CITY OF CHARLEVOIX

Agenda
City of Charlevoix City Council Regular Meeting
Monday, September 16, 2024 - 6:00 PM
Council Chambers, 210 State Street, Charlevoix, MI

1. **Pledge of Allegiance**
2. **Roll Call**
3. **Presentations**
4. **Inquiry Regarding Conflicts of Interest**
5. **Consent Agenda**
   - A. City Council Meeting Minutes - September 3, 2024
   - B. Accounts Payable and Payroll Check Registers
   - C. Belle River Power Plant Contract Amendments
   - D. Wastewater Treatment Plant-Human Machine Interface
   - E. Water Tower Maintenance: $41,000
6. **Public Hearings and Actions Requiring Public Hearings**
   - A. Set Public Hearing: Conditional Rezone, 743 Petoskey Ave.
     Jonathan Scheel, Zoning Administrator
7. **All Other Actions and Requests**
   - A. 2025 Deer Cull
     Jill McDonnell, Chief of Police
8. **Reports and Communications**
   - A. Public Comment
   - B. City Manager's Comments
   - C. Mayor and Council Comments
9. **Other Council Business**
10. **Adjourn**

Persons with disabilities who need an accommodation to fully participate in these meetings should contact the City Clerk's Office at 231-547-3250 or by email clerk@charlevoixmi.gov. A 24-hour notice may be needed for certain accommodations. An attempt will be made to grant all reasonable accommodations requests.

Charlevoix City Council
Consent Agenda

Title: City Council Meeting Minutes - September 3, 2024
Date: September 16, 2024

Presented By:

Background:

Recommendation:
Motion to approve the minutes as presented.
Attachments:
1. City Council Draft Meeting Minutes 09/03/2024

City of Charlevoix
City Council Regular Meeting Minutes
Tuesday, September 3, 2024 - 6:00 PM
Council Chambers, 210 State Street, Charlevoix, MI

1. **Pledge of Allegiance**

   The meeting was called to order at 6:00 p.m. by Mayor Gennett. The Council, staff, and members of the public rose and recited the Pledge of Allegiance.

2. **Roll Call**

   Mayor: Lyle Gennett
   Members Present: Aaron Hagen, Mark Knapp, Phil Parr
   Members Absent: Shane Cole, Janet Kalbfell, Richard Spring
   City Manager: Mark L. Heydlauff
   City Clerk: Sarah J. Dvoracek

3. **Presentations**

   A. Introduction of Officer Charles Ramirez and Officer Donald Martin
   Jill McDonnell, Chief of Police
   Chief McDonnell introduced Officer Charles Ramirez and Officer Donald Martin and provided a brief background of each officer.

   B. 2023-24 Fiscal Year Financial Audit Presentation
   Kim Lindsay
   Rehmann
   Kim Lindsay, CPA from Rehmann presented information on the 2023-24 Fiscal Year Financial Audit.

4. **Inquiry Regarding Conflicts of Interest**

5. **Consent Agenda**

   Mayor Gennett opened the item for public comment. None were heard.
   Motion by Parr, seconded by Hagen to approve the consent agenda as presented.
   Yeas: Parr, Knapp, Hagen
   Nays: None
   Absent: Cole, Kalbfell, Spring
   Motion carried.

   A. City Council Meeting Minutes - August 19, 2024
   Motion to approve the minutes as presented.

   B. Accounts Payable and Payroll Check Registers
   Motion to approve the accounts payable and payroll check registers as presented.

Dates	Description	Amount
08/21/2024	Special Accounts Payable Run	$69,584.24
08/27/2024	Special Accounts Payable Run	$11,287.37
08/30/2024	Payroll (net pay)	$137,222.65
08/30/2024	Payroll Transmittal Checks	$5,285.42
08/30/2024	Regular Accounts Payable	$945,020.97
08/19/2024-08/30/2024	ACH/WIRE Payments	$640,837.85
08/28/2024	Tax Disbursement	$2,181,303.35
Grand Total		**$3,990,541.85**
The entire accounts payable and payroll check registers can be viewed on our website.		

C. Electric Service Tariff Edit
Motion to accept the change from $0.470 per kWh to $0.0470 per kWh on the tariff sheet for Rate 162 (GPS) as presented.

D. Changes to Marina 45 Day Extended Stay Policy
Motion to approve the 45-Day Extended Stay Policy as presented for dockage at the City Marina.

E. FY 2024 Audit
Motion to accept the FY 2024 Audit as presented.

6. Public Hearings and Actions Requiring Public Hearings

7. All Other Actions and Requests

A. Temporary Commercial Slip Lessee at City Marina
Kent Knorr, Recreation Director
Recreation Director Kent Knorr presented information on a temporary commercial slip lease at the City Marina. Captain Chris Chamberlain, CEO/Founder of Little Traverse Bay Ferry Company answered questions from the Council.

Mayor Gennett opened the item for public comment, one was heard.
Motion by Knapp, seconded by Hagen authorizing the City Manager to sign an agreement for operation of a dock lease for the dates of September 16 to October 13 at the rate of $105 a day.
Yeas: Parr, Knapp, Hagen
Nays: None
Absent: Cole, Kalbfell, Spring
Motion carried.

8. Reports and Communications

A. Public Comment

- Shari Jones thanked Council for considering the locals in their discussions about the commercial slip lessee

B. City Manager's Comments

- The first phase of streetlights on Bridge Street between Hurlbut and Antrim Streets will be installed soon
- We are researching utilizing a new concept of a light pedestal which is more cost effective more details will follow

C. Mayor and Council Comments

- Mayor Gennett stated the Whitley article was very well written

9. Other Council Business

10. Adjourn

Mayor Gennett adjourned the meeting at 6:37 p.m.

________________________________	________________________________
Sarah J. Dvoracek City Clerk	Lyle Gennett Mayor

Charlevoix City Council

Consent Agenda

Title: Accounts Payable and Payroll Check Registers

Date: September 16, 2024

Presented By:

Background:

Recommendation:

Motion to approve the accounts payable and payroll check registers as presented.

Attachments:

1. Check Registers 09-16-24 Agenda

Check Number	Payee	Amount
09/05/2024		
143348	CITY OF CHARLEVOIX - MISC	7,369.46
143349	HARTFORD, THE	2,617.64
143350	MICHIGAN MUNICIPAL LEAGUE	16,366.00
Total 09/05/2024:		26,353.10
Grand Totals:		26,353.10

Summary of Check Registers & ACH Payments

HUNTINGTON NATIONAL BANK - CHECKS ISSUED

09/05/24	Special Accounts Payable Run	$	26,353.10
09/13/24	Payroll (net pay)	$	136,745.88
09/13/24	Payroll Transmittal Checks	$	6,102.18
09/17/24	Regular Accounts Payable	$	760,562.71
	Checks Sub-Total:	$	929,763.87

HUNTINGTON NATIONAL BANK - ACH/WIRE PAYMENTS

09/03/24	AMG Payment Solutions	$	1,188.12
09/03/24	AMG Payment Solutions	$	35.05
09/03/24	MI Public Power Agency	$	17,766.18
09/04/24	MI Public Power Agency	$	258.85
09/09/24	MI Public Power Agency	$	18,746.32
09/09/24	State of MI (Sales Tax)	$	40,099.29
09/11/24	DTE Energy	$	2,305.31
09/13/24	IRS (Payroll Tax Deposit)	$	50,503.75
09/13/24	Alerus Financial (HCSP)	$	558.00
09/13/24	Vantagepoint (401 Plan)	$	1,204.15
09/13/24	Vantagepoint (457 Plan)	$	22,890.97
09/13/24	Vantagepoint (Roth IRA)	$	1,165.00
09/13/24	State of MI (Withholding Tax)	$	7,356.27
09/17/24	US Bank Bond Control (WWTP)	$	77,557.03
	ACH Sub-Total:	$	241,634.29

Huntington National Bank Total: $ 1,171,398.16

CHARLEVOIX STATE BANK - CHECKS ISSUED

(PROPERTY TAX DISBURSEMENT TO VARIOUS TAXING AUTHORITIES)

09/10/24	Special A/P Tax Disbursement	$	5,351,529.70

Charlevoix State Bank Total: $ 5,351,529.70

Grand Total: $ 6,522,927.86

APPROVED: CITY MANAGER | CITY TREASURER | CITY CLERK

M = Manual Check, V = Void Check

Pay Period Date	Journal Code	Check Issue Date	Check Number	Payee	Emp ID	Description	Amount
09/07/2024	PC	09/13/2024	40317	HEYDLAUFF, MARK L.	102		4,122.61
09/07/2024	PC	09/13/2024	40318	DVORACEK, SARAH J.	105		2,498.73
09/07/2024	PC	09/13/2024	40319	DEROSIA, PATRICIA E.	107		970.76
09/07/2024	PC	09/13/2024	40320	KLOOSTER, ALIDA K.	121		2,492.90
09/07/2024	PC	09/13/2024	40321	BARNEVELD, RICHELLE	123		1,389.47
09/07/2024	PC	09/13/2024	40322	SCHULZ, GINNY L.	125		1,765.89
09/07/2024	PC	09/13/2024	40323	JENKINS, JESSICA-RAE	127		1,498.69
09/07/2024	PC	09/13/2024	40324	MILLER, FAITH G.	142		140.55
09/07/2024	PC	09/13/2024	40325	MCGINN, KELLY A.	146		2,865.02
09/07/2024	PC	09/13/2024	40326	SCHEEL, JONATHAN D.	149		2,672.60
09/07/2024	PC	09/13/2024	40327	MCDONNELL, JILL L.	202		2,622.73
09/07/2024	PC	09/13/2024	40328	UMULIS, MATTHEW T.	205		1,887.86
09/07/2024	PC	09/13/2024	40329	ORBAN, BARBARA K.	209		1,570.29
09/07/2024	PC	09/13/2024	40330	RILEY, DENISE M.	213		585.74
09/07/2024	PC	09/13/2024	40331	MUNK, CHRISTOPHER J.	215		1,849.47
09/07/2024	PC	09/13/2024	40332	CHRISTIANSEN, BRIAN D	218		1,989.43
09/07/2024	PC	09/13/2024	40333	RAMIREZ, CHARLES V.	219		1,621.06
09/07/2024	PC	09/13/2024	40334	MARTIN III, DONALD L.	220		2,250.33
09/07/2024	PC	09/13/2024	40335	YOUNG, KRISTEN L.	230		2,005.80
09/07/2024	PC	09/13/2024	40336	CONWAY, PATRICK G.	239		479.03
09/07/2024	PC	09/13/2024	40337	MACGILLIVRAY, ROGER	244		924.32
09/07/2024	PC	09/13/2024	40338	DOTSON, WILLIAM R.	249		246.68
09/07/2024	PC	09/13/2024	40339	KALLMAN, ARIN J.	251		734.10
09/07/2024	PC	09/13/2024	40340	WURST, RANDALL W.	411		1,830.77
09/07/2024	PC	09/13/2024	40341	HILLING, NICHOLAS A.	413		1,877.00
09/07/2024	PC	09/13/2024	40342	MEIER III, CHARLES A.	421		2,717.07
09/07/2024	PC	09/13/2024	40343	ZACHARIAS, STEVEN B.	422		1,750.36
09/07/2024	PC	09/13/2024	40344	NEWMAN, MARK J.	424		2,323.76
09/07/2024	PC	09/13/2024	40345	LOUGHMILLER, JOHN A.	425		2,332.75
09/07/2024	PC	09/13/2024	40346	GRIFFITH, JOHN J.	500		2,669.96
09/07/2024	PC	09/13/2024	40347	EATON, BRAD A.	515		3,171.47
09/07/2024	PC	09/13/2024	40348	WILSON, TIMOTHY J.	516		3,501.05
09/07/2024	PC	09/13/2024	40349	LAVOIE, RICHARD L.	519		2,582.24
09/07/2024	PC	09/13/2024	40350	STERRETT, PHILLIP R.	520		2,551.93
09/07/2024	PC	09/13/2024	40351	STEVENS, BRANDON C.	521		2,559.30
09/07/2024	PC	09/13/2024	40352	WHITLEY, ANDREW T.	522		2,949.50
09/07/2024	PC	09/13/2024	40353	FARRELL, MITCHELL L.	524		2,455.92
09/07/2024	PC	09/13/2024	40354	ANDERSON, ELIZABETH	526		1,460.44
09/07/2024	PC	09/13/2024	40355	KENWABIKISE, DAVID L.	528		1,310.63
09/07/2024	PC	09/13/2024	40356	DVORACEK, BRIAN N.	560		371.19
09/07/2024	PC	09/13/2024	40357	ELLIOTT, PATRICK M.	600		3,385.35
09/07/2024	PC	09/13/2024	40358	MORRISON, KEVIN P.	601		1,591.35
09/07/2024	PC	09/13/2024	40359	FURGESON, JUSTIN L.	613		2,969.16
09/07/2024	PC	09/13/2024	40360	BRADLEY, KELLY R.	614		1,999.21
09/07/2024	PC	09/13/2024	40361	HART II, DELBERT W.	616		2,028.55
09/07/2024	PC	09/13/2024	40362	JONES, ROBERT F.	618		1,616.45
09/07/2024	PC	09/13/2024	40363	THORP JR, WILLIAM D.	623		1,561.97
09/07/2024	PC	09/13/2024	40364	LEITNER, RYAN S.	624		1,837.03
09/07/2024	PC	09/13/2024	40365	NOWKA, STEPHEN P.	626		1,632.18
09/07/2024	PC	09/13/2024	40366	RILEY, DANIEL A.	627		1,851.10
09/07/2024	PC	09/13/2024	40367	REID, ROB A.	632		1,530.44
09/07/2024	PC	09/13/2024	40368	DORAN, JUSTIN J.	634		2,506.57
09/07/2024	PC	09/13/2024	40369	NEDWICK, DAVID J.	642		946.94
09/07/2024	PC	09/13/2024	40370	FINNERTY, HOLLY E.	669		506.01
09/07/2024	PC	09/13/2024	40371	WILSON, SAMUEL J.	672		1,000.76
09/07/2024	PC	09/13/2024	40372	POIROT, KENNETH R.	673		962.14
09/07/2024	PC	09/13/2024	40373	VENTZKE, COLE C.	674		975.24

Pay Period Date	Journal Code	Check Issue Date	Check Number	Payee	Emp ID	Description	Amount
09/07/2024	PC	09/13/2024	40374	JOHNSON, RANDY J.	680		1,012.03
09/07/2024	PC	09/13/2024	40375	PARRISH, JASON P.	681		819.32
09/07/2024	PC	09/13/2024	40376	HIGGINS, THERESE M.	689		350.76
09/07/2024	PC	09/13/2024	40377	CRANDELL, ZACKARY R.	691		951.79
09/07/2024	PC	09/13/2024	40378	RABIDEAU, JACOB L.	696		1,007.77
09/07/2024	PC	09/13/2024	40379	BORTHS, MICHAEL J.	698		861.09
09/07/2024	PC	09/13/2024	40380	KNORR, KENT J.	700		2,394.27
09/07/2024	PC	09/13/2024	40381	ANZELL, BETH A.	702		1,796.25
09/07/2024	PC	09/13/2024	40382	STEBE, LAURA A.	703		64.42
09/07/2024	PC	09/13/2024	40383	STEWART, SPENCER P.	720		504.05
09/07/2024	PC	09/13/2024	40384	MCDERMOTT, DENNIS J.	732		2,201.86
09/07/2024	PC	09/13/2024	40385	BLECKE, SKYLAR T.	749		517.04
09/07/2024	PC	09/13/2024	40386	LAVOIE, AUBREY J.	750		375.50
09/07/2024	PC	09/13/2024	40387	SUSTIC, HANNAH L.	751		178.58
09/07/2024	PC	09/13/2024	40388	WHITE III, MARCUS W.	754		850.20
09/07/2024	PC	09/13/2024	40389	CUNNINGHAM, ABIGAIL A	759		448.57
09/07/2024	PC	09/13/2024	40390	PHILP, DAVAYAH A.	781		648.90
09/07/2024	PC	09/13/2024	40391	DRENTH, DOUGLAS A.	838		746.53
09/07/2024	PC	09/13/2024	40392	ELGART, SARAH N.	840		398.56
09/07/2024	PC	09/13/2024	40393	GILL, DAVID R.	856		1,261.54
09/07/2024	PC	09/13/2024	40394	LABLANCE, MAUREEN J.	863		254.95
09/07/2024	PC	09/13/2024	40395	LIVINGSTON, BRIAN D.	866		2,298.02
09/07/2024	PC	09/13/2024	40396	KLOOSTER, PATRICK H.	868		386.32
09/07/2024	PC	09/13/2024	40397	WAY, KRISTINA M.	870		78.72
09/07/2024	PC	09/13/2024	40398	GAFFNEY, KARRIE J.	872		151.97
09/07/2024	PC	09/13/2024	40399	PETROSKY, TIMOTHY D.	874		177.53
09/07/2024	PC	09/13/2024	40400	NISWANDER, WILLIAM M.	876		536.63
09/07/2024	PC	09/13/2024	40401	FRESA, EDWARD K.	877		387.87
09/07/2024	PC	09/13/2024	40402	SCHOLEY, ROBERT W.	902		2,260.30
09/07/2024	PC	09/13/2024	40403	MCCRANEY, RUSSELL R.	914		2,017.34
09/07/2024	PC	09/13/2024	40404	POSTMUS, ANTHONY H.	916		1,643.08
09/07/2024	PC	09/13/2024	40405	TRAVERS, MANUEL J.	998		2,474.63
09/07/2024	PC	09/13/2024	143427	COX, RONALD L.	869		189.64
Grand Totals:			90				136,745.88

dm

Report Criteria:

- Computed checks included
- Manual checks included
- Supplemental checks included
- Termination checks included
- Void checks included

Pay Period Date	Check Issue Date	Check Number	Payee	Emp ID	Description	Amount
09/07/2024	09/13/2024	143428	4FRONT CREDIT UNION	9024	HSA-EMPLOYEE CONTRIB-4FR	1,195.58
09/07/2024	09/13/2024	143429	AMERICAN FAMILY LIFE	9011	AMERICAN FAMILY LIFE-POST T	33.60
09/07/2024	09/13/2024	143429	AMERICAN FAMILY LIFE	9011	AMERICAN FAMILY LIFE-PRETA	502.20
09/07/2024	09/13/2024	143430	CHARLEVOIX STATE BAN	9016	Lump Sum Employer Contribution	508.00
09/07/2024	09/13/2024	143431	CHARLEVOIX STATE BAN	9017	HSA - EMPLOYEE CONTRIB - C	1,135.00
09/07/2024	09/13/2024	143432	COMMUNICATION WORK	9004	CWA UNION DUES Pay Period:	647.95
09/07/2024	09/13/2024	143433	FOPLC	9039	FOPLC UNION DUES Pay Perio	234.00
09/07/2024	09/13/2024	143434	MI STATE DISBURSEMEN	9012	FRIEND OF THE COURT Pay Pe	116.55
09/07/2024	09/13/2024	143435	PRIORITY HEALTH	392358	PRIORITY HEALTH Pay Period:	1,369.11
09/07/2024	09/13/2024	143436	THE HARTFORD	9035	LIFE - VOLUNTARY Pay Period:	257.62
09/07/2024	09/13/2024	143436	THE HARTFORD	9035	SPOUSE LIFE Pay Period: 9/7/2	54.63
09/07/2024	09/13/2024	143436	THE HARTFORD	9035	CHILD LIFE Pay Period: 9/7/202	10.29
09/07/2024	09/13/2024	143436	THE HARTFORD	9035	AD&D - VOLUNTARY Pay Period	28.04
09/07/2024	09/13/2024	143436	THE HARTFORD	9035	SPOUSE AD&D Pay Period: 9/7/	5.26
09/07/2024	09/13/2024	143436	THE HARTFORD	9035	CHILD AD&D Pay Period: 9/7/20	4.35
Grand Totals:		15				6,102.18

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Check Number	Payee	Amount
09/17/2024		
143351	AB TOOLS LLC	32.74
143352	ACE HARDWARE	5,358.16
143353	ACLARA TECHNOLOGIES LLC	5,187.93
143354	ALL-PHASE ELECTRIC SUPPLY CO	36.91
143355	AMAZON CAPITAL SERVICES	1,549.15
143356	AT YOUR SERVICE PLUS INC	140.00
143357	AT&T MOBILITY	85.06
143358	AUTO WARES INC	1,119.44
143359	AVFUEL CORPORATION	111,703.05
143360	CARQUEST OF CHARLEVOIX	1,503.20
143361	CDW GOVERNMENT	745.71
143362	CHARLEVOIX CHEESE COMPANY	142.00
143363	CHARLEVOIX LAVENDER LLC	80.00
143364	CHARLEVOIX SCREEN MASTERS INC	23.90
143365	CHARTER COMMUNICATIONS OPERA	88.24
143366	CITY OF CHARLEVOIX - UTILITIES	71,186.14
143367	CONWAY PROFESSIONAL SERVICES	5,359.00
143368	COOPER, MELANIE S	86.00
143369	DIETRICH, HEIDI LYNN	700.00
143370	DVORACEK, SARAH	399.75
143371	ECONO SIGNS LLC	338.73
143372	EMMET BRICK & BLOCK	648.40
143373	FAMILY FARM AND HOME	3,589.92
143374	FARMER WHITE'S	217.00
143375	FREEDOM MAILING SERVICES INC	2,665.20
143376	GALVIN AND MATHEWS FBA INC	480.00
143377	GANNETT MICHIGAN LOCALIQ	367.80
143378	GOLDEN HILLS MAPLE SYRUP LLC	23.00
143379	GORDON FOOD SERVICE	273.83
143380	GREAT LAKES ELEVATOR LLC	2,800.00
143381	GUNTZVILLERS FARM LLC	1,318.00
143382	HALL, LINDA	75.00
143383	HARRELL'S LLC	1,611.28
143384	HILLSIDE HARVEST FARM LLC	220.00
143385	HUGHES, LAURIE	354.00
143386	HUNTINGTON NATIONAL BANK	362,050.00
143387	INTERLOCHEN PUBLIC RADIO	333.34
143388	IPS GROUP INC	3,966.52
143389	KALAMAZOO SANITARY SUPPLY LLC	1,895.74
143390	KIRTLAND COMMUNITY COLLEGE	375.00
143391	KNIGHTS TOOLS LLC	167.50
143392	LANDSCAPE STRUCTURES	103,753.00
143393	LENSLOCK INC	5,394.00
143394	LIGETT, JOHN	15.00
143395	MACKENZIE, HEATHER	172.49
143396	MCCARDEL CULLIGAN WATER COND	55.50
143397	MCDERMOTT, DENNIS J.	89.97
143398	MICHIGAN ASSOCIATION OF PLANNIN	440.00

M = Manual Check, V = Void Check

Check Number	Payee	Amount
143399	MICHIGAN ELECTRIC	18,795.00
143400	MIKE'S MUSTARD	49.00
143401	MUNETRIX LLC	4,398.00
143402	MWEA	185.00
143403	NAVIA BENEFIT SOLUTIONS	100.00
143404	NCL OF WISCONSIN INC	218.73
143405	NORTHWEST ELECTRONICS & REPAI	29.99
143406	NW MI COG	9,600.00
143407	ON DUTY GEAR LLC	104.99
143408	PENCHURA LLC	2,492.00
143409	POWER LINE SUPPLY	642.00
143410	PRESTON FEATHER	2,990.28
143411	PROVIDENCE ORGANIC FARM	274.00
143412	REHMANN LLC	2,550.00
143413	SHARROW MASONRY INC	14,054.50
143414	STANDISH MILLING	240.00
143415	STATE OF MICHIGAN	190.55
143416	SWEET MARIA'S LLC	200.00
143417	TAYLOR 12501 LLC	412.50
143418	TELNET WORLDWIDE	196.24
143419	TILLIE'S TAFEL	65.00
143420	UNIFIRST CORPORATION	308.65
143421	VILLAGE GRAPHICS INC	5.00
143422	VOLLMER, JEN	32.69
143423	WINDEMULLER ELECTRIC INC.	1,648.00
143424	WINES, LINDA	29.73
143425	WINNIE'S ORIGINALS LLC	32.00
143426	ZAREMBA EQUIPMENT INC	1,502.26
	Total 09/17/2024:	760,562.71
	Grand Totals:	760,562.71

Check Number	Payee	Amount
09/03/2024		
90324001	AMG PAYMENT SOLUTIONS	1,188.12
90324002	AMG PAYMENT SOLUTIONS	35.05
90324003	MICHIGAN PUBLIC POWER AGENCY	17,766.18
Total 09/03/2024:		18,989.35
Grand Totals:		18,989.35

Check Number	Payee	Amount
09/04/2024		
90424001	PAYMENT SERVICE NETWORK INC.	258.85
Total 09/04/2024:		258.85
Grand Totals:		258.85

M = Manual Check, V = Void Check

Check Number	Payee	Amount
09/09/2024		
90924001	MICHIGAN PUBLIC POWER AGENCY	18,746.32
90924002	STATE OF MICHIGAN	40,099.29
Total 09/09/2024:		58,845.61
Grand Totals:		58,845.61

M = Manual Check, V = Void Check

Check Number	Payee	Amount
09/11/2024		
91124001	DTE ENERGY	2,305.31
Total 09/11/2024:		2,305.31
Grand Totals:		2,305.31

M = Manual Check, V = Void Check

Check Issue Date	Check Number	Payee	Amount
91324001			
09/13/2024	91324001	**EFTPS* Payroll Taxes	12,993.60
09/13/2024	91324001	**EFTPS* Payroll Taxes	12,993.60
09/13/2024	91324001	**EFTPS* Payroll Taxes	3,038.85
09/13/2024	91324001	**EFTPS* Payroll Taxes	3,038.85
09/13/2024	91324001	**EFTPS* Payroll Taxes	18,438.85
Total 91324001:	5		50,503.75
91324002			
09/13/2024	91324002	Alerus Financial	558.00
Total 91324002:	1		558.00
91324003			
09/13/2024	91324003	MissionSquare - 401 Plan 109153	1,204.15
Total 91324003:	1		1,204.15
91324004			
09/13/2024	91324004	MissionSquare - 457 Plan 300959	4,457.00
09/13/2024	91324004	MissionSquare - 457 Plan 300959	3,283.21
09/13/2024	91324004	MissionSquare - 457 Plan 300959	5,309.80
09/13/2024	91324004	MissionSquare - 457 Plan 300959	9,840.96
Total 91324004:	4		22,890.97
91324005			
09/13/2024	91324005	MissionSquare - Roth IRA 706117	1,165.00
Total 91324005:	1		1,165.00
91324006			
09/13/2024	91324006	STATE OF MICHIGAN	7,356.27
Total 91324006:	1		7,356.27
Grand Totals:	13		83,678.14

JM

Check Number	Payee	Amount
09/17/2024		
91724001	U.S. BANK BOND CONTROL	77,557.03
Total 09/17/2024:		77,557.03
Grand Totals:		77,557.03

M = Manual Check, V = Void Check

Check Number	Payee	Amount
09/10/2024		
4149	CHARLEVOIX COUNTY TREASURER	2,281.30
4150	CHARLEVOIX COUNTY TREASURER	483.47
4151	CHARLEVOIX COUNTY TREASURER	1,503,572.33
4152	CHARLEVOIX DISTRICT LIBRARY	542.52
4153	CHARLEVOIX PUBLIC SCHOOLS	2,142,447.14
4154	CHARLEVOIX-EMMET ISD	1,505.97
4155	CITY OF CHARLEVOIX - TAXES DUE	1,678,398.42
4156	CORELOGIC CENTRALIZED REFUND	4,873.04
4157	LAKE CHARLEVOIX EMS AUTHORITY	519.55
4158	LEFT, KATHLEEN	20.00
4159	LERETA LLC	863.93
4160	OLD NATIONAL BANK	3,832.51
4161	PISCHNER, DAVID & MARY	1,000.00
4162	RECREATIONAL AUTHORITY	114.00
4163	STATE OF MICHIGAN	11,075.52
Total 09/10/2024:		5,351,529.70
Grand Totals:		5,351,529.70

CHECKS DRAWN ON CHARLEVOIX STATE BANK ACCOUNT

Charlevoix City Council

Consent Agenda

Title: Belle River Power Plant Contract Amendments
Date: September 16, 2024

Presented By:

Background:
The Michigan Public Power Agency ("MPPA") was created under Public Act 448 of 1978 and creates opportunities for its member utilities to provide reliable, cost effective and environmentally responsible electric utility services to their communities. In 1982, MPPA executed the Belle River Participation Agreement (BRPA) with DTE Electric Company. This agreement allowed participating MPPA members to obtain a portion of their electric needs from the coal fired Belle River Power Plant ("BRPP").

ELECTRIC GENERATION RESOURCE DESCRIPTION:
The BRPP is a two-unit 1,270 MW coal-fired baseload power plant located in St. Clair County, Michigan. BRPP is jointly owned by DTE Electric (81.39%) and the MPPA (18.61%). Eleven MPPA members participate in the Belle River Project.

COAL TO NATURAL GAS REPOWERING:
BRPP will be repowered from a coal fired baseload plant to a natural gas fired peaking resource. Unit 1 will be repowered in 2025 and Unit 2 in 2026. The natural gas repowering will allow BRPP to operate through 2039. The repowering was approved in November 2022 by the MPSC as part of DTE's Integrated Resource Plan filing. The BRPP Project Committee authorized MPPA to submit testimony in March of 2023 supporting DTE's plan to repower BRPP to natural gas based on BRPP's contribution to electric reliability in Michigan, its contribution to MPPA's resource adequacy portfolio, and the forecasted economic benefits it will provide.

STRATEGIC RATIONALE:
BRPP is subject to the Steam Electric Power Generating Effluent Limitations Guidelines and Standards ("ELG"), along with a myriad of other Environmental Protection Agency regulations. Under the 2020 ELG regulations, coal fired power plants must permanently cease burning coal by the end of 2028 or install more sophisticated wastewater treatment technologies. After careful analysis where DTE studied reliability, affordability, and environmental outcomes, they concluded the best strategy will be to repower Belle River with natural gas. The repowering will lower emissions by approximately 90% while contributing the same amount of electric reliability as the current coal fired facility. Further, the cost to repower will be less expensive than building a new natural gas peaking resource, utilizes an existing power plant site, avoids the timing and complexity of a new transmission interconnection, can connect to existing natural gas infrastructure, and is in a supportive community.

AMENDED AND RESTATED BELLE RIVER PARTICIPATION AGREEMENT BETWEEN MPPA AND DTE
The repowering of the Belle River Power Plant provided an opportunity to update and modernize the language of the 1982 BRPA. Negotiations between MPPA and DTE resulted in an Amended and Restated Belle River Participation Agreement (ARBRPA). The agreement was ratified by the MPPA

Board of Commissioners on April 10, 2024, and was executed by MPPA and DTE on May 7, 2024. It is worth noting that MPPA's legal counsel in 1982 and 2024 was Mr. Kester So, Dickinson Wright, Lansing, Michigan.

NEXT STEPS:
In 1982, each member of the Belle River Project executed a Belle River Power Sales Contract and a Belle River Project Support Contract with MPPA. The Power Sales Contract identifies the terms and conditions under which electric service is provided to the participating member. The Project Support Contract identifies the terms and conditions under which the participating member pays when the BRPP is offline. To maintain alignment with the new ARBRPA, each member must execute an Amended Belle River Power Sales Contract and an Amended Belle River Project Support Contract. In addition, the governing body of each member must adopt the Participant Resolution Approving Belle River Power Sales Contract and Project Support Contract, as Amended and Restated.

Recommendation:

Motion to authorize the City Manager to sign the Amended Belle River Power Sales Contract and Amended Belle River Project Support Contract as presented.

Motion to adopt the Participant Resolution Approving Belle River Power Sales Contract and Project Support Contract, as amended and restated.

Attachments:

1. Amended Belle River Project Support Contract_clean
2. Resolution 2024.09.01 Belle River Power Sales Contract
3. Participant Resolution Approving Belle River Power Sales Contract and Project Support Contract as Amended and Restated 080124
4. BRPP Financing Step Up Procedures - Final
5. BRPP Power Sales and Project Support Contracts - Final
6. Power Sales Project Support Contract Edits - Final
7. Amended Belle River Power Sales Contract_Clean B

[COMPOSITE CONFORMED COPY]

PROJECT SUPPORT CONTRACT

BETWEEN

MICHIGAN PUBLIC POWER AGENCY

AND

[ADDRESSED SEPARATELY TO EACH PARTICIPANT

AS SET FORTH IN ANNEX 1 HERETO]

As Amended and Restated

From Time to Time

BELLE RIVER

PROJECT SUPPORT CONTRACT

This BELLE RIVER PROJECT SUPPORT CONTRACT between MICHIGAN PUBLIC POWER AGENCY, a body corporate and politic of the State of Michigan created pursuant to Act 448 of the Public Acts of Michigan of 1976 ("MPPA") and [ADDRESSED SEPARATELY TO EACH PARTICIPANT AS SET FORTH IN ANNEX 1 HERETO] (the "Participant"), is dated as of December 1, 1982, as amended and restated from time to time, including as amended and restated on ________, 2024.

WHEREAS, MPPA was organized under Act 448 of the Public Acts of Michigan of 1976 (the "Act") to provide a means for those Michigan municipalities which are members of MPPA to secure electric power and energy for their present and future needs; and

WHEREAS, MPPA is empowered by the Act (i) to acquire and construct facilities for the generation, transmission or transformation, or a combination thereof, of electric power and energy, or to acquire an interest in any such facilities; (ii) to purchase, sell, transmit or otherwise use electric power and energy within or without the State of Michigan; (iii) to issue its revenue bonds to pay all or part of the cost of acquiring facilities for the generation, transmission or transformation, or a combination thereof, of electric power and energy; and (iv) to exercise all other powers not inconsistent with the laws of the State of Michigan or the United States of America which may be necessary or appropriate for, or incidental to, the effectuation of its authorized purposes; and

WHEREAS, the member municipalities of MPPA are empowered by the Act to contract to make payments to MPPA out of funds legally available to the member municipality and to advance or contribute funds to MPPA to enable MPPA to carry out any of its powers and duties; and

WHEREAS, MPPA entered into the Belle River Participation Agreement dated as of December 1, 1982, as amended and restated from time to time, including as amended and restated on May 7, 2024, with DTE Electric Company, formerly known as The Detroit Edison Company, pursuant to which MPPA purchased an undivided interest in, and is entitled to a portion of the electric power and energy derived from, those electric generating and other facilities described and designated in the Power Sales Contract referred to below as Belle River; and

WHEREAS, MPPA entered into the Belle River Transmission Ownership and Operating Agreement dated as of December 1, 1982 with The Detroit Edison Company (now known as DTE Electric Company), pursuant to which MPPA purchased an undivided interest in certain 120 kV and higher voltage transmission lines designated in such agreement as the Designated Transmission Lines; and

WHEREAS, MPPA entered into the Belle River Transmission Ownership and Operating Agreement dated as of December 1, 1982 with Consumers Energy Company, formerly known as Consumers Power Company, pursuant to which MPPA purchased an undivided interest in certain 345 kV or higher voltage transmission lines designated in such agreement as the Designated EHV Transmission Lines; and

WHEREAS, MPPA will enter into an Amended and Restated Power Sales Contract dated the date hereof with the Participant and enter into substantially similar binding contracts with the other Participants providing for the sale of power and energy from those facilities described and designated in the Power Sales Contracts as the Belle River Project; and

WHEREAS, the Power Sales Contracts require payment to be made only for Months when power and energy are being made available; and

WHEREAS, in order to provide additional support for the payment by MPPA of costs of the Belle River Project, it is necessary for MPPA to have substantially similar binding contracts with the Participant and the other member municipalities of MPPA which are participating in the Belle River Project to provide for the payment of fixed costs relating to the Belle River Project during periods when all such costs are not required to be paid pursuant to the terms of the Power Sales Contracts and to pledge the payments required to be made in accordance with this contract and substantially similar contracts as security for the payment of revenue bonds;

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements herein contained, it is agreed by and between the parties hereto as follows:

SECTION 1. Definitions and Explanations of Terms.

Unless the context indicates that another meaning is intended, except as otherwise defined herein, when used in this Project Support Contract, including the Preamble, the words which are defined in the Power Sales Contracts shall have the meaning set forth in the Power Sales Contracts and the following words shall have the following meanings:

Participants shall mean the parties, including the Participant, other than MPPA, to Project Support Contracts substantially similar hereto and named on the Schedule of Participants attached to the Power Sales Contract.

Project Support Contracts shall mean this Belle River Project Support Contract and the other Belle River Project Support Contracts between MPPA and the other Participants, all of which are uniform in all material respects in their terms, conditions and provisions.

Project Support Month shall mean any Month during which Belle River is wholly out of service for the entire Month.

Project Support Payment shall mean, with respect to any Project Support Month, an amount equal to the amount the Participant would have been required to pay under the Power Sales Contract for such Month if Belle River had been in service during any part of such Month for Monthly Power Costs, Monthly Transmission Costs, and Transmission Utilization Adjustment Costs.

SECTION 2. Term of Contract.

This Project Support Contract shall become effective upon execution and delivery of Project Support Contracts and Power Sales Contracts by all Participants and shall continue for the term of the Participant's Power Sales Contract.

SECTION 3. Participant's Project Support.

(a) With respect to each Project Support Month, the Participant shall make a Project Support Payment to MPPA.

(b) Project Support Payments required to be made by the Participant pursuant to subsection (a) of this Section 3 shall be computed in the same manner as provided for Monthly Power Costs, Monthly Transmission Costs, and Transmission Utilization Adjustment Costs in Section 4 of the Power Sales Contract.

(c) On or before the 10th day of the Month following each Project Support Month, MPPA shall render to the Participant a monthly statement showing, with respect to the preceding Project Support Month, the amount of the Project Support Payment payable to MPPA by such Participant for such Project Support Month.

(d) Project Support Payments required to be paid to MPPA pursuant to this Section 3 shall be payable to MPPA via electronic payment as MPPA shall designate in writing to the Participant, on the 25th day of the Month following the Project Support Month for which such Project Support Payments are made.

(e) If payment in full is not made on or before the close of business on the due date, a delayed-payment charge on the unpaid amount due for each day overdue will be imposed at a rate equal to the annual percentage rate of interest being charged on such day for the prime lending rate as may from time to time be published in The Wall Street Journal under ”Money Rate” on such day (or if not published on such day the most recent preceding day on which published), plus two percent (2%), or the maximum rate lawfully payable by the Participant, whichever is less. If said due date is Saturday, Sunday or a bank holiday, the next following business day shall be the last day on which payment may be made without the addition of the delayed-payment charge.

(f) In the event of any dispute as to any portion of any monthly statement, the Participant shall nevertheless pay the full amount of the disputed charges when due and shall give written notice of the dispute to MPPA not later than the date such payment is due. Such notice shall identify the disputed bill, state the amount in dispute and set forth a full statement of the grounds on which such dispute is based. No adjustment shall be considered or made for disputed charges unless notice is given as aforesaid. MPPA shall give consideration to such dispute and shall advise the Participant with regard to its position relative thereto within thirty (30) days following receipt of such written notice. Upon final determination (whether by agreement, arbitration, adjudication or otherwise) of the correct amount, any difference between such correct amount and such full amount shall be promptly refunded to the Participant.

(g) The obligation of the Participant to make Project Support Payments shall be absolute and unconditional and shall not be dependent upon performance of MPPA under the Power Sales Contract or this Project Support Contract; Project Support Payments shall be made whether or not Belle River 1 is completed, operable or operating and notwithstanding the suspension, interruption, interference, reduction or curtailment of the output of Belle River for any reason whatsoever in whole or in part, and such Project Support Payments shall not be subject to any reduction, whether by offset, counterclaim or otherwise.

(h) The obligation of the Participant to make payments under this Section 3 shall constitute an obligation payable solely from the revenues of the Participant's electric system, subject and subordinate to payments of debt service on revenue bonds payable from and secured by a pledge of net revenues of the Participant's electric system.

SECTION 4. Participant Covenants.

(a) The Participant agrees to maintain its electric system in good operating order, to cooperate with MPPA in the performance of the respective obligations of such Participant and MPPA under this Project Support Contract and to fix, charge and collect rents, rates, fees and charges for electric power and energy and other services, facilities, and commodities, sold, furnished or supplied through its electric system sufficient to provide revenues adequate to meet its obligations under this

Project Support Contract and to pay other amounts payable from or constituting a charge and lien upon such revenues, including amounts sufficient to pay the principal of and interest on all revenue bonds related to the Participant's electric system and, to the extent being paid from revenues of such electric system, all general obligation bonds of the Participant now outstanding or hereafter issued for purposes related to its electric system.

(b) Except with respect to (i) operation, maintenance, renewal and replacement expenses of the Participant's electric system, (ii) revenue bonds which have been issued or are hereafter issued under the Michigan Revenue Bond Act (Act 94, Public Acts of Michigan, 1933, as amended) and (iii) payments required to be made into funds established under the ordinance or resolution authorizing such revenue bonds and payments required pursuant to such ordinance or resolution from the revenues held thereunder, the Participant agrees that it will not issue bonds, notes, or other evidences of indebtedness, enter into any contract or agreement or incur any expense payable from or secured by revenues of the Participant's electric system prior to the Project Support Payments required to be made by the Participant pursuant to Section 3.

(c) If the Participant has revenue bonds outstanding payable from and secured by a pledge of net revenues of its electric system, the Participant agrees that, in connection with any financial tests or conditions for the issuance of additional revenue bonds payable from and secured by a pledge of net revenues of its electric system, the Participant shall treat all payments to MPPA under this Project Support Contract as operating expenses for purposes of computing the amount of net revenues available for the payment of such outstanding revenue bonds and such additional revenue bonds.

(d) The Participant agrees to keep accurate records and accounts relating to the conduct of its business and the accounts shall be audited annually by a firm of certified public accountants, experienced in electric utility accounting, to be employed by the Participant.

(e) The Participant agrees that it will not assign its Power Sales Contract except in accordance with the terms thereof and except in conjunction with the assignment by the Participant of, and the assumption by any assignee of the obligations of the Participant under, this Project Support Contract.

(f) If the Participant does not have revenue bonds outstanding on the date of this Project Support Contract payable from and secured by a pledge of net revenues of its electric system, the Participant agrees that it will not issue any such revenue bonds unless an independent consulting engineer or engineering firm or corporation experienced in analyzing the operations of electric utility systems certifies that the facilities being financed by such revenue bonds are (or were when the Participant committed itself to such facilities by contract or financing) reasonably expected to properly and advantageously contribute to the conduct of the Participant's electric system in an efficient and economical manner consistent with prudent management.

SECTION 5. Opinion of Counsel.

If required by MPPA in connection with a bond financing, the Participant shall, concurrently with the execution and delivery of this Project Support Contract, cause an opinion or opinions in form and substance satisfactory to MPPA to be delivered by one or more attorneys or firms of attorneys satisfactory to MPPA with respect to the authorization, execution and validity of this Project Support Contract as it relates to the Participant, and, if the Participant shall have bonds outstanding secured by a pledge of the revenues of its electric system, the legality under the terms and conditions of the ordinance, resolution, indenture or other contractual arrangement with the holders of such bonds of the performance by the Participant of its covenants and agreements under this Project Support Contract.

SECTION 6. Pledge of payments.

All payments required to be made by the Participant pursuant to the provisions of this Project Support Contract shall be pledged to secure the payment of Bonds.

SECTION 7. Rights of Transfer.

In consideration of the obligation of the Participant to make Project Support Payments pursuant to Section 3, MPPA agrees, after payment of principal, premium, if any, and interest on the Bonds or after adequate provision for the payment thereof has been made in accordance with the provisions of the Bond Resolution and upon the unanimous request of all Participants, to transfer to each Participant an undivided ownership interest in Belle River, Edison Transmission, Consumers Transmission and MPPA's right, title and interest in the Belle River Participation Agreement, the Edison Transmission Agreement and the Consumers Transmission Agreement, in the proportion that such Participant's Power Entitlement Share bears to the aggregate of the Power Entitlement Shares of all Participants.

SECTION 8. Event of Default.

Failure of the Participant to pay to MPPA any Project Support Payment payments when due shall constitute an immediate default on the part of the Participant.

SECTION 9. Continuing Obligation.

In the event of any default referred to in Section 8, the Participant shall not be relieved of its liability for payment of the amounts in default and MPPA shall have the right to recover from the Participant any amount in default. In enforcement of any such right of recovery, MPPA may bring any suit, action, or proceeding in law or in equity, including mandamus and action for specific performance, as may be necessary or appropriate to enforce against the Participant any covenant, agreement or obligation to make any Project Support Payment for which provision is made in this Project Support Contract.

SECTION 10. Other Default By Participant.

In the event of a failure of the Participant to fix, charge or collect rates or charges adequate to provide revenue sufficient to enable the Participant to make all Project Support Payments or in the event of any default by the Participant under any other covenant, agreement or obligation of this Project Support Contract, MPPA may bring any suit, action, or proceeding in law or in equity, including mandamus, injunction and action for specific performance, as may be necessary or appropriate to enforce any covenant, agreement or obligation of this Project Support Contract against the Participant.

SECTION 11. Abandonment of Remedy.

In case any proceeding taken on account of any default shall have been discontinued or abandoned for any reason, the parties to such proceedings shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of MPPA and the Participant shall continue as though no such proceedings had been taken.

SECTION 12. Waiver of Default.

Any waiver at any time by either MPPA or the Participant of its rights with respect to any default of the other party hereto, or with respect to any other matter arising in connection with this Project Support Contract, shall not be a waiver with respect to any subsequent default, right or matter.

SECTION 13. Assignment of Project Support Contract; Sale of Participant's System.

(a) This Project Support Contract shall inure to the benefit of and shall be binding upon the respective successors and assigns of the parties of this Project Support Contract; provided, however, that, except for the assignment by MPPA authorized hereby, neither this Project Support Contract nor any interest herein shall be transferred or assigned by either party hereto except in conjunction with the assignment by the Participant of its Power Sales Contract in accordance with the terms thereof and except with the consent in writing of the other party hereto, which consent shall not be unreasonably withheld. No assignment or transfer of this Project Support Contract shall relieve the parties of any obligation hereunder.

(b) The Participant acknowledges and agrees that MPPA may assign and pledge to the trustee designated in the Bond Resolution all its right, title, and interest in and to all payments to be made to MPPA under the provisions of this Project Support Contract as security for the payment of the principal (including sinking fund installments) of, premium, if any, and interest on Bonds and may deliver possession of this Project Support Contract to such trustee in connection therewith, and, upon such assignment, pledge and delivery, MPPA may grant to such trustee any rights and remedies herein provided to MPPA, and thereupon any reference herein to MPPA shall be deemed, with the necessary changes in detail, to include such trustee which shall be a third party beneficiary of the covenants and agreements of the Participant herein contained.

(c) The Participant agrees that it will not sell, lease or otherwise dispose of all or substantially all of its electric utility system except upon ninety (90) days prior written notice to MPPA and, in any event, will not sell, lease or otherwise dispose of the same unless the following conditions are met: (i) the Participant shall, subject to the provisions of the Belle River Participation Agreement, the Edison Transmission Agreement and the Consumers Transmission Agreement, assign this Project Support Contract and its rights and interest hereunder to the purchaser or lessee of the electric system, and such purchaser or lessee shall assume all obligations of the Participant under this Project Support Contract; and (ii) MPPA shall by appropriate action determine that such sale, lease or other disposition will not adversely affect the value of this Project Support Contract as security for the payment of Bonds and interest thereon or affect the eligibility of interest on Bonds for federal tax-exempt status.

SECTION 14. Amendment of Contract.

(a) This Project Support Contract shall not be amended, modified, or otherwise altered in any manner that will adversely affect the security for the Bonds afforded by the provisions of this Project Support Contract upon which the owners from time to time of the Bonds shall have relied as an inducement to purchase and hold the Bonds. So long as any of the Bonds are outstanding or until adequate provisions for the payment thereof have been made in accordance with the provisions of the Bond Resolution, this Project Support Contract shall not be amended, modified, or otherwise altered in any manner which will reduce the payments pledged as security for the Bonds or extend the time of the payments provided herein or which will in any manner impair or adversely affect the rights of the owners from time to time of the Bonds.

(b) No Project Support Contract entered into between MPPA and another Participant may be amended so as to provide terms and conditions different from those herein contained except upon written notice to and written consent or waiver by each of the other Participants, and upon similar amendment being made to the Project Support Contract of any other Participant requesting such amendment after receipt by such Participant of notice of such amendment.

SECTION 15. Applicable Law; Construction.

This Project Support Contract is made under and shall be governed by the law of the State of Michigan. Headings herein are for convenience only and shall not influence the construction hereof.

SECTION 16. Severability.

If any section, paragraph, clause or provision of this Project Support Contract shall be finally adjudicated by a court of competent jurisdiction to be invalid, the remainder of this Project Support Contract shall remain in full force and effect as though such section, paragraph, clause or provision or any part thereof so adjudicated to be invalid had not been included herein.

IN WITNESS WHEREOF, the parties hereto have caused this Project Support Contract to be executed by their proper officers respectively, being thereunto duly authorized, as of the day and year first above written.

MICHIGAN PUBLIC POWER AGENCY

By ________________________________

CEO & General Manager

(SEAL)

Attest:

____

[EXECUTED SEPARATELY BY EACH PARTICIPANT AS SET FORTH IN ANNEX 1 HERETO]

By ________________________________

Its ___________________________

(SEAL)

Attest:

____

4871-8941-0257 v2 [31402-1]

CITY OF CHARLEVOIX
RESOLUTION NO. 2024-09-01
BELLE RIVER POWER SALES CONTRACT
AND BELLE RIVER PROJECT SUPPORT CONTRACT
AS AMENDED AND RESTATED FROM TIME TO TIME

WHEREAS, the City of Charlevoix (the "[City]") is a member municipality of the Michigan Public Power Agency ("MPPA"), a joint agency organized and existent pursuant to Act No. 448 of the Michigan Public Acts of 1976; and

WHEREAS, in accordance with, and pursuant to, the Belle River Participation Agreement, dated as of December 1, 1982 between MPPA and the Detroit Edison Company (whose successor in interest is DTE Electric Company), as amended and restated from time to time, including as amended and restated on May 7, 2024, MPPA acquired an undivided ownership interest in Belle River Units 1 and 2 as well as its common facilities (collectively referred to as the "Belle River Project"); and

WHEREAS, the City and other member municipalities of MPPA have previously executed and now desire to enter into amended and restated contracts with MPPA to provide for the purchase and sale and transmission of power and energy derived from the Belle River Project; and

WHEREAS, MPPA financed its purchase of the Belle River Project by the issuance of revenue bonds and in the future may issue additional revenue bonds for the Belle River Project; and

WHEREAS, in order to finance all or a portion of the Belle River Project and/or issue its revenue bonds, it is necessary that MPPA have substantially similar binding contracts with this municipality and each other municipality electing to participate in the purchase of power and energy and transmission with respect to the Belle River Project; and

WHEREAS, MPPA previously pledged and will pledge future payments required to be made in accordance with such contracts as security for the payment of such revenue bonds; and

WHEREAS, the City Clerk has on file a copy of the proposed Belle River Power Sales Contract, as amended and restated from time to time (bearing a draft date of __/__/24), to be entered into by MPPA and each municipality participating in the Belle River Project, which Power Sales Contract provides for the purchase and sale of power and energy derived from the Belle River Project; and

WHEREAS, the City Clerk also has on file a copy of the proposed Belle River Project Support Contract, as amended and restated from time to time (bearing a draft date of __/__/24), to be entered into by MPPA and each municipality participating in the Belle River Project which Project Support Contract provides for the payment by each municipality to MPPA for certain fixed costs relating to the acquisition, construction and equipping of the Belle River Project during those periods in which power and energy is not made available to such municipalities under the Belle River Power Sales Contract; and

NOW THEREFORE, IT IS HEREBY RESOLVED by the Council of the City of Charlevoix as follows:

1. The forms of the Belle River Power Sales Contract and the Belle River Project Support Contract (the "Belle River Contracts") presented to the City on this date are hereby approved and the _________________ and _________________ of the City are hereby authorized and directed to execute such contracts on behalf of the City in substantially the form as presented on this date with such insertions, deletions and minor modifications as the _________________ and _________________ deem necessary; provided such changes are not materially adverse to the City.
2. The _________________ and _________________ of the City are further authorized and directed to execute such other documents and deliver or cause to be delivered such other articles, opinions and documents necessary to enable the City to enter into the Belle River Contracts hereby authorized.
3. The City hereby agrees to make such payments as are required under the Belle River Contracts.
4. All ordinances and resolutions or parts thereof in conflict with this resolution are, to the extent of such conflict, hereby repealed.
5. This Resolution shall take effect immediately from and after the date of its adoption.

RESOLVED this 16th day of September, 2024 A.D.

Resolution was adopted by the following yea and nay vote:
Yeas:
Nays:

Absent:

CERTIFICATION

I, the undersigned, the City Clerk of the City of Charlevoix, Charlevoix County, Michigan, do hereby certify that the foregoing is a true and complete copy of Resolution 2024-09-01 adopted by the City Council of the City of Charlevoix, County of Charlevoix, State of Michigan, at a regular meeting held on September 16, 2024 the original of which is on file in the Clerk's office and available to the public. Public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267 of the Michigan Public Acts of 1976.

Dated: 09/17/2024

____

Sarah J. Dvoracek, City Clerk

[Municipal Resolution]
Draft No. 1
Draft Date: __/__/24

RESOLUTION APPROVING
BELLE RIVER POWER SALES CONTRACT
AND BELLE RIVER PROJECT SUPPORT CONTRACT
AS AMENDED AND RESTATED FROM TIME TO TIME

WHEREAS, the [City/Village] of _____________ (the "[City/Village]") is a member municipality of the Michigan Public Power Agency ("MPPA"), a joint agency organized and existent pursuant to Act No. 448 of the Michigan Public Acts of 1976; and

WHEREAS, in accordance with, and pursuant to, the Belle River Participation Agreement, dated as of December 1, 1982 between MPPA and the Detroit Edison Company (whose successor in interest is DTE Electric Company), as amended and restated from time to time, including as amended and restated on May 7, 2024, MPPA acquired an undivided ownership interest in Belle River Units 1 and 2 as well as its common facilities (collectively referred to as the "Belle River Project"); and

WHEREAS, the [City/Village] and other member municipalities of MPPA have previously executed and now desire to enter into amended and restated contracts with MPPA to provide for the purchase and sale and transmission of power and energy derived from the Belle River Project; and

WHEREAS, MPPA financed its purchase of the Belle River Project by the issuance of revenue bonds and in the future may issue additional revenue bonds for the Belle River Project; and

WHEREAS, in order to finance all or a portion of the Belle River Project and/or issue its revenue bonds, it is necessary that MPPA have substantially similar binding contracts with this municipality and each other municipality electing to participate in the purchase of power and energy and transmission with respect to the Belle River Project; and

WHEREAS, MPPA previously pledged and will pledge future payments required to be made in accordance with such contracts as security for the payment of such revenue bonds; and

WHEREAS, the [City Clerk/Village Clerk] has on file a copy of the proposed Belle River Power Sales Contract, as amended and restated from time to time (bearing a draft date of __/__/24), to be entered into by MPPA and each municipality participating in the Belle River Project, which Power Sales Contract provides for the purchase and sale of power and energy derived from the Belle River Project; and

WHEREAS, the [City Clerk/Village Clerk] also has on file a copy of the proposed Belle River Project Support Contract, as amended and restated from time to time (bearing a draft date of __/__/24), to be entered into by MPPA and each municipality participating in the Belle River Project which Project Support Contract provides for the payment by each municipality to MPPA for certain fixed costs relating to the acquisition, construction and equipping of the Belle River Project during those periods in which power and energy is not made available to such municipalities under the Belle River Power Sales Contract; and

NOW THEREFORE, IT IS HEREBY RESOLVED by the Council of the [City/Village] as follows:

1. The forms of the Belle River Power Sales Contract and the Belle River Project Support Contract (the "Belle River Contracts") presented to the [City/Village] on this date are hereby approved and the _________________ and _________________ of the [City/Village] are hereby authorized and directed to execute such contracts on behalf of the [City/Village] in substantially the form as presented on this date with such insertions, deletions and minor

modifications as the _________________ and _________________ deem necessary; provided such changes are not materially adverse to the [City/Village].

2. The _________________ and _________________ of the [City/Village] are further authorized and directed to execute such other documents and deliver or cause to be delivered such other articles, opinions and documents necessary to enable the [City/Village] to enter into the Belle River Contracts hereby authorized.

3. The [City/Village] hereby agrees to make such payments as are required under the Belle River Contracts.

4. All ordinances and resolutions or parts thereof in conflict with this resolution are, to the extent of such conflict, hereby repealed.

5. This Resolution shall take effect immediately from and after the date of its adoption.

AYES: Members ____

____

NAYS: Members ____

RESOLUTION DECLARED ADOPTED.

____

[City Clerk/Village Clerk]

COUNTY OF ________)
)SS.
STATE OF MICHIGAN)

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the _____________ of the [City/Village] of __________, County of ________, State of Michigan, at a regular meeting held on ___________, 2024, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

____
City Clerk/Village Clerk

Belle River Project
Financing & Step-Up Procedures

- **Purpose**
  - The step up mutualizes the default risk of any single Participant.
  - It reduces the risk of default on the bonds which improves the credit profile of the Project.
  - The step up obligates non-defaulting Participants to accept all or a portion of the Power Entitlement Share of a defaulting Participant.
  - The step-up for the Belle River Project is 25%. This means that a non-defaulting Participant could be obligated, in the event of default of a Participant, to assume up to a 25% increase in their Power Entitlement Share.
  - The credit rating agencies review the financial profile of the Participants, the financial profile of the Project and the terms and condition of the Project Agreements, like the step-up, to establish a credit rating.

- **Traditional Project Financing**
  - All Participants participate in the financing based on their Power Entitlement Share and are required to participate in the step-up upon a Participant default.
  - The maximum step-up obligation = Power Entitlement Share * outstanding debt * 125%. Where 25% represents the step-up and the 100% portion represents their original obligation of the outstanding debt.
  - Monthly the Participants are invoiced for their portion of debt service based on their Power Entitlement Share.

- **Hybrid Financing**
  - Under a hybrid financing, Participants can elect to fund all or a portion of their Power Entitlement Share capital obligation with cash equity reducing or eliminating their debt service participation.
  - All Participants, regardless of their cash equity election decision, remain obligated to the step-up obligation.
  - To accomplish this Participant financing flexibility, the Contracts required new language and terminology:
    - Debt Service Entitlement Share = the Participant's portion of the debt/outstanding debt amount.
      - The purpose is to prevent those not participating in the financing from being invoiced for a portion of the monthly debt service which under the original Power Sales and Project Support Contracts, was based on Power Entitlement Share.
    - Cash Election and Bond Election.
      - Provides the Participant the option to determine the best funding alternative for their Utility.
    - Debt Service Step-Up Obligation.

        - The maximum amount of principal a Participant shall be required to assume in the event of default of another Participant. The mechanics described in more detail below.
- Participant’s step-up obligation = Power Entitlement Share * outstanding principal amount * 25%.
    - This calculation reflects the maximum step-up obligation for each Participant regardless of their participation level in the financing.
- Participants debt obligation = Debt Service Entitlement Share * outstanding principal amount.
    - Represents 100% of the outstanding debt amount by Participant.
    - For Participants not participating in the financing, this amount equals zero.
- For each Participant, the total Debt Service Step-Up Obligation = Participant’s step-up obligation + Participant’s debt obligation.

Description of the Power Sales and Project Support Contracts

- **Act 94**
  - Act 94 provides for a statutory flow of funds waterfall and recognizes various costs such as operating expenses, debt service payments, maintenance expenses and capital expenditures.
  - This is important to the Participants in respect to the flow of funds when the Participant issues Act 94 "revenue" bonds.

- **Power Sales Contract**
  - Participants receive all revenues and pay all costs ('financial settlements") at their Power Entitlement Share from the Belle River Project when it is operating.
  - All costs under this Contract are viewed as an operating expense of the Participant under Act 94 and come off the top of the waterfall before a Participant's debt service on its Act 94 bonds.

- **Project Support Contract**
  - Provides payments to MPPA, for fixed costs such as debt service, capital expenditures, fixed O&M, during any period when power is not being produced from the Belle River Project.
  - These payment provisions were specifically authorized in Act 448.
  - Payments made by a Participant under this Contract have not been considered operating expenses, and instead, have been slotted in the flow of funds below the Participant's debt service payment for its Act 94 bonds.

- **Why Two Contracts**
  - Historically, it has been easier to describe under what circumstances payments are made under each Contract and where the payments would fall within the Act 94 statutory flow of funds.

MPPA – MEMBER Belle River Power Sales and Project Support Contracts

Overview of Edits

1. Reference to the recently executed Amended and Restated Belle River Participation Agreement.
2. Ensures Cost of Acquisition and Construction includes all costs for converting Belle River from coal to natural gas.
3. Includes language to align with natural gas.
4. Fix language tenses to properly describe past, present and future.
5. Update the names of the legal entities that are counterparties to important agreements (i.e. DTE Electric Company, Consumers Energy Company, etc.).
6. Language that provides Member participants the right to fund all or a portion of their Power Entitlement Share with cash equity. New terminology here (Cash Election, Debt Election, Debt Service Entitlement Share, Debt Service Step Up Obligation).
7. Deleted Back Up (Capacity, Energy, Energy Related Costs, Entitlement Share, Entitlement Take) definitions and use throughout the Contracts. The purpose and terminology used to describe Back Up provisions are a pre-MISO market artifact. The MISO market provides superior dispatching operation of Belle River and market priced energy without a 10% markup to DTE and delivers market based operating reserves instead those priced according to DTE's system costs.
8. Fixed areas of the Contracts where old physical sales bilateral scheduling have been replaced with a market based, security constrained economic dispatch with day-head and real-time energy market settlement.
9. Removed Planned Excess Generating and Transmission Capability that envisioned a set of criteria that existed in the 1980's and 1990's that is no longer applicable, where MPPA could sell back a % share of a Member Participants entitlement share that was expected not to be utilized.
10. Fixed Point of Delivery nomenclature to align with language that exists in the TOOA.
11. Remove outdated references to financial institutions and interest rate references that no longer exist or were changed.
12. Deleted language related to settlement practices between MPPA and the Member that are no longer in place or have changed.
13. Removed Reactive Power section as this is now handled in Member Participant or MPPA transmission interconnection or wholesale distribution service agreements.

[COMPOSITE CONFORMED COPY]

POWER SALES CONTRACT

BETWEEN

MICHIGAN PUBLIC POWER AGENCY

AND

[ADDRESSED SEPARATELY TO EACH PARTICIPANT

AS SET FORTH IN ANNEX 1 HERETO]

As Amended and Restated

From Time to Time

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BELLE RIVER

POWER SALES CONTRACT

This BELLE RIVER POWER SALES CONTRACT between MICHIGAN PUBLIC POWER AGENCY, a body corporate and politic of the State of Michigan created pursuant to Act 448 of the Public Acts of Michigan of 1976 ("MPPA") and [ADDRESSED SEPARATELY TO EACH PARTICIPANT AS SET FORTH IN ANNEX 1 HERETO] (the "Participant"), dated as of December 1, 1982, as amended and restated from time to time, including as amended and restated on ________, 2024.

WHEREAS, MPPA was organized under Act 448 of the Public Acts of Michigan of 1976 (the "Act") to provide a means for those Michigan municipalities which are members of MPPA to secure electric power and energy for their present and future needs; and

WHEREAS, MPPA is empowered by the Act (i) to acquire and construct facilities for the generation, transmission or transformation, or a combination thereof, of electric power and energy, or to acquire an interest in any such facilities; (ii) to purchase, sell, transmit or otherwise use electric power and energy within or without the State of Michigan; (iii) to issue its revenue bonds to pay all or part of the cost of acquiring facilities for the generation, transmission or transformation, or a combination thereof, of electric power and energy; and (iv) to exercise all other powers not inconsistent with the laws of the State of Michigan or the United States of America which may be necessary or appropriate for, or incidental to, the effectuation of its authorized purposes; and

WHEREAS, MPPA entered into the Belle River Participation Agreement dated as of December 1, 1982, as amended and restated from time to time, including as amended and restated on May 7, 2024 (“Amended and Restated Belle River Participation Agreement” or “Belle River Participation Agreement”), with DTE Electric Company, formerly known as The Detroit Edison Company, pursuant to which MPPA purchased an undivided interest in, and is entitled to a portion of the electric power and energy derived from, those electric generating and other facilities described herein and designated as Belle River; and

WHEREAS, MPPA entered into the Belle River Transmission Ownership and Operating Agreement dated as of December 1, 1982 with DTE Electric Company, formerly known as The Detroit Edison Company, pursuant to which MPPA purchased an undivided interest in certain 120 kV and higher voltage transmission lines designated in such agreement as the Designated Transmission Lines; and

WHEREAS, MPPA entered into the Belle River Transmission Ownership and Operating Agreement dated as of December 1, 1982 with Consumers Energy Company, formerly known as Consumers Power Company, pursuant to which MPPA purchased an undivided interest in certain 345 kV or higher voltage transmission lines designated in such agreement as the Designated EHV Transmission Lines; and

WHEREAS, MPPA will take or cause to be taken all steps necessary for acquisition and construction of those facilities described herein and designated as the Belle River Project for the supply of electric power and energy to the Participant and to the other municipalities contracting with MPPA therefor and will sell the power and energy of the Belle River Project pursuant to this Power Sales Contract and pursuant to contracts substantially similar to this contract with such other municipalities or other contracts with members of MPPA or others who are not Participants; and

WHEREAS, in order to enable MPPA to finance all or a portion of the Belle River Project and/or issue its revenue bonds to pay the cost of acquiring and constructing the Belle River Project it is necessary for MPPA to have substantially similar binding contracts with the Participant and such other municipalities purchasing power and energy of the Belle River Project and to pledge the payments required to be made in accordance with such contracts as security for the payment of the revenue bonds;

NOW, THEREFORE, for and in consideration of the mutual covenants and agreements herein contained, it is agreed by and between the parties hereto as follows:

SECTION 1. Definitions and Explanations of Terms.

Unless the context indicates that another meaning is intended, the following words, when used in this Power Sales Contract, including the Preamble and the Schedules, shall have the following meanings:

Belle River shall mean Belle River as such term is defined in the Belle River Participation Agreement.

Belle River 1 shall mean Belle River 1 as such term is defined in the Belle River Participation Agreement.

Belle River 2 shall mean Belle River 2 as such term is defined in the Belle River Participation Agreement.

Belle River Participation Agreement shall mean the Amended and Restated Belle River Participation Agreement as the same may be amended and restated from time to time in accordance with the provisions thereof.

Belle River Project shall mean the ownership interest and contract rights of MPPA in Belle River and Belle River Transmission.

Belle River Project Capability shall mean the amount of Net Electric Capacity and Energy, if any, which Belle River is capable of generating at any particular time (including times when Belle River is not operable or operating or the operation thereof is suspended, interrupted, interfered with, reduced or curtailed, in each case in whole or in part for any reason whatsoever) to which MPPA is entitled under the Belle River Participation Agreement, all determined in accordance with the Belle River Participation Agreement.

Belle River Transmission shall mean certain 120 kV and higher voltage transmission lines and transmission facilities ownership of all or a portion of which has been conveyed to MPPA by The Detroit Edison Company (now known as DTE Electric Company) pursuant to the Edison Transmission Agreement and by Consumers Energy Company, formerly known as Consumers Power Company, pursuant to the Consumers Transmission Agreement.

Bond Anticipation Notes shall mean notes or other evidence of indebtedness from time to time issued in anticipation of the issuance of Bonds, the proceeds of which have been or are required to be applied to one or more of the purposes for which Bonds could be issued.

Bond Election shall mean, with respect to each Participant that elects to participate or partially participates in a bond issue with respect to the Belle River Project, the original principal amount of the bond issue allocated to the Participant as shown opposite their name in the Capital Requirements Schedule, in the Bond Election column (see sample table attached as Exhibit X) that comprises a part of the Bond Resolution for each bond issue.

Bond Resolution shall mean the Belle River Project Revenue Bond Resolution providing for the issuance of the Bonds adopted or to be adopted by the Board of Commissioners of MPPA including any and all amendments and supplements thereto adopted in accordance with the provisions thereof.

Bonds shall mean the Bonds from time to time issued by MPPA pursuant to the Bond Resolution to pay any part of the Cost Of Acquisition And Construction of the Belle River Project, whether or not any issue of such Bonds shall be subordinated as to payment to any other issue of Bonds, and shall include additional Bonds and refunding Bonds issued in accordance with this Power Sales Contract and the Bond Resolution.

Cash Election shall mean with respect to each Participant that elects not to participate or partially participates in a bond issue with respect to the Belle River Project, the amount of cash the Participant must contribute as shown opposite their name on the Capital Requirement Schedule, in the Cash Election column (see sample table attached as Exhibit X) that comprises a part of the Bond Resolution for each bond issue.

Consumers Transmission Agreement shall mean the Belle River Transmission Ownership and Operating Agreement dated as of December 1, 1982, between MPPA and Consumers Energy Company, formerly known as Consumers Power Company, as the same may be amended or supplemented from time to time in accordance with the provisions thereof.

Consumers Transmission Cost Factor shall mean, with respect to each Participant, the factor (expressed as a percentage) shown opposite the name of such Participant in the Schedule of Participants which specifies such Participant's proportionate share of Monthly Transmission Costs based on (i) such Participant's Transmission Entitlement Share, (ii) such Participant's right to acquire transmission ownership at net or gross plant, as appropriate, and (iii) the voltage level of such Participant's Point of Delivery.

Contract Year shall mean the twelve (12) month period commencing at 12:01 a.m. on January 1 of each year, except that the first Contract Year shall commence on the first to occur of (i) the date to which all interest is capitalized with respect to all Bonds, (ii) the date which is twelve months prior to the date on which the first principal installment on any of the Bonds is due or (iii) the Commercial Operation Date of Belle River 1.

Cost Of Acquisition And Construction shall mean, to the extent not included in Monthly Power Costs or Monthly Transmission costs, all costs of planning, engineering, financing, constructing, acquiring and placing the Belle River Project in operation, including the conversion of the Belle River Project’s fuel source from coal to natural gas, whether heretofore or hereafter paid or incurred by MPPA, including amounts paid to DTE Electric Company under the Belle River Participation Agreement and the Edison Transmission Agreement and to Consumers Energy Company, formerly known as Consumers Power company, under the Consumers Transmission Agreement for any cost or expense which would be a Cost Of Acquisition And Construction if paid or incurred by MPPA, all as contemplated by the term ”Costs of Acquisition and Construction" as defined in the Bond Resolution, which shall include, but shall not be limited to, funds for:

(1) interest accruing in whole or in part on Bonds prior to and during construction and for such additional period as MPPA may reasonably determine to be necessary for placing the Belle River Project in operation in accordance with the provisions of the Bond Resolution;

(2) the acquisition of fuel inventory for the Belle River Project;

(3) the working capital requirements of the Belle River Project;

(4) the deposit or deposits required to be made under the Bond Resolution from the proceeds of Bonds into any fund or account established pursuant to the Bond Resolution to meet Debt Service reserve requirements for Bonds;

(5) the deposit or deposits required to be made under the Bond Resolution from the proceeds of Bonds into any fund or account established pursuant to the Bond Resolution as a reserve for renewals, replacements and contingencies and retirement from service or disposal of any facilities of the Belle River Project, including restoration of lands with respect thereto, or as a general reserve;

(6) if applicable, all federal, state and local taxes and payments in lieu of taxes required to be paid under the Belle River Participation Agreement, the Edison Transmission Agreement and the Consumers Transmission Agreement or otherwise legally required to be paid in connection with the acquisition and construction of the Belle River Project;

(7) all costs relating to claims or judgments arising out of construction of the Belle River Project;

(8) all planning and development costs, engineering fees, contractors' fees, costs of obtaining governmental or regulatory permits, licenses and approvals, costs of real property, labor, materials, equipment, supplies, training and testing costs, insurance premiums, legal and financing costs, administrative and general costs, and all other costs properly allocable to the acquisition and construction of the Belle River Project and placing the same in operation;

(9) the costs and expenses incurred in the issuance and sale of Bonds and Bond Anticipation Notes, including bond discounts, if any;

(10) all other costs incurred in connection with, and properly chargeable to, the acquisition and construction of the Belle River Project in accordance with, or which constitute a Cost of Construction under, the Belle River Participation Agreement, the Edison Transmission Agreement and the Consumers Transmission Agreement; and

(11) the payment of principal, premium, if any, and interest when due (whether at the maturity of principal or at the due date of interest or upon redemption) on Bond Anticipation Notes unless such costs are to be paid from proceeds of Bonds pursuant to the Bond Resolution.

MPPA shall apply as a credit against the Cost of Acquisition and Construction of the Belle River Project, to the extent not credited against Monthly Power Costs or Monthly Transmission Costs, all proper credits thereto, including, without limitation, all receipts, revenues and other moneys to the extent received by it or credited to it under the Belle River Participation Agreement, the Edison Transmission Agreement and the Consumers Transmission Agreement from insurance proceeds, condemnation awards, damages collected from contractors, subcontractors or others and proceeds from the sale or other disposition of surplus property and test energy, all relating to the Belle River Project, and interest earned on investments held under the Bond Resolution.

Debt Service shall mean, with respect to any period, the aggregate of the amounts required by the Bond Resolution to be paid or deposited during said period into any fund or account created by the Bond Resolution for the sole purpose of paying the principal (including sinking fund installments) of, premium, if any, and interest on all Bonds from time to time outstanding as the same shall become due; provided, however, that Debt Service shall not include any amount payable as principal or interest solely as a result of acceleration of maturity of Bonds.

Debt Service Entitlement Share shall mean with respect to each Participant, that share of participation in the issuance of Bonds or Bond Anticipation Notes under the Bond

Resolution as shown opposite the name of such Participant on the Capital Requirement Schedule in the Debt Service Entitlement Share column (see sample table attached as Exhibit X).

Debt Service Step-Up Obligation shall mean with respect to each Participant the maximum amount of outstanding principal a Participant shall be required to assume in the event of default of another Participant.

Edison Transmission Agreement shall mean the Belle River Transmission ownership and Operating Agreement dated as of December 1, 1982, between MPPA and The Detroit Edison Company (now known as DTE Electric Company), as the same may be amended or supplemented from time to time in accordance with the provisions thereof.

Edison Transmission Cost Factor shall mean, with respect to each Participant, the factor (expressed as a percentage) shown opposite the name of such Participant in the Schedule of Participants which specifies such Participant's proportionate share of Monthly Transmission Costs based on such Participant's Transmission Entitlement Share.

Electric Capacity shall mean kilowatts (kW) electric.

Electric Energy shall mean kilowatt hours (kWh).

Minimum Loading Level shall mean, with respect to each Participant, the minimum amount of production which such Participant may be required to schedule when Belle River is operating, which minimum amount in any hour shall be determined by multiplying the minimum amount of production which MPPA may be required to schedule pursuant to the Belle River Participation Agreement by such Participant's Power Entitlement Share.

Month shall mean a calendar month.

Monthly Power Costs shall mean, with respect to each Month of each Contract Year, all costs (other than Project Energy Related Costs) attributable to Belle River, to the extent not paid from the proceeds of Bonds (including income from investment of such proceeds) or upfront Cash Election made by Participants, that are paid or incurred by MPPA during such Month resulting from the ownership, operation, maintenance and termination of, and repair, renewals, replacements, additions, improvements, betterments and modifications to, Belle River, including without limitation, the following items of cost:

(1) the amount required, if any, under the Bond Resolution to be paid or deposited during such Month into any fund or account established by the Bond Resolution for the payment of Debt Service on Bonds allocable to Belle River;

(2) the amount required under the Bond Resolution to be paid or deposited during such Month into any fund or account established by the Bond Resolution to the extent allocable to Belle River or in connection with Bonds allocable to Belle River (other than funds and accounts referred to in clause (1) above), including any amounts required to be paid or deposited by reason of the transfer of moneys from such funds or accounts to the funds or accounts referred to in clause (1) above;

(3) any amount which MPPA may be required during such Month to pay for the prevention or correction of any unusual loss or damage or for renewals, replacements, repairs, additions, improvements, betterments, and modifications which are required under the Belle River Participation Agreement or which are necessary to keep Belle River in good operating condition or to prevent a loss of revenues therefrom, but in each case only to the extent that (a) funds for such payment are not available to MPPA from any funds or accounts established under the Bond Resolution for such purpose or (b) funds for such payment are not provided by the issuance of Bonds;

(4) the costs of operating and maintaining Belle River and of producing and delivering capacity and energy therefrom during such Month (including administrative and general expenses and working capital, for fuel or otherwise, but excluding Project Energy Related Costs and depreciation) not included in the costs specified in the other items of this definition and properly chargeable to Belle River;

(5) the amount required under the Bond Resolution to be paid or deposited during such Month into any fund or account established by the Bond Resolution or otherwise for the payment of interest on Bond Anticipation Notes allocable to Belle River;

(6) any additional amount not specified in the other items of this definition (excluding Project Energy Related Costs) which must be paid by MPPA during such Month under the Belle River Participation Agreement;

(7) any additional amount not in excess of 5% of the amount required to be paid pursuant to clause (1) above for financial and economic surveys, studies and work relating to future power supply by the Belle River Project; and

(8) any additional amount allocable to Bonds allocable to Belle River which must be realized by MPPA during such Month in order to meet the Debt Service coverage requirement of any rate covenant of the Bond Resolution with respect to such Bonds or which MPPA deems advisable in the marketing of its Bonds.

Monthly Transmission Costs shall mean, with respect to each Month of each Contract Year, all costs (other than Transmission Utilization Adjustment Costs) attributable to Belle River Transmission, to the extent not paid from the proceeds of Bonds (including income from investment of such proceeds), or upfront Cash Election made by Participants, that are paid or incurred by MPPA during such Month resulting from the ownership, operation, maintenance and termination of, and repair, renewals, replacements, additions, improvements, betterments and modifications to, Belle River Transmission and delivery pursuant to the Power Sales Contracts of capacity and energy, including without limitation, the following items of cost:

(1) the amount required under the Bond Resolution to be paid or deposited during such Month into any fund or account established by the Bond Resolution for the payment of Debt Service on Bonds allocable to Belle River Transmission;

(2) the amount required under the Bond Resolution to be paid or deposited during such Month into any fund or account established by the Bond Resolution to the extent allocable to Belle River Transmission or in connection with Bonds allocable to Belle River Transmission (other than funds and accounts referred to in clause (1) above), including any amounts required to be paid or deposited by reason of the transfer of moneys from such funds or accounts to the funds or accounts referred to in clause (1) above;

(3) any amount which MPPA may be required during such Month to pay for the prevention or correction of any unusual loss or damage or for renewals, replacements, repairs, additions, improvements, betterments, and modifications which are required under the Edison Transmission Agreement or the Consumers Transmission Agreement or which are necessary to keep Belle River Transmission in good operating condition or to prevent a loss of revenues therefrom but in each case only to the extent that (a) funds for such payment are not available to MPPA from any funds or accounts established under the Bond Resolution for such purpose or (b) funds for such payment are not provided by the issuance of Bonds;

(4) the costs of operating and maintaining Belle River Transmission during such Month (including administrative and general expenses and working capital, but excluding Transmission Utilization Adjustment Costs and depreciation), not included in the costs specified in the other items of this definition and properly chargeable to Belle River Transmission;

(5) the amount required under the Bond Resolution to be paid or deposited during such Month into any fund or account established by the Bond Resolution or otherwise for the payment of interest on Bond Anticipation Notes allocable to Belle River Transmission;

(6) any additional amount not specified in the other items of this definition (excluding Transmission Utilization Adjustment Costs) which must be paid by MPPA during such Month under the Edison Transmission Agreement or the Consumers Transmission Agreement; and

(7) any additional amount allocable to Bonds allocable to Belle River Transmission which must be realized by MPPA during such Month in order to meet the Debt Service coverage requirement of any rate covenant of the Bond Resolution with respect to such Bonds or which MPPA deems advisable in the marketing of its Bonds.

Net Electric Capacity and Energy shall mean the gross electric capability, and associated electric energy, of Belle River less the associated electric energy utilized by

Belle River for all processes, auxiliary equipment and systems used or useful in connection with start-up, operation, maintenance, control, supply or shutdown of Belle River including appropriate station service transformer losses.

Participants shall mean the parties, including the Participant, other than MPPA, to Power Sales Contracts substantially similar hereto and named on the Schedule of Participants.

Point of Delivery shall mean, with respect to each Participant, (i) the point(s) of interconnection between such Participant's system and the Bulk Transmission System, Bulk Sub transmission System, or the Bulk Primary Voltage System as defined in the Transmission Ownership and Operating Agreements.

Power Entitlement Share shall mean, with respect to each Participant, that percentage of Belle River Project Capability shown opposite the name of such Participant in the Schedule of Participants.

Power Sales Contracts shall mean this Belle River Power Sales Contract and the other Belle River Power Sales Contracts, dated the date hereof, between MPPA and the other Participants, all of which are uniform in all material respects in their terms, conditions and provisions with the exception of the Power Entitlement Share, the Transmission Entitlement Share, the Transmission Cost Factor and the Transmission Utilization Adjustment Factor for each of the Participants.

Project Energy Related Costs shall mean, with respect to Belle River, those costs which vary with the amount of capacity and energy produced from time to time, including without limitation, the cost of fuel, cost of fuel transportation other than fixed costs of transportation, cost of all disposal of wastes directly relating to production of capacity and energy and other costs incurred under the Belle River Participation Agreement which are directly related to the amount of capacity and energy produced under the Belle River Participation Agreement.

Schedule of Participants shall mean the Schedule of Participants attached hereto, as the same may be amended or supplemented from time to time in accordance with the provisions hereof.

Transmission Entitlement Share shall mean, with respect to each Participant, the portion of MPPA's ownership interest, expressed in kilowatts, in Belle River Transmission under the Edison Transmission Agreement and the Consumers Transmission Agreement shown opposite the name of such Participant in the Schedule of Participants.

Transmission Utilization Adjustment Costs shall mean the Utilization Adjustment, expressed in dollars, for MPPA, as determined each year in accordance with the provisions of the Consumers Transmission Agreement.

Transmission Utilization Adjustment Factor shall mean, with respect to each Participant, the factor (expressed as a percentage) to be determined each Contract Year which specifies such Participant's proportionate share of Transmission Utilization Adjustment Costs based on (i) such Participant's Power Entitlement Share for the appropriate Contract Year, (ii) such Participant's Transmission Entitlement Share for the appropriate Contract Year, (iii) such Participant's Planned Available Consumers Transmission Capacity, (iv) such Participant's right to acquire transmission ownership at net or gross plant, as appropriate, and (v) the voltage level of such Participant's Point of Delivery.

Uniform System of Accounts shall mean the Federal Energy Regulatory Commission's "Uniform Systems of Accounts" prescribed for Public Utilities and Licensees (Class A and Class B), in effect as of the date of this Power Sales Contract as such Uniform Systems of Accounts may be modified, amended or supplemented from time to time.

SECTION 2. Term of Contract.

This Power Sales Contract shall become effective upon execution and delivery of Power Sales Contracts by all Participants listed in the Schedule of Participants and shall, unless this Power Sales Contract is terminated pursuant to Section 28, continue until the later of (i) the date the principal of, premium, if any, and interest on all Bonds have been paid or funds set aside for the payment thereof or (ii) the date Belle River is retired pursuant to the Belle River Participation Agreement or the interest of MPPA in Belle River is terminated pursuant to the Belle River Participation Agreement or is otherwise disposed of.

SECTION 3. Sale and Purchase.

MPPA hereby sells, and the Participant hereby purchases, the Participant's Power Entitlement Share and the Participant's Transmission Entitlement Share. The Participant shall, in accordance with and subject to the provisions of Section 4, pay MPPA (i) for its Power Entitlement Share, an amount determined by multiplying Monthly Power Costs by the Participant's Power Entitlement Share; provided, however, the amount of Debt Service Payments to be paid by a Participant shall be calculated based on the Participant's Debt Service Entitlement Share, if any, (ii) for its share of Project Energy Related Costs, an amount determined by multiplying Project Energy Related Costs by a fraction the numerator of which is the number of kilowatt hours of energy scheduled from Belle River by the Participant during the Month to which such payment relates and the denominator of which is the total kilowatt hours of energy scheduled from Belle River by all Participants during such Month, (iii) for its Transmission Entitlement Share, amounts determined by multiplying Monthly Transmission costs attributable to the Consumers Transmission Agreement by the Participant's Consumers Transmission Cost Factor and Monthly Transmission Costs attributable to the Edison Transmission Agreement by the Participant's Edison Transmission Cost Factor and aggregating such amounts and (iv) for its share of Transmission Utilization Adjustment Costs, if any, an amount determined by multiplying Transmission Utilization Adjustment Costs by the Participant's Transmission Utilization Adjustment Factor (which amount, if negative, is to be credited to Participant). Such payments are to be computed and made as provided in Section 4 below.

SECTION 4. Method of Payment.

(a) On or before 30 days prior to the estimated commencement of the first Contract Year and on or before December 1 prior to the beginning of each Contract Year thereafter, MPPA shall prepare and e-mail to the Participant a budget showing an estimate by Month of the Monthly Power Costs, Monthly Transmission Costs, Project Energy Related Costs, Transmission Utilization Adjustment Costs, and upon request of the Participant, the Participant's share of each, for the following Contract Year, which estimates will establish the basis for the Participant's payments in respect of Monthly Power Costs, Monthly Transmission Costs, Project Energy Related Costs, and Transmission Utilization Adjustment Costs allocable to the Participant as hereinafter provided

(b) On or before the 10th day of each Month beginning with the second Month of the first Contract Year, MPPA shall render to the Participant a monthly statement showing, in each case with respect to the prior Month, (i) the amount payable by the Participant in respect of Monthly Power Costs; (ii) the amount payable by the Participant in respect of Monthly Transmission Costs; (iii) the amount payable by the Participant in respect of Project Energy Related Costs; (iv) the amount payable by the Participant in respect of Transmission Utilization Adjustment Costs; (v) the amount, if any, credited to or payable by the Participant with respect to any adjustment for actual Monthly Power Costs, Monthly Transmission Costs, Project Energy Related Costs, and Transmission Utilization Adjustment Costs incurred during a prior Month for which credit or payment has not been made; (vi) the credits, if any, against Monthly Power Costs and Monthly Transmission Costs determined in accordance with paragraphs (i) and (j) of this Section 4; and (vii) any other amounts (except amounts in respect of Monthly Power Costs, which amounts are intended to be billed exclusively pursuant to clause (i) above, and amounts in respect of Monthly Transmission Costs, which amounts are intended to be billed exclusively pursuant to clause (ii) above) payable by or credited to such Participant pursuant to this Power Sales Contract or the Bond Resolution not otherwise shown; and such Participant shall pay the total of such amounts at the times specified in paragraph (d) of this Section 4.

(c) At times as it shall deem desirable, MPPA shall review its budget of Monthly

Power Costs and Monthly Transmission Costs for the Contract Year and any adjustment thereof or credit thereto pursuant to paragraphs (i) and (j) of this Section 4 and Project Energy Related Costs, and Transmission Utilization Adjustment Costs for the Contract Year. In the event such review indicates that such budget does not or will not substantially correspond with actual receipts or expenditures, or if at any time during such Contract Year there are or are expected to be extraordinary receipts, credits or payments of costs substantially affecting Monthly Power Costs and Monthly Transmission Costs and any adjustment thereof or credit thereto pursuant to paragraphs (i) and (j) of this Section 4 and Project Energy Related Costs, and Transmission Utilization Adjustment Costs, MPPA shall prepare and email to the Participant a revised budget incorporating adjustments to reflect such receipts, credits or payments which shall supersede the previous such budget as a basis for the Participant's monthly payments hereunder for the balance of that Contract Year.

(d) Monthly payments required to be paid to MPPA pursuant to this Section 4 shall be due and payable to MPPA via electronic payment as MPPA shall designate in writing to the Participant, on the 25th day of the Month following the Month with respect to which the monthly statement therefor was rendered.

(e) If payment in full is not made on or before the close of business on the due date, a delayed-payment charge on the unpaid amount due for each day overdue will be imposed at a rate equal to the annual percentage rate of interest being charged on such day for the prime lending rate as may from time to time be published in *The Wall Street Journal* under "Money Rate" on such day (or if not published on such day the most recent preceding day on which published), plus two percent (2%), or the maximum rate lawfully payable by the Participant, whichever is less. If the due date is Saturday, Sunday or a bank holiday, the next following business day shall be the last day on which payment may be made without the addition of the delayed-payment charge.

(f) In the event of any dispute as to any portion of any monthly statement, the Participant shall nevertheless pay the full amount of the disputed charges when due and shall give written notice of the dispute to MPPA not later than the date such payment is due. Such notice shall identify the disputed bill, state the amount in dispute and set forth a full statement of the grounds on which such dispute is based. No adjustment shall be considered or made for disputed charges unless notice is given as aforesaid. MPPA shall give consideration to such dispute and shall advise the Participant with regard to its position relative thereto within thirty (30) days following receipt of such written notice. Upon final determination (whether by agreement, arbitration, adjudication or otherwise) of the correct amount, any difference between such correct amount and such full amount shall be subtracted from the statement next submitted to the Participant after such determination.

(g) Project Energy Related Costs, and Transmission Utilization Adjustment Costs, including any adjustments thereto, shall be determined by MPPA in accordance with the applicable provisions of this Power Sales Contract, the Belle River Participation Agreement, the Edison Transmission Agreement and the Consumers Transmission Agreement, respectively. The Participant shall pay such amounts pursuant to paragraphs (b) and (d) of this Section 4.

(h) The obligation of the Participant to make the payments under this Section 4 for Monthly Power Costs, Monthly Transmission Costs, Project Energy Related Costs, and Transmission Utilization Adjustment Costs shall constitute an obligation of the Participant payable as an operating expense of the Participant's electric system solely from the revenues and other available funds of the electric system, and such payments shall be made for any Month during any part of which Belle River was in service. Payments required to be made by the Participant under this Power Sales Contract are conditioned on power and energy being made available to the Participant. Accordingly, the Participant shall not be required to make any payment with respect to any Month during which Belle River is wholly out of service for the entire Month. For any Month during any portion of which Belle River is in service, the obligations of the Participant to make such payments shall not be subject to any reduction, whether by offset, counterclaim, or otherwise, and shall not, except as provided in this paragraph (h), be conditioned upon the performance by MPPA under this or any other agreement or instrument.

(i) The amount, if any, transferred pursuant to the Bond Resolution from the General Reserve Fund to the Revenue Fund during any Month shall be credited against Monthly Power Costs and Monthly Transmission Costs for such Month in the proportion that Debt Service for such Month on Bonds allocated to Belle River and on Bonds allocated to Belle River Transmission, respectively, bears to the aggregate of Debt Service on all Bonds for such Month.

(j) MPPA shall use its best efforts to collect or cause to be collected and shall apply to the retirement of Bonds allocated to Belle River or to Belle River Transmission, as appropriate, by purchase or redemption, to the extent not credited or to be credited against the Cost of Acquisition and Construction or required to be otherwise applied under the Bond Resolution, all receipts, revenues and other moneys received by it or credited to it from insurance proceeds, condemnation awards damages in connection with the construction of Belle River and Belle River Transmission collected from contractors, subcontractors or others and proceeds from the sale or other disposition of surplus property, all related to the Belle River Project. MPPA shall apply interest earned on investments held under the Bond Resolution to the extent not credited against the Cost of Acquisition and Construction in accordance with the Bond Resolution.

SECTION 5. Scheduling of Deliveries.

The Participant shall be entitled to the production of electric capacity and energy to which the Participant is entitled under this Power Sales Contract. Subject to the applicable provisions of the Belle River Participation Agreement, MPPA shall use its best efforts to schedule or cause to be scheduled such production.

SECTION 6. Point of Delivery.

Capacity and energy scheduled by the Participant pursuant to Section 5 of this Power Sales Contract will be delivered at the Participant's Point of Delivery. The Participant shall be responsible for delivery of capacity and energy from the Point of Delivery to the Participant's system.

SECTION 7. Availability of Entitlement Shares.

Except as provided otherwise by this Power Sales Contract, and subject to the provisions of the Belle River Participation Agreement, the Edison Transmission Agreement and the Consumers Transmission Agreement, respectively, the Participant's Power Entitlement Share and Transmission Entitlement Share shall be made available in accordance with this Power Sales Contract during the term of this Power Sales Contract; provided, however, that non-delivery of electric power and energy for any reason for any part, but not all, of a Month shall not relieve the Participant from its obligations to make its payments under Section 4 hereof.

SECTION 8. Insurance.

Subject to the provisions of the Belle River Participation Agreement, the Edison Transmission Agreement, the Consumers Transmission Agreement and the Bond Resolution, MPPA shall maintain, or cause to be maintained, in force, as part of the Cost Of Acquisition And Construction, Monthly Power Costs or Monthly Transmission Costs, as appropriate, insurance with responsible insurers with policies payable to the parties as their interests shall appear, against risk or direct physical loss, damage or destruction of the Belle River Project, at least to the extent that similar insurance is usually carried by utilities constructing and operating electric generation and transmission facilities of the nature of the generation and transmission facilities of the Belle River Project, including liability insurance and employers' liability, all to the extent available at reasonable cost but in no case less than will satisfy all applicable regulatory requirements.

SECTION 9. Accounting.

MPPA agrees to keep accurate records and accounts relating to the Belle River Project and relating to Monthly Power Costs, Monthly Transmission Costs, Project Energy Related Costs, and Transmission Utilization Adjustment Costs in accordance with the

Bond Resolution and the Uniform System of Accounts, separate and distinct from its other records and accounts. The accounts shall be audited annually by a firm of certified public accountants, experienced in public finance and electric utility accounting and of national reputation, to be employed by MPPA. A copy of each annual audit, including all written comments and recommendations of such accountants, shall be furnished by MPPA to the Participant not later than 180 days after the end of each Contract Year.

The Participant agrees to keep accurate records and accounts relating to the conduct of its business and the accounts shall be audited annually by a firm of certified public accountants, experienced in electric utility accounting, to be employed by the Participant. A copy of each annual audit, including all written comments and recommendations of such accountants, shall be furnished by the Participant to MPPA not later than 180 days after the termination of its fiscal year.

SECTION 10. Information to be Made Available.

(a) Subject to the provisions of the Belle River Participation Agreement, the Edison Transmission Agreement and the Consumers Transmission Agreement:

(1) all books of account, records, documentation and contracts in the possession of MPPA relating to the construction, operation and conversion of the Belle River Project's fuel source from coal to natural gas shall be available for examination by the Participant;

(2) copies of all agreements and data in the possession of MPPA relating to the financing of the Belle River Project shall be available for examination by the Participant;

(3) copies of all operating and financial records and reports relating to the Belle River Project in the possession of MPPA shall be available for examination by the Participant; and

(4) copies of policies of insurance carried pursuant to Section 8 hereof shall be available for examination by the Participant.

(b) The Participant shall, upon request, furnish to MPPA all such information, certificates, engineering reports, feasibility reports, financial statements, opinions of counsel (including the opinion required by subsection (c) hereof) and other documents as shall be reasonably necessary in connection with the financing of the Belle River Project and the cost of producing or obtaining the same shall be a part of the Cost Of Acquisition And Construction.

(c) If required by MPPA in connection with a bond financing, the Participant shall, concurrently with the execution and delivery of this Power Sales Contract, cause an opinion or opinions in form and substance satisfactory to MPPA to be delivered by one or more attorneys or firms of attorneys satisfactory to MPPA with respect to the authorization, execution and validity of this Power Sales Contract as it relates to the Participant, and, if the Participant shall have bonds outstanding secured by revenues of its electric system, the legality under the terms and conditions of the ordinance, resolution, indenture or other contractual arrangement with the holders of such bonds of the performance by the Participant of its covenants and agreements under this Power Sales Contract.

SECTION 11. Additional Bonds and Refunding Bonds.

(a) Additional Bonds may be sold and issued by MPPA in accordance with the provisions of the Bond Resolution at any time and from time to time in the event, for any reason, the proceeds derived from the sale of Bonds prior to such time shall be insufficient for the purpose of paying the Cost Of Acquisition And Construction of the Belle River Project.

(b) Additional Bonds may be sold and issued by MPPA in accordance with the provisions of the Bond Resolution at any time and from time to time in the event funds are required to pay the cost of (i) any renewals, replacements, repairs, additions, betterments, modifications, or improvements to the Belle River Project necessary to keep the Belle River Project in good operating condition or to prevent a loss of revenues therefrom; (ii) converting the fuel source from coal to natural gas; (iii) additions, improvements, repairs and modifications to the Belle River Project and any retirement or disposal of the Project required by any governmental agency having jurisdiction over the Belle River Project or for which MPPA shall be responsible under the Belle River Participation Agreement, the Edison Transmission Agreement or the Consumers Transmission Agreement; (iv) additional fuel inventory or any right thereto for the Belle River Project to the extent that additional funds are not available to pay the costs thereof; (v) transmission facilities required to be purchased by MPPA pursuant to the Edison Transmission Agreement or the Consumers Transmission Agreement subsequent to the initial purchase of facilities thereunder; (vi) capital costs incurred pursuant to actions taken under the Belle River Participation Agreement, the Edison Transmission Agreement and the Consumers Transmission Agreement, whether required or optional; and (vii) any amounts relating to the Belle River Project which MPPA is required to pay to any third party or parties by reason of any judgment or order of any court, commission, bureau, board or regulatory authority of competent jurisdiction to the extent that sufficient funds are not available therefor in any Fund or Account under the Bond Resolution.

(c) Any such additional Bonds shall be secured by the pledge made pursuant to the provisions of Section 15 of this Power Sales Contract of the payments required to be made by the Participant under Section 4 of this Power Sales Contract, and all other payments attributable to the Belle River Project and the Belle River Participation Agreement to be made in accordance with or pursuant to any other provision of this Power Sales Contract, as such payments may be increased and extended by reason of the issuance of such additional Bonds, and such additional Bonds may be issued in amounts sufficient to pay the full amount of such costs and to provide such reserves as may be reasonably determined by MPPA to be desirable. Any such additional Bonds issued in accordance with the provisions of this Section 11 and secured by the pledge of payments to be made in accordance with the provisions of this Section 11 may rank pari passu as to the security afforded by the provisions of this Power Sales Contract with all Bonds theretofore issued pursuant to and secured in accordance with the provisions of this Power Sales Contract.

(d) In the event Monthly Power Costs or Monthly Transmission Costs may be reduced by the refunding of any Bonds then outstanding or in the event it shall otherwise be advantageous, in the opinion of MPPA, to refund any Bonds MPPA may issue and sell refunding Bonds in accordance with the Bond Resolution to be secured by the pledge made pursuant to the provisions of Section 15 of this Power Sales Contract of the payments required to be made by the Participant under Section 4 of this Power Sales Contract and all other payments attributable to the Belle River Project and the Belle River Participation Agreement to be made in accordance with or pursuant to any other provision of this Power Sales Contract. Any such refunding Bonds issued in accordance with the provisions of this Section 11 and secured by the pledge of such payments may rank pari passu as to the security afforded by the provisions of this Power Sales Contract with all Bonds theretofore issued pursuant to and secured in accordance with the provisions of this Power Sales Contract.

SECTION 12. Disposition or Termination of the Belle River Project.

Except as provided in this Section 12, MPPA shall not sell or otherwise dispose of any interest in the Belle River Project without the consent of the Participant. Subject to the provisions of the Bond Resolution, Section 12 shall not prohibit a merger or consolidation or sale of all or substantially all the property of MPPA. Subject to the provisions of the Belle River Participation Agreement, the Edison Transmission Agreement and the Consumers Transmission Agreement, if the Belle River Project shall be terminated, MPPA shall use its best efforts to cause the Belle River Project to be economically salvaged, discontinued, disposed of or sold in whole or in part. MPPA shall make monthly accounting statements to the Participant of all costs associated therewith. Such monthly accounting statements shall continue until the Belle River Project has been salvaged, discontinued or finally disposed of hereunder, at which time a final accounting statement with respect thereto shall be made by MPPA at the earliest reasonable time. The costs of salvage, discontinuance or disposition shall include, but shall not be limited to, all accrued costs and liabilities resulting from the construction, operation (including cost of fuel), maintenance of and renewals and replacements to the Belle River Project. Such final accounting statement shall credit the Participant, and deduct from any amount otherwise chargeable to it, the fair market value of any assets related to the Belle River Project then retained by MPPA. If any such final accounting statement shows that the costs referred to above exceed such credits after application by MPPA of all available funds held under the Bond Resolution for such purpose, the Participant shall pay MPPA the amount shown to be due to such final accounting statement. If any such final accounting statement shows that the costs referred to above are less than such credits after application by MPPA of all other available funds held under the Bond Resolution for such purpose, MPPA shall, subject to provisions of the Bond Resolution, pay the Participant, as an adjustment for overpayments of Monthly Power Costs, an amount equal to the amount of the excess credit.

SECTION 13. Participant Covenants.

The Participant agrees to maintain its electric system in good operating order, to cooperate with MPPA in the performance of the respective obligations of such Participant and MPPA under this Power Sales Contract and to fix, charge and collect rents, rates, fees and charges for electric power and energy and other services, facilities, and commodities, sold, furnished, or supplied through its electric system sufficient to provide revenues adequate to meet its obligations under this Power Sales Contract and to pay other amounts payable from or constituting a charge and lien upon such revenues, including amounts sufficient to pay the principal of and interest on all revenue bonds related to the Participant's electric system and, to the extent being paid from revenues of such electric system, all general obligation bonds of the Participant now outstanding or hereafter issued for purposes related to its electric system.

SECTION 14. Operation and Maintenance.

Subject to the provisions of the Belle River Participation Agreement, the Edison Transmission Agreement and the Consumers Transmission Agreement, MPPA covenants and agrees that it will use its best efforts to operate, maintain and manage the Belle River Project or cause the same to be operated, maintained and managed in an efficient and economical manner.

SECTION 15. Pledge of Payments.

All payments required to be made by the Participant pursuant to the provisions of Section 4, and all other payments attributable to the Belle River Project or the Belle River Participation Agreement to be made in accordance with or pursuant to any other provision of this Power Sales Contract, shall be pledged to secure the payment of Bonds.

SECTION 16. Event of Default.

Failure of the Participant to make to MPPA any of the payments when due for which provision is made in this Power Sales Contract shall constitute an immediate default on the part of the Participant.

SECTION 17. Continuing Obligation, Right to Discontinue Service.

In the event of any default referred to in Section 16, the Participant shall not be relieved of its liability for payment of the amounts in default and MPPA shall have the right to recover from the Participant any amount in default. In enforcement of any such right of recovery, MPPA may bring any suit, action, or proceeding in law or in equity, including mandamus and action for specific performance, as may be necessary or appropriate to enforce any covenant, agreement or obligation to make any payment for which provision is made in this Power Sales Contract against the Participant, and MPPA may, upon sixty days written notice to the Participant, cease and discontinue providing all or any portion of the Participant's Power Entitlement Share, and Transmission Entitlement Share.

SECTION 18. Transfer of Entitlement Shares Following Default.

In the event of a default by any Participant and discontinuance of service pursuant to Section 17 of such Participant's Power Sales Contract, (a) MPPA shall first offer to transfer to all other Participants which are not in default a pro rata portion of the defaulting Participant's Power Entitlement Share and Transmission Entitlement Share which shall have been discontinued by reason of such default; any part of such Power Entitlement Share and Transmission Entitlement Share of a defaulting Participant which shall be declined by any non-defaulting Participant shall be reoffered pro rata to the non-defaulting Participants which have accepted in full the first such offer, and such reoffering shall be repeated until such defaulting Participant's Power Entitlement Share and Transmission Entitlement Share have been reallocated in full or until all non-defaulting Participants have declined to take any additional portion of such defaulting Participant's Power Entitlement Share and Transmission Entitlement Share; (b) in the event less than all of a defaulting Participant's Power Entitlement Share and Transmission Entitlement Share shall be accepted by the other Participants which are not in default pursuant to clause (a), MPPA shall use its reasonable best efforts to sell the remaining portion of a defaulting Participant's Power Entitlement Share and Transmission Entitlement Share for the remaining term of such defaulting Participant's Power Sales Contract with MPPA; the agreement for such sale shall contain such terms and conditions as will not adversely affect the security for the Bonds afforded by the Power Sales Contract of such defaulting Participant, including provisions for discontinuance of service upon default, and as are otherwise acceptable to MPPA; in the event of default and discontinuance of service under such agreement, the Power Entitlement Share or Transmission Entitlement Share sold pursuant to such contract shall be offered and transferred as provided for defaulting Participants in this Section 18; (c) in the event less than all of a defaulting Participant's Power Entitlement Share and Transmission Entitlement Share shall be accepted by the Participants which are not in default pursuant to clause (a) or sold pursuant to clause (b) of this Section, MPPA shall transfer, on a pro rata basis, (based on original Power Entitlement Share and Transmission Entitlement Share) to all other Participants which are not in default, the remaining portion of such defaulting Participant's Power Entitlement Share and Transmission Entitlement Share; (d) any portion of the Power Entitlement Share and Transmission Entitlement Share of a defaulting Participant transferred pursuant to this Section to a non-defaulting Participant shall become a part of and shall be added to the Power Entitlement Share and Transmission Entitlement Share of each transferee Participant, and the transferee Participant shall be obligated to pay for its Power Entitlement Share and Transmission Entitlement Share increased as aforesaid, as if the Power Entitlement Share and Transmission Entitlement Share of the transferee Participant, increased as aforesaid, had been stated originally as the Power Entitlement Share and Transmission Entitlement Share of the transferee Participant in its Power Sales Contract with MPPA; provided, however, that in no event shall any transfer of any part of a defaulting Participant's Power Entitlement Share and Transmission Entitlement Share pursuant to clause (c) of this Section result in a transferee Participant having a Power Entitlement Share or Transmission Entitlement Share (including transfers to such transferee Participant pursuant to clause (a) of this Section) in excess of 125% of its original Power Entitlement Share or Transmission Entitlement Share; (e) to the extent that Bonds are outstanding, the Debt Service Step-Up Obligation shall be equal to the Power Entitlement Share multiplied by the outstanding principal amount of the Bonds multiplied by 25% plus the Debt Service Entitlement Share multiplied by the outstanding principal amount of the Bonds; and (f) in the event less than all of a defaulting Participant's Power Entitlement Share and Transmission Entitlement Share shall be sold or transferred to non-defaulting Participants pursuant to this Section 18, MPPA shall use its reasonable best efforts to sell the remaining portion of a defaulting Participant's Power Entitlement Share and Transmission Entitlement Share or the energy associated therewith on such terms and conditions as are acceptable to MPPA. The defaulting Participant shall remain liable, except that the obligation of the defaulting Participant to pay MPPA shall be reduced to the extent that payments shall be received by MPPA for that portion of the defaulting Participant's Power Entitlement Share and Transmission Entitlement Share which may be transferred or sold as provided in this Section 18.

SECTION 19. Other Default by Participant.

In the event of a failure of the Participant to fix, charge or collect rates or charges adequate to provide revenue sufficient to enable the Participant to pay all amounts due to MPPA under this Power Sales Contract or in the event of any default by the Participant under any other covenant, agreement or obligation of this Power Sales Contract, MPPA may bring any suit, action, or proceeding in law or in equity, including mandamus, injunction and action for specific performance, as may be necessary or appropriate to enforce any covenant, agreement or obligation of this Power Sales Contract against the Participant.

SECTION 20. Default by MPPA.

In the event of any default by MPPA under any covenant, agreement or obligation of this Power Sales Contract, the Participant's remedy for such default shall be limited to mandamus, injunction, action for specific performance or any other available equitable remedy as may be necessary or appropriate.

SECTION 21. Abandonment of Remedy.

In case any proceeding taken on account of any default shall have been discontinued or abandoned for any reason, the parties to such proceedings shall be restored to their former positions and rights hereunder, respectively, and all rights, remedies, powers and duties of MPPA and the Participant shall continue as though no such proceedings had been taken.

SECTION 22. Waiver of Default.

Any waiver at any time by either MPPA or the Participant of its rights with respect to any default of the other party hereto, or with respect to any other matter arising in connection with this Power Sales Contract, shall not be a waiver with respect to any subsequent default, right or matter.

SECTION 23. Excess Funds.

Subject to the provisions of the Bond Resolution, in the event the proceeds derived from the sale of Bonds exceeds in the aggregate the amount of funds required for the purposes specified in this Power Sales Contract for the application thereof, the amount of such excess shall be used to retire, by purchase or redemption, Bonds in the manner permitted under the Bond Resolution.

SECTION 24. Relationship to and Compliance with Other Instruments.

(a) It is recognized by the parties hereto that MPPA, in undertaking, or causing to be undertaken, the planning, financing, construction, acquisition, operation and maintenance, and coal to natural gas fuel conversion of the Belle River Project, must comply with the requirements of the Bond Resolution, the Belle River Participation Agreement, the Edison Transmission Agreement, the Consumers Transmission Agreement and all licenses, permits and regulatory approvals necessary therefor, and it is therefore agreed that this Power Sales Contract is made subject to the terms and provisions of the Bond Resolution, the Belle River Participation Agreement, the Edison Transmission Agreement, the Consumers Transmission Agreement and all such licenses, permits and regulatory approvals.

(b) MPPA covenants and agrees to use its best efforts for the benefit of the Participant to comply in all material respects with all terms, conditions and covenants of the Bond Resolution, the Belle River Participation Agreement, the Edison Transmission Agreement, the Consumers Transmission Agreement and all licenses, permits and regulatory approvals relating thereto.

SECTION 25. Measurement of Energy.

MPPA will or will cause DTE Electric Company to install, maintain and operate the metering equipment, including area interchange metering and telemetering equipment, required to measure the quantities of energy produced and delivered from Belle River. MPPA shall have the option of metering at a location other than Belle River, in which event the measurements shall be appropriately adjusted for losses. At least once in each Contract Year MPPA will make or cause to be made such tests and inspections of the meters as may be necessary to maintain them at the highest practical commercial standard of accuracy.

SECTION 26. Liability of Parties.

MPPA and the Participant shall assume full responsibility and liability for the maintenance and operation of their respective properties and each shall, to the extent permitted by law, indemnify and save harmless the other from all liability and expense on account of any and all damages, claims, or actions, including injury to or death of persons arising from any act or accident in connection with the installation, presence, maintenance and operation of the property and equipment of the indemnifying party and not caused in whole or in part by the negligence of the other party; provided, that any liability which is incurred by MPPA through the operation and maintenance of the Belle River Project or pursuant to the Belle River Participation Agreement, the Edison Transmission Agreement or the Consumers Transmission Agreement and not covered, or not covered sufficiently, by insurance shall be paid solely from the revenues of MPPA, and any payments made by MPPA to satisfy such liability shall become part of Monthly Power Costs or Monthly Transmission Costs, as the case may be.

SECTION 27. Assignment of Power Sales Contract, Sale of Participant's System.

(a) This Power Sales Contract shall inure to the benefit of and shall be binding upon the respective successors and assigns of the parties to this Power Sales Contract; provided, however, that, except as provided in the event of a default and except for the assignment by MPPA authorized hereby, neither this Power Sales Contract nor any interest herein shall be transferred or assigned by either party hereto except with the consent in writing of the other party hereto, which consent shall not be unreasonably withheld. No assignment or transfer of this Power Sales Contract shall relieve the parties of any obligation hereunder.

(b) The Participant acknowledges and agrees that MPPA may assign and pledge to the trustee designated in the Bond Resolution all its right, title, and interest in and to all payments to be made to MPPA under the provisions of this Power Sales Contract as security for the payment of the principal (including sinking fund installments) of, premium, if any, and interest on Bonds and may deliver possession of this Power Sales Contract to such trustee in connection therewith, and, upon such assignment, pledge and delivery, MPPA may grant to such trustee any rights and remedies herein provided to MPPA, and thereupon any reference herein to MPPA shall be deemed, with the necessary changes in detail, to include such trustee which shall be a third party beneficiary of the covenants and agreements of the Participant herein contained.

(c) The Participant agrees that it will not sell, lease or otherwise dispose of all or substantially all of its electric utility system except upon ninety (90) days prior written notice to MPPA and, in any event, will not sell, lease or otherwise dispose of the same unless the following conditions are met: (i) the Participant shall assign this Power Sales Contract and its rights and interest hereunder to the purchaser or lessee of said electric system, and such purchaser or lessee shall assume all obligations of the Participant under this Power Sales Contract; and (ii) MPPA shall by appropriate action determine that such sale, lease or other disposition will not adversely affect the value of this Power Sales Contract as security for the payment of Bonds and interest thereon or affect the eligibility of interest on Bonds for federal tax-exempt status.

SECTION 28. Termination or Amendment of Contract.

(a) This Power Sales Contract shall not be terminated by either party under any circumstances, whether based upon the default of the other party under this Power Sales Contract or any other instrument or otherwise except as specifically provided in this Power Sales Contract.

(b) This Power Sales Contract shall not be amended, modified, or otherwise altered in any manner that will adversely affect the security for the Bonds afforded by the provisions of this Power Sales Contract covering the purchase and sale of power hereunder upon which the owners from time to time of the Bonds shall have relied as an inducement to purchase and hold the Bonds. So long as any of the Bonds are outstanding or until adequate provisions for the payment thereof have been made in accordance with the provisions of the Bond Resolution, this Power Sales Contract shall not be amended, modified, or otherwise altered in any manner which will reduce the payments pledged as security for the Bonds or extend the time of such payments provided herein or which will in any manner impair or adversely affect the rights of the owners from time to time of the Bonds.

(c) No Power Sales Contract entered into between MPPA and another Participant may be amended so as to provide terms and conditions different from those herein contained except upon written notice to and written consent or waiver by each of the other Participants, and upon similar amendment being made to the Power Sales Contract of any other Participants requesting such amendment after receipt by such Participant of notice of such amendment.

SECTION 29. Notice and Computation of Time.

Any notice or demand by the Participant to MPPA under this Power Sales Contract shall be deemed properly given if mailed postage prepaid and addressed to MPPA at its principal office; any notice or demand by MPPA to the Participant under this Power Sales Contract shall be deemed properly given if mailed postage prepaid and addressed to [THE ADDRESS OF EACH PARTICIPANT, AS SET FORTH IN ANNEX 1 HERETO]; in computing any period of time from such notice, such period shall commence at noon on the date mailed. The designations of the name and address to which any such notice or demand is directed may be changed at any time and from time to time by either party giving notice as above provided.

SECTION 30. Applicable Law; Construction.

This Power Sales Contract is made under and shall be governed by the law of the State of Michigan. Headings herein are for convenience only and shall not influence the construction hereof.

SECTION 31. Severability.

If any section, paragraph, clause or provision of this Power Sales Contract shall be finally adjudicated by a court of competent jurisdiction to be invalid, the remainder of this Power Sales Contract shall remain in full force and effect as though such section, paragraph, clause or provision or any part thereof so adjudicated to be invalid had not been included herein.

IN WITNESS WHEREOF, the parties hereto have caused this Power Sales Contract to be executed by their proper officers respectively, being thereunto duly authorized, as of the day and year first above written.

MICHIGAN PUBLIC POWER AGENCY

By ______________________________

CEO & General Manager

(SEAL)

Attest:

____

[EXECUTED SEPARATELY BY EACH PARTICIPANT AS SET FORTH IN ANNEX 1 HERETO]

By ______________________________

Its: _________________________

(SEAL)

Attest:

____

Between

MICHIGAN PUBLIC POWER AGENCY

AND

DATED AS OF DECEMBER 1, 1982

SCHEDULE OF PARTICIPANTS

CAPACITY PARAMETERS

EXPRESSED AS A PERCENTAGE OF
MPPA'S BELLE RIVER PROJECT CAPABILITY

NAME OF PARTICIPANT	POWER ENTITLEMENT SHARE
BAY CITY	3.71
CHARLEVOIX	1.65
CHELSEA	1.34
HART	0.25
HOLLAND	15.66
LANSING	64.29
LOWELL	1.24
PETOSKEY	1.85
PORTLAND	0.54
TRAVERSE CITY	4.53
ZEELAND	4.94

SCHEDULE OF PARTICIPANTS (CONTINUED)

TRANSMISSION PARAMETERS

NAME OF PARTICIPANT	EDISON TRANSMISSION ENTITLEMENT SHARE (EXPRESSED AS KILOWATT)	CONSUMERS TRANSMISSION ENTITLEMENT SHARE (EXPRESSED AS KILOWATT)	EDISON TRANSMISSION COST FACTOR (EXPRESSED AS A PERCENTAGE OF EDISON MONTHLY TRANSMISSION COSTS	CONSUMERS TRANSMISSION COST FACTOR (EXPRESSED AS A PERCENTAGE OF CONSUMERS MONTHLY TRANSMISSION COSTS)
BAY CITY	9000	8910	3.71	5.05
CHARLEVOIX	4000	3960	1.65	2.89
CHELSEA	3250	3217.5	1.34	2.35
HART	600	594	0.25	0.23
HOLLAND	38000	37620	19.66	14.86
LANSING	156000	154440	64.29	61.00
LOWELL	3000	2970	1.24	1.17
PETOSKEY	4500	4455	1.85	2.52
PORTLAND	1300	1287	0.54	0.94
TRAVERSE CITY	11000	10890	4.53	4.3
ZEELAND	12000	11880	4.94	4.69

Capital Requirement Schedule

SAMPLE SCHEDULE

Exhibit "X"

Capital Requirement $ 30,000,000

Member	Power Entitlement Share	Funding Obligation	Cash Election	Bond Election	Debt Service Entitlement Share	Debt Service Step-Up Obligation
Bay City	3.71%	$ 1,113,000	$ -	$ 1,113,000	4.87%	$ 1,338,071
Charlevoix	1.65%	$ 495,000	$ -	$ 495,000	2.17%	$ 595,099
Chelsea	1.34%	$ 402,000	$ -	$ 402,000	1.76%	$ 483,292
Hart	0.25%	$ 75,000	$ -	$ 75,000	0.33%	$ 90,166
Holland	15.66%	$ 4,698,000	$ 3,000,000	$ 1,698,000	7.43%	$ 2,618,029
Lansing	64.29%	$ 19,287,000	$ 2,000,000	$ 17,287,000	75.69%	$ 21,167,214
Lowell	1.24%	$ 372,000	$ -	$ 372,000	1.63%	$ 447,226
Petoskey	1.85%	$ 555,000	$ -	$ 555,000	2.43%	$ 667,232
Portland	0.54%	$ 162,000	$ 162,000	$ -	0.00%	$ 31,140
Traverse City	4.53%	$ 1,359,000	$ 800,000	$ 559,000	2.45%	$ 825,817
Zeeland	4.94%	$ 1,482,000	$ 1,200,000	$ 282,000	1.23%	$ 569,690
	100.00%	$ 30,000,000	$ 7,162,000		100.0%	$ 28,832,975

Bond Size	$ 22,838,000	
Issuance Costs	$ 228,380	125% * Outstanding Principal Amount
Outstanding Principal Amount	$ 23,066,380	$ 28,832,975

The Debt Service Step-Up Obligation is equal to the Power Entitlement Share multiplied by the outstanding principal amount of the Bonds multiplied by 25% plus the Debt Service Entitlement Share multiplied by the outstanding principal amount of the Bonds.

4877-7150-1777 v3 [31402-1]

Charlevoix City Council

Consent Agenda

Title: Wastewater Treatment Plant-Human Machine Interface
Date: September 16, 2024

Presented By:

Background:
The Human Machine Interface (HMI) for the grit collection system has ceased operation at the wastewater treatment plant. The HMI is used to program scheduling for the grit system as well as show the current state of operation for the grit removal equipment. As it stands now, the system still works correctly on the programmable logic controller, but we are unable to make changes to the schedule if needed. The city received a quote from the system manufacturer – Smith & Loveless Inc. for a replacement HMI with the included programming for $18,730 delivered. The quote is only good through September 30th, 2024. Upon approval, WWTP staff would be able to install the HMI when delivered.

Recommendation:
Motion to approve the proposal as presented by Smith & Loveless Inc for the amount of $18,730.

Attachments:
None

Charlevoix City Council
Consent Agenda

Title: Water Tower Maintenance: $41,000
Date: September 16, 2024

Presented By:

Background:
In the approved FY 2025 budget, we allocated funds to the Water Fund to complete miscellaneous upgrades to the water tower. These upgrades are detailed in the bid documents and have been mandated by the Michigan Department of Energy, Great Lakes and the Environment. Dixon Engineer assisted the City with the specifications and drawings for this work. We opened three bids on September 12, which are attached. Dixon Engineering stated all three contractors are capable of performing the work. We are recommending the lowest bidder, LC United, in the amount of $41,000.

Recommendation:
Motion to approve the contract with LC United in the amount of $41,000 and have the City Manager sign all required documents.

Attachments:
1. Email from Dixon Engineers
2. Midwest Tank Management Charlevoix, MI repair proposal
3. E&L Charlevoix, MI Tank Repairs (1)
4. LC United (1)

From: Eric Binkowski <ericbinkowski@dixonengineering.net>
Sent: Thursday, September 12, 2024 1:39 PM
To: Pat Elliott <pate@charlevoixmi.gov>; Nick Hilling <nickh@charlevoixmi.gov>
Cc: Tarin Minkel <tarinminkel@dixonengineering.net>; Liz Anderson <liza@charlevoixmi.gov>; Sarah Dvoracek <clerk@charlevoixmi.gov>
Subject: RE: Charlevoix, MI-RFQ Bids

Pat,

We received 3 bids for the project. Their bid amounts were $41,000 (LC United); $43,200 (E&L) and $44,500 (Midwest Tank) respectively. The bids are attached for your records. All of the contractors are capable and would be recommended to perform the scope of work in the RFQ. All bids came in below our 2023 maintenance inspection report budgeting estimates for these items, which totaled $51,000. If you would like to move forward with the project, we would request the contractors COI and package it together with the contractors bid and signature page to become the contract document for the project.

Once you receive and return a signed contract document and the 399 permit application is approved, I will reach out to the contractor to get their anticipated construction schedule and request their project submittals.

Thanks,

Eric

Charlevoix, Michigan
300,000 Gallon Spheroid
Specification – Miscellaneous Repairs

Tank Information:
The structure is a 300,000-gallon spheroid elevated water storge tank with a high-water level of 148 ft. located at 680 Division St. in Charlevoix, Michigan.

Scope of Work:

Repairs:
1) Replace the wet interior roof hatch.
2) Install a cover over the condensate and top platform openings.
3) Replace the condensate drain line.
4) Overflow discharge modification.
5) Install fall prevention devices on the wet interior and basebell ladders.
6) Replace roof vent with a pressure vacuum vent.
7) Install a roof handrail with a painter's railing.
8) Weld a rigging lug on the transition cone.
9) Replace the corroded anchor bolt nuts.

Schedule and Liquidated damages:
Commence work on or after September 30, 2024.
Substantial Completion by October 27, 2024, including cure and disinfection time.

Liquidated damages are applicable and begin after 14 days out-of-service or after Substantial Completion date whichever is the earlier date. Liquidated damages at $1,250/calendar day is to apply after this date. Ready for Final Payment Date is to be thirty (30) days after date Substantial Completion Date based on out-of-service days or scheduled Substantial Completion, or as adjusted by Change Order, or actual Substantial Completion if earlier. Liquidated damages after Ready for Final Payment Date of $250/day is to apply. Liquidated damages are cumulative if damages from Substantial Completion and Ready for Final Payment overlap.

Miscellaneous Information:
1) Insurance requirements are attached. Note that bonds are not required.
2) Specifications for the work are attached.
3) Email proposal to Dixon Engineering Inc. to the Project Manager Eric Binkowski at Eric.Binkowski@dixonengineering.net by 5:00 PM September 11, 2024.

Line Item Schedule of Values:

1. WET INTERIOR ROOF HATCH ______________________
   ____________________ 1,800 ________

2. CONDENSATE AND TOP PLATFORM OPENING COVERS
$ 2,800

3. CONDENSATE DRAIN LINE
$ 2,400

4. OVERFLOW PIPE DISCHARGE MODIFICATION
$ 3,500

5. FALL PREVENTION DEVICES
$ 5,500

6. ROOF VENT
$ 9,000

7. ROOF HANDRAIL AND PAINTER'S RAILING
$ 18,500

8. TRANSITION CONE LUG
$ 500

9. ANCHOR BOLT NUTS
$ 500

TOTAL PRICE INCLUDING LINE ITEMS #1 THROUGH #9:
$ 44,500

President, Midwest Tank Management

Contractor Signature

9/9/2024

Date

CONTRACTOR'S INSURANCE REQUIREMENTS

1.01 INSURANCE

A. **The Contractor shall provide proof of insurance with the limit of liability of "statutory" Workers' Compensation. The owner and Engineer shall be named as additional insured on the certificate(s) of insurance. Limits of liability shall be: General Liability $2,000,000; Automobile Liability $1,000,000; Excess/Umbrella Liability $2,000,000.**

B. All insurance required by the Contract to be purchased and maintained by Contractor shall be obtained from insurance companies that are duly licensed or authorized, in the state or jurisdiction in which the Project is located, to issue insurance policies for the required limits and coverages. All companies that provide insurance policies required under this Contract shall have an A.M. Best rating of A-VII or better. Insurance Companies must, in addition to State license, be incorporated and originating from within the United States. Offshore companies or internet companies are not acceptable. Contractor may obtain worker's compensation insurance from an insurance company that has not been rated by A.M. Best, provided that such company (a) is domiciled in the state in which the Project is located, (b) is certified or authorized as a worker's compensation insurance provider by the appropriate state agency, and (c) has been accepted to provide worker's compensation insurance for similar projects by the state within the last 12 months.

C. Alternative forms of insurance coverage, including but not limited to self-insurance and "Occupational Accident and Excess Employer's Indemnity Policies," are not sufficient to meet the insurance requirements of this Contract.

D. Contractor shall deliver to Owner, with copies to each named insured and additional insured, minimum three (3) copies of certificates of insurance establishing that Contractor has obtained and is maintaining the policies, coverages, and endorsements required by the Contract. Upon request by Owner or any other insured, Contractor shall also furnish other evidence of such required insurance, including but not limited to copies of policies and endorsements, and documentation of applicable self-insured retentions and deductibles. Contractor may block out (redact) any confidential premium or pricing information contained in any policy or endorsement furnished under this provision.

E. Failure of Owner to demand such certificates or other evidence of the Contractor's full compliance with these insurance requirements, or failure of Owner to identify a deficiency in compliance from the evidence provided, shall not be construed as a waiver of the Contractor's obligation to obtain and maintain such insurance.

F. In addition to the liability insurance required to be provided by Contractor, the Owner, at Owner's option, may purchase and maintain Owner's own liability insurance. Owner's liability policies, if any, operate separately and independently from policies required to be provided by Contractor, and

Contractor cannot rely upon Owner's liability policies for any of Contractor's obligations to the Owner, Engineer, or third parties.

G. If Contractor does not purchase or maintain all of the insurance at the specified level by the Contract, Contractor shall notify Owner in writing of such failure to purchase prior to the start of the Work, or of such failure to maintain prior to any change in the required coverage.

H. If Contractor has failed to obtain and maintain required insurance, Contractor's entitlement to enter or remain at the Site will end immediately, and Owner may impose an appropriate Set-off against payment for any associated costs, and exercise Owner's termination rights.

I. Without prejudice to any other right or remedy, if Contractor has failed to obtain or maintain required insurance, Owner may elect to obtain equivalent insurance to protect Owner's interests at the expense of the Contractor who was required to provide such coverage, and the Contract Price shall be adjusted accordingly with a Set-off.

J. Contractor shall require:

   1. Subcontractors to purchase and maintain worker's compensation, commercial general liability, and other insurance that is appropriate for their participation in the Project, and to name as additional insureds Owner and DIXON (and any other individuals or entities identified herein as additional insureds on Contractor's liability policies) on each Subcontractor's commercial general liability insurance policy; and
   2. Suppliers to purchase and maintain insurance that is appropriate for their participation in the Project.

K. Owner does not represent that insurance coverage and limits established in this Contract necessarily will be adequate to protect Contractor or Contractor's interests. Contractor is responsible for determining whether such coverage and limits are adequate to protect its interests, and for obtaining and maintaining any additional insurance that Contractor deems necessary.

L. The insurance and insurance limits required herein shall not be deemed as a limitation on Contractor's liability, or that of its subcontractors or Suppliers, under the indemnities granted to Owner and other individuals and entities in the Contract.

M. All the policies of insurance required to be purchased and maintained under this Contract will contain a provision or endorsement that the coverage afforded will not be canceled, or renewal refused, until at least 10 days prior written notice has been given to the Contractor. Within three days of receipt of any such written notice, the purchasing policyholder shall provide a copy of the notice to each other insured and Engineer.

N. All policies apply with respect to the performance of the Work, whether such performance is by Contractor, any Subcontractor or Supplier, or by anyone directly or indirectly employed by any of them to perform any of the Work, or by anyone for whose acts any of them may be liable

O. Contractor waives all rights against Owner and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils, risks, or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Engineer, its consultants, all individuals or entities identified herein as builder's risk or installation floater insureds, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, under such policies for losses and damages so caused.

Q. Additional Insureds: The Contractor's commercial general liability, automobile liability, employer's liability, umbrella or excess, and unmanned aerial vehicle liability policies, if required by this Contract, must:
   1. Include and list as additional insureds Owner and DIXON, and any individuals or entities identified as additional insureds herein;
   2. Include coverage for the respective officers, directors, members, partners, employees, and consultants of all such additional insureds;
   3. Afford primary coverage to these additional insureds for all claims covered thereby (including as applicable those arising from both ongoing and completed operations);
   4. Not seek contribution from insurance maintained by the additional insured; and
   5. As to commercial general liability insurance, apply to additional insureds with respect to liability caused in whole or in part by Contractor's acts or omissions, or the acts and omissions of those working on Contractor's behalf, in the performance of Contractor's operations.

R. Builder's Risk and Other Property Insurance
   1. Builder's Risk: Unless otherwise provided herein, Contractor shall purchase and maintain builder's risk insurance upon the Work on a completed value basis, in the amount of the Work's full insurable replacement cost (subject to such deductible amounts as may be provided herein or required by Laws and Regulations). The specific requirements applicable to the builder's risk insurance are set forth herein.
   2. Property Insurance for Facilities of Owner Where Work Will Occur: Owner is responsible for obtaining and maintaining property insurance covering each existing structure, building, or facility in which any part of the Work will occur, or to which any part of the Work will attach or be adjoined.
   3. The builder's risk insurance must be written on a builder's risk "all risk" policy form that at a minimum includes insurance for physical loss or damage to the Work. Material in storage or transit is at risk and protected as Contractor determines. The Owner does not take responsibility for storage, transit or while on site until installed. The policy may or the Contractor may self-insure for vandalism and malicious mischief; debris removal; and water damage (other than that caused by flood).
   4. Such policy will include an exception that results in coverage for ensuing losses from physical damage or loss with respect to any defective workmanship, methods, design, or materials exclusions.
   5. Policy shall allow

a. for the waiver of the insurer's subrogation rights, as set forth in this Contract.
b. allow for partial occupancy or use by Owner by endorsement, and without cancellation or lapse of coverage.
c. be maintained in effect until the Work is complete, or until written confirmation of Owner's procurement of property insurance following Substantial Completion, whichever occurs first
d. either insure or self-insure for all "soft cost" losses, the Owner is not responsible for Soft Losses which result from an insurable event.

S. Contractor's failure to submit an "All Risk" policy form of the Builder's Risk Policy will be taken as an affirmation that the Contractor is self-insuring all risks and responsibilities.
   1. The Owner reserves the right to require verification that Contractor has the financial ability to self-insure Builder's Risk, including review of corporate financial statements.

T. The builder's risk insurance policy purchased and maintained will contain provisions to the effect that in the event of payment of any loss or damage the insurer or self-insured will have no rights of recovery against any insureds thereunder, or against DIXON or its consultants, or their officers, directors, members, partners, employees, agents, consultants, or subcontractors.
   1. Contractor waives all rights against Owner and the respective officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, or resulting from any of the perils, risks, or causes of loss covered by such policies and any other property insurance applicable to the Work; and, in addition, waive all such rights against Engineer, its consultants, all individuals or entities identified herein as builder's risk or installation floater insureds, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, under such policies for losses and damages so caused.

U. The waivers herein include the waiver of rights due to business interruption, loss of use, or other consequential loss extending beyond direct physical loss or damage to Owner's property or the Work caused by, arising out of, or resulting from fire or other insured peril, risk, or cause of loss.

V. Contractor shall be responsible for assuring that each Subcontract contains provisions whereby the Subcontractor waives all rights against Owner, Contractor, all individuals or entities identified herein as insureds, the Engineer and its consultants, and the officers, directors, members, partners, employees, agents, consultants, and subcontractors of each and any of them, for all losses and damages caused by, arising out of, relating to, or resulting from fire or other peril, risk, or cause of loss covered by builder's risk insurance, installation floater, and any other property insurance applicable to the Work.

W. Failure of Contractor, if self-insured, to make appropriate payments for reparations will result in equitable Set-off by Owner.

X. If no other special agreement is reached, Contractor shall repair or replace the damaged Work, using allocated insurance proceeds.

Y. Indemnification:

1. To the fullest extent permitted by Laws and Regulations, and in addition to any other obligations of Contractor under the Contract or otherwise, Contractor shall indemnify and hold harmless Owner and Engineer, and the officers, directors, members, partners, employees, agents, consultants and subcontractors of each and any of them, from losses, damages, costs, and judgments (including but not limited to all fees and charges of engineers, architects, attorneys, and other professionals, and all court or arbitration or other dispute resolution costs) arising from third-party claims or actions relating to or resulting from the performance or furnishing of the Work, provided that any such claim, action, loss, cost, judgment or damage is attributable to bodily injury, sickness, disease, or death, or to damage to or destruction of tangible property (other than the Work itself), including the loss of use resulting therefrom, but only to the extent caused by any negligent act or omission of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable.
2. In any and all claims against Owner or Engineer or any of their officers, directors, members, partners, employees, agents, consultants, or subcontractors by any employee (or the survivor or personal representative of such employee) of Contractor, any Subcontractor, any Supplier, or any individual or entity directly or indirectly employed by any of them to perform any of the Work, or anyone for whose acts any of them may be liable, the indemnification obligation. A shall not be limited in any way by any limitation on the amount or type of damages, compensation, or benefits payable by or for Contractor or any such Subcontractor, Supplier, or other individual or entity under workers' compensation acts, disability benefit acts, or other employee benefit acts.

Charlevoix, Michigan
300,000 Gallon Spheroid
Specification – Miscellaneous Repairs

Tank Information:
The structure is a 300,000-gallon spheroid elevated water storge tank with a high-water level of 148 ft. located at 680 Division St. in Charlevoix, Michigan.

Scope of Work:

Repairs:
1) Replace the wet interior roof hatch.
2) Install a cover over the condensate and top platform openings.
3) Replace the condensate drain line.
4) Overflow discharge modification.
5) Install fall prevention devices on the wet interior and basebell ladders.
6) Replace roof vent with a pressure vacuum vent.
7) Install a roof handrail with a painter's railing.
8) Weld a rigging lug on the transition cone.
9) Replace the corroded anchor bolt nuts.

Schedule and Liquidated damages:
Commence work on or after September 30, 2024.
Substantial Completion by October 27, 2024, including cure and disinfection time.

Liquidated damages are applicable and begin after 14 days out-of-service or after Substantial Completion date whichever is the earlier date. Liquidated damages at $1,250/calendar day is to apply after this date. Ready for Final Payment Date is to be thirty (30) days after date Substantial Completion Date based on out-of-service days or scheduled Substantial Completion, or as adjusted by Change Order, or actual Substantial Completion if earlier. Liquidated damages after Ready for Final Payment Date of $250/day is to apply. Liquidated damages are cumulative if damages from Substantial Completion and Ready for Final Payment overlap.

Miscellaneous Information:
1) Insurance requirements are attached. Note that bonds are not required.
2) Specifications for the work are attached.
3) Email proposal to Dixon Engineering Inc. to the Project Manager Eric Binkowski at Eric.Binkowski@dixonengineering.net by 5:00 PM September 11, 2024.

Line Item Schedule of Values:

1. WET INTERIOR ROOF HATCH
Forty-Two Hundred $ **4,200.00**

2. CONDENSATE AND TOP PLATFORM OPENING COVERS
Eight Hundred $ **800.00**

3. CONDENSATE DRAIN LINE
Eighteen Hundred $ **1,800.00**

4. OVERFLOW PIPE DISCHARGE MODIFICATION
Forty-Eight Hundred $ **4,800.00**

5. FALL PREVENTION DEVICES
Forty-Four Hundred $ **4,400.00**

6. ROOF VENT
Seven Thousand $ **7,000.00**

7. ROOF HANDRAIL AND PAINTER'S RAILING
Eighteen Thousand and Six Hundred $ **18,600.00**

8. TRANSITION CONE LUG
Four Hundred $ **400.00**

9. ANCHOR BOLT NUTS
Twelve Hundred $ **1,200.00**

TOTAL PRICE INCLUDING LINE ITEMS #1 THROUGH #9:
Forty-Three Thousand and Two Hundred $ **43,200.00**

Contractor Signature

9-9-2024
Date

Charlevoix, Michigan
300,000 Gallon Spheroid
Specification – Miscellaneous Repairs

Tank Information:
The structure is a 300,000-gallon spheroid elevated water storge tank with a high-water level of 148 ft. located at 680 Division St. in Charlevoix, Michigan.

Scope of Work:

Repairs:
1) Replace the wet interior roof hatch.
2) Install a cover over the condensate and top platform openings.
3) Replace the condensate drain line.
4) Overflow discharge modification.
5) Install fall prevention devices on the wet interior and basebell ladders.
6) Replace roof vent with a pressure vacuum vent.
7) Install a roof handrail with a painter's railing.
8) Weld a rigging lug on the transition cone.
9) Replace the corroded anchor bolt nuts.

Schedule and Liquidated damages:
Commence work on or after September 30, 2024.
Substantial Completion by October 27, 2024, including cure and disinfection time.

Liquidated damages are applicable and begin after 14 days out-of-service or after Substantial Completion date whichever is the earlier date. Liquidated damages at $1,250/calendar day is to apply after this date. Ready for Final Payment Date is to be thirty (30) days after date Substantial Completion Date based on out-of-service days or scheduled Substantial Completion, or as adjusted by Change Order, or actual Substantial Completion if earlier. Liquidated damages after Ready for Final Payment Date of $250/day is to apply. Liquidated damages are cumulative if damages from Substantial Completion and Ready for Final Payment overlap.

Miscellaneous Information:
1) Insurance requirements are attached. Note that bonds are not required.
2) Specifications for the work are attached.
3) Email proposal to Dixon Engineering Inc. to the Project Manager Eric Binkowski at Eric.Binkowski@dixonengineering.net by 5:00 PM September 11, 2024.

Line Item Schedule of Values:

1. WET INTERIOR ROOF HATCH
   Three thousand five hundred $ 3,500

2. CONDENSATE AND TOP PLATFORM OPENING COVERS
Six thousand $ 6,000

3. CONDENSATE DRAIN LINE
Two thousand and five hundred $ 2,500

4. OVERFLOW PIPE DISCHARGE MODIFICATION
Three thousand $ 3,000

5. FALL PREVENTION DEVICES
Two thousand five hundred $ 2,500

6. ROOF VENT
Seven thousand $ 7,000

7. ROOF HANDRAIL AND PAINTER'S RAILING
Thirteen thousand five hundred $ 13,500

8. TRANSITION CONE LUG
Five Hundred $ 500

9. ANCHOR BOLT NUTS
Two thousand five hundred $ 2,500

TOTAL PRICE INCLUDING LINE ITEMS #1 THROUGH #9:
Forty one thousand Dollars $ 41,000.00

[signature]
Contractor Signature

9/11/2024
Date

Charlevoix City Council

Public Hearings and Actions Requiring Public Hearings

Title: Set Public Hearing: Conditional Rezone, 743 Petoskey Ave.
Date: September 16, 2024

Presented By: Jonathan Scheel, Zoning Administrator

Background:
This is a request for the conditional rezone of the front portion of the parcel at 743 Petoskey Avenue. The entire parcel is 1.401 acres. The rezone request is from Multi-Family R-4 to General Commercial (GC). There is an existing building (former gas station) on the parcel. The proposed rezoned area fronts Petoskey Ave. (US 31) and accounts for approximately 1/3 of the entire parcel (20,000 sq ft). The remainder of the parcel would remain R-4 and has access/frontage to Division Street. Over the last 50 +- years, this and neighboring properties were zoned General Commercial (GC). This property specifically was a gas station but was abandoned approximately 30 years ago. In the last 30 years there has been no commercial development in this area. There have been on-again-off-again actions to rid this specific lot of ongoing blight. In the last few years, the lot has been cleaned up, and the building has been refurbished to meet all ordinance standards and overall be a positive sight for the neighborhood. Because of the lack of commercial activity and the need for housing, the city recently rezoned the area, including this lot, to R-4 Multi-Family Housing. Multifamily housing is a use allowed in General Commercial, but the Planning Commission was concerned that high intensity uses allowed in General Commercial was hindering developers from committing to housing if a high intensity commercial use was allowed by right and could be built next door with a simple site plan approval.

The City's Master Plan does consider this area as a place for small walkable low impact businesses. A conditional rezone works very well in this situation. A small appropriate business would be allowed with no concerns of a higher intensity business replacing it if the business moves, fails or otherwise is no longer there. A conditional rezone agreement, (which is part of this agenda item) states what is allowed and anything else simply wouldn't be allowed. The parcel would revert to its original zoning if this or other approved business were to stop its use.

Recommendation:
Motion to set a public hearing for Monday, October 7, 2024, at 6pm in the Council Chamber of City Hall, 210 State Street, Charlevoix, MI for the proposed conditional rezone ordinance amendment.

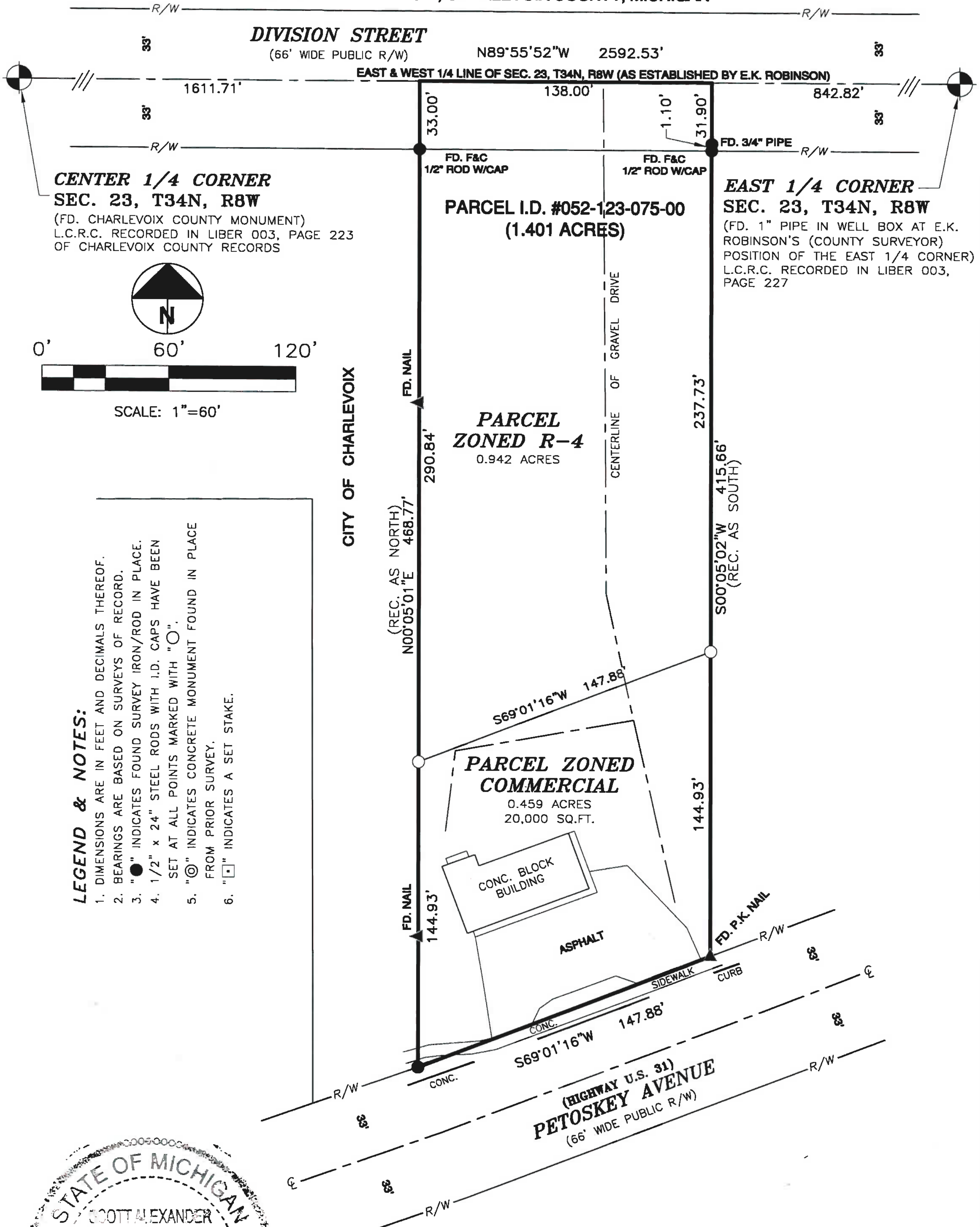
Attachments:
1. Survey.Legal Description.8.14.24 (2) (1)
2. C100 Stiggs ReZoning Siteplan 9-9-24
3. Description of Conditional Rezone.CityCouncil.9.10.24 (1)
4. Council Rezone report 743 Petoskey Ave
5. 852 of 2024 rezone 743 Petoskey
6. 2024-09-12 Conditional Rezone Agreement Stiggs

CERTIFIED TO:
LSB VENTURES LLC
℅ JOHN MURRAY
203 BRIDGE STREET
CHARLEVOIX, MI 49720
TAX I.D. #: 15-052-123-075-00

CERTIFICATE OF BOUNDARY SURVEY

PART OF GOVERNMENT LOT 4 & PART OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 SECTION 23, TOWN 34 NORTH, RANGE 8 WEST

CITY OF CHARLEVOIX, CHARLEVOIX COUNTY, MICHIGAN



LEGEND & NOTES:

1. DIMENSIONS ARE IN FEET AND DECIMALS THEREOF.
2. BEARINGS ARE BASED ON SURVEYS OF RECORD.
3. "●" INDICATES FOUND SURVEY IRON/ROD IN PLACE.
4. 1/2" x 24" STEEL RODS WITH I.D. CAPS HAVE BEEN SET AT ALL POINTS MARKED WITH "○".
5. "◎" INDICATES CONCRETE MONUMENT FOUND IN PLACE FROM PRIOR SURVEY.
6. "⊡" INDICATES A SET STAKE.

STATE OF MICHIGAN ★ SCOTT ALEXANDER PAPINEAU PROFESSIONAL SURVEYOR No. 4001050446

SCOTT A. PAPINEAU P.S. NO. 4001050446

I HEREBY CERTIFY that I have surveyed and mapped the parcels heron described and that the relative positional precision of each corner is within the limits accepted by the practice of professional surveying and that all the requirements of P.A. 132 of 1970, as amended, have been complied with.

This survey plat was prepared for the exclusive use of the person, persons, or entity named in the certification hereon. Said certificate does not extend to any unnamed third person without an express recertification by the surveyor naming said third person.

FERGUSON & CHAMBERLAIN ASSOCIATES, INC.
PROFESSIONAL SURVEYORS
103 W. UPRIGHT STREET, CHARLEVOIX, MICHIGAN 49720
(231)547-6882 – FAX (231) 547-0021
EMAIL: info@fcasurveying.com

FIELD:	STAKED:	DRAWN: CWB
JOB: SB-29899C-24	DATE: 08/07/2024	

August 7, 2024

Job No. SB-29899C-24
Legal Description for: LSB Ventures LLC

Parcel Zoned Commercial
In the City of Charlevoix, Charlevoix County, Michigan, Commencing at the East one-quarter corner of Section 23, Township 34 North, Range 8 West; thence along the East and West one-quarter line as established by E.K. Robinson (County Surveyor), North 89°55'52" West 842.82 feet (recorded as West 840.4 feet & measured 840.60 feet from D.C. Nettleton's East one-quarter corner); thence South 0°05'02" West (recorded as South) 31.90 feet to a ¾" iron pipe; thence continuing South 0°05'02" West (recorded as South) 1.10 feet to a ½" iron rod on the South line of Division Street; thence continuing South 0°05'02" West 237.73 feet to a ½" iron rod, being the POINT OF BEGINNING; thence continuing South 0°05'02" West (recorded as South) 144.93 feet to a PK Nail on the North line of Petoskey Avenue (AKA Highway US-31); thence along said North road line South 69°01'16" West 147.88 feet to a ½" iron rod; thence North 0°05'01" East (recorded as North) 144.93 feet to a ½" iron rod; thence parallel to the said North road line, North 69°01'16" East 147.88 feet to the Point of Beginning, being a part of Government Lot 4, Section 23, Township 34 North, Range 8 West and containing 20,000 square feet (0.459 acres). Subject to the rights of the public and of any governmental unit in any part thereof taken, used or deeded for street, road, or highway purposes.

Parcel Zoned R-4
In the City of Charlevoix, Charlevoix County, Michigan, Commencing at the East one-quarter corner of Section 23, Township 34 North, Range 8 West; thence along the East and West one-quarter line as established by E.K. Robinson (County Surveyor), North 89°55'52" West 842.82 feet (recorded as West 840.4 feet & measured 840.60 feet from D.C. Nettleton's East one-quarter corner) to the POINT OF BEGINNING; thence South 0°05'02" West (recorded as South) 31.90 feet to a ¾" iron pipe; thence continuing South 0°05'02" West (recorded as South) 1.10 feet to a ½" iron rod on the South line of Division Street; thence continuing South 0°05'02" West 237.73 feet to a ½" iron rod; thence parallel to the North line of Petoskey Avenue (AKA Highway US-31), South 69°01'16" West 147.88 feet to a ½" iron rod; thence North 0°05'01" East (recorded as North) 290.84 feet to the said South line of Division Street; thence continuing North 0°05'01" East (recorded as North) 33.00 feet to the said established one-quarter line; thence along said established one-quarter line, South 89°55'52" East 138.00 feet to the Point of Beginning, being a part of Government Lot 4, Section 23, Township 34 North, Range 8 West and containing 0.942 acres. Subject to the rights of the public and of any governmental unit in any part thereof taken, used or deeded for street, road, or highway purposes.

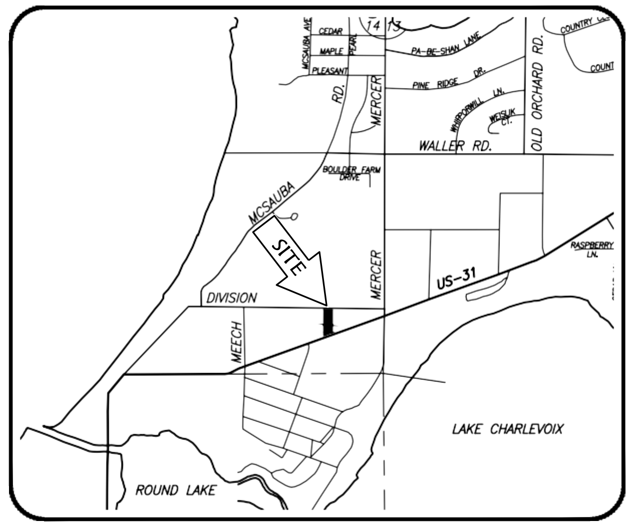
Prepared by:
Ferguson & Chamberlain Associates, Inc.
103 West Upright Street
Charlevoix, Michigan 49720

Scott A. Papineau, P.S. No. 4001050446

STATE OF MICHIGAN
SCOTT ALEXANDER
PAPINEAU
PROFESSIONAL
SURVEYOR
4001050446
PROFESSIONAL SURVEYOR

VICINITY MAP

SCALE: 1"=2000'



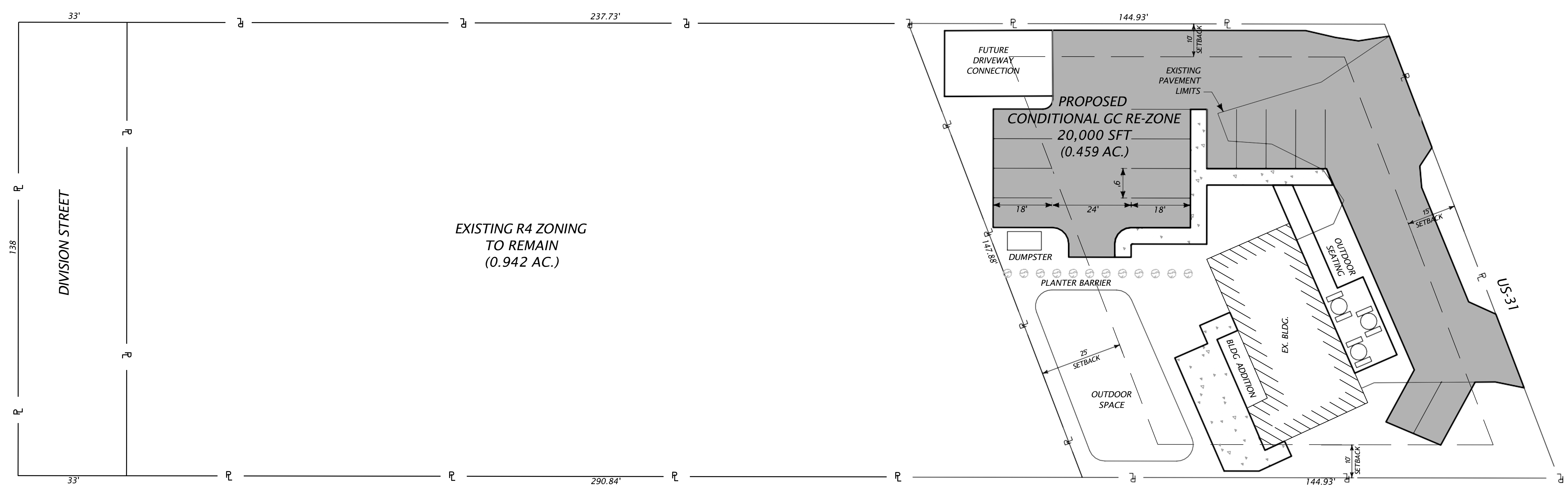
ZONING INFORMATION

PROJECT DESCRIPTION:	RE-ZONING FROM R4 TO GC.
PROPERTY IS ZONED	R4
CURRENT USE:	FORMER COMMERCIAL
PROPOSED USE:	COMMERCIAL
MAXIMUM STRUCTURE HEIGHT:	R4 = 35 FEET / GC = 26 FEET
MINIMUM FRONT YARD:	R4 = 15 FEET / GC = 15 FEET
MINIMUM INTERIOR SIDE YARD:	R4 = 15 FEET / GC = 10 FEET
MINIMUM STREET SIDE YARD:	R4 = 15 FEET / GC = 15 FEET
MINIMUM REAR YARD:	R4 = 25 FEET / GC = 25 FEET
PARKING REQUIREMENTS:	1 per employee on the largest shift, plus 1 per 300 sq. ft. of UFA per Table 153.187
PARKING PROVIDED:	THE COMMERCIAL USE WOULD REQUIRE 12 PARKING SPACES FOR BOTH EMPLOYEE AND PATRONS. ZONING REQUIREMENT IS 1 PER EMPLOYEE (ASSUMED 6), PLUS 1 PER 300 SF (6 REQUIRED). A TOTAL OF 14 SPACES ARE PROVIDED.

NOTES

NOTES:

1. THE PROPERTY IS ZONED R4, BUT HAS AN HISTORIC COMMERCIAL USE ON THE US-31 FRONTAGE. THIS HISTORIC USE INCLUDED A GAS STATION THAT IS THE SOURCE OF ENVIRONMENTAL CONTAMINATION THAT MAKES THE REDEVELOPMENT OF THIS AREA INCOMPATIBLE WITH AN R4 USE WITHOUT SUBSTANTIAL MITIGATION COST. THEREFORE, THE US-31 FRONTAGE IS PROPOSED TO BE RE-ZONED BACK TO A COMMERCIAL USE THAT REQUIRES LESS MITIGATION OF THE CONTAMINATION IN ORDER FOR IT TO BE PUT BACK INTO A BENEFICIAL USE.
2. THE PROPOSED PROPERTY RE-ZONING BOUNDARY LEGAL DESCRIPTION HAS BEEN PROVIDED SEPARATELY BY FERGUSON & CHAMBERLAIN ASSOC.
3. THE SETBACKS DEPICTED HERE ASSUME A RE-ZONING OF THE SOUTHERLY AREA OF THE PROPERTY TO GENERAL COMMERCIAL (GC) AND THE NORTHERLY PROPERTY TO REMAIN R4.
4. THE LAYOUT CONCEPT PROPOSED INCLUDES A SOUTHERLY COMMERCIAL USE IN THE EXISTING BUILDING WITH AN OUTDOOR PATIO SPACE FOR BREWERY AND RESTAURANT SERVICE.
5. THE ASSUMED PARKING DENSITY AND CONFIGURATIONS PROPOSED HERE ARE CONCEPTUAL AND NEED TO BE VERIFIED BY THE CITY. PATIO SPACES AND OTHER FOOD SERVICE REQUIREMENTS COULD IMPACT THE NEEDED PARKING COUNT.
6. THIS CONCEPTUAL SITE PLAN DOES NOT INCLUDE LANDSCAPING, UTILITIES, AND OTHER POTENTIAL ZONING REQUIREMENTS, ASSUMING THAT THESE CONCERNS WILL BE ADDRESSED WITHIN A SITE PLAN REVIEW IF THE RE-ZONING REQUEST IS APPROVED.
7. THE MATERIAL USED FOR GRADING AND PARKING ARE UNSPECIFIED AND WILL BE DETERMINED SUBJECT TO THE SCHEDULED ENVIRONMENTAL ASSESSMENT, CITY OF CHARLEVOIX RECOMMENDATIONS, OVERALL DESIGN ELEMENTS AND BUDGET OF PROJECT.



NORTH

SITE PLAN

1":20'

0 20' 40'

GRAPHIC SCALE

Performance Engineers, Inc.

Civil / Structural Engineering

406 Petoskey Avenue

Phone: (231) 547-2121

STIGGS BREWING COMPANY

PROPERTY RE-ZONING

PRELIMINARY SITE PLAN

STIGGS BREWING CO.

BOYNE CITY, MICHIGAN

MARK	DATE	DESCRIPTION
0	08/20/24	CONDITIONAL REZONING

PROJECT NO:	
CAD DWG FILE:	6529SITE.DWG
DRAWN BY:	WES
DESIGNED BY:	WES
CHECKED BY:	AEN

CONCEPTUAL

SITE PLAN

C100

SHEET 1 OF 1

STIGGS

Boyne City, Michigan

Brewing Company

Description for Conditional Rezoning

Company Expansion

Stiggs Brewing Company is setting its sights on the overall brand expansion from the current brewpub model, into a microbrewery with increased production capabilities, wholesale distribution and additional revenue streams.

Since the inception of Stiggs Brewery & Kitchen in Boyne City in 2017, the primary goal was to make high quality craft beer for the local & regional market.

While the primary vision was well intended, the original concept of Stiggs Brewing Company was sidelined by operational direction, the Covid-19 Pandemic closures & overall limitations of the current physical space.

The property at 743 Petoskey Ave. (US Hwy 31) on the North end of Charlevoix Township, is nestled next to Charlevoix Municipal Golf Course, meets the demands for Stiggs expansion while providing additional opportunities for mixed development & diverse revenue sources.

Project Overview

Stiggs Brewing Company has located a prime mixed-use property for our microbrewery expansion in Charlevoix, MI. With its near turnkey structure, the proposed location fits the overall site demands for Stiggs 2.0 and is ideal for increased brand visibility on one of the most active commuter roads in all of Northern Michigan. Building on the original bones of the Old '76 Garage, this 1.4-acre property provides all amenities identified for the production brewery expansion while creating a family friendly atmosphere for locals & tourists to share alike. A second phase of the project allows for the development of a multi-family residence on the back portion of the property by the property owner.

The expansion project will finance a small 10 BBL production brewery providing Stiggs access to the wholesale market while also offering a secondary taproom with a 750 sq ft 3-season exterior patio. This no-frills facility supplies a 1,767 sq ft footprint for brewery operations, housed with 4 roll top doors for ease of workflow & flexibility of programming. This site **WILL NOT** operate as a food establishment. Food services, catering & events will be operated by Stiggs Catering Department & other 3rd party vendors while the exterior green space will support interactive activities, family friendly green space in summer, live music & community events.

Description of Conditional Zoning

Stiggs Brewing Company in partnership with LSB Ventures llc, seeks Conditional Zoning approval of the City of Charlevoix for the property located on 743 Petoskey Ave. The property is currently zoned R-4 for the total 1.401-acre parcel (61027.56 sq ft) but has an existing commercial use on the US-31 frontage. Our proposal is to amend the current zoning to allow for the mixed use depicted in the provided site plan.

- The front 20,000 sq ft of the property with road frontage on Petoskey Ave to be amended from R-4 to General Commercial for like businesses compatible for the residential adjacent property. Our intended mixed-use occupancy of F-2 Alcohol Manufacturing (under 16% alcohol) and 'B' Occupancy.

- The back 41,027 sq ft parcel with frontage on Division St will remain zoned R-4 for future, Phase II multi-family housing for future development.

The commercial use would require 12 parking spaces for both employees and patrons. Zoning requirement is 1 per employee (assumed 3), plus 1 per 300 sq ft (6 required). The current site plan shows 14 total parking spaces.

Proposed Improvements

- Proposed improvements to the Commercial portion of the parcel; once amended rezone is approved, will commence by updating use, submitting building permits and remodeling the existing 1,767 commercial space into a small 10 BBL production brewery & taproom under the Michigan Rehab Code, Level 3 Alterations. In addition to non-structural, interior modifications, the overall scope of the project will finalize existing & outstanding permits for recent exterior upgrades, improve the exterior space with landscape elements, pedestrian pathways, construct a 750 sq ft patio adjacent to the south wall, and pour a concrete pad adjacent to the north wall of the building.

Property Legal Description

Please see supplemental document "Site Plan.Legal Descrption.8.14.24" for the revised associated with the conditional rezone to create 2 separate parcels.

CITY OF
4CHARLEVOIX

CITY COUNCIL AGENDA ITEM

AGENDA TITLE:	**Rezone Application. Project CRZ 2024-03 743 Petoskey Ave**
HEARING DATE:	Monday, September 16, 2024, 6:00 PM
PRESENTED BY:	Jonathan Scheel Director Planning and Zoning

ATTACHMENTS:	**1. Application from the applicant** **2. Project file CRZ 2024-03** **3. Master Plan pages 93, 104, 107** **4. Draft Conditional Rezone Agreement**

I: GENERAL INFORMATION:

Applicant: Stiggs Brewing Company
112 S. Park Street
Boyne City, MI 49720

Property Owner: JJ's Library LLC
2726 Bissonnet Ste. 240 PMB 12
Houston, TX 77005

Requested Action: Conditional Rezone from Multi-family (R4) to General Commercial (GC)

Current Zoning: Muti-family (R4)

Project Location: 743 Petoskey Ave.

Legal Description: In the City of Charlevoix, Michigan Commencing at the East one-quarter corner of Section 23, Township 34 North, Range 8 West; thence along the East and West one-quarter line as established by E.K. Robinson (County Surveyor), North 89º 55'52" West 842.82 feet (recorded as West 840.4 feet and measured 840.60 feet from D.C. Nettleton's East one-quarter corner); thence South 0°05'02" West (recorded as South) 31.90 feet to a¾" iron pipe; thence continuing South 0°05'02" West (recorded as South) 1.10 feet to a½" iron rod on the South line of Division Street; thence continuing South 0°05'02" West 237.73 feet to a½" iron rod, being the POINT OF BEGINNING; thence continuing South 0°05'02" West (recorded as South) 144.93 feet to a PK Nail on the North line of Petoskey Avenue (AKA Highway US-31); thence along said North road line South 69°01' 16" West 147.88 feet to a½" iron rod; thence North 0°05'01" East (recorded as North) 144.93 feet to a½" iron rod; thence parallel to the said North road line, North 69°01'16" East 147.88 feet to the Point of Beginning, being a part of Government Lot 4, Section 23, Township 34 North, Range 8 West and containing 20,000 square feet (0.459 acres). Subject to the rights of the public and of any governmental unit in any part thereof taken, used or deeded for street, road, or highway purposes.

Project Site Size: 21,432 + **-** Square feet

Existing Land Use: Undeveloped with the exception of an existing small commercial building

Adjacent Land Uses: Multi Family to west. Public golf course to the south Single family to the east and undeveloped to the north.

Adjacent Zoning: Multi family to the west, north and east. Public to the south.

II. PROJECT DESCRIPTION/LOCATION:

This is a request for the conditional rezone of the front portion of the parcel at 743 Petoskey Ave. The rezone request is from Multi-Family R-4 to General Commercial (GC). The entire parcel is 1.401 acres. There is an existing building (former gas station) on the parcel. The proposed rezoned area fronts Petoskey Ave. (US 31) and accounts for approximately 1/3 of the entire parcel. The remainder of the parcel would remain R-4 and has access/frontage on Division Street. The city golf course walkway is directly adjacent on the east and a single family home is on the west side adjacent parcel. This parcel and multiple parcels to the east had recently been rezoned by the Planning Commission from GC to R-4.

Charlevoix County Advanced Tax Parcel Map 2016.

Google Maps.

Google Maps.

The purpose of this Staff Report is to evaluate this proposal against the procedures and criteria outlined in Section 153.007 of the City of Charlevoix Zoning Ordinance.

III. TIMING AND AUTHORITY:

The Rezone application was submitted on August 6, 2024. The notice for the Planning Commission public hearing was advertised in the Charlevoix Courier on August 23, 2024. Notice of the hearing was sent to adjoining landowners and tenants within 300 feet of the property on August 20, 2024.

The public was given an opportunity to speak at the Planning Commission Public Hearing on September 9, 2024. After the public hearing, the **Planning Commission voted to recommend approval to the City Council with a unanimous vote based on their Findings of Fact.**

IV. ZONING ORDINANCE

§ 153.007 CONDITIONAL ZONING.

(A) An applicant requesting a rezoning may voluntarily offer a conditional zoning agreement along with an application for rezoning before, or following, the public hearing for a proposed rezoning. A decision to submit a conditional zoning agreement shall be pursuant to the Zoning Act and this chapter.

(B) The conditional zoning agreement shall be in writing, executed by the applicant and the city and recorded with the county's Register of Deeds.

(C) The conditional zoning agreement may include limitations on the uses permitted on the property in question, specification of lower density or less intensity of development and use; may impose greater restrictions on the location, size, height or other measure for buildings, structures, improvements, setbacks, landscaping, buffers, design, architecture and other features; or may provide for financing and installation of public works necessary to serve the proposed project.

(D)(1) The conditional zoning agreement shall not authorize uses or developments of greater intensity or density, or uses and developments that are not permitted in the proposed zoning district.

(2) The conditional zoning agreement may not permit variations from height, area, setback or similar dimensional requirements that are less restrictive than the proposed zoning district; however, any variance approved by the Zoning Board of Appeals in accordance with §§ 153.035 through 153.042 of this chapter may be allowed as part of a conditional rezoning agreement.

(3) If a special land use or site plan review is required by this chapter for the use proposed or subject to conditions within the rezoning agreement, the use(s) shall comply with the review and approval requirements as applicable prior to establishing or commencing the use(s).

(E) The conditional zoning agreement shall include conditions that bear a reasonable and rational relationship and/or benefit to the property in question. The conditional zoning agreement may include conditions related to the use and development of the property that are necessary to:

(1) Serve the property with improvements including, but not limited to, the extension, widening or realignment of streets; construction or extension of utilities and other infrastructure improvements serving the site; or the construction of recreational facilities serving the site or uses thereon;

(2) Minimize the impact of the development on surrounding properties and the city overall; or

(3) Preserve natural features and open space beyond what is normally required.

(F) In addition to any limitations on use or development of the site, preservation of site features or improvements described above, the conditional zoning agreement shall also include the following:

(1) An acknowledgment that the conditional zoning agreement was proposed voluntarily by the applicant;

(2) A statement that the property shall not be developed or used in any manner that is not consistent with the conditional zoning agreement;

(3) A statement that the approval of the rezoning and the conditional zoning agreement shall be binding upon and inure to the benefit of the property owner and the city, and also their respective heirs, successors, assigns, receivers or transferees. Where the applicant for rezoning is acting on behalf of the landowner through some form of purchase agreement or other mechanism, then the landowner must also consent and sign the agreement;

(4) A statement that, if a rezoning with a conditional zoning agreement becomes void in accordance with this section, that no further development shall take place and no permits shall be issued unless and until a new zoning district classification for the property has been established;

(5) A statement that no part of the conditional zoning agreement shall permit any activity, use or condition that would otherwise violate any requirement or standard that is otherwise applicable in the new zoning district;

(6) A legal description of the land to which the agreement pertains; and

(7) Any other provisions as are agreed upon by the parties.

(G) The conditional zoning agreement shall be reviewed concurrently with the petition for rezoning following the process in§ 153.006(C) above and the following.

(1) The conditional zoning agreement may be submitted prior to or following the Planning Commission public hearing. If the agreement is provided following the public hearing it must be reviewed by the Planning Commission prior to the Planning Commission making its recommendation on the rezoning to the City Council. The conditional zoning agreement shall be reviewed by the City Attorney to determine that the conditional zoning agreement conforms to the requirements of this section and the Zoning Act and shall confirm that the conditional zoning agreement is in a form acceptable for recording with the county's Register of Deeds.

(2) Following the public hearing for a proposed zoning amendment, the Planning Commission shall make a recommendation to the City Council based upon the criteria listed in division (D)(1) above. In addition, the Planning Commission shall consider whether the proposed conditional zoning agreement:

(a) Is consistent with the intent of this section;

(b) Bears a reasonable and rational connection or benefit to the property being proposed for rezoning;

(c) Is necessary to ensure that the property develops in such a way that protects the surrounding neighborhood and minimizes any potential impacts to adjacent properties;

(d) Is necessary to allow the rezoning to be approved, in that the property could not or would not be rezoned without the proposed conditional zoning agreement;

(e) Leads to a development that is more compatible with abutting or surrounding uses than would have been likely if the property had been rezoned without a conditional zoning agreement or if the property were left to develop under the existing zoning classification; and

(f) Is clearly in the public interest and not inconsistent with the recommendations of the city's Master Plan.

(3) If a conditional zoning agreement has been offered by the applicant and recommended for approval by the Planning Commission, the City Council may approve the conditional zoning agreement as a condition to the rezoning if it meets all requirements of division(G)(2) above. The conditional zoning agreement shall be incorporated by attachment or otherwise as an inseparable part of the ordinance adopted by the City Council to accomplish the requested rezoning.

(4) If the rezoning and conditional zoning agreements are approved, the zoning classification of the rezoned property shall consist of the district to which the property has been rezoned and a reference to the conditional zoning agreement. The Official Zoning Map shall specify the new district, plus a parenthetical "CZ" to indicate that the property is subject to a conditional zoning agreement (i.e., "R1 (CZ)"). The City Clerk shall maintain a listing of all properties subject to conditional zoning agreements and shall provide copies of the agreements upon request.

(5) The approved conditional zoning agreement shall be recorded with the county's Register of Deeds.

(6) Any uses proposed as part of a conditional zoning agreement that would otherwise require approval of a special land use or site plan approval shall be subject to the applicable review and approval requirements of §§ 153.230 through 153.239 and 153.243 through 153.257 of this chapter.

(H) (1) The rezoning and conditional zoning agreement shall expire one year after adoption of the rezoning and conditional zoning agreement, unless substantial construction on the approved development of the property pursuant to building and other required permits issued by the city commences within the one-year period and proceeds diligently to completion, unless extended by the City Council for good cause.

(2) In the event that substantial construction on the approved development has not commenced within one year, the conditional zoning agreement shall be void.

(3) Should the conditional zoning agreement become void, all development on the subject property shall cease and no further development shall be permitted. Until action satisfactory to the city is taken to bring the property into compliance with the conditional zoning agreement, the city may withhold or, following notice to the applicant and being given an opportunity to be heard, revoke permits and certificates, in addition to, or in lieu of, any other lawful action to achieve compliance.

(4) Notwithstanding the above, if the property owner applies in writing for an extension of the conditional zoning agreement at least 30 days prior to the expiration date, the City Council may grant an extension of up to one year. Further extensions may be granted by the City Council, although the number of previous extensions granted to a particular conditional zoning agreement shall be considered in relation to the diligent effort of the land owner to satisfy the conditions of the agreement.

(I) If the rezoning and conditional zoning agreement becomes void as previously outlined, then the land shall revert back to its prior zoning classification as set forth in the Zoning Act. The Zoning Administrator or designee shall initiate the rezoning to the prior zoning classification and notify the land owner and/or developer of the reversion of zoning by registered letter.

(J) Provided that, all development and/or use of the property in question is in compliance with the conditional zoning agreement, an authorized use or development may continue indefinitely; provided that, all terms of the conditional zoning agreement continue to be met.

(K) The conditional zoning agreement may be amended by the city with the landowner's consent in the same manner as was prescribed for the original rezoning and conditional rezoning agreement.

(L) Nothing in the conditional zoning agreement, nor any statement or other provision shall prohibit the city from later rezoning all or any portion of the property that is the subject of the conditional zoning agreement to another zoning classification. Any rezoning shall be conducted in compliance with this chapter and the Zoning Act.

(M) The city shall not require an owner to offer conditions as a requirement for rezoning. The lack of an offer of conditions shall not affect the owner's rights under this chapter.

(N) The city is not required or obligated to accept any or all conditions offered by a developer on a rezoning application. In no way is an offer of a conditional zoning agreement the basis for requiring the city to approve a rezoning application.

V. FINDINGS OF FACT

(1) In considering a rezoning application, the Planning Commission considered and adopted the following criteria in making their findings, recommendations and decisions:

The City Council will review Zoning Ordinance Section 153.007and make their findings, recommendations and decisions along with the recommendation of the Planning Commission

(a) Consistency with the goals, policies and future land use map of the Charlevoix Master Plan, including all applicable subarea and corridor studies. If conditions have changed since the Master Plan was adopted, then consistency with recent development trends in the area shall be evaluated;

Page 93 of the Master Plan and page 104, the Future Land Use Map shows this area as the start of the Charlevoix Corridor. **Key Characteristics:** *"While these areas will still be predominantly residential, the district will allow for limited commercial that will provide services for surrounding residences within walking distance. The combination of home occupations, commercial, and residential spaces generates a high- to medium-level of intensity. Activity in this area will be less than the downtown core, but more than the surrounding residential neighborhood. Like the downtown core, this mix of uses encourages community connection and a variety of complimentary uses."* **Appropriate Land Uses:** *"The Charlevoix Corridor is a transitional zone that permits a mix of commercial, professional and medical offices, residential, and civic, and transitional or temporary spaces that can be used as business incubators."* **Building and Site Design:** : "*Reuse and re-occupancy of existing buildings is preferred whenever possible." Page 107 describes General Commercial as a compatible Zoning District to the Charlevoix Corridor.*

(b) Whether development under current zoning is impractical or less reasonable than the requested or desired zoning district given factors such as development trends;

As described above, the requested rezone has uses promoted by the Master Plan. The city goals are to have a "mix" of pedestrian friendly businesses mixed in with housing to promote a vibrant lively neighborhood.

(c) Capability of the site's physical, geological, hydrological and other environmental features to accommodate the potential uses allowed in the proposed zoning district;

The existing developed site works very well for the reuse proposed.

(d) Compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, noise, density, nature of use, traffic impacts, aesthetics, infrastructure, impact on the ability to develop adjacent properties under existing zoning and potential influence on property values;

The proposed use will have no negative impact to the golf course to the south, little to no impact to the west which is the golf course crossing and a multi-family garage/carport separation from a condominium complex. The north is undeveloped, and the east has one single family home that is separated by the parking lot and driveway.

(e) Capacity of city infrastructure and services sufficient to accommodate the uses permitted in the requested district without compromising the health, safety and welfare of the city;

This parcel has all city infrastructure and facilities available onsite. The Public Works and Electrical Department Heads have given their approval

(f) The apparent need for the types of uses permitted in the requested zoning district in the city in relation to the amount of land in the city currently zoned to accommodate that need;

This area north of the bridge is the last area that has development potential. The other adjacent lots would all have the same conditions as this lot. The need for additional retail, entertainment, multifamily housing and parking is here with little land availability to develop those uses.

(g) Other factors as determined by the Planning Commission and the City Council.

(2) Where a rezoning is reasonable given the above criteria, a determination shall be made that the requested zoning district is more appropriate than another or by amending the list of permitted or special land uses within a district.

Because of the past use as a gas station, the State of Michigan Department of EGLE has determined that a commercial use is more appropriate than a residential use.

VI. <u>CITY COUNCIL OPTIONS</u>:

The City of Charlevoix Planning Commission has the following options for Rezone CRZ 2024-03

1. Approve Rezone 2024-03 CRZ based on specific findings of fact that the application does meet the review criteria in Section 153.007
2. Deny Rezone 2024-03 CRZ based on specific findings of fact that the application does not meet the review criteria in Section 153.007
3. Table Rezone 2024-03 based on the need for additional information.

CITY OF CHARLEVOIX
ORDINANCE NO. 852 of 2024
AN ORDINANCE TO AMEND TITLE XV, CHAPTER 153, SECTIONS 153.055, OF THE CHARLEVOIX CITY CODE

THE CITY OF CHARLEVOIX ORDAINS:

SECTION 1. Title XV, Chapter 153, Section 153.055 (B) of the City of Charlevoix Code is hereby amended to include a Conditional General Commercial Rezone as a District in the Zoning Use District Map as follows:

SECTION 2. Description of the amended Conditional Rezone District for a portion of the parcel:

Conditional General Commercial Rezone District (front portion of parcel)
The Zoning Use District Map is hereby amended to rezone the following described area from R-4 to Commercial : Parcel Zoned General Commercial In the City of Charlevoix, Charlevoix County, Michigan, Commencing at the East one-quarter corner of Section 23, Township 34 North, Range 8 West; thence along the East and West one quarter line as established by E.K. Robinson (County Surveyor), North 89°55'52" West 842.82 feet (recorded as West 840.4 feet & measured 840.60 feet from D.C. Nettleton's East one-quarter comer); thence South 0°05'02" West (recorded as South) 31.90 feet to a¼" iron pipe; thence continuing South 0°05'02" West (recorded as South) 1.10 feet to a½" iron rod on the South line of Division Street; thence continuing South 0°05'02" West 237.73 feet to a½" iron rod, being the POINT OF BEGINNING; thence continuing South 0°05'02" West (recorded as South) 144.93 feet to a PK Nail on the North line of Petoskey Avenue (AKA Highway US-31); thence along said North road line South 69°01' 16" West 147.88 feet to a½" iron rod; thence North. °0 05'01" East (recorded as North) 144.93 feet to a½" iron rod; thence parallel to the said North road line, North 69°01' 16" East 14 7 .88 feet to the Point of Beginning, being a part of Government Lot 4, Section 23, Township 34 North, Range 8 West and containing 20,000 square feet (0.459 acres). Subject to the rights of the public and of any governmental unit in any part thereof taken, used or deeded for street, road, or highway purposes. Commonly known as 743 Petoskey Avenue, (see Exhibit A for Survey and Agreement).

Parcel Zoned R-4 (description of the parcel that is remaining R-4)
In the City of Charlevoix, Charlevoix County, Michigan, Commencing at the East one-quarter comer of Section 23, Township 34 North, Range 8 West; thence along the East and West one quarter line as established by E.K. Robinson (County Surveyor), North 89°55'52" West 842.82 feet (recorded as West 840.4 feet & measured 840.60 feet from D.C. Nettleton's East one-quarter comer) to the POINT OF BEGINNING; thence South 0°05'02" West (recorded as South) 31.90 feet to a¾" iron pipe; thence continuing South 0°05'02" West (recorded as South) 1.10 feet to a ½" iron rod on the South line of Division Street; thence continuing South 0°05'02" West 237.73 feet to a½" iron rod; thence parallel to the North line of Petoskey Avenue (AKA Highway US- 31), South 69°01 'l 6" West 147.88 feet to a½" iron rod; thence North 0°05'01" East (recorded as North) 290.84 feet to the said South line of Division Street; thence continuing North 0°05'01" East (recorded as North) 33.00 feet to the said established one-quarter line; thence along said established one-quarter line, South 89°55'52" East 138.00 feet to the Point of Beginning, being a part of Government Lot 4, Section 23, Township 34 North, Range 8 West and containing 0.942 acres. Subject to the rights of the public and of any governmental unit in any part thereof taken, used or deeded for street, road, or highway purposes. Commonly known as 743 Petoskey Avenue.

SECTION 3. Severability

No other portion, paragraph or phase of the Code of the City of Charlevoix, Michigan shall be affected by this Ordinance except as to the above sections, and in the event any portion, section or subsection of this Ordinance shall be held invalid for any reason, such invalidation shall not be construed to affect the validity of any other part or portion of this Ordinance or of the Code of the City of Charlevoix, Michigan.

SECTION 4. Effective Date

This Ordinance shall become effective thirty (30) days after its enactment.

Ordinance No. 852 was adopted on the 7th day of October 2024 A.D., by the Charlevoix City Council as follows:
Motion by:
Seconded by:
Yeas:
Nays:
Absent:

State of Michigan
City of Charlevoix } §

Sarah J. Dvoracek Clerk

Lyle Gennett Mayor

CERTIFICATION

I, the undersigned, the City Clerk of the City of Charlevoix, Charlevoix County, Michigan, do hereby certify that the foregoing is a true and complete copy of Ordinance No. 852 adopted by the City Council of the City of Charlevoix, County of Charlevoix, State of Michigan, at a regular meeting held on October 7, 2024 the original of which is on file in the Clerk’s office and available to the public. Public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267 of the Michigan Public Acts of 1976.

Dated: 10/08/2024

Sarah J. Dvoracek, City Clerk

Conditional Rezone Agreement

This Conditional Rezoning Agreement (the "Agreement") is made this 7th day of October 2024, (the "Agreement") by and between the CITY OF CHARLEVOIX, a Michigan municipal corporation, with its offices at City Hall, 210 State Street Charlevoix, Michigan 49720 (the "City"), and JJ's Library LLC., (the "Owner") with offices at 2726 Bissonnet Ste. 240 PMB 12, Houston, TX 77005

THE PARTIES RECITE THAT:

WHEREAS, the City is a municipal corporation organized and existing under and pursuant to the Michigan Home Rules Cities Act, 1909 PA 279, as amended (codified at MCL 117.1 et seq;), and exercising all of the powers provided for therein and pursuant to Charlevoix City Charter, adopted, and as subsequently amended; and

WHEREAS, the Owner controls certain parcels of real property located within the City of Charlevoix at 743 Petoskey Avenue which is currently zoned R-4: Multi family Residential District (as specifically listed and legally described in this agreement) (the "Property"), and desires to proceed with a development on the Property; and

WHEREAS, under and pursuant to Section 405 of the Michigan Zoning Enabling Act, 2008 PA 110, as amended (codified at MCL 125.3405 et seq;), certain conditions voluntarily offered by the owner of land, including an agreement between the City and the Owner, may become a condition of rezoning of the Property; and

WHEREAS, on August 21, 2024, the Owner and the developer of the Property submitted a Conditional Rezoning Application for the Property with a conceptual site plan (attached as EXHIBIT A), voluntarily offering, in writing, certain conditions to rezone the Property from" R-4" Multi Family Residential District to "GC" General Commercial District with conditions as set forth in this Agreement; and

WHEREAS, the City Planning Commission on September 9, 2024, held a Public Hearing on the Amended Conditional Rezoning Application; and

WHEREAS, the City Planning Commission on September 9, 2024, voted to recommend approval of the amended request for Conditional Rezoning based upon this Agreement with the attached exhibits; and

WHEREAS, the City Council on October 7, 2024, voted to approve the request for Conditional Rezoning and adopted Ordinance No. _______ based upon the conditions set forth in this Agreement and the attached exhibits;

NOW, THEREFORE, in consideration of the foregoing and the mutual promises hereinafter set forth, the City and the Owner agree as follows:

1) THE DEVELOPMENT PROJECT

a) Project Definition. The Owner agrees to construct a 10 BBL brewery and tap room in the existing building (the "Project") on the Property substantially conforming to the approved site plan attached as Exhibit A. Other permitted uses are requested which align with like businesses compatible for the residential adjacent property stated in Section 153.086 to include Brewpub/Microbrewery, Wine/Beer Tasting Room, Retail Sales of durable and dry goods, Outdoor seating area, Outdoor display & sales, bakery and baked goods. Applicants agree to NO use associated with high impact commercial or industrial usage.

b) Zoning Use District Regulations. Except as modified herein, the zoning use district regulations for the Property shall be the "GC General Commercial District regulations of Chapter 153 Section 153.071, of the City Code and the Property shall remain subject to all other district use and development standards, and all other regulations of the City Zoning Ordinance, Chapter 153 of the Code of the City of Charlevoix, and shall remain subject to all other state and local requirements for land development.

c) Additional Conditions: The Planning Commission approved Site Plan of 9/9/2024 will be followed.

d) Compliance with Conditions. Upon the Owner establishing a development or commencing a use upon the property subject to this Agreement, Owner and its successors or assigns shall continuously operate and maintain the development or use in compliance with all of the conditions set forth in this Agreement. Any failure to comply with a condition contained herein shall constitute a violation of the Charlevoix zoning ordinance and be punishable accordingly against the owner of the property. Additionally, any such violation shall be deemed a nuisance per se and subject to judicial abatement as provided by law.

e) If this conditional rezoning agreement becomes void in accordance with the City's ordinance, no further development shall take place, and no permits shall be issued unless and until a new zoning district classification for the property has been established.

2) TIMING. The City and the Owner agree that the following approvals and activities are conditions to this Agreement and if not completed in the following time limits the Property will revert back to the "R-4", Multi Family Residential District: 5

a) The Owner obtains all of the necessary site plan and special use permit approvals; and building permits from the City and County for the Project within twelve (12) months of approval of this Agreement by the City.

b) The Owner commences construction of the Project within six months of issuance of building permit.

c) The Owner receives certificate of occupancy for the Project within eighteen (18) months of commencement of construction.

3) CITY RIGHT TO REZONE. Nothing in this Agreement shall be deemed to prohibit the City from rezoning all or any portion of the Property which is subject to this Agreement to another zoning classification. Any rezoning shall be conducted in compliance with the City's zoning ordinance – Chapter 153 – of the Charlevoix City Code and the Michigan Zoning Enabling Act, MCL 125.3405, et seq.; provided, however, that the City shall not rezone the property with a different zoning classification during the time period for commencement of the approved use as specified in Paragraph 2 above.

4) ENTIRE AGREEMENT. This Agreement, the exhibit attached hereto, and the instruments which are to be executed in accordance with the requirements hereof set forth all of the covenants, agreements, stipulations, promises, conditions and understandings between the City, and the Owner concerning the Project as of the date hereof, and there are no covenants, agreements, stipulations, promises, conditions or understandings, either oral or written, between them other than as set forth herein.

5) RELATIONSHIP OF THE PARTIES. The relationship of the City, and the Owner shall be defined solely by the expressed terms of this Agreement, including the implementing documents described or contemplated herein, and neither the cooperation of the parties hereunder nor anything expressly or implicitly contained herein shall be deemed or construed to create a partnership, limited or general, or joint venture between the City and the Owner, nor shall any party or their agent be deemed to be the agent or employee of any other party to this Agreement.

6) MODIFICATION. This Agreement can be modified or amended only by a written instrument expressly referring hereto and executed by the City and the Owner.

7) MICHIGAN LAW TO CONTROL. This Agreement and the rights and obligations of the parties hereunder shall be construed in accordance with Michigan law.

8) DUE AUTHORIZATION. The City and the Owner each warrant and represent to the other that this Agreement and the terms and condition thereof have been duly authorized and approved by, in the case of the City, its City Council and all other governmental agencies whose approval may be required as a precondition to the effectiveness hereof, in the case of the Authority by its members and all other applicable governmental agencies, and as to the Owner, by

the members thereof, and that the persons who have executed this Agreement below have been duly authorized to do so. The parties hereto agree to provide such opinions of counsel as to the due authorization and binding effect of this Agreement and the collateral documents contemplated hereby as the other party shall reasonably request.

9) ASSIGNMENT. It is understood and agreed that the Owner may assign all or a portion of its rights and duties hereunder to one or more entities.

10) NO PERSONAL LIABILITY. The obligations hereunder of the City and the Owner shall constitute solely the obligations of the respective entities to be satisfied solely from their respective assets, and no officer, agent, employee or partner of any of said entities shall have any personal obligation responsibility or liability for the performance of the terms of this Agreement.

11) RECORDING. The approved conditions of rezoning set forth in this ordinance, or an affidavit or memorandum giving notice thereof, shall be filed by the City Zoning Administrator with the Charlevoix County Register of Deeds.

Commented [AH1]: The ordinance requires that the zoning agreement needs to be in writing, signed by the applicant and recorded.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the date first set forth above.

By By WITNESS: [Owner, Property Owner]:

By By WITNESSES: CITY OF CHARLEVOIX:

By By ., Mayor

By By , City Clerk.

Charlevoix City Council

All Other Actions and Requests

Title: 2025 Deer Cull
Date: September 16, 2024

Presented By: Jill McDonnell, Chief of Police

Background:
The city has experienced a steady increase in its deer population over the past several years. Despite a cull in 2024 that removed 25 antlerless deer, the impact on the overall population was minimal. This has resulted in continued challenges--including property damage, safety concerns, and ecological disruption. In August 2024, the city saw a sharp rise in resident complaints—more than two dozen—highlighting the growing presence of deer in residential areas. Vehicle crashes involving deer have remained steady, despite previous management efforts.

The small scale of the cull relative to the size of the deer population was insufficient to address the city's concerns. Following the 2024 cull, residents continued to express concerns about the rising deer population, particularly in the form of complaints about deer encroaching into urban areas. These concerns were especially prevalent in August 2024, reflecting residents frustration with the increase in the number of deer.

If Council wishes to have another cull, Council needs to approve a request for permits from the Michigan Department of Natural Resources (MIDNR) to conduct a cull of 45-75 antlerless deer. If the cull is desired and approved, staff strongly recommends USDA Wildlife Services manage and execute the cull, with the cost of the services not to exceed $19,995. Additionally, deer processing costs are estimated to be $9,800, which will ensure responsible handling of the culled deer, including donation or proper disposal. Last year, costs for the processing were donated and all the meat went to those in need of food assistance in our region--including the Charlevoix Food Pantry.

The expected outcome is a significant reduction in the deer population, leading to fewer resident complaints and a decreased risk of vehicle-deer collisions. Following the cull, we will continue to work the DNR to monitor the deer population and assess the need for additional management actions.

Council can move forward with the request for the permit for the cull, it can schedule a public hearing for additional feedback (a public hearing is not required), or it can take no action.

Recommendation:
Council discussion and direction.

Attachments:

1. CSA City of Charlevoix FY25

(7/2019 version)

WS Agreement Number: ________________-RA
WBS:______________________________

[optional] Cooperator PO: _________________

COOPERATIVE SERVICE AGREEMENT
between
CITY OF CHARLEVOIX
and
UNITED STATES DEPARTMENT OF AGRICULTURE
ANIMAL AND PLANT HEALTH INSPECTION SERVICE (APHIS)
WILDLIFE SERVICES (WS)

ARTICLE 1 – PURPOSE

The purpose of this Cooperative Service Agreement is to assist the City of Charlevoix with a wildlife damage management project as described in the attached Work Plan.

ARTICLE 2 – AUTHORITY

APHIS-WS has statutory authority under the Acts of March 2, 1931, 46 Stat. 1468-69, 7 U.S.C. §§ 8351-8352, as amended, and December 22, 1987, Public Law No. 100-202, § 101(k), 101 Stat. 1329-331, 7 U.S.C. § 8353, to cooperate with States, local jurisdictions, individuals, public and private agencies, organizations, and institutions while conducting a program of wildlife services involving mammal and bird species that are reservoirs for zoonotic diseases, or animal species that are injurious and/or a nuisance to, among other things, agriculture, horticulture, forestry, animal husbandry, wildlife, and human health and safety.

ARTICLE 3 - MUTUAL RESPONSIBILITIES

The cooperating parties mutually understand and agree to/that:

1. APHIS-WS shall perform services set forth in the Work Plan, which is attached hereto and made a part hereof. The parties may mutually agree in writing, at any time during the term of this agreement, to amend, modify, add or delete services from the Work Plan.

2. The Cooperator certifies that APHIS-WS has advised the Cooperator there may be private sector service providers available to provide wildlife damage management (WDM) services that the Cooperator is seeking from APHIS-WS.

3. There will be no equipment with a procurement price of $5,000 or more per unit purchased directly with funds from the cooperator for use on this project. All other equipment purchased for the program is and will remain the property of APHIS-WS.

4. The cooperating parties agree to coordinate with each other before responding to media requests on work associated with this project.

ARTICLE 4 - COOPERATOR RESPONSIBILITIES

Cooperator agrees:

1. To designate the following as the authorized representative who shall be responsible for collaboratively administering the activities conducted in this agreement.

   City of Charlevoix

   Jill McDonnell, Chief of Police

   210 State Street

   Charlevoix, MI 49720

   (231) 547-3258

   Jillm@charlevoixmi.gov

2. To authorize APHIS-WS to conduct direct control activities as defined in the Work Plan. APHIS-WS will be considered an invitee on the lands controlled by the Cooperator. Cooperator will be required to exercise reasonable care to warn APHIS-WS as to dangerous conditions or activities in the project areas.

3. To reimburse APHIS-WS for costs, not to exceed the annually approved amount specified in the Financial Plan. If costs are projected to exceed the amount reflected in the Financial Plan, the agreement with amended Work Plan and Financial Plan shall be formally revised and signed by both parties before services resulting in additional costs are performed. The Cooperator agrees to pay all costs of services submitted via an invoice from APHIS-WS within 30 days of the date of the submitted invoice(s). Late payments are subject to interest, penalties, and administrative charges and costs as set forth under the Debt Collection Improvement Act of 1996.

4. To provide a Tax Identification Number or Social Security Number in compliance with the Debt Collection Improvement Act of 1996.

5. As a condition of this agreement, the Cooperator ensures and certifies that it is not currently debarred or suspended and is free of delinquent Federal debt.

6. To notify APHIS-WS verbally or in writing as far in advance as practical of the date and time of any proposed meeting related to the program.

7. The Cooperator acknowledges that APHIS-WS shall be responsible for administration of APHIS-WS activities and supervision of APHIS-WS personnel.

8. To obtain the appropriate permits for removal activities for species listed in the Work Plan and list USDA, APHIS, Wildlife Services as subpermitees.

ARTICLE 5 – APHIS-WS RESPONSIBILITIES

APHIS-WS Agrees:

1. To designate the following as the APHIS-WS authorized representative who shall be responsible for collaboratively administering the activities conducted in this agreement.

APHIS-WS State Director:

Anthony G. Duffiney

2803 Jolly Rd, Suite 100

Okemos, MI 48864

(517) 336-1928

anthony.g.duffiney@usda.gov

2. To conduct activities at sites designated by Cooperator as described in the Work and Financial Plans. APHIS-WS will provide qualified personnel and other resources necessary to implement the approved WDM activities delineated in the Work Plan and Financial Plan of this agreement.

3. That the performance of wildlife damage management actions by APHIS-WS under this agreement is contingent upon a determination by APHIS-WS that such actions are in compliance with the National Environmental Policy Act, Endangered Species Act, and any other applicable federal statutes. APHIS-WS will not make a final decision to conduct requested wildlife damage management actions until it has made the determination of such compliance.

4. To invoice Cooperator for actual costs incurred by APHIS-WS during the performance of services agreed upon and specified in the Work Plan. Authorized auditing representatives of the Cooperator shall be accorded reasonable opportunity to inspect the accounts and records of APHIS-WS pertaining to such claims for reimbursement to the extent permitted by Federal law and regulations.

Select billing frequency: Monthly or Quarterly

(Quarterly billing will be default)

ARTICLE 6 – CONTINGENCY STATEMENT

This agreement is contingent upon the passage by Congress of an appropriation from which expenditures may be legally met and shall not obligate APHIS-WS upon failure of Congress to so appropriate. This agreement may also be reduced or terminated if Congress only provides APHIS-WS funds for a finite period under a Continuing Resolution.

ARTICLE 7 – NON-EXCLUSIVE SERVICE CLAUSE

Nothing in this agreement shall prevent APHIS-WS from entering into separate agreements with any other organization or individual for the purpose of providing wildlife damage management services exclusive of those provided for under this agreement.

ARTICLE 8 – CONGRESSIONAL RESTRICTIONS

Pursuant to Section 22, Title 41, United States Code, no member of or delegate to Congress shall be admitted to any share or part of this agreement or to any benefit to arise therefrom.

ARTICLE 9 – LAWS AND REGULATIONS

This agreement is not a procurement contract (31 U.S.C. 6303), nor is it considered a grant (31 U.S.C. 6304). In this agreement, APHIS-WS provides goods or services on a cost recovery basis to nonfederal recipients, in accordance with all applicable laws, regulations and policies.

ARTICLE 10 – LIABILITY

APHIS-WS assumes no liability for any actions or activities conducted under this agreement except to the extent that recourse or remedies are provided by Congress under the Federal Tort Claims Act (28 U.S.C. 1346(b), 2401(b), and 2671-2680).

ARTICLE 11 – NON-DISCRIMINATION CLAUSE

The United States Department of Agriculture prohibits discrimination in all its programs and activities on the basis of race, color, national origin, age, disability, and where applicable, sex, marital status, familial status, parental status, religion, sexual orientation, genetic information, political beliefs, reprisal, or because all or part of an individual's income is derived from any public assistance program. Not all prohibited bases apply to all programs.

ARTICLE 12 - DURATION, REVISIONS, EXTENSIONS, AND TERMINATIONS

This agreement shall become effective on January 1, 2025, and shall continue through April 30, 2025, not to exceed five years. This Cooperative Service Agreement may be amended by mutual agreement of the parties in writing. The Cooperator must submit a written request to extend the end date at least 10 days prior to expiration of the agreement. Also, this agreement may be terminated at any time by mutual agreement of the parties in writing, or by one party provided that party notifies the other in writing at least 60 days prior to effecting such action. Further, in the event the Cooperator does not provide necessary funds, APHIS-WS is relieved of the obligation to provide services under this agreement.

In accordance with the Debt Collection Improvement Act of 1996, the Department of Treasury requires a Taxpayer Identification Number for individuals or businesses conducting business with the agency.

Cooperator's Tax ID No.: 386004543

APHIS-WS's Tax ID: 41-0696271

CITY OF CHARLEVOIX

____________________________________ _________________________

Jill McDonnell, Chief of Police Date
City of Charlevoix
210 State Street
Charlevoix, MI 49720

UNITED STATES DEPARTMENT OF AGRICULTURE
ANIMAL AND PLANT HEALTH INSPECTION SERVICE
WILDLIFE SERVICES

____________________________________ _________________________

Anthony G. Duffiney, State Director Date
USDA, APHIS, WS
2803 Jolly Rd, Suite 100
Okemos, MI 48864

Prepared by (APHIS-WS employee): Dustin Arsnoe

WORK PLAN

In accordance with the Cooperative Service Agreement between City of Charlevoix and the United States Department of Agriculture (USDA), Animal and Plant Health Inspection Service (APHIS), Wildlife Services (WS), this Work Plan sets forth the objectives, activities, and budget of this project during the period of this agreement.

Program Objective

The U.S. Department of Agriculture (USDA) is authorized to protect American agriculture and other resources from damage associated with wildlife. Wildlife Services activities are conducted in cooperation with other Federal, State and local agencies, private organizations and individuals.

The APHIS WS program uses an Integrated Wildlife Damage Management (IWDM) approach (sometimes referred to as IPM or "Integrated Pest Management") in which a series of methods may be used or recommended to reduce wildlife damage. These methods include the alteration of cultural practices, habitats, and behavioral modifications to prevent damage. However, controlling wildlife damage may require that the offending animal(s) are killed or that the populations of the offending species be reduced.

Plan of Action

At the request of the City of Charlevoix, Wildlife Services will remove white-tailed deer under permits issued by the Michigan Department of Natural Resources. Wildlife Services will utilize suppressed firearms from vehicles, ground blinds, elevated stands, and baiting. Wildlife Services will perform field dressing and transport carcasses to local processor for donation to charity. At the completion of this project, the City of Charlevoix may consult with Wildlife Services and the Michigan Department of Natural Resources to determine if further control visits are necessary.

FINANCIAL PLAN

Cost Element		Full Cost
Personnel Compensation		$13,902
Travel		-
Vehicles		$325
Other Services		-
Supplies and Materials		$750
Equipment		$750
Subtotal (Direct Charges)		$15,727
Pooled Job Costs	11.00%	$1,730
Indirect Costs	16.15%	$2,540
Aviation Flat Rate Collection		
Agreement Total		$19,997
The distribution of the budget from this Financial Plan may vary as necessary to accomplish the purpose of this agreement, but may not exceed: $19,997		

Cooperator Financial Point of Contact:

Jill McDonnell, Chief of Police

210 State Street

Charlevoix, MI 49720

(231) 547-3258

Jillm@charlevoixmi.gov

APHIS-WS State Financial Point of Contact:

Lloyd NELSON Peymbroeck, Budget Analyst

2803 Jolly Rd, Suite 100

Okemos, MI 48864

(517) 318-3462

Lloyd.N.Peymbroeck@usda.gov

Charlevoix City Council

Reports and Communications

Title: City Manager's Comments
Date: September 16, 2024

Presented By:

Background:

A. City Hall Roof Replacement

Through the Certified Local Government program, we applied for a grant from the Michigan State Historic Preservation Office for funds to replace the roof at City Hall--much of which was originally constructed in 1937. We were awarded $64,000 toward this project and we are preparing the RFP documents now to move through the state process and to collect bids. Given the need to replace the roof, I think this is a good chance to move forward with assistance to achieve this project and protect the historic character of City Hall.

B. Projects

Efforts are underway now to replace the streetlights on Bridge Street on the south hill. This will be ongoing for the next few weeks.

Fire hydrant painting is also underway throughout the community. Residents will see this work periodically in their neighborhoods.

BS&A training for staff is underway this week and next as we look to go live with this software on October 1. Residents will have more options to manage their utility payments and review records of their taxes and other details they may find helpful.

Recommendation:

Attachments:

1. Zoning Board of Appeals Minutes 04/17/2024
2. DDA Meeting Minutes 04/22/2024
3. Shade Tree and Parks Commission Minutes 05/09/2024
4. Planning Commission Meeting Minutes 07/08/2024
5. Police Department August Daily Activity Report

City of Charlevoix
Zoning Board of Appeals Regular Meeting Minutes
Wednesday, April 17, 2024 - 6:00 PM
Council Chambers, 210 State Street, Charlevoix, MI

1. **Call to Order**
   The meeting was called to order at 6:00 pm. by Chair Hodgson.
2. **Roll Call/Pledge of Allegiance**

Chair:	Richard Hodgson
Members Present:	Shirley Gibson, Ann Gorney, Patricia Miller, Dan Reed (Alternate)
Members Absent:	Tim Kish
Staff Present:	Jonathan Scheel, Director of Planning & Zoning Administrator

3. **Inquiry Regarding Conflicts of Interest**

4. **Approval of Agenda**
   Motion by Member Gorney, seconded by Member Gibson to approve the agenda as presented.
   Motion passed by unanimous voice vote.
5. **Approval of Minutes**

   A. August 16, 2023
      Chair Hodgson stated a correction was needed on page 4, 3rd line from the bottom of the last paragraph, should read east side of the house instead of west side.

      Motion by Member Gorney, seconded by Member Gibson to approve the minutes of August 16, 2023, as corrected.
      Motion passed by unanimous voice vote.
6. **Election of Officers**
   Chair Hodgson stated he would again volunteer to serve as Chair and that Tim Kish would be happy to continue to serve as Vice Chair unless someone else wanted to do it.

   Motion by Member Gibson, seconded by Member Reed to nominate Richard Hodgson as Chair and Tim Kish as Vice Chair.
   Motion passed by unanimous voice vote.
7. **Old Business**

8. **New Business**

   A. Public Hearing for Applicant Price Building and Remodeling for structure at 509 Newman Street
      i. Staff Presentation
         Exhibit 1. Variance Application

Exhibit 2. Site pictures and map

Exhibit 3. Site Plan (proposed)

Exhibit 4. Misc documents

ii. Applicant presentation (if requested)

iii. Call for public comment

iv. ZBA determination of findings of fact

v. Motion

Chair Hodgson opened the item for discussion.

Staff Presentation: Director Scheel stated the applicant is requesting an interior side setback variance of 6' from the requirements defined in Section 153.072(b) of the Zoning Ordinance for an attached garage addition at 509 Newman Street. Mr. Scheel referenced the materials included in the packet. The property is zoned residential R-2 and the applicant is propoing the addition of a garage on the residence's west side. The Zoning Ordinance Section 153.072(6) states the interior side setback is 8'. The property is an existing single family home with a detached two-story, one-car garage. The property is a through lot with frontage on Antrim and Newman Streets.

Director Scheel further described the application, staff report and photographs of the subject property, and reviewed standards with general proposed findings of fact and clarified that the request was for expansion of the garage, not construction of an ADU.

Member Gibson questioned if there were already two non-conforming garages on the property and Director Scheel stated it all depends on what the definition is, and he would not say that there were two garages. Mr. Scheel stated the door that faces Antrim Street looks like a garage door, but it is a finished maple wood floor that has three (3) small beds in it and there was no way that he would put any vehicle in that space other than a small motorcycle, but down below is definitely a one-car garage. The structure is two stories and it is non-conforming because it is in the setback of the side yard and that's why the owners are requesting a variance, and it is approximately 14' in the front setback of Antrim which is non-conforming. The existing building has three (3) non-conformities, but it is legal because it was built well before the Zoning Ordinance was put in place.

Chair Hodgson stated the staff report references garage/ADU and Director Scheel stated that should not be part of the Board's consideration. Mr. Scheel stated that an ADU is an accessory building but an accessory building isn't necessarily an ADU, but they have the same requirements for the structure itself.

Applicant presentation: Randy Price, Builder, stated they were trying to add the garage expansion to accommodate a quiet area for an autistic daughter that needs a space of her own to be away from other people, in addition to an expansion of the garage. The garage on the property is very small as it is built into a hill. Mr. Price stated the applicants were trying to expand the home more to have room for their two daughters. Mr. Price stated the neighbors have an 8' tall retaining wall on the west side of the property that the garage will be contiguous with. The lot is smaller than most lots in the area. Mr. Paul Edwards, Owner, added that their severely autistic child is their life and another reason they are up north is that she can't handle hot weather. Mr. Edwards stated they do not have any desire to turn the space into a short-term rental. Mr. Price and Mr. Edwards responded to questions from Board Members.

Call for public comment: None.

ZBA determination of findings of fact: Chair Hodgson began a review of each of the findings of fact.

Extraordinary circumstances: It is a legal, non-conforming, relatively small lot.Substantial justice: Chair Hodgson stated there was nothing about the property that's driving this and Member Gibson agreed that there was no hardship. Member Gibson stated she was familiar with the property and the garage had been used as a garage and the person who owned it at the time had an SUV that fit in the bottom garage. Director Scheel stated they were talking about the expansion of an accessory building and attaching the building to the home. Chair Hodgson stated that if the variance was approved it would be expanding a non-conformity.

After discussion, the Board agreed with a Finding of Denial - The ZBA finds that denying the request for an allowed expansion of a garage into current setbacks is reasonable as there may be other avenues for property owner to pursue that would provide a similar expansion without the need for a variance, it is not a substantial right to build any size accessory building.

Motion by Member Gibson, seconded by Member Reed to deny Project ZBA-24-01 based on specific findings of fact that prove the project does not meet the review standards in 153.038(F)(2b).
Motion passed by unanimous voice vote.

B. Set future meeting dates 2024

Director Scheel stated the standard meeting days were the third Wednesday of every month as needed if and when they have an application.

Director Scheel reported he recently received two (2) grants, one is for expenses related to meeting with Charlevoix Township to discuss adjacent lands and how to promote housing in those areas; and the second one is a $300,000 housing rehabilitation grant whereby low income homeowners can receive up to a $40,000 forgivable grant to repair their houses.

Director Scheel reported that multiple developers are interested in Charlevoix right now which could lead to several future developments.

Director Scheel stated the Planning Commission is working on new regulations for mixed-use residential and commercial areas on the corridor.

9. Public Comment

10. Adjourn

Chair Hodgson adjourned the meeting at 6:49 p.m.

______________________________________ __________________________________

Sarah J. Dvoracek/fgm	City Clerk	Richard Hodgson	Chair

City of Charlevoix
Downtown Development Authority Meeting Minutes
Monday, April 22, 2024 - 5:30 PM
Council Chambers, City Hall

1. **Call to Order**
   The meeting was called to order by Chair Owens at 5:30 p.m.

2. **Pledge of Allegiance**

3. **Roll Call**

Chair:	Maureen Owens
Members Present:	Kirby Dipert, Liam Dreyer, Mayor Lyle Gennett, Annie Oosthuizen, Danielle Scheller
Members Absent:	Sam Bingham, Paul Silva, Ron Way
Staff Present:	Lindsey Dotson, DDA Executive Director; Mark L. Heydlauff, City Manager

4. **Inquiry Regarding Conflicts of Interest**

5. **Consent Agenda**

   A. Minutes
   Motion by Member Dipert, seconded by Mayor Gennett to approve the Consent Agenda consisting of the minutes of the February 29, 2024 meeting.
   Motion carried by unanimous voice vote.

6. **Reports**

   A. DDA Financial as of April 18, 2024

   No discussion.

   B. Director's Report
   Lindsey Dotson, DDA Director
   Director Dotson stated she had two updates that were not included in her report. The first update was that the Big Belly Recycling/Garbage units will start to appear throughout town next week. And the second is regarding the Bridge Park building improvements. Ms.Dotson is waiting for a cost to repair some leaking windows which were not included in the initial repair estimates.

   Chair Owens stated there was a presentation that needed to be added to the agenda as Item B under New Business which would move the remaining items, subsequently, down one space.

7. **Old Business**

A. Downtown Events & Activities - continued

Lindsey Dotson, DDA Director

Director Dotson stated based on the minutes from the February meeting and a brief chat with Chair Owens, she created a list of events, activities, programming, deliverables, or services that the DDA currently oversees. Ms. Dotson stated she made a list which included tangible and intangible items and support from the perspective of what would be noticeable by either the public or downtown businesses if the Board chose to cease coordination or responsibility for that item or program.

B. 2024-2025 Budget

Lindsey Dotson, DDA Director

Director Dotson stated after the January meeting when the budget was approved, there were two major items that were not included in DDA budget - the Alleyway Grant and the Housing Incentive. While the items were in the future commitments area of the budget spreadsheet, the numbers did not translate into the budget that was approved by the City Council. Ms. Dotson stated that it is possible the funds would not be paid out for these projects during this budget year due to construction timelines.

City Manager Heydlauff stated the DDA statute states the DDA's budget is ultimately approved by Council. The version of the budget that he received for inclusion with Council is, as the Director explained, is missing the two items that were not included in the approved budget. Mr. Heydlauff stated a budget amendment approved by the DDA and Council would be necessary to expend the funds for the two programs that were not included.

8. New Business

A. Bridge Park Drive Space Proposal

Lindsey Dotson, DDA Director

Director Dotson stated that Bev Barton of Living Well Company submitted a proposal to fill the vacancy at 107 Bridge Park Drive. Bev Barton further explained her proposal for use of the space at 107 Bridge Park Drive. Ms. Barton answered questions from the Board. Discussion was held.

Motion by Member Dreyer, seconded by Member Oosthuizen to authorize the Executive Committee to enter into negotiations with Ms. Barton for the space at 107 Bridge Park Drive. Member Dipert stated that he wanted to amend the motion to include a time restraint of no later than 30 days.

Motion carried as amended by unanimous voice vote.

B. Presentation from the Charlevoix Public Library (added to the agenda at the beginning of the meeting)

Ryan Deery

Library Director

Ryan Deery, Library Director, provided the Board with the library's annual updates, including details on the upcoming proposed library millage and budget.

C. Sponsorship Request

Lindsey Dotson, DDA Director

Director Dotson stated the Board received a letter from the Traverse City Dance Project requesting a sponsorship of $1,000. The Board discussed last year's performance by the group and stated it was a very well attended event.

Motion by Member Dipert, seconded by Mayor Gennett to approve the sponsorship request for $1,000 from the Traverse City Dance Project.
Motion carried by unanimous voice vote.

D. Election of Officers
Lindsey Dotson, DDA Director
Motion by Chair Owens, seconded by Mayor Gennett to nominate Kirby Dipert as Vice Chair for a one-year term ending in April of 2025.
Motion carried by unanimous voice vote.

Motion by Member Dipert, seconded by Mayor Gennett to nominate Maureen Owens as Chair for a one-year term ending in April of 2025.
Motion carried by unanimous voice vote.

E. BMI Music License
Lindsey Dotson, DDA Director
Director Dotson provided an update about licensing for their music in the park events. Ms. Dotson stated she confirmed with the City Attorney that the DDA was obligated to have licenses for their concert series. Ms. Dotson stated the DDA purchased a license from BMI, Inc. for the 2024 Live on the Lake Summer Concerts for a cost of $425 annually.

F. Director Tasks/Streamlining Operations
Lindsey Dotson, DDA Director
Director Dotson stated that in light of the comments made about the job duties of the director, along with comments made in January during the first part of her performance evaluation, she created an updated spreadsheet to accurately reflect the workload as it stands presently. Discussion followed regarding various items/tasks included in the Director's report. Discussion followed regarding the use of volunteers, things for volunteers to do, and someone to manage the volunteers. Chair Owens agreed that volunteers for the DDA this summer with a list of tasks and a number to call to volunteer would be good, and she said that BizBlast would be a great resource. Director Dotson stated that she could create such a list, but she would want the Chair or Vice Chair to review the list before publicizing it.

G. Closed Session: DDA Director's Annual Performance Review (MCL 15.268 (1a))
Lindsey Dotson, DDA Director
The Board recessed for five (5) minutes at 7:19 p.m.

Motion by Member Dipert, seconded by Mayor Gennett to enter into a Closed Session in the conference room to discuss the DDA Director's Annual Performance Review {at 7:24 p.m.}.
Motion carried by unanimous voice vote.

9. Public Comment

10. Request for Future Agenda Items

11. Board Comments

12. Adjourn

The Board went back into open session and then Chair Owens adjourned the meeting at 9:05 p.m.

________________________________ ________________________________

Sarah J. Dvoracek/fgm City Clerk Maureen Owens Chair

CHARLEVOIX DDA MISSION

The mission of the Charlevoix DDA is to strengthen the year-round economic vitality of our vibrant historic business district through community efforts, events, and public/private partnerships while fostering a sense of community pride and ownership.

City of Charlevoix

Shade Tree & Parks Commission Regular Meeting Minutes

Thursday, May 9, 2024 - 10:00 AM

2nd Floor Conference Room, 210 State Street, Charlevoix, MI

1. **Call to Order and Roll Call**

   Member Muladore called the meeting to order at 10am.

Chair:	Perry Irish Hodgson
Members Present:	Megan Cassada, David Levy, Jennifer Muladore
Members Absent:	David Bertinelli
Staff Present:	Mark L. Heydlauff, City Manager; Pat Elliott, DPW Supervisor

2. **Approval of Minutes**

   A. Minutes from January 11, 2024

   Motion by Levy, seconded by Hodgson to approve the January 11 minutes as presented. **Motion carried by unanimous voice vote.**

3. **Old Business**

   A. Update on 2023 Accomplishments and Ongoing Projects

   The Commission reviewed the work of 2023 including the trees successfully planted. They discussed the combination of tree planting and tree and landscape maintenance over the coming year with a target of 30 new trees and projects including continued pruning at Michigan Beach, Water Tower Park, and continued improvements to the planting beds downtown. The goats will again be coming to Michigan Beach Park in August. The electrical pits in East Park are completed, and tree work is also complete at Ferry Beach. There was some discussion of the wetland in the park and whether storm water could be redirected into the wetland instead of direct discharge into Lake Charlevoix.

   The Commission discussed having a ribbon cutting for the trail improvements at Lake Michigan Beach Park. This will be held on June 13 at Michigan Beach Park. The Commission agreed by consensus to schedule their June meeting to coincide with this date and time.

4. **New Business**

   A. 2024 Plantings and Requests

   The Commission discussed future plantings and requests. They also reviewed heaving sidewalks related to tree roots; improvements are planned for State Street sidewalks.

   B. Approved Tree List Update Discussion

   The Commission reviewed the prospect of updating the approved tree planting list. They also discussed the prospect of hiring a consultant to prepare long-term plans of selective plantings.

5. **Public Comment**

   The floor was opened for public comments and none were heard.

6. Adjourn

Member Muladore adjourned the meeting at 11:08am.

City of Charlevoix
Planning Commission Regular Meeting Minutes
Monday, July 8, 2024 - 6:00 PM
Council Chambers, 210 State Street, Charlevoix, MI

A. Call to Order/Pledge of Allegiance

The meeting was called to order at 6:00 p.m. by Chair Muladore followed by the Pledge of Allegiance.

B. Roll Call

Chair:	Jennifer Muladore
Members Present:	Scott Beatty, Shelley Boehmer, Sherm Chamberlain, John Kurtz, Maureen Radke
Members Absent:	Toni Felter
Staff Present:	Jonathan Scheel, Director of Planning and Zoning

C. Inquiry into Potential Conflicts of Interest

D. Approval of Agenda

Motion by Member Chamberlain, seconded by Member Boehmer to approve the agenda as presented.
Motion carried by unanimous voice vote.

E. Approval of the Minutes

1. June 10, 2024 Minutes
   Motion by Member Radke, seconded by Member Chamberlain to approve the minutes of June 10, 2024 as presented.
   Motion carried by unanimous voice vote.

F. Call for Public Comment Not Related to Agenda Items

G. Public Hearings

1. Commercial and Residential Mixed-Use Corridor Zoning Ordinance Amendments
   Director Scheel stated last month the Commission requested minor changes to the regulations which were reflected in the standards presented. Mr. Scheel reviewed other minor changes, corrections to the formatting of the document, and maps showing the Mixed Use Overlay.

   Member Beatty stated he continued to be concerned about building height, and he thought the Commission had agreed that three (3) stories were appropriate, but he dissented and stated that three-story buildings would not maintain the character of Charlevoix. Member Beatty stated he opposed the ordinance because of the ability to place three-story buildings at the overlook at the north end of this district.

Motion by Member Boehmer, seconded by Member Chamberlain to forward the proposed ordinance changes to the City Attorney for review and then to the City Council.

Yeas: Boehmer, Chamberlain, Kurtz, Muladore, Radke

Nays: Beatty

Absent: Felter

Motion carried.

H. New Business

I. Old Business

1. Lighting Ordinance

Director Scheel stated this was the third version of the lighting ordinance. The ordinance focuses on fully shielded fixtures. Mr. Scheel stated that once this ordinance was adopted, anything that exists today would be legal non-conforming. Director Scheel stated the ordinance focuses on commercial areas and addressing mass light that impacts neighborhoods.

Director Scheel responded to questions regarding multiple sections of the proposed ordinance including florescent lights, holiday lighting, exemptions, nonconforming lights, spotlights, downward facing lighting, and other details of the ordinance. Member Kurtz stated that the worst source of the lighting problem comes from Charlevoix Township and that the City needs to be working with the Township in a coordinated effort to address lighting issues. Director Scheel stated at the last meeting with the Township, the Supervisor showed willingness to work together on the corridor and their next meeting is in the near future. Mr. Scheel stated that once the Commission approves the draft lighting ordinance, then staff would give the ordinance to the Township for consideration. Mr. Scheel stated his recommendation would be a phased-in police power ordinance giving business owners a time frame to get the businesses to adhere to the new lighting standards.

Motion by Member Boehmer, seconded by Member Beatty to set a public hearing for the August Planning Commission meeting for the new lighting ordinance.
Motion carried by unanimous voice vote.

J. Staff Updates

1. Zoning Administrator Report

Member Chamberlain questioned if Director Scheel had received a copy of the future land use map for Charlevoix Township and Director Scheel stated he had not received it yet. Member Chamberlain also stated that he was at a meeting for Marion Township where it was stated that a copy of their Master Plan and Land Use Map had been sent to Charlevoix, but Director Scheel had not received it, and he would request it again.

Director Scheel stated there was a lot of rehabilitation going on with home interiors in the City. Mr. Scheel answered questions about the house that was torn down on Grant Street across from the library.

K. Requests For Next Months Agenda or Research Items

Director Scheel and Member Chamberlain will work together on gathering data regarding changing the lot size in the mixed-use district. The current average lot size is slightly over 6,000 sq. ft., and only about a half a dozen lots meet the minimum lot size out of a total of 37 lots.

Director Scheel provided an update on the status of the lot at 800 State Street and a site plan review for the property may be on the August Planning Commission agenda.

Member Boehmer questioned the enforcement of the new outdoor storage ordinance and Director Scheel stated that the City Council approved the ordinance with some minor changes with an effective date of August 8, 2024. Mr. Scheel shared his plan for education and enforcement of the new ordinance with the Commission.

Discussion followed regarding possible residential uses in industrial zoning districts as a future agenda topic.

L. Adjournment by 8:00 p.m. unless extended by a motion

Chair Muladore adjourned the meeting at 7:27 p.m.

________________________________ ________________________________

Sarah J. Dvoracek/fgm City Clerk	Jennifer Muladore Chair

CITY OF CHARLEVOIX

POLICE ACTIVITY REPORT FOR THE MONTH OF

AUGUST 2024

ITEM	TOTAL THIS MONTH	MONTH YEAR PRIOR	TOTAL THIS YEAR	TOTAL LAST YEAR
TRAFFIC CITATIONS	27	36	206	89
TRAFFIC WARNINGS	81	46	475	405
TRAFFIC CONTACTS	104	81	624	491
MOTORIST/CITIZEN ASSIST	15	17	106	155
POLICE ASSIST	28	23	207	216
MEDICAL RESPONSE	6	9	45	76
PAPER SERVICE	0	1	4	10
RESIDENTIAL/COMMERCIAL	0 / 9	13	83	196
FELONY ARRESTS	1	3	8	11
MISDEMEANOR/NTA ARRESTS	4	5	45	31
WARRANT ARRESTS	3	9	15	28
WARRANT ATTEMPTS	0	0	5	4
TRAFFIC CRASH 9300-1	9	15	52	65
TRAFFIC CRASH 9300-2	8	5	33	45
GENERAL ASSISTS/OTHER	147	278	1,081	2,283
FUNERAL ESCORTS	0	0	3	8
ALARMS	4	9	29	47
SCHOOL PATROL	0	0	71	124
SCHOOL PRESENTATIONS	0	0	0	0
PARKING/SNOW TICKETS	25	14	190	313
PARKING METER TICKETS	515	655	1,389	2,237
LIQUOR INSPECTIONS	0	18	99	107
ORIGINAL COMPLAINTS	61	40	272	270
CLOSED COMPLAINTS	54	32	185	187
FOLLOW-UP/SUPPLEMENTS	32	32	159	118
MENTAL HEALTH INCIDENTS	0	-	6	-
PATROL MILES	3,741	4,386	28,754.2	33,037

TOTAL MILEAGE #87-1 3,741

TOTAL MILEAGE #87-2 0

TOTAL MILEAGE #87-3 0

Jill McDonnell

Chief of Police

Charlevoix City Council
Reports and Communications

Title: Mayor and Council Comments
Date: September 16, 2024

Presented By:

Background:

Recommendation:

Attachments:
None