACITY, SUITABILITY FOR USE OR PERFORMANCE OF THE SERVICES, NOT CONTAINED IN THIS AGREEMENT SHALL BE DEEMED TO BE A WARRANTY BY EITHER PARTY. THERE ARE NO WARRANTIES WHICH EXTEND BEYOND THE FACE OF THIS AGREEMENT. EXCEPT AS OTHERWISE SPECIFICALLY PROVIDED IN THIS AGREEMENT, FROST CONTROL SYSTEMS MAKES NO WARRANTY OF ANY KIND THAT THE APPLICATION SERVICES, PROFESSIONAL SERVICES, OR ANY PRODUCTS OR RESULTS OF THE USE THEREOF, WILL MEET CUSTOMER'S OR ANY OTHER PERSON'S REQUIREMENTS, OPERATE WITHOUT INTERRUPTION, ACHIEVE ANY INTENDED RESULT, BE COMPATIBLE OR WORK WITH ANY SOFTWARE, SYSTEM OR OTHER SERVICES, OR BE SECURE, ACCURATE, COMPLETE, FREE OF HARMFUL CODE, OR ERROR FREE.

9. LIMITATION OF LIABILITY

9.1. EXCEPT FOR LIABILITY ARISING FROM THE PARTIES INDEMNIFICATION OBLIGATIONS IN THIS AGREEMENT, IN NO EVENT WILL EITHER PARTY BE LIABLE UNDER OR IN CONNECTION WITH THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE, FOR ANY: (a) CONSEQUENTIAL, INCIDENTAL, INDIRECT, EXEMPLARY, SPECIAL, ENHANCED, OR PUNITIVE DAMAGES; (b) INCREASED COSTS, DIMINUTION IN VALUE OR LOST BUSINESS, PRODUCTION, REVENUES, OR PROFITS; (c) LOSS OF GOODWILL OR REPUTATION; (d) USE, INABILITY TO USE, LOSS, INTERRUPTION, DELAY OR RECOVERY OF ANY DATA, OR BREACH OF DATA OR SYSTEM SECURITY; OR (e) COST OF REPLACEMENT GOODS OR SERVICES, IN EACH CASE REGARDLESS OF WHETHER THE PARTIES WERE ADVISED OF THE POSSIBILITY OF SUCH LOSSES OR DAMAGES OR SUCH LOSSES OR DAMAGES WERE OTHERWISE FORESEEABLE. IN NO EVENT WILL FROST CONTROL SYSTEMS' AGGREGATE LIABILITY ARISING OUT OF OR RELATED TO THIS AGREEMENT UNDER ANY LEGAL OR EQUITABLE THEORY, INCLUDING BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY, AND OTHERWISE EXCEED AMOUNTS ACTUALLY PAID OR PAYABLE BY CUSTOMER IN THE TWELVE (12) MONTHS PRECEDING THE INCIDENT GIVING RISE TO LIABILITY.

10. INDEMNIFICATION

10.1. Frost Control Systems will defend, indemnify and hold Customer harmless against any and all losses, damages, liabilities, deficiencies, claims, actions, judgments, settlements, costs, or expenses of whatever kind (including reasonable attorneys' fees) (the "Losses") incurred by Customer in connection with any actions, suits, proceedings, or claims made or brought by a third party against Customer alleging that the Application Services (excluding Hardware) infringes any U.S. intellectual property right of any third party, provided that Customer (a) gives prompt written notice of any such claim to Frost Control Systems; (b) gives to Frost Control Systems sole

control of the defense and resolution of such claim; and (c) provides reasonable information and assistance to Frost Control Systems in defending such claim.

10.2. If the Application Services (excluding Hardware) is held to infringe, or in Frost Control Systems' opinion the Application Services is likely to be held to infringe any Intellectual Property rights of a third party, Frost Control Systems may at its sole discretion and expense, either: (a) secure the right for Customer to continue use of the infringing Application Services; (b) replace or modify the infringing Application Services to make it non-infringing, provided such Application Services contains substantially similar functionality; or (c) terminate the licenses to the infringing Application Services modules granted under this Agreement. If Frost Control Systems elects to clauses (b) or (c) as its response to alleged intellectual property rights infringement, Customer may decide to terminate this Agreement as Customer's sole and exclusive remedy and Frost Control Systems shall refund to Customer any prepaid fees. This Section 10.2 shall not apply to the extent that the alleged infringement arises from (x) use of the Services in combination with data, software, hardware, equipment, or technology not provided by Frost Control Systems or authorized by Frost Control Systems in writing; (y) modifications to the Services not made by Frost Control Systems; or (z) Customer Data.

10.3. Subject to the terms and conditions of this Agreement, Frost Control Systems will defend, indemnify and hold Customer, its agents and employees (collectively, the "Customer Indemnified Party") harmless against any and all Losses incurred by Customer arising out of or resulting from any claim of a third-party alleging: (a) any negligent or more culpable act or omission of Frost Control Systems or its agents, employees, or subcontractors engaged or appointed by Frost Control Systems; or (b) any bodily injury, death of any person or damage to real or tangible personal property caused by the negligent acts or omission of Frost Control Systems or its agents, employees, or subcontractors engaged or appointed by Frost Control Systems. Notwithstanding anything to the contrary in this Agreement, Frost Control Systems is not obligated to indemnify or defend the Customer Indemnified Party against any claim (direct or indirect) if such claim or corresponding Losses arise out of or result from the Customer Indemnified Party's: (x) negligence or more culpable act or omission (including recklessness or willful misconduct; (y) bad faith failure to comply with any of its material obligations set forth in this Agreement; or (z) use of the Application Services and Hardware in any manner not otherwise authorized under this Agreement.

10.4 Customer shall indemnify, hold harmless, and, at Frost Control Systems' option, defend Frost Control Systems from and against any Losses resulting from any actions, suits, proceedings, or claims made or brought by a third party against Frost Control Systems (a) that the Customer Data, or any use of the Customer Data in accordance with this Agreement, infringes or misappropriates such third party's intellectual property rights or (b) based on Customer's or any authorized user's (i) negligence or willful misconduct; (ii) use of the Services in a manner not authorized by this Agreement; (iii) use of the Services in combination with data, software, hardware, equipment or technology not provided by Frost Control Systems or authorized by Frost Control Systems in writing; or (iv) modifications to the Services not made by Frost Control Systems, provided that Customer may not settle any third-party claim against Frost Control Systems unless Frost Control Systems consents to such settlement, and further provided that Frost Control Systems will have the right, at its option, to defend itself against any such third-party claim or to participate in the defense thereof by counsel of its own choice.

10.4. THIS SECTION 10 SETS FORTH CUSTOMER'S SOLE AND EXCLUSIVE REMEDIES AND FROST CONTROL SYSTEMS' ENTIRE LIABILITY AND OBLIGATION FOR ANY LOSSES COVERED BY THIS SECTION 10.

11. INSURANCE

11.1 During the Term (as defined in Section 12.1), Frost Control Systems shall, at its own expense, maintain and carry in full force and effect, workman's compensation coverage in the amounts no less than:

Bodily Injury and Property Damage Other Than Automobile:
Each Occurrence \$1,000,000
Aggregate \$2,000,000
Bodily Injury Liability and Property Damage Liability Automobile:
Bodily Injury Liability \$500,000 Each Person, Each Occurrence \$1,000,000
Property Damage Liability \$1,000,000 Each Occurrence
Combined Single Limit for Bodily Injury and Property Damage Liability
Each Occurrence \$2,000,000

with financially sound and reputable insurers, and upon Customer's reasonable request, shall provide Customer with a certificate of insurance evidencing the insurance coverage specified in this Section. The certificate of insurance shall name the Customer as an additional insured. Frost Control Systems shall provide Customer with five (5) day's advance written notice in the event of a cancellation or material change in such insurance policy.

12. TERM AND TERMINATION

12.1. This Agreement commences on the start date specified in a relevant Order Form and continues for the period specified in any Order Form, through and including any renewals thereof, unless sooner terminated as provided in this Agreement (together, the "Term"). Customer may renew this Agreement for one or more additional year terms by providing written notice of its intent to renew at least thirty (30) days prior to the end of the then-current Term. If the Term is renewed for one more renewal terms, the terms and conditions of this Agreement during each renewal term shall be the same as the terms and conditions in effect immediately prior to such renewal. If Customer fails to provide timely notice of its intent to renew this Agreement, then this Agreement shall terminate on the expiration of the then-current Term, unless sooner terminated as provided in this Agreement.

12.2. Either Customer or Frost Control Systems may terminate this Agreement and any or all Order Forms as a result of a material breach of this Agreement by the other party, if (a) such party provides written notification to the other party of the material breach, and (b) such material breach is not cured or resolved within 30 days of notification, or, in the case of a failure to pay fees in a timely manner by Customer, the material breach is not cured or resolved in a 15-day period. If Customer terminates for an uncured material breach of this Agreement, Frost Control Systems shall refund to Customer a pro-rated amount of fees paid for the period after the effective date of the termination.

12.3. Customer may terminate any Order Form at any time. However termination pursuant to this Section 12.3 shall not result in any refund of payments made or payable to Frost Control Systems during the current Term, but only results in the termination of automatic renewals and any future payments caused by such automatic renewals no longer being due to Frost Control Systems.

12.4. In the event of expiration of the Term or termination of this Agreement or any Order Form, Customer's access and use of the Application Services and Customer's rights under this Agreement and/or the relevant Order Forms shall cease immediately upon expiration or termination.

13. PUBLICITY

Customer hereby agrees, subject to Customer's review and approval, which approval shall not be unreasonably withheld or delayed, to: (a) allow Frost Control Systems to use Customer's name in Frost Control Systems' customer list; and (b) allow Frost Control Systems to reference Customer in a press release that announces Customer's decision to use the Application Services if the contents of any such press release are first reviewed and approved by Customer.

14. SURVIVING PROVISIONS

This Section 14 and Sections 1, 5, 6, 7, 8.4., 9, 10, and 15 survive any termination or expiration of this Agreement. No other provisions of this Agreement survive the expiration or earlier termination of this Agreement.

15. STANDARD TERMS AND CONDITIONS.

15.1. Frost Control Systems will comply with applicable (i) laws, rules, regulations, codes, and ordinances, (ii) license and permit requirements, and (iii) orders of any governmental agency, official or court.

15.2. Frost Control Systems represents and promises that:

A. Frost Control Systems will ensure any personnel engaged by Frost Control Systems to provide services or perform work under this Agreement have and will maintain any needed licenses, registrations, certifications, memberships, or other approvals needed to perform such services or work in Michigan.

B. Neither Frost Control Systems nor its principals, owners, officers, shareholders, key employees, directors, members or partners (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 this Agreement been convicted of or have a judgment against them for fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of 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 with commission of any of the offenses enumerated in this certification; or (iv) have within 3-years preceding this Agreement had one or more public transactions terminated for cause or default.

D. Frost Control Systems is not on and will remain off the Federal Excluded Parties List (“EPLS”). If Frost Control Systems is on the EPLS when signing or during the term of this Agreement, in addition to any other remedies to which it may be entitled Customer may recover all moneys paid to Frost Control Systems, all consequential damages (including loss of grant funding or required return of grant funding), and reasonable attorney fees (including costs of in-house counsel) sustained as a result of non-compliance with this representation and promise.

E. Neither Frost Control Systems nor any subcontractor is an “Iran linked business” under Michigan’s Iran Economic Sanctions Act, 2012 PA 517.

15.3. Frost Control Systems and its subcontractors will not discriminate against an employee or an employment applicant in hiring, terms and conditions of employment, or employment-related matters related because of religion, race, color, national origin, age, sex, height, weight, marital status, partisan considerations, or a disability or genetic information that is unrelated to the employee’s or applicant’s ability to perform the duties of a job or position. “Sex” includes sexual orientation and gender identity or expression.

15.4. Frost Control Systems and its directors, members, partners, officers and employees, as well as any parent, affiliate, or subsidiary organization of Frost Control Systems has not engaged in and shall refrain from: (i) holding or acquiring an interest that would conflict with this Agreement; (ii) engaging in any act that creates an appearance of impropriety with respect to the award or performance of this Agreement; (iii) attempting to influence or appearing to influence any elected or appointed officer or employee of Customer by a direct or indirect offer of anything of value; or (iv) paying or agreeing to pay any person, other than its employees and consultants, any consideration contingent upon the award of this Agreement. No owner, director, officer, member, partner or key employee of Frost Control Systems and no owner, director, officer, member, partner or key employee of any parent, affiliate, or subsidiary organization 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 Customer except as already disclosed in writing to Customer when submitting its proposal. Frost Control Systems will immediately notify Customer of any change in this circumstance.

15.5. Frost Control Systems will return by e-mail to accountspayable@wyomingmi.gov a completed an IRS W-9 form).

15.6. Because Customer is a public entity and because it receives funds from other governmental agencies, Customer is required to retain, be able to obtain, and/or audit records related to its contracts. Frost Control Systems shall retain copies of all records related to this Agreement, including, without limitation, items supplied or used in performance of this Agreement, and all work under this Agreement for at least 6 years after termination. Frost Control Systems shall, upon the City’s request, allow inspection, auditing and copying of all retained records.

6. MISCELLANEOUS

16.1. This Agreement is the entire agreement between the parties with respect to its subject and supersedes all prior agreements between the parties, whether written or oral, and supersedes and merges all prior discussions between the parties. No modification, amendment, or waiver of any provision of this Agreement shall be effective unless in writing and signed by the party against whom the modification, amendment or waiver is to be asserted. To the extent of any conflict or inconsistency between the provisions in the body of this Agreement and any Exhibit or Order Form, the terms of this Agreement shall prevail unless expressly stated otherwise in the applicable Exhibit or Order Form. The language used in this Agreement was chosen by both parties to express their mutual intent, and no rule of strict construction against either party shall apply.

16.2. All notices under this Agreement shall be in writing and shall be deemed to have been given upon actual delivery by personal delivery or by courier service such as UPS or FedEx to the addresses first written above or, if acknowledged by electronic mail or other electronic delivery. . Notices to Frost Control Systems shall be addressed to the attention of its President. Notices to Customer shall be addressed to Customer’s Public Works Director with a copy to Customer’s City Attorney.

16.3. The parties are independent contractors. Nothing in this Agreement creates a partnership, franchise, joint venture, agency, fiduciary, or employment relationship between the parties.

16.4. Neither party be liable to the other party, or be deemed to have breached this Agreement, for a failure or delay in performing its obligations under this Agreement (except for any obligations to make payments), to the extent such failure or delay is caused by any circumstances beyond such party's reasonable control, including but not limited to acts of God, flood, fire, earthquake, explosion, war, terrorism, invasion, riot or other civil unrest, strikes, labor stoppages or slowdowns or other industrial disturbances, or passage of law or any action taken by a governmental or public authority, including imposing an embargo.

16.5. Customer may not assign any of its rights or obligations under this Agreement, whether by operation of law or otherwise, without Frost Control System's prior written consent which will not be unreasonably withheld, conditioned or delayed. Frost Control Systems may assign this Agreement in its entirety (including all Order Forms and SOWs), without Customer's consent, to an affiliate or in connection with a merger, acquisition, corporate reorganization, or sale of all or substantially all of its assets. Any other assignment by Frost Control Systems of its rights or obligations under this Agreement will require Customer's prior written consent which will not be unreasonably withheld, conditioned or delayed. An attempt by a party to assign its rights or obligations under this Agreement in breach of this Section shall be void and of no effect. Subject to the foregoing, this Agreement shall bind and inure to the benefit of the parties, their respective successors and permitted assigns.

16.6. No failure or delay by either party to exercise right under this Agreement shall constitute a waiver of that right. Other than as expressly stated in this Agreement, the remedies provided in this Agreement are in addition to, and not exclusive of, any other remedies of a party at law or in equity.

16.7. If any provision of this Agreement is invalid, illegal, or unenforceable in any jurisdiction, such invalidity, illegality, or unenforceability will not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon such determination that any term or other provision is invalid, illegal, or unenforceable, the parties shall negotiate in good faith to modify this Agreement so as to effect their original intent as closely as possible in a mutually acceptable manner in order that the transactions contemplated be consummated as originally contemplated to the greatest extent possible.

16.8. This Agreement is governed by and construed in accordance with the internal laws of the State of Michigan without giving effect to any choice or conflict of law provision or rule that would require or permit the application of the laws of any jurisdiction other than those of the State of Michigan.

16.9. This Agreement may be executed in counterparts, each of which will be deemed an original, but all of which together will be deemed to be one and the same agreement. Counterparts may be delivered via facsimile, electronic mail (including PDF or any electronic signature complying with the U.S. federal E-SIGN Act of 2000, e.g., www.docuSign.com) or other transmission method, and any counterpart so delivered will be deemed to have been duly and validly delivered and be valid and effective for all purposes.

The parties have signed this Agreement as of the Agreement date.

FROST CONTROL SYSTEMS, INC.

By: Bradley J. Tener
Bradley Tener, President

Date signed: August 14, 2019

CITY OF WYOMING

By: _____
Jack A. Poll, Mayor

By: _____
Kelli A. Vandenberg, City Clerk

Date signed: _____, 2019

Approved as to form:

Scott G. Smith
Scott G. Smith, City Attorney

EXHIBIT A
SERVICE LEVEL AGREEMENT

SPECIFICATIONS

The Road Commission and its neighboring communities intend to establish a regional road weather information system. The system must include hardware, software and services that are easily installed, maintained and scalable. The system must be a turn-key system, including the hardware, network design, software, and maintenance.

Technical specifications are incorporated by reference from the Kent County Road Commission Contract #19-61: Purchase of Road Weather Information Systems.

AVAILABILITY

Frost Control Systems shall use commercially reasonable efforts to make the Application Services generally available twenty four (24) hours a day, seven (7) days a week at a rate of 75% uptime regionally and 50% uptime per single community, ("Uptime Commitment") except for: (i) planned downtime, which shall be any period for which Frost Control Systems provides at least eight (8) hours' notice that the Application Services will be unavailable; (ii) any unavailability caused by circumstances beyond Frost Control Systems' reasonable control, including without limitation, computer or telecommunications failure or delays involving hardware or software not within Frost Control Systems' possession or reasonable control, and network intrusions or denial of service attacks; (iii) any period of unavailability lasting fifteen (15) minutes or less; or (iv) a disruption in the connection between the server on which Application Services is located based on a failure of Customer's connection to the public Internet or a general failure of the public Internet not related specifically to Application Services' infrastructure. These application services will provide road temperature, air temperature, humidity, and dew point at each installed location and shall meet any other application requirements of the Kent County Road Commission Contract #19-61: Purchase of Road Weather Information Systems. If Frost Control Systems fails to meet the Uptime Commitment for two (2) consecutive calendar months or fails to meet the Uptime Commitment for any three (3) calendar months within any twelve (12) month period, then by notice given within thirty (30) days after the end of the month which triggered Customer's right of termination, Customer may terminate this Agreement, and receive a refund of any pre-paid fees for periods after the effective date of termination. The provisions of this Service Level Agreement state Customer's sole and exclusive remedy for any service level deficiencies of any kind.

SUPPORT

Frost Control Systems will use commercially reasonable efforts to provide Application Services support to Customer comprised of (i) on-line access to the Frost Control Systems support at Support@frostcontrolsys.com; and (ii) Frost Control Systems' telephone support at (574) 340-6226. Frost Control Systems will use commercially reasonable efforts to respond to Customer's inability to access the Application Services or a component of the Application Services which had previously performed as expected within the guidelines laid out above.

RESOLUTION NO. _____

RESOLUTION TO AUTHORIZE THE PURCHASE OF
ASPHALT CONCRETE CRACK LEVELING SEALANT

WHEREAS:

1. As detailed in the attached Staff Report, it is recommended that the City Council authorize the purchase of asphalt concrete crack leveling sealant from Sherwin Industries Inc. using the Kent County Road Commission bid.
2. Funds are available in the major and local street maintenance account numbers 202-441-46300-775.000 and 203-441-46300-775.000.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby authorize the purchase of asphalt concrete crack leveling sealant from Sherwin Industries Inc. using the Kent County Road Commission bid.
2. The City Council does hereby waive the provisions of Sections 2-252, 2-253, 2-254 and 2-256 of the City Code regarding publication and posting of bid notices, notification of bidders and the bid opening procedure.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on August 19, 2019.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Staff Report

Kent County Road Commission Bid Tabulation

STAFF REPORT

DATE: August 13, 2019

SUBJECT: Bid Award – Asphalt Concrete Crack Leveling Sealant

FROM: Aaron Vis, Assistant Director of Public Works - Maintenance

Date of Meeting: August 19, 2019

RECOMMENDATION:

It is recommended that the City Council utilize the Kent County Road Commission bid for Asphalt Concrete Crack Leveling Sealant and award the Crafc0 #33339 Mastic One product to Sherwin Industries at a price of \$.5689 per pound, delivered.

COMMUNITY, SAFETY, STEWARDSHIP:

Crack leveling sealant, also known as mastic, is a rubber material that is applied to larger cracks in asphalt and concrete as a preventative road maintenance practice. It is generally applied to roads between 3 and 5 years after resurfacing, during the early stages of road degradation and is one of the most cost-effective methods of extending road life. It can be applied easily and dries quickly, limiting the time staff are exposed to the dangers of traffic. Utilizing bids from surrounding communities allows the City to receive the best pricing on materials and services, thereby reducing the overall expense of maintenance materials.

DISCUSSION:

On February 7, 2019, bids were received by the Kent County Road Commission for Asphalt Concrete Crack Leveling Sealant. Sherwin Industries Inc. was the low bidder for the Crafc0 #33339 Mastic One product at a price of \$.5686 per pound for delivered material. This is a new product and application for the City, although it has been used extensively in the region. It is expected that staff will use approximately \$25,000 worth of sealing material this fiscal year.

BUDGET IMPACT:

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

RESOLUTION NO. _____

RESOLUTION TO CONCUR WITH THE EMERGENCY REPAIRS OF A VACTOR TRUCK
AND TO AUTHORIZE PAYMENT TO VALLEY TRUCK PARTS INC.

WHEREAS:

1. As detailed in the attached Staff Report, it is recommended the City Council concur with the emergency repair to the transmission of a vactor truck and authorize payment to Valley Truck Parts Inc. in the total estimated amount of \$11,396.34.
2. Funds for the repairs are available in the Motor Pool Repairs and Maintenance account number 661-441-58200-930.000.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby concur with the emergency repair of a vactor truck and authorizes payment to Valley Truck Parts Inc.
2. The City Council does hereby waive the provisions of Sections 2-252, 2-253, 2-254 and 2-256 of the City Code regarding publication and posting of bid notices, notification of bidders and the bid opening procedure.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on August 19, 2019.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Staff Report

Quote

Resolution No. _____

STAFF REPORT

Date: August 13, 2019
Subject: Vactor Transmission Emergency Repair
From: Ted Seil, Fleet Services Supervisor
Meeting Date August 19, 2019

RECOMMENDATION:

We recommend the City Council approve an emergency repair to the transmission of the vactor truck by Valley Truck Parts in the amount of \$11,396.34.

COMMUNITY, SAFETY, STEWARDSHIP:

The vactor is used more than any other piece of equipment in the Public Service Department to respond to water and sewer emergencies. It is used to excavate areas that have sensitive underground utilities such as gas lines and fiber optic communication lines in a safer manner than using a backhoe.

DISCUSSION:

On August 5, 2019, the vactor was brought into Fleet Services with a faulty transmission. It was determined that there was a problem with the transmission clutch packs which drive the transmission internal parts. The vehicle was taken to Valley Truck Parts. Valley Truck Parts inspected the vehicle and confirmed the diagnosis. The initial estimate to overhaul the transmission was \$8,123.00 pending disassembly. Once disassembled, it was found that the failure of the clutch packs had damaged both of the power take offs used to power other components on the truck. The revised estimate to overhaul the transmission, rebuild one power take off and replace the other power takeoff is \$11,396.34. The estimate is attached.

BUDGET IMPACT:

Sufficient funds have been budgeted in the Motorpool Repairs and Maintenance Account 661-441-58200-930.000.

ATTACHMENT:

Estimate



Quote 20-5499

Valley Truck - Service Dept
 1900 Chicago Drive SW
 Grand Rapids, MI, 49519
 Phone: 800-783-8300
 Fax: 616-241-1170
 Salesperson: Dennis Morgan
 Email: dmorgan@valleytruckparts.com

Billing Address 1884

CITY OF WYOMING
 ACCTS PAYABLE
 1155 28TH ST. S.W.
 PO BOX 905
 WYOMING, MI 49509
 USA 616-530-7213

Shipping Address:

CITY OF WYOMING
 2660 BURLINGAME
 WYOMING, MI, 49509
 USA 616-530-7213

Ship Method	Date	PO #	Unit/Ref #	Term
VTP Delivery	08/06/2019			A - Net10

Part Number	Description	Quantity	Sold Price	Amount
MSC LABOR	LABOR TO R&R TRANSMISSION	25.0	110.00	\$2,750.00
UNT 3000RDS	Automatic Transmission (UNT 3000RDS) REMAN AUTO TRANS ASSY	1.0	4,340.00	\$4,340.00
UNT 3000RDS CORE	Inherent core charge on Automatic Transmission (UNT 3000RDS) REMAN AUTO TRANS ASSY	1.0	2,900.00	\$2,900.00
LUB 550032968-TOTE	Lube/Oil (LUB 550032968-TOTE) SHELL SPIRAX S6 SYNTHETIC ATF - PER QUART	28.0	15.57	\$435.96
LUB ATF	Lube/Oil (LUB ATF) DEXRON III ATF PER GALLON	2.5	11.74	\$29.35
SPD 6.5-70-18X	Driveline Parts (SPD 6.5-70-18X) STRAP & BOLT KIT	2.0	9.62	\$19.24
IHC 3549169	New Parts (IHC 3549169) INSULATOR	2.0	331.89	\$663.78
IHC 1664726	New Parts (IHC 1664726) FRT. MOUNT WASHER	2.0	23.23	\$46.46
UNT 3000RDS CORE	Core exchange credit for Automatic Transmission (UNT 3000RDS) REMAN AUTO TRANS ASSY; Returned from Sales Order: 20-5499	-1.0	2,900.00	\$-2,900.00
MUN CS11-A1008-H1CX	PTO Assy/Parts (MUN CS11-A1008-H1CX) POWER TAKE-OFF ASSY	1.0	2,089.22	\$2,089.22
MSC PART	PARTS AND LABOR TO REPAIR NUMBER 1 PTO	1.0	805.95	\$805.95
IHC 2593754	New Parts (IHC 2593754) SENSOR	1.0	131.97	\$131.97
IHC 3900706	New Parts (IHC 3900706) GASKET	1.0	24.41	\$24.41
ADJ: Environmental Fee		1.0	32.50	\$32.50
ADJ: Shop Supplies		1.0	27.50	\$27.50
			Parts Total:	11,336.34
			Adjustment Total:	60.00

Part Number	Description	Quantity	Sold Price	Amount
			Shop Fees:	0.00
			Environmental Fees:	0.00
			Tax:	0.00

THIS IS A QUOTE TO PULL TRANS AND REPLACE WITH VALLEY UNIT.WHEN TRANSMISSION IS OUT OF TRUCK,BOTH PTO SHOULD BE GONE THROUGH FOR SEALS AND INSPECTION.BEFORE REMOVAL OF TRANSMISSION WE WILL NEED TO REMOVE THE DIESEL PARTICULATE FILTER FOR CLEARANCE.

Facility # F-100501

Received by: _____

Print Name: _____

- ** All parts are new unless otherwise stated **
- ** Parts must be returned in the original, clean box to receive full credit **
- ** Used parts must be returned within 7 business days to receive credit **
- ** A restocking fee of up to 25% may apply on returns **
- ** No returns, refunds or exchanges on special order items and electrical parts **
- ** Cores must be returned within 45 days to receive full core credit **
- ** Damaged cores are subject to a reduced credit **

Grand Total:	11,396.34
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RESOLUTION NO. _____

RESOLUTION TO CONCUR WITH ADDITIONAL WORK RELATED TO THE
TELESCOPIC ARTICULATING AERIAL BUCKET AND BODY TRUCK

WHEREAS:

1. City Council awarded a bid for a telescopic articulating aerial bucket and body truck on August 6, 2018 via Resolution number 26147.
2. As detailed in the attached staff report, modifications to the original specifications were required at an additional cost of \$4,786.
3. Funds are budgeted in the Motor Pool Capital Outlay account number 662-441-58500-985.000

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby concur with additional work related to the telescopic articulating aerial bucket and body truck in the amount of \$4,786.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on August 19, 2019.

ATTACHMENTS:
Staff Report
Invoice

Kelli A. VandenBerg, Wyoming City Clerk

Resolution No. _____

STAFF REPORT

Date: August 8, 2019
Subject: Telescopic Articulating Aerial Bucket and Body Truck - Price Adjustment
From: Ted Seil, Fleet Supervisor
Meeting Date: August 19, 2019

RECOMMENDATION:

We recommend the City Council approve an additional \$4,786.00 for the purchase of a traffic bucket truck from Altec Industries, Inc.

COMMUNITY, SAFETY, STEWARDSHIP:

The Traffic Department uses bucket trucks to safely maintain the City lighting and traffic signals which benefits the City residents and businesses.

DISCUSSION:

On August 8, 2018, the City Council approved the purchase a bucket truck body from Altec Industries Inc. in the amount of \$72,231.00. During the building of the truck Wyoming requested modifications to improve operator safety and equipment efficiency, including non-slip surface coating and storage/platform reconfigurations. These changes resulted in an increase of \$4,786.00. The additions are noted on the attached invoice.

BUDGET IMPACT:

Sufficient funds have been budgeted in the Motor Pool Capital Outlay Account 662-441-58500-985.000.

ATTACHMENT:

Revised Invoice

Major Unit Invoice



Please Remit To:

Altec Industries, Inc.
PO Box 11407
BIRMINGHAM AL 35246-0414

For Accounting Questions:
ARINQUIRY@ALTEC.COM

BILL TO: #191805

SHIP TO:

CITY OF WYOMING
1155 28TH STREET SW
WYOMING MI 49509-0905

CITY OF WYOMING
2660 BURLINGAME AVE SW
WYOMING MI 49509

Customer Order Number	Order Date	Sales Order Number	Terms	Invoice Date	Invoice Number	Customer Truck Number
	02-NOV-18	4809049	NET 30	26-JUL-19	7394526	
Chassis VIN	Year/Model	Unit	Serial Number	Sales Rep	WIP Job Number	Body Serial
1FDUF5GT7KEC63200	2019/F550	AT41M	0619GH1944	Duthler, Ben	27 61751821	856-61798697
Item	Quantity	Part Number	Description	Amount		
1	1		Unit/Body Initial Quote	\$72,231.00		
2	1		Platform change	\$475.00		
			Additional hooks	\$106.00		
			Additional shelves	\$206.00		
			Gatorhyde	\$3,999.00		
Total				\$77,017.00		

Any payment made by a credit card may be subject to a 3% convenience fee.

SPECIAL INSTRUCTIONS	Sub Total	Total Tax	Freight	Less Payments	Total Due
	77,017.00	0.00	0.00	0.00	77,017.00



FOR QUESTIONS
PLEASE CONTACT

(919) 528-2535

sales@altec.com

www.altec.com

We wish to thank you for giving us the opportunity of serving you.

RESOLUTION NO. _____

RESOLUTION TO APPROVE THE PURCHASE OF ONBASE REDACTION
SOFTWARE AND TO AUTHORIZE AND DIRECT THE MAYOR AND
CLERK TO SIGN THE AGREEMENT

WHEREAS:

1. Pursuant to a Michigan Indigent Defense Commission (“MIDC”) grant, the City contracted with the Kent County Office of the Defender (“KCOD”) to represent indigent criminal defendants.
2. To appropriately and efficiently represent indigent defendants KCOD attorneys need copies of police reports and related documents as soon as possible following their assignment as counsel, but applicable law requires redaction of those police reports and before transmittal to the KCOD.
3. The MIDC grant will increase the numbers of indigent defendants represented by attorneys so the volume of police reports requiring redaction will increase significantly.
4. The City’s prosecuting attorneys now manually redact police reports before providing them to defense attorneys, a labor-intensive, time-consuming process.
5. Software provided by OnBase (the system used for City police reports) is available to make that redaction simpler, faster, consistent, and more accurate.
6. The cost of the redaction software is \$24,000 plus approximately \$2,000 in professional fees for implementation.
7. This amount is available in FY 2019-20 budget from funds in the City attorney budget line items for outside legal fees or other outside expenses.

NOW, THEREFORE, BE IT RESOLVED:

1. The purchase of the OnBase redaction software and implementation services as stated above is approved and the Mayor and City Clerk are authorized and directed sign the purchase agreement on behalf of the City.
2. The City attorney budget line items for outside legal fees or other outside expenses will be charged for this expense.
3. All resolutions and parts of resolutions are, to the extent of 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 August 19, 2019.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Staff Report

Statement of Work

Resolution No. _____

STAFF REPORT

Date: August 14, 2019
Subject: Purchase of OnBase Redaction Software
From: Pat Firestone, IT Director
Scott Smith, City Attorney

Meeting Date: August 19, 2019

RECOMMENDATION:

Adopt the Resolution to Approve Purchase of OnBase Redaction Software.

COMMUNITY, SAFETY, STEWARDSHIP:

Community – The redaction software will make it easier to quickly, accurately and more completely redact certain personal and other information regarding crime victims and witnesses from police reports and other documents before they are transmitted to criminal defense attorneys thereby protecting victim and witness rights.

Safety – The redaction of some personal information will protect the privacy of crime witnesses and victims and better ensure they are not inappropriately contacted.

Stewardship – The numbers of indigent defendants represented by attorneys has increased due to the August 1, 2019 implementation of the Michigan Indigent Defense Commission (MIDC) grant funded contract with the Kent County Office of the Defender. Therefore, the numbers of redacted police reports and other documents to be provided to defense attorneys has markedly increased. Redaction software will reduce the time the City's prosecuting attorneys and legal staff spends to redact those documents, reducing the personnel costs of that effort.

DISCUSSION:

The proposed software will allow automatic redaction by fields, by pattern (*e.g.*, such as a letter followed by a dash and 4 series of 3 digits separated by dashes or a letter followed by 12 digits, *i.e.*, a driver's license number), by certain words or phrases, etc. This will expedite the redaction of dozens of police reports each month. This software will also be available for use in redacting documents in response to FOIA requests or on other occasions.

BUDGET IMPACT:

The cost will be paid from the City attorney budget from the line items designated for outside legal fees and other outside services.

Statement of Work

Statement of Work No.	20177
Revision No.	0
Customer Name:	City of Wyoming
Project Name:	Automated Redaction
ImageSoft Contact:	Tim Zarzycki
Submitted Date:	7/19/2019

This Statement of Work is made and entered into by and between ImageSoft, Inc., a Michigan Corporation with its principal offices at 25900 West 11 Mile Rd, Suite 100, Southfield, MI 48034 ("ImageSoft"), and City of Wyoming with its principal offices at 1155 28th Street SW, Wyoming, MI 49509-2825 ("Customer"):

This Statement of Work ("SOW") is to be attached to and is hereby made a part of the Master Services Agreement ("MSA") entered into by and between Customer and Business Strategy, Incorporated dated 3/29/2004 and assumed by ImageSoft. In addition, the products and services provided within this SOW are covered for one (1) year under the maintenance and support terms of the MSA.

To the extent that any terms and conditions contained in the related MSA are in conflict with, or in addition to the terms and conditions of this Statement of Work, the terms and conditions of this Statement of Work shall control.

1. Introduction

This SOW will cover the purchase of one (1) Automated Redaction license.

Automated Redaction

Utilizes OCR character and pattern analysis or configured templates to evaluate document contents for information or areas on the document that need to be obscured and made unreadable. Documents are placed for review before being permanently redacted so that private or confidential information cannot be viewed on the image documents. Third Party Requirements: Nuance OCR (Provided by Hyland Software)

There are no professional services included in this Statement of Work (SOW). A separate SOW can be provided for the recommended professional service hours.

2. Pricing

The table below provides estimated pricing for software only.

Software				
	Product	Unit Cost	# Units	Cost
OnBase Software				
Automated Redaction	ARIPW1	\$20,000	1	\$20,000
OnBase Annual Maintenance and telephone support	OBMAINT			\$4,000
Software Subtotal				\$24,000
Total				
Grand Total				\$24,000
<i>Pricing valid for 30 days</i>				

2.1 Payment Schedule

All payments will be due on a Net-30 day basis.

Third-Party Software Procurement and Maintenance

Unless otherwise specified, the third-party software that is being provided within this SOW will be ordered by ImageSoft immediately following the acceptance of this SOW.

Software Maintenance: The first year of software maintenance is required with every third-party software purchase. The software maintenance for the third-party software provided in this SOW will begin based on the selected option below:

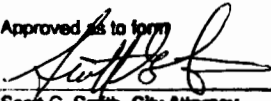
- The third-party software is for a new system, and therefore maintenance will begin ninety (90) days after the software is ordered by ImageSoft.
- The third-party software is an add-on to an existing system, and therefore maintenance will begin immediately after the software is ordered by ImageSoft.

3. Approval

Signature is required to accept this SOW. By signing below each party agrees to the proposed project scope and authorizes work to begin.

Agreed to: City of Wyoming 1155 28th Street SW, Wyoming, MI 49509-2825	Agreed to: ImageSoft, Inc. 25900 West 11 Mile Road, Suite 100, Southfield, MI 48034
By: _____ Authorized Signature	By: _____ Authorized Signature
Date: _____	Date: _____
Name (Type or Print): _____	Name (Type or Print): <u>Scott Bade</u>
Title (Type or Print): _____	Title (Type or Print): <u>President</u>
Project Name: Automated Redaction	

<i>Internal Use:</i> Opportunity #: <u>20177</u>
Sales Order #: _____

Approved as to form


 Scott G. Smith, City Attorney
 Date: 8/15/2019

RESOLUTION NO. _____

RESOLUTION TO CONCUR WITH THE EXECUTION OF A CONTRACT WITH
ALL CITY MANAGEMENT SERVICES TO PROVIDE CROSSING GUARD SERVICES

WHEREAS:

1. As detailed in the attached Staff Report, it is recommended the City concur with the execution of a contract with All City Management Services to provide crossing guard services through June 20, 2021.
2. Funds for the crossing guard services are budgeted in account number 101-305-31600-956.000.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby concur with the execution of a contract with All City Management Services to provide crossing guard services.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on August 19, 2019.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Staff Report
Contract

STAFF REPORT

Date: August 9, 2019
Subject: Crossing Guard Contract Concurrence
From: Cpt. James Maguffee
Meeting Date: August 19, 2019

RECOMMENDATION:

It is recommended City Council concur with the execution of a 2 year contract between the City of Wyoming and All City Management Services for the City's crossing guard needs.

COMMUNITY, SAFETY, STEWARDSHIP:

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

DISCUSSION:

The City of Wyoming began contracting crossing guard services in May of 2013. City Council Resolution number 24477 dated May 20, 2013 authorized this and resolved that future renewals could be made with consent of the City Manager in accordance with budget authorization. The contract I am recommending you concur with was approved and signed on April 11, 2019. It expires June 30, 2021. As the City Attorney continues a review of our systems and processes concerning contracts and renewals he has instructed that this contract ought to be presented to you for concurrence.

BUDGET IMPACT:

Monies are budgeted for this purpose and are available in budget line 101-305-31600-956.000.

CROSSING GUARD SERVICES CONTRACT

This Crossing Guard Services Contract is made as of July 1, 2019, between the City of Wyoming, a Michigan municipal corporation of 1155 28th St SW, Wyoming, MI 49509 (the "City") and All City Management Services, a California corporation of 10440 Pioneer Blvd, Suite 5, Santa Fe Springs, CA 90670 with a registered Michigan address of National Registered Agents, Inc., 40600 Ann Arbor Rd E, Suite 201, Plymouth, MI 48170 ("ACMS").

RECITALS

- A. The City wishes to provide crossing guards at some crosswalks in the City to enhance the safety of street crossings by students at certain times on the approximately 180 days schools are in session.
- B. ACMS provides crossing guard services for communities in many states.

TERMS AND CONDITIONS

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

1. ACMS's Obligations. ACMS will:

A. Provide properly trained and equipped **Crossing Guards** to marked crosswalks designated by the City during the times designated by the City and on the days designated by the City.

1. The police lieutenant serving in City Department of Public Safety Support Services Unit will serve as the City's designated representative for purposes of this contract ("**City Rep**"). That position is currently held by Lt. Mark Easterly whose e-mail address is EasterlyM@wyomingmi.gov and whose telephone number is (616) 530-7308.

2. Crossing Guards will be at the designated crosswalks at the designated times on the designated days unless, due to weather or other circumstances, school students who use those crosswalks during those designated times do not have school.

3. If school starting or dismissal times are altered due to weather or other circumstances, if aware of such changes, Crossing Guards will provide their services during the revised times on those days.

4. ACMS personnel will attempt to keep apprised of weather-related school closings and changes in times via local media lists. The City Rep will attempt to contact ACMS when other circumstances might result in schedule alterations. ACMS will also contact personnel at schools served under this Contract to arrange for direct communication of scheduling changes.

5. ACMS will maintain and assign as needed adequate reserve personnel to serve as alternate Crossing Guards if a Crossing Guard (i) is unable to or will not provide services at any designated time or (ii) fails to report for work at any designated time and location.

B. Assign such supervisory personnel as may be reasonably necessary to ensure ACMS provides all services in the manner required by this Contract.

C. Without expense to the City, ensure that all Crossing Guards are trained in appropriate procedures for crossing pedestrians in marked crosswalks and that they are equipped as reasonably needed to provide those services in varying weather and light conditions. ACMS will provide all Crossing Guards with apparel so they are readily visible and easily recognized as Crossing Guards. Such apparel shall be uniform for all persons performing the duties of Crossing Guards and shall be worn at all times while performing those duties. The apparel will be appropriate for weather conditions. ACMS will also provide all Crossing Guards with hand held "Stop" signs and any other safety equipment which may be necessary.

D. Ensure that in the performance of services under this Contract, ACMS Crossing Guards and other personnel will comply with (i) all applicable laws, ordinances, rules, and regulations, (ii) all orders from courts, judges, tribunals, administrative law judges, or other adjudicators of competent jurisdiction, (iii)

order or directions of federal, state or city officials of competent jurisdiction. ACMS will train its Crossing Guards and other personnel as needed to enable them to so comply. Contractor will have and will maintain and its Crossing Guards will have and will maintain any needed licenses, registrations, certifications, memberships, or other approvals needed to serve as Crossing Guards in Michigan.

E. Invoice the City's Finance Department monthly for services rendered the preceding month. Invoices shall be submitted as directed by the City's Finance Department with a copy to the City Rep.

FG. Designate and notify the City of the name, cellular telephone number, and e-mail address for a local representative of ACMS to be contacted by the City Rep or school personnel about weather conditions, changes in school starting or dismissal times, changes in the school calendar or other information and needs for collaboration for a mutually successful performances of services under this Contract ("ACMS Rep").

G. Ensure all ACMS Crossing Guards and other personnel engage students, others using the intersection at which they are serving, school personnel, City personnel and the general public with civility, professionalism, and courtesy.

2. City Obligations. The City will:

A. Pay ACMS as follows:

1. Payments shall be at \$32.92 per hour for services provided by Crossing Guards under this Contract. The total hours projected for such services based on a school calendar with 180 instructional days during which students are present is 2565 hours for the total project amount to be paid to ACMS not-to-exceed \$84,439.80, based on the following calculations:

5 sites x 1.25 hours per day x 180 days x \$32.92 = \$37,035.00
1 site x 2.00 hours per day x 180 days x \$32.92 = \$11,851.20
6 sites x 1.00 hours per day x 180 days x \$32.92 = \$35,553.60
\$37,035.00 + \$11,851.20 + \$35,553.60 = \$84,439.80

If the City changes either the hours of Crossing Guard services each day (e.g., determines services need to be provided over a longer period of time), the calculations provided above shall correspondingly change.

2. The hourly rate provided in the preceding subsection is based upon information ACMS currently has about current payroll tax rates, state wage laws, workers disability compensation rates, and other cost factors. If those factors change or if the information on which ACMS provided that hourly rate is found to be incorrect, ACMS may communicate with the City Rep about the changed or incorrect information and ACMS's desire to therefore alter the hourly rate. The City may accept that change or may decide it does not want to accept that change and then terminate this Contract. The change will not go into effect for at least 60 days after ACMS provides such notification and, regardless of any other provision of this Contract, the City may within 30 days decide to terminate this Contract with 30 days' notice to ACMS.

3. Payments on the undisputed portion of any invoice will be made within 30 days of the date the City's Finance Department receives the invoice from ACMS as provided in subsection 1.F of this Contract. If there is a question or dispute about any invoice, payment of the unquestioned/undisputed portion will be timely made and, as or before it makes that payment, the City will promptly contact ACMS's Director of Administrative Services (currently Demetra Ferrell at (424) 298-9307) and demtra@thecrossingguardcompany.com) regarding that question or dispute in an effort to resolve it.

B. Communicate with school personnel about the contact information for the ACMS Rep and communicate with the ACMS Rep with names and contact information for key school personnel.

C. Promptly communicate with the ACMS Rep when the City is aware of changes in school schedules times or other information relevant to ACMS's performance if ACMS's services under this Contract.

3. City Standard Terms and Conditions.

A. Neither ACMS nor its directors, officers, shareholders, or key employees (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 this Contract been convicted of or have a judgment against them for fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public transaction or contract under a public transaction; violation of federal or state antitrust statutes or commission of 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 with commission of any of the offenses enumerated in this certification; or (iv) have within 3-years preceding this Contract had one or more public transactions terminated for cause or default.

B. ACMS is not on and will remain off the Federal Excluded Parties List ("EPLS"). If ACMS is on the EPLS when signing or during the term of this Contract, in addition to any other remedies to which it may be entitled the City may recover all moneys paid to ACMS, all consequential damages (including loss of grant funding or required return of grant funding), and reasonable attorney fees (including costs of in-house counsel) sustained as a result of non-compliance with this representation and promise.

C. ACMS and its personnel will not discriminate against an employee or an applicant for employment in hiring, any terms and conditions of employment, or matters related to employment because of religion, race, color, national origin, age, sex, height, weight, marital status, partisan considerations, or a disability or genetic information that is unrelated to the employee's or applicant's ability to perform the duties of a particular job or position. ACMS and its personnel will not discriminate, harass, or retaliate against any person because of religion, race, color, national origin, age, sex, height, weight, marital status, partisan considerations, or a disability or genetic information unless a federal or state law mandates contrary action. "Sex" includes sexual orientation and gender identity or expression. "Gender identity or expression" means the perception by an individual or another person of the gender identity, appearance, behavior, or expression of the individual whether or not that gender identity, appearance, behavior, or expression is different from the gender identity, appearance, behavior, or expression traditionally associated with the sex assigned to the individual at birth. "Sexual orientation" means the term as defined by Michigan Civil Service Commission Rule 9-1.

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

E. ACMS and its members, officers and employees, have not engaged in and will not engage in: (i) holding an interest that would conflict with this Contract; (ii) an act creating an appearance of impropriety with respect to the award or performance of this Contract; (iii) attempting to influence any City elected or appointed officer or employee by a direct or indirect offer of anything of value; or (iv) paying or agreeing to pay any person, except ACMS's personnel, any consideration contingent upon the award of this Contract. No ACMS member, officer, or key employee is a spouse, parent, child, grandchild, or sibling of the mayor, a 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 before signing this Contract. ACMS will immediately notify the City of any change in these circumstances.

F. ACMS guarantees the use of software, records or other intellectual property used to meet its obligations or exercise its rights under this Contract will not infringe any copyright, patent, trademark or other intellectual property rights.

G. ACMS will retain copies of all records related to this Contract for at least 6 years after completion of this Contract and will, upon the City's request, allow inspection, auditing and copying of all such records.

4. Independent Contractor. ACMS is an independent contractor. Accordingly:

A. No ACMS personnel are or will represent themselves to be City officers or employees.

B. Payment of any (i) income, sales, use, excise or other taxes related to City payments made to ACMS under this Contract, (ii) employee withholding for ACMS personnel including, without limitation, Social Security, Medicare, income tax, garnishments or court ordered payments, insurance premiums or other amount ACMS is required to pay or withhold from any compensation due ACMS personnel, (iii) wages and benefits (or premiums or other amounts for any fringe benefits) provided any ACMS personnel, (v) workers' disability or unemployment compensation, and other amounts to be paid by or on behalf of ACMS to or for ACMS or its personnel are solely the responsibility of ACMS.

C. Nothing in this Contract is intended to or shall be deemed or construed to create the relationship of principal and agent, partnership, joint venture or any association between the parties.

D. The City will not provide any liability or other insurance coverage of ACMS or ACMS personnel. ACMS is solely responsible for any such coverage ACMS is required to have or may wish to have. The City will not carry insurance covering ACMS for any injuries or property damage ACMS or ACMS's personnel may suffer or experience in performance under this Contract.

E. ACMS is solely responsible for selection, training, management, oversight and conduct of Crossing Guards and other ACMS personnel providing services under this Contract.

5. Risk Allocation and Insurance.

A. ACMS will provide workers' compensation insurance covering its employees in accordance with Michigan law. It shall, to the extent permissible, provide a waiver of subrogation.

B. ACMS will obtain and maintain liability insurance for Crossing Guard activities that covers the City and its council members, officers, employees and volunteers as insureds or additional insureds and provides that the City is a certificate holder. Such insurance shall include commercial general liability with a combined single limit of not less than \$1,000,000.00 per occurrence and in aggregate for property damage and bodily injury. Such insurance will:

1. Be primary with respect to any insurance maintained by the City and shall not call on the City's insurance contributions.
2. Be endorsed for contractual liability and personal injury and endorsed to include the City, its council members, officers, employees, volunteers, and interests of the City.
3. Not be canceled, non-renewed, or reduced in coverage or limits except after at least 30 days written notice to the Wyoming City Clerk by certified mail, return receipt requested.

C. ACMS shall provide the City Rep a copy of issued certificate(s) of insurance showing the insurance in effect and premiums paid. Upon the City Rep's request, ACMS shall provide the City Rep copies of all required policies and endorsements.

D. ACMS will defend, indemnify and hold harmless the City and the City's council members, officers, employees and volunteers from and against all demands, claims, lawsuits, administrative actions, judgments, awards, or investigations that may be asserted by or on behalf of any individual, entity or group arising out of the negligent, grossly negligent, careless, reckless, or willful acts or omissions of ACMS or ACMS's directors, officers, employees or agents ("Claims").

1. ACMS will defend any action or actions filed in connection with any Claims and will pay all costs and expenses including attorney's fees incurred in connection with any Claims.
2. ACMS will promptly pay any judgment or award rendered against the City or the City's council members, officers, employees or volunteers for any such Claims.
3. If the City or any City council member, officer, employee, or volunteer is made a party to an action filed or prosecuted against ACMS for such Claims arising from or in connection with the sole negligence, gross negligence, carelessness, recklessness or willful acts or omission of ACMS or ACMS's directors, officers, employees or agents, ACMS will pay the City all costs incurred by the City of the City's council members, officers, employees or volunteers in such action including, but not limited to, reasonable attorney's fees.
4. If a court, arbitrator or governmental agency determines that liability for any Claim was caused or contributed to by the negligence, gross negligence, carelessness, recklessness or willful acts or omission of the City or the City's council members, officers, employees, or volunteers, liability will be apportioned between ACMS and the City based upon the parties' respective degrees responsibility, as determined by the court, arbitrator or governmental agency and ACMS's duty to indemnify the City will be limited accordingly.

5. Regardless of anything to the contrary in this Contract, ACMS's indemnification obligation to City for claims under this Contract will be limited to the maximum combined aggregate of ACMS's general liability and umbrella insurance policies which is and shall remain at least \$9.0 million.

6. Term and Termination. This Contract will be in effect from July 1, 2019 through June 30, 2021. However, the obligations under section 5 of this Contract shall remain in effect until all Claims that may have accrued during the term of this Contract have been fully addressed or are barred by applicable statutes of limitations.

A. Either party may terminate this Contract upon 60 days' prior written notice to the other Party.

B. This Contract may be extended without amendment upon a written acknowledgement by the ACMS Rep and the City Manager of the hourly rate to be applied during and the length of any such extension.

7. Assignment and Beneficiaries.

A. Neither party may assign this Contract or any of its rights, duties or obligations under this Contract without the prior written consent of the other party which may be declined for any reason or for no reason.

B. No individuals or entities other than the parties are intended to be beneficiaries of this Contract. Therefore, not other individuals or entities may bring or maintain any Claim under this Contract.

8. General Provisions.

A. Reference to any City or ACMS officer, employee or group of officers or employees by position includes that officer's, employee's or group's superiors and designees. Any designees shall be designated in writing.

B. This Contract is the entire agreement between the parties regarding to its subject matter. This Contract may not be amended or modified except in writing signed by both parties. It shall not be affected by any course of dealing and the waiver of a breach shall not constitute a waiver of a later breach of the same or another provision. The captions in this Contract are for reference only and shall not affect its interpretation but its recitals are an integral part of this Contract. This Contract was made in Kent County, Michigan and it shall be governed by and interpreted in accordance with Michigan law.

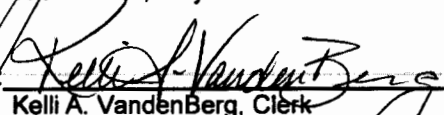
C. To the extent permitted by law, the jurisdiction and venue for any action brought under this Contract shall be solely in the state courts in Kent County, Michigan and the prevailing party in any such action shall, in addition to any other remedy, be entitled to recover its costs, including, without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

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

CITY OF WYOMING

By: 


Jack A. Poll, Mayor

By: 

Kelli A. Vandenberg, Clerk

Date signed: April 11, 2019

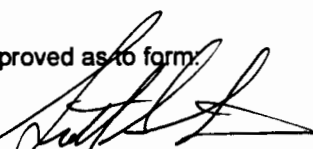
ALL CITY MANAGEMENT SERVICES, INC.

By: 

Demetra Farwell, Corporate Secretary

Date signed: 3/20, 2019

Approved as to form:



Scott G. Smith, City Attorney

RESOLUTION NO. _____

RESOLUTION FOR AWARD OF BID

WHEREAS:

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

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby award the bid for the listed item as recommended in the attached Staff Report and summarized below.

Item	Recommended Bidder	Cost
Overhead Garage Doors and Openers	Overhead Door Company of Grand Rapids	\$11,566.00

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on August 19, 2019.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENT:
Staff Report

Resolution No. _____

STAFF REPORT

Date: August 13, 2019
Subject: Overhead Garage Doors and Openers
From: Dennis Van Tassell, Deputy Fire Chief
Meeting Date: August 19, 2019

RECOMMENDATION:

It is recommended that the City authorize \$11,566.00 for the purchase of two overhead garage doors, one garage door opener, and programmable transmitter openers from Overhead Door Company of Grand Rapids for Fire Station 4 located at 1250 36th Street SW.

COMMUNITY, SAFETY, STEWARDSHIP:

This project impacts the ability of fire apparatus to rapidly respond to emergency events within the City of Wyoming. The current door systems are consistently being repaired and no longer meet appropriate building codes for the safe operation of overhead doors. New doors also ensure closing appropriately, and securing the assets within the fire station.

DISCUSSION:

The bid was sent to fourteen potential bidders. A non-mandatory pre-bid meeting was held with only one attendee from Overhead Door Company of Grand Rapids. Overhead Door Company was the only company that sent a bid for this project. Overhead Door Company has replaced and serviced many of the doors at the fire department. The doors and opener that were bid will stay consistent with the current equipment being utilized at the fire station.

BUDGET IMPACT:

This project will cost \$11,566.00 and it is requested that it be charged to account 101-337-33800-975.000.