

AGENDA
WYOMING CITY COUNCIL MEETING
BRANN'S AT 4157 DIVISION AVE S
TUESDAY, SEPTEMBER 8, 2020, 7:00 P.M.

- 1) Call to Order**
- 2) Invocation** – Pastor Jack Doorlag, Grace Reformed Church
If you wish and are able, please stand for the invocation. The Pledge of Allegiance will immediately follow the invocation.
- 3) Pledge of Allegiance**
- 4) Roll Call**
- 5) Student Recognition**
- 6) Approval of Minutes**
From the August 17, 2020 Regular Meeting
- 7) Approval of Agenda**
- 8) Public Hearings**
If you wish to speak to an item during a public hearing you are welcome to do so. It is important to note this is not an opportunity for dialog or debate; this is an opportunity to provide comment to the City Council. Comments made during a public hearing may become part of the meeting's permanent record. Upon approaching the podium, please begin by providing your name and address. There is a 3 minute limit per person.
- 9) Public Comment on Agenda Items**
This public comment period is reserved for comment on agenda items only. If you wish to speak about an item that is not on the agenda, please hold your comments until the acknowledgement of visitors at the end of the meeting. It is important to note this is not an opportunity for dialog or debate; this is an opportunity to provide comment to the City Council. Upon approaching the podium, please begin by providing your name and address. There is a 3 minute limit per person.
- 10) Presentations and Proclamations**
 - a) Presentations
 - b) Proclamations
- 11) Petitions and Communications**
 - a) Petitions
 - b) Communications
- 12) Reports from City Officers**
 - a) From City Council
 - b) From City Manager
- 13) Budget Amendments**
 - a) Budget Amendment No. 31 – To Appropriate \$44,874.15 of Additional Budgetary Authority and Recognize Related Grant Revenue of \$44,874.15 Due to the Reappropriations from the 2019-2020 Fiscal Year to the 2020-2021 Fiscal Year
 - b) Budget Amendment No. 32 – To Appropriate \$3,610.00 of Budgetary Authority for the Modification of the Fire Suppression Sprinkling at City Hall
- 14) Consent Agenda**
All items under this section are considered to be routine and will be enacted by one motion with no discussion. If discussion is desired by a Councilmember, that member may request removal from the Consent Agenda.

- a) To Confirm the Appointment of Gregory King as a Member of the Board of Directors of the Economic Development Corporation and the Brownfield Redevelopment Authority for the City of Wyoming
- b) To Appoint Kalene Erica McElveen as a Member of the Community Development Committee for the City of Wyoming
- c) To Appoint Stephanie McIntosh as a Member of the Community Development Committee for the City of Wyoming
- d) To Appoint Aaron Thelenwood as a Member of the Community Development Committee for the City of Wyoming
- e) To Authorize the Mayor and City Clerk to Execute an Amendment to the Streetlighting Contract with Consumers Energy Company

15) Resolutions

- f) To Alleviate Some Late Payment Fees and Interest for City Water and Sanitary Sewer Service Bills and 2020 Summer Property Taxes

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

- g) To Increase Spending Authorization with the Michigan Department of Transportation for Wyoming's Share of the Frog Hollow Connector Trail Project
- h) To Authorize the Mayor and City Clerk to Execute Change Order No. 1 to the 2020 Wyoming Resurfacing Program (Budget Amendment No. 30)
- i) To Extend the Bid for Permanent Winter Hot Mix and Winter Cold Mix Asphalt
- j) To Authorize the Purchase of De-Icing Salt from Compass Minerals America Inc. and to Authorize the Mayor and City Clerk to Execute the Agreement
- k) To Extend the Bid for Video Inspection and Cleaning of Existing Sanitary Sewer Lines to Plummer's Environmental
- l) To Accept a Quote from SPX Flow for the Repair of One Aeration Mixer Gearbox and to Authorize the Mayor and City Clerk to Execute the Contract
- m) To Accept a Proposal from Seepex Inc. for the Purchase of Two Progressive Cavity Pumps and to Authorize the Mayor and City Clerk to Execute the Contract
- n) To Accept a Proposal from H2O Towers LLC for the Exterior Cleaning of the Gezon Pump Station Water Storage Tanks and to Authorize the Mayor and City Clerk to Execute the Contract
- o) To Accept a Proposal from Franklin Holwerda Company to Modify and Cap a 48" Raw Water Pipe and to Authorize the Mayor and City Clerk to Execute the Contract
- p) To Authorize the Purchase of Fire Turnout Gear
- q) To Accept a Quote from Cummins Sales and Service to Provide Preventative Maintenance of the Fire Department's Four Generators and to Authorize the Mayor and City Clerk to Execute the Contract
- r) To Accept a Proposal from Action Target, Inc. for a Firearms Range Target System and to Authorize the Mayor and City Clerk to Execute the Contract
- s) For Award of Bids and to Authorize the Mayor and City Clerk to Execute the Contracts
 - 1. Gasoline & Diesel Fuel
 - 2. Fence Removal and Installation – Kelloggsville Park
 - 3. Waterworks Fittings

17) Ordinances

- 15-20 To Amend Section 90-32 of the Code of Ordinances by Adding Subsection (127) to Rezone 1.11 Acres at 5050 Byron Center Ave SW from R-1 to R-3 (First Reading)

18) Informational Material

Wyoming Historical Commission Annual Report

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 CONFIRM THE APPOINTMENT OF GREGORY KING
AS A MEMBER OF THE BOARD OF DIRECTORS OF THE
ECONOMIC DEVELOPMENT CORPORATION AND THE BROWNFIELD
REDEVELOPMENT AUTHORITY FOR THE CITY OF WYOMING

WHEREAS:

1. Gregory King has submitted an application requesting appointment to the Economic Development Corporation and the Brownfield Redevelopment Authority for the City of Wyoming.
2. A vacancy exists in an unexpired term ending February 13, 2024 on the Economic Development Corporation and the Brownfield Redevelopment Authority.
3. Mayor Jack Poll has recommended that Gregory King be appointed as a member of the Board of Directors of the City of Wyoming Economic Development Corporation and the Brownfield Redevelopment Authority.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council for the City of Wyoming, Michigan, does hereby confirm the appointment of Gregory King as a member of the Board of Directors of the City of Wyoming Economic Development Corporation and the Brownfield Redevelopment Authority for the unexpired term ending February 13, 2024.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on September 8, 2020.

Kelli A. VandenBerg, Wyoming City Clerk

RESOLUTION NO. _____

RESOLUTION TO APPOINT KALENE ERICA MCELVEEN AS A MEMBER OF THE
COMMUNITY DEVELOPMENT COMMITTEE FOR THE CITY OF WYOMING

WHEREAS:

1. Kalene Erica McElveen has submitted an application requesting appointment to the Community Development Committee for the City of Wyoming.
2. A vacancy exists in a term ending June 30, 2022.
3. City Council wishes to appoint Kalene Erica McElveen as a member of the Community Development Committee.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council for the City of Wyoming, Michigan does hereby confirm the appointment of Kalene Erica McElveen as a member of the Community Development Committee for the term ending June 30, 2022.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on September 8, 2020.

Kelli A. Vandenberg, Wyoming City Clerk

RESOLUTION NO. _____

RESOLUTION TO APPOINT STEPHANIE MCINTOSH AS A MEMBER OF THE
COMMUNITY DEVELOPMENT COMMITTEE FOR THE CITY OF WYOMING

WHEREAS:

1. Stephanie McIntosh has submitted an application requesting appointment to the Community Development Committee for the City of Wyoming.
2. A vacancy exists in a term ending June 30, 2022.
3. City Council wishes to appoint Stephanie McIntosh as a member of the Community Development Committee.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council for the City of Wyoming, Michigan does hereby confirm the appointment of Stephanie McIntosh as a member of the Community Development Committee for the term ending June 30, 2022.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on September 8, 2020.

Kelli A. Vandenberg, Wyoming City Clerk

RESOLUTION NO. _____

RESOLUTION TO APPOINT AARON THELENWOOD AS A MEMBER OF THE
COMMUNITY DEVELOPMENT COMMITTEE FOR THE CITY OF WYOMING

WHEREAS:

1. Aaron Thelenwood has submitted an application requesting appointment to the Community Development Committee for the City of Wyoming.
2. A vacancy exists in a term ending June 30, 2022.
3. City Council wishes to appoint Aaron Thelenwood as a member of the Community Development Committee.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council for the City of Wyoming, Michigan does hereby confirm the appointment of Aaron Thelenwood as a member of the Community Development Committee for the term ending June 30, 2022.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on September 8, 2020.

Kelli A. Vandenberg, Wyoming City Clerk

RESOLUTION NO. _____

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

WHEREAS:

1. The City has had a contract with Consumers Energy Company (CE) for CE owned streetlights throughout the City for many years.
2. Consumers Energy Company removed four (4) 400 MV cobrahead and one (1) 250 HPS cobrahead streetlight fixtures and previously replaced with seven (7) LED cobrahead fixtures.
3. The removal will be credited to the next invoice for street light energy.
4. Consumers Energy has submitted the attached modification to the streetlighting contract to address this change.

NOW, THEREFORE, BE IT RESOLVED:

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

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on September 8, 2020.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Authorization for Change in Standard Lighting Contract
Consumers Energy Resolution

Resolution No. _____



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

Contract Number: 100000339505

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

Lighting Type:

General Service Unmetered Lighting Rate GUL, Standard High Intensity Discharge

Notification Number(s):

Correction to bill from 44t Street Widening between Buchanan & Division Ave

Construction Work Order Number(s):

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

City of WYOMING

By:

(Signature)

(Printed)

Its

(Title)

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

RESOLUTION

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

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

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

STATE OF MICHIGAN
COUNTY OF Kent

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

Dated:

Municipal Customer Type: City

GENERAL SERVICE UNMETERED LIGHTING RATE GUL, STANDARD HIGH INTENSITY DISCHARGE

<i>Number of Luminaires</i>	<i>Nominal Watts</i>	<i>Luminaire Type</i>	<i>Fixture Type</i>	<i>Fixture Style</i>	<i>Install Remove</i>	<i>Location</i>
4	<u>400</u>	<u>MV</u>	<u>Cobrahead</u>		<u>Remove</u>	44th St, S side of rd, btwn Buchanan & Division
1	<u>250</u>	<u>HPS</u>	<u>Cobrahead</u>		<u>Remove</u>	44th St, S side of rd, btwn Buchanan & Division

RESOLUTION NO. _____

RESOLUTION TO ALLEVIATE SOME LATE PAYMENT FEES AND INTEREST
FOR CITY WATER AND SANITARY SEWER SERVICE BILLS AND 2020
SUMMER PROPERTY TAXES

WHEREAS:

1. City Council Resolution No. 26661, adopted May 18, 2020, established fees and interest for late payments of periodic bills for water and sanitary sewer service and City Charter section 9.16 and the general property tax act provide for interest on penalties on property taxes paid after certain dates.
2. Due to the COVID-19 pandemic and the resulting economic disruption, some City water and sanitary sewer users and some city property owners found it difficult to timely pay water and sanitary sewer bills and July 2020 property taxes bills.
3. The City Council wishes to alleviate some of the financial stress resulting from the addition of some late fees, penalties and interest for late payments of those utility bills and property taxes.

NOW, THEREFORE BE IT RESOLVED:

1. The late payment fees, penalties and interest for utility bills that accrued on City water or sanitary sewer service bills between March 1, 2020, and December 31, 2020, are waived if the bills are paid in full before December 31, 2020. This provision does not apply to individual or entities in default to the City for a reason other than nonpayment of utility bills described in this section or for nonpayment of summer 2020 real property taxes as described in section 2.
2. The 6.0% charge and interest on property taxes billed in July 2020 that are paid after August 31, 2020, pursuant to City Charter section 9.16, is waived for eligible taxpayers under this section provided those property taxes are paid in full by February 15, 2021. Except for those with qualified deferments, interest of 6.0% will be added to the unpaid balance of any property taxes billed in July 2020 that are not paid by February 15, 2021, with interest and other amounts accruing thereafter as provided by state law and the City Charter. Eligible taxpayers under this section are individuals or entities who are responsible as the owners or as tenants for the payment of the summer 2020 property taxes. This provision does not apply to property used for utilities sites, to property owned by an individual or entity that is a party to an escrow or other arrangement obligating another individual or entity to pay the summer 2020 property taxes for that property, or to an individual or entity that is in default to the City for a reason other than nonpayment of summer 2020 property taxes or the utility bills described in section 1.
3. All resolutions and parts of resolutions are, to the extent of conflict with this resolution, rescinded.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on September 8, 2020.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Staff Report

Resolution No. _____

STAFF REPORT

Date: September 1, 2020

Subject: Relief for Water and Sewer Bill and 2020 Summer Property Tax Bill Penalties and Interest

From: Andrea Boot, Treasurer

Meeting Date: September 8, 2020

RECOMMENDATION:

It is recommended that City Council authorize the temporary forgiveness of late payment fees, penalties and interest for water and sewer bills accrued between March 1, 2020 and December 31, 2020, and the late interest charge for 2020 summer property tax bills required by City Charter section 9.16 as long as certain requirements are fulfilled.

COMMUNITY, SAFETY, STEWARDSHIP:

The COVID-19 crisis has impacted the lives of our citizens and has created financial challenges for them. Many of them are more than willing to pay their obligations but may not be able to pay in full by the due date. Rather than burdening our citizens with additional charges when they are already struggling, we would like to offer them payment options that eliminate late interest and penalties for a limited time. This would ensure that our citizens can continue to receive safe, clean water which is essential to prevent the spread of COVID-19, as well as allow them to allocate their funds for necessities such as food and other utilities.

DISCUSSION:

Since the start of the COVID-19 crisis, there have been several programs on the federal and state level to assist citizens during this crisis. Due to the lock-down and other strict business restrictions many citizens lost their jobs or saw their work hours reduced through no fault of their own. In addition to cash assistance programs several institutions, such as the IRS, extended due dates and filing deadlines. The State of Michigan mandates that water service cannot be interrupted during this time, regardless if customers pay or not. Considering these examples, staff has been discussing options regarding how we can help our citizens at the local level. Eliminating late penalties and interest allows customers and residents to make partial payments without incurring additional costs, therefore providing additional relief to them. It demonstrates to our citizens and customers that we are taking their plight seriously and are not financially gaining through their hardship. The City shows solidarity by sharing the burden this crisis has caused for all of us by reducing our own revenue and adjusting our budgets accordingly.

BUDGET IMPACT:

For fiscal year 2019/20 the budget amount for penalties for water was \$90,000, of which we collected \$75,000, and for sewer was \$120,000, of which we collected \$95,000. We stopped charging penalties for water and sewer accounts in April after discussions with the City Manager. It can be calculated that the difference between the budgeted and the collected amount is the revenue forgone for three months. Extending the penalty holiday on water and sewer until the end of December 2020 would be an additional six months of foregone revenue. While not necessarily a straight-line calculation, the projected loss is approximately \$30,000 for water and \$50,000 for sewer.

For the 2019 tax year, the interest/penalty collected was approximately \$64,000. That includes roughly \$22,000 we received from Kent County when we settled with them in March. Even with the interest/penalty forgiven until February 15, 2021, I anticipate that we will see some revenue from interest/penalties. My best estimate would be around \$20,000, leaving a cost to the City in foregone interest/penalty revenue of about \$45,000.

RESOLUTION NO. _____

RESOLUTION TO INCREASE SPENDING AUTHORIZATION WITH THE
MICHIGAN DEPARTMENT OF TRANSPORTATION FOR WYOMING'S SHARE OF THE
FROG HOLLOW CONNECTOR TRAIL PROJECT

WHEREAS:

1. As detailed in the attached Staff Report, it is recommended City Council increase spending authorization with the Michigan Department of Transportation for the construction of the Frog Hollow M-6 Connector trail project from \$13,500 to \$30,000.
2. The low bid for the project was above the engineer's estimate, increasing the amount of local participation on the project per the City-State agreement.
3. Funds are available in the Major Streets Fund Account No. 202-441-46300-972.510.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby increase spending authorization with the Michigan Department of Transportation for the Frog Hollow M-6 Connector trail project from \$13,500 to \$30,000.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on September 8, 2020.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Staff Report

Resolution No. _____

STAFF REPORT

Date: August 24, 2020

Subject: Frog Hollow M-6 Connector trail project - Increase spending authorization

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

Date of Meeting: September 8, 2020

RECOMMENDATION:

It is recommended that the City Council authorize increased spending with the Michigan Department of Transportation (MDOT) from \$13,500 to \$30,000 for the Frog Hollow M-6 Connector trail project.

COMMUNITY, SAFETY, STEWARDSHIP:

Wyoming continually strives to maintain a network of streets and trails to promote safe and efficient travel for the residents of Wyoming. The addition of the Frog Hollow/M-6 connection trail enhances the trail network and promotes healthy lifestyle, exercise and alternative modes of transportation. The trail was constructed to meet current standards and provide a low maintenance, high quality trail adding to the economic strength of the community.

DISCUSSION:

On March 16, 2020, City Council agreed the City of Wyoming would execute an agreement with MDOT stipulating the terms and obligations associated with the construction of the Frog Hollow M-6 Connector trail project. The agreement is based upon anticipated costs from the engineer's estimate and participating items. The low bid for the project was above the engineer's estimate, increasing the amount of local participation necessary per the City/State agreement. Additionally, some quantities have exceeded the estimated plan amounts, increasing the required local participation from \$13,500 to \$30,000.

BUDGET IMPACT:

There are sufficient funds in the Major Streets Fund Account No. 202-441-46300-972.510.

RESOLUTION NO. _____

RESOLUTION TO AUTHORIZE THE MAYOR AND CITY CLERK TO EXECUTE
CHANGE ORDER NO. 1 TO THE 2020 WYOMING RESURFACING PROGRAM

WHEREAS:

1. As detailed in the attached Staff Report, it is recommended City Council approve Change Order No. 1 to the 2020 Wyoming Resurfacing Program in the amount of \$90,000.
2. Change Order No. 1 adds Palm Dale Drive from Palmair Avenue to Byron Center Avenue to the program.
3. Funds can be financed out of the Local Street Fund Account No. 203-441-46300-972.510, but a budget amendment is necessary.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby authorize the Mayor and City Clerk to execute the attached Change Order No. 1 to the 2020 Wyoming Resurfacing Program in the amount of \$90,000.
2. The City Council does hereby approve the attached budget amendment.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on September 8, 2020.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Budget Amendment

Staff Report

Map

CITY OF WYOMING BUDGET AMENDMENT

Date: September 8, 2020

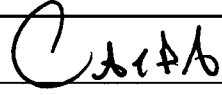
Budget Amendment No. 030

To the Wyoming City Council:

A budget amendment is requested for the following reason: To appropriate \$90,000 of budgetary authority for street resurfacing in the Local Streets Fund and recognize the associated transfer from the Major Streets Fund as per the attached resolution.

<u>Description/Account Code</u>	<u>Current</u>	<u>Increase</u>	<u>Decrease</u>	<u>Amended</u>
<u>Local Streets Fund</u>				
Public Works - Street Maintenance - Capital Outlay Street Resurfacing				
203-441-46300-972.510	2,643,387.02	90,000.00		2,733,387.02
Transfer From Major Street Fund				
203-699.002	2,496,000.00	90,000.00		2,586,000.00
Fund Balance/Working Capital (Fund 203)		-	-	
<u>Major Streets Fund</u>				
Public Works - Street Maintenance - Capital Outlay Street Resurfacing				
202-441-46300-972.510	2,683,976.00		90,000.00	2,593,976.00
202-441-48400-999.002	2,496,000.00	90,000.00		2,586,000.00
Fund Balance/Working Capital (Fund 202)		-	-	

Recommended: 
Finance Director


City Manager

Motion by Councilmember _____, seconded by Councilmember _____ that the General Appropriations Act for Fiscal Year 2020-2021 be amended by adoption of the foregoing budget amendment.

Motion carried: Yes _____, No _____

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

City Clerk

STAFF REPORT

Date: August 18, 2020
Subject: 2020 Street Resurfacing – Change Order No. 1
From: Jeffrey Oonk, Senior Civil Engineer
Date of Meeting: September 8, 2020

RECOMMENDATION:

It is recommended adding Palm Dale Drive from Palmair Avenue to Byron Center Avenue to the 2020 Wyoming Resurfacing Program, adding an estimated \$90,000 in Change Order No. 1.

COMMUNITY, SAFETY, STEWARDSHIP:

Wyoming's annual resurfacing program restores street surfaces that have reached the end of their life cycle. This reduces maintenance costs and promotes safe and efficient vehicular travel for the residents of Wyoming. Well maintained street infrastructure adds to the economic strength of a community.

DISCUSSION:

On August 3, 2020, the City of Wyoming awarded a contract for the 2020 Wyoming Resurfacing Program to Rieth-Riley Construction Co., Inc. The contract was awarded in the amount of \$3,023,788 which was \$488,357 (13.9%) below the Engineer's Estimate. The awarded contract includes several local streets adjacent to Palm Dale Drive in the Chalet West neighborhood. As part of a separate project, Byron Center Avenue will also be resurfaced adjacent to Palm Dale Drive this year. Palm Dale Drive was tentatively planned to be resurfaced in 2022, but due to the lower than expected resurfacing prices, it is advantageous to complete this street at the same time as adjacent streets.

BUDGET IMPACT:

Funds can be financed out of the Local Street Fund Account No. 203-441-46300-972.510, but a budget amendment is necessary.

CHANGE ORDER NO. 1

PROJECT: 2020 Wyoming Resurfacing Program
CONTRACTOR: Rieth-Riley Construction Co., Inc.
CONTRACT DATE: August 3, 2020
DESCRIPTION: Palm Dale Drive

Contract Amount Prior to Change Order No. 1	\$3,023,788
Increase Resulting from Change Order No. 1	<u>\$90,000</u>
Adjusted Contract Amount	\$3,113,788

CITY OF WYOMING

Jack A. Poll
Mayor

Kelli A. VandenBerg
City Clerk

44TH ST

**BYRON CENTER AVE
RESURFACED WITH
FEDERAL FUNDING**

**PALM DALE DR
ADDED WITH C.O. #1**

52ND ST

56TH ST

BYRON CENTER AVE

GEZON PARKWAY



**2020 LOCAL
RESURFACING**

RESOLUTION NO. _____

RESOLUTION TO EXTEND THE BID FOR
PERMANENT WINTER HOT MIX AND WINTER COLD MIX ASPHALT

WHEREAS:

1. As detailed in the attached Staff Report, Superior Asphalt, Inc. has offered to extend their current bid pricing for permanent winter hot mix and winter cold mix asphalt at a unit price of \$125.00 per ton for the 2020-2021 winter season.
2. Funds are budgeted in the Street, Sewer and Water Maintenance account numbers 202-441-46300-775.000, 202-441-47800-740.000, 203-441-46300-775.000, 203-441-47800-740.000, 590-441-54200-775.000, 591-441-56200-775.000 and 591-441-56700-775.000.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby authorize extending the bid for winter hot mix and winter cold mix asphalt for the 2020-2021 winter season.
2. The City Council does hereby waive the provisions of Sections 2-252, 2-253, 2-254 and 2-256 of the City Code regarding publication and posting of bid notices, notification of bidders and the bid opening procedure.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried	Yes
	No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on September 8, 2020.

ATTACHMENTS:
Staff Report
Proposal

Kelli A. VandenBerg, Wyoming City Clerk

Resolution No. _____

STAFF REPORT

Date: August 26, 2020

Subject: Bid Extension, Permanent Winter Hot Mix and Winter Cold Mix UPM Asphalt

From: Jodie Theis, Public Services Supervisor

Meeting Date: September 8, 2020

RECOMMENDATION:

It is recommended that the City Council extend the bid for permanent winter hot mix and winter cold mix UPM asphalt to Superior Asphalt Inc. at a unit price of \$125.00 per ton for both the hot mix and the cold mix asphalt for the 2020-2021 winter season.

COMMUNITY, SAFETY, STEWARDSHIP:

The use of winter mix asphalt allows the Public Works Department to provide high quality street repairs throughout the winter season. Winter mix asphalt is made from materials that are recycled and able to be recycled, reducing the consumption of natural resources and the dumping of asphalt materials in landfills.

DISCUSSION:

On November 7, 2016, the City Council extended the bid for permanent winter hot mix asphalt, Resolution Number 25621 and awarded the bid for winter cold mix UPM asphalt, Resolution Number 25622 to Superior Asphalt Inc. The bid was extended for both winter hot mix and winter cold mix UPM in 2017, 2018 and 2019. Superior Asphalt Inc. has agreed to extend their bid pricing for the 2020-2021 winter season as noted on the attached document. The pricing from the 2016 bid shall remain unchanged at \$125.00 per ton for both hot mix and cold mix asphalt.

It is anticipated that the Public Works Department will use approximately 300 tons of permanent winter hot mix asphalt and approximately 300 tons of winter cold mix UPM asphalt during the 2020 – 2021 winter season. The cost of the permanent winter hot mix asphalt will be \$125.00 per ton, at an estimated total cost of \$37,500.00 and the cost of the winter cold mix UPM asphalt will be \$125.00 per ton, at an estimated total cost of \$37,500.00.

BUDGET IMPACT:

Sufficient funds are available in the street, sewer and water maintenance accounts, 202-441-46300-775.000, 202-441-47800-740.000, 203-441-46300-775.000, 203-441-47800-740.000, 590-441-54200-775.000, 591-441-56200-775.000 and 591-441-56700-775.000.

ATTACHMENTS:

Bid Extension Letter – Superior Asphalt Inc. – 8/26/20

SUPERIOR ASPHALT, INC.

669 Century SW
Grand Rapids, MI 49503

Office: 616-451-3200
Fax: 616-451-3969
Email Address:

Proposal

Date: 8/26/2020

Quoted to:		Job Name & Location	
City of Wyoming 1125 28th St sw Wyoming, MI 49509		Phone: Fax: Cell:	Hot Winter Asphalt UPM (Cold Patch)
Customer ID	Good Thru	Payment Terms	Sales Rep
	10 Days	Due Upon Completion	

We hereby propose to furnish materials and labor necessary for the completion of:

Attn: Joe Wahfield

Superior Asphalt Inc will supply the City of Wyoming both Hot Winter Mix and UPM (Cold Patch) for the winter of 2020-2021 for the same pricing as the winter of 2019-2020... which was \$125.00 per ton. Pricing does not include delivery. All material must be picked up at our Franklin Street location.

Thanks for using Superior Asphalt

John Alonso
Estimator

Note: Unless prior written arrangements have been made, terms are 50% down, balance due upon completion.

Note: Superior asphalt, Inc. is not responsible for damage to concrete caused by heavy equipment accessing job site.

Note: Due to volatility of the petroleum industry, pricing is subject to change if work is not completed within 30 days of acceptance.

All materials are guaranteed to be as specified. All work to be completed in a substantial workmanlike manner according to specifications submitted, per standard practices. Any Alteration or deviation from above specifications involving extra costs will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements are contingent upon strikes, accidents or delays beyond our control. Owner to carry fire, tornado and other necessary insurance. Our workers are fully covered by Workmen's Compensation Insurance.

Total:

\$125.00 per ton

Authorized Signature: _____

Acceptance of Proposal

The above prices, specifications and conditions are satisfactory and are hereby accepted. You are authorized to do the work as specified. Payment will be made as outlined above. Note: Pricing is subject to change if work is not completed within 30 days of acceptance. See Standard Conditions on reverse.

Signature: _____

Printed Name: _____

Date: _____

RESOLUTION NO. _____

RESOLUTION TO AUTHORIZE THE PURCHASE OF DE-ICING SALT
FROM COMPASS MINERALS AMERICA INC. AND TO
AUTHORIZE THE MAYOR AND CITY CLERK TO EXECUTE THE AGREEMENT

WHEREAS:

1. As detailed in the attached Staff Report, the City of Wyoming cooperatively purchases de-icing salt with the Kent County Road Commission, and the cities of Grand Rapids, Kentwood and Walker.
2. It is estimated the City of Wyoming will purchase 5,850 tons of de-icing salt for the 2020-2021 winter season.
3. It is recommended the City Council authorize the purchase of de-icing salt from Compass Minerals America Inc. at a cost of \$76.98 per ton.
4. Funds for the purchase are budgeted in the Major Street and Local Street Winter Maintenance account numbers 202-441-47800-740.000 and 203-441-47800-740.000.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby authorize the purchase of de-icing salt from Compass Minerals America Inc.
2. The City Council does hereby authorize the Mayor and City Clerk to execute the agreement.
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 September 8, 2020.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Staff Report
Purchase Agreement

Resolution No. _____

STAFF REPORT

Date: August 31, 2020

Subject: Approve the Purchase of De-icing Salt from Compass Minerals

From: Aaron Vis, Assistant Director of Public Works

Date of Meeting: September 8, 2020

RECOMMENDATION:

The Public Works Department recommends that the City Council authorize the purchase of a maximum of approximately 5,850 tons of de-icing salt from Compass Minerals at a unit price of \$76.98 per ton, in cooperation with the Kent County Road Commission and other local agencies.

COMMUNITY, SAFETY, STEWARDSHIP:

De-icing salt is cooperatively purchased with regional agencies to obtain the best pricing. It is applied using modern application technology to minimize its impact on the environment yet still provide for motorist safety.

DISCUSSION:

The City of Wyoming has purchased de-icing salt as a cooperative purchase with the Kent County Road Commission, City of Grand Rapids, City of Kentwood and City of Walker for the last fifteen years. Compass Minerals has bid the de-icing salt at \$76.98 per ton. Price is effective through August 31, 2021. Historical salt cost and increase/decrease information is presented below.

Season	Cost Per Ton (\$)	Percentage Increase/Decrease
2012-2013	63.20	-0.5 %
2013-2014	64.77	2.5 %
2014-2015	66.62	2.9 %
2015-2016	66.63	0.0 %
2016-2017	50.40	-32.2 %
2017-2018	45.43	-11.0 %
2018-2019	69.06	52 %
2019-2020	79.38	14.9 %
2020-2021	76.98	-3.0 %

Over the past 5 years, Wyoming has used an average of 4,400 tons of de-icing salt per winter season, ranging from approximately 2,550 to 6,150 tons per year depending on the severity of the season. The purchasing agreement with Compass Minerals requires that Wyoming purchase a

minimum of 3,600 tons and allows Wyoming to purchase up to 5,850 tons of de-icing salt for this season. The City currently has approximately 3,400 tons of de-icing salt in storage and, with the flexibility afforded through this cooperative purchase, should have access to sufficient de-icing salt for this winter season.

Estimated maximum usage for the coming winter season is 5,850 tons of de-icing salt for a total estimated cost of \$450,000.

BUDGET IMPACT:

Sufficient funds have been budgeted in the Major Street and Local Street Winter Maintenance Accounts, 202-441-47800-740.000 and 203-441-47800-740.000.

ATTACHMENTS:

Purchase Agreement – Compass Minerals



Sold-To ("Buyer"):

Aaron Vis
City of Wyoming
P O Box 905
Wyoming, MI 49509-0905

Date: August 14, 2020
Document: 171760
Tel: (616) 530-7229
Fax: (616) 249-3487
Email: Avis@wyomingmi.gov
Customer #: H706426
Preferred: Fax

Compass Minerals America Inc. ("Seller") / Quotation for bulk de-icing salt (the "Product")

Quantity (TN)	Delivery Location	Price Per Ton (USD)	
4,500	City of Wyoming (Kent Co) 2660 Burlingame SW Wyoming, MI 49509 Destination #: H763548 Delivery Lead Time: 5 days	76.98 Deliver	Depot: Muskegon Product: BULK HIGHWAY COARSE W/YPS (6615) Mode of Transport: DUMP (END OR BOTTOM) Distance: 41.5 Miles

Contract period is from September 1, 2020 through August 31, 2021. There are no early fill requirements for 2020-2021 season.

Buyer commits to purchasing 80% of the total Quantity listed above and to commence receiving deliveries of the Product no later than December 31. Seller may decline any orders for any reason impacting its ability to ship the Product, including (but not limited to) the availability of the Product, conditions at the terminal or production facilities, or weather conditions. The Buyer will be invoiced for any tons not taken up to the 80% (unless Seller has declined to deliver those tons).

Price(s) effective through Tuesday, 31 Aug 2021

Transactions hereunder are pursuant to Contract #20-42: Purchase of 2020-2021 Winter Season's Requirements of Bulk Rock Salt dated April 28, 2020 between Seller and the Board of County Road Commissions of the County of Kent (the "Contract") and the Terms and Conditions of Sale set forth on the reverse side of this Quotation (the "Quotation Terms"). Notwithstanding anything to the contrary in the Quotation Terms, in the event of a direct conflict between the terms of the Contract and the Quotation Terms, the terms of the Contract will govern.

Terms are NET 30 days from shipment with approved credit.

- * This Quotation is open for acceptance for 30 days following date of issue, and supersedes any and all previous proposals and contracts. This Quotation must be signed indicating acceptance to be valid.
- * Delivered price(s) via dump and based on full truck load quantities.
- * Seller does not commit to a specific delivery lead time. Any lead time or amount specified above is an estimated target only. Product availability is at Seller's discretion and may take into account the delivery dates, pick-up dates and quantities of past purchases.
- * Product is for bulk end use only and is not intended for blending or packaging without prior consent.
- * Applicable taxes extra
- * Compass Minerals America Inc. has no obligation to store the Product after 31 Aug 2021, but if it chooses to make storage available it will be for a fee of \$5 per month per ton.

Approved to form

Thank you for the opportunity to quote on your bulk de-icing salt needs.

Accepted By;

Signature: _____

Title: _____

Name: _____

Date: _____

Austin Welch
Highway Sales Mgr
Compass Minerals America Inc.

Please sign and return by fax to 913-338-7945 or e-mail highwaygroup@compassminerals.com or by mail
Order placement and inquiries Monday through Friday - 7:00 am to 5:00 pm.

9900 W. 109th Street, Suite 600, Overland Park, KS 66210

Terms and Conditions of Sale

- 1. PARTIES.** "Seller" is identified in the "Remit To", "From", or similar section of the invoice, quotation, order or similar document issued by Seller to which these Terms and Conditions of Sale relate or are attached, or "Seller" is as otherwise defined in such document. "Buyer" is identified in the "Sold To" or similar section of the invoice, quotation, order or similar document issued by Seller to which these Terms and Conditions of Sale relate or are attached. "Product" is described and identified in the invoice, quotation, order or similar document issued by Seller to which these Terms and Conditions of Sale relate or are attached. All applicable invoices, orders, quotations and these Terms and Conditions of Sale are referred to collectively as this "Agreement".
- 2. OFFER.** No terms in Buyer's bid, purchase order or other form shall be binding upon Seller. Seller rejects additional/different terms in such Buyer's documents. SELLER'S OFFER IS EXPRESSLY LIMITED TO AND CONDITIONED UPON BUYER'S ACCEPTANCE OF THIS AGREEMENT.
- 3. PRICES; TAXES. EXCEPT AS OTHERWISE SPECIFIED IN THIS AGREEMENT, PRICES ARE SUBJECT TO CHANGE WITHOUT NOTICE. AMOUNTS DUE WILL BE INVOICED, UNLESS OTHERWISE SPECIFIED IN THIS AGREEMENT, AT SELLER'S PRICE IN EFFECT ON THE SCHEDULED DATE OF SHIPMENT.** Prices on the invoicing document are net of all applicable discounts and promotional allowances. References to "tons" mean short tons (2000 lbs.) unless otherwise specified. Any tax or other governmental charges now or hereafter levied upon production, severance, manufacture, delivery, storage, consumption, sale, use or shipment of the Product are not included in Seller's price and Buyer is solely responsible for all such taxes and charges.
- 4. CANCELLATION.** Orders, deliveries and pick-ups may be canceled by Buyer only upon: (a) written or oral notice to Seller and accepted in writing by Seller, and (b) payment to Seller of reasonable cancellation charges to be solely determined by Seller.
- 5. PAYMENT; CREDIT; PAST DUE ACCOUNTS.** Buyer will make payment to Seller at the time and in the currency specified on Seller's quotation or invoicing document. Seller may, in its sole judgment, require such other payment terms as Seller deems appropriate, including full or partial payment in advance of shipment or by letter of credit. Credit payment terms must have the prior approval of Seller's Credit Department and must be specified in writing on Seller's invoicing document. Whenever reasonable grounds for insecurity arise with respect to due payment from Buyer or with respect to Buyer's financial condition generally, Seller reserves the right to stop shipment on notification to Buyer and to demand payment in advance or at the time of delivery or pick-up or require reasonable assurance of payment, and in the absence thereof, to cancel, without liability, further deliveries of the Product. A finance charge of the lesser of 1.5% per month (18% - APR) or the highest rate permitted by law will be assessed on all past due accounts. Interest charged on a past due invoice will be assessed from the date of the invoice. Amounts owed by Buyer for which there is no dispute will be paid without set-off for any amounts that Buyer may claim are owed by Seller. Buyer agrees to reimburse Seller for all attorney fees and court costs in connection with default of these payment terms by Buyer.
- 6. DELAYS.** All orders, deliveries and pick-ups are subject to Seller's ability to make the Product available at the time and in the quantities specified, and Seller shall not be liable for damages for failure to make the Product available in whole or in part or at any specific time. Seller shall not be liable for delays or defaults in delivery or making the Product available for pick-up caused by forces or events not reasonably within Seller's control (such forces and events include, without limitation, delays or defaults by carriers; extreme cold weather; partial or total failure of Seller's intended production; transportation or delivery facilities; floods, fires, storms, or other acts of God; war, an act of public enemy, or civil disturbance; strikes; lock-outs; shortages of labor or raw materials and supplies (including fuel); acts or omissions of Buyer; action of any governmental authority; or any other force majeure event). Buyer shall be liable for any added expenses incurred by Seller because of Buyer's delay in furnishing requested information to Seller, delays resulting from changes requested by Buyer, or delay in unloading shipments at the delivery point that are the fault of Buyer.
- 7. SHIPMENT COSTS/TRANSPORTATION MATTERS.** Unless otherwise specified on Seller's invoicing document, all transportation charges, including, without limitation, Seller's and carrier's charges for notification prior to delivery, demurrage, switching, detention, delay in unloading, diversion, or reconsignment shall be the sole responsibility of Buyer. Buyer will assume title and risk of loss concurrently in accordance with Seller's invoicing document. ON PASSAGE OF TITLE, BUYER IS THEN RESPONSIBLE FOR PROPER PROTECTION OF THE PRODUCT AND COMPLIANCE WITH ALL LAWS, RULES AND REGULATIONS APPLICABLE TO THE STORAGE, USE, AND HANDLING OF THE PRODUCT AND WILL INDEMNIFY SELLER AGAINST ALL CLAIMS FOR PERSONAL INJURIES OR PROPERTY DAMAGE ARISING FROM THE STORAGE, USE OR HANDLING OF THE PRODUCT. Claims for damage or shortage in transit must be made by Buyer against the carrier. Buyer has the responsibility to inspect shipments before or during unloading to identify any such damage or shortage and see that appropriate notation is made on the delivery tickets or an inspection report furnished by the local agent of the carrier in order to support a claim. If railcars are used to deliver the Products, upon transfer of the Product's risk of loss to Buyer, Buyer is solely responsible for the care, condition, damage or loss of railcars until the railcars are released empty by Buyer to the rail carrier. Without Seller's prior written approval, neither Buyer nor any of its employees or agents will divert or export any such railcar to anywhere outside the continental U.S. Even with such approval, Buyer remains fully responsible for and shall promptly reimburse Seller for all claims, losses, costs, expenses, liabilities, penalties, demands and taxes directly caused by or incidental to such use of the railcars by Buyer.
- 8. WARRANTY/TIME FOR MAKING CLAIMS.** Seller warrants only that it will convey good title to the Product Buyer receives and that, at the time of shipment, the Product will conform to the published specifications of Seller. Seller's specifications are subject to change at any time without notice to Buyer. NO OTHER WARRANTY OF ANY KIND, EXPRESSED OR IMPLIED, IS MADE BY SELLER AND SELLER HEREBY DISCLAIMS ALL SUCH OTHER WARRANTIES, INCLUDING ANY IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT. Buyer must notify Seller of any claim with respect to the Product, the warranty, or any other claim under this Agreement within thirty (30) days of receipt of the Product or such claim is waived. In the event of an alleged breach hereof by Seller, the sole remedy available to Buyer on account of any defect in the Product shall be limited to the replacement of such defective Product by Seller. In the event the remedy provided herein shall be deemed to have failed its essential purpose, then Buyer shall be entitled only to a refund of the amounts paid to Seller attributable to such defective Product that Buyer receives. Subject to the notification of claim provision above, no action for breach of the contract for sale or otherwise with respect to the Product will be commenced more than one (1) year after such cause of action accrues.
- 9. LIMITATION OF LIABILITY.** TO THE FULLEST EXTENT PERMITTED BY LAW, SELLER'S LIABILITY FOR ANY CLAIM ARISING UNDER OR IN CONNECTION WITH THIS AGREEMENT WILL BE LIMITED TO THE NET PURCHASE PRICE ACTUALLY PAID TO SELLER ATTRIBUTABLE TO THE PRODUCT INVOLVED. IN NO EVENT SHALL SELLER BE LIABLE TO BUYER OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, CONSEQUENTIAL, EXEMPLARY OR PUNITIVE DAMAGES FOR ANY CLAIM, EVEN IF SUCH CLAIM IS THE RESULT OF SELLER'S OWN NEGLIGENCE. Buyer assumes all risks and liability for any damage, loss, or penalty resulting from the use of the Product delivered hereunder in manufacturing processes of Buyer or in combination with other substances or otherwise.
- 10. INDEMNIFICATION.** TO THE FULLEST EXTENT PERMITTED BY LAW, BUYER SHALL INDEMNIFY, HOLD HARMLESS AND DEFEND SELLER AND ITS AFFILIATES AND THEIR RESPECTIVE PRESENT OR FUTURE EMPLOYEES, OFFICERS, DIRECTORS, SHAREHOLDERS, INSURERS, AGENTS AND REPRESENTATIVES (COLLECTIVELY, "INDEMNIFIED PARTIES"), FROM ALL CLAIMS, LIABILITIES, DAMAGES, DEATH (INCLUDING, WITHOUT LIMITATION, DEATH OF SELLER'S EMPLOYEES), SUITS, PROCEEDINGS, COSTS AND EXPENSES (INCLUDING, WITHOUT LIMITATION, REASONABLE ATTORNEYS' FEES), FINES, AND PENALTIES (COLLECTIVELY, "LOSSES"), IN CONNECTION WITH THIS AGREEMENT REGARDLESS OF CAUSE ("BUYER'S INDEMNIFICATION OBLIGATION"). TO THE FULLEST EXTENT PERMISSIBLE BY LAW, BUYER'S INDEMNIFICATION OBLIGATION APPLIES EVEN IF LOSSES ARE THE RESULT OR ALLEGED RESULT OF THE NEGLIGENCE, ACTIVE OR OTHERWISE, OF THE INDEMNIFIED PARTIES.
- 11. SECURITY INTEREST.** Buyer grants to Seller, and Seller retains, a security interest in the Product and the proceeds thereof, until the purchase price therefor is fully paid. Seller may file any financing statements and give notice of such security interest to third parties as Seller may determine to be necessary to perfect such security interest.
- 12. VALID CONTRACT.** Buyer warrants and represents that (a) this Agreement is a valid and enforceable contract, (b) proper authorization has been obtained for Buyer to enter into this Agreement, and (c) each individual executing this Agreement on behalf of Buyer is properly authorized to bind Buyer to the terms of this Agreement. Buyer agrees that Seller negotiated and dealt with Buyer in good faith in entering into this Agreement, and that the Product price determined by this Agreement is fair and reasonable. Payment for Products received through the notice date will not limit, in any respect, Seller's ability to recover additional amounts from Buyer for damages incurred as a result of Buyer's breach of this Agreement or the warranties and representations made by Buyer in this Agreement.
- 13. PROCUREMENT AND BIDDING.** Buyer warrants and represents that Buyer has fully complied with all procurement and bidding laws, rules, regulations and procedures, if applicable. In the event Buyer claims that this Agreement, the underlying transaction or any provision thereof is invalid or void due to Buyer's failure to comply with any applicable requirements under state or local laws related to procurement or bidding, or in the event Buyer fails to obtain any authorization required to enter into this Agreement, Buyer agrees that it will timely submit payment, at the price stated in this Agreement, for all Products received through and including the date that it provides written notice to Seller of such failure. In the event that Buyer provides written notice to Seller of failure to comply with applicable laws related to procurement or bidding, or in the event Buyer fails to obtain any authorization required to enter into this Agreement, the parties agree that Seller will immediately cease performing under this Agreement and will provide Buyer with no further Products unless and until both parties agree in a writing separate from this Agreement.
- 14. EXPORT CONTROLS AND REGULATION:** With regard to any Product that is of U.S. origin, Buyer acknowledges that export or reexport of any product provided by Seller is subject to U.S. export regulations. Buyer represents and warrants that it is not on, or associated with any organization on the U.S. Department of Commerce's Bureau of Industry and Security's Denied Persons List or Unverified List; or any prohibited party list maintained by the U.S. Department of the Treasury's Office of Foreign Assets Control, the U.S. Department of Commerce, or the U.S. Department of State. Buyer shall not export or reexport any Compass Minerals products to any prohibited party or to any restricted country.
- 15. LEGAL COMPLIANCE.** Buyer and its employees, representatives, and agents will: (a) comply with all applicable federal, state, provincial, local and foreign laws and regulations of any governments, governmental bodies or regulatory agencies including, without limitation, export control laws, the U.S. Foreign Corrupt Practices Act and the U.S. Patriot Act, as amended from time to time (collectively, the "Laws"); (b) will not subject Seller to any claim, penalty or loss of benefits under the Laws; and (c) will cooperate with Seller in any audit or inspection relating to the Laws. Upon Seller's request, Buyer will deliver a certificate to Seller in a form provided by Seller, certifying such matters as requested by Seller, as required by the Laws, or pertaining to Buyer's intended use of the Product as represented to Seller.
- 16. MISCELLANEOUS.** Matters arising out of or in connection with this Agreement or a sale contemplated in connection with this Agreement will be governed by the laws of the state of Kansas, USA without regard to conflicts of law rules, and Buyer and Seller consent to the jurisdiction of Johnson County, Kansas courts. The United Nations Convention on the International Sale of Goods shall not apply to the transactions under this Agreement. The parties have expressly required that this Agreement and all documents and notices relating hereto be drafted in English. Buyer shall not assign this Agreement without Seller's prior written consent. This Agreement constitutes the entire agreement regarding the subject matter hereof; no modification may be made, unless in writing and signed by the parties; and no acknowledgment or acceptance of Buyer's purchase order or other forms containing different, additional, or conflicting terms shall have force or effect. Seller's failure to enforce any provision of this Agreement will not be a waiver of its right to enforce such provision or any other provision then or thereafter. Any provision intended to survive including, without limitation, Sections 7 through 15 (inclusive), shall survive this Agreement's termination or expiration and the consummation of the transactions contemplated hereunder. In the event any provision or part of this Agreement is found to be invalid or unenforceable by a court of competent jurisdiction, only that particular provision or part so found, and not the entire Agreement, will be inoperative.

RESOLUTION NO. _____

RESOLUTION TO EXTEND THE BID
FOR VIDEO INSPECTION AND CLEANING OF EXISTING SANITARY SEWER LINES
TO PLUMMER'S ENVIRONMENTAL

WHEREAS:

1. On July 5, 2016, the City Council awarded the three-year bid for video inspection and cleaning of existing sanitary sewer lines to Plummer's Environmental, as referenced with Resolution Number 25565.
2. Plummer's Environmental has agreed to extend their bid pricing until June 30, 2021. The unit pricing shall remain unchanged from the previous bid pricing at a unit cost of \$1.47 per linear foot for 8" – 12" sanitary sewer lines and a unit cost of \$1.89 per linear foot for 15" – 24" sanitary sewer lines.
3. Sufficient funds have been budgeted in the sewer maintenance account: 590-441-54200-930.000.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council extends the bid for video inspection and cleaning of existing sewer lines to Plummer's Environmental for fiscal year 2021.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on September 8, 2020.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Staff Report

Resolution No. _____

STAFF REPORT

Date: August 25, 2020
Subject: Bid Extension – Video Inspection and Cleaning of Existing Sanitary Sewer Lines
From: Jodie Theis, Public Services Supervisor
Meeting Date: September 8, 2020

RECOMMENDATION:

The Public Works Department recommends that the City Council extend the bid for video inspection and cleaning of existing sewer lines to Plummer’s Environmental for fiscal year 2021 at a unit cost of \$1.47 per linear foot for 8” – 12” sanitary sewer lines and a unit cost of \$1.89 per linear foot for 15” – 24” sanitary sewer lines.

COMMUNITY, SAFETY, STEWARDSHIP:

By cleaning the sanitary sewer lines, blockages are removed before they occur. This reduces overflows and other environmental issues. Inspecting the sewer lines also identifies structural problems that can be proactively repaired, thus eliminating the additional labor, equipment and material costs that occur during emergency repairs

DISCUSSION:

On July 5, 2016, the City Council awarded the three-year bid for video inspection and cleaning of existing sanitary sewer lines to Plummer’s Environmental, as referenced with Resolution Number 25565. Plummer’s Environmental has agreed to extend their bid pricing until June 30, 2021. The unit pricing shall remain unchanged from the previous bid pricing as shown in the attached bid tabulations.

The cost of video inspection and cleaning of sanitary sewers is anticipated to be approximately \$250,000 for work performed during fiscal year 2021.

BUDGET IMPACT:

Sufficient funds have been budgeted in the sewer maintenance account: 590-441-54200-930.000.

ATTACHMENTS:

Contract Extension Letter, Plummer’s Environmental Services, August 25, 2020
Bid Tabulations, July 5, 2016



INDUSTRIAL • COMMERCIAL • MUNICIPAL

August 25, 2020
City of Wyoming
Public Works Department
Wyoming, MI 49509

Attn: Jodie Theis
Re: Video Inspection & Cleaning of Sewer Lines

Plummer's Environmental Services, Inc. will extend our current prices to you, for the Video Inspection & Cleaning of Sewer Lines, through June 30th, 2021. We appreciate your business and the opportunity to extend the term of our current unit prices for these services.

The current unit prices that we will extend through June 30th, 2021 are as follows:

8"-12" Video Inspection & Cleaning of Sewer Lines:	\$1.47/lf
15"-24" Video Inspection & Cleaning of Sewer Lines:	\$1.89/lf

Respectfully,

Dave Van Dyken
General Manager

CITY OF WYOMING, MICHIGAN - TABULATION OF BIDS
VIDEO INSPECTION AND CLEANING OF SEWER LINES (2016 - 2019)

Opened By City Clerk On July 5, 2016 At 11:00 a.m. o'clock

Bidder	2016 - 2017				Total	2017 - 2018				Total	2018 - 2019				Total
	8" - 12" Dia. (Est. 175,000 L.F.)		15" - 24" Dia. (Est. 25,000 L.F.)			8" - 12" Dia. (Est. 175,000 L.F.)		15" - 24" Dia. (Est. 25,000 L.F.)			8" - 12" Dia. (Est. 175,000 L.F.)		15" - 24" Dia. (Est. 25,000 L.F.)		
	Unit Cost	Total	Unit Cost	Total		Unit Cost	Total	Unit Cost	Total		Unit Cost	Total	Unit Cost	Total	
Phammer's Environmental	\$1.47	\$257,250.00	\$1.89	\$47,250.00	\$ 304,500.00	\$1.47	\$257,250.00	\$1.89	\$47,250.00	\$ 304,500.00	\$1.47	\$257,250.00	\$1.89	\$47,250.00	\$ 304,500.00
Elite Pipeline	\$1.76	\$308,000.00	\$2.56	\$64,000.00	\$ 372,000.00	\$1.81	\$316,750.00	\$2.63	\$65,750.00	\$ 382,500.00	\$1.86	\$325,500.00	\$2.71	\$67,750.00	\$ 393,250.00
United Resources	\$2.17	\$379,750.00	\$4.34	\$108,500.00	\$ 488,250.00	\$2.17	\$379,750.00	\$4.34	\$108,500.00	\$ 488,250.00	\$2.17	\$379,750.00	\$4.34	\$108,500.00	\$ 488,250.00
National Power Rodding	\$1.85	\$323,750.00	\$3.50	\$87,500.00	\$ 411,250.00	\$2.25	\$393,750.00	\$4.00	\$100,000.00	\$ 493,750.00	\$3.00	\$525,000.00	\$6.00	\$150,000.00	\$ 675,000.00
HESCO	Submitted alternate bid.														
No Bid from the following:	Lanzo Lining, Advanced Underground Inspection, Lake County Sewer, Pollution Control Services, Terra Contracting														

RESOLUTION NO. _____

RESOLUTION TO ACCEPT A QUOTE FROM SPX FLOW
FOR THE REPAIR OF ONE AERATION MIXER GEARBOX AND TO
AUTHORIZE THE MAYOR AND CITY CLERK TO EXECUTE THE CONTRACT

WHEREAS:

1. As detailed in the attached staff report, it is recommended the City Council accept a quote from SPX Flow for the repair of one aeration mixer gearbox in the total estimated amount of \$11,619.00.
2. Funds for the repairs are available in the sewer fund repairs and maintenance account number 590-590-54300-930.000.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby accept a quote from SPX Flow for the repair of one aeration mixer gearbox.
2. The City Council does hereby authorize the Mayor and City Clerk to execute the contract.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on September 8, 2020.

ATTACHMENTS:
Staff Report
Contract

Kelli A. VandenBerg, Wyoming City Clerk

Resolution No. _____

STAFF REPORT

Date: August 19, 2020
Subject: Repair of One Mixer
From: Dan Kleinheksel, Utility Maintenance Manager
Date of Meeting: September 8, 2020

RECOMMENDATION:

It is recommended that the City Council award the quote as provided by SPX Flow for the repair of one Clean Water Plant aeration mixer gearbox in the amount of \$11,619.00.

COMMUNITY, SAFETY, STEWARDSHIP:

Regular and proper upkeep of city equipment contributes to the efficiency of the equipment, and to the prevention of untimely and costly repairs or replacement that could potentially interrupt the day-to-day operations of the Clean Water Plant.

DISCUSSION:

The Clean Water Plant aeration basins utilize mixers as a part of the wastewater treatment process to create and maintain a suspension of particles for efficient and effective treatment. Each aeration basin has five mixers in the anoxic zone of the process to maintain this critical function. There are fifteen mixers in total that are all the same age and starting to wear to the point of needing repair.

One such mixer gearbox was replaced earlier this year and a second is currently in need of repair. SPX Flow, the mixer gearbox manufacturer, submitted a quote for level 1 repair for \$6,231.00 with the understanding that they would quote additional repairs if required. Tru-Tech Industries Co. submitted a quote for \$8,000.00 to make gearbox repairs equivalent to that of the SPX Flow level 1 repair. Tru-Tech Industries would also quote any additional repairs, if required, upon inspection during teardown.

Considering SPX Flow is the original equipment manufacturer and was the low quote for the repair, the decision was made to ship the gearbox to SPX Flow for repair. Upon receipt and teardown of the gearbox, SPX Flow discovered extensive damage requiring the repair of the high-speed shaft, replacement of the housing, and replacement of various gears. The required repair fell outside of the level 1 option offered by SPX Flow and was escalated to a level 3 repair. Given that we would ask Tru-Tech Industries to provide these same additional repairs, we feel SPX Flow's quote would still prove to be the lowest.

Therefore, it is recommended the City Council approve SPX Flow's quote for the mixer gearbox repair in the amount of \$11,619.00.

BUDGET IMPACT:

Adequate funds are available in the Sewer Fund Repairs and Maintenance Account #590-590-54300-930.000.

CITY OF
Wyoming
MICHIGAN

CITY STANDARD CONTRACT
CITY OF WYOMING, MICHIGAN
(MORE THAN \$8,500)

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

"City" means: City of Wyoming
A Michigan municipal corporation
1155 28th Street SW
Wyoming, MI 49509

"Effective Date" means: August 10, 2020

"Items" means the parts, equipment or other items or services the City is purchasing from the Contractor as itemized in the Proposal.

"Proposal" means the Contractor's proposal attached as Exhibit B.

"Standard Terms and Conditions" means the attached single page Exhibit A entitled "City Contract Standard Terms and Conditions."

"Contractor" means: SPX Flow LLC.
[Name of contracting entity]
A North Carolina Corporation
[State and type of entity, e.g., corporation, limited liability company, etc.]
1714 Hobbs Drive
[Contractor's street address]
Delevan, WI 53113
[Contractor's city, state & zip]

TERMS AND CONDITIONS

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

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

Wyoming City Contract Standard Terms and Conditions paragraph numbers 15, 16 and 17 will not apply in this contract. Exhibit C is SPX FLOW Special Terms and Conditions will apply to this contract.

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

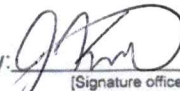
4. This is the only agreement between the parties regarding the Purchase that is the subject of the Proposal and there are no other agreements, representations or warranties except as are stated in the Proposal. This contract can be amended only in writing signed by both the City and Contractor.

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

CITY OF WYOMING

SPX Flow LLC.

By: _____
Jack A. Poll, Mayor

By:  _____
[Signature officer, director or principal of Contractor]
Joe Kontur - Gobal Proposal Lead
[Typed/Printed Name & Title of Person Signing for Contractor]

By: _____
Kelli A. Vandenberg, City Clerk

Date signed: 8/10, 2020

Date signed: _____, 20__

Approved as to form:

Scott G. Smith, City Attorney

CITY CONTRACT STANDARD TERMS AND CONDITIONS

1. Applicability. These Standard Terms and Conditions ("Standard Terms") apply to any contracts to which the City of Wyoming (the "City") is a party ("City Contract") unless expressly modified in writing signed by the Mayor and City Clerk or the City Manager. By signing a City Contract or below, the party contracting with the City ("Contractor") attests it complies with and will comply with these Standard Terms.
2. Legal Compliance. Contractor 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. This includes, for example and without limitation, complying with federal Occupational Safety and Health Administration (OSHA) and Michigan Occupational Safety and Health Act (MIOSHA) safe practices.
3. Permits and Inspections. Unless the City Contract or the Proposal states otherwise, Contractor will, without expense to the City, obtain all licenses and permits required to lawfully perform the work under the City Contract and furnish copies of those licenses and permits to the City before commencing work. Contractor will also ensure all inspections required by local, state, and federal agencies and codes are performed.
4. Grant Compliance. If state or federal grant funds have been identified to Contractor as a source of payment for any part of the project, by signing the contract, Contractor (i) represents the Contractor has reviewed the grant agreement and (ii) agrees to comply with any grant agreement terms and conditions that are applicable to the City Contract.
5. Qualifications. Contractor represents and promises that:
 - A. Contractor has and will maintain and any personnel engaged by Contractor to provide services or perform work under the City Contract have and will maintain any needed licenses, registrations, certifications, memberships, or other approvals needed to perform such services or work in Michigan.
 - B. Neither Contractor nor any subcontractor or their respective principals, owners, officers, shareholders, key employees, directors or member 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 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; and (iv) have within 3-years preceding this Contract had one or more public transactions terminated for cause or default.
 - C. If the City Contract is for a CDBG, federal and/or state funded project, Contractor and subcontractors are not listed on the US-HUD listing of debarred and suspended participants.
 - D. Contractor and any subcontractor are not on and will remain off the Federal System for Award Management list of persons and entities ineligible for federal contracts.
 - E. Neither Contractor nor any subcontractor is an "Iran linked business" under Michigan's Iran Economic Sanctions Act, 2012 PA 517.
6. Nondiscrimination. Contractor 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. "Gender identity or expression" means the perception by an individual or other 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. Contractor and its subcontractors will comply with applicable laws, rules, regulations regarding discrimination and inclusion (e.g., Elliott-Larsen Civil Rights Act, 1976 PA 453, Persons with Disabilities Civil Rights Act, 1976 PA 220, and those identified at the website: <https://www.eeoc.gov/>).
7. Ethical Standards. Contractor and its directors, members, partners, officers and employees, as well as any parent, affiliate, or subsidiary organization or subcontractor of Contractor has not engaged in and shall refrain from: (i) holding or acquiring an interest that would conflict with the City Contract; (ii) engaging in any act that creates an appearance of impropriety with respect to the award or performance of the City 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, other than its employees and consultants, any consideration contingent upon the award of the City Contract. No owner, director, officer, member, partner or key employee of Contractor and no owner, director, officer, member, partner or key employee of any parent, affiliate, or subsidiary organization or subcontractor is a spouse, parent, child, grandchild, or sibling of the mayor, city council member, or any other elected or appointed officer or board/commission member of the City except as already disclosed in writing to the City when submitting its proposal. Contractor will immediately notify the City of any change in this circumstance.
8. Media Releases. Media releases (including promotional literature and commercial advertisements) pertaining to the City Contract or project to which it relates shall not be made without the City Manager's prior written approval and only in accordance with the written terms provided in that approval.
9. W-9. Before beginning work, Contractor and subcontractors will return by e-mail to accountspayable@wyomingmi.gov a completed an IRS W-9 form).

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

11. Quality. Unless otherwise stated in the Proposal, all materials and items supplied under the City Contract shall be new, the best of their respective kind and free from defects.

12. Taxes. The City is generally exempt from federal and state taxes and a copy of its Tax Certificate of Exemption can be requested by contacting the City Finance Department.

13. Disposal. Unless the City Contract or Proposal states otherwise, Contractor will remove and dispose of materials, equipment and other items demolished, removed or replaced during the work and cleanup and remove of all debris resulting from the work. Disposal will comply with applicable law and Contractor shall retain and, upon request, provide the City copies of any required manifest and other disposal documentation.

14. Restoration. Contractor shall restore, without expense to the City, property damaged during or as a result of work under the City Contract to a condition similar and equal to that existing before such damage. If Contractor fails to make such repairs or restoration, the City may, after 48-hours' notice to Contractor, make such repairs or restoration, and deduct costs incurred from amounts due Contractor.

15. Manufacturer Information and Warranties. Contractor will provide the City all manufacturer parts lists, assembly or maintenance information, and other documents provided by the manufacturer for items provided or installed under the City Contract, and will ensure warranties for such items are held by or assigned to the City.

16. Risk Allocation. Contractor is solely responsible for (i) means and methods of the work provided under the City Contract, (ii) the conduct of its officers, employees, subcontractors and consultants, and (iii) injuries or property damage occurring as a result of its work under the City Contract. Contractor will hold the City and the City's officers and employees harmless from, indemnify them for, and defend them (with legal counsel reasonably acceptable to the City) against any claims made by persons other than the City as a result of Contractor's work under the City Contract. Contractor will reimburse the City for or pay in the City's stead costs the City may incur as a result of claims, demands, judgments, administrative actions, or any order to pay any amounts made or entered against the City or City officers or employees as a result of Contractor's work under the City Contract.

17. Insurance.

COMMERCIAL GENERAL LIABILITY
Minimal Limits:
\$1,000,000 Each Occurrence
\$1,000,000 Personal & Advertising Injury
\$2,000,000 General Aggregate
\$2,000,000 Products/Completed Operations
Coverage must include the following: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Contractors; (D) Broad Form General Liability Extensions or equivalent, if not already included; (E) Deletion of all Explosion, Collapse, and Underground (EXU) Exclusions, if applicable.
AUTOMOBILE LIABILITY INSURANCE

Minimal Limits (hired and non-owned automobile coverage): \$1,000,000 per person \$1,000,000 per occurrence
WORKERS' DISABILITY COMPENSATION
Minimal Limits: \$500,000 per occurrence Coverage shall be in accordance with applicable Michigan statutes. Waiver of subrogation, except where waiver is prohibited by law.
EXCESS/UMBRELLA INSURANCE
Required liability limits may be obtained using an Excess-Umbrella Liability policy in addition to primary liability policy(ies). If Excess and/or Umbrella policy to satisfy coverage limits, coverage must follow the form of the primary liability policy(ies).
ADDITIONAL INSUREDS
If the City Contract is for more than \$5,000, General Commercial Liability, Automobile Liability and Excess/Umbrella Liability insurance shall include an endorsement stating the following are Additional Insureds: the City and all its elected and appointed officials, employees, volunteers, agents, boards, and commissions. Coverage is to be primary and any insurance the City may have will be secondary and/or excess.

If the City requests, Contractor will provide to the City Purchasing Department copies of certificates of insurance, policies and endorsements.

18. Records. Because the City is a public entity and because it receives funds from other governmental agencies, the City is required to retain, be able to obtain, and/or audit records related to City contracts. Contractor shall retain copies of all records related to the City Contract, including, without limitation, items supplied or used in performance of the City Contract, and all work under the City Contract for at least 6 years after completion of the City Contract. Contractor shall, upon the City's request, allow inspection, auditing and copying of all retained records.

19. Assignment/Beneficiaries. Unless the City Contract states otherwise, (i) none of Contractor's rights or duties may be assigned or delegated without the City's prior written consent and (ii) no other individuals or entities are intended to be beneficiaries of the City Contract.

20. Independent Contractor. Contractor is wholly independent of the City and none of Contractor's personnel shall be or be represented to be City officers or employees. Contractor is solely responsible for the acts, omissions and statements of Contractor's personnel. Contractor is solely responsible for any compensation and benefits to be provided Contractor's personnel for services or work provided under the City Contract. The City has no responsibility to supervise, compensate or insure Contractor or Contractor's personnel.

ACKNOWLEDGEMENT

Contractor acknowledges receiving these Standard Terms and, unless modified by the City Contract, (i) they apply to the City Contract and Contractor's work, (ii) Contractor complies and will comply with them, and (iii) the City is relying on them.

EXHIBIT B



>Lightnin
>Plenty

Mattoon & Lee Equipment, Inc
23943 Industrial Park Drive
Farmington | Michigan | 48335 | United States
Phone: 1-248-478-4070 | Fax: 1-248-478-4074 |

Attention:
City of Wyoming
2350 Ivanrest Ave SW
Wyoming, Michigan 49418 United States

Date: 8/10/2020

Project Name: Wyoming Clean Water Plant

Quote Number: 171407686
RGA Number: 171407686

Comments: See attached report for details

Parts for Model Number(s): 73Q3
Reference Serial Number(s): 2006/R0621120806
Reference Order Number(s): 854576

Proposal Summary

Primary Solution

Item	Size/Description/Scope of Supply	Price	Qty.	Sub Total
1	Repair: Level 3 repair with adder for housing and low speed shaft replacement Item No.: 0 Tag: Level 3+ repair	\$11,619.00	1	\$11,619.00
Total (US Dollars)				\$11,619.00

Commercial Terms / Terms of Delivery

Note: In the absence of any specifications, we reserve the right to review any additional requirements and amend our offer accordingly

Commercial Terms

Unless otherwise expressly agreed to in writing by SPX FLOW, this quote and any resulting order shall be governed solely and exclusively by the SPX FLOW Standard Terms and Conditions of Sale attached hereto (and also available at <http://www.spxflow.com/terms-conditions>). SPX FLOW hereby expressly rejects the applicability of any and all terms and conditions of Buyer.

Available to Ship In:	4 Weeks After Receipt of Order
Delivery Terms*:	Free Carrier Sellers Facility
Freight Terms:	Prepay and Add to Invoice
Terms of Payment:	30 Days from Invoice Date
Quote Expiration Date:	9/9/2020

Delivery lead times quoted are based on current production capacity, are subject to stock materials remaining unsold and will be calculated from receipt of clear and actionable order (approval time -if any - is excluded)

Tariffs

The quoted price has been based on the cost of materials and components ("**Materials**") at the date of this proposal. If, due to the imposition of any tariffs (regardless of the country imposing said tariffs), the cost to SPX FLOW of performing its obligations under any Order arising from this proposal increases between the date of this proposal and the date of Order, the quoted price shall be increased.

Such increase shall be determined by SPX FLOW taking into account the applicable tariff imposed on Material(s) as at the date of the Order.

Note

The execution of an order arising from this quotation/proposal may be impacted by the developing coronavirus COVID-19/SARS-CoV-2 pandemic. However, all potential impacts of the pandemic have not been considered in this quotation/proposal. This quotation/proposal is therefore presented based on the assumption that normal conditions without any impact by the COVID-19/SARS-CoV-2 pandemic prevail. SPX FLOW reserves the right to adjust the quotation/proposal or an order resulting from this quotation/proposal in all applicable aspects, including price and time schedule, if the order is impacted by the pandemic or its consequences. This shall also include any reasonable action taken by SPX FLOW to reduce risks to the health and wellbeing of its personnel and others, even if such actions are not legally required.

Brexit

SPX FLOW shall not be liable to Buyer for any delay arising out of or connected with the United Kingdom ceasing to be a member of the European Union ("**Brexit**") and all costs and expenses reasonably incurred by SPX FLOW in connection with Brexit shall be reimbursed by Buyer.

Order Placement

Please Address Purchase Order To:
SPX Flow US, LLC, Lightnin and Plenty Mixers
c/o Mattoon & Lee Equipment, Inc
23943 Industrial Park Drive
Farmington, Michigan 48335 United States
Thank You,
Frank Comer

These Terms and Conditions of Sale ("Terms") shall govern all quotations, orders and contracts for the sale of goods and services of SPX FLOW to Buyer. These Terms supersede and exclude any prior written or oral agreement, understanding, representation or promise, and any pre-printed or standard terms and conditions contained in Buyer's request for quote, purchase order, invoice, order acknowledgement, contract or other similar document. These Terms may not be amended, supplemented, changed or modified except by concurrent or subsequent written agreement, signed by an authorized representative of SPX FLOW and Buyer. SPX FLOW's acknowledgement of Buyer's order shall not constitute acceptance of any terms and conditions contained therein, regardless of how such terms and conditions may be prefaced or described.

1. DEFINITIONS: "SPX FLOW" means the SPX FLOW, Inc. entity named in the order which is providing the goods and/or services. "Buyer" means the company who accepted SPX FLOW's offer or is named in the order.

2. PRICES: Unless otherwise mutually agreed to in writing, prices are net, Free Carrier (INCOTERM 2010) SPX FLOW facility. Stenographic, clerical and mathematical errors are subject to correction. Prices are exclusive of expenses related to special packaging or procedures to cover unique circumstances of shipment or storage unless specifically noted. Until acceptance of order on these Terms, quoted prices are subject to change.

3. DELIVERY AND PERFORMANCE: Unless otherwise specifically agreed to in writing by the parties, all goods shall be delivered Free Carrier (INCOTERM 2010) SPX FLOW facility. Title shall pass to the Buyer upon delivery, or upon payment in full, whatever is later, provided that the only rights that SPX FLOW retains in relation to title are those enabling recovery of the goods in the event of Buyer's default on payment. Dates for the furnishing of services and/or delivery or shipment of goods are approximate only and are subject to change, and SPX FLOW shall use commercially reasonable efforts to meet such dates; provided, however, that SPX FLOW shall not be liable in damages or otherwise, nor shall Buyer be relieved of its performance hereunder, because of SPX FLOW's failure to meet them. If liquidated damages or a penalty have been agreed for delay, such liquidated damages or penalty shall only become due if the delay is solely due to the fault of SPX FLOW, the Buyer suffers damage due to this delay, and the Buyer has notified SPX FLOW in writing after the expiry of the time during which delivery could have been reasonably expected. Unless specifically agreed otherwise, it shall be calculated based on the value of the delayed part of the delivery, and the aggregate liability of SPX FLOW for all liquidated damages/penalties shall be limited to 5% of the total order value. Such liquidated damages/penalty shall be the Buyer's sole remedy and SPX FLOW's sole liability in case of delay. For the avoidance of doubt, if the order is subject to the laws of the Netherlands, "liquidated damages" or "penalty" shall mean a contractual penalty which is meant to be a compensation for damages. Additionally, SPX FLOW shall not be liable, directly or indirectly, for any delay in or failure to perform caused by carriers or suppliers; labor difficulties, shortages, strikes or stoppages of any sort; difficulty in obtaining materials; Buyer requested order changes; fires, floods, storms, accidents, or acts of God; any statute, sanction, injunction or other governmental restraint or prohibition or political unrest; or other causes beyond SPX FLOW's reasonable control. In the event of any such delay, the date of delivery shall be extended for a length of time at least equal to the period of the delay. All goods for which SPX FLOW does not receive notice of rejection for within seven (7) days after receipt, will be deemed accepted.

4. SHORTAGE, DAMAGE, ERRORS IN SHIPMENT: SPX FLOW's responsibility ceases upon making the goods available for pickup at SPX FLOW's facility. Buyer shall note receipt for goods that are not in accordance with bill of lading or express receipt and Buyer shall make claim against such carrier for any shortage, damage or discrepancy in the shipment promptly. Partial and transshipments are allowed.

5. TAXES: The quotation and order price excludes all assessments, taxes, levies and charges of whatsoever nature present or future, due or becoming due. This exemption shall include but not be limited to value added tax, income tax, withholding tax, profits tax, turnover tax, goods and services tax and any other consumption or environmental taxes applicable, tax payable on the income of expatriate employees, port dues, import and custom duties on the components and services and all export duties payable on the repatriation of any SPX FLOW components at the end of an order, where applicable. On the basis that an order is tax exclusive SPX FLOW reserve the right to invoice by way of an addition to such order price, such taxes as may be applicable under the relevant jurisdiction's tax regulations, together with SPX FLOW's external costs of dealing with these taxes.

6. CREDIT AND PAYMENT: Unless otherwise agreed to in writing by SPX FLOW, payment of goods shall be net thirty (30) days, in the currency of the country of SPX FLOW. For orders in excess of two hundred and fifty thousand dollars (\$250,000 USD) or the local equivalent payment terms shall be as follows: (a) twenty percent (20%) down payment, (b) forty percent (40%) upon SPX FLOW's purchase of raw materials/components, and (c) forty percent (40%) at the time of delivery. Down payment shall be due within five (5) of SPX FLOW's acceptance of the order, with the remaining two payments being net thirty (30) days. Prorated payments shall become due with partial shipments, and Buyer shall not be entitled to any retention or holdback; provided, however, if SPX FLOW agrees in writing to a retention or holdback, SPX FLOW may provide such retention or holdback in the form of a bond, letter of credit or bank guarantee in no event to extend

more than thirty (30) days beyond expiry of the warranty period. SPX FLOW retains all remedies for Buyer's insolvency including, but not limited to, the right to stop delivery, reclaim any goods delivered, or withhold delivery except for cash. Failure to pay invoices at maturity date, at SPX FLOW's election, makes all subsequent invoices immediately due and payable and SPX FLOW may withhold all subsequent deliveries until the full account is settled and SPX FLOW shall not, in such event, be liable for non-performance of contract in whole or in part. Buyer agrees to pay, without formal notice, one and one-half percent (1.5%) per month of the amount not paid when due, or, if such rate is in excess of applicable governing law, Buyer agrees to pay the maximum permitted rate. No deduction, whether by way of set-off, counterclaim or otherwise, shall be made by Buyer. If prerequisites for any payment (such as delivery, completion or formal acceptance) cannot be satisfied due to Buyer's breach, such payment shall nevertheless become due and payable at the time agreed to and SPX FLOW's further right to seek damages shall remain unaffected.

7. CANCELLATIONS AND CHANGES: All orders are binding upon acceptance. In the event that SPX FLOW, in its sole discretion, agrees to cancellation of an order by Buyer, Buyer shall be liable for a cancellation charge equal to the greater of (i) twenty-five percent (25%) of the purchase price and (ii) any loss or cost incurred by SPX FLOW, including, but not limited to, cost of materials, labor, engineering, reconditioning and a reasonable profit margin. Buyer is responsible for all reasonable storage, insurance, and all other expenses incurred by SPX FLOW as a result of Buyer's cancellations and/or changes. No changes to the specification or the order are accepted without the prior written consent of both parties. In the event Buyer requests a change, SPX FLOW will provide a quotation to Buyer within a reasonable time of no less than ten (10) working days detailing the corresponding change in delivery, price, materials, and similar. SPX FLOW shall not be obligated to implement the requested change until the quotation is agreed by the parties.

8. LIMITED WARRANTY: Unless otherwise mutually agreed to in writing, (a) SPX FLOW goods, auxiliaries and parts thereof are warranted to the Buyer against defective workmanship and material for a period of twelve (12) months from date of installation or eighteen (18) months from date of delivery, whichever expires first, and (b) SPX FLOW services are warranted to Buyer to have been performed in a workmanlike manner for a period of ninety (90) days from the date of performance. If the goods or services do not conform to the warranty stated above, then as Buyer's sole remedy, SPX FLOW shall, at SPX FLOW's option, either repair or replace the defective goods or re-perform defective services. If Buyer makes a warranty claim to SPX FLOW and no actual defect is subsequently found, Buyer shall reimburse SPX FLOW for all reasonable costs which SPX FLOW incurs in connection with the alleged defect. Third party goods furnished by SPX FLOW will be repaired or replaced as Buyer's sole remedy, but only to the extent provided in and honored by the original manufacturer's warranty. Unless otherwise agreed to in writing, SPX FLOW shall not be liable for breach of warranty or otherwise in any manner whatsoever for: (i) normal wear and tear; (ii) corrosion, abrasion or erosion; (iii) any good or services which, following delivery or performance by SPX FLOW, has been subjected to accident, abuse, misapplication, improper repair, alteration (including modifications or repairs by Buyer, the end customer or third parties other than SPX FLOW), improper installation or maintenance, neglect, or excessive operating conditions; (iv) defects resulting from Buyer's specifications or designs or those of Buyer's contractors or subcontractors other than SPX FLOW; or (v) defects resulting from the manufacture, distribution, promotion or sale of Buyer's products; (vi) damage resulting from the combination, operation or use with equipment, products, hardware, software, firmware, systems or data not provided by SPX FLOW, if such damage or harm would have been avoided in the absence of such combination, operation or use; or (vii) Buyer's use of the goods in any manner inconsistent with SPX FLOW's written materials regarding the use of such product. In addition, the foregoing warranty shall not include any labor, dismantling, re-installation, transportation or access costs, or other expense associated with the repair or replacement of SPX FLOW goods. THE WARRANTIES CONTAINED HEREIN ARE THE SOLE AND EXCLUSIVE WARRANTIES AVAILABLE TO BUYER AND SPX FLOW HEREBY DISCLAIMS ANY OTHER WARRANTIES, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION THE IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE, ANY PERFORMANCE OR PROCESS OUTCOME DESIRED BY THE BUYER AND NOT SPECIFICALLY AGREED TO BY SPX FLOW. THE FOREGOING REPAIR, REPLACEMENT AND REPERFORMANCE OBLIGATIONS STATE SPX FLOW'S ENTIRE AND EXCLUSIVE LIABILITY AND BUYER'S EXCLUSIVE REMEDY FOR ANY CLAIM IN CONNECTION WITH THE SALE AND FURNISHING OF SERVICES, GOODS OR PARTS, THEIR DESIGN, SUITABILITY FOR USE, INSTALLATION OR OPERATIONS.

9. INTELLECTUAL PROPERTY: In the event of a successful infringement claim by a third party, at SPX FLOW's option, SPX FLOW shall either (i) modify the goods sold hereunder so that they perform comparable functions without infringement, (ii) obtain a royalty-free license for Buyer to continue using the infringing goods or (iii) refund to Buyer the then-depreciated fair market value of the infringing component. SPX FLOW shall have no obligation under this Article to the extent a claim is based upon (a) the combination, operation or use of the goods with equipment, products, hardware, software, systems or data that was not provided by SPX FLOW, if such infringement would have been avoided in the absence of such combination, operation or use, or (b) Buyer's use of the product in any manner inconsistent with SPX FLOW's written materials regarding the use of such product or (c) infringement resulting from Buyer's specifications or designs or those of Buyer's contractors or subcontractors other than SPX FLOW. This Section

states SPX FLOW's entire liability and Buyer's exclusive remedy with respect to any actual or alleged infringement arising from the use of the goods or services sold hereunder or any part thereof and is subject to the other limitations contained in these Terms.

10. LIMITATION OF LIABILITY: NOTWITHSTANDING ANYTHING TO THE CONTRARY SET FORTH HEREIN: (A) IN NO EVENT SHALL SPX FLOW BE LIABLE FOR ANY EXEMPLARY, PUNITIVE, INCIDENTAL, INDIRECT, SPECIAL OR CONSEQUENTIAL DAMAGES WHATSOEVER (COLLECTIVELY DEFINED AS "CONSEQUENTIAL DAMAGES"), WHETHER FORESEEABLE OR NOT, INCLUDING WITHOUT LIMITATION, THIRD PARTY CHARGES AND COSTS, LOST PROFITS (WHETHER DIRECT OR INDIRECT), PRODUCT, PRODUCTION, BUSINESS OR BUSINESS OPPORTUNITY, REGARDLESS OF THE CAUSE, INCLUDING WITHOUT LIMITATION, THE NEGLIGENCE ACTS OR OMISSIONS, BREACH OF CONTRACT, WARRANTY (EXPRESS OR IMPLIED) OR DUTY (STATUTORY OR OTHERWISE) OR STRICT LIABILITY OF SPX FLOW GROUP OR ANY OTHER THEORY OF LEGAL LIABILITY; AND (B) SPX FLOW'S AGGREGATE LIABILITY ARISING FROM OR IN CONNECTION WITH ALL ORDERS AND CONTRACTS FOR GOODS AND SERVICES UNDER THESE TERMS SHALL (SAVE FOR LIABILITIES WHICH CANNOT BE LIMITED BY APPLICATION OF LAW) NOT EXCEED THE CONTRACT PRICE FOR THE GOODS AND/OR SERVICES FOR WHICH LIABILITY IS CLAIMED. ANY ACTION FOR BREACH OF CONTRACT BY BUYER MUST BE COMMENCED WITHIN 30 DAYS OF THE EXPIRY OF THE WARRANTY PERIOD. BUYER SHALL BE SOLELY RESPONSIBLE FOR ANY AND ALL AGREEMENTS MADE WITH THIRD PARTIES THAT ARE OUTSIDE THE SCOPE OF THESE TERMS AND WHICH ARE CONTRARY TO THE LIMITATIONS OF LIABILITY AND/OR WARRANTY INCLUDED HEREIN.

11. GOODS FOR EXPORT: Buyer acknowledges that the goods may be subject to export restrictions, and that Buyer will comply with all such applicable laws and regulations. If the goods are intended for export, Buyer shall designate country of destination on its order. In the event that Buyer purchases goods for export without so notifying SPX FLOW, SPX FLOW reserves the right to cancel the order at no penalty or liability for breach in the event that SPX FLOW objects to the ultimate destination of the goods. Buyer will have sole liability and shall defend, indemnify and release SPX FLOW for any loss or damage (including without limitation, claims of governmental authorities) arising from the export or import of such goods, including, without limitation, those related to packaging, labeling, marking, warranty, contents, use, or documentation of the goods. Buyer has sole responsibility for obtaining any required export licenses. Buyer will not take, and will not solicit SPX FLOW to take, any action which would violate any anti-boycott or any export or import statutes or regulations applicable to the order, of any governmental authorities, and shall defend, indemnify, and reimburse SPX FLOW for any loss or damage arising out of or related to such actions. To the extent SPX FLOW is required to obtain an export license for any goods: (1) SPX FLOW obligation to fulfill an order with goods requiring such a license will be directly subject to the granting of the license; (2) SPX FLOW will use commercially reasonable effort to obtain such license; (3) Buyer shall make available all necessary information and documentation required for SPX FLOW to obtain such license; and (4) Buyer shall reimburse SPX FLOW for its reasonable expenses incurred in connection with obtaining such license.

12. PROPRIETARY INFORMATION: SPX FLOW shall retain title to all engineering and production prints, drawings, technical data, and other intellectual property, information and documents that relate to the goods or services sold to Buyer. All such information and documents disclosed or delivered by SPX FLOW to Buyer: (i) are to be deemed proprietary to SPX FLOW; (ii) shall not be disclosed to any third party for any reason without the express prior written consent of SPX FLOW; and (iii) shall be used by Buyer solely for the purpose of inspection, installation, use and maintenance of the goods and services sold to Buyer under these Terms.

13. APPLICABLE LAW; VENUE; DISPUTE RESOLUTION: For sales of goods sold or to be delivered or services to be performed within the United States: The rights and duties of the parties hereunder shall be governed by the laws of the State of North Carolina, United States of America, excluding its conflicts law and choice of laws principles. Any action or proceeding with respect to any dispute or controversy involving or arising out of this order, at SPX FLOW's sole discretion, (i) shall be brought in any State court in Mecklenburg County, North Carolina or the Federal courts of the Western District of North Carolina, United States of America, and Buyer and SPX FLOW submit to and accept generally and unconditionally the jurisdiction of those courts with respect to such party's person and property, or (ii) shall be settled by arbitration administered by the American Arbitration Association in accordance with its Commercial Rules, which award shall be final and binding on the parties and may be entered and enforced in any court having jurisdiction. Buyer and SPX FLOW hereby irrevocably waive any objection to the laying of venue of any action or proceeding in the above-described courts. For sales of goods sold or to be delivered or services to be performed outside of the United States: The rights and duties of the parties hereunder shall be governed by and construed in accordance with the law of the jurisdiction of the SPX FLOW entity providing the goods or services for this order. The United Nations Convention on Contracts for the International Sale of Goods and the conflict rules of international private law shall not apply. Any action or proceeding with respect to any dispute or controversy involving or arising out of this order, at SPX FLOW's sole discretion, (i) shall be brought in any competent court of the jurisdiction in which the SPX FLOW entity providing the goods or services is located, or (ii) shall be finally settled under the Rules of Arbitration of the International Chamber of Commerce by one or more arbitrators appointed in accordance with said Rules, with English serving as the language of the

arbitration proceeding and award. Notwithstanding any other limitations contained in these Terms, SPX FLOW reserves the right to initiate proceedings in any court of competent jurisdiction, and Buyer shall indemnify SPX FLOW for all costs, fees and expenses (including reasonable attorneys' fees) SPX FLOW incurs in connection with enforcing its rights pursuant to this order.

14. RESALE: Buyer further agrees that upon resale of the goods, it will include in the contract for resale provisions which limit recoveries against SPX FLOW in accordance with these Terms. If Buyer fails to include such provisions in any such contract for resale, (a) SPX FLOW may reject Buyer's order related to such contract for resale, and (b) Buyer shall indemnify, defend and hold harmless SPX FLOW against any claim, liability, loss, cost, damage, or expense (including reasonable attorneys' fees) arising out of or resulting from such failure.

15. BUYER CAUSED DELAYS; WAIVER OF RIGHTS: If Buyer fails to perform any of its obligations under an order, SPX FLOW shall be entitled to suspend its performance under the order until such time as Buyer performs such obligations, and any dates for the delivery of goods or performance of services shall be extended for an amount of time determined in SPX FLOW's discretion.

Delays caused by Buyer which prevent SPX FLOW from achieving the original order performance requirements includes but is not limited to: (a) the construction of buildings, structures or other parts of the site within which SPX FLOW's goods are to be located; (b) changes in scope of an order introduced by Buyer; (c) completion of approvals, consents or delivery of critical information by Buyer beyond the periods provided in an order; (d) any specified site facilities and working conditions not being maintained by Buyer; (e) failure of Buyer to arrange carriage of the goods under an order, where Buyer has such obligation, or any other inability or refusal of Buyer to accept delivery in accordance with order delivery dates; (f) delays in obtaining customs clearance (where applicable) of the order deliveries; and (g) delay by Buyer in providing any required security to SPX FLOW in the form of a letter of credit, bank guarantee or otherwise. In the event of such Buyer delays, SPX FLOW shall in addition to an extension of remaining milestones, be entitled to an increase in the total order price to reflect the increase in cost to SPX FLOW directly caused by Buyer delays. Additionally, SPX FLOW shall be entitled to submit invoices for any order milestone for which completion has been frustrated due to Buyer delays. Such invoices shall be paid within 30 days of the date of SPX FLOW's invoice.

Any engineering, technical or other submittal drawings submitted by SPX FLOW to Buyer which are not expressly rejected in writing within ten (10) business days of Buyer's receipt, will be deemed accepted by Buyer. Buyer's right to conduct any agreed upon pre-shipment inspections (i) which Buyer does not schedule within ten (10) business days of receipt of notice of readiness to inspect from SPX FLOW or (ii) which Buyer delays for more than ten (10) business days from the date originally scheduled, will be waived, so long as SPX FLOW certifies in writing that the goods successfully passed SPX FLOW's standard pre-shipment inspection. Where Buyer delays taking shipment of any goods or otherwise fails to engage or otherwise dispatch a freight forwarder or transit company within ten (10) business days of notification that the goods are ready to ship, SPX FLOW shall be entitled to change the delivery term to Ex Works (INCOTERM 2010) SPX FLOW facility.

16. NO OTHER CONTRACT PROVISIONS; OTHER: No dealer, broker, branch manager, agent, employee or representative of SPX FLOW has any power or authority except to take orders for SPX FLOW goods or services and to submit the same to SPX FLOW for SPX FLOW's approval and acceptance on the terms herein or rejection. There are no representations, agreements, obligations, or conditions, expressed or implied, statutory or otherwise, relating to the subject matter hereof, other than contained herein. For the avoidance of doubt and not in limitation of the foregoing, SPX FLOW shall not be bound by the terms of any contract between Buyer and any third party or other flow down provisions, regardless of whether Buyer notifies SPX FLOW of such terms unless SPX FLOW expressly agrees to be bound by such terms in writing by an authorized representative of SPX FLOW. If any provision hereof is invalid or not enforceable under applicable law, the remaining provisions shall remain in full force and effect.

SPX FLOW reserves the right to transfer or assign its obligations, rights and responsibilities hereunder, so long as such successor or assign agrees to these Terms. Any assignment of Buyer's rights hereunder without SPX FLOW's consent (which shall not be unreasonably withheld) shall be void. SPX FLOW's failure to require Buyer's performance of any of these Terms shall not serve as a waiver of or diminish SPX FLOW's rights to require strict performance of these Terms.

EXHIBIT C

The following special terms and conditions are supplementary to any other terms and conditions and shall apply in precedence of such other terms and conditions, or otherwise under any applicable law. These special terms and conditions shall survive termination of the order / contract for whatever reason.

WARRANTY:

Goods. Seller warrants that the goods shall operate in accordance with the specifications, and Seller's liability for any breach of warranty or defects in the goods shall be fully satisfied by the supply, only ex-works at the Seller's nominated facility, of repaired or replacement goods, at Seller's option, within a reasonable period from any defects being discovered during the agreed warranty period, which shall extend for a period of twelve (12) months from the date of delivery of the goods by Seller.

Services. Seller warrants that the services will be performed in a workmanlike manner consistent with reasonable industry standards. During the contract warranty period for the services, which shall extend for a period of twelve (12) months from the date of completion of the specific activity performed, Seller shall re-perform any defective portion of such services.

Disclaimer. The above warranties shall not apply to (i) any loss or damage resulting from normal wear and tear or alteration, misuse, abuse or neglect, or (ii) improper installation, operation or maintenance by Buyer or a third party. THE FOREGOING WARRANTIES STATE SELLER'S ENTIRE WARRANTY OBLIGATION (EXCEPT TITLE) AND BUYER'S SOLE AND EXCLUSIVE REMEDY RELATED TO SUCH GOODS AND SERVICES. EXCEPT AS EXPRESSLY SET FORTH ABOVE, SELLER MAKES NO WARRANTY OF ANY KIND WHATSOEVER, AND SELLER EXPRESSLY DISCLAIMS ANY WARRANTIES IMPLIED BY LAW, INCLUDING, BUT NOT LIMITED TO, ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE.

INSURANCE AND INDEMNITY:

Seller shall maintain insurance coverage consistent with its existing programs and add Buyer as an additional insured, but shall not waive any rights of subrogation Seller or such insurers may have against Buyer or its affiliates. Seller will provide Buyer with written notice of cancellation of any applicable policy thirty (30) days prior to the effective cancellation date of such policy, and will provide Buyer with its standard certificate of insurance upon request. Seller shall indemnify Buyer from and against any claims to the extent directly caused by the negligence or wilful misconduct of Seller, its employees, contractors or agents.

LIMITATION OF LIABILITY:

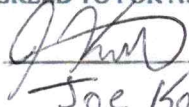
NOTWITHSTANDING ANYTHING TO THE CONTRARY SET FORTH HEREIN: (A) NEITHER PARTY SHALL BE LIABLE WHETHER BY WAY OF INDEMNITY OR BY REASON OF ANY BREACH OF CONTRACT OR OF STATUTORY DUTY OR BY REASON OF TORT (INCLUDING BUT NOT LIMITED TO NEGLIGENCE), FOR ANY LOSS OF PRODUCTS, LOSS OF PROFIT, LOSS OF REVENUE, LOSS OF USE, LOSS OF PRODUCTION, LOSS OF CONTRACTS, LOSS OF BUSINESS, OR FOR ANY SPECIAL OR INCIDENTAL COSTS, OR FOR ANY FINANCIAL OR ECONOMIC LOSS, OR FOR ANY INDIRECT, SPECIAL, OR CONSEQUENTIAL DAMAGES OR LOSSES WHATSOEVER; AND (B) NEITHER PARTY'S MAXIMUM AGGREGATE LIABILITY (INCLUDING, BUT NOT LIMITED TO, ANY LIABILITY OF SELLER TO OWNER/END-USER) ARISING FROM OR RELATED TO THE ORDER / CONTRACT SHALL EXCEED TWICE (2X) THE TOTAL VALUE OF THE ORDER / CONTRACT.

THIRD PARTY TERMS AND COMPLIANCE WITH LAWS:

Seller shall not be bound by the terms of any contract between Buyer and Owner, and Buyer and/or Owner and any third party or subject to other flow down provisions, regardless of whether Buyer notifies Seller of such terms. Seller shall not be bound by any term or condition that violates any applicable law and Buyer will not take, and will not solicit Seller to take, any action which would violate any applicable law, including, without limitation, anti-boycott, export, anti-bribery, antitrust or data privacy laws. Seller shall be excused from performing this order/contract or delivery of goods hereunder without liability or consequence if such performance or delivery is or becomes prohibited by any applicable statute, sanction, injunction or other governmental restraint.

AGREED TO FOR AND ON BEHALF OF SELLER:

AGREED TO FOR AND ON BEHALF OF BUYER:

By: 
Name: Joe Kontur
Title: Bid Management Leader
Date: 8/18/2020

By: _____
Name: _____
Title: _____
Date: _____

RESOLUTION NO. _____

RESOLUTION TO ACCEPT A PROPOSAL FROM SEEPEX INC.
FOR THE PURCHASE OF TWO PROGRESSIVE CAVITY PUMPS AND TO
AUTHORIZE THE MAYOR AND CITY CLERK TO EXECUTE THE CONTRACT

WHEREAS:

1. As detailed in the attached Staff Report, it is recommended the City Council accept a proposal from Seepex Inc. for the purchase of two progressive cavity pumps in the total amount of \$60,125.00.
2. Funds are budgeted in Sewer Fund GVRBA Land Application Capital account number 590-590-54800-975.000.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby accept a proposal from Seepex, Inc. for the purchase of two progressive cavity pumps.
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 September 8, 2020.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Staff Report
Proposal
Contract

Resolution No. _____

STAFF REPORT

Date: September 1, 2020
Subject: Purchase of Two Progressive Cavity Pumps
From: Dan Kleinheksel, Utility Maintenance Manager
Date of Meeting: September 8, 2020

RECOMMENDATION:

It is recommended that the City Council award the bid proposal as provided by Seepex Inc. for \$60,125.00 for two progressive cavity pumps.

COMMUNITY, SAFETY, STEWARDSHIP:

Regular and proper upkeep of city equipment contributes to the efficiency of the equipment, and to the prevention of untimely and costly repairs or replacement that could potentially interrupt the day-to-day operations of the Clean Water Plant.

DISCUSSION:

The “W” building at the Clean Water Plant currently utilizes two rotary lobe pumps to transfer biosolids from storage tanks at the back of the plant to the truck loading bay at the front of the plant. The trucks are loaded for hauling biosolids to farm fields, thereby reducing the amount of biosolid storage at the Clean Water Plant. These two rotary lobe pumps have been very problematic, requiring significant maintenance, frequent and costly repair, and difficulty obtaining parts for repair in a timely manner. For these reasons, it has been determined that the rotary lobe pumps are not a suitable fit for the application and that it would be most cost-effective to replace the rotary lobe pumps.

Several pump industry representatives along with plant staff investigated alternatives. After reviewing the application characteristics including biosolid properties, pressures, pipe configuration, and space limitations, it was determined that replacing the rotary lobe pumps with progressive cavity pumps is the best solution. Progressive cavity pumps are widely used at the Clean Water Plant to pump biosolids and have proven to perform well, require minimal maintenance, and are designed specifically for the application. The Clean Water Plant will purchase two progressive cavity pumps and plant staff will perform the installation.

Twenty-five invitations to bid were sent out to progressive cavity pump distributors and posted to the City’s website. On Tuesday, August 11, 2020, four proposals were received for the purchase of two progressive cavity pumps and are as follows.

Ferguson Enterprises LLC	\$46,624.68
KSB Dubric	\$149,275.00
NOV Process Flow Technologies	\$74,953.00
Seepex Inc	\$46,000.00

Upon review of the bid documents received, the pump model offered by both Seepex Inc. and Ferguson Enterprises LLC did not meet the bid specifications. Due to space limitations in the “W” building, the pump offered by both companies requires a right-angle drive which would significantly limit the pump output GPM. Considering Seepex Inc was the low bidder and the pump manufacturer, contact was made with Seepex Inc to resolve this issue and explore a pump model with higher output capacity capable of fitting in the existing space. Seepex Inc was able to offer a larger pump model that fits within the space and exceeds the original bid specification. Seepex Inc is still the lowest bidder meeting the required specifications, and therefore, it is recommended that the City Council approve the bid proposal in the amount of \$60,125.00 for two progressive cavity pumps.

BUDGET IMPACT:

Adequate funds for the purchase of the pumps have been budgeted for and exist in the Sewer Fund GVRBA Land Application Capital Account #590-590-54800-975.000.

CITY OF
Wyoming
MICHIGAN

CITY STANDARD CONTRACT
CITY OF WYOMING, MICHIGAN
(MORE THAN \$8,500)

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

"City" means: City of Wyoming
A Michigan municipal corporation
1155 28th Street SW
Wyoming, MI 49509

"Effective Date" means: August 31, 2020.

"Items" means the parts, equipment or other items or services the City is purchasing from the Contractor as itemized in the Proposal.

"Proposal" means the Contractor's proposal attached as Exhibit B.

"Standard Terms and Conditions" means the attached single page Exhibit A entitled "City Contract Standard Terms and Conditions."

"Contractor" means: SEEPEX Inc.
[Name of contracting entity]
A Ohio Corporation
[State and type of entity, e.g., corporation, limited liability company, etc.]
511 Speedway Drive
[Contractor's street address]
Enon, OH 45323
[Contractor's city, state & zip]

TERMS AND CONDITIONS

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

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

None.

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

4. This is the only agreement between the parties regarding the Purchase that is the subject of the Proposal and there are no other agreements, representations or warranties except as are stated in the Proposal. This contract can be amended only in writing signed by both the City and Contractor.

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

CITY OF WYOMING

By: _____
Jack A. Poll, Mayor

By: _____
Kelli A. Vandenberg, City Clerk

Date signed: _____, 20__

Approved as to form:

Scott G. Smith, City Attorney

SEEPEX Inc.

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

Francis A. Harris VP Administration / CFO
[Typed/Printed Name & Title of Person Signing for Contractor]

Date signed: September 1, 2020

SEEPEX Inc. accepts NO consequential damages.

CITY CONTRACT STANDARD TERMS AND CONDITIONS

1. **Applicability.** These Standard Terms and Conditions (“Standard Terms”) apply to any contracts to which the City of Wyoming (the “City”) is a party (“City Contract”) unless expressly modified in writing signed by the Mayor and City Clerk or the City Manager. By signing a City Contract or below, the party contracting with the City (“Contractor”) attests it complies with and will comply with these Standard Terms.
2. **Legal Compliance.** Contractor 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. This includes, for example and without limitation, complying with federal Occupational Safety and Health Administration (OSHA) and Michigan Occupational Safety and Health Act (MIOSHA) safe practices.
3. **Permits and Inspections.** Unless the City Contract or the Proposal states otherwise, Contractor will, without expense to the City, obtain all licenses and permits required to lawfully perform the work under the City Contract and furnish copies of those licenses and permits to the City before commencing work. Contractor will also ensure all inspections required by local, state, and federal agencies and codes are performed.
4. **Grant Compliance.** If state or federal grant funds have been identified to Contractor as a source of payment for any part of the project, by signing the contract, Contractor (i) represents the Contractor has reviewed the grant agreement and (ii) agrees to comply with any grant agreement terms and conditions that are applicable to the City Contract.
5. **Qualifications.** Contractor represents and promises that:
 - A. Contractor has and will maintain and any personnel engaged by Contractor to provide services or perform work under the City Contract have and will maintain any needed licenses, registrations, certifications, memberships, or other approvals needed to perform such services or work in Michigan.
 - B. Neither Contractor nor any subcontractor or their respective principals, owners, officers, shareholders, key employees, directors or member 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 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; and (iv) have within 3-years preceding this Contract had one or more public transactions terminated for cause or default.
 - C. If the City Contract is for a CDBG, federal and/or state funded project, Contractor and subcontractors are not listed on the US-HUD listing of debarred and suspended participants.
 - D. Contractor and any subcontractor are not on and will remain off the Federal System for Award Management list of persons and entities ineligible for federal contracts.
 - E. Neither Contractor nor any subcontractor is an “Iran linked business” under Michigan’s Iran Economic Sanctions Act, 2012 PA 517.
6. **Nondiscrimination.** Contractor 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. “Gender identity or expression” means the perception by an individual or other 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. Contractor and its subcontractors will comply with applicable laws, rules, regulations regarding discrimination and inclusion (e.g., Elliott-Larsen Civil Rights Act, 1976 PA 453, Persons with Disabilities Civil Rights Act, 1976 PA 220, and those identified at the website: <https://www.eeoc.gov/>).
7. **Ethical Standards.** Contractor and its directors, members, partners, officers and employees, as well as any parent, affiliate, or subsidiary organization or subcontractor of Contractor has not engaged in and shall refrain from: (i) holding or acquiring an interest that would conflict with the City Contract; (ii) engaging in any act that creates an appearance of impropriety with respect to the award or performance of the City 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, other than its employees and consultants, any consideration contingent upon the award of the City Contract. No owner, director, officer, member, partner or key employee of Contractor and no owner, director, officer, member, partner or key employee of any parent, affiliate, or subsidiary organization or subcontractor is a spouse, parent, child, grandchild, or sibling of the mayor, city council member, or any other elected or appointed officer or board/commission member of the City except as already disclosed in writing to the City when submitting its proposal. Contractor will immediately notify the City of any change in this circumstance.
8. **Media Releases.** Media releases (including promotional literature and commercial advertisements) pertaining to the City Contract or project to which it relates shall not be made without the City Manager’s prior written approval and only in accordance with the written terms provided in that approval.
9. **W-9.** Before beginning work, Contractor and subcontractors will return by e-mail to accountspayable@wyomingmi.gov a completed an IRS W-9 form).

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

11. Quality. Unless otherwise stated in the Proposal, all materials and items supplied under the City Contract shall be new, the best of their respective kind and free from defects.

12. Taxes. The City is generally exempt from federal and state taxes and a copy of its Tax Certificate of Exemption can be requested by contacting the City Finance Department.

13. Disposal. Unless the City Contract or Proposal states otherwise, Contractor will remove and dispose of materials, equipment and other items demolished, removed or replaced during the work and cleanup and remove of all debris resulting from the work. Disposal will comply with applicable law and Contractor shall retain and, upon request, provide the City copies of any required manifest and other disposal documentation.

14. Restoration. Contractor shall restore, without expense to the City, property damaged during or as a result of work under the City Contract to a condition similar and equal to that existing before such damage. If Contractor fails to make such repairs or restoration, the City may, after 48-hours' notice to Contractor, make such repairs or restoration, and deduct costs incurred from amounts due Contractor.

15. Manufacturer Information and Warranties. Contractor will provide the City all manufacturer parts lists, assembly or maintenance information, and other documents provided by the manufacturer for items provided or installed under the City Contract, and will ensure warranties for such items are held by or assigned to the City.

16. Risk Allocation. Contractor is solely responsible for (i) means and methods of the work provided under the City Contract, (ii) the conduct of its officers, employees, subcontractors and consultants, and (iii) injuries or property damage occurring as a result of its work under the City Contract. Contractor will hold the City and the City's officers and employees harmless from, indemnify them for, and defend them (with legal counsel reasonably acceptable to the City) against any claims made by persons other than the City as a result of Contractor's work under the City Contract. Contractor will reimburse the City for or pay in the City's stead costs the City may incur as a result of claims, demands, judgments, administrative actions, or any order to pay any amounts made or entered against the City or City officers or employees as a result of Contractor's work under the City Contract.

17. Insurance.

<p>COMMERCIAL GENERAL LIABILITY</p> <p>Minimal Limits:</p> <p>\$1,000,000 Each Occurrence</p> <p>\$1,000,000 Personal & Advertising Injury</p> <p>\$2,000,000 General Aggregate</p> <p>\$2,000,000 Products/Completed Operations</p> <p>Coverage must include the following: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Contractors; (D) Broad Form General Liability Extensions or equivalent, if not already included; (E) Deletion of all Explosion, Collapse, and Underground (EXU) Exclusions, if applicable.</p> <p>AUTOMOBILE LIABILITY INSURANCE</p>

<p>Minimal Limits (hired and non-owned automobile coverage):</p> <p>\$1,000,000 per person \$1,000,000 per occurrence</p> <p>WORKERS' DISABILITY COMPENSATION</p> <p>Minimal Limits: \$500,000 per occurrence</p> <p>Coverage shall be in accordance with applicable Michigan statutes. Waiver of subrogation, except where waiver is prohibited by law.</p> <p>EXCESS/UMBRELLA INSURANCE</p> <p>Required liability limits may be obtained using an Excess-Umbrella Liability policy in addition to primary liability policy(ies). If Excess and/or Umbrella policy to satisfy coverage limits, coverage must follow the form of the primary liability policy(ies).</p> <p>ADDITIONAL INSURED</p> <p>If the City Contract is for more than \$5,000, General Commercial Liability, Automobile Liability and Excess/Umbrella Liability insurance shall include an endorsement stating the following are Additional Insureds: the City and all its elected and appointed officials, employees, volunteers, agents, boards, and commissions. Coverage is to be primary and any insurance the City may have will be secondary and/or excess.</p>

If the City requests, Contractor will provide to the City Purchasing Department copies of certificates of insurance, policies and endorsements.

18. Records. Because the City is a public entity and because it receives funds from other governmental agencies, the City is required to retain, be able to obtain, and/or audit records related to City contracts. Contractor shall retain copies of all records related to the City Contract, including, without limitation, items supplied or used in performance of the City Contract, and all work under the City Contract for at least 6 years after completion of the City Contract. Contractor shall, upon the City's request, allow inspection, auditing and copying of all retained records.

19. Assignment/Beneficiaries. Unless the City Contract states otherwise, (i) none of Contractor's rights or duties may be assigned or delegated without the City's prior written consent and (ii) no other individuals or entities are intended to be beneficiaries of the City Contract.

20. Independent Contractor. Contractor is wholly independent of the City and none of Contractor's personnel shall be or be represented to be City officers or employees. Contractor is solely responsible for the acts, omissions and statements of Contractor's personnel. Contractor is solely responsible for any compensation and benefits to be provided Contractor's personnel for services or work provided under the City Contract. The City has no responsibility to supervise, compensate or insure Contractor or Contractor's personnel.

ACKNOWLEDGEMENT

Contractor acknowledges receiving these Standard Terms and, unless modified by the City Contract, (i) they apply to the City Contract and Contractor's work, (ii) Contractor complies and will comply with them, and (iii) the City is relying on them.

EXHIBIT B

8/31/2020	Item 30
qty.: 2	Progressive cavity pump
	BN 300-6L

Application data

Conveyed product	Sludge
Flowability	flowable
Viscosity	low viscosity (< 500 cP/mPas)
Solids content	3.5-5%
Size of solids	not specified
Density	unknown, 1 kg/dm ³ assumed
Product temperature	32°F - 113°F
pH value	5-9
Kind of operation	continuous
Operating hours	8 h/day
Location	indoor, dry atmosphere
Altitude of installation	up to 1000 m assumed
Surrounding temperature	normal (32-113°F)

Performance data

	Capacity	Pressure	Speed	
	350 USGPM	50 psi	103 rpm	min
	762 USGPM	80 psi	222 rpm	
	825 USGPM	50 psi	222 rpm	max
Starting torque	2000 lb.ft			
Req. operating power at pump shaft	60 HP			
Inlet pressure	flooded suction (up to 0,5bar)			
NPSHr	14.48 ft			

Tolerances according to SEEPEX standards.

Materials and executions

Installation	horizontal
Direction of rotation	counter clockwise (left)
Lantern - Design	with cover plates
Lantern - Material	EN-JL 1040 (gci-25)
Suction casing - Design	standard
Suction casing - Material	EN-JL 1040 (gci-25)
Pressure branch - Design	standard
Pressure branch - Material	EN-JL 1040 (gci-25)
Position of branch	position 1
Suction connection	8" ANSI B16.5 Class 150 RF
Pressure connection	8" ANSI B16.5 Class 150 RF
Joint - Design	pin joint with joint sleeve, grease filled
Joint - Material	standard
Joint - Universal joint sleeve: material	NBR - Perbunan
Coupling rod - Design	standard
Coupling rod - Material	1.4021 / AISI 420
Rotor - Design	Undersize acc. to GI.ROT.02
Rotor - Material	1.0503 (C45) / AISI 1045
Rotor - Coating	ductile chromium coating
Stator - Design	standard, with TSE, sensor sleeve 1.4404
Stator - Material	NBR - Perbunan
Shaft sealing	mechanical seal
Code	GA - single acting mechanical seal
Shaft diameter	100 mm
Make	SEEPEX
Rotating/stationary seal face	SiC SiC
Elastomers	FPM

Spring	1.4571 / AISI 316Ti
Metal parts	1.4571 / AISI 316Ti
Type	GA Q1Q1 VGG
Casing - material	1.4404 / AISI 316L
Casing - connection standard	NPT
Plug-in Shaft - Design	standard
Plug-in Shaft - Material	1.4021 / AISI 420
	Brass sleeve in plug in shaft
Bolting - Design	standard
Painting - Number of colors	single-colored
Painting - Painted components	complete combination
Painting - Color	Epoxy System (SEEPEX Blue)
Painting - Surface protection	std. surface protection C2 (NDFT 95 µm)

Drive

Type	Gear motor at freq. inv. (Inverter is not included)		
Make	Nord		
Model	SK9082.1VF-225MP/4		
Mounting position	M1		
Ratio (i)	8.04		
Speed	220 rpm		
	Norm	Min	Max
Speed	275 rpm	103 rpm	222 rpm
Motor speed	1770 rpm	825 rpm	1533 rpm
Frequency	60 Hz	28 Hz	53 Hz
Rated output	50 HP		
Rated speed	1770 rpm		
Starting	direct on frequency inverter		
Efficiency class	premium efficiency		
Terminal box position acc. to supplier	1		
Cable entry position acc. to supplier	I		
Voltage	230/460 V		
Frequency	60Hz		
Enclosure	IP55		
Thermal class	F		
Remark for drive	Will have to use 450mm to 550mm adaptor flange		

The frequency inverter has to follow a linear U/f characteristic curve (constant torque).
It's essential to have a minimum overload capability of 150% for at least 3 seconds. (see technical data sheet)

Baseplate

Design	extended - with motor support
Material	steel, painted
GPU Type Code	B-ST-LS-EM

Dry running protection device (TSE)

Design	standard design, complete - sensor sleeve fitted to the stator of the pump with integrated temperature sensor - connection head (IP55) - separate TSE control device suitable for mounting inside a control panel
Voltage	110-115 V / 50-60 Hz
Temperature coefficient	NTC
Material sensor sleeve	1.4404 / AISI 316L
Material connection head	aluminium

Packing

Type of packing	skid (US)
Type of transport	truck
Quantity of pumps per package	1 pump per package

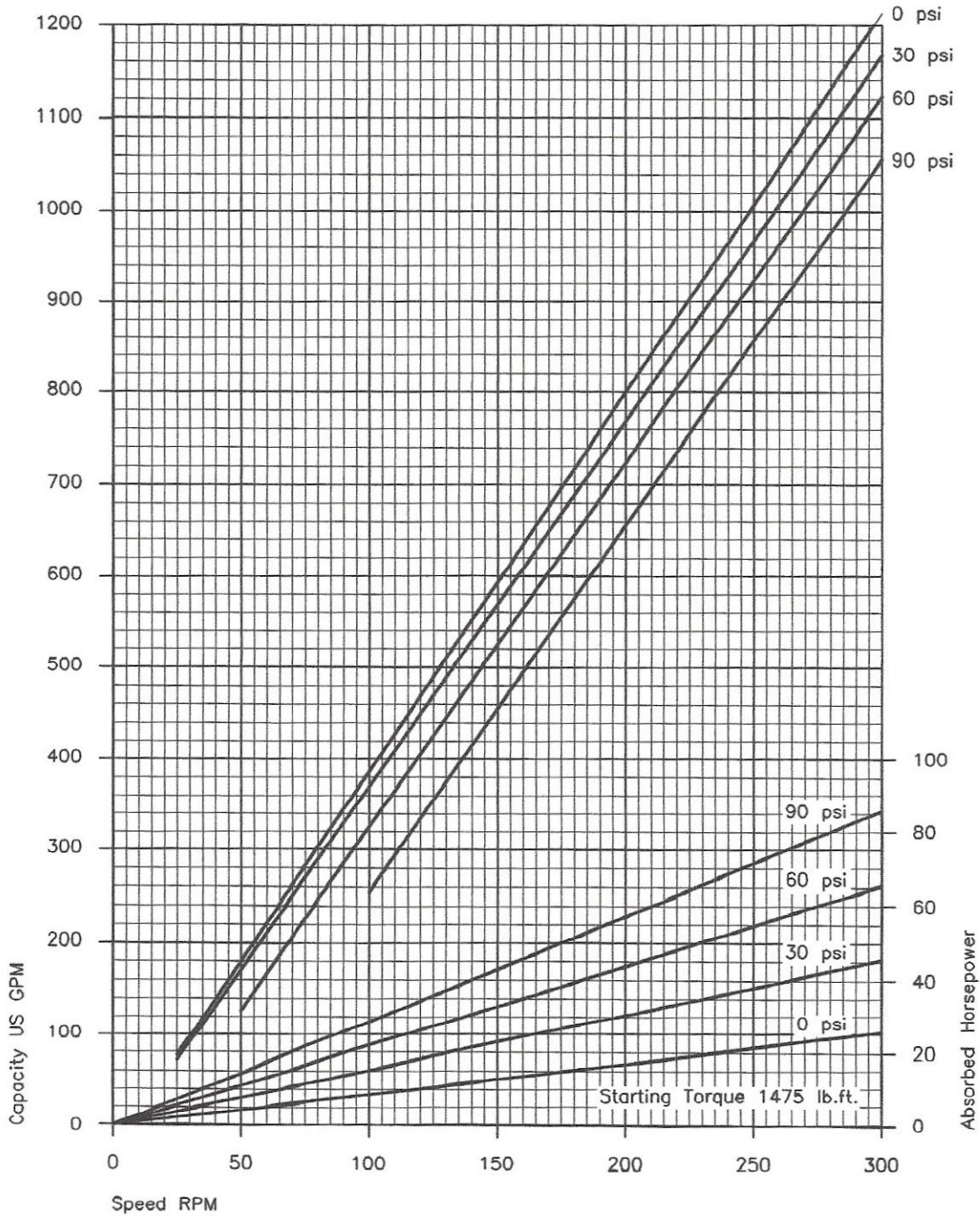
Please send your purchase order to incomingorders@seepex.net

All drawings accompanying this offer is for REFERENCE ONLY, final drawings will be created upon receipt of order. If you need this drawing please request on PO.

In order to process your order, we will require either a copy of the quote this order is based on, or the quote number.

In order to process duplicate wet end orders, we will require the commission number of the pump being duplicated.

Characteristic Curves
Size
300-6L



Values based upon water 68°F ; For notes on drive selection refer to PER

TERMS & CONDITIONS OF SALE AND/OR REPAIR 10.19

The following terms and conditions shall apply to an order for all or any part of the articles covered by the accompanying offer unless a specific exception is included herein. Acceptance of any order by SEEPEX Inc. is expressly made conditional upon Buyer's acceptance of SEEPEX Inc. Terms and Conditions of Sale and/or Repair. All prior or future terms, conditions or negotiations (whether written or oral) by Buyer will therefore be considered void and inapplicable unless otherwise agreed in writing. SEEPEX Inc. reserves the right, in its sole discretion, to refuse any order, unconditionally, for any reason including but not limited to: expiration of the validity of the offer, errors in the offer, unacceptable payment risks, conflicts with contractual commitments made to other potential customers and the chance that a customer may try to enforce an implied warranty or merchantability of the products offered.

1.0 PRICES

1.1. Any prices quoted shall only be valid for orders placed within 30 days from the date of issue of the offer. Prices are Ex-Works SEEPEX Inc. plant (Enon, Ohio USA) in U.S. dollars, unless otherwise agreed. SEEPEX Inc. reserves the right to correct typographical or clerical errors.

2.0 TERMS

2.1. All orders are subject to approval by the SEEPEX Inc. Credit Department. Unless otherwise agreed, if payment for the invoice due is not made in full within thirty (30) days after shipment, late fees of eighteen percent (18%) per year (equivalent to a nominal monthly interest rate of 1.5%) will be applied on the unpaid balance until paid in full. The terms and conditions herein set forth are based upon tariffs, taxes, foreign exchange rates, delivery, and other conditions in effect on the date of the customer's order. In the event that such tariffs, taxes, foreign exchange rates, delivery, and/or other conditions should change prior to delivery of the goods, SEEPEX Inc. reserves the right to charge such increased duties, taxes, or charges to the customer.

2.2. Unless the order includes the appropriate exemption certificates and/or licenses, duties and taxes levied by Federal, State, or other governments are required to be charged automatically at the rate imposed at time of importation/shipment. Any change in law, regulations, or Government practice which causes a variation of any kind in the applicable charges from the amounts stated in the offer shall result in an equivalent change in the price quoted.

2.3. Until payment is made in full, SEEPEX Inc. shall retain the right, without notice, to repossess and/or retain the items, and/or dispose of them, for its benefit and hold the customer responsible for any loss. Customer agrees to enter into any agreements, contracts, or notices required confirming such rights.

2.4. Except where prohibited by law, all products and services paid with a credit card will be subject to a 2.5% convenience fee added to the price of the order. This fee will not exceed our cost of acceptance and will not apply to orders placed through an online platform.

3.0 SECURITY

3.1. In order to secure any obligations due to SEEPEX Inc. from the customer, the customer grants to SEEPEX Inc. a security interest in:

a. The merchandise covered by the customer's order (s), and

b. All property and funds of the customer now or hereafter in SEEPEX Inc.'s possession, and in all additions and proceeds of such merchandise and/or property. The customer hereby authorizes SEEPEX Inc. to sign alone any financing statement or statements and to do all and any other things which may be necessary to perfect such security interest.

4.0 CANCELLATION

4.1. After acceptance, orders may be canceled only with the express approval of SEEPEX Inc. In the event of an approved cancellation, the customer shall remain responsible for payment for all work performed and/or material expenses incurred by SEEPEX Inc. as of the time of cancellation. SEEPEX Inc. reserves the right to cancel the order if SEEPEX Inc. determines, in its sole discretion, that the customer's financial condition renders the customer unable or unlikely to pay for the order as agreed.

5.0 RETURN

5.1. No credit will be allowed for returns unless SEEPEX Inc. has authorized such returns in writing in advance. A copy of this authorization must be returned with the item as the packing slip. All returns are subject to restocking charges and to the SEEPEX Inc. Return Goods Authorization (RGA) Policy, which is available on www.seepep.com, and is incorporated herein by reference. SEEPEX Inc. will only issue credits for items that are covered under warranty or can be resold. Items that are specially produced for a specific customer, including but not limited to: special hoppers, baseplates, electrical panels, gear reducers and electric motors are specifically excluded from consideration for credit. Any items not received in good, clean and uncontaminated condition or items that cannot be put back into stock will not be accepted. Any elastomer material with over three (3) years of fabrication will not be accepted for return and/or credit. Customers must pay for all freight associated with any return, including parts or equipment that may be considered to be covered by the limited warranty protection clause below. If an item is deemed to be covered under warranty, the value of the item, and freight associated with the replacement of the item, will be reimbursed by the issuance of a credit to the customer's account. Outstanding RGA's that have declined repair will be scrapped automatically after ninety (90) days if no other written instructions are provided.

6.0 SHIPMENT

6.1.

a. Handling Charge: Customer shall be responsible for making all arrangements for shipment of the order with a suitable carrier. In the event that customer requests that SEEPEX Inc. make arrangements for shipment, then customer agrees to pay to SEEPEX Inc., in addition to the applicable shipping charges, a handling charge in the amount of 10% of the shipping charges with a minimum \$5.00 to a maximum charge of \$150.00, with special services requiring additional charges.

b. New Articles: Where shipping instructions dictate no specific routing, SEEPEX Inc. will utilize its best judgement in determining routing but shall not be liable for any charges once the goods have reached their agreed upon point of delivery. If changes are made at customer's request in a) the agreed upon point of delivery, or b) in the routing selected by SEEPEX Inc. and if such changes involve additional costs to be incurred, such costs shall be borne exclusively by the customer, unless otherwise agreed in writing.

c. Repair Work: All items for which the customer requests repair or other services by SEEPEX Inc. shall be delivered to and picked up from the SEEPEX Inc. plant (Enon, Ohio USA) unless otherwise agreed in writing. All costs of delivery shall be paid by the customer unless otherwise agreed to in writing prior to shipment. Items returned to SEEPEX Inc. must be returned in good, clean and uncontaminated condition. Any cost of cleaning or decontamination will be charged back to the customer's account at the standard service rate. SEEPEX Inc. has the right to refuse acceptance of any dirty or contaminated shipment that may be suspected of being hazardous.

d. All Orders: On collect freight shipments, cartage charges from plant to carrier are the responsibility of the customer. Title to articles passes to customer upon delivery to carrier acting as customer's agent subject to any right of retention by SEEPEX Inc. All claims for shortage in, and damages in, shipment or otherwise must be reported to carrier immediately upon receipt with copy or report to ourselves within five (5) business days.

7.0 WARRANTIES & LIABILITY LIMITATIONS

7.1.

a. New Articles: SEEPEX Inc. warrants articles of our manufacture against defects in material and/or workmanship for a period of three (3) years from date of delivery, provided that the articles have been installed, maintained, and operated in strict accordance with SEEPEX Inc. recommendations and instructions.

b. Repair Work: Defined herein as work and services performed by SEEPEX Inc. SEEPEX Inc. warrants all repair work and services that it performs against defects in workmanship and/or materials for a period of three (3) years from the date of delivery of the repaired articles.

c. All Orders: All warranty claims shall be submitted promptly in writing to SEEPEX Inc. Any warranty replacement and/or repair shall be made Ex-Works SEEPEX Inc. plant (Enon, Ohio USA). SEEPEX Inc.'s warranty obligation shall be limited to the replacement and/or repair only of defective material and/or workmanship.

7.2. In no event shall SEEPEX Inc. be liable for any incidental or consequential loss or damage of whatever kind of nature including but not limited to loss of business income or profits, or damage resulting from delay in manufacture or delivery, loss of use or damage to any installation into which the article may be installed, whether arising out of contract or tort.

7.3. SEEPEX Inc. shall not be liable for any loss or damage resulting from delay and/or late delivery due to causes beyond our reasonable control. Notwithstanding anything herein to the contrary, SEEPEX Inc.'s liability to customer on any cause of action shall be limited to the amount paid by the customer on the subject order. SEEPEX Inc. makes no warranties, express or implied, with respect to articles or products manufactured or provided by any party other than SEEPEX Inc., except to transfer to the customer, where permissible, any warranty provided by SEEPEX Inc. by the original manufacturer. On any claims for repairs and/or replacement under such warranty, all costs incurred by SEEPEX Inc., which are not underwritten by the original manufacturers, shall be borne by the customer. Except as provided herein, SEEPEX Inc. expressly disclaims all representations, promises, or warranties, express or implied, with respect to any products, articles, work, or services, including any warranties of merchantability and of fitness for a particular purpose. All warranties made by SEEPEX Inc. shall be void where the goods have been subject to misuse, neglect, damage or alteration. SEEPEX Inc. shall be held free and harmless from any dispute or claim anywhere arising from and relating to infringement of patent, design, trademark, or copyright of items, sold or repaired under this contract.

8.0 PROPERTY RIGHTS AND RISKS

8.1. SEEPEX Inc. disclaims any liability or responsibility whatsoever with regard to loss or damages to the customer's property while in the possession, custody or control of SEEPEX Inc. for requested repairs or other services, and the customer expressly agrees to indemnify and hold SEEPEX Inc. harmless against any and all claims for such loss or damage.

9.0 HAZARDOUS MATERIALS

9.1. Any hazardous materials or the existence of any hazards relative to the condition of any product tendered to SEEPEX Inc. for service or repair work must be disclosed by customer in writing in the RGA Request Form, whether or not required to be disclosed per federal law on the MSDS sheet. Customer shall defend, indemnify and hold SEEPEX Inc. harmless from and against any and all claims of injury or damage, including attorney's fees, caused by any hazardous condition or material on or about products accepted for service/repair. This obligation includes but is not limited to claims of bodily injury or death suffered by SEEPEX Inc. employees, or by other parties.

SEEPEX Inc.
511 Speedway Drive
Enon, Ohio 45323
USA

T +1 937 864-7150
sales.us@seepep.com
www.seepep.com

Scope of Supply

Page 1 of 2

Wyoming, MI

Specification Section N/A
Represented locally by: Hamlett
Quotation: 500185605/5
Quote date: 8/28/20
Bid date: N/A

Item 1: Pump

Model: BN 300-6L **Qty: 2**

- Block frame style, direct coupled pump
- Pump Drive: Right-angle helical-bevel gear motor
- Pump Motor: 60 hp TEFC, NEMA premium efficient
- Design Capacity: 825 GPM @ 50 PSI (MAX)
- Pump Body: Cast Iron ASTM Class 35 w/ 8" suction and 8" discharge. ANSI B16.5 150 lb. flanges
- Pump Rotor: C45 Steel w/ ductile chromium coating
- Pump Drivetrain: Universal pin joint assembly w/ NBR joint covers
- Pump Stator: NBR - Buna
- Pump Seal: single mechanical seal
- Pump Baseplate: Carbon steel w/ side feet and motor support
- Pump coating: SEEPEX standard epoxy primer and base - SEEPEX Blue
- Overpressure protection: without
- Run dry protection: TSE w/ 115V controller
- Services: O&M manuals, submittals, freight to jobsite
- 3 year warranty against defects in materials and workmanship

Clarifications & Exceptions:

-

Scope of Supply

Page 2 of 2

Total Net Price: \$60,125.00

Note: Freight Terms - FOB Enon, OH

Submittals available 2-3 weeks after receipt of order

Delivery is 10 weeks after approval of submittals

Pricing:

- Prices are valid for 90 days after the quotation and for 365 days after receipt of the purchase order. **SEEPEX, Inc.** reserves the right to renegotiate prices for any job delayed by the customer for more than 365 days after receipt of the purchase order.

Included:

- Our offer includes onsite installation support/inspection and training for a maximum of 2 days by a qualified manufacturer's representative. Additional days are available at the rate of \$1000 per 8 hour day and must be scheduled with the factory.

Not Included:

- Our offer does not include any item not mentioned in this Scope of Supply, including but not limited to installation, controls (local or remote), VFDs, piping/valves, vibration isolators, seismic restraints or calculations, or any costs associated w/ local regulations for local craftsman to make adjustments or wiring modifications during start-up or calibration, etc.

Specifications:

- The Representative must forward all relevant plans, specifications and addendums to **SEEPEX, Inc.**
- **SEEPEX, Inc.** will not assume responsibility for required equipment, configurations or designs that are specified in plans, specifications or addendums not available to us at the time of quotation.
- Terms are per the "**SEEPEX, Inc. – Terms and Conditions of Sales and/or Repair**" or as negotiated at time of purchase.

RESOLUTION NO. _____

RESOLUTION TO ACCEPT A PROPOSAL FROM H2O TOWERS LLC FOR THE EXTERIOR
CLEANING OF THE GEZON PUMP STATION WATER STORAGE TANKS AND TO
AUTHORIZE THE MAYOR AND CITY CLERK TO EXECUTE THE CONTRACT

WHEREAS:

1. As detailed in the attached staff report, it is recommended the City Council accept a proposal from H2O Towers LLC for the exterior cleaning of the Gezon pump station water storage tanks in the total estimated amount of \$24,600.00.
2. Funds are available in the Gezon station repairs and maintenance account number 591-591-55900-930.000.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby accept a proposal from H2O Towers LLC for the exterior cleaning of the Gezon pump station water storage tanks.
2. The City Council does hereby authorize the Mayor and City Clerk to execute the contract.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried	Yes
	No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on September 8, 2020.

ATTACHMENTS:

- Staff Report
- Proposal
- Contract

Kelli A. VandenBerg, Wyoming City Clerk

STAFF REPORT

Date: August 19, 2020
Subject: Storage Tank Cleaning
From: Dan Kleinheksel, Utility Maintenance Manager
Meeting Date: September 8, 2020

RECOMMENDATION:

It is recommended that City Council accept the proposal for the exterior cleaning of Gezon Pump Station water storage tanks from H2O Towers LLC for the amount of \$24,600.00

COMMUNITY, SAFETY, STEWARDSHIP:

Regular and proper upkeep of the Gezon Pump Station infrastructure contributes to the prevention of untimely and costly repairs or replacement that could potentially interrupt the day-to-day operations of the station.

DISCUSSION:

Three ground storage tanks are located at the Gezon Pump Station for the purpose of water storage and supply for the City of Wyoming and various wholesale customers. Two ground storage tanks have the capacity of five million gallons each and the third tank has a capacity of ten million gallons. These are large tanks with significant surface area. In fact, the surface area on the top of the ten million gallon tank alone is approximately the same as a football field. All three storage tanks are in need of exterior cleaning. The water storage tanks have become unsightly due to the exteriors being covered with dirt, grime, and mildew. Additionally, it is prudent to clean the tank to prolong the life of the exterior coating.

Therefore, five contractors with experience in cleaning water storage tanks were contacted to provide proposals for the cleaning. Each contractor was provided the same information and scope of work to ensure they were all quoting the same projected work. Of the five contractors that were contacted, two contractors submitted a formal proposal and they are as follows:

Fedewa Inc.	\$31,800.00
H2O Towers LLC	\$24,600.00

Upon review of the proposals received, H2O Towers LLC was found to meet the necessary scope of work and was also the lowest proposal. Additionally, H2O Towers LLC has provided tank cleaning in the past and has done an excellent job. Therefore, it is recommended the City Council approve the proposal from H2O Towers LLC for the amount of \$24,600.00.

BUDGET IMPACT:

Adequate funds exist in the Gezon Station Repairs and Maintenance Account #591-591-55900-930.000.

CITY STANDARD CONTRACT
CITY OF WYOMING, MICHIGAN
(MORE THAN \$8,500)

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

"City" means: City of Wyoming
A Michigan municipal corporation
1155 28th Street SW
Wyoming, MI 49509

"Effective Date" means: August 10, 2020.

"Items" means the parts, equipment or other items or services the City is purchasing from the Contractor as itemized in the Proposal.

"Proposal" means the Contractor's proposal attached as Exhibit B.

"Standard Terms and Conditions" means the attached single page Exhibit A entitled "City Contract Standard Terms and Conditions."

"Contractor" means: H2O Towers LLC
(Name of contracting entity)
A Michigan Limited Liability Company
(State and type of entity e.g., corporation, limited liability company, etc.)
10400 Mooreville Rd., PO Box 398
(Contractor's street address)
Saline, MI 48176
(Contractor's city, state & zip)

TERMS AND CONDITIONS

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

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

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

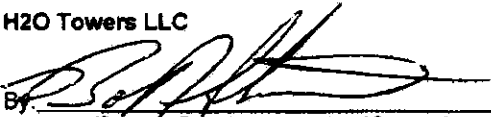
4. This is the only agreement between the parties regarding the Purchase that is the subject of the Proposal and there are no other agreements, representations or warranties except as are stated in the Proposal. This contract can be amended only in writing signed by both the City and Contractor.

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

CITY OF WYOMING

H2O Towers LLC

By: _____
Jack A. Poll, Mayor

By: 
(Signature of officer, director or principal of Contractor)
Robert J. Santure
(Typed/Printed Name & Title of Person Signing for Contractor)

By: _____
Kelli A. Vandenberg, City Clerk

Date signed: August 24, 2020

Date signed: _____, 20__

Approved as to form:


Scott G. Smith, City Attorney

CITY CONTRACT STANDARD TERMS AND CONDITIONS

1. **Applicability.** These Standard Terms and Conditions (“**Standard Terms**”) apply to any contracts to which the City of Wyoming (the “**City**”) is a party (“**City Contract**”) unless expressly modified in writing signed by the Mayor and City Clerk or the City Manager. By signing a City Contract or below, the party contracting with the City (“**Contractor**”) attests it complies with and will comply with these Standard Terms.
2. **Legal Compliance.** Contractor 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. This includes, for example and without limitation, complying with federal Occupational Safety and Health Administration (OSHA) and Michigan Occupational Safety and Health Act (MIOSHA) safe practices.
3. **Permits and Inspections.** Unless the City Contract or the Proposal states otherwise, Contractor will, without expense to the City, obtain all licenses and permits required to lawfully perform the work under the City Contract and furnish copies of those licenses and permits to the City before commencing work. Contractor will also ensure all inspections required by local, state, and federal agencies and codes are performed.
4. **Grant Compliance.** If state or federal grant funds have been identified to Contractor as a source of payment for any part of the project, by signing the contract, Contractor (i) represents the Contractor has reviewed the grant agreement and (ii) agrees to comply with any grant agreement terms and conditions that are applicable to the City Contract.
5. **Qualifications.** Contractor represents and promises that:
 - A. Contractor has and will maintain and any personnel engaged by Contractor to provide services or perform work under the City Contract have and will maintain any needed licenses, registrations, certifications, memberships, or other approvals needed to perform such services or work in Michigan.
 - B. Neither Contractor nor any subcontractor or their respective principals, owners, officers, shareholders, key employees, directors or member 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 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; and (iv) have within 3-years preceding this Contract had one or more public transactions terminated for cause or default.
 - C. If the City Contract is for a CDBG, federal and/or state funded project, Contractor and subcontractors are not listed on the US-HUD listing of debarred and suspended participants.
 - D. Contractor and any subcontractor are not on and will remain off the Federal System for Award Management list of persons and entities ineligible for federal contracts.
 - E. Neither Contractor nor any subcontractor is an “Iran linked business” under Michigan’s Iran Economic Sanctions Act, 2012 PA 517.
6. **Nondiscrimination.** Contractor 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. “Gender identity or expression” means the perception by an individual or other 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. Contractor and its subcontractors will comply with applicable laws, rules, regulations regarding discrimination and inclusion (e.g., Elliott-Larsen Civil Rights Act, 1976 PA 453, Persons with Disabilities Civil Rights Act, 1976 PA 220, and those identified at the website: <https://www.eeoc.gov/>).
7. **Ethical Standards.** Contractor and its directors, members, partners, officers and employees, as well as any parent, affiliate, or subsidiary organization or subcontractor of Contractor has not engaged in and shall refrain from: (i) holding or acquiring an interest that would conflict with the City Contract; (ii) engaging in any act that creates an appearance of impropriety with respect to the award or performance of the City 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, other than its employees and consultants, any consideration contingent upon the award of the City Contract. No owner, director, officer, member, partner or key employee of Contractor and no owner, director, officer, member, partner or key employee of any parent, affiliate, or subsidiary organization or subcontractor is a spouse, parent, child, grandchild, or sibling of the mayor, city council member, or any other elected or appointed officer or board/commission member of the City except as already disclosed in writing to the City when submitting its proposal. Contractor will immediately notify the City of any change in this circumstance.
8. **Media Releases.** Media releases (including promotional literature and commercial advertisements) pertaining to the City Contract or project to which it relates shall not be made without the City Manager’s prior written approval and only in accordance with the written terms provided in that approval.
9. **W-9.** Before beginning work, Contractor and subcontractors will return by e-mail to accountspayable@wyomingmi.gov a completed an IRS W-9 form).
10. **Intellectual Property.** Contractor guarantees the sale or use of articles, software, copies, records or other intellectual property provided or used to perform the City Contract will not infringe any copyright, patent, trademark or other intellectual property rights. Contractor will, without expense to the City, defend all actions against the City or the City’s officers or employees for any

alleged infringement of any intellectual property rights by reason of their sale or use as part of the City Contract and will pay all costs, damages, and profits recoverable in any such action.

11. Quality. Unless otherwise stated in the Proposal, all materials and items supplied under the City Contract shall be new, the best of their respective kind and free from defects.

12. Taxes. The City is generally exempt from federal and state taxes and a copy of its Tax Certificate of Exemption can be requested by contacting the City Finance Department.

13. Disposal. Unless the City Contract or Proposal states otherwise, Contractor will remove and dispose of materials, equipment and other items demolished, removed or replaced during the work and cleanup and remove of all debris resulting from the work. Disposal will comply with applicable law and Contractor shall retain and, upon request, provide the City copies of any required manifest and other disposal documentation.

14. Restoration. Contractor shall restore, without expense to the City, property damaged during or as a result of work under the City Contract to a condition similar and equal to that existing before such damage. If Contractor fails to make such repairs or restoration, the City may, after 48-hours' notice to Contractor, make such repairs or restoration, and deduct costs incurred from amounts due Contractor.

15. Manufacturer Information and Warranties. Contractor will provide the City all manufacturer parts lists, assembly or maintenance information, and other documents provided by the manufacturer for items provided or installed under the City Contract, and will ensure warranties for such items are held by or assigned to the City.

16. Risk Allocation. Contractor is solely responsible for (i) means and methods of the work provided under the City Contract, (ii) the conduct of its officers, employees, subcontractors and consultants, and (iii) injuries or property damage occurring as a result of its work under the City Contract. Contractor will hold the City and the City's officers and employees harmless from, indemnify them for, and defend them (with legal counsel reasonably acceptable to the City) against any claims made by persons other than the City as a result of Contractor's work under the City Contract. Contractor will reimburse the City for or pay in the City's stead costs the City may incur as a result of claims, demands, judgments, administrative actions, or any order to pay any amounts made or entered against the City or City officers or employees as a result of Contractor's work under the City Contract.

17. Insurance.

<p>COMMERCIAL GENERAL LIABILITY Minimal Limits: \$1,000,000 Each Occurrence \$1,000,000 Personal & Advertising Injury \$2,000,000 General Aggregate \$2,000,000 Products/Completed Operations Coverage must include the following: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Contractors; (D) Broad Form General Liability Extensions or equivalent, if not already included; (E) Deletion of all Explosion, Collapse, and Underground (EXU) Exclusions, if applicable.</p>
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<p>AUTOMOBILE LIABILITY INSURANCE Minimal Limits (hired and non-owned automobile coverage): \$1,000,000 per person \$1,000,000 per occurrence</p>
<p>WORKERS' DISABILITY COMPENSATION Minimal Limits: \$500,000 per occurrence Coverage shall be in accordance with applicable Michigan statutes. Waiver of subrogation, except where waiver is prohibited by law.</p>
<p>EXCESS/UMBRELLA INSURANCE Required liability limits may be obtained using an Excess-Umbrella Liability policy in addition to primary liability policy(ies). If Excess and/or Umbrella policy to satisfy coverage limits, coverage must follow the form of the primary liability policy(ies).</p>
<p>ADDITIONAL INSUREDS If the City Contract is for more than \$5,000, General Commercial Liability, Automobile Liability and Excess/Umbrella Liability insurance shall include an endorsement stating the following are Additional Insureds: the City and all its elected and appointed officials, employees, volunteers, agents, boards, and commissions. Coverage is to be primary and any insurance the City may have will be secondary and/or excess.</p>

If the City requests, Contractor will provide to the City Purchasing Department copies of certificates of insurance, policies and endorsements.

18. Records. Because the City is a public entity and because it receives funds from other governmental agencies, the City is required to retain, be able to obtain, and/or audit records related to City contracts. Contractor shall retain copies of all records related to the City Contract, including, without limitation, items supplied or used in performance of the City Contract, and all work under the City Contract for at least 6 years after completion of the City Contract. Contractor shall, upon the City's request, allow inspection, auditing and copying of all retained records.

19. Assignment/Beneficiaries. Unless the City Contract states otherwise, (i) none of Contractor's rights or duties may be assigned or delegated without the City's prior written consent and (ii) no other individuals or entities are intended to be beneficiaries of the City Contract.

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ACKNOWLEDGEMENT

Contractor acknowledges receiving these Standard Terms and, unless modified by the City Contract, (i) they apply to the City Contract and Contractor's work, (ii) Contractor complies and will comply with them, and (iii) the City is relying on them.

EXHIBIT B



H2O Towers

1 800 426-7062 / (426-3693)
Serving the Coast-to-Coast United States

H2O Towers LLC
PO Box 398
Saline, MI 48176

Proposal

Date	Proposal #
8/10/2020	1901

Name / Address
Wyoming Water Department Dan Kleinheksel kleinheksel@wyomingmi.gov 16700 New Holland Holland, MI 49424 616-738-4957 W. 616-377-8969 C.

Description	Qty	Rate	Total	Work Performed At:	Terms
H2O Towers will supply all labor and materials necessary, in order to: Clean the exterior of multiple Tanks in various sizes located at 5591 Gezon CT SW, Wyoming MI 49519.		0.00			
Apply fungicide		0.00			
The Tanks will be cleaned using United Weather-Zyme 727 cleaner in order to kill mildew spores and remove atmospheric carbons. (1 part United Weather-Zyme 727, 3 part chlorine and 1 part water).		0.00			
The Tanks will be rinsed with water.		0.00			
10 MG Concrete Tank, Sidewalls including Roof.		11,800.00	11,800.00		
5 MG Steel Tank, Sidewalls including Roof.		6,400.00	6,400.00		
5 MG Concrete Tank, Sidewalls including Roof.		6,400.00	6,400.00		
Our 15 story man-lift will be used to clean your Tanks.		0.00			
Owner to supply water.		0.00			
Total			\$24,600.00		

All material is guaranteed to be as specified and the above work to be performed in a workmanlike manner for the sum above. Any additional work involving extra cost will be executed only upon written orders, and will become an extra charge over and above the estimate. All agreements are contingent upon strikes, accidents or delays beyond control. Precautions will be taken to protect landscaping, but not liable for. Owner is to carry fire, tornado, and other necessary insurance upon above work. Workmen's Compensation and Liability Insurance on above work is to be taken out by H2O Towers, LLC.

Total

\$24,600.00

Signature _____

Phone #	Fax #	E-mail	Web Site
866-426-8693	734-944-0127	bob@h2otowers.com	www.h2otowers.com

RESOLUTION NO. _____

RESOLUTION TO ACCEPT A PROPOSAL FROM FRANKLIN HOLWERDA COMPANY
TO MODIFY AND CAP A 48" RAW WATER PIPE AND TO
AUTHORIZE THE MAYOR AND CITY CLERK TO EXECUTE THE CONTRACT

WHEREAS:

1. As detailed in the attached Staff Report, Franklin Holwerda Company has provided the City with a proposal to modify and cap a 48" raw water pipe at the Water Treatment Plant in the total estimated amount of \$14,000.00.
2. Funds are available in the Water Treatment Plant account number 591-591-55300-930.000.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby accept a proposal from Franklin Holwerda Company to modify and cap a 48" raw water pipe.
2. The City Council does hereby authorize the Mayor and City Clerk to execute the contract.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on September 8, 2020.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Staff Report
Contract

Resolution No. _____

STAFF REPORT

Date: August 19, 2020
Subject: 48" Raw Water Pipe Cap
From: Dan Kleinheksel, Utility Maintenance Manager
Date of Meeting: September 8, 2020

RECOMMENDATION:

It is recommended that the City Council award the proposal as provided by Franklin Holwerda Company to modify and cap a 48" raw water pipe at the Water Treatment Plant for a cost of \$14,000.00.

COMMUNITY, SAFETY, STEWARDSHIP:

Regular and proper upkeep of plant facilities and infrastructure contributes to their longevity, workplace safety, and to the prevention of untimely and costly repairs or replacement that could potentially interrupt the day-to-day operations of the Water Treatment Plant.

DISCUSSION:

The Water Treatment Plant houses 48" steel piping in the raw water pipe gallery that requires capping due to a continuously leaking valve. In the past, the piping was used to supply the now-obsolete upflow clarifiers with raw water from the Low Service pump station. However, since the plant expansion in 2009, the clarifiers have been abandoned and serve no treatment purpose. The raw water piping contains a 48" valve which has developed a leak resulting in water continuously flowing onto the floor. This creates a safety hazard, causes unnecessary wear on sump pump equipment, and increased energy consumption. Several repair options were evaluated, and it was determined the most cost-effective to repair is to modify and cap the abandoned 48" pipe.

Hence, contact was made to three mechanical & plumbing contractors that specialize in this type of repair to request proposals for the work. Each contractor made a site visit to review the scope of work to ensure they were all quoting the same projected work. All three contractors submitted a proposal and they are as follows:

DHE Mechanical & Plumbing	\$17,400.00
Franklin Holwerda Company	\$14,000.00
Allied Mechanical Service	\$18,900.00

Upon review of the proposals received, Franklin Holwerda Company was found to meet the necessary scope of work and was also the lowest quote. Therefore, it is recommended the City Council approve the proposal from Franklin Holwerda Company in the amount of \$14,000.00.

BUDGET IMPACT:

Adequate funds exist in the Water Treatment Plant account #591-591-55300-930.000.

CITY OF
Wyoming
MICHIGAN

CITY STANDARD CONTRACT
CITY OF WYOMING, MICHIGAN
(MORE THAN \$8,500)

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

"City" means: City of Wyoming
A Michigan municipal corporation
1155 28th Street SW
Wyoming, MI 49509

"Effective Date" means: August 19, 2020.

"Items" means the parts, equipment or other items or services the City is purchasing from the Contractor as itemized in the Proposal.

"Proposal" means the Contractor's proposal attached as Exhibit B.

"Standard Terms and Conditions" means the attached single page Exhibit A entitled "City Contract Standard Terms and Conditions."

"Contractor" means: FHC Mechanical Contractors
[Name of contracting entity]
A Michigan Corporation
[State and type of entity, e.g., corporation, limited liability company, etc.]
2509 29th Street SW
[Contractor's street address]
Wyoming, MI 49509
[Contractor's city, state & zip]

TERMS AND CONDITIONS

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

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

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

4. This is the only agreement between the parties regarding the Purchase that is the subject of the Proposal and there are no other agreements, representations or warranties except as are stated in the Proposal. This contract can be amended only in writing signed by both the City and Contractor.

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

CITY OF WYOMING

FHC Mechanical Contractors

By: _____
Jack A. Poll, Mayor

By: Micah Holt
[Signature officer, director or principal of Contractor]
Micah Holt - Treasurer
[Typed/Printed Name & Title of Person Signing for Contractor]

By: _____
Kelli A. Vandenberg, City Clerk

Date signed: 8/20, 2020

Date signed: _____, 20__

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

CITY CONTRACT STANDARD TERMS AND CONDITIONS

1. Applicability. These Standard Terms and Conditions ("Standard Terms") apply to any contracts to which the City of Wyoming (the "City") is a party ("City Contract") unless expressly modified in writing signed by the Mayor and City Clerk or the City Manager. By signing a City Contract or below, the party contracting with the City ("Contractor") attests it complies with and will comply with these Standard Terms.

2. Legal Compliance. Contractor 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. This includes, for example and without limitation, complying with federal Occupational Safety and Health Administration (OSHA) and Michigan Occupational Safety and Health Act (MIOSHA) safe practices.

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

4. Grant Compliance. If state or federal grant funds have been identified to Contractor as a source of payment for any part of the project, by signing the contract, Contractor (i) represents the Contractor has reviewed the grant agreement and (ii) agrees to comply with any grant agreement terms and conditions that are applicable to the City Contract.

5. Qualifications. Contractor represents and promises that:

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

B. Neither Contractor nor any subcontractor or their respective principals, owners, officers, shareholders, key employees, directors or member 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 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; and (iv) have within 3-years preceding this Contract had one or more public transactions terminated for cause or default.

C. If the City Contract is for a CDBG, federal and/or state funded project, Contractor and subcontractors are not listed on the US-HUD listing of debarred and suspended participants.

D. Contractor and any subcontractor are not on and will remain off the Federal System for Award Management list of persons and entities ineligible for federal contracts.

E. Neither Contractor nor any subcontractor is an "Iran linked business" under Michigan's Iran Economic Sanctions Act, 2012 PA 517.

6. Nondiscrimination. Contractor 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. "Gender identity or expression" means the perception by an individual or other 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. Contractor and its subcontractors will comply with applicable laws, rules, regulations regarding discrimination and inclusion (e.g., Elliott-Larsen Civil Rights Act, 1976 PA 453, Persons with Disabilities Civil Rights Act, 1976 PA 220, and those identified at the website: <https://www.eeoc.gov/>).

7. Ethical Standards. Contractor and its directors, members, partners, officers and employees, as well as any parent, affiliate, or subsidiary organization or subcontractor of Contractor has not engaged in and shall refrain from: (i) holding or acquiring an interest that would conflict with the City Contract; (ii) engaging in any act that creates an appearance of impropriety with respect to the award or performance of the City 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, other than its employees and consultants, any consideration contingent upon the award of the City Contract. No owner, director, officer, member, partner or key employee of Contractor and no owner, director, officer, member, partner or key employee of any parent, affiliate, or subsidiary organization or subcontractor is a spouse, parent, child, grandchild, or sibling of the mayor, city council member, or any other elected or appointed officer or board/commission member of the City except as already disclosed in writing to the City when submitting its proposal. Contractor will immediately notify the City of any change in this circumstance.

8. Media Releases. Media releases (including promotional literature and commercial advertisements) pertaining to the City Contract or project to which it relates shall not be made without the City Manager's prior written approval and only in accordance with the written terms provided in that approval.

9. W-9. Before beginning work, Contractor and subcontractors will return by e-mail to accountspayable@wyomingmi.gov a completed an IRS W-9 form).

10. Intellectual Property. Contractor guarantees the sale or use of articles, software, copies, records or other intellectual property provided or used to perform the City Contract will not infringe any copyright, patent, trademark or other intellectual property rights. Contractor will, without expense to the City, defend all actions against the City or the City's officers or employees for any

alleged infringement of any intellectual property rights by reason of their sale or use as part of the City Contract and will pay all costs, damages, and profits recoverable in any such action.

11. Quality. Unless otherwise stated in the Proposal, all materials and items supplied under the City Contract shall be new, the best of their respective kind and free from defects.

12. Taxes. The City is generally exempt from federal and state taxes and a copy of its Tax Certificate of Exemption can be requested by contacting the City Finance Department.

13. Disposal. Unless the City Contract or Proposal states otherwise, Contractor will remove and dispose of materials, equipment and other items demolished, removed or replaced during the work and cleanup and remove of all debris resulting from the work. Disposal will comply with applicable law and Contractor shall retain and, upon request, provide the City copies of any required manifest and other disposal documentation.

14. Restoration. Contractor shall restore, without expense to the City, property damaged during or as a result of work under the City Contract to a condition similar and equal to that existing before such damage. If Contractor fails to make such repairs or restoration, the City may, after 48-hours' notice to Contractor, make such repairs or restoration, and deduct costs incurred from amounts due Contractor.

15. Manufacturer Information and Warranties. Contractor will provide the City all manufacturer parts lists, assembly or maintenance information, and other documents provided by the manufacturer for items provided or installed under the City Contract, and will ensure warranties for such items are held by or assigned to the City.

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<p>AUTOMOBILE LIABILITY INSURANCE Minimal Limits (hired and non-owned automobile coverage): \$1,000,000 per person \$1,000,000 per occurrence</p>
<p>WORKERS' DISABILITY COMPENSATION Minimal Limits: \$500,000 per occurrence Coverage shall be in accordance with applicable Michigan statutes. Waiver of subrogation, except where waiver is prohibited by law.</p>
<p>EXCESS/UMBRELLA INSURANCE Required liability limits may be obtained using an Excess-Umbrella Liability policy in addition to primary liability policy(ies). If Excess and/or Umbrella policy to satisfy coverage limits, coverage must follow the form of the primary liability policy(ies).</p>
<p>ADDITIONAL INSUREDS If the City Contract is for more than \$5,000, General Commercial Liability, Automobile Liability and Excess/Umbrella Liability insurance shall include an endorsement stating the following are Additional Insureds: the City and all its elected and appointed officials, employees, volunteers, agents, boards, and commissions. Coverage is to be primary and any insurance the City may have will be secondary and/or excess.</p>

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ACKNOWLEDGEMENT

Contractor acknowledges receiving these Standard Terms and, unless modified by the City Contract, (i) they apply to the City Contract and Contractor's work, (ii) Contractor complies and will comply with them, and (iii) the City is relying on them.

EXHIBIT B

FHC
MECHANICAL CONTRACTORS

2509 29th Street SW
Wyoming, MI 49509
616-538-3231/616-538-2797 Fax

August 19, 2020

Dan Kleinheksel
City of Wyoming WTP
16700 New Holland Street
Holland, MI. 49424

Subject: Raw water main, blind flange at a 90

We are pleased to bid on capping off the Raw water service line that is no longer used. We propose to furnish all material, equipment, tools, and labor to complete the work for the following price.

Includes:

- Draining and removing only the 48" piping after the butterfly valve, Between the 90-degree fitting inlet flange at the dresser coupling.
- Adding a 1.5" A-36 blind flange, at the 90-inlet, painted to seal against rusting.
- Adding a 2" drain to the lower side of the removed pipe.
- Trimming the section of pipe as needed
- Drilling and taping a ¾" drain to the 90, back side of the blind flange.
- Painting exposed steel to prevent rusting
- Reinstalling the pipe, using new gaskets, between the dresser and blind flange.
- Site clean up

Note: There is a 30-DAY lead time on the equipment. The expected down time is ZERO working days.

Materials only price: \$9,000.00

Labor only price: \$5,000.00

Total Price: \$14,000.00

All work performed during normal business hours in a timely and workman like manner by skilled craftsmen. Thank you for this opportunity and we look forward to doing business with you in the future. Pricing is good for 30 days.

Matt Clelland
Service Department
Manager & Estimator

RESOLUTION NO. _____

RESOLUTION TO AUTHORIZE THE PURCHASE OF
FIRE TURNOUT GEAR

WHEREAS:

1. As detailed in the attached Staff Report, the City purchases fire turnout gear as needed.
2. It is recommended City Council authorize the purchase of the fire turnout gear from Phoenix Safety Outfitters using the NPPGov cooperative purchasing program at a total cost of \$2,684.50 per set through September 8, 2021.
3. Funds are budgeted in various departmental accounts and will be charged to the appropriate account at the time of purchase.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby authorize the purchase of the fire turnout gear from Phoenix Safety Outfitters using the NPPGov cooperative purchasing program.
2. The City Council does hereby waive the provisions of Sections 2-252, 2-253, 2-254 and 2-256 of the City Code regarding publication and posting of bid notices, notification of bidders and the bid opening procedure.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on September 8, 2020.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:

Staff Report
Quote

Resolution No. _____

STAFF REPORT

Date: August 20, 2020
Subject: Fire Turnout Gear
From: Dennis Van Tassell, Deputy Fire Chief
Meeting Date: September 8, 2020

RECOMMENDATION:

It is recommended that the City Council authorize the purchase of fire turnout pants and jackets from Phoenix Safety Outfitters using the NPPGov cooperative purchasing program. The total cost per set is \$2,684.50.

COMMUNITY, SAFETY, STEWARDSHIP:

This bid provides safety equipment utilized for structural firefighting, vehicle accident scenes, and various emergency operations. This equipment is also necessary to maintain NFPA and MIOSHA Part 74 compliance.

DISCUSSION:

This is necessary to allow the continual replacement of outdated turnout equipment and for the immediate purchase of new gear as personnel are hired into the fire department. In 2019 the Department requested bids and received four responses out of the 47 that were sent. Even though it was not the low bid, Phoenix Safety Outfitters was chosen because the turnout gear from Lion Apparel contains a higher percentage of Kevlar. This gives the gear extra strength, a longer life, and provides more safety to firefighters.

Phoenix Safety Outfitters is a provider of Lion Apparel for the region and is part of the NPPGov cooperative bidding system (Contract #PS200695). Turnout gear regularly increases in cost each year but working with NPPGov allows the Department to utilize competitive pricing.

BUDGET IMPACT:

Turnout gear is typically bought as a pair after a person is sized correctly. Each set costs \$2,684.50. There are multiple groups that will utilize this same equipment. Funding for the turnout gear will be from 101-337-33900-744.001, 101-337-33901-744.001, and 101-337-33902-744.001.



P.O. Box 20445
Upper Arlington, OH 43220

Quote #: 159523

(THIS IS NOT AN INVOICE: DO NOT PAY FROM THIS DOCUMENT)

REMITTANCE INFORMATION:

PHOENIX Safety Outfitters,
 PO Box 20445
 Upper Arlington, Ohio 43220

Ship Date: **Not set**

Invoice Date: **06 Aug 2020**

Payment Due Date: **21 Aug 2020**

Shipping Method:

Account Rep: **Matt Dumond**

Accounting Questions: **cgrogan@phoenixoutfitters.com**

Accounting Phone: **614-203-0247**

Bin Reference #:

Bill to:

JOSH SWITZER
 CITY OF WYOMING FIRE DEPT
 1250 36TH STREET SW
 WYOMING MI 49509
 UNITED STATES
 Customer Phone:
 Customer Email: switzerj@wyomingmi.gov

Ship to:

JOSH SWITZER
 CITY OF WYOMING FIRE DEPT
 1250 36TH STREET SW
 WYOMING MI 49509
 UNITED STATES
 Customer Phone:
 Customer Email: switzerj@wyomingmi.gov

Qty	Item ID	Item name	Item \$	Extended \$
1		#Lion V Force Coat Per Attached Specifications	\$1532.00	\$1532.00
1		#Lion V Force Pant Per Attached Specifications	\$1152.50	\$1152.50
Subtotal				\$2684.50
MI-ST TAX EXEMPT @ 0%				\$0.00
Total				\$2684.50
Paid to date				\$0.00

Physical Address:

Sales Tax Registrations:

8/10/2020

PHOENIX Safety Outfitters
1619 Commerce Road
Springfield, Ohio 45504
(937) 324-2537

PHOENIX Quote:

Ohio (91-050790)
Indiana (0158424336)
Michigan (41-2241348)
EIN:
41-2241348

RESOLUTION NO. _____

RESOLUTION TO ACCEPT A QUOTE FROM CUMMINS SALES AND SERVICE
TO PROVIDE PREVENTATIVE MAINTENANCE OF THE FIRE DEPARTMENT'S
FOUR GENERATORS AND TO AUTHORIZE THE
MAYOR AND CITY CLERK TO EXECUTE THE CONTRACT

WHEREAS:

1. As detailed in the staff report, Cummins Sales and Service has provided a quote to provide preventative maintenance of the Fire Department's four generators for three years at a total cost of \$13,494.12.
2. It is recommended the City Council accept the quote.
3. Funds are available in the building repairs and maintenance account number 101-337-33800-930.000.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby accept a quote from Cummins Sales and Service to provide preventative maintenance of the Fire Department's four generators through September 8, 2023.
2. The City Council does hereby authorize the Mayor and City Clerk to execute the contract.

Moved by Councilmember:

Seconded by Councilmember:

Motion Carried Yes
 No

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on September 8, 2020.

ATTACHMENTS:

Staff Report
Quote
Agreement

Kelli A. VandenBerg, Wyoming City Clerk

Resolution No. _____

STAFF REPORT

Date: August 20, 2020
Subject: Generator Preventative Maintenance
From: Dennis Van Tassell, Deputy Fire Chief
Meeting Date: September 8, 2020

RECOMMENDATION:

It is recommended that the City Council accept a quote from Cummins Sales and Service for a three-year preventative maintenance agreement to be performed on the Fire Department's four generators at a total estimated cost of \$13,494.12.

COMMUNITY, SAFETY, STEWARDSHIP:

Working with a quality service company ensures that the generators will function according to the required specifications, allowing the operations of the Department to continue uninterrupted in the event of power loss.

DISCUSSION:

The City of Wyoming Fire Department owns four generators that provide backup power in the event of an outage. Each fire station has its own generator that will allow personnel to maintain high levels of service even in extreme circumstances. Since so much of the equipment used today is dependent on a functioning power supply, working generators are of the utmost importance. Cummins Sales and Service has performed maintenance and repairs on the Fire Department's generators for over 12 years and has provided the Department with a three-year preventative maintenance agreement. Michigan CAT is the only other qualified company which is a Cummins Sales and Service direct competitor in the industry offering their own brand of equipment. To ensure the maintenance work to be performed is done accurately and with the correct original equipment parts, it is highly recommended that it be completed by Cummins Sales and Service.

BUDGET IMPACT:

The annual cost of the three-year preventative maintenance agreement will be \$4,498.04. Sufficient funds have been allocated in the building repairs and maintenance account #101-337-33800-930.000.

CITY STANDARD CONTRACT
CITY OF WYOMING, MICHIGAN
(MORE THAN \$8,500)

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

"City" means: City of Wyoming
A Michigan municipal corporation
1155 28th Street SW
Wyoming, MI 49509

"Effective Date" means: June 18, 2020.

"Items" means the parts, equipment or other items or services the City is purchasing from the Contractor as itemized in the Proposal.

"Proposal" means the Contractor's proposal attached as Exhibit B.

"Standard Terms and Conditions" means the attached single page Exhibit A entitled "City Contract Standard Terms and Conditions."

"Contractor" means: Cummins Inc. dba
Cummins Sales and Service
[Name of contracting entity]
A State of Indiana Corporation
[State and type of entity, e.g., corporation, limited liability company, etc.]
3715 Clay SW
[Contractor's street address]
Grand Rapids, MI 49548
[Contractor's city, state & zip]

TERMS AND CONDITIONS

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

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

Item #15 to read as follows:

15. Warranty. The services hereunder shall be performed in a careful, skillful and workmanlike manner by qualified and efficient workers in strict conformity with the best standards and practices and all applicable state and federal laws, regulations and permits. If Customer finds during the ninety (90) days following completion of services ("Warranty Term") that any services provided under this Agreement are defective in workmanship or do not conform with the terms set forth in the Agreement ("Non-Conforming Services"), and provides CSS notification of Non-Conforming Services within thirty (30) days following discovery by Customer, then CSS may, at CSS's sole discretion, either (a) correct or re-perform, at CSS's sole cost and expense, the Non-Conforming Services, or (b) make an equitable adjustment to the charges under the Agreement. Any services corrected or re-performed shall be subject to the remaining Warranty Term of the original warranty to the same extent as those services initially performed. If CSS fails or refuses to correct or re-perform Non-Conforming services, Customer's sole remedy shall be to correct or replace such Non-Conforming Services and CSS shall reimburse Customer within thirty (30) days after receipt of written invoice for any reasonable costs associated with such correction or replacement services. Limited warranties apply for select parts and components as defined by the respective component manufacturer's limited warranty. THE WARRANTY SET FORTH HEREIN IS THE ONLY WARRANTY APPLICABLE TO THE PARTS AND COMPONENTS AND SERVICES. THERE ARE NO OTHER EXPRESS OR IMPLIED WARRANTIES, INCLUDING WITHOUT LIMITATION, NO WARRANTIES OF MERCHANTABILITY OR FOR FITNESS FOR A PARTICULAR PURPOSE. THE REMEDY PROVIDED HEREIN SHALL BE CUSTOMER'S SOLE AND EXCLUSIVE REMEDY FOR BREACH OF WARRANTY.

With the addition of the following:

Limitation of Liability. TO THE MAXIMUM EXTENT PERMITTED BY LAW, NEITHER PARTY SHALL BE LIABLE HEREUNDER FOR CONSEQUENTIAL, SPECIAL, INDIRECT, INCIDENTAL, PUNITIVE OR EXEMPLARY DAMAGES (INCLUDING LOST PROFITS OR SAVINGS, LOSS OF USE, OR DOWNTIME) EVEN IF IT HAS BEEN ADVISED OF THEIR POSSIBLE EXISTENCE, EXCEPT THAT THE FOREGOING SHALL NOT RESTRICT A PARTY'S ABILITY TO RECOVER DIRECT DAMAGES FOR BREACH OF THIS

AGREEMENT. NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, IN NO EVENT SHALL CSS'S TOTAL AND CUMULATIVE LIABILITY EXCEED TWO MILLION DOLLARS (\$2,000,000.00). NOTHING IN THIS AGREEMENT EXCLUDES OR LIMITS LIABILITY FOR DEATH OR PERSONAL INJURY CAUSED BY A PARTY'S GROSS NEGLIGENCE OR WILLFUL MISCONDUCT.

Item #16 to read as follows:

16. Risk Allocation. The Contractor is solely responsible for (i) the means and methods of services provided under the City Contract, (ii) the conduct of its officers, employees, subcontractors and consultants, and (iii) any injuries or property damage resulting from the Contractor's work and activities under the Contract. The Contractor shall hold the City and the City's officers and employees harmless from and defend them against any claims made by persons other than the City for personal injuries or property damage occurring as a result of Contractor's work and activities under the Contract, but not for any negligence, gross negligence or wrong doing of the City or the City's officers or employees.

Neither party shall be liable to the other party for consequential, incidental, indirect, special, punitive or exemplary damages even if advised or otherwise aware they may occur. The preceding sentence does not preclude any claim for direct damages for a breach of this Agreement. The Contractor's liability to the City shall not exceed \$2 million, but this limitation of liability shall not affect any liability the Contractor may have to persons other than the City. Nothing in this Agreement excludes or limits the liability of either party for gross negligence or willful misconduct.

The Contractor agrees to indemnify and save the City harmless from all claims growing out of any demands of subcontractors, laborers, workers, mechanics, materialmen, and furnishers of supplies, equipment, financing, or any other goods or services, tangible or intangible. When the City so desires, the Contractor shall furnish satisfactory evidence that all obligations of the nature herein above designated have been paid discharged or waived.

Item #20 to read as follows:

20. Independent Contractor. Contractor acknowledges that Contractor is an independent contractor of the City and that Contractor is not an employee or official of the City. Contractor shall not represent, either expressly or through implication, that Contractor is an employee or official of the City. Any income taxes, self-employment taxes, social security taxes and the like are the sole responsibility of the Contractor.

Nothing contained in this Contract shall be deemed or construed by the parties hereto or by any third party to create the relationship of principal and agent or of partnership or of joint venture or of any association whatsoever between the parties, it being expressly understood and agreed that no provision contained in this Agreement nor any act or acts of the parties hereto shall be deemed to create any relationship between the parties other than the relationship of independent parties contracting with each other solely for the purpose of effecting the provisions of this Contract.

I understand that the indemnification and Independent Contractor provisions are requirement of all City of Wyoming Contracts. I have read the provisions and agree to the terms of these provisions.

4. This is the only agreement between the parties regarding the Purchase that is the subject of the Proposal and there are no other agreements, representations or warranties except as are stated in the Proposal. This contract can be amended only in writing signed by both the City and Contractor.

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

CITY OF WYOMING

Cummins Inc.

By: _____
Jack A. Poll, Mayor

By: Jonathan Evans
[Signature officer, director or principal of Contractor]
Jonathan Evans VP-PG Solutions
[Typed/Printed Name & Title of Person Signing for Contractor]

By: _____
Kelli A. VandenBerg, City Clerk

Date signed: July 29, 2020

Date signed: _____, 20__

Approved as to form:



Scott G. Smith, City Attorney

CITY CONTRACT STANDARD TERMS AND CONDITIONS

1. Applicability. These Standard Terms and Conditions (“**Standard Terms**”) apply to any contracts to which the City of Wyoming (the “**City**”) is a party (“**City Contract**”) unless expressly modified in writing signed by the Mayor and City Clerk or the City Manager. By signing a City Contract or below, the party contracting with the City (“**Contractor**”) attests it complies with and will comply with these Standard Terms.
2. Legal Compliance. Contractor 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. This includes, for example and without limitation, complying with federal Occupational Safety and Health Administration (OSHA) and Michigan Occupational Safety and Health Act (MIOSHA) safe practices.
3. Permits and Inspections. Unless the City Contract or the Proposal states otherwise, Contractor will, without expense to the City, obtain all licenses and permits required to lawfully perform the work under the City Contract and furnish copies of those licenses and permits to the City before commencing work. Contractor will also ensure all inspections required by local, state, and federal agencies and codes are performed.
4. Grant Compliance. If state or federal grant funds have been identified to Contractor as a source of payment for any part of the project, by signing the contract, Contractor (i) represents the Contractor has reviewed the grant agreement and (ii) agrees to comply with any grant agreement terms and conditions that are applicable to the City Contract.
5. Qualifications. Contractor represents and promises that:
 - A. Contractor has and will maintain and any personnel engaged by Contractor to provide services or perform work under the City Contract have and will maintain any needed licenses, registrations, certifications, memberships, or other approvals needed to perform such services or work in Michigan.
 - B. Neither Contractor nor any subcontractor or their respective principals, owners, officers, shareholders, key employees, directors or member 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 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; and (iv) have within 3-years preceding this Contract had one or more public transactions terminated for cause or default..
 - C. If the City Contract is for a CDBG, federal and/or state funded project, Contractor and subcontractors are not listed on the US-HUD listing of debarred and suspended participants.
 - D. Contractor and any subcontractor are not on and will remain off the Federal System for Award Management list of persons and entities ineligible for federal contracts.
 - E. Neither Contractor nor any subcontractor is an “Iran linked business” under Michigan’s Iran Economic Sanctions Act, 2012 PA 517.
6. Nondiscrimination. Contractor 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. “Gender identity or expression” means the perception by an individual or other 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. Contractor and its subcontractors will comply with applicable laws, rules, regulations regarding discrimination and inclusion (e.g., Elliott-Larsen Civil Rights Act, 1976 PA 453, Persons with Disabilities Civil Rights Act, 1976 PA 220, and those identified at the website: <https://www.eeoc.gov/>).
7. Ethical Standards. Contractor and its directors, members, partners, officers and employees, as well as any parent, affiliate, or subsidiary organization or subcontractor of Contractor has not engaged in and shall refrain from: (i) holding or acquiring an interest that would conflict with the City Contract; (ii) engaging in any act that creates an appearance of impropriety with respect to the award or performance of the City 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, other than its employees and consultants, any consideration contingent upon the award of the City Contract. No owner, director, officer, member, partner or key employee of Contractor and no owner, director, officer, member, partner or key employee of any parent, affiliate, or subsidiary organization or subcontractor is a spouse, parent, child, grandchild, or sibling of the mayor, city council member, or any other elected or appointed officer or board/commission member of the City except as already disclosed in writing to the City when submitting its proposal. Contractor will immediately notify the City of any change in this circumstance.
8. Media Releases. Media releases (including promotional literature and commercial advertisements) pertaining to the City Contract or project to which it relates shall not be made without the City Manager’s prior written approval and only in accordance with the written terms provided in that approval.
9. W-9. Before beginning work, Contractor and subcontractors will return by e-mail to accountspayable@wyomingmi.gov a completed an IRS W-9 form).
10. Intellectual Property. Contractor guarantees the sale or use of articles, software, copies, records or other intellectual property provided or used to perform the City Contract will not infringe any copyright, patent, trademark or other intellectual property rights. Contractor will, without expense to the City, defend all actions against the City or the City’s officers or employees for any

alleged infringement of any intellectual property rights by reason of their sale or use as part of the City Contract and will pay all costs, damages, and profits recoverable in any such action.

11. Quality. Unless otherwise stated in the Proposal, all materials and items supplied under the City Contract shall be new, the best of their respective kind and free from defects.

12. Taxes. The City is generally exempt from federal and state taxes and a copy of its Tax Certificate of Exemption can be requested by contacting the City Finance Department.

13. Disposal. Unless the City Contract or Proposal states otherwise, Contractor will remove and dispose of materials, equipment and other items demolished, removed or replaced during the work and cleanup and remove of all debris resulting from the work. Disposal will comply with applicable law and Contractor shall retain and, upon request, provide the City copies of any required manifest and other disposal documentation.

14. Restoration. Contractor shall restore, without expense to the City, property damaged during or as a result of work under the City Contract to a condition similar and equal to that existing before such damage. If Contractor fails to make such repairs or restoration, the City may, after 48-hours' notice to Contractor, make such repairs or restoration, and deduct costs incurred from amounts due Contractor.

15. Manufacturer Information and Warranties. Contractor will provide the City all manufacturer parts lists, assembly or maintenance information, and other documents provided by the manufacturer for items provided or installed under the City Contract, and will ensure warranties for such items are held by or assigned to the City.

16. Risk Allocation. Contractor is solely responsible for (i) means and methods of the work provided under the City Contract, (ii) the conduct of its officers, employees, subcontractors and consultants, and (iii) injuries or property damage occurring as a result of its work under the City Contract. Contractor will hold the City and the City's officers and employees harmless from, indemnify them for, and defend them (with legal counsel reasonably acceptable to the City) against any claims made by persons other than the City as a result of Contractor's work under the City Contract. Contractor will reimburse the City for or pay in the City's stead costs the City may incur as a result of claims, demands, judgments, administrative actions, or any order to pay any amounts made or entered against the City or City officers or employees as a result of Contractor's work under the City Contract.

17. Insurance.

<p>COMMERCIAL GENERAL LIABILITY</p> <p>Minimal Limits: \$1,000,000 Each Occurrence \$1,000,000 Personal & Advertising Injury \$2,000,000 General Aggregate \$2,000,000 Products/Completed Operations</p> <p>Coverage must include the following: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Contractors; (D) Broad Form General Liability Extensions or equivalent, if not already included; (E) Deletion of all Explosion, Collapse, and Underground (EXU) Exclusions, if applicable.</p>
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<p>AUTOMOBILE LIABILITY INSURANCE</p> <p>Minimal Limits (hired and non-owned automobile coverage): \$1,000,000 per person \$1,000,000 per occurrence</p>
<p>WORKERS' DISABILITY COMPENSATION</p> <p>Minimal Limits: \$500,000 per occurrence Coverage shall be in accordance with applicable Michigan statutes. Waiver of subrogation, except where waiver is prohibited by law.</p>
<p>EXCESS/UMBRELLA INSURANCE</p> <p>Required liability limits may be obtained using an Excess-Umbrella Liability policy in addition to primary liability policy(ies). If Excess and/or Umbrella policy to satisfy coverage limits, coverage must follow the form of the primary liability policy(ies).</p>
<p>ADDITIONAL INSURED</p> <p>If the City Contract is for more than \$5,000, General Commercial Liability, Automobile Liability and Excess/Umbrella Liability insurance shall include an endorsement stating the following are Additional Insureds: the City and all its elected and appointed officials, employees, volunteers, agents, boards, and commissions. Coverage is to be primary and any insurance the City may have will be secondary and/or excess.</p>

If the City requests, Contractor will provide to the City Purchasing Department copies of certificates of insurance, policies and endorsements.

18. Records. Because the City is a public entity and because it receives funds from other governmental agencies, the City is required to retain, be able to obtain, and/or audit records related to City contracts. Contractor shall retain copies of all records related to the City Contract, including, without limitation, items supplied or used in performance of the City Contract, and all work under the City Contract for at least 6 years after completion of the City Contract. Contractor shall, upon the City's request, allow inspection, auditing and copying of all retained records.

19. Assignment/Beneficiaries. Unless the City Contract states otherwise, (i) none of Contractor's rights or duties may be assigned or delegated without the City's prior written consent and (ii) no other individuals or entities are intended to be beneficiaries of the City Contract.

20. Independent Contractor. Contractor is wholly independent of the City and none of Contractor's personnel shall be or be represented to be City officers or employees. Contractor is solely responsible for the acts, omissions and statements of Contractor's personnel. Contractor is solely responsible for any compensation and benefits to be provided Contractor's personnel for services or work provided under the City Contract. The City has no responsibility to supervise, compensate or insure Contractor or Contractor's personnel.

ACKNOWLEDGEMENT

Contractor acknowledges receiving these Standard Terms and, unless modified by the City Contract, (i) they apply to the City Contract and Contractor's work, (ii) Contractor complies and will comply with them, and (iii) the City is relying on them.

EXHIBIT B



Sales and Service

June 19, 2020

City Of Wyoming
2660 Burlingame Ave Sw
Wyoming, MI 49509

Re: Planned Maintenance Quote

Attention : Tony Bennett

Cummins Sales and Service is a premier engine and power generation systems provider committed to delivering fast and proven solutions to our customers. We are pleased to offer you a Planned Maintenance Proposal for your review and approval. Due to the critical nature of your standby power system, this Agreement was developed based on your specific needs and equipment to ensure maximum performance and reliability.

Benefits of Planned Maintenance:

- Improves system reliability.
 - Maintenance performed by certified technicians specifically trained in power generation.
 - PM customers receive preferred service for unscheduled emergency repairs.
 - Creation of a service record for customer equipment.
 - Additional maintenance recommendations documented at that time.
- Scheduling managed by Cummins Sales and Service to ensure timely maintenance intervals.
- Eliminates administrative burden, covers equipment from multiple vendors.

Please sign, date and return the enclosed Agreement to our office along with any purchase documentation necessary so we can tend to your servicing needs. Planned Maintenance Agreements are "auto-renewed" annually prior to the end of your agreement. Should you have any questions or require additional information on this or any other subject relating to your equipment, please feel free to contact me. We look forward to the opportunity to earn your trust and business.

Sincerely,

James Sweeney



Sales and Service

GRAND RAPIDS MI BRANCH
 3715 CLAY S.W.
 GRAND RAPIDS, MI 49548
 Phone: 616-538-2250

PLANNED MAINTENANCE AGREEMENT

<u>Customer Address</u>	<u>Customer Contact</u>	<u>Quote Information</u>	
CITY OF WYOMING 2660 BURLINGAME AVE SW Wyoming, MI 49509	Contact: Tony Bennett Phone: 616 278-5883 Fax: 616 399-2555 Cust Id: 195424	Quote Date: 18-JUN-20 Quote Expires: 31-DEC-20 Quote Num: 104004 Quoted By: James Sweeney Quote Term: 3 Year(s)	

<u>Site Information</u>				
1	FIRE STATION #1	1500 BURTON SW	WYOMING	MI 49509
2	FIRE STATION #2	4507 SOUTH DIVISION	WYOMING	MI 49509

<u>Site</u>	<u>Unit Number</u>	<u>Manufacturer</u>	<u>Model</u>	<u>Prod Model</u>	<u>Serial Number</u>	<u>Type</u>
1	WYOMING FIRE	ONAN	GEN SET	EK-D	J960620103	ST
1	WYOMING FIRE	ONAN	GEN SET	ENA-F	F970639817	ST
1	WYOMING FIRE	ONAN	GEN SET	ENAD-F	H960613383	ST
2	WYOMING FIRE	ONAN	GEN SET	EK-D	J960620102	ST

<u>Site</u>	<u>Unit Number</u>	<u>Service Event</u>	<u>Qty</u>	<u>Sell Price</u>	<u>Extended Price</u>
1	WYOMING FIRE #1	FULL PM SERVICE (FS)	3	398.72	1,196.16
		INSPEC W/2 HR LOAD BANK	3	662.93	1,988.79
1	WYOMING FIRE #3	FULL PM SERVICE (FS)	3	430.23	1,290.69
		INSPEC W/2 HR LOAD BANK	3	757.14	2,271.42
1	WYOMING FIRE #4	FULL PM SERVICE (FS)	3	430.23	1,290.69
		INSPEC W/2 HR LOAD BANK	3	757.14	2,271.42
2	WYOMING FIRE #2	FULL PM SERVICE (FS)	3	398.72	1,196.16
		INSPEC W/2 HR LOAD BANK	3	662.93	1,988.79

Miscellaneous Details: MILE PM 120.00
 LOADBK 714.00

Generator Planned Equipment Maintenance Quote

Semi-Annual Services: Full Service W/Oil Analysis / August & Inspections W/ 2 Hour Load Banks / February

Please select a Load Bank Testing option(s) below

Readings will be taken every 15 minutes, unless otherwise specified.

*If no selection is made, we will perform this option by default

*****2 Hour Load Bank Test*****

*25% of the EPS nameplate kW rating for 30 minutes, followed by 50% of the EPS nameplate kW rating for 30 minutes, followed by 75% of the EPS nameplate kW rating for 60 minutes for a total of 2 continuous hours



Sales and Service

PLANNED MAINTENANCE AGREEMENT

<u>Customer Address</u>	<u>Customer Contact</u>	<u>Quote Information</u>
CITY OF WYOMING 2660 BURLINGAME AVE SW Wyoming, MI 49509	Contact: Tony Bennett Phone: 616 278-5883 Fax: 616 399-2555 Cust Id: 195424	Quote Date: 18-JUN-20 Quote Expires: 31-DEC-20 Quote Num: 104004 Quoted By: James Sweeney Quote Term: 3 Year(s)

80% of the EPS nameplate kW rating for 2 continuous hours

Other - Please Specify _____

Payment Info

Please indicate whether you wish to pre-pay annually, or pay per event on a billable agreement.

Send Pre-Pay Invoice

*Pay As You Go (Billable)

*For billable services, you must establish a line of credit with Cummins Sales and Service. A credit application is available upon request. Credit application is subject to approval by the credit department.

We accept all major credit cards, please call 248-573-1925

Auto Renewal Option

Planned Equipment Maintenance Agreements are designed with an automatic renewal provision. If you do not wish to participate in the auto renew option, please check below to opt out. If you do not opt out, this Agreement will automatically renew at the end of the initial term for a period equal to the initial term (the Renewal Term). In such event, cost increases for the Renewal Term will not exceed 3%. Either party has the right to terminate this Agreement with thirty (30) days prior written notice, unless the work has already been performed.

Opt out of Automatic Renewal

*Auto Renewal Option is only available for prepaid contracts.

To continue your services without interruption, please sign the quote and return via email or mail to:

Cummins Sales and Service
Attn: PEM Administration Group
21810 Clessie Court
New Hudson, MI 48165

Email: pm.service@cummins.com



Sales and Service

PLANNED MAINTENANCE AGREEMENT

Customer Address

CITY OF WYOMING
2660 BURLINGAME AVE SW
Wyoming, MI 49509

Customer Contact

Contact: Tony Bennett
Phone: 616 278-5883
Fax: 616 399-2555
Cust Id: 195424

Quote Information

Quote Date: 18-JUN-20
Quote Expires: 31-DEC-20
Quote Num: 104004
Quoted By: James Sweeney
Quote Term: 3 Year(s)

Standard Agreement Amount \$13,494.12
Proposal Total \$13,494.12

THERE ARE ADDITIONAL CONTRACT TERMS AND CONDITIONS ON THE REVERSE SIDE OF THIS DOCUMENT, INCLUDING LIMITATIONS OF WARRANTIES AND LIABILITY, WHICH ARE EXPRESSLY INCORPORATED HEREIN. CUSTOMER ACKNOWLEDGES THAT THE CONTRACT TERMS AND CONDITIONS HAVE BEEN READ, FULLY UNDERSTOOD, AND ACCEPTED.

Customer Approval

Signature: _____

Date: _____

CUMMINS INC

Signature: _____

Date: _____

PLANNED MAINTENANCE AGREEMENT TERMS AND CONDITIONS

These Planned Maintenance Agreement Terms and Conditions, together with the Quote on the front side and the Scope of Services, are hereinafter referred to as this 'Agreement' and shall constitute the entire agreement between the customer identified in the Quote ('Customer') and Cummins Inc. ('Cummins') and supersede any previous agreement or understanding (oral or written) between the parties with respect to the subject matter of this Agreement. In the event of any inconsistency between this Agreement and any purchase order, terms and conditions or other document produced or delivered by Customer, the terms and conditions of this Agreement shall take precedence.

1. **SCOPE OF SERVICES; PERFORMANCE OF SERVICES.** Cummins shall perform the maintenance ('Services') on the equipment identified in the Quote ('Equipment') in accordance with the schedule specified in the Quote. The Services include those services defined in the 'Service Event' section of the Quote. No additional services or materials are included in this Agreement unless agreed upon by the parties in writing. Unless otherwise indicated in the Quote, Cummins will provide the labor and tools necessary to perform the Services and shall keep Customer's property free from accumulation of waste materials caused by Cummins' operations. Either party may terminate this Agreement with or without cause by providing thirty (30) days written notice to the other.
2. **CUSTOMER OBLIGATIONS.** Customer shall provide Cummins safe access to Customer's site and arrange for all related services and utilities necessary for Cummins to perform the Services. During the performance of the Services, Customer shall fully and completely secure all or any part of any facility where the Equipment is located to remove and mitigate any and all safety issues and risks, including but not limited to facility occupants, customers, invitees, or any third party and or property damage or work interruption arising out of the Services. Customer shall make all necessary arrangement to address and mitigate the consequences of any electrical service interruption which might occur during the Services. **CUSTOMER IS RESPONSIBLE FOR OPERATING AND MAINTAINING THE EQUIPMENT IN ACCORDANCE WITH THE OWNER'S MANUAL FOR THE EQUIPMENT.**
3. **PAYMENT TERMS.** Unless otherwise agreed to by the parties in writing and subject to credit approval by Cummins, payments are due thirty (30) days from the date of the invoice. If Customer does not have approved credit with Cummins, as solely determined by Cummins, payments are due in advance or at the time of supply of the Services. If payment is not received when due, in addition to any rights Cummins may have at law, Cummins may charge Customer eighteen percent (18%) interest annually on late payments, or the maximum amount allowed by law. Customer agrees to pay all Cummins' costs and expenses (including all reasonable attorneys' fees) related to Cummins' enforcement and collection of unpaid invoices, or any other enforcement of this Agreement by Cummins. Unless otherwise stated, the Quote excludes all applicable local, state, or federal sales and/or use or similar taxes which Cummins is required by applicable laws to collect from Customer and shall be stated on the invoice.
4. **DELAYS.** Any performance dates indicated in this Agreement are estimated and not guaranteed. Cummins shall not be liable for any delays in performance however occasioned, including any that result directly or indirectly from acts of Customer or causes beyond Cummins' control, including but not limited to acts of God, accidents, fire, explosions, flood, unusual weather conditions, acts of government authority, or labor disputes.
5. **WARRANTY.** Cummins shall perform the Services in a reasonable and workmanlike manner. Parts and components supplied under this Agreement are governed by the express written manufacturer's limited warranty. No other warranty for parts or components is provided under this Agreement. All Services shall be free from defects in workmanship for a period of ninety (90) days after completion of Services. In the event of a warrantable defect in workmanship of Services supplied under this Agreement ('Warrantable Defect'), Cummins' obligation shall be solely limited to correcting the Warrantable Defect. Cummins shall correct the Warrantable Defect where (i) such Warrantable Defect becomes apparent to Customer during the warranty period; (ii) Cummins receives written notice of any Warrantable Defect within thirty (30) days following discovery by Customer; and (iii) Cummins has determined that there is a Warrantable Defect. Warrantable Defects remedied under this provision shall be subject to the remaining warranty period of the original warranty of the Services. New parts supplied during the remedy of Warrantable Defects are warranted for the balance of the warranty period still available from the original warranty of such parts. The remedies set forth in this Section 5 shall not be deemed to have failed of their essential purpose so long as Cummins is willing to correct defective Services or refund the purchase price therefor.
6. **LIMITATIONS OF WARRANTIES AND LIABILITY.** THE REMEDIES PROVIDED IN THE LIMITED WARRANTY AND THIS AGREEMENT ARE THE SOLE AND EXCLUSIVE WARRANTIES AND REMEDIES PROVIDED BY CUMMINS TO THE CUSTOMER UNDER THIS AGREEMENT. EXCEPT AS SET OUT IN THE WARRANTY AND THIS AGREEMENT, AND TO THE EXTENT PERMITTED BY LAW, CUMMINS EXPRESSLY DISCLAIMS ALL OTHER REPRESENTATIONS, WARRANTIES, ENDORSEMENTS, AND CONDITIONS OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING, WITHOUT LIMITATION, ANY STATUTORY OR COMMON LAW IMPLIED REPRESENTATIONS, WARRANTIES AND CONDITIONS OF FITNESS FOR A PURPOSE OR MERCHANTABILITY. NOTWITHSTANDING ANY OTHER TERM OF THIS AGREEMENT, IN NO EVENT SHALL CUMMINS, ITS OFFICERS, DIRECTORS, EMPLOYEES, OR AGENTS BE LIABLE TO CUSTOMER OR ANY THIRD PARTY FOR ANY INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE, OR CONSEQUENTIAL DAMAGES OF ANY KIND (INCLUDING WITHOUT LIMITATION DOWNTIME, LOSS OF PROFIT OR REVENUE, LOSS OF DATA, LOSS OF OPPORTUNITY, DAMAGE TO GOODWILL, AND DAMAGES CAUSED BY DELAYS) IN ANY WAY RELATED TO OR ARISING FROM CUMMINS' SUPPLY OF PARTS OR SERVICES UNDER THIS AGREEMENT. IN NO EVENT SHALL CUMMINS' LIABILITY TO CUSTOMER OR ANY THIRD PARTY CLAIMING DIRECTLY THROUGH CUSTOMER OR ON CUSTOMER'S BEHALF UNDER THIS AGREEMENT EXCEED THE TOTAL COST OF PARTS AND SERVICES SUPPLIED BY CUMMINS UNDER THIS AGREEMENT. BY ACCEPTANCE OF THIS AGREEMENT, CUSTOMER ACKNOWLEDGES CUSTOMER'S SOLE REMEDY AGAINST CUMMINS FOR ANY LOSS SHALL BE THE REMEDY PROVIDED HEREIN.
7. **INDEMNITY.** Customer shall indemnify, defend and hold harmless Cummins from and against any and all claims, actions, costs, expenses, damages and liabilities, including reasonable attorneys' fees, brought against or incurred by Cummins related to or arising out of this Agreement or the Services supplied under this Agreement (collectively, the 'Claims'), where such Claims were caused or contributed to by, in whole or in part, the acts, omissions, fault or negligence of the Customer. Customer shall present any Claims covered by this indemnity to its insurance carrier unless Cummins directs that the defense will be handled by Cummins' legal counsel at Customer's expense.
8. **CONFIDENTIALITY.** Each party shall keep confidential any information received from the other that is not generally known to the public and at the time of disclosure, would reasonably be understood by the receiving party to be proprietary or confidential, whether disclosed in oral, written, visual, electronic or other form, and which the receiving party (or agents) learns in connection with this Agreement including, but not limited to: (a) business plans, strategies, sales, projects and analyses; (b) financial information, pricing, and fee structures; (c) business processes, methods and models; (d) employee and supplier information; (e) specifications; and (f) the terms and conditions of this Agreement. Each party shall take necessary steps to ensure compliance with this provision by its employees and agents.
9. **GOVERNING LAW.** This Agreement and all matters arising hereunder shall be governed by and construed in accordance with the laws of the State of Indiana without giving effect to any choice or conflict of law provision. The parties agree that the courts of the State of Indiana shall have exclusive jurisdiction to settle any dispute or claim arising in connection with this Agreement.
10. **INSURANCE.** Upon Customer's request, Cummins will provide to Customer a Certificate of Insurance evidencing Cummins' relevant insurance coverage.
11. **ASSIGNMENT.** This Agreement shall be binding on the parties and their successors and assigns. Customer shall not assign this Agreement without the prior written consent of Cummins.
12. **INTELLECTUAL PROPERTY.** Any intellectual property rights created by either party, whether independently or jointly, in the course of the performance of this Agreement or otherwise related to Cummins pre-existing intellectual property or subject matter related thereto, shall be Cummins' property. Customer agrees to assign, and does hereby assign, all right, title, and interest to such intellectual property to Cummins. Any Cummins pre-existing intellectual property shall remain Cummins' property. Nothing in this Agreement shall be deemed to have given Customer a licence or any other rights to use any of the intellectual property rights of Cummins.
13. **MISCELLANEOUS.** Cummins shall be an independent contractor with respect to the Services performed under this Agreement. All notices under this Agreement shall be in writing and be delivered personally, mailed via first class certified or registered mail, or sent by a nationally recognized express courier service to the addresses set forth in the Quote. No amendment of this Agreement shall be valid unless it is writing and signed by the parties hereto. Failure of either party to require performance by the other party of any provision hereof shall in no way affect the right to require such performance at any time thereafter, nor shall the waiver by a party of a breach of any of the provisions hereof constitute a waiver of any succeeding breach. Any provision of this Agreement that is invalid or unenforceable shall not affect the validity or enforceability of the remaining terms hereof.
14. **ON-CALL SERVICES.** Upon Customer's request, Cummins shall provide on-call services (repair, emergency work or other) on the Equipment ('On-call Services'). Any On-call Services shall be invoiced to the Customer at the Cummins current hour rate (including traveling) and shall be governed by the terms and conditions of this Agreement.

RESOLUTION NO. _____

RESOLUTION TO ACCEPT A PROPOSAL FROM ACTION TARGET, INC. FOR
A FIREARMS RANGE TARGET SYSTEM AND TO
AUTHORIZE THE MAYOR AND CITY CLERK TO EXECUTE THE CONTRACT

WHEREAS:

1. As detailed in the attached staff report, Action Target, Inc. has provided the City a proposal for a new firearms range target system in the total estimated amount of \$76,900.00.
2. Funds are available as shown in the attached staff report.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby accept a proposal from Action Target, Inc. in the total estimated amount of \$76,900.00.
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 September 8, 2020.

ATTACHMENTS:

- Staff Report
- Letter
- Contract
- Proposal

Kelli A. VandenBerg, Wyoming City Clerk

STAFF REPORT

DATE: September 1, 2020

Subject: New Firearms Range Target System

From: Captain James Maguffee

Meeting Date: September 8, 2020

RECOMMENDATION:

It is recommended the City Council approve the expenditure of an estimated \$76,900 for a new target system at the police firearms range from Action Target, Inc.

COMMUNITY, SAFETY, STEWARDSHIP:

A dedicated firearms range with an operable target system is a mission critical item. It allows officers to train in lethal force decision making methods, de-escalation techniques, and other critical incident response skills. This greatly contributes to officer and citizen safety. A little over one third of the funding has been made available through the U.S. DOJ Edward Byrne Memorial Justice Grant.

DISCUSSION:

Our current target system has outlived its useful lifespan. Police range staff have been able to keep it operating at a basic level, but the system has reached a point at which it is no longer reliable or relevant to the training we need to carry out at the range. Other than the occasional parts replacements, the system is original to the 20 year old building. The pneumatic tubes that operate the system are rotting out and the hardware fixtures that turn the targets are rusty and breaking down. Two of the twelve lanes are unusable. Action Target Inc. is a sole source provider of the system we need. Please see attached proposal and sole source letter.

BUDGET IMPACT:

In the FY 2019-2020, the City Manager allocated \$50,000 for this project. I applied for and received approval to use the FY2019 Byrne Grant dollars (\$26,743) towards this project. The system itself is estimated at \$74,900, but range staff anticipates needing approximately \$2,000 to upgrade some of the miscellaneous and electrical hardware that will help operate the system. This project was tabled due to the coronavirus pandemic and we received approval from the City Manager to re-appropriate the \$50,000 into the FY2020-2021 budget. \$50,157 is available in Building Capital outlay budget line (101-305-30610-975.000). The remaining \$26,743 is available in the Byrne Grant budget line (101-305-30500-973.000).

Wednesday, March 18, 2020

RE: Sole Source of Action Target FTTS (Fixed Turning Target Stand) for Wyoming Police Department

To Whom It May Concern,

In my 8 years of designing and building Law Enforcement shooting ranges across the United States, I have used and/or seen every product available for Turning Targets. As such, I'm uniquely qualified to issue a sole source recommendation for products that meet certain performance and feature criteria. This is a sole source justification for the Action Target Fixed Turning Target Stand (FTTS) for the Wyoming Police Department in Michigan. Action Target's FTTS is the only 360° electric turning target on the market today which has been proven in over 12 years of installations for LE agencies in the U.S. as well as U.S. Federal Law Enforcement Agencies such as the FBI and Federal Law Enforcement Training Centers (FLETC). The secure Mancom Touch Screen Master Control System is unique in that it is based on Industrial Grade PLCs designed for factory automation, NOT consumer grade Windows or other operating systems. Agencies that desire security love this system as it cannot be loaded with 3rd party software nor does it need an outside internet connection. This design feature prevents range staff from taking the master control unit home or loading personal software on it, it can only be used to run the turning targets on the shooting range. The optional Wireless Tablet Remote allows range staff to roam anywhere on the range while offering full control over the targets and their programming. The optional LED Target Lights built into the target boxes allows for illuminated targets in all conditions as well as several emergency strobe patterns for more realistic training.

The FTTS is also the only 360° Turning Target on the market with a built in clutch system to prevent damage to the turning mechanism if the turning clamp should be shot or the target forcefully turned.

Action Targets FTTS electric turning targets (or the inverted version Fixed Lateral Turning Target) have been sole source purchased for the following U.S. agencies:

San Mateo County Sheriffs, CA
Alameda County Sheriffs, CA
Santa Clara County Sheriffs, CA
Corona PD, CA
West Covina PD, CA
Daly City PD, CA
Boulder PD, CO
Denver PD, CO
Flatrock Training Center, CO
Shawnee County Sheriffs, KS
FBI, Quantico, VA
Spokane PD, WA
Naperville PD, IL
Lincoln PD, NE
Pasco Hernando Community College, FL
Las Vegas PD, NV
Columbia PD, SC



BETTER EQUIPPED. BETTER PREPARED.™

📍 3411 S Mountain Vista Pkwy Provo, UT 84606 📞 801.377.8033 📠 801.377.8096 🌐 ActionTarget.com

Please see the enclosed Cutsheets and specs on the FTTS product. If you should have any questions at all, please feel free to contact me directly for further information.

Respectfully,

Jon Ingalls
Territory Manager, Northern Central States
Action Target, Inc.
(801)705-9109 office
(407) 733-9090 cell
chrish@actiontarget.com



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CITY OF
Wyoming
MICHIGAN

CITY STANDARD CONTRACT
CITY OF WYOMING, MICHIGAN
(MORE THAN \$8,500)

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

"City" means: City of Wyoming
A Michigan municipal corporation
1155 28th Street SW
Wyoming, MI 49509

"Effective Date" means: August 28, 2020.

"Items" means the parts, equipment or other items or services the City is purchasing from the Contractor as itemized in the Proposal.

"Proposal" means the Contractor's proposal attached as Exhibit B.

"Standard Terms and Conditions" means the attached single page Exhibit A entitled "City Contract Standard Terms and Conditions."

"Contractor" means: Action Target Inc.
[Name of contracting entity]
A Delaware Corporation
[State and type of entity, e.g., corporation, limited liability company, etc.]
3411 S. Mountain Vista Pkwy
[Contractor's street address]
Provo, UT 84606
[Contractor's city, state & zip]

TERMS AND CONDITIONS

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

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

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

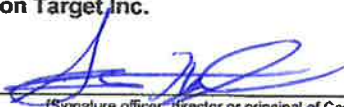
4. This is the only agreement between the parties regarding the Purchase that is the subject of the Proposal and there are no other agreements, representations or warranties except as are stated in the Proposal. This contract can be amended only in writing signed by both the City and Contractor.

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

CITY OF WYOMING

Action Target Inc.

By: _____
Jack A. Poll, Mayor

By:  _____
[Signature officer, director or principal of Contractor]
Scott Woylitz CFO
[Typed/Printed Name & Title of Person Signing for Contractor]

By: _____
Kelli A. Vandenberg, City Clerk

Date signed: Sept. 2, 2020

Date signed: _____, 20__

Approved as to form:

Scott G. Smith, City Attorney

CITY CONTRACT STANDARD TERMS AND CONDITIONS

1. **Applicability.** These Standard Terms and Conditions ("Standard Terms") apply to any contracts to which the City of Wyoming (the "City") is a party ("City Contract") unless expressly modified in writing signed by the Mayor and City Clerk or the City Manager. By signing a City Contract or below, the party contracting with the City ("Contractor") attests it complies with and will comply with these Standard Terms.
2. **Legal Compliance.** Contractor 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. This includes, for example and without limitation, complying with federal Occupational Safety and Health Administration (OSHA) and Michigan Occupational Safety and Health Act (MIOSHA) safe practices.
3. **Permits and Inspections.** Unless the City Contract or the Proposal states otherwise, Contractor will, without expense to the City, obtain all licenses and permits required to lawfully perform the work under the City Contract and furnish copies of those licenses and permits to the City before commencing work. Contractor will also ensure all inspections required by local, state, and federal agencies and codes are performed.
4. **Grant Compliance.** If state or federal grant funds have been identified to Contractor as a source of payment for any part of the project, by signing the contract, Contractor (i) represents the Contractor has reviewed the grant agreement and (ii) agrees to comply with any grant agreement terms and conditions that are applicable to the City Contract.
5. **Qualifications.** Contractor represents and promises that:
 - A. Contractor has and will maintain and any personnel engaged by Contractor to provide services or perform work under the City Contract have and will maintain any needed licenses, registrations, certifications, memberships, or other approvals needed to perform such services or work in Michigan.
 - B. Neither Contractor nor any subcontractor or their respective principals, owners, officers, shareholders, key employees, directors or member 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 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; and (iv) have within 3-years preceding this Contract had one or more public transactions terminated for cause or default.
 - C. If the City Contract is for a CDBG, federal and/or state funded project, Contractor and subcontractors are not listed on the US-HUD listing of debarred and suspended participants.
 - D. Contractor and any subcontractor are not on and will remain off the Federal System for Award Management list of persons and entities ineligible for federal contracts.
 - E. Neither Contractor nor any subcontractor is an "Iran linked business" under Michigan's Iran Economic Sanctions Act, 2012 PA 517.
6. **Nondiscrimination.** Contractor 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. "Gender identity or expression" means the perception by an individual or other 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. Contractor and its subcontractors will comply with applicable laws, rules, regulations regarding discrimination and inclusion (e.g., Elliott-Larsen Civil Rights Act, 1976 PA 453, Persons with Disabilities Civil Rights Act, 1976 PA 220, and those identified at the website: <https://www.eeoc.gov/>).
7. **Ethical Standards.** Contractor and its directors, members, partners, officers and employees, as well as any parent, affiliate, or subsidiary organization or subcontractor of Contractor has not engaged in and shall refrain from: (i) holding or acquiring an interest that would conflict with the City Contract; (ii) engaging in any act that creates an appearance of impropriety with respect to the award or performance of the City 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, other than its employees and consultants, any consideration contingent upon the award of the City Contract. No owner, director, officer, member, partner or key employee of Contractor and no owner, director, officer, member, partner or key employee of any parent, affiliate, or subsidiary organization or subcontractor is a spouse, parent, child, grandchild, or sibling of the mayor, city council member, or any other elected or appointed officer or board/commission member of the City except as already disclosed in writing to the City when submitting its proposal. Contractor will immediately notify the City of any change in this circumstance.
8. **Media Releases.** Media releases (including promotional literature and commercial advertisements) pertaining to the City Contract or project to which it relates shall not be made without the City Manager's prior written approval and only in accordance with the written terms provided in that approval.
9. **W-9.** Before beginning work, Contractor and subcontractors will return by e-mail to accountspayable@wyomingmi.gov a completed an IRS W-9 form).
10. **Intellectual Property.** Contractor guarantees the sale or use of articles, software, copies, records or other intellectual property provided or used to perform the City Contract will not infringe any copyright, patent, trademark or other intellectual property rights. Contractor will, without expense to the City, defend all actions against the City or the City's officers or employees for any

alleged infringement of any intellectual property rights by reason of their sale or use as part of the City Contract and will pay all costs, damages, and profits recoverable in any such action.

11. Quality. Unless otherwise stated in the Proposal, all materials and items supplied under the City Contract shall be new, the best of their respective kind and free from defects.

12. Taxes. The City is generally exempt from federal and state taxes and a copy of its Tax Certificate of Exemption can be requested by contacting the City Finance Department.

13. Disposal. Unless the City Contract or Proposal states otherwise, Contractor will remove and dispose of materials, equipment and other items demolished, removed or replaced during the work and cleanup and remove of all debris resulting from the work. Disposal will comply with applicable law and Contractor shall retain and, upon request, provide the City copies of any required manifest and other disposal documentation.

14. Restoration. Contractor shall restore, without expense to the City, property damaged during or as a result of work under the City Contract to a condition similar and equal to that existing before such damage. If Contractor fails to make such repairs or restoration, the City may, after 48-hours' notice to Contractor, make such repairs or restoration, and deduct costs incurred from amounts due Contractor.

15. Manufacturer Information and Warranties. Contractor will provide the City all manufacturer parts lists, assembly or maintenance information, and other documents provided by the manufacturer for items provided or installed under the City Contract, and will ensure warranties for such items are held by or assigned to the City.

16. Risk Allocation. Contractor is solely responsible for (i) means and methods of the work provided under the City Contract, (ii) the conduct of its officers, employees, subcontractors and consultants, and (iii) injuries or property damage occurring as a result of its work under the City Contract. Contractor will hold the City and the City's officers and employees harmless from, indemnify them for, and defend them (with legal counsel reasonably acceptable to the City) against any claims made by persons other than the City as a result of Contractor's work under the City Contract. Contractor will reimburse the City for or pay in the City's stead costs the City may incur as a result of claims, demands, judgments, administrative actions, or any order to pay any amounts made or entered against the City or City officers or employees as a result of Contractor's work under the City Contract.

17. Insurance.

<p>COMMERCIAL GENERAL LIABILITY</p> <p>Minimal Limits: \$1,000,000 Each Occurrence \$1,000,000 Personal & Advertising Injury \$2,000,000 General Aggregate \$2,000,000 Products/Completed Operations</p> <p>Coverage must include the following: (A) Contractual Liability; (B) Products and Completed Operations; (C) Independent Contractors; (D) Broad Form General Liability Extensions or equivalent, if not already included; (E) Deletion of all Explosion, Collapse, and Underground (EXU) Exclusions, if applicable.</p>
--

<p>AUTOMOBILE LIABILITY INSURANCE</p> <p>Minimal Limits (hired and non-owned automobile coverage): \$1,000,000 per person \$1,000,000 per occurrence</p>
<p>WORKERS' DISABILITY COMPENSATION</p> <p>Minimal Limits: \$500,000 per occurrence Coverage shall be in accordance with applicable Michigan statutes. Waiver of subrogation, except where waiver is prohibited by law.</p>
<p>EXCESS/UMBRELLA INSURANCE</p> <p>Required liability limits may be obtained using an Excess-Umbrella Liability policy in addition to primary liability policy(ies). If Excess and/or Umbrella policy to satisfy coverage limits, coverage must follow the form of the primary liability policy(ies).</p>
<p>ADDITIONAL INSURED</p> <p>If the City Contract is for more than \$5,000, General Commercial Liability, Automobile Liability and Excess/Umbrella Liability insurance shall include an endorsement stating the following are Additional Insureds: the City and all its elected and appointed officials, employees, volunteers, agents, boards, and commissions. Coverage is to be primary and any insurance the City may have will be secondary and/or excess.</p>

If the City requests, Contractor will provide to the City Purchasing Department copies of certificates of insurance, policies and endorsements.

18. Records. Because the City is a public entity and because it receives funds from other governmental agencies, the City is required to retain, be able to obtain, and/or audit records related to City contracts. Contractor shall retain copies of all records related to the City Contract, including, without limitation, items supplied or used in performance of the City Contract, and all work under the City Contract for at least 6 years after completion of the City Contract. Contractor shall, upon the City's request, allow inspection, auditing and copying of all retained records.

19. Assignment/Beneficiaries. Unless the City Contract states otherwise, (i) none of Contractor's rights or duties may be assigned or delegated without the City's prior written consent and (ii) no other individuals or entities are intended to be beneficiaries of the City Contract.

20. Independent Contractor. Contractor is wholly independent of the City and none of Contractor's personnel shall be or be represented to be City officers or employees. Contractor is solely responsible for the acts, omissions and statements of Contractor's personnel. Contractor is solely responsible for any compensation and benefits to be provided Contractor's personnel for services or work provided under the City Contract. The City has no responsibility to supervise, compensate or insure Contractor or Contractor's personnel.

ACKNOWLEDGEMENT

Contractor acknowledges receiving these Standard Terms and, unless modified by the City Contract, (i) they apply to the City Contract and Contractor's work, (ii) Contractor complies and will comply with them, and (iii) the City is relying on them.

EXHIBIT B



SHOOTING RANGE PROPOSAL



Wyoming Police Department V3

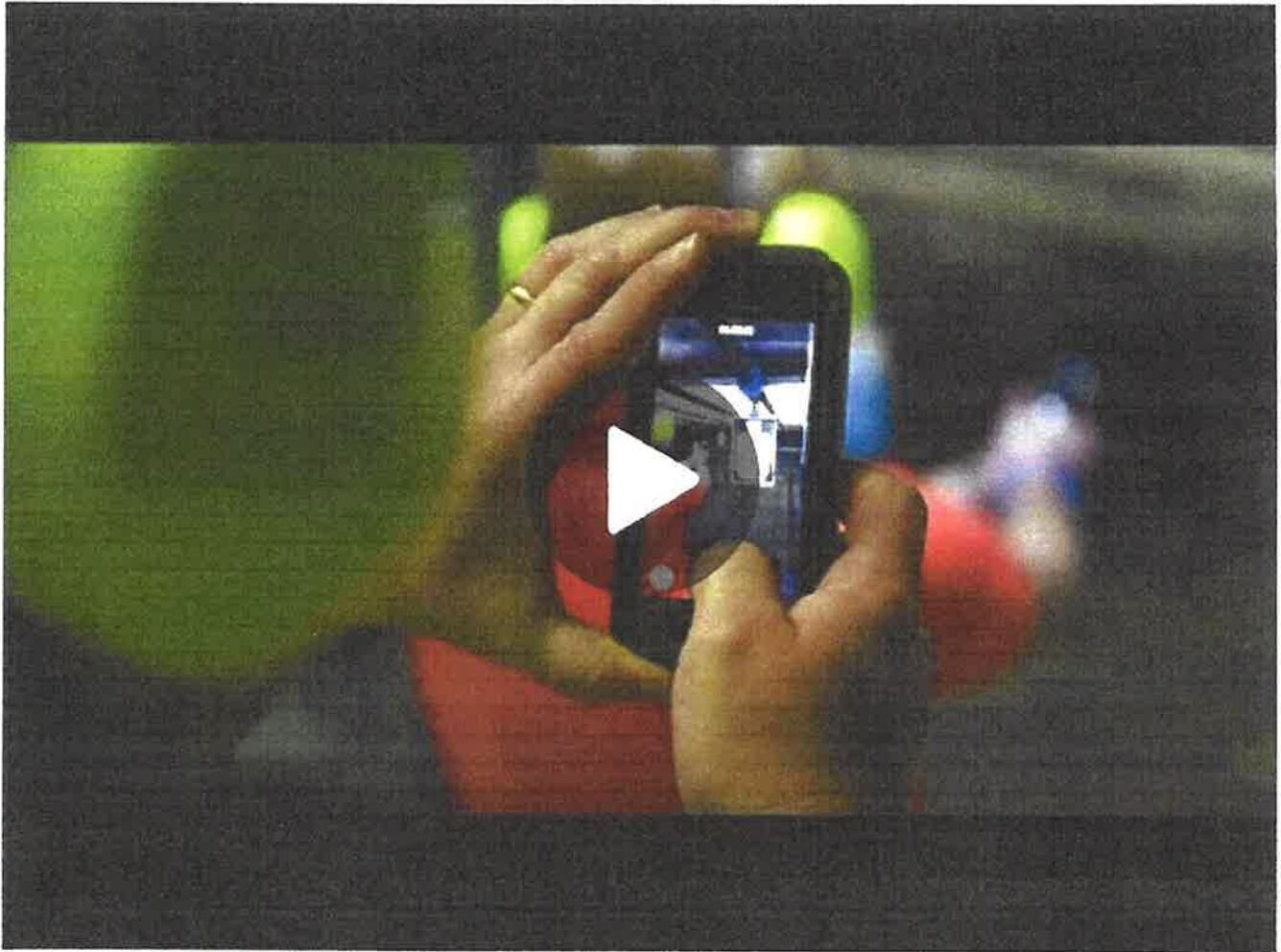
Quotation Number: 125063

Prepared by: Tyler Mousser

Territory Manager: Jon Ingalls

Action Target Inc., 3411 Mountain Vista Pkwy, Provo, UT 84606 / Tel: 407-733-9090

THE ACTION TARGET ADVANTAGE



PARTNERING WITH THE INDUSTRY PIONEER

For over 30 years Action Target has been analyzing customers' needs, persistently innovating, and enthusiastically pushing the industry's proverbial envelope. We've made it our prerogative to define and trail-blaze the shooting range business. What's in it for you? For starters, you have the opportunity to revolutionize your customers' shooting experience with Action Target's smart and connected products. Your range will undoubtedly earn the reputation for providing the most immersive and engaging shooting environment available. What's more, as our products evolve, you will be able to seamlessly integrate our new systems into your range. Partnering with Action Target puts you, and keeps you, ahead of the curve.

WHAT MAKES ACTION TARGET A TRUE TURNKEY PROVIDER?

What exactly is a "turnkey provider"? Simply put, Action Target is a one-stop shop. You don't need to worry about all the moving parts and how they sync up because we've got it covered. We will provide you with talented designers, expertly engineered equipment, vigilant project managers, and a responsive customer support team. Furthermore, auxiliary offerings such as best-in-class HVAC systems, a metals recycling program and waste management services ensure that your range runs optimally and in accordance with government regulations. We've also partnered with security experts and top tier firearms instructors to give you access to a premier security system and cutting-edge training curricula.

MEET YOUR ACTION TARGET TEAM

Action Target's approach to projects as such is to form cross-functional teams to ensure a timeliness and accuracy from the bidding phase through delivery and warranty. The primary team responsible for the production, delivery, and installation of your range is as follows:

JONATHAN INGALLS, RANGE CONSULTANT - jingalls@actiontarget.com



Jon is Action Target's range consultant for the Midwestern United States. He assists the team by evaluating shooting range needs and providing detailed building requirements, range drawings, and precise budgets for range equipment. Jon joined Action Target in 2013 and completes an average of 15 range projects per year. An NRA-certified range safety officer, Jon is a competitive shooter and firearms aficionado. He holds a bachelor's degree in communications with an emphasis in public relations from Utah Valley University.

Notable shooting range projects: - Vortex Optics - Huron Valley Guns - Michigan State Police - Gateway Technical College - St. Paul Police Department.

FELIX GUZMAN, RANGE DESIGN TEAM LEAD - fguzman@actiontarget.com



Felix ensures the quality of drawings by Action Target's range design team. He reviews all range designs (about 550 per year) to ensure the shooter's safety and the ballistic protection of range structures. Felix has been in architectural design since 2006 and has been a project manager for firms such as Drafronic Inc, and Keesee Associates. He has extensive experience in providing quality control for builders such as CalAtlantic, Lennar, Maronda, and Standard Pacific. He has also worked on multi-million dollar commercial projects such as the renovation of Hotel Bellagio in Las Vegas, Nevada. In addition, Felix has served as the vice chairman of the Orlando Florida chapter of the American Institute of Building Design where he conducted architectural design and software training.

RANGE EQUIPMENT SYSTEMS

FIXED TURNING TARGET STAND



The Fixed Turning Target Stand (FTTS) system can turn 90, 180, and 360 degrees in the blink of an eye. Used in conjunction with the DRM Pro™ target system, these targets can represent bystanders or threats to simulate real-world scenarios.

KEY SPECIFICATIONS

- Turns targets 90, 180, and 360 degrees.
- Ground mounted behind secure knee wall.
- Capable of independent or synchronized operation.
- Electric motor operates quietly preventing shooters from anticipating movement.
- Exposed target clamp is shielded by AR500 steel to resist damage from bullets.

PRICING TABLE

ITEM	PRICE
New Range Equipment 10 Lanes, 60' wide, 95' total distance, 25 yard shooting distance	\$74,900.00
<u>(10) FTTS with no Lights</u> <ul style="list-style-type: none"> - Electric Turning Target - Quiet Turning to prevent shooters from anticipating turning - 360 degree turning capability - Allows for shoot/ no shoot training - Wireless tablet controls 	
Price includes full installation by Action Target with prevailing wages Price does not include required concrete pad or knee wall. Applicable taxes accounted for and will be remitted directly to the state	
Trusted Partner 3 Year Warranty - Comprehensive Trusted Partner Warranty covers both parts and labor due to manufacturing or product defects.	\$0.00
* See below for detail	
	Subtotal \$74,900.00
	Total \$74,900.00

TERMS & CONDITIONS

Action Target Inc. may be referred to as "Action Target" or "ATI" throughout this proposal.

PROPOSAL DATE 28 August 2020

PROPOSAL VALIDITY 60 days from 28 August 2020

***WARRANTY** Trusted Partner 3 Year Warranty

Products Included:

- Genesis Target Retriever
- Pilot Target Retriever
- Smart Range Axis Controls
- DRM Pro
- Shooting Stalls
- Rubber Berm Trap
- Line of Fire
- Vortex Steel Trap
 - BCS Deluxe 20 or Basic
- Baffles and Deflectors
- Turning Targets
- Auto Targets
- MATCH
- TAC House

Any products not included in this list will follow the standard 1 year Warranty

PAYMENT TERMS

1. PO with Milestones
2. All prices are USD.
3. You must reference the Order Number on your purchase order to secure the best price.
4. ATI reserves the right to adjust installation costs based upon the actual site conditions encountered.
5. Unless explicitly itemized, price does not include taxes, duties, offset, VAT, bonds, fees, assessments, licenses, permits, mandatory wage requirements, other regulatory costs that may be applicable to the job site, or anything else not expressly identified in this proposal.
6. Price applies to range equipment and systems only. It does not include site preparation, construction, trusses/baffle supports, electrical, conduit, or any other work not directly contained in ATI's scope of work.
7. Payments shall be made to "Action Target Inc." through a Letter of Credit (L/C).

SHIPPING TERMS

1. FOB destination: prepaid.
2. Shipping costs are estimates and subject to change; actual shipping costs will be subject to availability and rates at time of purchase.

DELIVERY & INSTALLATION TERMS

1. Manufacturing shall take no fewer than 12 weeks.
2. Full factory installation.
3. Installation cost is based upon having forklift and scissor lift access. If forklift and scissor lift access is not available, the installation cost will increase.

**ACTION TARGET
RESPONSIBILITIES**

1. Consultation and recommendation of optimal range design.
2. Design of ranges for complete ballistic containment.
3. Procurement, engineering, cutting and painting of ballistic steel plate.
4. Manufacture of targets and control systems.
5. Provision of sound attenuation material and installation as part of range design as called out on ATI drawings.
6. Design, engineering, and supply of HVAC systems provided by ATI.

**CUSTOMER
RESPONSIBILITIES**

1. Engineered stamped drawings for all hanging points, seismic engineering/components and/or ATI provided equipment.
2. Permits, licenses, special insurance requirements, bonds (when applicable), taxes, regulatory costs, or any other special fees unknown at this time.
3. Concrete work including slabs, footings, and walls, floor trenching and wall notching (if applicable).
4. Structural work of any kind, including structural supports, canopies, shade structures, etc.
5. Engineering of ceiling or roof structures, trusses, beams cross-members, columns or pillars to accommodate baffle, trap, target systems, lighting and HVAC equipment weight loads. Weights and load points will be provided in ATI drawings for utilization by the general contractor, engineer or architect.
6. Drop ceiling behind the safety ceiling at the firing line or other light fixtures in this area.
7. Heating, ventilation, and air conditioning (HVAC), unless HVAC services are specifically priced into quotation as being supplied by ATI.
8. Gas piping.
9. Temporary power (including 3 phase, if necessary).
10. Temporary lighting.
11. Supplying of electrical services, electrical outlets, conduit(s), junction boxes, disconnects, stub-outs and lighting of any kind. Range lighting shall be provided by general contractor or owner.
12. 120-volt power to the control panel, control conduits, and dedicated analog phone line to DDC panel, labor to assist ATI's control technician with pulling in all necessary low voltage cable (all control conduits are required to have pull strings installed prior to arrival of ATI's start-up technician), labor and hardware to install DDC control panels in the building and on the roof, dedicated 120-volt circuit to the control pipe and wire for the evaporative cooler section fill and drain valves.
13. Power and disconnect switches to all equipment per local code and manufacturer's requirements on the equipment. VFDs for the electrical contractor to mount and wire (ATI will only supply low voltage wire connections).
14. Range lighting controls and wiring.
15. Gas, water, and drain piping to the ventilation equipment set by ATI;
16. Life safety devices including duct smoke detectors.
17. Lead control & reclamation prior to, at the time of install, or thereafter.
18. Equipment off-loading at job site upon arrival and subsequent transfer of equipment into range facility from off-loading site or equipment storage area.
19. Cutting, coring, sealing and/or patching of any wall surfaces, roof surfaces, and or concrete (if applicable).
20. Additional fees related to "customization" of product or work otherwise identified as "custom".
21. Action Target MUST have temporary internet access at the facility to program HVAC controls. HVAC maintenance personnel must be present for commissioning to learn troubleshooting for post sign-off.
22. Provision of suitable, protected location for air compressor (if applicable).
23. Any other work, materials or equipment that is not expressly included in the ATI Work.
24. Disposal of construction waste.
25. Wash area and restroom facilities.

CONFIDENTIALITY This proposal is submitted by Action Target Inc. Any and all information, drawings, specifications and other design documents contained herein is the property of Action
COPYRIGHT &
REPRODUCTION Target Inc. and shall not for any reason, whether tangible or intangible, be disclosed, duplicated, or used, in whole or in part, for any reason other than to evaluate this quote.

TERMS & This is a summary of standard Action Target Inc. Terms and Conditions. Action Target
CONDITIONS Inc. reserves the right to change, modify or add to these Terms and Conditions in the
CLAUSE final customer contract.

METALS RECYCLING PROGRAM



COMPLIANT WITH OSHA, EPA & OTHER GOVERNMENT REGULATIONS

HOW IT WORKS

- Collect and package lead, brass, and HVAC/DCU filters from your range.
- Schedule a pickup with Action Target and lock in your LME (London Metal Exchange) spot pricing by calling (801) 876-2442.
- We will pick up your lead, brass, and filters within 72 hours and credit your account.
- You can use your credit to purchase ammunition and other supplies you need for your range at the Action Target Store: <https://shop.actontarget.com/>.

KEY PROGRAM FEATURES

- Compliant with OSHA and EPA regulations
- Convenient packaging, metals pickup, and HVAC filter disposal.
- Maximize your profit by using the value of your lead and brass for discounted dealer pricing on range supplies and ammunition.
- Get an additional 10% in credits to use at the Action Target Store when you use all of your metals recycling credit from a full recycle payout (e.g. If a full recycle payout yields \$5,000 in credit and that credit is used at the Action Target Store then you will earn an additional \$500 in credit).

RANGE TRAINING

YOUR ONE STOP SHOP FOR PROFESSIONAL TRAINING COURSES AND CERTIFICATION

Action Target partnered with veteran-owned Team One Network to create newly-designed certification courses for range masters, firearms instructors, shoot house instructors, and range safety officers. These updated courses instruct attendees in new technology in modern shooting ranges, target design, and training tactics. If your range requires professional firearms training and certification courses, rest assured that you have access to instruction of the highest standard and value.



To register for, host, or schedule a class, contact [Team One Network](https://www.teamonenetwork.com) at info@teamonenetwork.com.

RANGE SECURITY

THERE'S NO BETTER WAY TO SECURE YOUR SHOOTING RANGE INVESTMENT

You don't need us to tell you that building and running a shooting range is a big undertaking and that you want to do everything in your power to protect it. In fact, besides keeping your customers happy, ensuring the security of your investment is no doubt your top priority. So we took your peace of mind upon ourselves by developing the safest and most convenient of range security systems available. To do this we partnered with Fedora Security LLC, a leading global provider of cost-effective, cutting-edge security solutions for commercial and governmental markets. These security systems integrate cutting-edge camera technology, security equipment, highly trained security professionals, advanced monitoring centers, and intuitive user access management tools to provide the industry's best security solution.

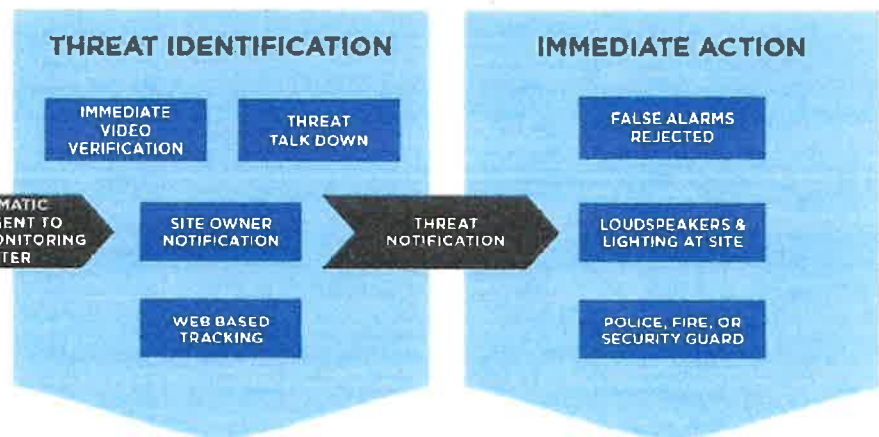
KEY SECURITY SYSTEM FEATURES

- Video confirmation and two-way audio prevent incidents and reduce false alarms to less than 1% (versus the industry standard 90%). This reduces costly visits and improving response times.
- Stay connected, arm/disarm your security system, and view live video feed from anywhere.
- Secure each room or door with key card, biometric, or passcode access systems and manage user access through an easy-to-use cloud-based network.
- A perimeter solution that provides a full duplex audio system, giving the monitoring operator the ability to communicate with and warn a threat while calling law enforcement. This prevents break-ins and property damage from occurring in the first place.
- Full 1080p HD cameras and alarms strategically placed throughout the facility as well as in each lane allow visibility for the range safety officers, range owner, and front desk.

INDUSTRY STANDARD



ACTION TARGET ADVANTAGE



90%
FALSE ALARMS

Most security solutions only detect and notify. This means nearly all alarms result in emergency calls, with more than 90% being false.

<1%
FALSE ALARMS

Our use of advanced technology ensures that only true threats result in emergency calls with less than 1% false alarms. This decreases costs and improves response times.

WHERE TO LEARN MORE

To learn more about Action Target Security Powered by Fedora, to become a dealer, contact your Action Target Sales Manager: <https://www.actiontarget.com/about/contact-us/range-sales/>.

HELPFUL LINKS & CONTACT INFORMATION

Thank you for considering Action Target as your shooting range partner. We're here to answer any questions you may have and welcome the opportunity to talk to you more about your business's needs. In the meantime, here are some resources to help you learn more about how Action Target can assist you every step of the way from range planning and installation to maintenance and optimization:

**COMMERCIAL SHOOTING RANGE
CATALOG**

<https://www.actiontarget.com/wp-content/uploads/2017/09/ATI-Tactical-Catalog-0717-Web.pdf>

Feel free to reach out to us at your convenience. Here's some handy contact information:

SALES REPRESENTATIVES

<https://www.actiontarget.com/about/contact-us/range-sales/>

ACTION TARGET MAIN LINE

(801) 377-8033 / (888) 377-8033 (toll free)

CUSTOMER SERVICE

(877) 852-2418 / support@actiontarget.com

**ACTION TARGET PHYSICAL
ADDRESS**

3411 S. Mountain Vista Pkwy
Provo, UT 84606



Action Target Headquarters in Provo, Utah



ACTION TARGET, INC. Minimum Terms and Conditions Agreement

The terms and conditions listed below shall supersede and replace all inconsistent or conflicting language contained in the Customer's contractual documents and take precedence over all other terms and conditions therein.

SECTION 1. DEFINITIONS. Whether Customer is an owner, tenant, or higher-tiered contractor for the Project (collectively referred to in these terms and conditions as "Customer"). ATI and Customer are sometimes collectively referred to herein as the "Parties," and individually as a "Party." Customer and its agents, partners, managers, members, shareholders, officers, directors, employees, affiliates, assigns, predecessors, successors, licensees, invitees, tenants, architects, engineers, contractors, suppliers, sureties, insurance carriers or anyone directly or indirectly employed by any of them are referred to collectively herein as the "Customer Parties." ATI and its agents, employees, affiliates, assigns, successors, subcontractors, suppliers, sureties, insurers or anyone directly or indirectly employed by any of them are referred to collectively herein as the "ATI Parties." ATI Proposal is the work and/or material description, pricing information, preliminary drawings, and exceptions submitted to the Customer to satisfy the Customer's request for proposal.

SECTION 2. ATI DRAWINGS AND PROPRIETARY/CONFIDENTIAL INFORMATION. On or after the submittal of the ATI Proposal, ATI will provide or will have provided Customer with preliminary and conceptual ATI drawings ("ATI Preliminary Drawings") which generally reflect the ATI Work (defined in Attachment 1). Based on the approved ATI Preliminary Drawings, ATI will prepare final drawings (the "ATI Final Drawings") which generally identify the ATI Work (defined in Attachment 1). Upon receipt of the ATI Final Drawings, Customer shall promptly review and approve the ATI Final Drawings within fourteen (14) days (in writing and in the form of the Notice to Proceed—sent by ATI to the Customer). Should (i) Customer request any changes to the ATI Final Drawings, or (ii) any governing authority require changes be made to the ATI Final Drawings as a condition of their approval, or (iii) ATI is required to make changes to the ATI Final Drawings, ATI will perform this additional work, but the Agreement Price and the time for performance shall be adjusted and treated as a Change Event. Customer understands and agrees that ATI will not schedule the fabrication of any materials and/or equipment that are the subject of the ATI Final Drawings unless and until (i) Customer has approved the ATI Final Drawings by signing and returning the Notice to Proceed (without changes having been made thereto), along with (ii) the next payment in accordance with the Schedule of Values/Milestone Payment schedule.

Customer understands and agrees that while Customer may have provided or may hereafter provide ATI with certain plans and specifications relating to the construction of the Customer Work (Attachment 1), the drawings, designs and plan sheets and the specification sections pursuant to which the ATI Work (defined in Attachment 1) will be generally performed are the ATI Preliminary Drawings and the ATI Final Drawings (collectively referred to as the "ATI Drawings"), and no others. The ATI Drawings shall only be used with respect to ATI's Work for the proposed or awarded Project. Customer understands and agrees that ATI is the author and owner of the ATI Drawings and ATI shall retain all common law and statutory rights therein, including without limitation, all copyrights.

During ATI's performance of its Work, Customer may be provided copies of or acquire access to certain technical data, specifications, drawings, designs or other confidential and proprietary information of ATI ("Proprietary/Confidential Information"), including without limitation the ATI Drawings. Such Proprietary/Confidential Information shall remain the sole and exclusive property of ATI. Customer may only use the Proprietary/Confidential Information to the extent necessary with respect to the Work. Customer shall not (i) provide the Proprietary/Confidential Information to any third parties (including without limitation, contractors, subcontractors, or design professionals, or agents, employees, or advisors of any of the foregoing) without the prior written consent of ATI, nor (ii) use the Proprietary/Confidential Information to aid, assist, help, enable or direct any party other than ATI to install, design, develop or otherwise perform any portion of the Work. This paragraph shall survive the termination or expiration of this Agreement.

SECTION 3. COMMENCEMENT AND PERFORMANCE OF THE WORK.
Fabrication or Manufacture of the ATI Materials. Customer understands and agrees that ATI will not begin to fabricate or manufacture the ATI materials and/or equipment ("Manufacturing") required by the ATI Drawings unless and until each of the following has occurred: (i) Customer notifies ATI

of the date Customer expects to complete the Customer Work, (ii) Customer has made all required payments per the Schedule of Values/Milestone Payments, plus any additional costs associated with Change Events, (iii) Customer has approved the ATI Final Drawings by executing and returning the Notice to Proceed, and (iv) Customer provides satisfactory evidence to ATI that Customer has obtained any and all permits, licenses, inspections and/or governmental approvals necessary to allow the ATI Work to be performed. Manufacturing of materials is estimated to be complete approximately twelve (12) weeks after ATI's receipt of the Notice to Proceed, along with all required payment(s).

Shipping of the ATI Materials. Customer understands and agrees that ATI will not schedule shipping and/or delivery of the ATI Materials to the Project site ("Shipping") unless and until each of the following has occurred: (i) Customer has returned the "Shipping Notice" (sent by ATI to Customer), and, (ii) Customer has made all required payments per the Schedule of Values/Milestone Payment schedule. Should Customer request ATI to delay shipping of the ATI Materials, Customer shall pay ATI a weekly storage fee (as a Change Event) of One Hundred and No/100 Dollars for every Fifty Thousand and No/100 Dollars (\$50,000.00) of Agreement Price. By way of an example, if the Agreement Price is Two Hundred Thousand and No/100 Dollars (\$200,000.00), Customer shall pay ATI a storage fee of Four Hundred and No/100 Dollars (\$400.00) per week (i.e., \$200,000 ÷ \$50,000 x \$100.00 = \$400.00 per week) that Customer requests ATI to delay shipping. All storage fees must be paid in full before shipping of ATI Materials.

Restocking of ATI Materials. Customer must pay a restocking fee of 10% of the product price if the parts have been packed but not shipped. Customer must pay a restocking fee of 20% of the product price if the parts have been shipped but not used or installed.

Installation at Project site. If installation of the ATI Materials is included as part of ATI's Work, ATI will commence the installation within an agreed upon number of business days of the last of the following to occur: (i) the date Customer has fully, finally and materially completed the physical construction of all Customer Work, such that (a) the Project site is fully prepared, available, and equipped so that the ATI Work can timely commence and proceed with the continuous, uninterrupted and unimpaired installation of the ATI fabricated ATI Materials at the Project site, and (b) ATI can be provided continuous, uninterrupted, unimpaired and complete access to the Project and can perform and complete the ATI Work without interference from the Customer Parties or others; and (ii) the date the fabricated ATI Materials are delivered to the Project site. Irrespective of the hours that ATI may perform its Work, Customer shall make the Project available for the ATI Work, Monday through Sunday (holidays included), for no less than ten (10) hours per day. Customer understands and agrees that its assistance and cooperation is essential to ATI's successful and timely completion of the ATI Work. Customer and its agents shall be available upon one (1) business days' notice to answer and give approval of any issues or questions that may arise during ATI's performance of the Work. Should Customer be unavailable, ATI shall be entitled to a Change Event.

Delays. If the Customer delays or requests a delay of the project by sixty (60) days or more, ATI shall be entitled to a change order by a reasonable amount to conform with ATI's increases costs, materials, or labor.

Force Majeure. Neither party shall be liable for any costs or damages due to delay or nonperformance under this Agreement arising out of any cause or event beyond such party's control, including, without limitation, acts of war or terrorism; civil or military disturbances; nuclear or natural catastrophes; acts of God; earthquakes; fires; floods; loss or malfunctions of utilities, communications, or computer (software and hardware) services; inability to obtain labor, materials, or transportation; epidemics; pandemics; quarantines; governmental actions; or federal or local orders or recommendations against travelling or gathering; it being understood that at each party shall use reasonable efforts that are consistent with accepted practices in the industry to resume performance as soon as practicable under the circumstances.

Default. In the event of Customer's Default, ATI may, at its option and without notice (collectively, "Default Remedies"), (i) immediately suspend or stop

the manufacturing and/or fabrication of the Products and/or cease providing Field Support until Customer cures such Default, (ii) terminate this Agreement, (iii) pursue any other right or remedy available to ATI under this Agreement or applicable law, and/or (iv) resort to judicial process and without liability for trespass, repossess all or any part of the Products or any component(s) of the same and to disconnect or otherwise render it ineffective. If ATI exercises any right pursuant to this Section, the ATI Parties shall not be liable for any delays and/or damages that Customer may suffer as a result of ATI's exercise of the rights set forth in this Section. ATI's waiver or indulgence of any Default, including without limitation acceptance of late payments, shall not operate as a waiver of any subsequent Default.

SECTION 4. SUBSTANTIAL COMPLETION AND REPAIR WARRANTY.

The term "Substantial Completion" means that point in time when all or a portion of the Work is sufficiently complete so that the Customer can use all or a portion of the ATI Work for its intended use or purpose, or when Customer begins using the Work, whichever is sooner. Within ten (10) calendar days after Substantial Completion, Customer shall (i) carefully inspect the ATI Work, and (ii) if Customer believes that the ATI Work does not meet the requirements set forth in this Agreement, Customer shall give ATI written notice of the claimed non-conformance or defect. Customer's failure to timely give written notice of any non-conformance or defect shall be considered as evidence that the ATI Work is acceptable to Customer as performed and installed.

The performance of ATI's Work will be in compliance with industry standards and the International Building Code as they may apply to ATI's specific craft or trade and will be evaluated by any Customer Parties or others and any trier of fact pursuant to a "reasonable" or "objective" standard. Regardless of any statutory or contractual obligation to the contrary, ATI shall guarantee and warrant the ATI Work for a period of three (3) years from the date of Substantial Completion for Core Products identified in Attachment 3 and one (1) year for other products ("Repair Warranty Period"). ATI shall repair or replace (at ATI's election and at its cost), any Work that fails to materially comply with the ATI Drawings and which proves to be defective or non-conforming in materials or workmanship (the "Repair Warranty"), **provided:** (i) Customer has fully paid ATI for the Work and (ii) Customer gives written notice ("Repair Notice") to ATI within the Repair Warranty Period, as set forth below.

Should Customer believe that any part or portion of the ATI Work is defective and/or non-conforming and subject to the Repair Warranty provided herein, Customer shall: (i) give a Repair Notice (defined above) identifying the specific part or portion of the Work that is allegedly defective and/or non-conforming, and (ii) if the allegedly defective or non-conforming portion of the Work can be returned to ATI, obtain a Return Authorization from ATI before returning the same. Should the Work subject to the Repair Notice, (a) be returned to ATI without a Return Authorization, (b) be received by ATI after the Warranty Period, (c) be found to not be defective or found by ATI to conform to the ATI Drawings, or (d) appear to be damaged or rendered inoperative due to any of the Exclusions set forth below, ATI shall, at Customer's expense, return the part to Customer, with no repair or replacement having been made. Should Customer elect to have ATI replace the damaged part (at Customer's expense), ATI shall attempt to make such replacement parts available, at ATI's then current retail price.

ATI shall have no obligation to repair or replace consumables, including but not limited to those identified in Attachment 4, or the ATI Work (pursuant to the Repair Warranty) if, in ATI's opinion, such Work was (collectively, "Exclusions"):

- improperly used by Customer or others (i.e., exceeded the operational and/or functional scope for which it was intended, including use of unsupported bullets);
- improperly maintained by Customer (regular maintenance items to be performed by Customer include, but are not limited to the following, light bulbs, circuit breakers, batteries, filters, oil, grease, consumable items including but not limited to those identified herein or accepted as consumables in the industry, etc.) or complete maintenance records not kept in accordance with ATI instructions;
- modified or altered by Customer or others during and/or after implementation of Work (including the removal of ATI's logo(s), badging and/or other branding from the ATI materials);
- serviced incorrectly by any third party;
- damaged or rendered inoperative as a result of:
 - acts or omissions of Customer or others, including, but not limited to:

- failure to implement recommended protection and/or armoring measures;
- failure to comply with the manufacturer's printed instructions;
- abuse;
- rodents or pests;
- acts of nature, including, but not limited to, lightning, flood, fire, earthquake, etc.;
- primary or secondary bullet strikes to or from non-impact surfaces (e.g., ceiling or wall baffles, moving target tracks, target trolleys, target stands, target holders, etc.);
- inadequate, incorrect, or unstable electricity supply;
- exposure to environmental conditions that exceed the scope of the product's design;
- corrosion, moisture contamination, abrasion, or normal wear and tear;
- power surge;
- not operated in compliance with all applicable building, mechanical, plumbing, or electrical codes;
- supplied and/or installed incorrectly by any third party;
- damaged, in whole or in part, due to Customer's failure to give ATI timely notice of the alleged defect or non-conforming portion of the Work; or

covered under a non-ATI manufacturer's warranty.

ATI'S REPAIR WARRANTY DOES NOT INCLUDE ANY OTHER WARRANTIES, AND CUSTOMER HEREBY WAIVES, RELEASES AND DISCLAIMS ANY AND ALL OTHER EXPRESS OR IMPLIED WARRANTIES. THIS WARRANTY IS NOT ASSIGNABLE OR TRANSFERABLE BY CUSTOMER, BY OPERATION OF LAW, OR OTHERWISE. ANY ASSIGNMENT OR TRANSFER OF THE REPAIR WARRANTY SHALL VOID THE REPAIR WARRANTY. THIS REPAIR WARRANTY CAN ONLY BE MODIFIED BY WRITTEN AGREEMENT BETWEEN THE PARTIES.

SECTION 5. OWNERSHIP OF THE WORK AND RISK OF LOSS. Title to the Work shall be and remain in ATI until the Agreement Price, plus any additional costs associated with Change Events, has been fully paid, at which time title to the Work shall pass to Customer. Additionally, ATI shall retain ownership of any excess ATI materials not incorporated into the Project, even if such excess ATI materials were delivered to the Project. Unless specifically included as "spare parts" or "extra materials" on Attachment 1, no such spare parts or extra materials are included as part of the Work.

Notwithstanding anything herein to the contrary, Customer shall be fully responsible and liable for the risk of loss, cost and expense and any damage to the ATI Materials from the earlier of the date (i) the ATI Materials are delivered to the Project site, or (ii) ATI releases the ATI Materials to Customer or its agent for pick-up or shipping. Upon receipt of the ATI Materials, (i) Customer shall inspect the ATI Materials and immediately notify ATI of any damage or shortage, (ii) store and safeguard the ATI Materials until such time as ATI arrives at the Project site, and (iii) photograph the ATI Materials and return such photographs to ATI to confirm that the shipment matches all applicable Bills of Lading (only if shipping is provided by ATI as part of the Work). Customer shall be liable and financially responsible for any damage to the ATI Materials a) that occurs during shipping (if such shipping is provided by ATI as part of the Work), if not immediately communicated to ATI upon receipt of the ATI Materials, and/or b) which occurred after Customer's receipt of the ATI Materials (including theft).

Splatter Guard. The risk of secondary splatter exists if a shooter hits a track, target stands, ceiling or wall baffles, or other non-impact surfaces. Customer has been informed and understands that a splatter guard can reduce the risk of this secondary splatter, and Customer has been given the option to add a splatter guard to the Project.

SECTION 6. CHANGE EVENTS. Should any of the following events occur (collectively referred to as "Change Events"), the Work Schedule shall be extended by two (2) work days for each work day lost, and if ATI will incur additional costs as a result of a Change Event, the agreed upon Price shall be increased by no less than the on-site and off-site cost of the additional work, materials and/or equipment that ATI may provide as a result of such Change Event (including insurance, bond costs and taxes, if applicable), plus twenty percent (20%) (ten percent (10%) for overhead and ten percent (10%) for profit), or Lump sum, at ATI's election: (i) Customer fails to perform the obligations and responsibilities required of Customer in the Agreement, (ii) if Customer objects to any consultant, subcontractor, or supplier selected by ATI, Customer shall pay the reasonable increases and costs ATI may

incur in obtaining a replacement consultant, subcontractor, or supplier, (iii) Customer Parties or others (including any governing body) make alterations or changes to the ATI Final Drawings, the Customer Plans or Specifications or to the Work Schedule, or ATI's Work is changed, modified or altered by the Customer Parties or others in any way, (iv) ATI is required to provide additional work and/or materials, beyond those reflected in the ATI Preliminary Drawings, (v) ATI's Work is suspended, delayed, interfered with, disrupted and/or accelerated by the acts, omissions or requests of any of the Customer Parties or others, (vi) the Customer Work is not timely completed, or (vii) for any other reason beyond ATI's control. Change Events do not include events which are caused by the material uncured default of ATI. If prevailing wages are required for this Agreement, ATI shall be entitled to a Change Event to increase installation prices if prevailing wage rates increase between the Date of Acceptance and the date of installation of the ATI Work.

SECTION 7. HAZARDOUS ENVIRONMENTAL CONDITIONS. ATI has advised Customer that (i) a hazard of indoor shooting is a potentially high level of airborne lead and other pollutants and contaminants, including carbon monoxide and smoke (collectively, "Hazardous Environmental Conditions"), (ii) the primary purpose of an indoor ventilation system, bullet recovery system and/or other environmental systems (collectively, "Ventilation System") is to remove or reduce such Hazardous Environmental Conditions created during the firing of weapons from the respiratory zones of those occupying the range, (iii) Customer should strongly consider the use of a Ventilation System (which ATI offers for sale) along with its indoor shooting range, and (iv) if a Ventilation System is not installed, the Hazardous Environmental Conditions can cause serious bodily injury to those occupying the range, as well as property damage. Customer understands and agrees that ATI shall not be responsible for any Hazardous Environmental Conditions at the Project site, including those caused by, attributable to or arising out of the acts, omissions or failure of Customer, including, but not limited to, Customer's failure to a) install a Ventilation System, and b) to follow ATI's recommended maintenance procedures and schedule.

In the event ATI is providing an Evaporative Ventilation System as part of the ATI Work, Customer acknowledges and agrees the air conditioning component of such Ventilation System will include an evaporative cooling system rather than a refrigerant based mechanical cooling system. Accordingly, where high outdoor temperatures and/or high humidity exist, the air temperature in the facility may not cool down to the level of comfort that could be achieved with a refrigerant based mechanical cooling system, even though the evaporative cooling system is functioning in accordance with applicable laws. The Customer agrees and acknowledges these limitations are inherent in an evaporative cooling system, and agrees that the existence of such conditions shall not be a defect in ATI's Work.

SECTION 8. ARMORING MEASURES. To the extent included as part of the ATI Work, certain areas may be designated ballistic or armored for "point blank" type impacts ("Armoring"). If provided, this Armoring may include: A "Staging Area," that is **non-ballistic** rated (unless otherwise specified in Attachment 1). The Staging Area is not intended nor designed to be a Firing Line Area or a Tactical Training Area (defined below), and weapons should never be discharged from such Staging Area(s). If included as part of the ATI Work (identified in Attachment 1): a "Firing Line Area," consisting of those ballistic panels identified in Attachment 1, with Armoring as specified in Attachment 2. The Firing Line Area is a fixed location from which weapons are to be discharged; and/or a "Tactical Area," consisting of those ballistic panels identified in Attachment 1, with Armoring as specified in Attachment 2. A Tactical Area is designed to allow weapons to be discharged at various locations, both down-range and cross-range (under supervision by a range safety officer and/or range master).

To the extent the ATI Work includes such Armoring, Customer acknowledges and agrees that: i) the existence of Armoring cannot and does not fully eliminate the risks and/or hazards inherent in indoor and outdoor shooting ranges, ii) in the event Armoring is struck by a bullet of any caliber ("Bullet Strike"), Customer shall immediately cease the use of the Firing Line Area and/or Tactical Area where such Bullet Strike occurred, and replace the Armoring; and iii) ATI shall not be responsible for any hazards at the Project site, including, but not limited to, those caused by, attributable to or arising out of the presence of Armoring and/or the acts, omissions or failures of any Customer Party (or others) to observe proper safety procedures, including, among others (a) Customer's failure to terminate the use of any area in the event of a Bullet Strike to Armoring, or (b) if a range is used for purposes beyond its intended use (e.g., the use of weapons or ammunition in a given

area that exceed the max velocity and/or max energy as specified in Attachment 2), or (c) the modification or alteration of the Armoring in any manner whatsoever.

Special Precautions Using .50 BMG. ATI's Total Containment Trap (TCT) carries an ATI Class 2 ballistic rating and is certified to contain rifle ammunition at a speed of 3,388 feet/second with a maximum energy of 3,600 foot-pounds. Due to the high energy of .50 BMG ammunition (approximately 11,070 foot-pounds), ATI has determined that only a LIMITED quantity of .50 BMG ammunition may be used with the TCT. If .50 BMG rounds are fired on to a concentrated area, damage to the TCT may occur after as few as 50 rounds.

Using .50BMG can (1) cause damage to or significant lifetime reduction of the deceleration chamber's mouths (top and bottom), (2) break the welds on the deceleration chamber's mouths and/or ribs, (3) significantly reduce the lifetime of the deceleration chamber's rear shell, (4) loosen the cams due to impact shock forces, and (5) damage or significantly reduce the lifetime of the side impact plates. Additionally, **IN CONCENTRATED AREAS OF FIRED ROUNDS, FAILURE OF THE REAR SHELL MAY OCCUR, RESULTING IN ROUNDS ESCAPING THE DECELERATION CHAMBER.** Because of this, Customer agrees to take the following precautions:

- Vary the placement of .50 BMG rounds so that they are not fired on to a concentrated area of the TCT.
- Try to ensure .50 BMG rounds make contact with the lower impact plates of the TCT. This will allow for maximum deceleration of the rounds with minimal damage to the impact surfaces.
- Designate specific lanes for use with .50 BMG ammunition.

Restrictions Relating to .50 BMG

- DO NOT shoot .50 BMG rounds into the TCT from a fixed position. This includes any firing apparatus or position that will place multiple rounds in a very small area.
- DO NOT shoot .50 BMG rounds in automatic fire or short burst rounds.
- DO NOT shoot .50 BMG rounds that have a steel or solid brass core into the TCT (use of any solid core or "armor piercing" rounds will void the TCT warranty).

Inspection Requirements Relating to .50 BMG

- For .50 BMG lanes, inspect key TCT components DAILY, including:
 - Baffle plates: Inspect baffle plates for breaches, bulging and wear.
 - Impact plates: Inspect impact plates for breaches, bulging and wear.
 - Chamber mouths: Inspect chamber mouths for breaches and wear. Check that the mouth opening is between 1" and 1-3/8".
 - Rear shells: Inspect rear shells plates for bulging, "dimpling" and breaches.
 - Cams: Ensure cams are tight and cam locations marks are in line.
- If any damage is found during inspection, DO NOT shoot .50 BMG rounds in that lane.
- Replacement parts can be purchased from Action Target.

SECTION 9. RUBBER BERM TRAPS. To the extent included as part of the ATI Work, certain rubber berm traps ("Rubber Berm Traps") may be designated as "treated" or "non-treated" with fire-retardant. ATI's treated Rubber Berm Trap carries an ASTM E-108 Class A fire rating when properly treated and maintained. To the extent that such Rubber Berm Traps are provided, Customer acknowledges and agrees that:

- ATI has advised Customer that (i) a hazard of indoor and/or outdoor shooting is a potentially high risk of fire, (ii) the primary purpose of treating Rubber Berm Traps with fire-retardant is to reduce the risk of fire created during the firing of weapons, (iii) Customer should strongly consider the use of Class A fire rated and treated Rubber Berm Traps (which ATI offers for sale) as a component of its shooting range, and (iv) if treated Rubber Berm Traps are not installed, the risk of fire may be increased, which may cause serious bodily injury to those occupying the range, as well as property damage. Customer understands and agrees that ATI shall not be responsible for any fire at the Project site, including those caused by, attributable to or arising out of the acts, omis-

sions or failure of Customer, including, but not limited to, Customer's failure to a) install a Class A fire rated and treated Rubber Berm Trap, and/or b) to follow ATI's recommended maintenance procedures and schedule; and

- The treatment of Rubber Berm Traps with fire-retardant (including ATI's Class A rated fire retardant) does not fully eliminate the risks and/or hazards inherent in indoor and outdoor shooting ranges, including the risk of fire.

declaration of rights whatsoever, arising from or in any way related to (i) Hazardous Environmental Conditions ("Hazardous Environmental Conditions Claim"), (ii) Preexisting Project Conditions ("Preexisting Project Conditions Claim"), (iii) incorrect usage of Armoring ("Armoring Claim"), and (iv) the installation of Rubber Berm Traps, whether treated with fire-retardant or not ("Rubber Berm Trap Claims"), which Customer and each of the Customer Parties may now have or may hereinafter acquire against ATI or any of the ATI Parties.

SECTION 10. CUSTOMER'S INDEMNITY OBLIGATIONS.

Customer Indemnity. To the fullest extent permitted by law, Customer, on behalf of itself and the Customer Parties, shall indemnify, defend and hold the ATI Parties harmless, of, from and against any and all claims, damages, losses, demands, lawsuits, judgments and costs of suit or defense, including attorney fees (collectively "Claims"), whether for personal injury, property damage, direct or consequential damage, related in any way to (i) Hazardous Environmental Conditions; (ii) Preexisting Project Conditions; (iii) incorrect usage of Armoring; or (iv) economic loss directly or indirectly arising out of, or alleged to have arisen from, caused by, or resulting from (in whole or in part) (1) the Customer or Customer Parties; or (2) any act or omission of the Customer Party or anyone directly or indirectly employed by any of them or anyone for whose acts they may be liable.

SECTION 11. ATI'S INSURANCE, INDEMNITY OBLIGATIONS, AND LIMITATION ON LIABILITY.

ATI Insurance. ATI shall obtain and maintain in full force and effect for the entire duration of the ATI Work, the following insurance coverages and policy limits, (i) Commercial General Liability with a per occurrence limit of not less than \$1 Million and a general aggregate limit of not less than \$2 Million (the per occurrence and general aggregate limits may be achieved by an umbrella or excess liability policies), and (ii) workers compensation in the statutory minimum. If requested by Customer, ATI will provide an additional insured endorsement and waiver of subrogation for Customer, and no other person or entity, on a form offered by ATI's insurance carrier. Upon renewal of the foregoing policies of insurance and within five (5) days of Customer's request, ATI shall furnish to Customer certificates or endorsements of insurance showing that a new policy is in effect and that all premiums due have been paid current.

It is agreed with respect to any legal limitations now or hereafter in effect and affecting the validity or enforceability of the indemnification, defense and hold harmless obligations under this paragraph, such legal limitations are made a part of the Agreement and shall operate to amend the indemnification obligation to the minimum extent necessary to bring the provision into conformity with the requirements of such limitations, and as so modified, the indemnity, defense and hold harmless obligations shall continue in full force and effect. Customer's obligation to defend pursuant to this Section shall be with attorneys satisfactory to the ATI Parties. The ATI Parties which are not parties to this Agreement are third-party beneficiaries of the indemnification provision of this paragraph. Notwithstanding anything in the Agreement Documents to the contrary, the indemnification obligations of the Customer (as set forth in this Section) shall survive any expiration or termination of the Agreement Documents.

ATI Indemnity. Except for ATI's obligation to warranty the Work for the Repair Warranty Period, any claim for damages that Customer may make, or any liability or indemnity obligation that the ATI Parties may have with respect to or arising out of or related to the Work, including property damage or bodily injury, shall be limited to the proceeds a Customer Party or any third party receives, if any, from or under the insurance to be provided by Customer or by or for ATI and nothing more. Under no event or circumstance shall the Customer Parties seek damages in excess of the insurance proceeds discussed above, whether directly or indirectly through suits with other parties who may join the ATI Parties as third-party defendants.

Waiver of Certain Claims. By initialing this page below, Customer, on behalf of itself and each of the Customer Parties, does hereby waive, release and forever discharge ATI and each of the ATI Parties, of, from, and against any and all claims, actions, causes of action, demands, rights, agreements, promises, warranties, guarantees, liabilities, losses, damages, costs and expenses, of every nature and character, description and amount, known or unknown, without limitation or exception, whether based on theories of contract, breach of contract, breach of the covenant of good faith and fair dealing, tort, violation of statute or ordinance, or any other theory of liability or

SECTION 12. CONSENT TO COLLECTION OF DATA. Customer consents to ATI using its cloud service to collect and use Customer's information related to Customer's usage of the ATI Work including equipment status and state, equipment parameters, sensor readings, connections to UI, OS version and browser data when connected to the UI, internal system events, and system connectivity logging including VPN connections.

CUSTOMER: _____

ACTION TARGET INC.

Signature

Signature

Printed Name

Printed Name

Title

Title

Date

Date

ATTACHMENT 1 SCOPE OF WORK

For the proposed price and in accordance with the ATI Preliminary Drawings ATI will furnish that work, material and/or equipment expressly identified in ATI Proposal (collectively the "Work" or the "ATI Work"). The ATI Work generally includes the following:

- The off-site manufacture or fabrication of materials and/or equipment required by the ATI Drawings; and
- If included as part of Work, (i) the shipping of such fabricated materials and equipment to the Project site, and (ii) the assembly and installation of the fabricated materials and/or equipment.

ATI WORK. Except for that work, materials and/or equipment expressly excluded below, ATI proposes to furnish the following work, materials and/or equipment (collectively "Work" or the "ATI Work") for the Project:

- A. **Installation.** Before ATI will commence installation, the Project site must be fully prepared, available, and equipped so that the ATI Work can timely commence and proceed with the continuous, uninterrupted and unimpaired installation of the ATI fabricated materials and/or equipment at the Project site. Customer understands and agrees that it will provide ATI access for forklifts and/or other equipment with a minimum clearance of five feet (5') wide by seven feet six inches (7'6") tall for the duration of the Project.
- B. **Commissioning.** Before ATI arrives for start-up and commissioning, (i) all power wiring to or for the ATI Materials, control piping, permanent power, sheet metal, power to the control panel, and range construction must be complete, (ii) all doors, windows, seals, etc., must be complete, and (iii) any penetrations into the range and/or the range wall(s) must be sealed tight.

Notwithstanding the foregoing, the ATI Work does not include and ATI shall not be responsible for (i) the cost to obtain the permits and fees necessary to perform the Work (instead, Customer shall provide such permits and pay any necessary fees), (ii) providing payment and performance bonds, and/or (iii) any work, materials and/or equipment not expressly identified below, including any Customer Work that may be required by the Customer Plans and Specifications, (iv) Electrical UL Rating, (v) the design for and adjustments, (vi) accommodations, repairs or protection related to or arising out of seismic movement (of any kind), wind and/or snow loads, (vii) prevailing wages, union labor, or any increased labor expenses; and (viii) re-vegetation of landscaping.

While ATI has familiarized itself with the general and local conditions affecting construction in the locale where the Project is to be constructed, ATI makes no representations as to any additional costs that Customer may incur or be required to pay to ATI as the result of any unknown Project site conditions. Further, ATI shall not be responsible for violations of applicable laws, statutes, regulations, rules, ordinances, and building codes when such violations result from construction in accordance with the requirements of the ATI Drawings.

CUSTOMER WORK. Customer shall furnish and provide (by or through others) the "Customer Work" (defined below) at Customer's sole cost and expense pursuant to the Customer Plans and Specifications and as otherwise required by these provisions. All Customer Work must be performed in accordance with the Customer Plans and Specifications and all applicable federal, state and local laws, regulations and building codes, and the ATI Drawings, to the extent applicable. Failure to strictly adhere to the Customer Plans and Specifications, applicable federal, state and local laws, regulations and building codes, and/or to the ATI Drawings shall (i) void the Repair Warranty to be provided by ATI, (ii) excuse performance by ATI of any installation or testing of the ATI Work until such time as the defective, non-conforming or non-compliant Customer Work has been corrected, and (iii) be a Change Event.

In addition to the General Exclusions noted above, the following are defined as "Customer Work" and (i) shall be performed by Customer, and (ii) ATI shall have no responsibility for such Customer Work, which work is expressly excluded from the ATI Work. The "Customer Work" shall include, but

not be limited to the following: i) all temporary utilities for construction (including adequate lighting and power for hand-tools); ii) structural work of any kind, including hanging support for the ATI Materials, any substructure from which the ATI Materials is or will be supported pursuant to the ATI Drawings, canopies, shade structures, etc., iii) Electrical wiring (including all hookups to or for the ATI Materials) and conduit (both high and low voltage), including connections, line or control conduits (empty or full), electrical boxes, receptacles, target or general lights and any other devices generally considered for high or low voltage iv) Concrete footings, piers and slabs of any kind, v) Floor trenching and wall notching (applicable only for steel Total Containment Traps (TCT)); vi) Engineered stamped drawings for all hanging points, seismic engineering/components and/or ATI provided equipment; vii) applicable permits and fees for the Products and the Customer Work; viii) Gas piping, ix) Coring and sealing, x) General trades work, xi) Off-loading of ATI materials and equipment upon delivery to the Project, xii) Non-ballistic drop ceiling in range ready area, xiii) Range lighting controls and wiring, xiv) Waste disposal, xv) Sanitation facilities; xvi) 120-volt power to the control panel, control conduits, and dedicated analog phone line to DDC panel, pull in all necessary low voltage cable (cable installed prior to arrival of ATI's start-up technician), labor and hardware to install DDC control panels in the building and on the roof, dedicated 120-volt circuit to the control pipe and wire for the evaporative cooler section fill and drain valves; xvii) power and disconnect switches to all equipment per local code and manufacturer's requirements on the equipment, VFDs for the electrical contractor to mount and wire (ATI will complete the low voltage wire connections), xviii) structural engineering, supports, pads, rooftop equipment rails, etc.; xix) Cutting, coring and/or patching of any wall surfaces, roof surfaces, and or concrete (if applicable), xx) Gas, water, and drain piping to the ventilation equipment set by ATI, xxi) Life safety devices including duct smoke detectors, xxii) Drop ceiling from the top of the radial diffusers to the Firing Line Area and/or the Tactical Area, xxiii) Address, remediate and/or resolve any Preexisting Project Conditions; xxiv) Provide internet access to the range; and xxv) Any other work, materials or equipment that is not expressly included in the ATI Work.

If the Agreement includes HVAC, the following are also defined as "Customer Work" and (i) shall be performed by Customer, and (ii) ATI shall have no responsibility for such Customer Work, which work is expressly excluded from the ATI Work:

- Acquire Static IP Address from IT Team / ISP AND provide to Action Target for remote access to the Range Ventilation System. Port forwarding will also be needed (Must be done before we arrive for startup);
- Provide air-tight range;
- Provide T-Bar ceiling from range safety ceiling to radial diffusers;
- Provide gas and final hookups to Range Ventilation Equipment;
- Provide all required plumbing connections to Range Ventilation Equipment;
- Provide all penetrations, patching and roofing;
- Acquire all permits (ATI does not pay for any fees to pay for permits);
- Install low voltage conduits for Action Target installed controls;
- Pull low voltage wiring for Action Target installed controls;
- Install Action Target provided variable frequency drive(s) VFD's;
- Install Range Ventilation Control Box(s);
- Install Range Ventilation Display(s);
- Install all high voltage wiring for Exhaust Fan(s);
- Install all high voltage wiring for Make-up Air Fan(s);
- Install high voltage for controls (Range Ventilation Control Box(s) and Make-up air control);
- Install and provide CAT5 cable from network to Range Ventilation Control Box(s);
- Coordinate with Mechanical Contractor;
- Electrician will either pull provided wire for low voltage wiring or assist ATI technician in pulling wire when on site for commissioning of range; and
- The insulation and Jacketing of supply and exhaust exterior duct-work.

ATTACHMENT 2 ARMORING

To the extent included as part of the ATI Work, certain areas may be designated ballistic or armored for "point blank" type impacts ("Armoring") as ATI Class 1 or ATI Class 2 (either Glass or Solid), as follows:

Material	Rating	Range Use	Max Velocity	Max Energy	Compliance
Glass	ATI Class 1	Pistol Ranges	1,485 fps	1,175 ft.-lbs.	Meets or exceeds UL 752 Level 3 and EN1063 BR4(S) standards
	ATI Class 2	Rifle Ranges	3,388 fps	3,600 ft.-lbs.	Meets or exceeds EN1063 BR5(S) standards
Solid	ATI Class 1	Pistol Ranges	1,485 fps	1,175 ft.-lbs.	Meets or exceeds UL 752 Level 3 standards
	ATI Class 2	Rifle Ranges	3,388 fps	3,600 ft.-lbs.	Meets or exceeds UL 752 Levels 5, 7, 8, 9, & 10 standards

ATI Armoring is not rated for armor-piercing rounds or atypical ammunition. Customer understands, acknowledges and agrees that (i) ammunition can vary significantly, even within different rounds of the same caliber (depending on the selection of projectile material and weight, muzzle velocity, manufacturer, etc.), (ii) it is Customer's responsibility to ensure that ammunition used in a Firing Line Area or Tactical Area does not exceed the max velocity and/or max energy for which the area is rated, (iii) Customer shall be solely responsible for the improper use of ammunition and weapons by Customer Parties or others by exceeding the operational and/or functional scope for which the ATI Materials in the a Firing Line Area or Tactical Area are intended, and (iv) the ATI Repair Warranty shall be void for all purposes in the event of a Bullet Strike to Armoring that exceeds the allowable max velocity and/or max energy specified.

ATTACHMENT 3

CORE PRODUCTS COVERED UNDER THREE-YEAR WARRANTY

Core Products include:

- DRM Pro
- Genesis Target Retriever
- Pilot Target Retriever
- Guardsman Shooting Stalls
- Defender Shooting Stalls
- Sentry Shooting Stalls
- American Shooting Stalls
- Vortex Steel Trap with Buckets or 20G BCS
- Rubber Berm Trap
- Baffles/Deflectors
- Electric Turning Targets
- Pneumatic Targets
- Controls
- AutoTargets
- Shoot Houses – MATCH and TAC House
- Line of Fire

ATTACHMENT 4 CONSUMABLES

Product	Consumable
DRM Pro + Track Runner	Pulleys, cable, wheels, bearings, springs, fuses, track and supporting hardware
Genesis/Pilot Target Retrievers	Wheels, armor, track and supporting hardware, fuses
SRET	Cable, wheels, armor, track, supporting hardware, fuses
Stalls	Steel panels, glass panels, wood panels, abs liner, table top
Vortex / TCT 4D	Top and bottom impact plates, joints, and hardware. S1 plates, joints, and hardware. Chamber rear shells, gaskets, top mouths and hardware. Chamber deflectors (TCT 4D only)
Rubber Berm Trap	Rubber, fins,
Baffles and Deflectors	Fascia, plywood, Z-furrings, hardware
Ventilation	Belts, filters, bearings (bearings that fail prematurely would be considered covered if they were deemed to be defective. Bearing failure due to EDM pitting (which is caused by a VFD) that does not have proper shaft grounding usually would not be covered)
Lights	NA
Electric Mancom Turners (fixed electric + fixed lateral)	Couplings, bushings, down rigger, target clamp and clutch, acrylic light lens (where applicable).
Pneumatic Targets	Exposed clamp, ballistic shield, c-rods, roll pins, filters.
Air Compressors	Belts, hoses, compressor oil, filters and filter packs
SCS	Shear bolts, bearings, uptake gasket
Match / Tac House	Fascia, plywood, Z-furrings, hardware
Controllers (DCU & Turning Targets)	
AutoTargets	Steel and rubber fascia of shield, targets
Line of Fire	Ballistic plates and joint strips. See each target's individual section.
Dust Collection Unit	Filters, belts and hoses where applicable (on air compressor)

RESOLUTION NO. _____

RESOLUTION FOR AWARD OF BIDS AND TO AUTHORIZE
THE MAYOR AND CITY CLERK TO EXECUTE THE CONTRACTS

WHEREAS:

1. Formal bids have been obtained on the below listed items.
2. The bids received have been reviewed and evaluated as per the attached staff reports.

NOW, THEREFORE, BE IT RESOLVED:

1. The City Council does hereby award the bids for the listed items as recommended in the attached staff reports and summarized below.

Item	Recommended Bidder	Cost
Gasoline & Diesel Fuel	Van Manen Petroleum	Bid prices as shown on the attached tabulation sheet
Fence Removal and Installation – Kelloggsville Park	Straight Line Fence	\$24,606.00
Waterworks Fittings	Etna Supply Company	Bid prices as shown on the attached tabulation sheet

2. The City Council does hereby authorize the Mayor and City Clerk to execute the contracts.

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

I hereby certify that the foregoing Resolution was adopted by the City Council for the City of Wyoming, Michigan at a regular session held on September 8, 2020.

Kelli A. VandenBerg, Wyoming City Clerk

ATTACHMENTS:
Staff Reports
Tabulation Sheets
Contracts

Resolution No. _____

STAFF REPORT

Date: August 17, 2020
Subject: Bid Award - Gasoline and Diesel Fuel
From: Ted Seil, Fleet Services Supervisor
Date of Meeting: September 8, 2020

RECOMMENDATION:

The Public Works Department recommends that the City Council award the bid for Gasoline and Diesel Fuel to the lowest bidder, Van Manen Petroleum, for the unit prices indicated on the attached bid tabulation through August 31, 2023, and authorize the Mayor and City Clerk to execute the associated contract.

COMMUNITY, SAFETY, STEWARDSHIP:

The City operates a fleet of over 300 vehicles and 7 standby generators. The vehicles range from mowers to fire trucks, providing valuable services to City residents. In the event of loss of electrical power, standby generators supply power for the City Hall, Police Department, Clean Water Plant, Drinking Water Plant, Gezon Pumping Station and the Public Works building.

DISCUSSION:

On July 28, 2020 the City Clerk received four bids for gasoline and diesel fuel. Thirty-eight requests for bid were sent out. Four bids were received and evaluated from J&H Oil, VanManen Petroleum, Crystal Flash, Inc. and Petroleum Traders.

Approximately 240,000 gallons of gasoline and diesel are used to fuel City vehicles, and another 35,000 gallons of diesel fuel are used for standby generators.

The fuel bid and contract are structured such that the City pays the following per gallon of fuel:

- Market (rack) price. On the date and time the fuel is delivered, the City pays the market price per gallon of gasoline or diesel fuel.
- Delivery cost. The City pays a per gallon delivery fee, for which this bid was developed.
- Winter diesel fuel additive. A diesel fuel additive is necessary for winter operations. The City pays for this on a per gallon basis, also for which this bid was developed.

After evaluating the information provided by the four bidders, Van Manen Petroleum best meets the requirements for providing fuel for City vehicles and generators and is the lowest bidder overall.

BUDGET IMPACT:

The cost of fuel is estimated to be approximately \$450,000.00 per year. Sufficient funds have been budgeted in accounts 661-441-58200-741.000, 590-590-54300-740.000, 591-591-55300-740.000 and 591-591-55900-740.000.

ATTACHMENTS:

Bid Tabulation
Contract

CITY OF WYOMING, MICHIGAN TABULATION OF BIDS		BIDDER				
		J&H Oil Company	Crystal Flash, Inc.	VanManen Petroleum	Petroleum Traders	
DELIVERY SITE	TYPE OF FUEL					
PUBLIC WORKS BUILDING	REGULAR UNLEADED GASOLINE	Delivery Cost Price/Per Gallon	0.03500	0.03610	0.03250	0.02870
		Total	0.03500	0.03610	0.03250	0.02870
		Minimum Delivery Required (in gallons)	6,000	10,000	9,400	12,000
		Estimated Annual Requirements (in gallons)	195,000	195,000	195,000	195,000
		Total (Based on Estimated Annual Gallons)	\$ 6,825.00	\$ 7,039.50	\$ 6,337.50	\$ 5,596.50
	#2 DIESEL FUEL (Winter Additive)	Winter Diesel Fuel Additive	0.01750	0.00000	0.01300	0.01750
		Delivery Cost Price/Per Gallon	0.03500	0.03830	0.03250	0.02910
		Total	0.05250	0.03830	0.04550	0.04660
		Minimum Delivery Required (in gallons)	6,000	10,000	9,400	12,000
		Estimated Annual Requirements (in gallons)	30,000	30,000	30,000	30,000
	Total (Based on Estimated Annual Gallons)	\$ 1,575.00	\$ 1,149.00	\$ 1,365.00	\$ 1,398.00	
	PREMIUM DIESEL FUEL	Winter Diesel Fuel Additive	0.02000	0.00000	0.01300	0.01750
		Delivery Cost Price/Per Gallon	0.15000	0.16000	0.17000	0.35000
		Total	0.17000	0.16000	0.18300	0.36750
		Minimum Delivery Required in Gallons	150	175	150	200
		Estimated Annual Requirements (in gallons)	300	300	300	300
	Total (Based on Estimated Annual Gallons)	\$ 51.00	\$ 48.00	\$ 54.90	\$ 110.25	
	WATER TREATMENT PLANT	REGULAR UNLEADED GASOLINE	Delivery Cost Price/Per Gallon	0.15000	0.14000	0.17000
Total			0.15000	0.14000	0.17000	0.35000
Minimum Delivery Required (in gallons)			150	175	150	900
Estimated Annual Requirements (in gallons)			7,000	7,000	7,000	7,000
Total (Based on Estimated Annual Gallons)			\$ 1,050.00	\$ 980.00	\$ 1,190.00	\$ 2,450.00
PREMIUM DIESEL FUEL		Winter Diesel Fuel Additive	0.01750	0.02000	0.01300	0.01750
		Delivery Cost Price/Per Gallon	0.03500	0.03310	0.04300	0.05840
		Total	0.05250	0.05310	0.05600	0.07590
		Minimum Delivery Required (in gallons)	6,000	7,500	7,000	7,000
		Estimated Annual Requirements (in gallons)	20,000	20,000	20,000	20,000
Total (Based on Estimated Annual Gallons)		\$ 1,050.00	\$ 1,062.00	\$ 1,120.00	\$ 1,518.00	
#2 DIESEL FUEL		Winter Diesel Fuel Additive	0.02000	0.00000	0.01700	0.01750
	Delivery Cost Price/Per Gallon	0.15000	0.15000	0.17000	0.35000	
	Total	0.17000	0.15000	0.18700	0.36750	
	Minimum Delivery Required (in gallons)	150	175	150	100	
	Estimated Annual Requirements (in gallons)	400	400	400	400	
Total (Based on Estimated Annual Gallons)	\$ 68.00	\$ 60.00	\$ 74.80	\$ 147.00		
CLEAN WATER PLANT	PREMIUM DIESEL FUEL	Winter Diesel Fuel Additive	0.01750	0.02000	0.01300	0.01750
		Delivery Cost Price/Per Gallon	0.03500	0.03720	0.04300	0.04950
		Total	0.05250	0.05720	0.05600	0.06700
		Minimum Delivery Required in Gallons	6,000	7,500	10,000	9,000
		Estimated Annual Requirements (in gallons)	10,000	10,000	10,000	10,000
Total (Based on Estimated Annual Gallons)	\$ 525.00	\$ 572.00	\$ 560.00	\$ 670.00		
GEZON PUMPING STATION	PREMIUM DIESEL FUEL	Winter Diesel Fuel Additive	0.02000	0.00000	0.01300	0.01750
		Delivery Cost Price/Per Gallon	0.15000	0.15000	0.17000	0.35000
		Total	0.17000	0.15000	0.18300	0.36750
		Minimum Delivery Required in Gallons	150	175	150	900
		Estimated Annual Requirements (in gallons)	2,000	2,000	2,000	2,000
Total (Based on Estimated Annual Gallons)	\$ 340.00	\$ 300.00	\$ 366.00	\$ 735.00		
Total		\$ 11,484.00	\$ 11,210.50	\$ 11,068.20	\$ 12,624.75	
Minimum Lead Time to Delivery & Other		12 hours	12 hours	12 Hours	24 Hours	

STAFF REPORT

Date: August 27, 2020
Subject: Fence Removal and Installation – Kelloggsville Park
From: Rebecca Rynbrandt, Director of Community Services
Meeting Date: September 8, 2020

RECOMMENDATION:

It is recommended that removal and installation of new aluminized fencing at Kelloggsville Park softball field be awarded to the low bidder, Straight Line Fence, in the amount of \$24,606.

COMMUNITY, SAFETY, STEWARDSHIP:

The City of Wyoming strives to provide a safe, convenient, and pleasant living environment, with minimal burden to the taxpayer. The investment of replacing the old fencing will enhance the facility for softball user groups. The City’s Community Services Departments’ Parks and Recreation staff is committed to providing leisure and recreation opportunities by developing and maintaining green spaces, facilities, and programs to enrich the quality of life of all the citizens of the City of Wyoming.

DISCUSSION:

The current sideline and outfield fencing at Kelloggsville Park was installed over 25 years ago and is in poor condition and in need of replacement. This project was originally scheduled to be completed in FY 2020 in combination with the Lemery Park fence replacement project. Efforts to complete the project in FY 2020 included the issuance of the bid to 27 prospective bidders. Three bids were received on September 3, 2019. The lowest bidder, Straight Line Fence, in the amount of \$24,606, as received at that time. Their bid was complete and detailed providing all requested documents. Staff contact to Straight Line Fence confirms that they will honor this 2019 bid until September 25th, 2020.

BUDGET IMPACT:

City Council approved the re-appropriations of the funds into FY 2021 to ensure completion of the project and they are available in the following accounts:

Account Number	Description	Amount
401-267-75600-975.000	Library Maintenance/Park Capital Fund	\$6,000
208-752-75600-975.117	Capital Outlay Kelloggsville Park	\$18,606
	Total	\$24,606

Attachments: Tabulation Sheet
Email
Contract

TABULATION OF BIDS
FOR REMOVAL OF CURRENT FENCING AND INSTALLING NEW FENCING
OPENED BY THE CITY CLERK ON SEPTEMBER 3, 2019 AT 11:00 A.M. O'CLOCK

Bidder:	Kelloggsville Park
Straight Line Fence, LLC	\$ 24,606.00
M&M Fencing Inc.	\$ 25,146.00
Fence Consultants of West Michigan	\$ 25,040.00

BID/PROPOSAL FORM

REMOVAL OF CURRENT FENCING AND INSTALLING NEW FENCING

The proponent identified below submits the attached bid/proposal materials, including the price(s) stated on the attached pricing sheet.

By signing this bid/proposal form, the proponent identified below represents, attests and promises, the proponent:

1. Has reviewed and is familiar with all plans and specifications, including any issued addenda and any interpretations, and any information provided at any pre-bid meeting.
2. Has reviewed, meets, and will comply with all the Standard Terms and Conditions except those specifically stated in the materials submitted with this bid/proposal form, including, without limitation, all of the applicable insurance and bonding requirements.
3. If applicable, is familiar with the Work site and Work site conditions.
4. Accepts full responsibility for its conclusions relative to the nature and probable difficulties of performing the work specified, and no additional payments will be made by the City due to unanticipated difficulties encountered in performing the actual work.

Unless the specifications otherwise state, the following is provided for statistical purposes only.

Is the bidder/contractor a:

Woman Owned Company?

YES

NO

Minority Owned Company?

Section 3 Certified Contractor?

If yes, Duns #:

035992274

Straight Line Fence, LLC
[Proponent's full name]

[Signature]
[Signature for proponent]

[Signature]
[2nd signature for proponent]

Joel Verguez, Commercial Sales Director
[Printed name and title of person signing]

Paul DeVries, Commercial Sales Mgr
[Printed name and title of 2nd person signing]

Date signed: 9/3/2019

845 Chestnut ST SW
[Proponent's street address]

Cell- 443-2550
[Proponent's business phone]

Grand Rapids MI 49503
[City] [State] [Zip]

Cell- 558-4063
[Cell phone number(s) of person(s) signing for proponent]

pauld@straightlinefence.com
[E-mail address(es) of person(s) signing for proponent]

LLC - Limited Liability Corporation
[Proponent's form of business -- e.g. partnership, corporation, limited liability company, professional corporation and the state in which it was formed]

PRICING SHEET

REMOVAL OF CURRENT FENCING AND INSTALLING NEW FENCING

The undersigned proposes to furnish all labor, equipment and materials to perform the work specified herein, as a turnkey project in accordance for the lump sum of:

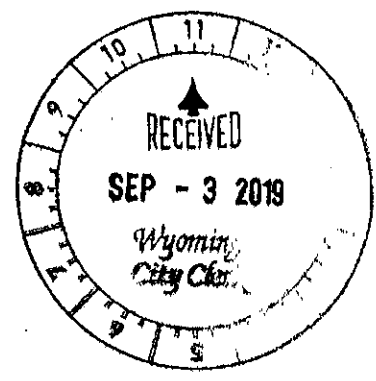
Kellogsville Park: \$ 24,000.00

Lemery Park: \$ 25,113.00

State percentage discount, if any, off from all of the above listed prices if awarded both locations: 5 %

We will extend/honor
this bid till 09-25-20

Paul Decker



FENCE REMOVAL AND INSTALLATION – KELLOGGSVILLE PARK CONTRACT

This Contract is made as of the Effective Date between the City of Wyoming, a Michigan municipal corporation, of 1155 28th Street SW, PO Box 905, Wyoming, MI 49509-0905 ("City") and the Contractor identified below.

Recitals

City requested bids/proposals for the fence removal and installation – Kelloggsville Park contract (the "Request for Bids/Proposals" that included the bid/proposal requirements, city contract standard terms and conditions, risk allocation and insurance provisions, bonds and lien provisions, specific requirements, bid/proposal form, plans, and project or technical bid specifications) and Contractor submitted the bid/proposal by the required date of September 3, 2019 and related required materials (the "Bid") that was selected by City

"Contract Documents" means this contract, the Bid, the Request for Bids/Proposals including all materials that are part of it, the approving City Council resolution, Insurance information meeting contract requirements (including any requested policies, endorsements and certificates), and any required bonds.

"Contractor" means:

Straight Line Fence, LLC

LEGAL NAME OF COMPANY

Straight Line Fence

BUSINESS NAME / D.B.A., IF DIFFERENT FROM ABOVE

Fencing Sales and Installation, in Michigan

FORM OF BUSINESS and STATE IN WHICH FORMED - e.g. partnership, corporation, limited liability company, or professional corporation and the state in which it was formed

845 Chestnut St SW

STREET ADDRESS

Grand Rapids	Michigan	49503
<small>CITY</small>	<small>STATE</small>	<small>ZIP CODE</small>

"Effective Date" means the day after the date that (i) the Contract is approved by the City Council and (ii) the City receives all bonds, insurance documents, and other documents required from Contractor.

Terms and Conditions

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

1. Contractor will provide the materials and services in accordance with the Contract Documents.
2. City will pay the Contractor in accordance with the Contract Documents.
3. This is the only agreement between the parties regarding its subject matter. There are no other agreements, representations or warranties. **No terms and conditions apply other than those expressly and fully stated in the Contract Documents.** This contract can be amended only in writing signed by both City and Contractor.

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

City of Wyoming

By: _____
Jack A. Poll, Mayor

By: _____
Kelli A. VandenBerg, City Clerk

Date signed: _____

Approved as to form:

Scott G. Smith, City Attorney

Contractor

By:  _____
Signature for Contractor

Paul DeVries
Printed Name & Title of Person Signing

Date signed: 09-01-2020

STAFF REPORT

Date: September 1, 2020
Subject: Bid Award – Waterworks Fittings
From: Jodie Theis, Public Services Supervisor
Meeting Date: September 8, 2020

RECOMMENDATION:

It is recommended that the City Council award the bid for waterworks fittings to the low bidder, Etna Supply Company, at the unit prices listed on the attached Bid Tabulation.

COMMUNITY, SAFETY, STEWARDSHIP:

The use of waterworks fittings allows the Public Works Department to provide timely utility repairs without removal of significant portions of water mains, extensive excavation and costly restoration.

DISCUSSION:

On Tuesday, September 1, 2020, the City received three bids for waterworks fittings. Sixty-nine invitations to bid were sent to prospective bidders. Etna Supply Company was the low bidder.

The Public Works Department utilizes waterworks fittings to repair damaged water mains throughout the City. Water main breaks can be caused by several factors, including age, freezing or thawing of soil, pipe corrosion, soil conditions, or ground movement.

The total price based on the estimated quantity is a decrease of 28.5% from last year. The Public Works Department is anticipating an estimated yearly total of \$30,000 for waterworks fittings.

BUDGET IMPACT:

Sufficient funds are available in the Water Fund Maintenance Account, 591-441-56200-775.000.

ATTACHMENTS:

Bid Tabulations, September 1, 2020

City of **Wyoming** Michigan

TABULATION OF BIDS
FOR WATERWORKS FITTINGS - BID # 1863

OPENED BY THE CITY CLERK ON SEPTEMBER 1, 2020 AT 11:00 A.M. O'CLOCK

Item Description	Est. Qty.	Core and Main LP				Ena Supply Company				Ferguson Waterworks			
		Unit Price	Total (based on est. qty.)	Tyler Union Product	Star Pipe Product (Domestic)	Unit Price	Total (based on est. qty.)	Tyler Union Product	Star Pipe Product (Domestic)	Unit Price	Total (based on est. qty.)	Tyler Union Product	Star Pipe Product (Domestic)
SLEEVES													
20" x 15"	2	\$2,567.00	\$5,134.00	X		\$966.00	\$1,932.00	X		\$1,768.66	\$3,537.32	X	X (ACCY)
24" x 15"	2	\$2,450.00	\$4,900.00	X		\$1,333.00	\$2,666.00	X		\$2,700.86	\$5,401.72	X	X (ACCY)
6" x 12"	10	\$208.00	\$2,080.00	X		\$89.00	\$890.00	X		\$244.42	\$2,444.20	X	X (ACCY)
8" x 12"	10	\$275.00	\$2,750.00	X		\$116.00	\$1,160.00	X		\$323.66	\$3,236.60	X	X (ACCY)
12" x 12"	6	\$5,906.00	\$35,436.00	X		\$233.00	\$1,398.00	X		\$703.60	\$4,221.60	X	X (ACCY)
16" x 15"	2	\$1,214.00	\$2,428.00	X		\$585.00	\$1,170.00	X		\$1,333.58	\$2,667.16	X	X (ACCY)
6" x 12" Sleeve, oversized	4	\$372.00	\$1,488.00	X		\$271.00	\$1,084.00	X		\$369.63	\$1,478.52	X	X (ACCY)
8" x 12" Sleeve, oversized	4	\$484.00	\$1,936.00	X		\$345.00	\$1,380.00	X		\$472.55	\$1,890.20	X	X (ACCY)
12" x 12" Sleeve, oversized	4	\$950.00	\$3,800.00	X		\$936.00	\$3,744.00	X		\$1,136.16	\$4,544.64	X	X (ACCY)
16" x 15" Sleeve, oversized	2	\$2,469.00	\$4,938.00	X		\$2,431.00	\$4,862.00	X		\$2,408.24	\$4,816.48	X	X
20" x 15" Sleeve, oversized	2	NO BID				\$1,257.00	\$2,514.00	X		\$1,855.21	\$3,710.42	X	X
24" x 15" Sleeve, oversized	2	NO BID				\$1,685.00	\$3,370.00	X		\$2,730.17	\$5,460.34	X	X
ITEMS FOR "D" VALVE BOXES													
3 Piece "D" Valve Boxes	75	\$175.00	\$13,125.00	NO RESPONSE		\$205.25	\$15,393.75	X		\$175.90	\$13,192.50	X	
6" Valve Box Extension	20	\$62.00	\$1,240.00	NO RESPONSE		\$46.00	\$920.00	X		\$43.09	\$861.80	X	
14" Valve Box Extension	10	\$43.00	\$430.00	NO RESPONSE		\$47.00	\$470.00	X		\$43.12	\$431.20	X	
18" Valve Box Extension	10	\$52.00	\$520.00	NO RESPONSE		\$57.00	\$570.00	X		\$51.98	\$519.80	X	
24" Valve Box Extension	10	\$25.00	\$250.00	NO RESPONSE		\$58.00	\$580.00	X		\$52.68	\$526.80	X	
Top Section	20	\$55.00	\$1,100.00	NO RESPONSE		\$73.50	\$1,470.00	X		\$71.19	\$1,423.80	X	
Mid Section	10	\$54.00	\$540.00	NO RESPONSE		\$56.50	\$565.00	X		\$54.62	\$546.20	X	
Base Section	0	\$38.00	\$0.00	NO RESPONSE		\$62.00	\$0.00	X		\$39.17	\$0.00	X	
Cover	50	\$12.00	\$600.00	X		\$13.25	\$662.50	X		\$12.81	\$640.50	X	
MEGALUGS GLAND (Kit to include: Gland, Nuts, Bolts and Rubber Gasket)													
6" Megalugs Gland Kit	20	\$30.00	\$600.00	NO RESPONSE		\$30.50	\$610.00	X		\$33.65	\$673.00		X
8" Megalugs Gland Kit	20	\$42.00	\$840.00	NO RESPONSE		\$42.50	\$850.00	X		\$45.76	\$915.20		X
12" Megalugs Gland Kit	10	\$82.00	\$820.00	NO RESPONSE		\$81.50	\$815.00	X		\$87.43	\$874.30		X
16" Megalugs Gland Kit	4	\$157.00	\$628.00	NO RESPONSE		\$146.00	\$584.00	X		\$146.20	\$584.80		X
20" Megalugs Gland Kit	4	\$266.00	\$1,064.00	NO RESPONSE		\$239.50	\$958.00	X		\$239.99	\$959.96		X
24" Megalugs Gland Kit	4	\$359.00	\$1,436.00	NO RESPONSE		\$326.00	\$1,304.00	X		\$331.24	\$1,324.96		X
CUT-IN SLEEVE													
6"	20	\$561.00	\$11,220.00	NO RESPONSE		\$552.00	\$11,040.00	X		\$569.57	\$11,391.40	X	X (ACCY)
8"	10	\$725.00	\$7,250.00	NO RESPONSE		\$714.00	\$7,140.00	X		\$731.48	\$7,314.80	X	X (ACCY)
12"	6	\$1,185.00	\$7,110.00	NO RESPONSE		\$1,166.00	\$6,996.00	X		\$1,331.44	\$7,988.64	X	X (ACCY)
State number of days required for deliveries from date of receipt of orders:	7-14 Days				7-10 Days				7-10 Days				
Is there a location within 15 miles to the City of Wyoming limits available for 24/7 Emergency Purchases?	Yes				Yes				Yes				

ORDINANCE NO. 15-20

AN ORDINANCE TO AMEND SECTION 90-32 OF THE CODE OF ORDINANCES
BY ADDING SUBSECTION (127) TO REZONE 1.11 ACRES AT 5050 BYRON
CENTER AVE SW FROM R-1 TO R-3

THE CITY OF WYOMING ORDAINS:

Section 1. That Section 90-32 of the Code of the City of Wyoming is amended by adding subsection (127) to read as follows:

- (127) To conditionally rezone the following described property at 5050 Byron Center Ave SW from R-1 Residential to R-3 Residential, subject to the terms and conditions of the Conditional Rezoning Contract dated as of July 30, 2020, among the City of Wyoming and Grandview Ventures LLC, Dan Burrill, a copy of which is attached as Exhibit A.

DESCRIPTION:

PART OF THE SW 1/4, SECTION 27, T6N, R12W, CITY OF WYOMING, KENT COUNTY, MICHIGAN, DESCRIBED AS: COMMENCING AT THE WEST 1/4 CORNER OF SAID SECTION 27; THENCE S01 °19'23"E 132.00 FEET ALONG THE WEST LINE OF SAID SECTION 27; THENCE S87°58'45"E 50.09 FEET ALONG THE SOUTH LINE OF GOLFPARK VIEW ESTATES TO THE EAST LINE OF BYRON CENTER AVENUE AND THE PLACE OF BEGINNING OF THIS DESCRIPTION:
THENCE CONTINUING S87°58'45"E 233.40 FEET ALONG SAID SOUTH LINE OF GOLFPARK VIEW ESTATES; THENCE S01 °19'23"E 200.86 FEET; THENCE S88°40'37"W 233.00 FEET TO THE SAID EAST LINE OF BYRON CENTER AVENUE; THENCE N01°19'23"E 214.48 FEET ALONG THE SAID EAST LINE OF BYRON CENTER AVENUE TO THE PLACE OF BEGINNING. SUBJECT TO EASEMENTS, RESTRICTIONS AND RIGHTS OF WAY OF RECORD. CONTAINS 1.11 ACRES MORE OR LESS.

Section 2. This ordinance shall take effect on _____, 2020.

I certify that this ordinance was adopted by the City of Wyoming at a regular session of the City Council held on _____, 2020.

Kelli A. VandenBerg,
Wyoming City Clerk

Exhibit A

CONDITIONAL REZONING CONTRACT

This Conditional Rezoning Contract is made as of July 30, 2020, between the City of Wyoming, a Michigan municipal corporation of 1155 28th Street SW, PO Box 905, Wyoming, MI 49509-0905 ("**City**"), Pines Golf Course, Inc., a Michigan corporation of 5050 Byron Center Ave. SW, Wyoming, MI 49519 ("**Pines**"), and Grandview Ventures, L.L.C., a Michigan limited liability company of 5099 South Division, Wyoming, MI 49548 ("**Grandview**").

RECITALS

A. Pines owns and Grandview, in cooperation with Pines, wishes to develop, the following described approximately 1.11 acres of real property located at 5150 Byron Center Avenue SW in City (the "**Property**") that as two attached two family homes (the "**Desired Use**").

PART OF THE SW 1/4, SECTION 27, T6N, R12W, CITY OF WYOMING, KENT COUNTY, MICHIGAN, DESCRIBED AS: COMMENCING AT THE WEST 1/4 CORNER OF SAID SECTION 27; THENCE S01 °19'23"E 132.00 FEET ALONG THE WEST LINE OF SAID SECTION 27; THENCE S87°58'45"E 50.09 FEET ALONG THE SOUTH LINE OF GOLFPARK VIEW ESTATES TO THE EAST LINE OF BYRON CENTER AVENUE AND THE PLACE OF BEGINNING OF THIS DESCRIPTION:

THENCE CONTINUING S87°58'45"E 233.40 FEET ALONG SAID SOUTH LINE OF GOLFPARK VIEW ESTATES; THENCE S01 °19'23"E 200.86 FEET; THENCE S88°40'37"W 233.00 FEET TO THE SAID EAST LINE OF BYRON CENTER AVENUE; THENCE N01°19'23"E 214.48 FEET ALONG THE SAID EAST LINE OF BYRON CENTER AVENUE TO THE PLACE OF BEGINNING. SUBJECT TO EASEMENTS, RESTRICTIONS AND RIGHTS OF WAY OF RECORD. CONTAINS 1.11 ACRES MORE OR LESS.

B. Under City's zoning ordinance, *i.e.*, Chapter 90 of the Code of Ordinances, City of Wyoming, Michigan (the "**Zoning Ordinance**"), the Desired Use is not allowed in the R-1 Residential zoning district in which the Property is currently located so Grandview and/or Pines applied to rezone the Property to the R-3 Residential zoning district but voluntarily offered certain conditions (stated in section 1 below) to the proposed rezoning to ensure the Property as developed will be compatible with adjacent and nearby uses.

C. In accordance with section 405 of the Michigan Zoning Enabling Act, 2006 PA 110, MCL 125.3405, following a duly notice of public hearing, the Planning Commission recommended the conditional rezoning of the Property and the City Council approved the rezoning of the Property to the R-3 Residential zoning district subject to the conditions and other terms stated in this Contract by Ordinance No. 15-20 adopted on _____, 2020 (the "**Rezoning**").

TERMS AND CONDITIONS

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

1. Rezoning Conditions. Grandview and Pines offered the following conditions to the Rezoning and the City Council by approving the Rezoning and this Contract has accepted and conditioned the Rezoning on compliance with the following conditions (the “**Rezoning Conditions**”):

- A. Property will begin construction within 18 months of zoning approval.
- B. Property will have the attached two-family home as a condition of rezone.
- C. City to allow a different plan if it meets or exceeds the current two-family homes attached and be subject to Planning Commission or city planner’s approval.
- D. Each unit will have its own two-stall garage.
- E. Each building will consist of premium vinyl siding and stone as seen in attached photos. (Photos to be omitted in codified copy of ordinance.)





- F. Each site will be professionally landscaped and include underground sprinkling where necessary.
- G. Each site will keep as many trees in the rear yard as possible.
- H. Each unit will have a minimum of 3 bedrooms and 2 baths.

2. Noncompliance Consequences and Remedies.

A. A violation of any of the Rezoning Conditions will constitute a violation of the Zoning Ordinance and may be addressed in any manner allowed for any other violation of the Zoning Ordinance. Unless a suspected violation may be an imminent threat to the public health, safety or general welfare, or unless there have been repeated violations at the subject property, it has been City's practice for City officials to notify property owners and occupants of a suspected violation of the Zoning Ordinance and provide property owners and occupants an opportunity to cure that violation before undertaking any other enforcement actions. City does not have a current intention to alter that practice.

B. If either a court of competent jurisdiction or the City Council, after notice to the owner of the Property and an opportunity for the owner of the Property to address the alleged violations in writing and in person to the City Council before the City Council makes its determination, determine that a violation of the Rezoning Conditions occurred, the City Council may by resolution determine the zoning of the Property will revert to the R-1 Residential zoning district.

3. Term.

A. This Contract shall take effect upon the effective date of the Rezoning.

B. If the zoning conditions of this contract are met, the rezoning approved pursuant to this contract shall be perpetually in effect, running with the land.

C. Upon request by property owner, this Contract may be amended only if such an amendment is approved by the City Council following a recommendation of the City Planning Commission. No public hearing shall be required to amend or terminate this Contract.

D. This Contract will terminate and the zoning of Property will be automatically returned to the R-1 Residential zoning district if the Desired Use is not constructed and certificates of occupancy issued by December 31, 2022.

4. General Provisions.

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

B. This 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 any breach shall not constitute a waiver of any subsequent breach of the same or any other provision.

C. This Contract was made in Kent County, Michigan and the rights and obligations of the parties under this Contract shall be governed by and construed in accordance with the laws of the state of Michigan.

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

E. This Contract is binding upon the parties, on all succeeding owners and occupants of the Property, and on any successors and assigns of the parties.

F. This Contract shall be enforceable only by the parties, all succeeding owners and occupants of the Property, and any successors and assigns of the parties. No other person shall have the right to enforce any provision.

G. No delay on the part of either party in the exercise of any right or remedy shall operate to waive that right or any other right and a waiver of a right or remedy on any one occasion shall not bar or waive that right or remedy for a subsequent breach of the same or any other provision of this Contract.

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

I. A copy of this Contract shall be recorded with the Kent County Register of Deeds.

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

CITY OF WYOMING

STATE OF MICHIGAN
COUNTY OF KENT

By: _____
Jack A. Poll, Mayor

On _____, 2020, Jack A. Poll and Kelli A. Vandenberg, known to me as the Mayor and Clerk, respectively for the City of Wyoming,

By: _____
Kelli A. Vandenberg, City Clerk

Approved as to form:

Scott G. Smith, City Attorney

PINES GOLF COURSE, INC.

By: _____
Ronald F. Zandbergen, President

By: _____
Terry L. Zandbergen, Secretary

GRANDVIEW VENTURES, LLC

By: _____
Dan Burrill, Member

acknowledged their signatures before me.

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

STATE OF MICHIGAN
COUNTY OF KENT

On _____, 2020, Ronald F. Zandbergen and Terry L. Zandbergen, known to me as the President and Secretary, respectively, of Pines Golf Course, Inc., acknowledged their signatures before me.

*
Notary public, _____ County, MI
Acting in _____ County, MI
My commission expires: _____

STATE OF MICHIGAN
COUNTY OF KENT

On _____, 2020, Dan Burrill, known to me as a member of Grandview Ventures, LLC acknowledged his signature before me.

*
Notary public, _____ County, MI
Acting in _____ County, MI
My commission expires: _____

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

Drafted by:
Scott G. Smith
Wyoming City Attorney
1155 28th Street SW, PO Box 509
Wyoming, MI 49509-0905

When recorded, return to:
Kelli A. Vandenberg, City Clerk
City of Wyoming
1155 28th Street SW, PO Box 905
Wyoming, MI 49509-0905

September 1, 2020

Ms. Kelli A. VandenBerg
City Clerk
Wyoming, MI

Subject: Request to grant a conditional rezone from R-1 to R-3 for 1.11 acres located at 5050 Byron Center Ave SW (Section 27) (Grandview Ventures, LLC).

Planning Commission Recommendation: To approve the subject rezoning request.

Dear Ms. VandenBerg,

The above referenced request was reviewed by the Planning Commission at their regular meeting on August 18, 2020. A motion was made by Hall, supported by Weller, to recommend to City Council approval of the request for a rezone to R-3. The motion passed unanimously.

The developer is proposing for the northwest corner of the Pines Golf Course to be split off into two new parcels with two-family residential units. Two-family residential properties require R-3 zoning.

The developer has offered a conditional rezone, which includes the following binding conditions:

- Property will begin construction within 18 months of zoning approval.
- Property will have the attached two-family home as a condition of rezone.
- City to allow a different plan if it meets or exceeds the current two-family homes attached and be subject to Planning Commission or city planner's approval.
- Each unit will have its own two-stall garage.
- Each building will consist of premium vinyl siding and stone as seen in attached photos.
- Each site will be professionally landscaped and include underground sprinkling where necessary.
- Each site will keep as many trees in the rear yard as possible.
- Each unit will have a minimum of 3 bedrooms and 2 baths.

Planning Commission received a petition signed by neighboring residents, four voicemails and a letter that were all in opposition to the request. Concerns cited during public comment included the project's impact on natural spaces, the potential for decreasing property values for the



CITY COUNCIL

Sheldon DeKryger

Dan Burrill

Kent Vanderwood

Marissa Postler

Robert Postema

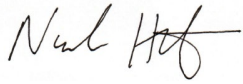
Sam Bolt

Jack A. Poll, Mayor

surrounding neighbors, an increase in traffic to the area and an increase in community safety concerns.

A detailed review of the meeting discussion, including the meeting minutes and public comment provided, is available in the attached Planning Commission minutes and supportive materials.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Nicole Hofert". The signature is fluid and cursive, with a long horizontal stroke extending from the end.

Nicole Hofert, City Planner
Department of Community Services

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

AGENDA ITEM NUMBER 1

Request for a conditional rezone of 1.11 acres from R-1 to R-3 at 5050 Byron Center Ave SW (Section 27) (Grandview Ventures, LLC).

Hofert presented the proposed land use for the property located at 5050 Byron Center Ave. SW. The request is to parcel off 1.11 acres of a parcel that is located in the NW corner of The Pines golf course. The surrounding properties are either residential properties or part of The Pines golf course. The developer is proposing for the northwest corner of the lot to be used as the site for two, two-family residential units.

Hofert shared that the lot was originally a part of the Pines Golf Course property, but has not been used by the course and has remained undeveloped. The requested rezoning from R-1 residential to R-3 residential is necessary because multi-unit properties are not allowed in R-1 zoned parcels. The project would have a cumulative density of 3.6 dwelling units per acre. The 1.11 acre corner section will be split off from the main property, and will then be divided into two new parcels for each of the two duplexes. Both proposed buildings will have street frontage on Byron Center Avenue SW.

Hofert noted that the City is not allowed to ask for conditions in the rezone process, but the developer has offered to make this request a conditional rezone, which includes the following binding conditions:

1. Property will begin construction within 18 months of zoning approval.
2. Property will have the attached two-family home as a condition of rezone.
3. City to allow a different plan if it meets or exceeds the current two-family homes attached and be subject to Planning Commission or city planner's approval.
4. Each unit will have its own two-stall garage.
5. Each building will consist of premium vinyl siding and stone as seen in attached photos.
6. Each site will be professionally landscaped and include underground sprinkling where necessary.
7. Each site will keep as many trees in the rear yard as possible.
8. Each unit will have a minimum of 3 bedrooms and 2 baths.

Hofert shared elevation images, floor plans for the units, and pictures of the proposed product based on a similar project that the developer had completed prior.

Hofert shared that ordinance amendments and rezonings are legislative decisions, not tied to specific standards listed in the ordinance. However, she noted that the project conformed to the factors that are commonly considered with respect to rezonings, including:

- (a) *Consistency with the adopted master plan.*

The city's current Land Use Plan 2020 denotes this parcel as Parks/Open Space and has it surrounded by Low Density Residential. This project is compatible with the surrounding residential.

- (b) *Compatibility of the allowed uses with existing and future land uses*
The proposed two-family residential uses will be compatible with existing and future land uses. This low-density development is compatible with the envisioned land use of the City's Master Plan and meets the needs identified in the AI and Housing Needs Assessment.
- (c) *Capability of the property to be served by public services.*
The property can be served by public utilities.
- (d) *Ability of the property to be used as currently zoned.*
R-1 zoning does not permit two-family residential properties. The 1.1 acre lot meets the dimensional requirements needed to serve two, two-family residential developments. The site currently sits vacant as it is not usable as part of the golf course due to being bookmarked by residential on the north and south.
- (e) *Appropriateness of all uses allowed within the proposed district at the property location.*
The R-3 residential district permits all of the same uses permitted in the R-1 zoning district, but additionally allows two-family residencies.

Hofert advised that the project complied with the following City of Wyoming Sustainability Principles:

Sustainability: The advancement and promotion, with equal priority, of environmental quality, economic strength, and social equity so that a stable and vibrant community can be assured for current and future generations. The proposed project supports social equity and diversity that contributes to a vibrant community. Overall, the proposed development conforms with the City of Wyoming Sustainability Principles.

Hofert shared that the Development Review Team recommended that the Planning Commission recommend to City Council approval of the request to rezone 1.1 acres from R-1 to R-3 at 5050 Byron Center Ave. SW. A conceptual site plan was included in the submission packet. However, the developers will need to apply for site plan approval as a separate application.

PUBLIC COMMENT

DeLange opened the public comment period at 7:13 p.m. Hofert shared that several public comments had been received prior to the meeting, including one letter and four voicemails. Staff also received an unofficial petition with 64 signatures opposing the rezoning request.

All voicemails that were left were from neighbors that were opposed to the rezoning request. The unofficial petition submitted asked that the request be denied due to the project's impact on natural spaces, the potential for decreasing property values for the surrounding neighbors, an increase in traffic to the area and an increase in community safety concerns. Hofert stated the petition is unofficial because it was not filed through the Clerk's office. She also noted that many of the signatories did not use full names or addresses.

Bell read the letter that had been submitted by Clyde and Emily Lotter, no address given. The Lotters wrote that they would vote against the proposal because their property values would decrease because of the multi-unit properties.

Paul Hoppenrath, 4864 Byron Center Ave., stated that he was opposed to the rezone and that he had heard from the previous owner that the site of the proposed rezone and development would always stay part of the golf course. Additionally, he had heard that the parcel was under special use and wondered if state law allowed for a chunk of that property to be broken off and used for something different. He has concerns about the property value decreasing as well.

Chris Karpinsky read comments for her mother-in-law, who is deaf. Her mother-in-law's name is Karen Neilson, she resides at 2340 Easy St. She is opposed to the proposed properties going in as they would adjoin her back yard and would reduce her enjoyment of her property. Karen also thought it would never be developed, and had concerns about decreased property values and an increase in crime.

Tara Flikkema, 4665 Patricia Ct., said she is opposed to the proposed rezone due to traffic, safety and property value concerns.

Willy Rude, 4860 Byron Center Ave., is opposed to the proposed rezone as well. He lives in a property adjacent to the golf course. He is opposed to the project for all the reasons previously stated and wondered if this was an example of spot zoning, which is identified by HUD as problematic. He asked if there were any other duplexes in the area and DeLange replied that there were. Hofert, reminded the group that questions will not be answered during the public hearing and that rather it is an opportunity for comment and Commissioners are unable to respond at this time. Rude stated that he knows that rental property is necessary but he wondered if there would be any accommodations in terms of parking spaces.

Rhonda Boggs, 2330 Easy St., stated that she started the petition that had been submitted to the City with 65 signatures on it. Hofert confirmed that the petition was received. Boggs stated that she brought the petition because of the traffic concerns, the potential for additional noise and a change in the environment that the neighbors do not want. The neighbors who had signed the petition had expressed concerns that the added units will be rental units that are not good for the community.

Josh Duval, 4780 Allison Ave., is not in support of the requested rezoning because he does not see the need for the development and he also has traffic, property value and crime concerns.

Public Comment was closed at 7:27 p.m.

DeLange asked for comment from the developer.

Dan Burrill, Grandview Ventures, 5099 S. Division, stated that the property to be rezoned is one that he has been considering for years and that he had completed a similar project in Kentwood. The photo that was in Hofert's presentation is the product that would be built for this project. All units will have two car garages that are essential to getting cars off the driveway. There are 6 duplexes along Byron Center Ave. already, and the project works well with the City's Master Plan and is supported by the city's Analysis of Impediments and Housing Needs Assessment.

Burrill stated that the rent on each unit would be between \$1,700 and \$1,800 per month and each unit would be valued at around \$400,000. He has worked with the City engineering staff and Pathfinder Engineering. The goal is to get as far away from the north and south property lines as possible to provide additional privacy to the neighbors. He said he also intended to add a traffic turnaround on site. His intention is to maintain as many of the trees as he can. He stated that he was available for questions.

Goodheart stated that he had prepared the plan for the proposal. DeLange asked if that meant that Goodheart had to abstain from the voting and discussion, and Hofert confirmed that per the Rules of Procedure Goodheart could not participate in the discussion or vote on the request.

A motion was entered by Hall, supported by Weller, to approve the conditional rezone of 5050 Byron Center Ave. SW from R-1 to R-3.

DeLange asked for Commissioner comments regarding the proposal.

Hegy asked if the property would be owned by the developer or if it would be sold, and who would maintain the property.

Burrill replied that property would be kept by himself along with a business partner and that the property will be professionally landscaped.

Arnoys asked Hofert to clarify what spot zoning was.

Hofert replied that spot zoning is when a property is zoned in such a way that no other similar properties are zoned that way in the immediate area. In this proposal, there are already multifamily homes across the street and the area has always been zoned R-1 residential. Additionally, the unit density for the area would be less than the 4 dwelling units per acre that is traditional with R-1 developments. The property is compatible with the surrounding area.

Micele asked what the price point would be, if the price would include all landscaping, and if the developer could clarify what the public comments regarding being told the property was never going to be developed were from.

Burrill replied that the units would be rented at between \$1,700 and \$1,800 per unit per month and that they would be valued at \$400,000. The rent would include all landscaping.

Burrill clarified that any statements that had been made to the neighbors about the property not being developed did not come from him or the Pines golf course. Burrill said he thought Hoppenrath had heard it from a previous owner.

Hofert added that the property is zoned R-1 currently, so housing units can be put in as a matter of right without prior approval by the Planning Commission.

Micele asked what the advantage was of building duplexes versus single family homes.

Burrill replied that the costs of construction make it more reasonable to build duplexes instead of single family homes. He also reiterated that the city's AI and Housing Needs Assessment identified a need for this style of housing in Wyoming.

Weller asked if it might be possible to move the duplexes closer to the south property line.

Burrill confirmed that if the project was approved, the duplexes could be moved closer to the south property line.

Weller asked if the driveway turnarounds were intended to prevent people from backing into the road, and Burrill replied that this was true.

Weller asked if solid board on board fencing could be added to the south property lines.

Burrill replied that this would be possible on the south property line, but less feasible on the north property line.

Hall asked if staff had reviewed the traffic and safety concerns brought forth in the public comment, and Hofert replied that there were no concerns on either front.

Micele asked if the turnarounds that were planned for would add a lot of concrete to the area and if there could be some landscaping done to hide the concrete from view.

Burrill referred the group back to the picture of the units he had built already. The turnarounds would have grass all around them, but that he worries about sight clearance if additional bushes were added.

DeLange asked if it was an actual turnaround or a single lane spot because he did not want the neighbors to be parking there.

Burrill replied that people would be able to back into the spots and turn around.

DeLange asked if the project will have to come back for Planning Commission for final site plan approval. Hofert replied that it would not have to come back for final site approval before Planning Commission, though it would still have to meet all relevant conditions and be reviewed and approved by staff.

DeLange asked if staff understood the concerns presented and Hofert replied that all concerns will be captured in the minutes.

Weller stated that if the neighbors would like a board on board fence installed on the new property, that this should be offered.

Burrill replied that he would be open to that request and thinks he needs to figure out a distance and placement that would keep the property as natural as possible.

Arnoys asked if the setbacks for the project will match the ones that had been used in Burrill's previous projects.

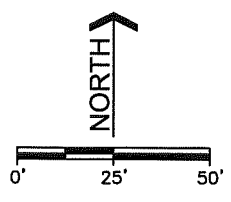
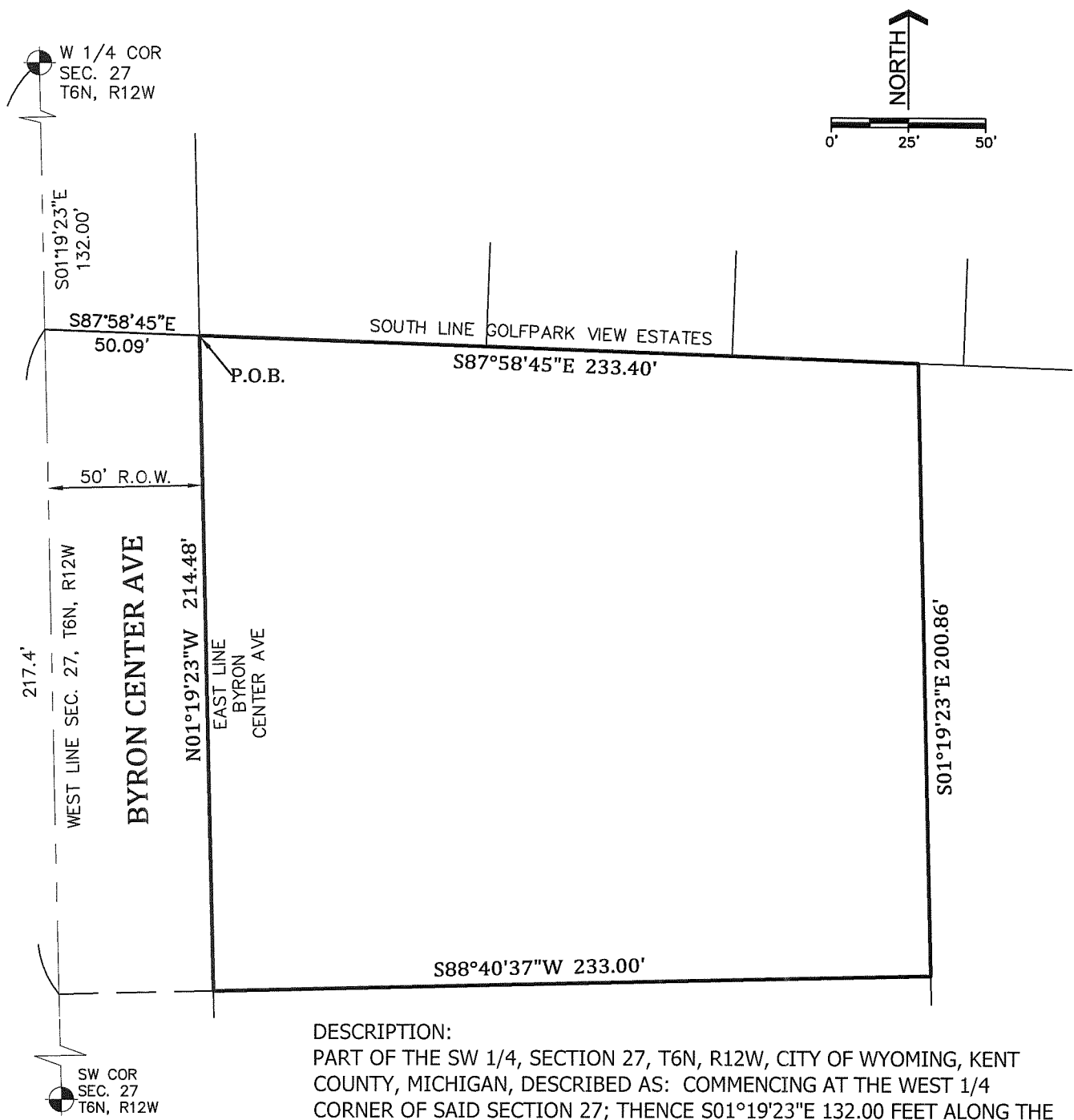
Burrill replied that the Zoning ordinance regulates setbacks at a minimum and that the buildings may have to be pushed back even further to be able to fit the turnarounds.

Hofert added that the minimum setbacks for R-3 zoning would have to be met and if the buildings had to be set back even further, that this could be discussed during site plan review.

Hegy asked for Burrill's thoughts on the possibility of the project decreasing the property values of other properties in the area.

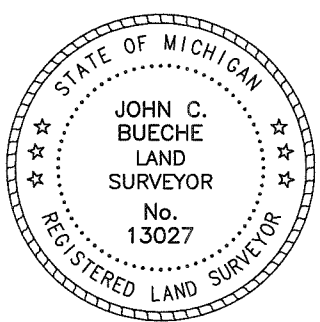
Burrill replied that he does not believe the project will affect property values because it is a high-value investment. He cited Del Mar Farms as a good local example of duplexes mixing into a neighborhood that is predominately single family and not affecting property values in a negative way.

A vote on the motion carried unanimously.



DESCRIPTION:
 PART OF THE SW 1/4, SECTION 27, T6N, R12W, CITY OF WYOMING, KENT COUNTY, MICHIGAN, DESCRIBED AS: COMMENCING AT THE WEST 1/4 CORNER OF SAID SECTION 27; THENCE S01°19'23"E 132.00 FEET ALONG THE WEST LINE OF SAID SECTION 27; THENCE S87°58'45"E 50.09 FEET ALONG THE SOUTH LINE OF GOLFPARK VIEW ESTATES TO THE EAST LINE OF BYRON CENTER AVENUE AND THE PLACE OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING S87°58'45"E 233.40 FEET ALONG SAID SOUTH LINE OF GOLFPARK VIEW ESTATES; THENCE S01°19'23"E 200.86 FEET; THENCE S88°40'37"W 233.00 FEET TO THE SAID EAST LINE OF BYRON CENTER AVENUE; THENCE N01°19'23"E 214.48 FEET ALONG THE SAID EAST LINE OF BYRON CENTER AVENUE TO THE PLACE OF BEGINNING. SUBJECT TO EASEMENTS, RESTRICTIONS AND RIGHTS OF WAY OF RECORD. CONTAINS 1.11 ACRES MORE OR LESS.

BEARING BASE; BASED ON
 EXXEL ENGINEERING, INC.
 SURVEY FILE NO.: 973212E
 DATED JULY 17, 2002



John C Bueche
 JOHN C. BUECHE P.S. 13027

I HEREBY DECLARE THAT THE LAND HEREIN DESCRIBED WAS SURVEYED UNDER MY DIRECT SUPERVISION TO THE BEST OF OUR ABILITY AND KNOWLEDGE. THE ERROR OF CLOSURE IS NO GREATER THAN 1 IN 5000. ALL THE REQUIREMENTS OF P.A. 132, 1970 HAVE BEEN COMPLIED WITH. THIS SURVEY, INCLUDING ANY NEW DESCRIPTION(S), WAS MADE FROM A PROPERTY DESCRIPTION FURNISHED TO US. THE DESCRIPTION(S) SHOULD BE COMPARED WITH A TITLE POLICY OR ABSTRACT FOR COMPLETENESS, ACCURACY, EASEMENTS AND EXCEPTIONS.

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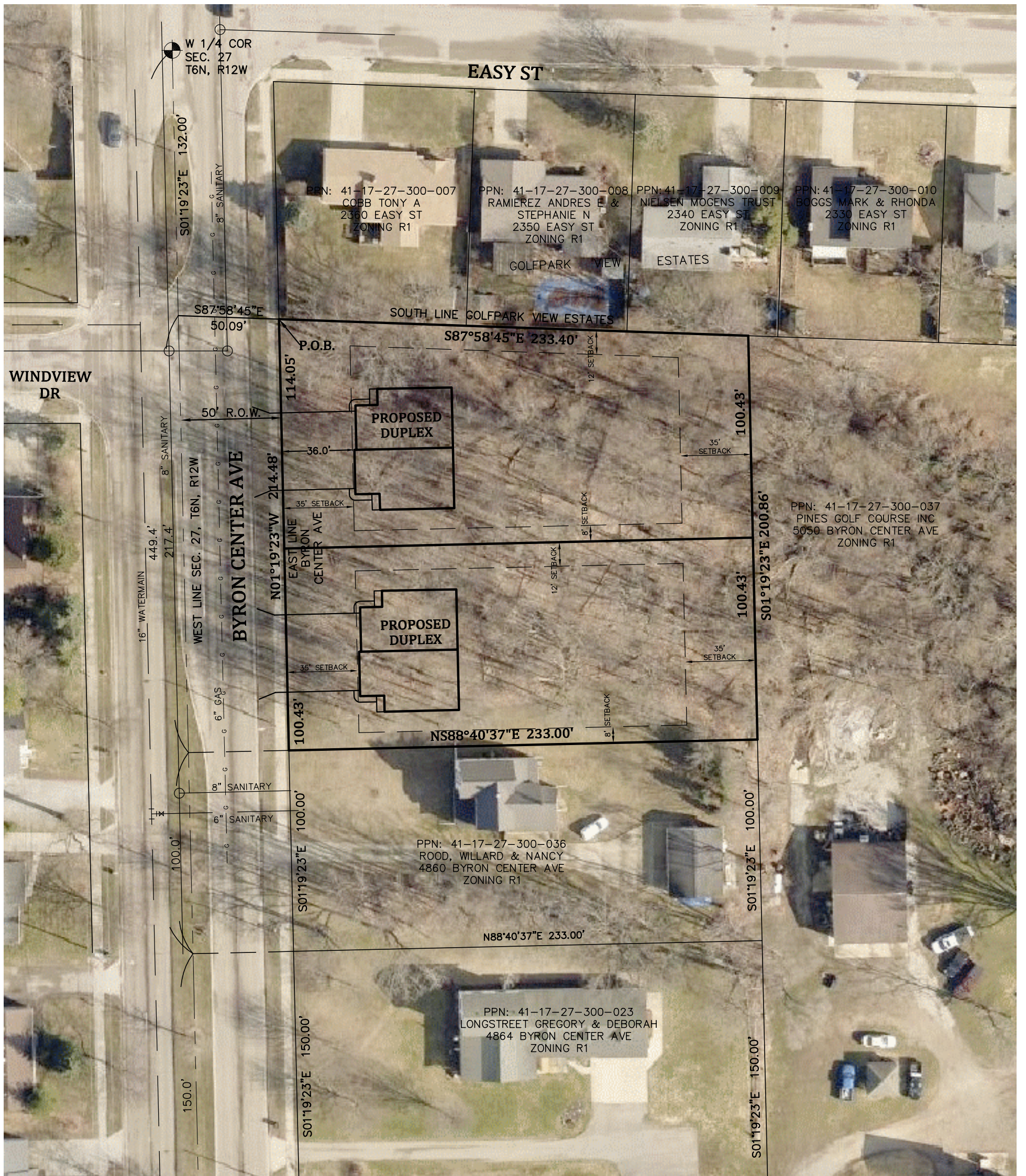


2335 Byron Center Ave. S.W. Wyoming, MI 49519
 Phone 1-616-878-3885 Fax 1-616-878-4559

DESCRIPTION & SKETCH FOR RE-ZONING

ADDRESS OF
 5050 BYRON CENTER AVENUE
 PREPARED FOR:
 GRANDVIEW VENTURES, LLC

DATE
 7-20-20
 PROJECT NO.
 20019
 SHEET NO.
 1 OF 1

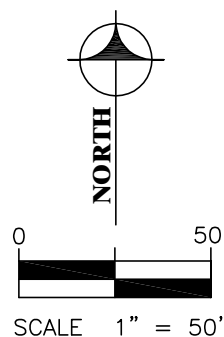


BEARING BASE; BASED ON
 EXXEL ENGINEERING, INC.
 SURVEY FILE NO.: 973212E
 DATED JULY 17, 2002

PPN: 41-17-27-300-037
 PINES GOLF COURSE INC
 5050 BYRON CENTER AVE
 ZONING R1

DESCRIPTIONS FOR PARCEL
 SPLITS WILL BE PROVIDED AFTER
 PARCEL HAS BEEN RE-ZONED

DESCRIPTION:
 PART OF THE SW 1/4, SECTION 27, T6N, R12W, CITY OF WYOMING, KENT COUNTY, MICHIGAN, DESCRIBED AS:
 COMMENCING AT THE WEST 1/4 CORNER OF SAID SECTION 27; THENCE S01°19'23"E 132.00 FEET ALONG THE WEST LINE OF SAID SECTION 27; THENCE S87°58'45"E 50.09 FEET ALONG THE SOUTH LINE OF GOLFPARK VIEW ESTATES TO THE EAST LINE OF BYRON CENTER AVENUE AND THE PLACE OF BEGINNING OF THIS DESCRIPTION: THENCE S87°58'45"E 233.40 FEET ALONG SAID SOUTH LINE OF GOLFPARK VIEW ESTATES; THENCE S01°19'23"E 200.48 FEET; THENCE N88°40'37"W 233.00 FEET TO THE SAID EAST LINE OF BYRON CENTER AVENUE; THENCE N01°19'23"E 214.48 FEET ALONG THE SAID EAST LINE OF BYRON CENTER AVENUE TO THE PLACE OF BEGINNING. SUBJECT TO EASEMENTS, RESTRICTIONS AND RIGHTS OF WAY OF RECORD. CONTAINS 1.11 ACRES MORE OR LESS.



RE-ZONING & PROPOSED PARCEL SPLIT

PART OF THE SW 1/4, SECTION 27
 CITY OF WYOMING, MICHIGAN

PREPARED FOR:
 GRANDVIEW VENTURES, LLC

PREPARED BY:

Pathfinder
 Engineering, Inc.

2335 Byron Center Ave. S.W. Wyoming, MI 49519

Phone 1-616-878-3885 Fax 1-616-878-4559

DATE: 7-16-20

PROJECT NO.: 20019

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WYOMING HISTORICAL COMMISSION

ANNUAL REPORT TO

WYOMING CITY COUNCIL & CITY MANAGER

August 14, 2020

Current Membership

William Branz, Chair
Dan Farkas, Treasurer
Jackie Moore, Secretary
Vice-Chair absent
Kay Bueche

The last several years has seen some changes and challenges. As Commission Chairman, I take full responsibility for both successes and shortcomings. Because of some of these changes, the chairman began covering for the absence of our former secretary and doing much of the treasurer's job also.

I let slip the responsibility of providing an annual report to the City for the past several years, and now wish to follow up on this issue. I will issue reports for those years separately. These should have been issued in 2017, 2018, and 2019.

Our membership has declined over the past year. Tom Maas resigned and relocated to the Kalamazoo area. Rachel Connell had failed to attend the meetings for numerous months and backed away for health reasons. Anne Kladder verbally expressed her resignation, and Ted Westerman turned in a formal letter of resignation.

The pandemic put a halt to our activities, with our last meeting on February 19. We are planning a restart with a meeting on August 17, but the Library has restricted hours and we must plan our meetings elsewhere. As the primary host to the History Room, I have made it available to the public on the first and third Saturday of each month, barring holidays. But as the Covid-19 situation continues, I will not be following that schedule. I have posted on our door and our Facebook page a note explaining how to contact us for access by appointment.

Our organization has maintained connections with other West Michigan historical groups and would attend conferences held by GVSU's Kutsche Office of Local History. We participated annually in the Metro Cruise Event, meeting lots of local people who share their stories of growing up in Wyoming.

The Wyoming History Calendar had its third run this past winter, but did not quite finish as we had hoped. Our effort to raise a starter fund to create a small scholarship with the proceeds fell short, and we cleared just enough to break even.

Our book sales and calendar sales were always promoted by Marge's Donut Den and Springrove Variety. Donut Den seemed to shy away more this past year and now Springrove has closed, so it may be a challenge to continue with the calendar this year.

With thanks going to Kelli Vandenberg and Megan Sall, we are looking to alter our By-Laws to allow for non-Wyoming residents to become members. Having that change would open the door allowing us a better chance at recruiting new members.

One notable individual who has co-hosted our History Room for much of last year is David Britten. He had requested membership, but was not qualified because of his residence in Gaines Township. He was a Rogers High Graduate and recently retired as Superintendent of Godfrey-Lee Schools. His membership would be a great addition. There are others considered also.

Even though this year would seem to be a disappointing period for the Wyoming Historical Commission, I believe we can refocus and strengthen our efforts. Our mission statement calls on us to be involved with our community. I believe we need to find ways to better connect with our residents and make them feel a part of our history. Wyoming is home to a great diversity of people, including African, Hispanic and Asian Americans; and our history needs to tell their stories too.

.....Bill Branz, Chairman

"The Wyoming Historical Commission is the volunteer-based organization dedicated to the collection, preservation, and maintenance of the historical resources of Wyoming Michigan, while providing research assistance and educational opportunities for the general public."