

City of Flint, Michigan

*Third Floor, City Hall
1101 S. Saginaw Street
Flint, Michigan 48502
www.cityofflint.com*



Meeting Agenda - Final

Wednesday, May 22, 2019

5:00 PM

Amended to Remove Special Order 190189

Committee Room

FINANCE COMMITTEE

Monica Galloway, Chairperson, Ward 7

***Eric Mays, Ward 1
Santino J. Guerra, Ward 3
Jerri Winfrey-Carter, Ward 5
Allan Griggs, Ward 8***

***Maurice D. Davis, Ward 2
Kate Fields, Ward 4
Herbert Winfrey, Ward 6
Eva L. Worthing, Ward 9***

Inez M. Brown, City Clerk

ROLL CALL

ADDITIONS/CHANGES TO AGENDA

Council members shall vote on any changes/additions to the agenda.

EXECUTIVE (CLOSED) SESSION

An Executive Session as requested by the Department of Law to update the City Council regarding Kirwin Kinnee, Worker's Compensation Claim.

SPECIAL ORDERS

- 190015** Special Order/Status of Water Fund
- A Special Order as requested by Councilperson Fields to discuss the status of the city's Water Fund.
- 190045** Special Order/Master Fee Schedule/Review of Fees/Service Charges
- Special Order as requested by Councilperson Mays concerning the recently amended (Resolution No. 180351 -- adopted July 23, 2018) Master Fee Schedule that added fees for micro-cell equipment, and to allow discussion of lowering service charge fees for low income residents.
- 190084** Special Order/Discussion of Letter
- A special order as requested by Councilperson Mays, re: He would like to discuss a letter addressed to Councilpersons Fields, Griggs and Worthing.
- 190102** Special Order/Rowe Professional Services/FAST Start Project
- A Special Order as requested by 1st Ward Councilperson Eric Mays to allow for a discussion with Rowe Professional Services, whose contract for Phase VI of the City's FAST Start Project [Program] was approved by City Council on March 11, 2019.

RESOLUTIONS

- 190123** Lease Agreement/City of Flint/Zero Mass Water, Inc.
- Resolution resolving that the Flint City Council approves the Lease Agreement between the City of Flint and Zero Mass Water, Inc. [NOTE: Zero Mass Water, Inc. has agreed to produce bottled water, utilizing SOURCE Hydropanels that provide clean, safe, high quality, renewable drinking water. The Hydropanels are to be installed pursuant to the terms of the lease.]
- 190190** Contract/Oscar W. Larson/Fuel Sites/Replacement/Seven (7) Fueling Site Pumps/Key Readers

Resolution authorizing the proper city officials, upon City Council's approval, to enter into a contract with Oscar W. Larson for replacement of seven (7) fueling site Fuel/Master pumps and key readers, as requested by Fleet, in an amount not to exceed \$124,311.00 [Fleet/Central Garage Fund: 661-451.100-977.000.]

190191 [Multi-Year]/Lease to Own Agreement/AIS Construction Equipment/Vogele Paver/Hamm Roller

Resolution resolving that the Department of Purchases and Supplies, upon City Council's approval, is hereby authorized to issue a purchase order to AIS Construction Equipment for the [four-year] lease to purchase of a Vogele Paver and a Hamm Roller, as requested by Street Maintenance, in an annual amount NOT-TO-EXCEED \$125,266.56, and an aggregate total of \$626,332.80. If the city decides to purchase said equipment at the end of the lease period, the additional purchase cost will be \$11,201.00, for a total purchase price of \$637,533.80 [Local Street Fund Acct. No. 202-449.201-977.000 = \$62,633.28 (per year) and Major Street Fund Acct. No. 203-449.201-977.000 = \$62,633.28 (per year).]

190192 Contract/Rowe Professional Services Co./Construction Engineering Services/Two Bridges/Torrey Road Bridge/Saginaw Street Bridge

Resolution resolving that the proper city officials, upon City Council's approval, are hereby authorized to enter into a contract with Rowe Professional Services Co. for construction engineering services for Torrey Road Bridge (12th Street) over Carmen Creek Reconstruction and Saginaw Street Bridge over the Flint River rehabilitation, as requested by Transportation, in an amount NOT-TO-EXCEED \$199,793.00 [Major Street Fund Acct. No. 202-441.702-801.000.]

190193 MDOT Contract No. 19-5088/Michigan Department of Transportation (MDOT)/Bridge Work/Torrey Road/Saginaw Street

Resolution resolving that the appropriate city officials are authorized to do all things necessary to enter into MDOT Contract No. 19-5088 (Job Nos. 126579CON and 129257CON) - including local contributions of \$67,100.00, plus potential overruns, in the amount of \$10,000.00, for a total of \$77,100.00, AND, resolving that Mayor Karen W. Weaver is the duly authorized city Official authorized to sign MDOT Contract No. 19-5088, on behalf of the City of Flint [Major Street Acct. No. 202-441.702-801.000.] [NOTE: The contract is for fixing the rights and obligations of the parties in agreeing to the following improvements: 12th Street (Torrey Road) Bridge over Carmen Creek and Saginaw Street Bridge over the Flint River, and any necessary related work.]

190194 Memorandum of Understanding (MOU)/Bioworks Energy, LLC/Leasing of Facilities

Resolution resolving that the Flint City Council approves the Memorandum of Understanding (MOU) between the City of Flint and Bioworks Energy, LLC. [NOTE: The City of Flint entered into an agreement with Bioworks Energy, LLC, on July 9,

2009 for operation at the Water Pollution Control Plant (WPCP). Bioworks Energy LLC has purchased equipment that will help generate more waste streams into the facility. Therefore, both parties have agreed that the city shall lease existing facilities to Bioworks Energy, LLC for the purpose of housing the new equipment at the WPCP.]

- 190195** Support/Local Bridge Program Funding Application/Michigan Department of Transportation (MDOT)

Resolution resolving that this resolution is hereby adopted to confirm the city's commitment to the proposed bridge projects and the ability to finance the five (5) percent local share of construction costs from funding available in the 202 Major Street Fund if the city is awarded funding for the proposed bridge projects, as requested by Transportation. [NOTE: Projects being considered include: West Second Street Bridge over Swartz Creek.]

OLD, OUTSTANDING DISCUSSION ITEMS

- 170061** Referral/Copy/Public Relations Contract

Referral by Councilperson Fields to ADMIN/LEGAL, re: She would like a copy of the public relations contract that was entered into with pipe replacement funding. [Referral Action Date: 1/18/2017 @ Finance Committee Meeting.]

- 170066** Referral/Business Customers/Legal Action/Multi-Unit Developments

Referral by Councilperson Mays to ADMIN/LEGAL, re: He would like the law department to provide information on how to pursue action against owners of multi-unit developments when the renters pay their water bills but the landlord does not, and if that can be written into an ordinance. [Referral Action Date: 1/18/2017 @ Finance Committee Meeting.]

- 170194** Repair/Copper Service Line/618 W. Alma

Referral by Councilperson Mays to ADM: He would like to know when the city plans to repair a ruptured copper service line at 618 W. Alma. [Referral Action Date: 4/19/2017 @ Finance Committee Meeting.]

- 170422** Copies/Bid/Contract/Martin Waymire

Referral by Councilperson Fields to FIN/LEGAL: She would like copies of the bid and the contract for public relations firm Martin Waymire. [Referral Action Date: 6/19/2017 @ Finance Committee Meeting.]

- 170424** Discussion Item/Water Assistance Program/Disadvantaged/Elderly Customers

Discussion item as requested by Councilperson Mays: He would like to talk about a water assistance program and/or agencies that can assist disadvantaged and/or

elderly water customers. [Referral Action Date: 6/19/2017 @ Finance Committee Meeting.]

170577 Reimbursements/State of Michigan/City of Flint Departments

Referral from Councilperson Mays to FINANCE DIRECTOR: Regarding State of Michigan reimbursements to all city departments except Finance (see Discussion Item 170390): What has been requested and what has been reimbursed? [Referral Action Date: 11/21/17 @ Finance Committee Meeting.]

170601 Referral/2016 Tax Reverted Property/5306 North Street

Referral by Councilpersons Mays and Guerra to LEGAL: He would like to know how and when the ownership of 5306 North Street (old Jefferson Elementary School) will be returned to the 2nd Chance Church (5306 North Street was the only tax reverted property whose transfer from Genesee County the City of Flint did not object to in 2016). [Referral Action Date: 12/13/2017 @ Special City Council Meeting.]

180001 Payments/State of Michigan's \$25 Million Discretionary Fund

Referral and discussion item from Councilperson Mays to FIN: How much money has been taken from the State of Michigan's \$25 million in discretionary funds and what was it used for? [Referral Action Date: 1/3/18 @ Finance Committee Meeting.]

180002 Referral/Positions/Water Plant/Water Service Center/Wage Study

Referral by Councilperson Fields to HUMAN RESOURCES/WATER SERVICE CENTER/DPW: She would like a list of all unfilled positions at the Water Plant and Water Service Center; she would like the list also to include what certifications are needed for each position, what the compensation packages are, and what the city has done so far to recruit for these positions. She is also asking if a wage study for City of Flint positions has been completed (or started). [Referral Action Date: 1/3/2018 @ Finance Committee Meeting.]

180015 Referral/List/Water Customers With Estimated Bills

Referral by Councilperson Mays to FIN: He would like a list of water customers who had estimated bills and then were hit with high bills when actual readings were used. He would also like to know if these customers still have "holds" on their accounts and if they are in danger of having their water shut off. [Referral Action Date: 1/3/2018 @ Finance Committee Meeting.]

180025 Referral/Copy/'Transfer of Property'

A referral from Councilperson Mays to LAW: He would like a copy of the Legal Department's interpretation of "Transfer of Property." [Referral Action Date: 1/17/2018 @ Finance Committee Meeting.]

180074 Referral/Copies/Current & Revised/WIIN Project Plans

Referral by Councilperson Fields TO FINANCE/DPW, re: She would like copies of the plans, both old and new, for the WIIN grant, and a rationale for the amounts assigned to each. (For example, money allocated to the Water Plant was reduced after the city signed the long-term water deal with the Great Lakes Water Authority). [Referral Action Date: 2/21/2018 @ Finance Committee Meeting.]

180080 Referral/Kellogg Grant/Entire Proposal

A referral from Councilperson Fields to ADMIN/LAW, re: She would like a copy of the entire Kellogg Grant proposal. [Referral Action Date: 2/21/2018 @ Finance Committee Meeting.]

180084 Referral/Police Department/Number of Lawsuits/Cost of Lawsuits

A referral from Councilperson Fields to LAW, re: She would like to know how many lawsuits there have been in the last two years involving the Flint Police Department, including the status for each and the total estimated cost. [Referral Action Date: 2/21/2018 @ Finance Committee Meeting.]

180160 Discussion Item/Itemized Water Fund Revenues & Expenditures

A discussion item as requested by Councilperson Mays regarding the city's Water Fund. He would like itemized revenues and expenditures. [Referral Action Date: 3/22/2018 @ Finance Committee Meeting.]

180180 Referral/Community Development Block Grant (CDBG) Money/Salvation Army

A referral as requested by Councilperson Mays to Planning & Development: He would like to know if Community Development Block Grant (CDBG) money can be given to the Salvation Army. [Referral Action Date: 4/4/2018 @ Finance Committee Meeting.]

180204 Referral/Trial Water Shut-Off/Shut-On Policy

A referral as requested by Councilperson Fields to FIN: She would like to know how the new Trial Collection Policy for shutting water off and turning it back on it working. [Referral Action Date: 4/18/2018 @ Finance Committee Meeting.]

180206 Referral/Cost/Parliamentarian

A referral as requested by Councilperson Fields to CITY CLERK: She would like to know the cost for the City Council to hire a Parliamentarian. [Referral Action Date: 4/18/2018 @ Finance Committee Meeting.]

180234 Update/Great Lakes Water Authority Contract

A referral from Councilperson Fields to LEGAL: re, she would like an update on

the Great Lakes Water Authority (GLWA) contract, particularly the additional elements within the contract. [Referral Action Date: 5/9/2018 @ Finance Committee Meeting.]

180294 Referral/LED Street Lights

Referral by Councilpersons Fields and Guerra to ADMIN, re: An action plan and project steps (equipment and labor) concerning the LED street lights. [Referral Action Date: 6/20/2018 @ Finance Committee Meeting.]

180297 Referral/Breakdown/Chief of Staff Budget

Referral by Councilperson Fields to FINANCE, re: She would like a detailed breakdown of the \$75,000.00 budgeted for the Chief of Staff, including how, who, when and the date it was spent. [Referral Action Date: 6/25/2018 @ Special Affairs Committee Meeting.]

180298 Referral/Breakdown/Budgets/Mayor & City Administrator

Referral by Councilperson Fields to FINANCE, re: She would like a detailed, itemized breakdown of the budgets for Mayor and City Administrator, particularly for wages and salaries -- who they're for and how much each earns. [Referral Action Date: 6/25/2018 @ Special Affairs Committee Meeting.]

180300 Referral/Quarterly Budget Amendment Reports

Referral by Councilperson Fields to FINANCE, re: She would like to see quarterly budget amendment reports that are supposed to be supplied to City Council per the newly adopted City Charter. [Referral Action Date: 6/25/2018 @ Special Affairs Committee Meeting.]

180356 Discussion Item/Investigative Hearing

Councilperson Mays asked that a discussion item about the Investigative Hearing City Council members approved for financial issues related to the Water Crisis be placed on the Finance Committee Agenda. [Referral Action Date: 7/9/2018 @ Finance Committee Meeting.]

180365 Attendance Request/Discussion/Filling Budgeted Positions in Water/Sewer

Referral from Councilperson Mays to HUMAN RESOURCES/DEPARTMENT OF PUBLIC WORKS, re: He would like for Makini Jackson, Director of Human Resources, and Rob Binscik, Director of DPW, to attend the next Finance Committee meeting to discuss unfilled budgeted positions in water and sewer as identified on an organizational chart distributed at the last Finance Committee Meeting. [Referral Action Date: 7/18/2018 @ Finance Committee Meeting.]

180369 Referral/Number of Employees Needed/Turning Water On and Off

Referral from Councilperson Mays to DEPARTMENT OF PUBLIC WORKS/

FINANCE, re: He would like a breakdown of personnel needed to turn water on and then to turn water off. [Referral Action Date: 7/18/2018 @ Finance Committee Meeting.]

180419 Referral/Payments from Water Fund to Subcontractors

Referral by Councilperson Fields to LAW, re: She would like to justification for paying a subcontractor (Arco) out of the Water Fund without City Council permission. [Referral Action Date: 8/8/2018 @ Finance Committee Meeting.]

180437 Referral/Accounting/Water Funds/Grant Funds/Budget Amendments

Referral by Councilperson Fields to FIN, re: She would like a detailed accounting of all 591 and 296 funds (with detailed subsets) and any from other accounts that the city has used to accept Water Funds/Grants, has paid invoices and expenditures from, and all related Budget Amendments made since January 2016 to current that relate to these funds. [Referral Action Date: 8/22/2018 @ Finance Committee Meeting.]

180438 Referral/Lead Service Line Replacements/Those Paid/Those Submitted for Reimbursement

Referral by Councilperson Fields to FIN, re: She would like any lead service line replacements that have been paid and/or submitted for reimbursement by contractors since May 2018 to current. [Referral Action Date: 8/22/2018 @ Finance Committee Meeting.]

180472 Referral/Contract Clauses/Great Lakes Water Authority (GLWA)/Collection Rate/Transmission Pipe

A referral as requested by Councilperson Fields to FIN/LEGAL: She would like the clauses in the Great Lakes Water Authority (GLWA) that speak to the collection rate for water/sewer customers and the transmission pipe. [Referral Action Date: 9/5/2018 @ Finance Committee Meeting.]

180474 Referral/Status of 'New' Program Manager/Division of Community & Economic Development (DCED)

A referral as requested by Councilperson Galloway to FIN/LEGAL/HR: Planning & Development Director Suzanne Wilcox has a clause in her contract that allows her to return to her former position (Program Manager for DCED) in the event that her supervisory position doesn't work out. But her former job was recently filled. Councilperson Galloway would like to know what would happen to the "new" Program Manager if Ms. Wilcox decided to return to that position. [Referral Action Date: 9/5/2018 @ Finance Committee Meeting.]

180508 Referral/Questions/Finance/Contracts/Invoices/Financial Statements/Rizzo

A referral as requested by Councilpersons Fields and Galloway to FIN: They would like answers to questions posed in a memo to Finance Director Hughey Newsome regarding contracts, invoices (including any outstanding invoices) and various

financial statements, and specific questions about invoices and payments to trash company Rizzo (copy of memo provided). They would also like the account(s) the money was taken from, proof that it was budgeted, information regarding who authorized (signed the payments), and an answer as to why Rizzo was paid in 2018 and not 2016 or 2017. [Referral Action Date: 9/24/2018 @ Finance Committee Meeting.]

180509 Referral/Line Item Details/Revenues/Expenditures/Invoices Paid/First \$2 Million/State of Michigan

A referral as requested by Councilperson Fields to FIN: She would like line item details of revenues in and expenditures out on the first \$2 million received from the State of Michigan. She would also like line item accounts and invoices paid from this \$2 million. [Referral Action Date: 9/24/2018 @ Finance Committee Meeting.]

180510 Referral/Federal Procurement Rules/Sub-Contractors

A referral as requested by Councilperson Fields to FIN/LEGAL: She would like a copy of the federal procurement rules as it relates to sub-contractors. [Referral Action Date: 9/24/2018 @ Finance Committee Meeting.]

180511 Referral/Attendance/Planning & Development Director/Action Plan

A referral as requested by Councilperson Mays to PLANNING & DEVELOPMENT: He would like for Planning & Development Director Suzanne Wilcox to attend the next Finance Committee meeting to discuss Special Order 180448 - the final allocations of the recent Action Plan, as well as any leftover funds. [Referral Action Date: 9/24/2018 @ Finance Committee Meeting.]

180512 Referral/Attendance/Finance Committee Meeting/Lead Line Replacements, Etc.

A referral as requested by Councilperson Mays to FIN/DPW/LEGAL/MAYOR/ADMIN: He wants to discuss lead line replacements, including hydrovac-ing, excavation and restoration, with Mayor Weaver, Mr. Gilcreast, and DPW Director Rob Binscik, and representatives from the following: Aecom, Goyette Mechanical and Martha Brown Custom Builders, LLC. He also asks that City Attorney Angela Wheeler weigh in on whether this conversation should take place in open or closed session. [Referral Action Date: 9/24/2018 @ Finance Committee Meeting.]

180529 Referral/Revenue to Turn On, Turn Off Water Service

A referral as requested by Councilperson Galloway to FIN: How much revenue is generated from shutting off water? Turning on water? Was the water study that was promised ever completed? If so, what were the results? [Referral Action Date: 10/3/2018 @ Finance Committee Meeting.]

180532 Referral/Zito Construction

A referral as requested by Councilperson Galloway to FIN/DPW: She would like to know if Zito Construction is being assessed liquidated damages, according to their contract. Also, what are the estimated damages? How many houses does Zito need to complete? What else do they need to complete as part of their contract? [Referral Action Date: 10/3/2018 @ Finance Committee Meeting.]

180570 Referral/Waste Collection Contract

Referral by Councilperson Mays to ADMIN/DPW re: He would like a copy of the current waste collection contract with Republic for waste/rubbish collection. [Referral Action Date: 10/22/2018 @ City Council Meeting.]

180599 Referral/Attorneys Hired by the City

Referral as requested by Councilperson Fields to LEGAL, re: She would like a listing of every attorney and/or law firm that has been hired by the City during the calendar years of 2015 through 2018, with totals for each attorney/firm listed by the same years. [Referral Action Date: 11/19/2018 @ Special Affairs Committee Meeting.]

180600 Referral/City Contract Totals/Lead Line Replacement Program

Referral as requested by Councilperson Fields to ADMIN/DPW, re: She would like to know the current contract totals for lead service line replacement work contractors and subcontractors, up to and including AECOM, ARCO, DLZ, E Holdings (E & L Construction), Super Construction, A&S. Zito, Orchard, AFSCME, W.T. Stevens, Goyette, etc. [Referral Action Date: 11/19/2018 @ Special Affairs Committee Meeting.]

180601 Referral/Lead Pipe Contractors and Subcontractors

Referral as requested by Councilperson Fields to ADMIN/DPW, re: She would like a listing of every contractor and subcontractor who has done or is doing work for the City concerning lead pipe replacement, with list to include phase worked, dates worked and payment/contract totals. [Referral Action Date: 11/19/2018 @ Special Affairs Committee Meeting.]

180604 Discussion Item/Water Account Trends

Referral by Councilperson Fields: She would like to know if there are trends that can be identified in the city's Water Account. [Referral Action Date: 11/20/2018 @ Finance Committee Meeting.]

180605 Referral/Aecom/Procedures & Sub-Contractors

Referral by Councilperson Fields: She would like to see documents that show Aecom followed proper procurement procedures, per the company's contract, and that the city approved all of their sub-contractors [Referral Action Date: 11/20/2018 @ Finance Committee Meeting.]

- 180614** Referral/Aecom/Written Documentation/Scope of Work
- Referral from Councilperson Fields to ADMIN/DPW: She would like written documentation of the change in scope of work that was given to Aecom that allowed them think they could continue working and move beyond 6,000 service lines. [Referral Action Date: 12/5/2018 @ Finance Committee Meeting.]
- 180615** Referral/Aecom/\$1.1 Million Change Order/Line Items
- Referral from Councilperson Fields to FIN: She would like a copy of the line items that represent the \$1.1 million in Aecom's change order. [Referral Action Date: 12/5/2018 @ Finance Committee Meeting.]
- 190035** Referral/Report/Funding/Service Line Replacement Program
- Referral from Councilperson Fields to FIN: She would like all funding utilized for the Service Line Replacement Program in a cohesive, understandable report from the beginning of the project to date, including all revenue paid in to all pertinent city accounts, identified by name, amount, purpose for use and date (including name and account numbers in subsets); all expenditures paid out, identified by name paid to, amount, purpose for use and date (including phase and date, and what account it was paid out of; all reimbursements requested, all paid and all outstanding, with pertinent details, and any reimbursement requests that were denied (with accompanying correspondence); all accounts payable at this point in time for this program, with pertinent details; a list of any/all funds encumbered for this program, at this point in time; a list of total accomplishments by any contractor paid for this program (include Phase and specific activity in detail); the total amount still available to be used for the Service Line Replacement Program, to include management of same program. [Referral Action Date: 1/23/2019 @ Finance Committee Meeting.]
- 190036** Referral/Local Capacity Development Line Item of the Water Infrastructure Improvements for the Nation (WIIN) Plan
- Referral from Councilperson Fields to FIN: She would like a full report of the narrative of intended use and how it has been used, with all financial detail, regarding the Local Capacity Development line item of the Water Infrastructure Improvements for the Nation (WIIN) plan. [Referral Action Date: 1/23/2019 @ Finance Committee Meeting.]
- 190055** Referral/Monthly Progress Report/Economic Development
- Referral by Councilperson Griggs to ADMIN/PLANNING and DEVELOPMENT, re: He requests that the Economic Development Division provide monthly progress reports to the City Council. [Referral Action Date: 2/04/2019 @ City Council Meeting.]
- 190072** Referral/Response/When \$433,276.00 is Reimbursed

Referral from Councilperson Fields to FIN: She would like to be notified when the \$433,276.00 is reimbursed to the City of Flint from the State of Michigan. [Referral Action Date: 2/20/2019 @ Finance Committee Meeting.]

190073 Referral/Number of Signatures Needed/Proposals on Ballot

A referral as requested by Councilperson Mays to CITY CLERK, re: He would like to know how many signatures are needed to get a ballot proposal on the August ballot if Councilmembers reject the five current proposals before them. [Referral Action Date: 2/20/2019 @ Finance Committee Meeting.]

190081 Referral/Increase in Salary and Benefits/Mayor and City Council

Referral by Councilperson Fields to ADMIN/FIN, re: She would like to know where the money will be coming from to cover the recent increases in salaries and/or benefits for the mayor and council, per recent action of the Local Officers Compensation Commission (LOCC). [Referral Action Date: 2/25/2019 @ City Council Meeting.]

190083 Referral/Salaries for Appointees

Referral by Councilperson Fields to ADMIN/FIN, re: She would like to know the salaries for all appointees, as follows: salary or hourly rate at time of hire, salary or hourly rate at time of appointment, current salary or hourly rates - as well as all raises from the time of appointment until now. [Referral Action Date: 2/25/2019 @ City Council Meeting.]

190113 Referral/Aging Report for Accounts Receivable

Referral by Councilperson Fields to ADMIN/FIN/TREASURY, re: She would like to know how much the City of Flint is carrying in past-due accounts receivable and how far back the balances go. She would also like a copy of the AR Aging Report. [Referral Action Date: 3/21/2019 @ Finance Committee Meeting.]

190114 Referral/Revenues/Turning Water Shut-Offs/Water Shut-ons

Referral by Councilperson Fields to ADMIN/FIN/TREASURY, re: She would like to know how much the City of Flint brings in for water shut-offs and shut-ons and if that number has gone up or down in recent months. [Referral Action Date: 3/21/2019 @ Finance Committee Meeting.]

190151 Referral/Kellogg Foundation Grant

Referral by Councilperson Fields to ADMIN/FIN, re: She requests the following information regarding the approx. \$3 million Kellogg Foundation Grant to the City of Flint for economic development: (1) a copy of the City's full report having to do with this economic development grant, and (2) the grant's activity report to date for these funds. [Referral Action Date: 4/08/2019 @ Special Affairs Committee Meeting.]

190154 Discussion Item/Water Theft

A discussion items as requested by Councilperson Galloway, re: Water theft.
[Referral Action Date: 4/11/2019 @ Special City Council Meeting.]

NEW BUSINESS

ADJOURNMENT

190123

RESOLUTION NO.: _____

PRESENTED: 4-4-19

ADOPTED: _____

**RESOLUTION TO APPROVE LEASE AGREEMENT BETWEEN THE CITY OF
FLINT AND ZERO MASS WATER MICHIGAN, LLC**

BY THE MAYOR:

WHEREAS, Zero Mass Water Michigan. LLC has agreed to produce bottled water, utilizing SOURCE Hydropanels, that provide clean, safe, high quality, renewable drinking water.

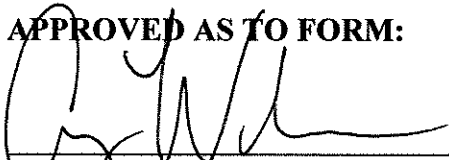
WHEREAS, the Hydropanels are to be installed pursuant to the terms of the lease.

WHEREAS, the City of Flint and Zero Mass Water Michigan, LLC desire to enter into a Lease for the Premises. A copy of the Lease Agreement is attached.

WHEREAS, Mayor, Dr. Karen W. Weaver recommends approving the Lease Agreement between the City of Flint and Zero Mass Water Michigan, LLC.


THEREFORE, BE IT RESOLVED that the Flint City Council approves the Lease Agreement between the City of Flint and Zero Mass Water Michigan, LLC.

APPROVED AS TO FORM:



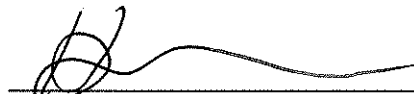
Angela Wheeler, Chief Legal Officer

FOR THE CITY OF FLINT:



Dr. Karen W. Weaver, Mayor

APPROVED AS TO FINANCE:



Hughey Newsome, Chief Financial Officer

APPROVED BY CITY COUNCIL:

Herbert Winfrey, City Council President

LEASE

This Lease Agreement (this "Lease") entered into and made on the ___ day of May, 2019 (the "Effective Date"), between City of Flint, Michigan, a municipality in the state of Michigan, with its principal office located at 1101 S. Saginaw Street, Flint, Michigan ("City") and Zero Mass Water Michigan, LLC, a limited liability company organized and existing under the laws of the state of Arizona, with its principal office located at 6500 E. McDowell Rd., Scottsdale, AZ 85257 ("Zero Mass") (Zero Mass and City are collectively referred to in this Lease as "Parties" and each a "Party").

RECITALS

WHEREAS, City is the sole owner of certain land (the "Premises") which was formerly part of the City of Flint Water Treatment Plant located in Flint, Michigan;

WHEREAS, Zero Mass desires to utilize certain designated portions of the Land (such portions more specifically described in Exhibit A to this Lease and collectively referred to in this Lease as the "Premises") to produce bottled water utilizing SOURCE™ Hydropanels, an innovative technology owned by Zero Mass that is free of infrastructure and provides clean, safe, high quality, renewable drinking water in a variety of applications ("Hydropanels" and each a "Hydropanel").

WHEREAS, the Parties desire to enter into this Lease for the Premises to define their respective rights and obligations in connection with Zero Mass's occupancy of the Premises;

NOW, THEREFORE, for and in consideration of the mutual covenants contained in this agreement, and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. **Demise and Description of Premises/Option for Additional Premises.** City hereby leases to Zero Mass the portion of the Premises comprised of approximately one acre of land, which is more specifically described and depicted in Exhibit A to this Lease ("Parcel #1"). Zero Mass will also have an option and right of first refusal to lease up to nine (9) additional one-acre portions of the Premises, which shall be referred to in this Lease as Parcel #2, Parcel #3, Parcel #4, Parcel #5, Parcel #6, Parcel #7, Parcel #8, Parcel #9, and Parcel #10 (each a "Parcel" and collectively with Parcel #1, the "Parcels"). Parcels #2 through #10 will be selected by Zero Mass from within the areas of the Premises more specifically described and depicted in Exhibit A to this Lease, subject to any local, state, federal or other regulatory compliance obligations by the City (the "Option Areas"). In the event Zero Mass determines it desires to lease any or all of Parcels #2 through Parcel #10 at any time during the Term, it shall provide City with 90-day prior written notice exercising its option to lease any or all of Parcel #2 through Parcel #10, and on or before 90 days after such written notice, City agrees to surrender and lease such Parcels to Zero Mass under the terms set forth in this Lease. In the event City receives an offer to lease any land within the Option Areas, Zero Mass shall have a right of first refusal to lease the Parcels within such Option Areas on the terms contained in this Lease. City shall provide Zero Mass with a written notice of any such third-party offer within 14 business days of City's receipt of the offer. Zero Mass shall have 30 days from receipt of City's notice to exercise its right of first refusal. If Zero Mass exercises its right of first refusal with respect to any such Parcel, City shall surrender and lease such Parcels to Zero Mass under the terms set forth in this Lease within 90 days after Zero Mass exercises its right of first refusal. In the event Zero Mass does not exercise its right of first refusal, City can accept the third-party offer, subject to Ordinance 3865, and if any Parcels are leased to such third party, Zero Mass shall no longer have rights to lease any Parcel so leased. The right of first refusal shall expire five years from the Effective Date. The specific legal description of Parcels #1 through Parcels #10 will be completed by a surveyor engaged by City, and within 30 days of the Effective Date, such surveyor shall assign Parcel Identification Numbers to each Parcel. Zero Mass shall reimburse City for the cost of such survey.

2. **Term.** The term of the Lease shall be five (5) years from the Effective Date (the "Initial Term"), unless terminated sooner in accordance with the provisions of this Lease. After the expiration of the Initial Term and provided that the use of the Premises continues to comply with all city, state, and federal laws, regulations, and ordinances, Tenant shall have the right to renew this Lease for one additional five (5)-year term (the "Renewal Term") by providing written notice of such desire to renew no later than ninety (90) days prior to the expiration of the Initial Term. As used herein, "Term" shall refer to the then-current duration during which this Lease is in full force and effect, including the Initial Term and the Renewal Term, if applicable.

3. **Rent.** During the term of this Lease, Zero Mass shall pay to City rent of \$750 per month for each Parcel then currently leased by Zero Mass (the "Monthly Rent"). Monthly Rent shall be payable on the 15th of each month beginning with the month following the Effective Date and for each month thereafter during the Term. Monthly Rent checks shall be made payable to the City of Flint and mailed to the City of Flint Finance Department, 1101 S. Saginaw Street, Flint, Michigan or to such other address as City shall notify Zero Mass of in writing at 6500 E. McDowell Rd., Scottsdale, AZ 85257.
4. **Permitted Use of Premises.** The Premises are to be used for the purpose of installing and operating a large-scale array of Source™Hydropanels . More specifically, Zero Mass will (1) install and operate a large-scale array of approximately 1000 Hydropanels on unshaded land on the Premises (the "Source™ Field"); (2) dig the requisite trenches and install the requisite piping and storage tanks on the Premises for the purpose of transporting the water produced by the Source Field to its bottler;, all of which is graphically depicted in Exhibit B (including the specific location of the Source Field and the trenches and piping, Zero Mass shall restrict its use to such purposes and shall not use or permit the use of the Premises for any other purpose without the prior written consent of City. Zero Mass will demise, relocate, build and/or install fencing on the Premises to demarcate the perimeter of the Source™ Field and related equipment, all of which is also depicted on Exhibit B, subject to City approval and appropriate permitting as establishing by Federal, State and local laws and ordinances.
5. **Restrictions on Use.** Zero Mass shall not keep, use, or sell anything prohibited by any insurance policy covering the Premises or prohibiting by State Federal and local laws and ordinances and shall comply with all requirements of any such insurance policies. Zero Mass shall not use or allow the Premises to be used for any unlawful purpose or use not previously approved by the City.
6. **Utilities.** Zero Mass shall arrange and pay for the pro rata portion of any utilities furnished to the Premises and utilized by Zero Mass for the term of the Lease, including but not limited to electricity, gas, water, or sewer..
7. **Repairs and Maintenance.** Zero Mass shall maintain the Premises and keep them in good repair at its expense. City shall maintain and keep in good repair at its expense all areas of the Land that are outside the Premises then -currently leased by Zero Mass.
8. **Delivery and Surrender of Premises.** City represents that the Premises are in fit condition for use by Zero Mass. Zero Mass shall surrender the Premises at the end of the Term in the same condition as when Zero Mass took possession, allowing for reasonable use and wear, and damage by acts of God, including storms. Before surrender, Zero Mass shall remove all business signs placed on the Premises by Zero Mass and restore the portion of the Premises on which they were placed in the same condition as when received.
9. **Full or Partial Destruction of Premises.** If the Premises are fully or partially damaged or destroyed through no fault of Zero Mass, Zero Mass shall have the right to terminate this Lease. If Zero Mass does not elect to terminate the Lease, City shall be obligated to repair or replace the Premises during a period not to exceed 180 days following the damage or destruction, except for damage by acts of God, including storms. If City is unable to repair or replace the Premises within such 180-day period, Zero Mass may elect to terminate the lease upon the expiration of the 180-day period. During the period City is repairing or replacing any portion of the Premises, rent will be reduced proportionate with the portion of the Premises that are not usable by Zero Mass during such period.
10. **Entry on Premises by City.** City reserves the right to enter on the Premises at commercially reasonable times to inspect them, perform required maintenance and repairs, or to make additions, alterations, or modifications to any part of the Land, and Zero Mass shall permit City to do so. City may erect scaffolding, fences, and similar structures, post relevant notices, and place moveable equipment in connection with making alterations, additions, or repairs that are necessary in the reasonable business judgment of City, all without incurring liability to Zero Mass for disturbance of quiet enjoyment of the Premises.
11. **Signs, Awnings, and Marquees Installed by Zero Mass.** Zero Mass shall not construct or place signs, awnings, marquees, or other structures without the prior, express, and written consent of City. If Zero Mass fails to remove such signs, displays, advertisements, or decorations within thirty (30) days after receiving written notice from City to remove them, City reserves the right to enter the Premises and remove them at the expense of Zero Mass.

12. **Liability/Indemnification.** Neither Party shall be responsible for any losses, damages, or claims arising out of this Lease or Zero Mass's occupation of the Premises. To the extent such losses, damages, or claims are caused by (A) the negligence or willful misconduct of the other Party, or (B) the breach of this Lease by the other Party, and to the extent permitted by law, each Party shall indemnify the other Party for any losses, claims, or damages caused by its own negligence, willful misconduct, or breach of this Lease.

13. **Liability Insurance.** Zero Mass shall maintain the following insurance policies: (A) commercial general liability insurance against claims for bodily and personal injury, death and property damage caused by or occurring in conjunction with Zero Mass's occupancy of the Premises, containing minimum liability protection of One Million Dollars (\$1,000,000.00) combined single limit per occurrence, and Two Million Dollars (\$2,000,000.00) in the aggregate ; (B) worker's compensation insurance and employer's liability insurance as required by law; and (3) insurance against fire and such other risks including, but not limited to, a standard "All Risk" policy of property insurance protecting against all risk of physical loss or damage, including without limitation, sprinkler leakage coverage in amounts not less than the actual replacement cost, covering all of Zero Mass's equipment, furnishings, and all items of personal property. City shall maintain insurance covering the Premises in the amount deemed necessary by the City.

14. **Assignment, Sublease or License.** Neither Party shall assign or sublease the Premises, or any right or privilege connected with the Premises, or allow any other person except agents and employees of Zero Mass to occupy the Premises or any part of the Premises without first obtaining the written consent of City, which shall not be unreasonably withheld. . Any unauthorized assignment, sublease, or license to occupy by Zero Mass shall be void and of no force and effect.

15. **Termination.** Any party claiming a default of any provision of this Lease shall provide written notice to the defaulting Party, providing sufficient information to fully advise the defaulting Party of the nature and circumstances of the claimed default. The defaulting party shall then have 30 days from such written notice to cure the claimed default. If the default is not cured within 30 days, the non-defaulting Party may terminate this Lease. In the event either party determines in its reasonable discretion that the Source™ Field is not in compliance with all local, state, and federal regulations, or in any way poses a risk to public health and safety, such Party may terminate this Agreement with 60 days' written notice may terminate this Agreement.

16. **Applicable Law.** This Agreement and all related disputes shall be governed by and interpreted in accordance with the laws of the State of Michigan.

17. **Arbitration.** Zero Mass agrees that for all claims, disputes, and other matters arising out of or relating to this agreement, Zero Mass must request the City's consent to arbitrate within 60 days from the date Zero Mass knows or should have known the facts giving rise to the claim, dispute or question.

(a) Notice of a request for arbitration must be submitted in writing by certified mail or personal service upon the City Attorney.

(b) Within 60 days from the date a request for arbitration is received by the City, the City shall inform Zero Mass whether it agrees to arbitrate. If the City does not consent, Zero Mass may proceed with an action in a court of competent jurisdiction within the State of Michigan. If the City does consent, then within 30 days of the consent each party shall submit to the other the name of one person to serve as an arbitrator. The two arbitrators together shall then select a third person, the three together shall then serve as a panel in all proceedings. Any unanimous decision of the three arbitrators shall be a final binding decision. The City's failure to respond to a timely, conforming request for arbitration is deemed consent to arbitration.

(c) The costs of the arbitration shall be split and borne equally between the parties and such costs are not subject to shifting by the arbitrator.

(d) This provision shall survive the expiration or termination of this Agreement in perpetuity.

(e) NOTWITHSTANDING ANY OTHER PROVISION OF THIS AGREEMENT, AND TO THE EXTENT ALLOWED BY APPLICABLE LAW, IN NO EVENT SHALL EITHER PARTY BE LIABLE FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, OR PUNITIVE DAMAGES OF ANY KIND, OR ANY LOSS OF PROFITS, LOSS, OR INTERRUPTION OF BUSINESS, OR LOSS OF USE OR DATA, IN CONNECTION WITH THIS AGREEMENT, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

18. **Force Majeure.** Subject to section 17(B) below, neither Party to this Lease shall be in breach of this Lease or responsible for damages caused by delay or failure to perform in full or in part its obligations under this Lease, provided that there is due diligence in attempted performance under the circumstances and that such delay or failure is due to one of the following events of force majeure: fire, earthquake, unusually severe weather, strikes, government sanctioned embargo, flood, act of God, war, terrorism, act (or delay in acting) of any public authority or sovereign government (including government delays in issuing required permits), civil disorder, delay or destruction caused by public carrier, curtailment of transportation facilities or any other similar circumstance substantially beyond the control of the Party to be charged, and which cannot be reasonably forecast or prevented. If the force majeure event continues for a period of six (6) months, then either Party shall have the right to cancel this Lease upon ten (10) days written notice to the other; and (B) Each party agrees to notify the other promptly upon discovery of an event of force majeure, as described above, which may cause a failure or delay in performance under this Lease.

19. **Waivers.** Waiver by City of any breach of any covenant or duty of Zero Mass under this Lease is not a waiver of a breach of any other covenant or duty of Zero Mass, or of any subsequent breach of the same covenant or duty.

20. **Entire Agreement.** This Lease shall constitute the entire agreement between the parties. Any prior understanding or representation of any kind preceding the date of this Lease shall not be binding upon either party except to the extent incorporated in this Lease.

21. **Modification of Agreement.** Any modification of this Lease or additional obligation assumed by either Party in connection with this Agreement shall be binding only if evidenced in a writing signed by each Party or an authorized representative of each Party.

22. **Notices.** All notices, requests, consents, claims, demands, waivers and other communications hereunder will be in writing and will be deemed to have been given and received: (A) when delivered by hand (with written confirmation of receipt); (B) when received by the addressee if sent by a nationally recognized overnight courier (return receipt requested); or (C) on the third day after the date mailed, by certified or registered mail, return receipt requested, postage prepaid. Such communications must be sent to the respective parties at the following addresses (or at such other address for a party as is specified in a notice given in accordance with this Section 23):

CITY: City Attorney

ZERO MASS:

Law Department

6500 E. McDowell Rd.

1101 S. Saginaw Street

Scottsdale, AZ 85257

Flint, MI 48502

Attn: General Counsel

23. **Severability.** Each section, subsection, term and provision of this Lease, and any portion thereof, shall be considered severable. If any applicable and binding law imposes mandatory, nonwaivable terms or conditions that conflict with a provision of this Lease, the terms or conditions required by such law shall govern to the extent of the inconsistency and supersede the conflicting provision of this Lease.

24. **Whole Agreement:** This Agreement and the documents cited herein embody the entire agreement between the parties. Any additions, deletions or modifications hereto must be in writing and signed by both parties. This Agreement may be executed by facsimile and in counterparts, all of which, taken together, shall constitute a single agreement.

IN WITNESS WHEREOF, the parties have executed and delivered this Agreement effective on the date stated on the first page above.

ZERO MASS WATER MICHIGAN, LLC

CITY OF FLINT

By:

By:

Its:

Its: Mayor

Approved as to form:

Angela Wheeler, City Attorney

EXHIBIT A

DESCRIPTION OF PREMISES

[Insert legal description of Land]

[Insert graphic depiction showing specific intended demarcation of "Premises" on Land]

EXHIBIT B

DRAWINGS/PLANS FOR SOURCE FIELD

190190

(Bid #19000026)

SUBMISSION NO.: _____

PRESENTED: 5-22-19

ADOPTED: _____

RESOLUTION TO OSCAR W. LARSON COMPANY FOR REPLACEMENT OF (7) FUELING SITE PUMPS AND KEY READERS

BY THE CITY ADMINISTRATOR


RESOLUTION

The Department of Purchases and Supplies has received a quote for a replacement of seven (7) fueling site FuelMaster pumps and key readers as requested by the Fleet Management Division; and

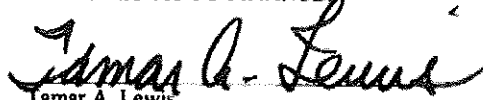
Oscar W. Larson, 10100 Dixie Highway, Clarkston, Michigan 48348 has submitted a quote as part of their successful award of the contract # 040215-PGE between PureGreen Services, LLC, 3883 Rogers Bridge Road, Suite 205A, Duluth, Georgia 30097 and Sourcewell, formerly the National Joint Powers Alliance (NJIPA) a purchasing cooperative. Funding for said equipment will come from the following account: 661-451.100-977.000; and

IT IS RESOLVED, that the Proper City Officials, upon City Council's approval, are hereby authorized to enter into a contract with Oscar W. Larson for replacement of seven (7) fueling site FuelMaster pumps and key readers in an amount not to exceed \$124,311.00. (Fleet Management Fund)


APPROVED PURCHASING DEPT.:


Joyce A. McClane
Purchasing Manager

APPROVED AS TO FINANCE:


Tamar A. Lewis
Deputy Finance Director

APPROVED AS TO FORM:


Angela Wheeler
Chief Legal Officer


Steve Branch, City Administrator



Dr. Karen Weaver, Mayor

**CITY COUNCIL MEMO FROM THE DEPARTMENT OF
PURCHASES & SUPPLIES**

Date: May 14, 2019

Agenda Item Title: Facility Fueling Upgrades

Prepared By: Joyce McClane, Purchasing Manager *JAM*

Background/Summary of Proposed Action:

A resolution is attached to authorize the purchase of Facility Fueling Upgrades for seven (7) locations, including One (1) Fuelmaster. This program is windows based software program. The manufacturer of Contract #040215-PGE through Sourcewell is Blue 1 Energy Equipment, dba/as PureGreen, Services, LLC. The Dealer and Provider for this type of equipment is Oscar W. Larson in the City of Flint, Michigan.

The Blue 1 Energy Equipment – Fleet Storage & Dispensing Equipment were bid through a National Cooperative Contract known as Sourcewell. Before changing their name, they were known as the National Joint Powers Alliance (NJPA).

Sourcewell is a member-focused public cooperative of more than 50,000 member agencies throughout the United States. Sourcewell is a municipal contracting agency that operates as a public entity under legislative authority through Minnesota Statute 123A.21. **The City of Flint is a member of Sourcewell.**

Every Sourcewell contract is the result of a formal competitive solicitation conducted by trained, professional procurement officials of a lead State's central procurement office under the direction of a lead state's State Procurement Official in accordance with that state's procurement statutes, regulations, and policies.

In Section 18-21.7 Public Entity Purchases – The Purchasing Director is authorized, if determined to be in the best interest of the City, to purchase goods and services for the City, relying on competitive processes undertaken by other public entities, including the federal Government, the State of Michigan, Municipalities, Special Purpose Districts, and authorities, and School Districts.

B 9-026.

Purchasing Facility Fueling Upgrades for seven (7) locations, including One (1) Fuelmaster, windows based software program from the Sourcewell contract, gives the City an opportunity to have competitive pricing which is base off a high-volume discount. If the City were to bid such products and services itself, it would not benefit from the shared purchasing power that the Sourcewell cooperative contract provides. One of our Purchasing Partners, Genesee County Road Commission is currently using Oscar W. Larson for their fueling provider.

The pricing from Oscar W. Larson reflects the 10% discount on the equipment. The cooperative purchase agreement is providing us the best value available at this time. **There is no fee to the City to purchase from the Sourcewell contract.**

Budget/Staff Impact:

The Facility Fueling Upgrades are budgeted within the capital improvement projects.

Attachments:

Resolution Staff Review

CITY OF FLINT
Department of Finance
Fleet Division
1101 S. Saginaw Street
Flint, Michigan 48502

February 21, 2019

To: Purchasing

From: Mike Rule *MR*
Fleet Manager

Subject: Fuel Site Upgrades

The Fleet Department is requesting that the existing fuel pumps and key readers be replaced as they are obsolete and in constant need of repair. I am recommending these be replaced by Wayne model G6201P and G6202P pumps and FuelMaster FMU 2500 Plus terminals. This is the same system that the MTA, Flint Township and GC Road Commission are using.

I have obtained a quote from Oscar W. Larson Company for the upgrades that is open for the next 30 days.

THE OSCAR W. LARSON COMPANY

Corporate Office: 10100 Dixie Highway, Clarkston, MI 48348

Ph: (248) 620-0070 – (248) 549-3610 * Fx: (248) 620-0071 – (248) 620-0072

6568 Clay Avenue SW, Grand Rapids, MI 49548

Ph: (616) 698-0001 – Fx: (616) 698-2265

2100 Milbocker Road, Gaylord, MI 49735

Ph: (989) 732-4190 – Fx: (989) 732-3377

1816 N. Telegraph Road, Dearborn, MI 48124

Ph: (810) 217-6524 – Fx: (313) 278-6030

26670 Glenwood, Suite B, Perrysburg, OH 43551

Ph: (419) 873-0555 – Fx: (419) 873-0559

3731 Interchange Road, Columbus, OH 43204

Ph: (614) 907-7629 – Fx: (614) 310-8896

321 Conover Drive, Franklin, OH 45005

Ph: (513) 813-7650 – Fx: (513) 813-7651

7626 Disalle Boulevard, Fort Wayne, IN 46825

Ph: (260) 496-9870 – Fx: (260) 496-9480

6462 Oaklandon Road, Indianapolis, IN 46236

Ph: (317) 337-9473 – Fx: (317) 337-9474

4706 Pinewood Road, Louisville, KY 40218

Ph: (502) 442-2308 – Fx: (502) 632-6382

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Page 1 of 2

To: City of Flint

Date: April 26, 2019 (Revised)

Phone: (810) 691-6488

Attention: Mike Rule

Email: mrule@cityofflint.com

- Conditions:**
- 1) This proposal is open for 30 days from the date stated above. However, prices of components, equipment and raw materials may increase before the date such items are ordered. If so, such increases will be added to the quoted cost. THE OSCAR W. LARSON COMPANY will itemize such costs upon receipt of a signed Proposal. If such cost increases are unacceptable to Customer, Customer may elect to cancel order under the terms of the Master Services Agreement.
 - 2) This Proposal and the Master Services Agreement constitute the full and complete agreement of the parties, and any inconsistent terms stated in any acceptance, invoice, purchase order, or any other document whatsoever are ineffective. This provision conforms to the requirements of RC 1302.10 (B) (1).
 - 3) Contract documents incorporated by reference as though fully stated herein:
 - 1) The Master Services Agreement
 - 2) This Proposal

Special Terms: 25% upon acceptance of proposal, 25% on commencement, balance prior to start up (or) upon completion of proposal (Based on Approved Credit).

SUBJECT: Facility Fueling Upgrades

A. 12th Street Yard – 702 West 12th Street

1. Remove existing fuel management system and two (2) pumps.
2. Supply and install one (1) FuelMaster FMU 2500 Plus and two (2) Wayne model # G6202P dual hose, single product pumps.

Total Price, A: \$ 26,491.00

B. Police Headquarters – 210 East Fifth Street

1. Remove fuel management system and one (1) pump.
2. Supply and install one (1) FuelMaster FMU 2500 Plus and one (1) Wayne model # G6201P single hose, single product pump.

Total Price, B: \$ 13,690.00

C. Fire Station #1 – 310 East Fifth Street

1. Remove fuel management system and two (2) pumps.
2. Supply and install one (1) FuelMaster FMU 2500 Plus and two (2) Wayne model # G6201P single hose, single product pumps.

Total Price, C: \$ 19,845.00

D. Water Service Center – 3310 Court Street

1. Remove fuel management system and two (2) pumps.
2. Supply and install one (1) FuelMaster FMU 2500 Plus and two (2) Wayne model # G6201P single hose, single product pumps.

Total Price, D: \$ 19,845.00

E. Fire Station #5 – 3402 Western Road

1. Remove fuel management system and one (1) pump.
2. Supply and install one (1) FuelMaster FMU 2500 Plus and one (1) Wayne model # G6201P single hose, single product pump.

Total Price, E: \$ 13,690.00

THE OSCAR W. LARSON COMPANY

Corporate Office: 10100 Dixie Highway, Clarkston, MI 48348

Ph: (248) 620-0070 – (248) 549-3610 * Fx: (248) 620-0071 – (248) 620-0072

6568 Clay Avenue SW, Grand Rapids, MI 49548

2100 Milbocker Road, Gaylord, MI 49735

1816 N. Telegraph Road, Dearborn, MI 48124

26670 Glenwood, Suite B, Perysburg, OH 43551

3731 Interchange Road, Columbus, OH 43204

321 Conover Drive, Franklin, OH 45005

7626 Disalle Boulevard, Fort Wayne, IN 46825

6462 Oaklandon Road, Indianapolis, IN 46236

4706 Pinewood Road, Louisville, KY 40218

Ph: (616) 698-0001 – Fx: (616) 698-2265

Ph: (989) 732-4190 – Fx: (989) 732-3377

Ph: (810) 217-6524 – Fx: (313) 278-6030

Ph: (419) 873-0555 – Fx: (419) 873-0559

Ph: (614) 907-7629 – Fx: (614) 310-8896

Ph: (513) 813-7650 – Fx: (513) 813-7651

Ph: (260) 496-9870 – Fx: (260) 496-9480

Ph: (317) 337-9473 – Fx: (317) 337-9474

Ph: (502) 442-2308 – Fx: (502) 632-6382

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Page 2 of 2

To: City of Flint

Date: April 26, 2019 (Revised)

Phone: (810) 691-6488

Attention: Mike Rule

Email: mrule@cityofflint.com

SUBJECT: Facility Fueling Upgrades

F. Fire Station #6 – 716 West Pierson Road

1. Remove fuel management system and one (1) pump.
2. Supply and install one (1) FuelMaster FMU 2500 Plus and one (1) Wayne model # G6201P single hose, single product pump.

Total Price, F: \$ 13,690.00

G. Fire Station #8 – 202 East Atherton

1. Remove existing fuel management system and one (1) pump.
2. Supply and install one (1) FuelMaster FMU 2500 Plus and one (1) Wayne model # G6201P single hose, single product pump.

Total Price, G: \$ 13,690.00

H. FuelMaster Software

1. One (1) FuelMaster Windows based software program is required to be downloaded on owner's PC to control tracking of site reports. Oscar W Larson Company will assist owner's IT personnel for up to four (4) hours to install and program.
2. One Prokee Encoder (USB).

Total Price, H: \$ 3,370.00

➤ Prokees for vehicles are \$5.25 each additional and are not included in base bid.

GRAND TOTAL..... \$124,311.00

NOTES:

1. Pricing reflects the 10% discount on the equipment which you will receive when purchasing through the National Joint Purchasing Alliance (NJPA) program, a government buying cooperative for municipalities.
2. Wayne pumps are "standard flow" not high speed and include a 10:1 pulsar for communication to FuelMaster and a lighted display. These are mechanical pumps.
3. FuelMaster pedestal mounted unit is to be installed where existing wiring and communication lines are located.
4. Pumps are to be installed at the same location as existing pumps and price is based on reusing all existing piping and electrical conduit and wiring.
5. Price is based on reusing all existing hoses, nozzle, and breakaway assemblies.
6. Any communication wiring to owner's PC for software program will be done by owner's IT personnel.

Any questions, please contact me at (810) 217-1411.

ACCEPTANCE: This Proposal, when accepted by the purchaser, and approved by a Corporate Officer of the Oscar W. Larson Company, will constitute a contract between us, subject to all terms and conditions contained in the Master Services Agreement. It is expressly agreed that there are no promises, agreements, or understanding, oral or written, not specified in this proposal and the Master Services Agreement.

Randy Spiller/kf
Randy Spiller, Project Manager

4/26/19

Company Name _____

By: _____

Its: _____

The Oscar W. Larson Company

By: _____

Its: Charles A. Burns, President

Date: _____

RESOLUTION STAFF REVIEW

DATE:
2/20/19

Agenda Item Title:
Replacement of Fueling Site Pumps and Key readers

Prepared By:
Mike Rule

Background/Summary of Proposed Action:

The Fleet Department is requesting a purchase order Oscar W. Larson Company to perform the replacement of fuel pumps and key readers at all seven of the City's fueling sites. The current fuel key system, software and fuel pumps are obsolete and no longer supported by the manufacturers.

Financial Implications:

Budgeted? Yes No Please explain if no:

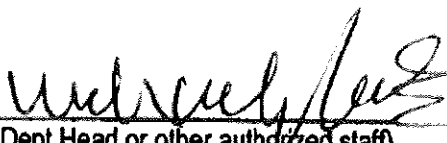
Account No.: 661-451.100-977.000

Pre-encumbered? Yes No Req# 190001475

Other Implications (i.e., collective bargaining):

Staff Recommendation: Approval

Staff Person:


(Dept Head or other authorized staff)

Michael Rule, Fleet Manager

190191

(Bid #19000008)

SUBMISSION NO.: _____

PRESENTED: 5-22-19

ADOPTED: _____

**RESOLUTION TO AIS CONSTRUCTION EQUIPMENT FOR THE PURCHASE OF A
VOGELE PAVER AND A HAMM ROLLER**

BY THE CITY ADMINISTRATOR:

RESOLUTION

The Street Maintenance Division is requesting the issuance of a purchase order to purchase a VogeLe Paver and a Hamm Roller; and

AIS Construction Equipment, 5655 Pontiac Trail, New Hudson, MI was the lowest vendor to submit a price and has submitted a cost to lease to purchase said equipment through the Houston-Galveston Area Council national contract #SM10-16. Funding for said services will come from the following accounts: 202-449.201-977.000 (\$62,633.28), 203-449.201-977.000 (\$62,633.28); and

IT IS RESOLVED, that the Department of Purchases and Supplies, upon City Council's approval, is hereby authorized to issue a purchase order to AIS Construction Equipment for the lease/purchase of a VogeLe Paver and a Hamm Roller in an annual amount not to exceed \$125,266.56 and an aggregate amount of \$626,332.80. If the City decides to purchase said equipment at the end of the lease, the additional purchase cost will be \$11,201.00 for a total purchase of \$637,533.80. (Local Street Fund, Major Street Fund) \$125,266.56 FY19, \$125,266.56 FY20, \$125,266.56 FY21, \$125,266.56 FY22. If final purchase is made, an additional \$11,201.00 will be in FY22.

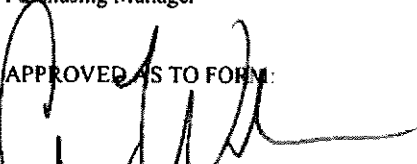
APPROVED PURCHASING DEPT.:


Joyce A. McClane
Purchasing Manager

APPROVED AS TO FINANCE:


Tamar A. Lewis
Deputy Finance Director

APPROVED AS TO FORM:


Angela Wheeler
Chief Legal Officer


Steve Branch, City Administrator

RESOLUTION STAFF REVIEW

DATE: April 5, 2019

Agenda Item Title: AIS Construction Equipment

Prepared By: Kathryn Neumann for Betty Wideman

Background/Summary of Proposed Action:

Currently, the paver and the roller the City of Flint owns are over 15 years old. The City of Flint is unable to buy parts to repair the paver. Due to this situation, Street Maintenance has been unable to pave large projects for the last year. Through HGACBUY, a cooperative purchasing program, Street Maintenance is requesting to purchase one paver and one roller.

Financial Implications: There is money in the account listed below.

Budgeted Expenditure? Yes No Please explain if no:

Account No.: 202-449.201-977.000, 203-449.201-977.000

Pre-encumbered? Yes No Requisition # 190001960

Other Implications (i.e., collective bargaining): None

Staff Recommendation: Recommend Approval

Staff Person: Betty J. Wideman
Betty J. Wideman, Transportation Division Manager



Dr. Karen Weaver, Mayor

**CITY COUNCIL MEMO FROM THE DEPARTMENT OF
PURCHASES & SUPPLIES**

Date: May 14, 2019

Agenda Item Title: Vogele Super 2000-3i Paver - Stock #J07620 Serial 11740048

Prepared By: Joyce McClane, Purchasing Manager

Background/Summary of Proposed Action:

A resolution is attached to authorize the purchase of Vogele Super Paver. The Paver is being purchased off of the HGACBUY Cooperative Contract. The Dealer and Provider for this brand of equipment is AIS for the City of Flint, Michigan.

H-GAC and the Cooperative Purchasing Program

The Houston-Galveston Area Council (H-GAC) is the largest of 24 Councils of Government (COG) in Texas, and is a political subdivision of the State of Texas. It has been serving local governments for more than 40 years.

H GAC's Cooperative Purchasing Program, known as HGACBuy, was established pursuant to Texas Interlocal Cooperation Act [Texas Local Government Code, Title 7, Chapter 791]. The Act allows local governments and certain non-profits to contract or agree under the terms of the Act to make purchases or provide purchasing services and other administrative functions appropriately established by another government entity. The Interlocal Contract (ILC) is the required legal document that establishes a link between the End User (local governments and certain non-profits) and HGACBuy, and gives the End User access to HGACBuy contracts.

H-GAC has established Interlocal Contracts with thousands of End Users throughout Texas and across the United States.

HGACBuy contracts are established based on the requirements of [Texas Local Government Code, Chapter 252]. Products and services are contracted after having been subjected to either a competitive bid (IFB) or competitive proposal (RFP) process. Contracts are blanket type, usually for a term of two or three years.

Use of HGACBuy for purchases by any End Users is strictly at the discretion of that entity. End Users issue their purchase orders to and pay directly the HGACBuy Contractor, AIS Construction Equipment.

Every H-GAC contract is the result of a formal competitive solicitation conducted by trained, professional procurement officials of a lead State's central procurement office under the direction of a lead state's State Procurement Official in accordance with that state's procurement statutes, regulations, and policies.

In Section 18-21.7 Public Entity Purchases – The Purchasing Director is authorized, if determined to be in the best interest of the City, to purchase goods and services for the City, relying on competitive processes undertaken by other public entities, including the federal Government, the State of Michigan, Municipalities, Special Purpose Districts, and authorities, and School Districts.

Purchasing the Vogele Paver from the HGACBUY contract, gives the City an opportunity to have competitive pricing which is base off a high-volume discount. If the City were to bid such products and services itself, it would not benefit from the shared purchasing power that the HGACBuy cooperative contract provides. **Attached is a list of all endusers in Michigan that are currently utilizing this cooperative bid.**

The pricing from AIS Construction Equipment reflects the 15% discount on the equipment. The cooperative purchase agreement is providing us the best value available at this time. **There is no fee to the City to purchase from the HGAC-Buy contract.**

Budget/Staff Impact:

The Paver is budgeted in capital improvement projects.

Attachments:

Resolution Staff Review



GRAND RAPIDS
 600 AIS Drive Southwest
 Grand Rapids, MI 49548
 Telephone: (616) 538-2400

SAGINAW
 4800 AIS Drive
 Bridgeport, MI 48722
 Telephone: (989) 777-0090

TRAVERSE CITY
 8300 M-72 East
 Williamsburg, MI 49690
 Telephone: (231) 267-9513

LANSING
 3800 North Grand River Avenue
 Lansing, MI 48906
 Telephone: (517) 321-8000

RICHMOND
 65809 Gratiot Avenue
 Lenox, MI 48050
 Telephone: (586) 727-7311

WEST DETROIT
 58555 Pontiac Trail
 New Hudson, MI 48165
 Telephone: (248) 437-8121

Mr. Robert Bincsik
 City of Flint
 Water Service Center
 3310 E. Court Street
 Flint, MI 48506

February 21, 2019

Subject: Full Payout Municipal Lease Pricing for Demo Vogele Super 2000-3i Paver

Dear Mr. Bincsik:

AIS Construction Equipment Corp. is pleased to provide you with the following lease pricing for new Demo Vogele Super 2000-3i Paver as quoted to you on our quote of 6/13/2018.

Full Payout Municipal Lease Pricing:

1. New Demo Vogele Super 2000-3i Paver	
As quoted on 6/13/2018:	\$457,075.00
Less Trade Value for 2000 Blaw Knox PF3200 as	
Quoted on July 9, 2018:	<u>(\$ 6,000.00)</u>
Net Total:	\$451,505.00

Lease Program: 5 Year Full Payout Municipal Lease:
 5 Annual Payments of \$ 98,120.61 Each
 Then final payment of \$1

We look forward to working with you on this project and on any other construction equipment projects you may have in the future.

Sincerely,

Chris Robinson
 Governmental Sales Manager





AIS Construction Equipment
 4500 AIS Drive
 Bridgeport, MI. 48722

QUOTE SUMMARY - Demo Super 2000-3i

Customer			
Name	CITY OF FLINT		
Address	702 W. 12TH STREET		
City	FLINT	State	MI. ZIP 48503
Phone			

Misc	
Date	6/13/2018
Attn	
Rep	KANE/ROBINSON
FOB	FLINT, MI

Qty	Description	Unit Price	TOTAL
1	Demo Vogele Super 2000-3i Stock # J07620 Serial 11740048 Hydraulic Front Apron Automatic Lubrication Hydraulic Screed Lock Wash Down Tank Rotating Beacon Back-up Alarm Six Working Lights Two Track Plows Carlson EZ-IV Screed With CCW Depth Screws 18" Hydraulic Berm Left & Right Side Heated End Gates Truck Hitch Hydraulic Tunnel Extensions 50 Hour Service Kit 500 Hour Service Kit 1,000 Hour Service Kit Niveltronic Plus, Slope & Joint Matcher		
	Total List Price:		\$ 579,500.00
	Less HGAC-Buy 15% Discount		\$ (86,925.00)
	Less Demo Use Credit		\$ (35,500.00)

SubTotal \$ 457,075.00
 Shipping Included
 MI Sales Tax
TOTAL NET DUE \$ 457,075.00

Payment
TERMS: NET 30 DAYS
Price good on stock machine only, machine currently has 500 hours

QUOTED PRICES FIRM FOR 30 DAYS. ALL QUOTES SUBJECT TO AVAILABILITY.



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Grand Rapids, MI 49548
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Telephone: (517) 321-8000

RICHMOND
65809 Gratiot Avenue
Lenox, MI 48050
Telephone: (586) 727-7311

WEST DETROIT
56555 Pontiac Trail
New Hudson, MI 48165
Telephone: (248) 437-8121

Mr. Mike Rule
Ms. Betty Wideman
City of Flint
702 West 12th Street
Flint, MI 48503

June 19, 2018

Subject: HGAC-Buy Pricing for Hamm HD+90iVV-HF and HD+110VVHF Tandem Rollers with Lease Option

Dear Mr. Rule & Ms. Wideman:

AIS Construction Equipment Corp. is pleased to provide you with the following pricing for new Hamm HD+90iVV-HF and new demo Hamm HD+110VV-HF Tandem Rollers.

Pricing:

1. New Factory Order Hamm HD+90i VV-HF as shown on the enclosed Quote Summary dated 6/13/2018: **\$141,831.00**

Lease Program: 5 Year Governmental Operating Lease:
5 Annual Payments of \$ 26,295.66 Each '
Then return or purchase for \$ 31,700.00

2. New Demo Hamm HD+110 VV-HF as shown on the enclosed Quote Summary dated 6/13/2018: **\$130,071.00**

Lease Program: 5 Year Governmental Operating Lease:
5 Annual Payments of \$ 27,145.95 Each
Then return or purchase for \$ 11,200.00

We look forward to working with you on this project and on any other construction equipment projects you may have in the future.

Sincerely,

Chris Robinson
Governmental Sales Manager





GRAND RAPIDS
600 AIS Drive Southwest
Grand Rapids, MI 49548
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WEST DETROIT
56555 Pontiac Trail
New Hudson, MI 48165
Telephone: (248) 437-8121

Mr. Mike Rule
Ms. Betty Wideman
City of Flint
702 West 12th Street
Flint, MI 48503

July 9, 2018

Re: Trade Value for Voge Super 2000-3 Paver Purchase

Dear Mr. Rule & Ms. Wideman:

AIS Construction Equipment Corp. is pleased to provide you with the following trade values for a machine to be traded in on a new Voge Paver.

2000 Blaw Knox Model PF3200 s/n 320027-20: \$ 6,000.00

Please let me know if you have any questions or need any additional information. We look forward to continuing to assist you with your heavy construction equipment needs.

Sincerely,

Chris Robinson
Governmental Sales Manager





AIS Construction Equipment
 4800 AIS Drive
 Bridgeport, MI. 48722

QUOTE SUMMARY - Hamm HD+110VVHF Roller

Customer			
Name	CITY OF FLINT		
Address	702 W. 12TH STREET		
City	FLINT	State	MI. ZIP 48503
Phone			

Misc	
Date	6/13/2018
Attn	
Rep	KANE/ROBINSON
FOB	FLINT, MI

Qty	Description	
1	Hamm Demo HD+110VVHF High Frequency Hours 90 Operating weight with rops 22,688 Drum width 66" 6.7" hydraulic offset Maximum working width 72.8" Turning radius inside 232.3" Drum thickness 0.87" Deutz TCD 3.6 L4 diesel engine tier 3 ISO 115 horsepower Fuel tank capacity 45 gallons Transport speed 7.5 mph Vibration frequency low/high 2,700/4,020 vpm Centrifugal force low/high 33,075/28,800 lbs. Water tank capacity 220 gallons Water system type, pressurized adjustable interval Price good on stock# J06852 only !!!!!!! Total List Price:	
	Less HGAC-Buy 15% Discount	\$ (23,310.00)
	Less Demo Use Credit	\$ (2,019.00)
	SubTotal	\$130,071.00

Payment
TERMS: NET 30 DAYS
Machine currently has 106 hours

Freight in	Included
Tax	
TOTAL NET DUE	\$130,071.00

QUOTED PRICES FIRM FOR 30 DAYS. ALL QUOTES SUBJECT TO AVAILABILITY.



AIS Construction Equipment
 4800 AIS Drive
 Bridgeport, MI. 48722

Hamm HD+90ivv

Customer			
Name	CITY OF FLINT		
Address	702 W. 12TH STREET		
City	FLINT	State	MI. ZIP 48503
Phone			

Misc	
Date	6/13/2018
Attn	
Rep	KANE/ROBINSON
FOB	FLINT, MI

Qty	Description	
1	New Hamm HD+90ivv Operating weight with rops 20,176 lbs. Deutz TCD 3.6 L4 Diesel 113 horsepower tier 4 final Vibration frequency low/high 2,700/4,020 vpm Centrifugal force low/high 15,075/18,900 lbs. Drum thickness .70" Working speed 0 - 4.0 mph Travel speed 0 - 7.5 mph Fuel tank capacity 45.7 gal. Water tank capacity 220 gal. Drum width 66" Track offset 6.7" Maximum working width 72.7 " Standard lights Rotating beacon	
	Total List Price:	\$ 168,860.00
	Less HGAC-Buy 15% Discount	\$ (25,029.00)

SubTotal \$ 141,831.00

Payment
TERMS: NET 30 DAYS

Freight in	Included
Tax	
TOTAL NET DUE	\$ 141,831.00

QUOTED PRICES FIRM FOR 30 DAYS. ALL QUOTES SUBJECT TO AVAILABILITY.



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WEST DETROIT
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New Hudson, MI 48165
Telephone: (248) 437-8121

Mr. Mike Rule
Ms. Betty Wideman
City of Flint
702 West 12th Street
Flint, MI 48503

July 9, 2018

Re: Trade Value for Hamm Tandem Roller Purchase/Lease

Dear Mr. Rule & Ms. Wideman:

AIS Construction Equipment Corp. is pleased to provide you with the following trade values for a machine to be traded in on a new Hamm Tandem Roller.

1999 Ingersoll Rand Model DD70 s/n 812938: \$ 8,000.00

Please let me know if you have any questions or need any additional information. We look forward to continuing to assist you with your heavy construction equipment needs.

Sincerely,

A handwritten signature in black ink, appearing to read "Chris Robinson", written over a horizontal line.

Chris Robinson
Governmental Sales Manager



19-8070

190192

(Proposal 19000563)

SUBMISSION NO.: _____

PRESENTED: 5-22-19

ADOPTED: _____

**RESOLUTION TO ROWE PROFESSIONAL SERVICES COMPANY FOR CONSTRUCTION
ENGINEERING SERVICES FOR TWO BRIDGES**

BY THE CITY ADMINISTRATOR


RESOLUTION

The Department of Purchases and Supplies solicited a proposal for construction engineering services for Torrey Rd. bridge (12th Street) over Carmen Creek reconstruction and Saginaw St. bridge over the Flint River rehabilitation; and

Rowe Professional Services Co., 540 S. Saginaw St., Suite 200, Flint, Michigan was the sole bidder from five solicitations for said requirements. Funding for said services will come from the following account: 202-441.702-801.000; and

IT IS RESOLVED, that the Proper City Officials, upon City Council's approval, are hereby authorized to enter into a contract with Rowe Engineering Inc. for construction engineering services for Torrey Rd. bridge (12th St.) over Carmen Creek reconstruction and Saginaw St. bridge over the Flint River rehabilitation in an amount not to exceed \$199,793.00. (Major Street Fund)

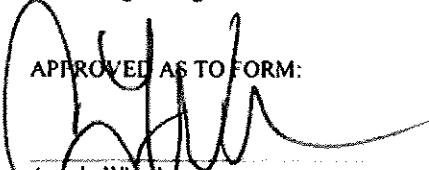
APPROVED PURCHASING DEPT.:


Bryce A. McClane
Purchasing Manager

APPROVED AS TO FINANCE:


Tamar A. Lewis
Deputy Finance Director

APPROVED AS TO FORM:


Angela Wheeler
Chief Legal Officer


Steve Branch, City Administrator

RESOLUTION STAFF REVIEW

DATE: May 7, 2019

Agenda Item Title: Construction Engineering (CE) Services for Torrey Road Bridge (12th Street) Over Carmen Creek Reconstruction, Saginaw St. Bridge and the Water Main at Torrey Road Bridge

Prepared By: Betty Wideman

Background/Summary of Proposed Action: The construction engineering services for the complete replacement of Torrey Road (12th St.) Bridge, minor repairs, including decking and bearings to Saginaw St. Bridge, and water main relocation at Torrey Rd. Bridge.

Financial Implications: None

Budgeted Expenditure? Yes No Please explain if no:

Account No.: 202-441-702-801.000

Pre-encumbered? Yes No Requisition #190002094

Other Implications (i.e., collective bargaining):

Without this purchase order the city is in danger of losing funding from MDOT for the bridge reconstruction and repair. The bridges are in dire need of repair and without the funding the bridges may have to be shut down to prevent vehicular traffic.

Staff Recommendation: Recommend Approval

Staff Person: Betty Wideman
Betty Wideman, Transportation Division Manager

19-8071

190193

SUBMISSION NO.: _____

PRESENTED: 5-22-2019

ADOPTED: _____

Resolution Authorizing Appropriate City of Flint Officials to Do All Things Necessary to enter into MDOT Contract 19-5088, Job No. 126579CON and 129257CON for the purpose of fixing the rights and obligations of the parties in agreeing to the following improvements: 12th Street (Torrey Rd.) over Carmen Creek, Str# 2828 and Saginaw St. over Flint River Str# 2849

BY THE CITY ADMINISTRATOR:

MDOT has submitted to the City of Flint Contract 19-5088, Job No. 126579CON and 129257CON for the purpose of fixing the rights and obligations of the parties in agreeing to the following improvements: 12th Street (Torrey Rd.) over Carmen Creek, Str# 2828 and Saginaw St. over Flint River Str# 2849 and all together with necessary related work.

The present estimated project cost is \$1,344,300.00, with a Federal share of \$1,075,500, State share of \$201,700.00 and the local share of \$67,100 (City of Flint), which is the equivalent of 20% of the project cost after a deduction of Federal and State aid. The State of Michigan allows overruns without City of Flint authorization, so the City of Flint has allowed an additional \$10,000 to be used if necessary. Funding is available in account 202-441.702-801.000.

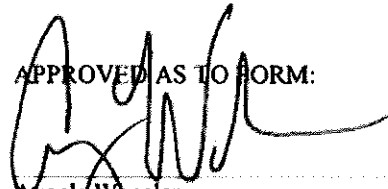
IT IS RESOLVED, that appropriate City Officials are authorized to do all things necessary to enter into MDOT Contract No. 19-5088, including local contribution of \$67,100.00 plus potential overruns in the amount of \$10,000.00 for a total of \$77,100.00. (Major Street Fund)

IT IS FURTHER RESOLVED, I, Dr. Karen W. Weaver, Mayor, am the duly authorized City official authorized to sign MDOT Contract 19-5088 on behalf of the City of Flint.

APPROVED AS TO FINANCE:


Tamar A. Lewis
Deputy Finance Director

APPROVED AS TO FORM:


Angela Wheeler
Chief Legal Officer


Steve Branch, City Administrator

RESOLUTION STAFF REVIEW

DATE: May 13, 2019

Agenda Item Title: MDOT – improvements: 12th Street (Torrey Rd.) over Carmen Creek, and Saginaw St. over Flint River

Prepared By: Kathryn Neumann for Betty Wideman

Background/Summary of Proposed Action: MDOT has proposed the following improvements: the removal and replacement of the bridge on 12th Street (Torrey Rd.) over Carmen Creek plus the reconstruction of the approaches to the structure. Rehabilitation work for the bridge on Saginaw St. over Flint River including deck patching, deck joint replacement, substructure repair, approach work and maintenance of traffic work, and all together with necessary related work.

Financial Implications: There is money in the account listed

Budgeted Expenditure? Yes No Please explain if no:

Account No.: 202-441.702-801.000

Pre-encumbered? Yes No Requisition 190002113

Other Implications (i.e., collective bargaining): None

Staff Recommendation: Recommend Approval

Staff Person: Betty J. Wideman
Betty Wideman, Transportation Division Manager

EXHIBIT I

CONTROL SECTION BRT 25402; BHT 25000
 JOB NUMBER 126579CON; 129257CON
 PROJECT 1900(436)(450)
 STRUCTURE # 2828; # 2849

TOTAL ESTIMATED COST	FEDERAL FUNDS (EST 80%)	STATE LOCAL BRIDGE FUNDS (EST 15%)	TOTAL FEDERAL & STATE AID	BALANCE REQ. PARTY'S SHARE
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PART A - STRUCTURE AND APPROACH WORK
(FEDERAL & STATE PARTICIPATION)

Construction (Contracted)	\$ 957,200	\$ 765,800	\$ 143,600	\$ 909,400	\$ 47,800
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PART B - STRUCTURE AND APPROACH WORK
(FEDERAL & STATE PARTICIPATION)

Construction (Contracted)	\$ 387,100	\$ 309,700	\$ 58,100	\$ 367,800	\$ 19,300
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GRAND TOTAL	\$ 1,344,300	\$ 1,075,500	\$ 201,700	\$ 1,277,200	\$ 67,100
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NO DEPOSIT REQUIRED

190194

RESOLUTION NO.: _____

PRESENTED: 5-22-19

ADOPTED: _____

**RESOLUTION TO APPROVE THE MEMORANDUM OF UNDERSTANDING
BETWEEN THE CITY OF FLINT AND BIOWORKS ENERGY, LLC**

BY THE MAYOR:

WHEREAS, the City of Flint entered into an agreement with Bioworks Energy, LLC on July 9, 2009 to for operation on the Water Pollution Control Plant.

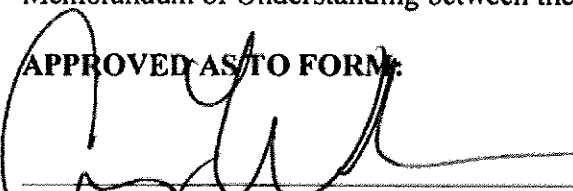
WHEREAS, Bioworks has purchased equipment that will help generate more waste streams into the biogas facility. The equipment, known as a depackager, will process packaged food waste and turn it into a waste stream that the digesters can process.

WHEREAS, the parties have agreed that the City shall lease existing facilities to Bioworks Energy, LLC for the purpose of housing the depacking operation at the Water Pollution Control Plant. Bioworks will be responsible for all maintenance and upkeep of the facilities it uses for the duration of this Lease. The City will receive increased tipping fee revenues, electrical power production, and an increase in local economic development. The Memorandum of Understanding is attached.

WHEREAS, Mayor, Dr. Karen W. Weaver recommends approving the Memorandum of Understanding between the City of Flint and Bioworks Energy, LLC.

THEREFORE, BE IT RESOLVED that the Flint City Council approves the Memorandum of Understanding between the City of Flint and Bioworks Energy, LLC.

APPROVED AS TO FORM:



Angela Wheeler, Chief Legal Officer

FOR THE CITY OF FLINT:



Dr. Karen W. Weaver, Mayor

APPROVED AS TO FINANCE:



Tamar Lewis, Deputy Finance Director

APPROVED BY CITY COUNCIL:

Herbert Winfrey, City Council President

Depackaging Equipment and Facilities Usage Memorandum of Understanding

This Memorandum of Understanding ("MOU") is entered into as of the last date of signature on the signature page of this Agreement ("Effective Date") by and between the City of Flint ("City") whose address is 1101 South Saginaw Street, Flint, MI 48502 and Bioworks Energy LLC ("Bioworks"), whose address is 4652 Beecher Road, Flint, Michigan 48532 .

RECITALS

1. Bioworks has purchased equipment that will help generate more waste streams into the biogas facility. The equipment, known as a depackager, will process packaged food waste and turn it into a waste stream that the digesters can process.
2. The purpose of this memorandum is to establish terms of Bioworks lease of certain City Water Pollution Control ("WPC") facilities to house the depackaging operation and other equipment used to promote the digestion operation and power production. The depackaging equipment will process "food waste". Food waste may consist of refuse due to quality control, out of date and expired, mislabeled, or contaminated product that a food processor needs to have "destroyed" to reduce downstream liability.
3. The depackaging equipment separates the packaging from the food via two means. The depackaging equipment first uses centrifugal forces and water to separate packaging materials from the food. Secondly, after separation from its packaging, the food, now in a slurry, is screened to remove any remaining packaging material. The slurry is then pumped into the digestion system for further processing.
4. The depackaging equipment will assist local and regional businesses increase their sustainability by keep the food waste out of the landfill as well as decrease waste processing cost.

AGREEMENT

1. The operation of the equipment will include the receiving of tractor trailers (or smaller in size) with pallets of packaged food. The packaged food will be offloaded and processed by the equipment. The separated and screened food waste will be pumped to one of the digesters.
2. The depackaging facility operations will be operated entirely by Bioworks.
3. The tipping fees for the packaged food waste will be set and handled similar to those for all other substrates. They have been established via Change Order No. 3 to the Operating Agreement with Swedish Biogas North America, attached as Exhibit 1. The rates are market based for the inbound material and residual disposal expenses.
4. The cost of disposal for packaging materials from the depackaging operation will be borne by the Project as an operating expense. The City will not be responsible for any costs, such as landfill fees, for the disposal of the packaging remnants.
5. The City will not be responsible for any new development costs, such as equipment, building modifications, or installation expense.

6. The City is hereby leasing existing facilities for the operation at the Water Pollution Control Plant. Biogas hereby leases the Zimpro facilities for a yearly rate of \$2400.00 , unless and until the City decides to utilize these facilities for another purpose. In such a case, the City will notify Bioworks 60 days before they must vacate the premises.
7. The yearly leasing rate of the Zimpro facilities is reduced because the City will share in the tip revenue and Bioworks is responsible for updates to the Zimpro facility.
8. Bioworks estimates approximately 10,000 gallons per day (5 days per week) of waste will be generated from the depackaging operation once the operation and marketing of the service is completed.
9. Bioworks estimates tip fee revenue of approximately \$0.10 per gallon of slurry.
10. In addition to the larger waste volumes and their associated revenues, the depackaging operation will provide an advantage to the City of Flint - Bioworks partnership in maintaining a more constant stream of organic feedstocks (substrates) for the digester. The delivery of external feedstocks for the digester are not a given, and at any time the current feedstock could be diverted away from the plant to another outlet. Adding depackaging at the plant will provide greater reliability for continuous inputs of high energy feedstocks (organic loading), as it will be the only depackager in mid and southeast Michigan. In addition, the depackager operation will allow a higher level of control of the feedstocks that can be delivered into the plant as compared to the other bulk loads of liquid waste.
11. From the slurry that is produced from the depackaging operations, additional biogas will be produced. It is estimated that approximately 200 to 300 kW of electrical power will be gained from the additional biogas produced by the digestion of the food waste slurry. The additional power generation will increase the cost savings to the City through lower electrical rates.
12. The Zimpro building and complex will house the depackaging operations. There are also two outside tanks of 240,000 gallons each, and a metal shed, all of which are unused. The building also contains a 40,000 gallon in-ground tank (known as the blended sludge well) that was used for the "Zimpro" process. The tank, which has not been used for over 25 years, is to be used to receive and store the feedstocks that are generated by the depackaging operation prior to being pumped over for digestion. The tank may also be used this way for other trucked substrates, to promote more operational control over the blending of the wastes.
13. The City will maintain ownership of the facilities, including the in-ground tank, but Bioworks is responsible for all maintenance and upkeep of the facilities it uses for the duration of this Agreement. Biogas shall maintain ownership of all equipment, fixtures and other property it installs with the right to remove the same at the end of the lease. Bioworks will notify the City 60 days before ending the lease agreement.
14. It is understood that the City WPC may at some point want to install dewatering or other equipment within this same location in the future. The City will maintain its right to use the facilities when needed. In such a case, Bioworks will remove its equipment.
15. In case the City repurposes the Zimpro facilities, the City will reasonably consider Bioworks be allowed to either utilize alternative unused City facilities, or construct a structure in the vicinity of the Zimpro building in which the equipment can be relocated, subject to City of Flint approval. The costs incurred for the construction said structure will be borne by Bioworks Energy LLC, but as it would be on WPC Plant grounds, its ownership will revert to the City once Bioworks stops using it for depackaging, unless it

is dismantled and removed from the site at Bioworks expense within 90 days. Biogas may remove any equipment and other property installed in the new structure whether it removes the building or not.

16. Prior to the commencement of full operations in the building, Bioworks will bear the costs of the ceiling repainting and installation of any needed piping before using the Zimpro facilities for the new depackaging equipment. The installation of the equipment on plant grounds will further the already strong partnership that exists between the City and Bioworks by increasing tipping fee revenues, electrical power production, and spurring local economic development.
17. **Public Relations.** Biogas agrees that it shall make no reference to any contractual arrangements with the City of Flint in any advertising, promotional literature or other public statement without the prior written consent of the City's Public Information Officer, which consent shall not be unreasonably withheld or delayed, except to the extent such statement is required pursuant to any law. The parties agree to issue a press release relating to this Agreement, upon the execution of this Agreement.
18. **Environmental Protection.** Biogas shall not, directly or indirectly use any equipment to handle, process, store, transport, or dispose of any contaminants and/or Hazardous Material, (b) generate any contaminants and/or Hazardous Material in violation of Environmental Laws, (c) conduct any activity that is likely to cause a Release or threatened Release of any contaminants and/or Hazardous Material in violation of Environmental Laws, or (d) otherwise conduct any activity or use any of their equipment in any manner that is likely to violate any Environmental Law or create any Environmental Liabilities for the City. In the event any contaminants and/or hazardous materials are introduced to the depackager, Biogas shall immediately notify the City of Flint Director of Public Works and Biogas is responsible for any and all costs associated from the introduction of the contaminations or hazardous materials.

The City of Flint and Bioworks Energy LLC agrees, through its authorized representatives, to the above Depackaging Equipment Memorandum of Understanding. All other terms and conditions of the existing contract(s) between the City of Flint and Bioworks Energy LLC shall remain in effect.

BIOWORKS ENERGY LLC:

Chad L. Antle, P.E.
Chief Executive Officer

Date

CITY OF FLINT, a Michigan Municipal Corp.:

Dr. Karen W. Weaver
Mayor

Date

APPROVED AS TO FORM:

Dr. Angela Wheeler
Chief Legal Officer

Date

EXHIBIT 1

Bioworks Assignment Information

590-550.106-928.400

Submit this portion of statement with your payment. Make check payable to Metro Community Development, Inc. Please write your **LOAN NUMBER** on your check.

To pay the entire loan in full, call for an exact payoff balance (which will include daily interest charges not yet assessed on your account).

Loan# UST201322 Name: Chad Antle for Bio Works Payment Due Date: 5/1/2015 Installment Due: \$2,178.10	Loan# UST201322 Name: Chad Antle for Bio Works Payment Due Date: 6/1/2015 Installment Due: \$2,178.10
Loan# UST201322 Name: Chad Antle for Bio Works Payment Due Date: 7/1/2015 Installment Due: \$2,178.10	Loan# UST201322 Name: Chad Antle for Bio Works Payment Due Date: 8/1/2015 Installment Due: \$2,178.10
Loan# UST201322 Name: Chad Antle for Bio Works Payment Due Date: 9/1/2015 Installment Due: \$2,178.10	Loan# UST201322 Name: Chad Antle for Bio Works Payment Due Date: 10 /1/2015 Installment Due: \$2,178.10
Loan# UST201322 Name: Chad Antle for Bio Works Payment Due Date: 11/1/2015 Installment Due: \$2,178.10	Loan# UST201322 Name: Chad Antle for Bio Works Payment Due Date: 12/1/2015 Installment Due: \$2,178.10

EM SUBMISSION NO: EMA0502015

PRESENTED: 2-11-15

ADOPTED: 2-12-15

RESOLUTION AUTHORIZING CHANGE ORDER NO. 3 TO THE OPERATING AGREEMENT WITH SWEDISH BIOGAS NORTH AMERICA

BY THE EMERGENCY MANAGER:

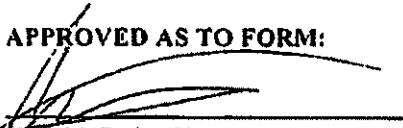
Pursuant to the authority granted the Emergency Manager by Public Act 436 of 2012, the Operating agreement (Contract 09-118) between the City of Flint (Licensee) and BioWorks Energy LLC (Licensor) shall be amended to provide language specific to assignability of payment; and

Bioworks Energy, LLC and the City of Flint are parties to (1) a Development Agreement dated July 9, 2009 (the "Development Agreement") for the development, construction, and installation of a biogas plant at the City's Water Pollution Control Plant; and (2) an Operating Agreement dated July 9, 2009 (the "Original Operating Agreement") for the establishment and operation of a biogas plant. The biogas plant was completed and commenced operations on September 12, 2011; and

In order to acquire the financing to procure equipment critical to the installation of the Electrical Plant and its operation it is necessary to amend the Contract with Bioworks Energy LLC, Section 16 (d) of the Operating Agreement 09-118. Said amendment will allow for the assignability of payment for the purchase of such equipment provided it is agreed upon by both The City and Licensor.

IT IS RESOLVED, that the Emergency Manager does, on behalf of the City of Flint, authorize Change Order No. 3 to Contract 09-118, Biogas Production Operating Agreement. In the case of a conflict between the terms and provisions of the original Operating Agreement and the terms and provisions of this Change Order, the terms and provisions of the Change Order shall control.

APPROVED AS TO FORM:


Peter M. Bade, City Attorney

APPROVED AS TO FINANCE:


Dawn Steele, Deputy Finance Director

EM DISPOSITION:

ENACT REFER TO COUNCIL _____ FAIL _____


Gerald Ambrose, Emergency Manager

DATED: 2/12/15

**CONTRACT 09-118, CHANGE ORDER 3
BIOWORKS ENERGY, LLC
OPERATING AGREEMENT**

This Amended Operating Agreement (together with all exhibits and attachments to this Operating Agreement, if any, this "Agreement") is effective the day it is executed (the "Effective Date") by and between the following parties.

BioWorks Energy LLC a Michigan limited liability company ("Licensor")
PO Box 773
Grand Blanc, MI
Attention: Chief Executive Officer

(Formerly known as Swedish Biogas International LLC)

And

The City of Flint, Michigan ("Licensee")
1101 S. Saginaw
Flint, MI 48502
Telephone: (810) 766-7346
Attention: Darrell Earley, ICMA-CM, MPA, Emergency Manager

Each of Licensor and Licensee is a "Party" and they are, collectively, the "Parties."

Background

- A. BioWorks Energy LLC (formerly known as Swedish Biogas International, LLC) is a licensee under a license agreement between Swedish Biogas International AB as a licensee and Tekniska Verken i Linköping AB and Svensk Biogas i Linköping AB as licensor with respect to technology and processes associated with the generation of biogas and the application of related technologies to wastewater treatment operations.
- B. Licensor holds an exclusive sublicense from Swedish Biogas International AB under which Licensor is in a position to license for use by Licensee such technologies.
- C. Licensor and the Licensee are parties to (1) a Development Agreement dated July 9, 2009 (the "Development Agreement") for the development, construction, and installation of a biogas plant at the Licensee's water pollution control facility (the "WPC Facility"); and (2) an Operating Agreement dated July 9, 2009 (the "Original Operating Agreement") for the operation of the biogas plant, pursuant to which the Parties have been operating the biogas plant and shall continue to operate as provided herein.
- D. Pursuant to the Original Operating Agreement, the Parties entered into a license and related arrangements under which Licensor has made available to Licensee technologies and certain services, Licensee has implemented such technologies, the Parties are cooperating to maximize the benefit to Licensee of the technologies, and the Parties are splitting cost savings, and other financial benefits of the implementation of the technologies.
- E. The biogas plant was completed and commenced operations on September 12, 2011.

- F. The parties now agree to amend and restate the Original Operating Agreement on the terms stated herein.

Agreement

1. **Certain Definitions.** Without limiting any other defined term in this Agreement, the following terms will have the following meanings.
- (a) An "Affiliate" of, or a person "affiliated" with, a specific person is a person that directly, or indirectly through one or more intermediaries, controls, or is controlled by, or is under common control with, the person specified.
 - (b) "Biogas Plant" means the biogas plant as constructed at the WPC Facility and as commissioned on September 12, 2011, including the South Digester if commissioned, and use of the East Tank for External Substrate receiving.
 - (c) "Business Day" means a Monday, Tuesday, Wednesday, Thursday, or Friday upon which the United States Federal Reserve System is open for business.
 - (d) "Collateral Improvements" means all discoveries, disclosures, patent applications, and patents (including reissues and re-examinations and extensions) within the Field.
 - (e) "Control" (whether with or without initial capitals, and including the terms "controlling," "controlled by" and "under common control with") means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting shares, by contract, or otherwise.
 - (f) "Core Improvements" means all inventions, discoveries, disclosures, patent applications and patents (including all reissues, re-examinations and extensions), that are developed by Licensor's or Licensee's personnel that represent improvements to the Licensor's Know-how.
 - (g) "Electrical Plant" means the electrical generation system, as the same is installed by the Licensor that utilizes the biogas produced by the Biogas Plant.
 - (h) "External Substrates" means organic waste materials used to generate biogas other than sewage sludge generated by the WPC Facility's primary and secondary clarifiers.
 - (i) "Field" means the development, design, production, marketing, sale and use of biogas using organic substrates as the raw materials source.
 - (j) "Know-How" means all designs, studies, drawings, test results, computer simulations and analyses, reports, technical information, specifications, trade secrets and confidential information within the Field, including those relating to all Core Improvements and Collateral Improvements, whether developed before or during the Term, or by Licensor's or Licensee's personnel, and including copyrighted information.

- (k) **"Licensed Product"** means the methods of improving production and the use of biogas and any modified, derivative or later generation product using the Licensed Technology. Licensed Product is not anaerobic digestion as a means to stabilize sewage sludge and the subsequent use of biogas generated there from.
- (l) **"Licensed Technology"** means the Core Improvements, the Licensor's Collateral Improvements and the Licensor's Know-how.
- (m) **"Licensee's Collateral Improvements"** means Collateral Improvements developed by Licensee's personnel.
- (n) **"Licensee's Know-How"** means all Know-how developed by Licensee's personnel.
- (o) **"Licensor Collateral Improvements"** means Collateral Improvements developed by Licensor's personnel.
- (p) **"Licensor's Know-How"** means Know-How developed by Licensor's personnel.
- (q) **"Major Improvement"** means a Core Improvement that Licensor makes after the Effective Date that is, as of the time of determination, the subject of (i) an issued patent whose term has not yet expired, or (ii) an active patent application that is being pursued with commercially reasonable diligence; in either case under the law of a World Intellectual Property Organization country.
- (r) **"Operations"** are the Plant's operations and maintenance, including, but not limited to, the production of biogas and other implementation of technologies and operations contemplated by this Agreement.
- (s) **"Person"** (whether with or without initial capitals) means an individual, a corporation, a partnership, a limited liability company, an association, a joint-stock company, a business trust, unincorporated organization, or unit of government.
- (t) **"Plant"** means the Biogas Plant and the Electrical Plant.
- (u) **"Purpose"** means the generation and use of biogas for the generation of electricity and potentially the refining, marketing, and sale of excess biogas, in connection with the operation of the Plant.

2. **License.**

- (a) **License Grant.** Subject to the terms of this Agreement, Licensor hereby grants to Licensee, for the Term and as stated in Section 13(e), non-exclusive, non-transferrable license, without right to sublicense, under the Licensed Technology to make, have made, manufacture, and use Licensed Products for the Purpose during the Term (such license being the "License").
- (b) **Rights Retained.** For the avoidance of doubt, Licensor hereby retains for itself all rights in the Licensed Technology not expressly granted under this License.
- (c) **Licensee's Collateral Improvements and Know-how.** Licensee hereby grants to Licensor a perpetual (including after the Term), royalty-free license, with the right to further disclose and sublicense, the Licensee's Collateral Improvements and the

Licensee's Know-How. Licensee retains all rights to use the same for its own purposes, however.

3. **Disclosure of Know-How.** Throughout the Term, each Party shall provide the other Party copies of any Know-how as requested by the other Party, and shall make its personnel available on a reasonable basis to review and discuss Know-how and the design, development, manufacture, use, and marketing of Licensed Products that are designed, developed, manufactured or used at the Plant.

4. **Compensation, Services, and Access**

(a) In general, the Licensor shall have the right to act as the Licensee's agent to seek External Substrates from third parties and shall be entitled to 50% of all net income from tipping fees, if any, received for the processing of External Substrates. Acceptance of such substrates is subject to WPC Plant protocols, and approval of the WPC Supervisor.

(b) Licensor shall provide (or cause to be provided) all equipment, materials, labor, and management to provide for the construction and installation of an Electrical Plant within one year of the execution of this Change Order. Licensor shall provide all equipment, materials, labor and management for the operation, maintenance, interconnection, and repair of the Electrical Plant. The Electrical Plant will use biogas to produce electricity to be used entirely by the WPC Facility. Licensee will continue to maintain and operate the Biogas Plant, and produce the biogas.

(c) Licensor shall sell to Licensee, and Licensee shall purchase from Licensor, all the output from the Electrical Plant at a cost equal to ninety percent (90%) of the tariff in effect from Consumers Energy (or other public utility source available to the City of Flint) that would otherwise be charged to the Plant. Such rate is to be adjusted when changed by the utility. Any charges by the public utility or other source incurred by the City as a result of onsite generation of electricity, such as additional readiness to serve charges, shall be paid by the Licensee up to a limit of the 10% cost difference between the two sources of electricity. Charges in excess of WPC's electrical unit cost savings shall be paid by the Licensor.

(d) Compensation – Instead of the original compensation formula for overall cost savings, which was based entirely on a variable savings dependent on the amount of biosolids processed, Licensee will pay a monthly fee to the Licensor as detailed in Section 7. The fee will consist of a fixed Net Service Fee (NSF) amount and a variable commission. The variable portion shall consist of the above tipping fee revenue, and revenues from the sale of electricity (above a minimum) to the WPC Plant. The fixed portion shall compensate the Licensor for average cost savings in biosolids processing, and providing certain other services as described herein, less processing expenses.

(e) Electrical Plant name plate capacity range from 150 to 800 kW. An increase in capacity beyond this range may be made upon a future mutual agreement.

Licensee shall not be obligated to purchase more electrical power than the WPC Facility can effectively utilize.

- (f) **Biogas Quantity.** The Parties acknowledge that economic production of power from the biogas depends on the availability of an adequate quantity and quality of the biogas fuel. Both parties will strive to maximize gas production, within the limitations of the WPC Plant. However, the Licensee guarantees biogas production at the minimum average monthly rate set forth in Exhibit A. Licensee will pay the Licensor a minimum monthly fee for the first 150 kW of electricity, which assumes this biogas production rate, as long as the conditions listed in Exhibit A are met. This fee will not be payable unless Licensor is able to deliver the minimum 150 kW to the WPC plant for the entire month, other than periodic outages for routine or preventative maintenance.
- (g) **Biogas Quality.** Licensee shall implement reasonable measures to provide biogas of adequate quality, and the existing biogas handling equipment and Electrical Plant. In the event that the biogas quality does not meet the above standards, the Licensee shall make reasonable efforts with its own resources to restore biogas quality to an acceptable level, such as adjusting or modifying the wastewater or biosolids treatment processes.
- (h) **Storage Tank.** Generally, Licensor shall provide the use of one of its sludge tanks for storage and as a receiving tank for External Substrates, and the Licensee shall feed the digester both municipal biosolids and the External Substrates from this tank. The daily feed rates shall be set in consultation with the Licensor to create the volume of and generation rate of biogas needed to meet 100% of the fuel demands of the Electrical Plant. Use of this tank shall be subject to the needs of the Licensee for sludge storage and processing, however, and alternate processing protocols may be used as plant operational needs dictate.
- (i) **Additional Capacity.** Licensee will assist and coordinate with Licensor to accept External Substrate(s) as a means to provide funding to help effect necessary improvements, including the recommissioning of the South Tank, utilizing the equipment and materials purchased by the Licensor and as detailed in Exhibit C.
- (j) **Volumes of External Substrates.** Licensor will coordinate with Licensee to accept maximum volumes of External Substrate(s), subject to the processing needs of the plant. Licensee shall operate its downstream processes to allow acceptance of maximum volumes of substrates.
- (k) **External Substrate Management.** Licensor shall follow Licensee's protocol and restrictions for acceptance of External Substrates. External wastes that degrade WWTP effluent quality or inhibit the biological processes are not to be accepted.
- (l) **Use of Biosolids.** The Digesters must provide 40 CFR 503 Class B biosolids suitable for land application by maintaining a hydraulic residence time of 15 days

at a digester temperature equal to or greater than 95 degrees Fahrenheit. No additional fee for use of Class B biosolids will be charged to Licensee by Licensor. Required testing for the disposal of biosolids will be the responsibility of Licensee.

- (m) **Class A EQ Biosolids.** Licensor and Licensee may at the Licensee's discretion pursue the classification of the biosolids generated by the digesters to be recognized as 40 CFR 503 Class A (Exceptional Quality, EQ). Licensor and Licensee shall equally share the cost of testing required to gain Class A EQ qualification.
- (n) Licensee and Licensor shall strive to achieve the lowest of cost disposal for all of the residuals produced by the Digester. Means of disposal shall be determined at the discretion of the Licensee.
- (o) Licensor shall provide quarterly status reports to Licensee describing the accomplishments of the Biogas Plant and the Electrical Plant for that quarter, and plans and objectives for the next quarter. Reports shall include the amounts of biosolids processed, biogas produced, electricity produced, and revenue generated.
- (p) Licensor shall provide to the Licensee consulting services and training services related to the Licensed Technology.
- (q) Licensor shall provide to the Licensee up to 460 hours per year of civil engineering and project management services within the capabilities of the Licensor. Licensor shall not be required to provide engineering services outside of the Licensor's professional capabilities, expertise, and licensing.
- (r) Licensor shall provide at least one degreed engineer possessing an active Michigan civil engineering license throughout the term of this agreement. The services shall be furnished to the City on demand.
- (s) Licensor shall provide all construction according to applicable industry standards. Licensee may direct Licensor to immediately correct substandard work.
- (t) Licensee will take the following actions with respect to the Licensor and its employees:
 - (i) Grant physical access to the WPC Facility;
 - (ii) Will allow limited access to the WPC Facility's internal data management systems for read only real-time, or quasi-real time access to process information, including Plant process alarms for the purposes of monitoring, data collection, data sharing, and troubleshooting provided that (A) the Licensee's obligations under this subsection shall be subject to all applicable technical limitations, and (B) Licensor provides reasonable measures to maintain WPC facility system security, and (C) the Licensor shall be solely responsible for the improvements necessary to provide access to read only data;
 - (iii) Licensor will allow Licensee to have access to its internal data

management system located at the Plant and;

- (u) The Licensor's obligation to provide the Services shall terminate after the orderly unwinding of its Service to the Licensee upon the expiration of the Term.

5. Ownership. Title to the equipment described in Exhibit C shall be deemed personal property, and it is owned the Licensee.

6. Access. Licensee hereby grants Licensor during the Term of this Agreement access to certain facilities located at WPC and generally identified as the Digester Control Building (including the North, South, and East Sludge Tanks) in which Licensor may construct, install, locate, the Electrical Plant equipment, together with the right of ingress and egress thereto and the right to connect all such equipment of Licensor to the WPC Facility as contemplated herein. Licensor shall be permitted to use the Premises for the location, construction, installation, operation, repair, and maintenance of the Electrical Plant and all property constituting the same and for all purposes related or ancillary thereto. Access to the WPC electrical systems shall be provided subject to permissions of the WPC Supervisor or designee. Electrical modifications shall be made in accordance with plant standards, and shall not reduce the system reliability or lead to increased costs. Licensor shall correct any problems caused by the Electrical Plant.

7. Service Fee

(a) Service Fee Amount and Terms. Licensee shall pay Licensor a Service Fee of \$14,750 per month less any expenses as determined from formulae stated in Exhibit A (Net Service Fee). Service Fee shall be adjusted on January 1st of the next calendar year in accordance with the *Consumers Price Index for Detroit-Ann Arbor-Flint (CPI-U), All Items Composite Percent Change* from the previous 12 months over the term of the agreement.

(i) Statement of Service Fee. Within ten days after the conclusion of each calendar month that occurs during the Term, the Parties will jointly and in good faith prepare and agree upon a statement of the Service Fee less any applicable expenses as determined by Exhibit A, (the "Net Service Fee") for the calendar month just ended. Any failure of the Parties to agree upon such a statement of Net Service Fee will be resolved according to Section 12.

(ii) Payment. Within twenty days after the conclusion of each calendar month during the Term, Licensee will pay to Licensor an amount equal to the Net Service Fee for that calendar month.

(iii) Disputes. If any dispute arises over the calculation of the Net Service for any calendar month:

A. Licensee shall pay to Licensor an amount equal to 100% of the amount of the Net Service Fee that is not disputed by the Parties in such month (the "Undisputed Amount"); and

B. Within ten days after the conclusion of the dispute resolution process, Licensee will pay to Licensor 100% of the amount (if any) by which the total Net Service Fee in such month, as finally

determined, exceeds the Undisputed Amount in such Month.

(iv) **Proration.** If a calendar month does not fall entirely within the Term, the payment obligations under this Section will apply to so much of the calendar month as falls into that calendar month, prorated accordingly.

(b) **Right of Access to Books and Records.** Licensee will make available to Licensor, at reasonable times and at reasonable places, its books and records reasonably necessary to fully inform Licensor as Licensor engages in determination of the revenues, expenses and service fees.

8. **Prospective Operations.** At any time during the Term, either Party may request that the Parties enter into discussions with respect to composting of the digested biosolids or the production, marketing, and use of vehicle-grade methane or associated biogas fuels at, or in conjunction with, the Plant. If a Party so requests, the Parties will discuss and negotiate in good faith such matters. Any rights or obligations with respect to composting or the production, marketing, or use of such fuels will be the subject of a separate definitive agreement executed by the Parties, which will generally provide for sharing of the profits or cost savings from such activities.

9. **Infringement.**

(a) Each Party shall give prompt notice to the other of any apparent or alleged material infringement of the Licensed Technology by third parties or any claim by third parties alleging that the Licensed Technology infringes on patent or other intellectual property rights of any third party or is otherwise invalid.

(b) If any action is commenced against Licensor or Licensee that alleges that the Licensed Technology or the Licensed Products infringe the claims of any patent, copyright, trademark, trade secret, or other intellectual property rights, or that the technology license under this Agreement is invalid, Licensor shall have the right, but not the obligation, to defend such action in its own name and/or in the name of Licensee. Licensee shall give to Licensor notice of any action within five days of becoming aware of such action, and Licensee shall promptly furnish to Licensor all information and documents related to the Licensed Technology and the Licensed Products that are within Licensee's possession, custody or control to enable such defense to be conducted. Licensor shall have the right, but not the obligation, to resolve any matter alleging infringement by Licensor or Licensee by:

- (i) Obtaining a license to the technology alleged to be infringed;
- (ii) Ceasing to provide the Licensed Technology;
- (iii) Modifying the Licensed Technology so it is no longer infringing; or
- (iv) Terminating this Agreement.

10. **Confidentiality and Non-Competition.**

(a) **Confidentiality.**

The Parties are parties to the Confidentiality and Non-Disclosure Agreement dated as of October 10, 2008 (the "Non-Disclosure Agreement"). Except as expressly modified by this Agreement, the terms and conditions of the Non-Disclosure Agreement shall apply to information provided by one Party to the other pursuant to the terms of this Agreement.

To the extent that the term "Proprietary Information," as defined in the Non-Disclosure Agreement does not include any of the following things, the term is hereby expanded to include the following things.

All information or documentation relating to Licensor or the Licensee, the Licensed Technology (including Licensor's Collateral Improvements and Licensor's Know-How), Licensee's Collateral Improvements and Licensee's Know-How and whether relating to competences, prices, methods of business, business or market plans, products or services (but not including general descriptions of products and services), customers, employees, statistics, agreements and contracts, market information, trademarks, trade names, designs, utility models or other intellectual property rights, blueprints, documents, engineering specifications, models, manufacturing processes; and

All other information or materials, whether written or oral, tangible or intangible, that has been marked by a Party as "confidential", "internal," "non-public" or any other similar marking or information or documentation that is customarily regarded as identifying information as confidential or proprietary.

Notwithstanding anything to the contrary in the Non-Disclosure Agreement, the confidentiality restrictions set forth in the Non-Disclosure Agreement shall be perpetual and indefinite with respect to any Proprietary Information that is a "trade secret" as defined in the Uniform Trade Secrets Act.

(b) Non-Competition.

- (i) Licensee shall not, and shall not permit any of its Senior Level Employees (as defined below) to, directly or indirectly, either for itself or for any other individual, corporation, company, partnership, joint venture, unit of government or other person or entity, other than for the direct benefit of Licensee's own internal operations as expressly permitted by this Agreement, conduct business in the Field using any Licensed Technology anywhere in the world during the Term and for the period ending on the third anniversary of the end of the Term.
- (ii) Licensee shall require each of its present and future Senior Level Employees to sign an agreement not to conduct business in the Field using any Licensed Technology for one year from the date on which such employee's employment with Licensee is terminated (for whatever reason). Such agreements shall include a statement that Licensor is an express beneficiary of Licensee's rights under such agreements. Licensee shall not be required to enforce said agreement, except that Licensee shall (A) assign to Licensor any rights that are necessary or useful to Licensor in enforcing such agreements, and (B) cooperate with Licensor's reasonable requests for information in connection with any attempt by Licensor to enforce such agreements.

- (iii) Nothing in this section shall prohibit a Senior Level Employee from working in any position for another governmental authority, whether or not such position involves the development, design, production, marketing, sale and use of biogas using organic substrates as the raw materials source.
- (iv) "Senior Level Employees" means all present and future employees who have supervisory or administrative powers with respect to the Operations.
- (c) Imposition of Confidentiality Obligations on Third Parties. Licensee will cause each person who has supervisory or administrative powers with respect to the Operations (whether employee, agent, contractor, or otherwise) that Licensee permits access to the Proprietary Information (whether by access to the Plant or otherwise) to enter into an agreement with Licensee that imposes confidentiality obligations to Licensee that are at least as restrictive as the provisions of the Non-Disclosure Agreement and of this Agreement. Additionally, such agreements shall include a statement that Licensor is an express beneficiary of the confidentiality obligations of each person.

11. Indemnification.

- (a) Design Defects. Licensor shall require the engineering services firm which designs the construction of the system implementing the Licensed Technology at the Plant to obtain customary errors and omissions insurance coverage in an amount to be agreed upon by the Licensor and the Licensee. Licensee shall be named as an additional insured under such coverage. Licensor shall provide Licensee with written evidence that the engineering services firm has obtain such coverage.
- (b) Generally. Each Party will indemnify, defend, and hold harmless the other Party from and against all damages, liabilities, costs, fines, and expenses (including, but not limited to, reasonable attorneys' fees) associated with any claim, suit, or action by a third party arising out of, or related to:
 - (i) The indemnitor's gross negligence or willful misconduct;
 - (ii) The indemnitor's acts or omissions with respect to the third party; and/or
 - (iii) Any personal injury (including death) or damage to tangible property caused by a tort of the indemnitor (except that Licensor's liability with respect to the subject matter of Section 11(a) will be limited to the amount stated in Section 11(a)).
- (c) Special Provisions regarding Licensor's Indemnification Obligations. The Parties recognize that Licensee will have primary responsibility for conducting the Operations and will have final authority over the safety and other aspects of the Operations. Accordingly, the indemnification contemplated by Sections 11(b)(ii) and 11(b)(iii) will apply to Licensor only for Licensor's intentional acts and omissions.
- (d) Defense of Claims; Representation. Each indemnified Party shall promptly furnish to the indemnifying Party all information and documents related to a claim

which is the indemnifying Party is defending. The indemnified Party may, at its sole cost and expense, retain separate counsel to represent it in, but not control, any defense or settlement of any claim controlled by the indemnifying Party pursuant to this Agreement.

12. Dispute Resolution.

- (a) **"Dispute" Defined.** A **"Dispute"** includes, without limitation, any dispute, controversy or claim of whatever nature between the Parties, including, but not limited to, any arising out of or relating to this Agreement or the construction, interpretation, performance, breach, termination, enforceability or validity thereof, or the commercial, economic or other relationship of the Parties that has not been resolved in the normal course of business.
- (b) **Arbitration.**
- (i) Other than Disputes involving the validity of patents, which shall not be submitted for adjudication before any arbitral tribunal and, instead, shall be subject to the exclusive jurisdiction of the Oakland County, Michigan Circuit Courts or the Federal District Court for the Eastern District of Michigan, any Dispute shall be settled under the Commercial Arbitration Rules and Mediation Procedures of the American Arbitration Association (the "Rules") by one or three neutral and impartial arbitrators appointed in accordance with said Rules. The place of arbitration shall be Oakland County, Michigan. The language of the arbitration shall be English.
- (ii) The American Arbitration Association shall determine in its sole discretion whether any Dispute shall be settled by one or by three arbitrators, but the Parties will jointly recommend that the American Association appoint a sole arbitrator if, from the Request for Arbitration and Answer to the Request for Arbitration, the American Arbitration Association believes that the total amount in dispute exclusive of interest and costs is \$100,000 or less.
- (iii) To the extent permitted by applicable law:
- (A) The arbitration proceedings conducted under this Section 12(b) shall be confidential;
- (B) Neither Party shall disclose or permit the disclosure of any information about the evidence adduced or the documents produced by the other Party in the arbitration proceedings or about the existence, contents or results of the arbitration award without the prior written consent of such other Party except in the course of a judicial, regulatory or arbitration proceeding or as may be requested by a governmental authority; and
- (C) Before making any disclosure permitted by Section 12(b)(iii)(B), the Party intending to make such disclosure shall give the other Party reasonable written notice of the intended disclosure and afford the other Party a reasonable opportunity to protect its

interests.

- (iv) All expenses and fees of the arbitrator and expenses for hearing facilities and other expenses of the arbitration shall be borne equally by the Parties unless they agree otherwise or unless the arbitrator in the award assesses such expenses against one of the Parties or allocates such expenses other than equally between the Parties. Each Party shall bear its own counsel fees and the expenses of its witnesses except to the extent otherwise provided in this Agreement or by applicable law.
 - (v) The decision of the arbitrator(s) will be final. The arbitrator(s) must make written findings of facts and of law. The award of the arbitrator(s) may be entered in, and enforced by, any court of competent jurisdiction.
- (c) **Recourse to Courts.** Notwithstanding anything in this Section 12 to the contrary, either Party may seek from the Oakland County, Michigan Circuit Courts or the Federal District Court for the Eastern District of Michigan any interim or provisional relief before, during, and/or after any negotiation, mediation, or arbitration of a Dispute. Seeking and/or complying with an order of a court granting such interim or provisional relief does not constitute a waiver of the dispute resolution provisions of this Section 12 and in particular does not constitute a waiver of the rights and obligations to negotiate, mediate, and arbitrate any Dispute.

13. **Term and Termination.**

- (a) **Term.** The “Term” of this Agreement shall continue until the date that is twenty one years from and after the Original Operations Agreement Effective Date unless earlier terminated as provided herein.
- (b) **Termination of Agreement.**
 - (i) **Mutual Consent.** The Parties may terminate this Agreement by mutual written consent, which consent shall describe specific arrangements with regard to the orderly unwinding and termination of the arrangements under this Agreement.
 - (ii) **Default.** Either Party may terminate this Agreement by notice to the other Party upon the material default by the other Party and the expiration of any applicable Cure Period.
 - (A) No Cure Period applies in the case of default where:
 - (I) The default, by its nature, cannot be cured by the defaulting Party; or
 - (II) The default is under Section 10.
 - (B) In all cases other than those described in Section 13(b)(ii)(A), the Cure Period begins at beginning on the Business Day after receipt by the defaulting Party of notice of the default and continues for:

- (I) In the case of payment obligations, ten Business Days; and
 - (II) In the case of all other defaults, the longer of:
 - (a) Twenty Business Days, or
 - (b) The actual time required to remedy the default, provided that the defaulting Party commences cure within five Business Days after receiving notice of default, notifies the aggrieved Party of the defaulting Party's intention to cure, and diligently and continuously pursues cure to completion.
- (iii) **40 CFR 503 Biosolids**
- (A) Licensee may terminate this Agreement in the event that the Biogas Plant fails to produce a 40 CFR 503 Class B biosolids product that meets minimum regulatory requirements for land application. Licensee may not terminate this Agreement if contaminants within the biosolids are a result of influent conditions of the WPC facility which can only be controlled by the Licensee.
- (iv) **Failure to Perform Improvements**
- (A) The establishment of an Electrical Generation Plant, as described above, shall be completed within one (1) year of the execution of this agreement.
 - (B) Failure to perform the improvements noted above shall not be defined as a breach of the agreement or the Licensor in default in the event that the Licensor is unable to obtain the necessary regulatory approvals to install and or financing to fund the improvements. If the improvements are not installed in accordance with Section 13 B (iv) (A), the Service Fee shall be reduced. Licensee and Licensor shall re-negotiate the Service Fee until such time that Licensor installs the improvements, and generates electricity. At the time that the improvements are installed, the Service Fee will return and be calculated as defined in Section 7 with the appropriate inflationary multipliers.
- (v) **Engineering Services**
- (A) Licensee may terminate this Agreement in the event that the Licensor fails to provide services as provided in Section 4 (I).
- (vi) **Replacement Technology.**
- (A) Licensee may terminate this Agreement at any time after the tenth anniversary of the Electrical Generation Plant acceptance date by notice to Licensor if other technology becomes available which the Licensee reasonably believes (based on prior full-scale performance of such technology at other locations) would increase the energy savings in the sludge handling at the Plant by more than

the twice the Service Fee.

- (B) The termination would be effective 180 days following Licensee's delivery of the notice of intent to terminate the Agreement. During that time the Licensor may propose process improvements to provide comparable savings and a plan for corrective action.
 - (C) If Licensor timely delivers such process improvement plan, then the Licensee will postpone the termination of this Agreement for a mutually agreeable time period, not to exceed 200 days, during which the Licensor will have the opportunity to demonstrate the efficacy of its improvements. The Licensee will then determine, in its reasonable judgment, whether such process improvement plan would actually provide savings equal to or exceeding that of the proposed new technology. If the projected savings are deemed equal to or exceeding that of the proposed new technology, then the Licensee's termination of this Agreement shall be rescinded. If the Licensee deems the projected savings to be less than that of the proposed new technology, and the Licensee still wishes to terminate, then the termination of this Agreement shall become effective within 30 days of the final determination.
- (c) Termination of License. Licensor may terminate the License (without the necessity of terminating this Agreement) under any circumstances under which Section 13(b)(ii) permits Licensor to terminate this Agreement.
 - (d) Non-Exclusive Remedy. This right of termination of this Agreement and/or the License is in addition to all other rights of the aggrieved Party, whether at law or equity.
 - (e) Effect of Termination; License; Survival.
 - (i) License.
 - (A) Termination for Licensee Breach or for Replacement Technology. If this Agreement or the License terminates in connection with a default or breach by Licensee or pursuant to Section 12(b)(iv), the License will immediately terminate and Licensee will immediately cease using all Licensed Technology and return to Licensor all of Licensee's Proprietary Information and all other tangible materials including any Licensed Technology. Termination Other than for Licensee Breach. If this Agreement terminates for any reason other than Licensee's breach or default:
 - (I) The License will continue perpetually; and
 - (II) Subject to the provisions of Section 10(b), Licensee may use the Licensed Technology as it sees fit, except that Licensee may not use any Major Improvement other than for its own internal benefit in its own Operations.
 - (ii) Survival.

- (A) Any payment obligation that accrued prior to the termination of this Agreement will survive the termination of this Agreement for any reason.
14. DISCLAIMER OF REPRESENTATIONS AND WARRANTIES. Licensor disclaims any express or implied representations or warranties with respect to the Licensed Technology and all goods, services, and/or software under this Agreement. Licensor makes no warranty against interference with Licensee's enjoyment of the Licensed Technology or goods, services, or software, against infringement, or of fitness for any particular purpose or of merchantability.
15. LIMITATION OF LIABILITY.
- (a) Neither Party shall have liability with respect to its obligations under this Agreement for incidental, consequential, exemplary, special, punitive, or other damages, even if the Party has been advised of the possibility of such damages; and
- (b) The liability of one Party to the other under this Agreement shall be limited to 10% of the aggregate amount of fees payable by the aggrieved Party to breaching Party, provided that if such liability arises in the first year of the Term, liability shall be limited to 10% of the aggregate amount of fees that would have accrued during the first full year of the Term assuming full performance by each party of all of its obligations under this Agreement during that period.
- (c) The limitations contained in Sections 15(a) and 15(b) shall not apply in any of the following cases.
- (i) Breach of a confidentiality obligation under this Agreement or any other agreement between the Parties;
- (ii) Misappropriation or infringement by a Party of the intellectual property rights of the other Party;
- (iii) A Party's gross negligence or willful misconduct;
- (iv) A Party's intentional tort;
- (v) A Party's obligation to indemnify the other Party; or
- (vi) A claim by Licensor for payments due under Section 5.
16. Miscellaneous.
- (a) Notice. Any notice required or permitted to be given under this Agreement must be in writing and will be deemed effective (i) if given by personal delivery, upon such personal delivery, or (ii) if given by nationally-recognized courier or mail service (in either case that has real-time or near-real-time tracking) or by certified mail, at the time that the notice is delivered to the receiver's premises according to the tracking records of the courier or mail service or confirmation of receipt of certified mail. The addresses for notice for each Party are those in the preamble to this Agreement. A Party may change its address for notice by notice to the other Party.

- (e) **Sale of Rights to Licensee.** In the event that the Licensor chooses to sell the rights of this Agreement, the Licensee may purchase the rights from the Licensor for three (3) times the current yearly Service Fee rate. Payment to the Licensor for Licensor's rights of the contract shall be made over a three (3) year period of equal monthly payments.
- (f) **Severability.** If any provision of this Agreement is invalid under any applicable statute or rule of law, it is to that extent to be deemed omitted, and the balance of this Agreement shall remain enforceable.
- (g) **Counterparts.** This Agreement may be executed in one or more counterparts (including by facsimile transmission or electronic copy). The exchange of copies of this Agreement and of signature pages by facsimile transmission or e-mail shall constitute effective execution and delivery of this Agreement as to the Parties.
- (h) **Drafting Party.** No rule of law that requires that any part of the Agreement be construed against the party drafting the language will be used in interpreting this Agreement.
- (i) **Disclaimer of Partnership, Etc.** The parties do not intend, and this Agreement shall not be construed to create a partnership, association, joint venture, agency, or any other relationship other than a contract between independent parties.
- (j) **Approvals and Similar Actions.** Where agreement, approval, acceptance, consent, or similar action by either Party is required by any provision of this Agreement, such action shall not be unreasonably withheld, delayed, or conditioned.
- (k) **Applicable Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Michigan without regard for conflict of law rules. Any claim, dispute, or cause of action arising out of, or related to, this Agreement that may be brought in a court may be brought only in the courts of the State of Michigan sitting in Oakland County, Michigan or in the United States District Court for the Eastern District of Michigan. Each of the Parties irrevocably consents to the jurisdiction of, and venue in, such courts.
- (l) **Insurance/Worker's Compensation.** The Licensor or any subcontractor under the direction of the Licensor shall not commence work under this contract until he has procured and provided evidence of the insurance required under this section. All coverage shall be obtained from insurance companies licensed and authorized to do business in the State of Michigan unless otherwise approved by the City's Risk Manager. Policies shall be reviewed by the City's Risk Manager for completeness and limits of coverage. All coverage shall be with insurance carriers acceptable to the City of Flint. Contractor shall maintain the following insurance coverage for the duration of the contract.

Commercial General Liability coverage of not less than one million dollars (\$1,000,000) combined single limit with the City of Flint, and including all elected and appointed officials, all employees and volunteers, all boards, commissions and/or authorities and their board members, employees and volunteers, named as "Additional Insureds." This coverage shall be written on an ISO occurrence basis form and shall include: Bodily Injury, Personal Injury,

Property Damage, Contractual Liability, Products and Completed Operations, Independent Contractors; Broad Form Commercial General Liability Endorsement. This coverage shall be primary to the Additional Insureds, and not contributing with any other insurance or similar protection available to the Additional Insureds, whether said other available coverage be primary, contributing, or excess per Exhibit F.

Workers Compensation Insurance in accordance with Michigan statutory requirements, including Employers Liability coverage.

Commercial Automobile Insurance in the amount of not less than \$1,000,000 combined single limit per accident with the City of Flint, and including all elected and appointed officials, all employees and volunteers, all boards, commissions and/or authorities and their board members, employees and volunteers, named as "Additional Insureds." This coverage shall be written on ISO business auto forms covering Automobile Liability, code "any auto."

Professional Liability - Errors and Omissions. All projects involving the use of Architects, civil engineers, landscape design specialists, and other professional services must provide the City of Flint with evidence of Professional Liability coverage in an amount not less than one million dollars (\$1,000,000). Evidence of this coverage must be provided for a minimum of three years after project completion. Any deductibles or self-insured retention must be declared to and approved by the City. In addition, the total dollar value of all claims paid out on the policy shall be declared. At the option of the City, either the insurer shall reduce or eliminate such deductibles or self-insured retention with respect to the City, its officials, employees, agents and volunteers; or Contractor shall procure a bond guaranteeing payment of losses and related investigation, claim, administration, and defense expenses.

- (m) Licensor shall furnish the City with two certificates of insurance for all coverage requested with original endorsements for those policies requiring the Additional Insureds. Licensor must provide, upon request, certified copies of all insurance policies. If any of the above policies are due to expire during the term of this contract, Licensor shall deliver renewal certificates and copies of the new policies to the City of Flint at least ten days prior to the expiration date. Licensor shall ensure that all subcontractors utilized obtain and maintain all insurance coverage required by this provision.
- (n) Amendment and Modification. No amendment or modification of this Agreement will have any force or effect unless in writing and signed by the Party against whom enforcement is sought.
- (o) Entire Agreement. This Agreement embodies the entire agreement and understanding of the Parties with respect to its subject matter and this Agreement supersedes all prior discussions, agreements, and undertakings between the Parties with regard to the subject matter of this Agreement.

The Parties have executed this Operating Agreement as of the Effective Date.


BIOWORKS ENERGY, LLC


Chad L. Antle, Chief Executive Officer


Witness

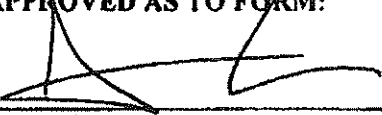
Date: 4/3/2015

CITY OF FLINT, a Michigan Municipal Corp.


Gerald Ambrose
Emergency Manager

Date: 3/27/15

APPROVED AS TO FORM:


Peter M. Bade
Chief Legal Officer

Date: 3/25/15

RESOLUTION STAFF REVIEW

May 7, 2019

Agenda Item Title:

Resolution to Approve the Memorandum of Understanding Between the City of Flint and Bioworks Energy, LLC

Submitted By:

Law Department

Summary of Proposed Action:

Approve Memorandum of Understanding Between the City of Flint and Bioworks Energy, LLC as part of the Operating Agreement that has been effective since 2009.

Financial Implications:

The City will receive increased tipping fee revenues. *(due to higher volume)*

Other Implications:

Electrical power production, and an increase in local economic development.

Staff Recommendation:

Approval.

Staff Person:

Whitney Frazier-Jenkins
Whitney Frazier-Jenkins

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190195

SUBMISSION NO. _____

PRESENTED: 5-22-19

ADOPTED: _____

BY THE CITY ADMINISTRATOR:

RESOLUTION CONFIRMING THE CITY OF FLINT'S SUPPORT OF THE LOCAL BRIDGE PROGRAM FUNDING APPLICATIONS SUBMITTED TO THE MICHIGAN DEPARTMENT OF TRANSPORTATION

The Michigan Department of Transportation allocates project funds to local governments to repair or rehabilitate bridges that are in pressing need of repair or new design to meet motorists' needs under the Local Bridge Program; and

The City of Flint will be submitting applications to MDOT which request that the following bridge projects be considered for funding under the FY22 Local Bridge Program: West Second Street bridge over Swartz Creek; and

In order for the aforementioned bridge projects to be eligible for funding under the local Bridge Program the City of Flint must communicate our commitment to the proposed projects and ability to fund 5% local share of construction costs if the City is awarded funding for the projects under the Local Bridge Program; and

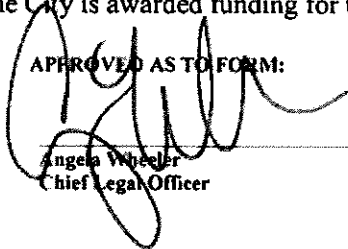
The Department of Transportation is requesting this resolution be adopted to confirm the City's commitment to the proposed bridge projects and ability to finance the 5% local share of construction costs from funding available in the 202 Major Street Fund if the City is awarded funding for the proposed bridge projects; and

IT IS RESOLVED, that this resolution is hereby adopted to confirm the City's commitment to the proposed bridge projects and the ability to finance the 5% local share of construction costs from funding available in the 202 Major Street Fund if the City is awarded funding for the proposed bridge projects.

APPROVED AS TO FINANCE:


Tamar A. Lewis
Deputy Financial Director

APPROVED AS TO FORM:


Angela Wheeler
Chief Legal Officer


Steve Branch, City Administrator

RESOLUTION STAFF REVIEW

DATE: May 3, 2019

Agenda Item Title: RESOLUTION CONFIRMING THE CITY OF FLINT'S SUPPORT OF THE LOCAL BRIDGE PROGRAM FUNDING APPLICATIONS SUBMITTED TO THE MICHIGAN DEPARTMENT OF TRANSPORTATION

Prepared By: Kathryn Neumann for Betty Wideman

Background/Summary of Proposed Action: Once a year, the Michigan Department of Transportation allocates project funds to local governments to repair or rehabilitate bridges that are in pressing need of repair or new design. The City of Flint is submitting an application to rehabilitate the replace bridges on W. Second Street that meets that criteria.

Financial Implications: If awarded bridge funds, the City of Flint must pay the 5% local share of construction costs. This funding will come from the 202 major street fund. However, this resolution is only for the support of submitting applications.

Budgeted Expenditure? Yes No Please explain if no:

Account No.: None

Other Implications (i.e., collective bargaining): None

Staff Recommendation: Recommend Approval

Staff Person: Betty J. Wideman
Betty Wideman, Transportation Division Manager