

CHARTER TOWNSHIP OF YPSILANTI
MINUTES OF THE SEPTEMBER 20, 2022 REGULAR BOARD MEETING

Supervisor Brenda Stumbo called the meeting to order at approximately 7:00pm in the Ypsilanti Township Civic Center Board Room, 7200 S. Huron River Drive, Ypsilanti Township. The Pledge of Allegiance was recited followed by a moment of silent prayer.

Members Present: Supervisor Brenda Stumbo, Clerk Heather Jarrell Roe and Treasurer Stan Eldridge
Trustees: Gloria Peterson, John Newman II, Debbie Swanson and Jimmie Wilson, Jr.

Members Absent: None

Legal Counsel: Wm. Douglas Winters

3. PUBLIC HEARING

A. 7:00PM – RESOLUTION 2022-12, 2022 SPECIAL ASSESSMENT LEVY
(PUBLIC HEARING SET AT THE AUGUST 18, 2022 REGULAR MEETING)

Supervisor Stumbo opened the public hearing at 7:02pm. There were no comments given and the hearing was closed at 7:04pm.

A motion was made by Clerk Jarrell Roe and seconded by Trustee Wilson to approve Resolution 2022-12, 2022 Special Assessment Levy (see attached).

4. PUBLIC COMMENTS

Ten public comments were given.

3. CONSENT AGENDA

A. MINUTES OF THE AUGUST 16, 2022 WORK SESSION AND REGULAR MEETING

B. STATEMENTS AND CHECKS

- 1. STATEMENTS AND CHECKS FOR SEPTEMBER 6, 2022 IN THE AMOUNT OF \$801,958.78**
- 2. STATEMENTS AND CHECKS FOR SEPTEMBER 20, 2022 IN THE AMOUNT OF \$1,012,239.74**
- 3. CLARITY HEALTHCARE DEDUCTIBLE ACH FOR AUGUST 2022 IN THE AMOUNT OF \$48,810.84**
- 4. CLARITY HEALTHCARE ADMIN FEE FOR AUGUST 2022 IN THE AMOUNT OF \$1,357.88**

A motion was made by Clerk Jarrell Roe and seconded by Treasurer Eldridge to table the August 16, 2022 minutes until the next board meeting and to approve the remaining consent agenda.

The motion passed unanimously.

**CHARTER TOWNSHIP OF YPSILANTI
MINUTES OF THE SEPTEMBER 20, 2022 REGULAR BOARD MEETING
PAGE 2**

ATTORNEY REPORT

A. GENERAL LEGAL UPDATE

Attorney Winters detailed the latest in the case involving the Gault Village shopping center. He stated the township building officials and attorneys had recently toured this building section by section. Attorney Winters added that the next hearing in this matter will be September 23, 2022.

OLD BUSINESS

1. 2ND READING OF ORDINANCE 2022-500, AN ORDINANCE TO AMEND CHAPTER 62 ARTICLE IV, SECTION 62-76 (A)(1) OF THE CODE OF ORDINANCES, CHARTER TOWNSHIP OF YPSILANTI, TO ADJUST WATER SERVICE RATES

(1ST READING HELD AT THE AUGUST 16, 2022 REGULAR MEETING)

Clerk Jarrell Roe read the ordinance into the record.

A motion was made by Clerk Jarrell Roe and seconded by Trustee Swanson to approve the 2nd reading of Ordinance 2022-500, an ordinance to amend chapter 62 article IV, section 62-76 (A)(1) of the Code of Ordinances, Charter Township of Ypsilanti, to adjust water service rates (see attached).

Luther Blackburn, YCUA Director stated that the average impact to a township resident for the 4% increase is about \$3.81 on a bi-monthly bill. He added that the main reasons for the requested increase is recovery from loss consumption due to COVID and cost increases due to inflation for equipment and supplies.

Trustee Swanson expressed her concern that in the future the YCUA Board may want to continue to ask for an increase above the pass through costs. Mr. Blackburn responded that in his twenty years with the authority that has never been the mindset of the authority. He added that they do an extensive analysis before requesting rate increases and that the last few years had been very unusual with the pandemic.

Clerk Jarrell Roe asked Mr. Blackburn to share about recent good news YCUA had received. He responded that YCUA had received loan forgiveness from EGLE for pump station improvements, water meter improvements, and telemetry improvements.

Supervisor Stumbo stated she appreciated the time Mr. Blackburn had spent in meetings with township officials in the last few weeks to review the proposed increases and why they were being requested.

A roll call vote was held.

**CHARTER TOWNSHIP OF YPSILANTI
MINUTES OF THE SEPTEMBER 20, 2022 REGULAR BOARD MEETING
PAGE 3**

Stumbo: Yes John Newman: Yes Jimmie Wilson, Jr.: Yes
Jarrell Roe: Yes Gloria Peterson: Yes
Eldridge: Yes Debbie Swanson: Yes

The motion carried unanimously.

2. FIRST READING OF ORDINANCE 2022-501, AN ORDINANCE TO AMEND CHAPTER 62 ARTICLE IV, SECTION 62-76 (A)(1) OF THE CODE OF ORDINANCES, CHARTER TOWNSHIP OF YPSILANTI, TO ADJUST SEWAGE DISPOSAL RATES

(1ST READING HELD AT THE AUGUST 16, 2022 REGULAR MEETING)

Clerk Jarrell Roe read the ordinance into the record.

A motion was made by Clerk Jarrell Roe and seconded by Trustee Swanson to approve the 2nd reading of Ordinance 2022-501, an ordinance to amend chapter 62 article IV, section 62-76 (A)(1) of the Code of Ordinances, Charter Township of Ypsilanti, to adjust sewage disposal rates (see attached).

Trustee Newman asked if this increase was in addition to the water increase. Mr. Blackburn responded that the 4% increase is cumulative and includes both water and sewer.

A roll call vote was held.

Stumbo: Yes John Newman: Yes Jimmie Wilson, Jr.: Yes
Jarrell Roe: Yes Gloria Peterson: Yes
Eldridge: Yes Debbie Swanson: Yes

The motion carried unanimously.

NEW BUSINESS

1. RESOLUTION 2022-13, ROAD CLOSURE REQUEST FOR CALVARY BAPTIST CHURCH FALL FESTIVAL

Clerk Jarrell Roe read the resolution into the record.

A motion was made by Trustee Wilson and seconded by Treasurer Eldridge to approve Resolution 2022-13, road closure request for Calvary Baptist Church (see attached).

The motion carried unanimously.

2. REQUEST APPROVAL OF THE CONTRACT WITH THE NATIONAL KIDNEY FOUNDATION OF MICHIGAN TO OFFER ENHANCE FITNESS CLASSES AT THE COMMUNITY CENTER FOR 2022

**CHARTER TOWNSHIP OF YPSILANTI
MINUTES OF THE SEPTEMBER 20, 2022 REGULAR BOARD MEETING
PAGE 4**

A motion was made by Trustee Peterson and seconded by Treasurer Eldridge to approve the contract with the National Kidney Foundation of Michigan to offer Enhance Fitness classes at the community center for 2022 (see attached).

The motion carried unanimously.

3. REQUEST AUTHORIZATION TO APPROVE THE SALE OR REMOVAL OF TOWNSHIP EQUIPMENT

A motion was made by Treasurer Eldridge and seconded by Clerk Jarrell Roe to approve the sale or removal of township equipment.

The motion carried unanimously.

4. RESOLUTION 2022-10, MICHIGAN DEPARTMENT OF NATURAL RESOURCES LAND AND WATER CONSERVATION FUND PROJECT AT COMMUNITY CENTER PARK

Clerk Jarrell Roe read the resolution into the record.

A motion was made by Clerk Jarrell Roe and seconded by Treasurer Eldridge to approve Resolution 2022-10, Michigan Department of Natural Resources Land and Water Conservation Fund project at Community Center Park (see attached).

Trustee Swanson stated she had concerns about the proposed reduction in size for the tennis and pickle ball courts.

The motion carried unanimously.

5. REQUEST APPROVAL OF THE MICHIGAN DEPARTMENT OF NATURAL RESOURCES LAND AND WATER CONSERVATION FUND DEVELOPMENT PROJECT AGREEMENT FOR COMMUNITY CENTER PARK

A motion was made by Clerk Jarrell Roe and seconded by Trustee Wilson to approve the Michigan Department of Natural Resources Land and Water Conservation Fund Development Project Agreement for Community Center Park (see attached).

The motion carried unanimously.

6. REQUEST TO APPROVE A LETTER OF AGREEMENT WITH SPICER GROUP FOR PROFESSIONAL SERVICES FOR THE COMMUNITY CENTER PARK UPDATES IN THE AMOUNT OF \$52,000.00 BUDGETED IN LINE ITEM #213-901-975-520 CONTINGENT UPON APPROVAL OF THE BUDGET AMENDMENT

A motion was made by Clerk Jarrell Roe and seconded by Trustee Peterson to approve a letter of agreement with Spicer Group for professional services for the Community Center Park updates in the amount of \$52,000.00 budgeted in line

**CHARTER TOWNSHIP OF YPSILANTI
MINUTES OF THE SEPTEMBER 20, 2022 REGULAR BOARD MEETING
PAGE 5**

item #213-901-975-520 contingent upon approval of the budget amendment (see attached).

The motion was carried unanimously.

7. REQUEST APPROVAL OF MAINTENANCE AGREEMENT WITH RELEAF FOR TREES TO BE PLANTED AT SUGARBROOK PARK

Clerk Jarrell Roe stated that there were concerns during the work session discussion about the lack of detail in the contract. She also stated she was concerned about the parks being short staffed and how the township would be able to maintain its obligations in the contract.

A motion was made by Clerk Jarrell Roe and seconded by Treasurer Eldridge to table the approval of a maintenance agreement with ReLeaf for trees to be planted at Sugarbrook Park.

The motion carried with Trustee Wilson voting against.

8. REQUEST APPROVAL OF CHANGE ORDER #3 WITH STANTEC FOR THE LOONFEATHER POINT PARK RENOVATION IN THE AMOUNT OF \$5,000.00 BUDGETED IN LINE ITEM #213-901-975-587

A motion was made by Clerk Jarrell Roe and seconded by Treasurer Eldridge to approve change order #3 with Stantec for the Loonfeather Point Park renovation in the amount of \$5,000.00 budgeted in line item #213-901-975-587 (see attached).

The motion carried unanimously.

9. RESOLUTION 2022-15, MICHIGAN DEPARTMENT OF NATURAL RESOURCES LAND AND WATER CONSERVATION FUND PROJECT AT CLUBVIEW PARK

Clerk Jarrell Roe read the resolution into the record.

A motion was made by Clerk Jarrell Roe and seconded by Treasurer Eldridge to approve Resolution 2022-15, Michigan Department of Natural Resources Land and Water Conservation Fund Project at Clubview Park (see attached).

The motion carried unanimously.

10. REQUEST APPROVAL OF THE MICHIGAN DEPARTMENT OF NATURAL RESOURCES LAND AND WATER CONSERVATION FUND DEVELOPMENT PROJECT AGREEMENT FOR CLUBVIEW PARK

A motion was made by Clerk Jarrell Roe and seconded by Treasurer Eldridge to approve the Michigan Department of Natural Resources Land and Water Conservation Fund Development Project Agreement for Clubview Park (see attached).

**CHARTER TOWNSHIP OF YPSILANTI
MINUTES OF THE SEPTEMBER 20, 2022 REGULAR BOARD MEETING
PAGE 6**

The motion carried unanimously.

11. REQUEST TO APPROVE A LETTER OF AGREEMENT WITH SPICER GROUP FOR PROFESSIONAL SERVICES FOR THE CLUBVIEW PARK IMPROVEMENTS IN THE AMOUNT OF \$47,000.00 BUDGETED IN LINE ITEM #213-901-974-026 CONTINGENT UPON APPROVAL OF THE BUDGET AMENDMENT

A motion was made by Clerk Jarrell Roe and seconded by Trustee Peterson to approve a letter of agreement with Spicer Group for professional services for the Clubview Park improvements in the amount of \$47,000.00 budgeted in line item #213-901-974-026 contingent upon approval of the budget amendment (see attached).

The motion carried.

12. REQUEST APPROVAL TO FUND THE FRIENDS IN DEED COMMUNITY MURAL PROJECT LOCATED AT 1196 ECORSE RD. IN THE AMOUNT OF \$14,500.00 BUDGETED IN LINE ITEM #101-729-969-010

A motion was made by Trustee Swanson and Supported by Trustee Wilson to approve funding the Friends in Deed community mural project located at 1196 Ecorse Rd. in the amount of \$14,500.00 budgeted in line item #101-729-969-010.

Clerk Jarrell Roe stated that this is our first community art and is part of the master plan.

The motion carried unanimously.

13. RESOLUTION 2022-14, AUTHORIZING THE WATER RESOURCE COMMISSIONER TO EXCEED THE STATUTORY SPENDING AND ASSESSMENT LIMIT OF \$5,000.00 PER YEAR FOR THE MAINTENANCE AND REPAIR OF THE SOUTH FORD LAKE DRAIN

Clerk Jarrell Roe read the resolution into the record.

A motion was made by Trustee Peterson and seconded by Treasurer Eldridge to approve Resolution 2022-14, Authorizing the Water Resource Commissioner to exceed the statutory spending and assessment limit if \$5,000.00 per year for the maintenance and repair of the South Ford Lake Drain (see attached).

Supervisor Stumbo stated that these were emergency repairs and they were not yet sure what the cost to residents would be because the number of people in the district had not been determined. She added that the township's statutory obligation for costs is 35%. Supervisor Stumbo stated that the water resource commission needed approval from the board to move forward above the \$5,000.00 limit.

**CHARTER TOWNSHIP OF YPSILANTI
MINUTES OF THE SEPTEMBER 20, 2022 REGULAR BOARD MEETING
PAGE 7**

The motion carried unanimously.

14. BUDGET AMENDMENT #12

Supervisor Stumbo reviewed details of the budget amendment.

Clerk Jarrell Roe read the budget amendment into the record.

A motion was made by Clerk Jarrell Roe and seconded by Trustee Peterson to approve budget amendment #12 (see attached).

Supervisor Stumbo stated that there was a lot of concerns discussed during the work session about the contract with ReLeaf. She added that normally when we buy trees they come with a warranty, but the trees coming with the Releaf agreement required a three year maintenance agreement and there were concerns about township staffing and being able to fulfill this obligation.

Trustee Wilson thanked Supervisor Stumbo for the explanation on the ReLeaf contract. He also added that he had been volunteering with the Vietnam Veteran's Memorial the last few years and that next year he may not have as much time so Treasurer Stan Eldridge would be stepping in for him.

The motion carried unanimously.

AUTHORIZATIONS AND BIDS

**1. REQUEST TO SEEK BIDS FOR ROOF SAFETY IMPROVEMENTS AT THE
YPSILANTI TOWNSHIP COMMUNITY CENTER**

A motion was made by Treasurer Eldridge and seconded by Clerk Jarrell Roe to approve seeking bids for roof safety improves at the Ypsilanti Township Community Center.

The motion carried unanimously.

**2. REQUEST TO SEEK BIDS FOR BUILDING IMPROVEMENTS FOR THE PARK
AND GROUND MAINTENANCE BUILDING**

A motion was made by Clerk Jarrell Roe and seconded by Trustee Newman to approve seeking bids for building improvements for the Parks and Ground Maintenance Building.

The motion carried unanimously.

OTHER BUSINESS

There was no other business discussed.

**CHARTER TOWNSHIP OF YPSILANTI
MINUTES OF THE SEPTEMBER 20, 2022 REGULAR BOARD MEETING
PAGE 8**

BOARD MEMBER UPDATES

Clerk Jarrell Roe stated that she would like to acknowledge Mrs. Ruby Walker who had passed away recently. She added that Mrs. Walker had given 21 years of service to the township and she is greatly missed.

Clerk Jarrell Roe stated that the clerk's office has applied for \$28,500 in grant funding from the state and she would update once she finds out if we are awarded the money.

Clerk Jarrell Roe said that ballots will be available in the clerk's office starting September 29, 2022.

Treasurer Eldridge stated that his office had collected approximately 53 out of 56 million in taxes owed to the township. He added that puts us at 94%, which is the highest in the county.

Trustee Swanson stated she wanted to acknowledge the people who came out today to speak on the LPR's. She added that she was puzzled about the process and why people came to meetings expecting a vote, when this wasn't on the agenda. Trustee Swanson added that she thinks some of the things that are being said are not being portrayed correctly and that she is not sure how inciting fear and hate and unkindness with name calling will help to get our community to a place where thoughtful decisions can be made.

Trustee Peterson thanked the board for authorizing the road closure on Grove for the sickle cell run. She stated that it was given by University Bank and State Representative Rodney Peterson and had over 70 runners.

Supervisor Stumbo stated that we have had several cases of COVID among township employees and that it is still important to stay safe. She added that we still have masks and test kits for distribution but that more may need to be ordered.

Supervisor Stumbo stated she agrees with Trustee Swanson and does not understand why an item is being stirred up before the board when the board does not even have all the information for the project. She added that she has not had an opportunity to talk with the sheriff since the survey results were released, and that it is her understanding the survey was flawed because people were allowed to vote as many times as they wanted. Supervisor Stumbo said there will be more community engagement on the LPR's.

A motion to adjourn was made by Treasurer Eldridge and seconded by Trustee Wilson.

Motion carried unanimously.

**CHARTER TOWNSHIP OF YPSILANTI
MINUTES OF THE SEPTEMBER 20, 2022 REGULAR BOARD MEETING
PAGE 9**

The meeting was adjourned at approximately 8:42pm.

Respectfully Submitted,



**Brenda L. Stumbo, Supervisor
Charter Township of Ypsilanti**



**Heather Jarrell Roe, Clerk
Charter Township of Ypsilanti**

**Charter Township of Ypsilanti
Ordinance 2022-500**

An ordinance to amend Chapter 62, Article IV, Section 62-76(a)(1) of the Code of Ordinances, Charter Township of Ypsilanti, to adjust waters service rates.

BE IT ORDERED BY THE CHARTER TOWNSHIP OF YPSILANTI, that:

Section 62-76(a)(1) of Chapter 62, Article IV of the Code of Ordinances be revised as follows:

For all billings rendered prior to October 1, 2022, existing water service rates shall prevail. For all billings rendered on or after October 1, 2022, charges for water services shall be as follows, for each bimonthly (two-month) period:

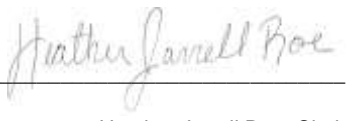
(1) Readiness-to-serve rates based on size of meter:

| Meter Size (inch) | Water Rate |
|----------------------|-------------|
| 5/8-3/4 | \$ 16.73 |
| 1 | \$ 41.83 |
| 1-1/2 | \$ 83.66 |
| 2 | \$ 133.86 |
| 3 | \$ 418.30 |
| 4 | \$ 836.59 |
| 6 | \$ 1,673.19 |
| 8 | \$ 2,928.08 |
| 10 | \$ 4,601.27 |
| 12 | \$ 5,437.87 |

(2) Commodity rate: \$3.62 per 100 cubic feet

* * * * *

I, Heather Jarrell Roe, Clerk of the Charter Township of Ypsilanti, County of Washtenaw, State of Michigan hereby certify adoption of Ordinance No. 2022-500 by the Charter Township of Ypsilanti Board of Trustees assembled at a Regular Meeting held on September 20, 2022 after first being introduced at a Regular Meeting held on August 18, 2022. The motion to approve was made by member Jarrell Roe and seconded by Swanson YES: Stumbo, Jarrell Roe, Eldridge, Newman, Swanson, Peterson and Wilson ABSENT: None NO: None ABSTAIN: None.



Heather Jarrell Roe, Clerk

Charter Township of Ypsilanti

**Charter Township of Ypsilanti
Ordinance 2022-501**

An ordinance to amend Chapter 62, Article IV, Section 62-77 of the Code of Ordinances, Charter Township of Ypsilanti, to adjust sewage disposal rates.

BE IT ORDERED BY THE CHARTER TOWNSHIP OF YPSILANTI, that:

Section 62-77 of Chapter 62, Article IV of the Code of Ordinances be revised as follows:

For all billings rendered prior to October 1, 2022, existing sewage disposal service rates shall prevail. For all billings rendered on or after October 1, 2022, charges for sewage disposal services shall be as follows, for each bimonthly (two-month) period:


(1) **Readiness-to-serve rates based on size of meter:**

| Meter Size (inch) | Sewage Rate |
|----------------------|-------------|
| 5/8-3/4 | \$ 17.47 |
| 1 | \$ 43.69 |
| 1-1/2 | \$ 87.36 |
| 2 | \$ 139.79 |
| 3 | \$ 436.83 |
| 4 | \$ 873.66 |
| 6 | \$ 1,747.31 |
| 8 | \$ 3,057.80 |
| 10 | \$ 4,805.11 |
| 12 | \$ 5,678.77 |

(2) **Commodity rate:** \$2.88 per 100 cubic feet

* * * * *

I, Heather Jarrell Roe, Clerk of the Charter Township of Ypsilanti, County of Washtenaw, State of Michigan hereby certify adoption of Ordinance No. 2022-501 by the Charter Township of Ypsilanti Board of Trustees assembled at a Regular Meeting held on September 20, 2022 after first being introduced at a Regular Meeting held on August 18, 2022. The motion to approve was made by member Jarrell Roe and seconded by Swanson YES: Stumbo, Jarrell Roe, Eldridge, Newman, Swanson, Peterson and Wilson ABSENT: None NO: None ABSTAIN: None.



Heather Jarrell Roe, Clerk

Charter Township of Ypsilanti

CHARTER TOWNSHIP OF YPSILANTI

RESOLUTION NO. 2022-13

RESOLUTION REGARDING TEMPORARY ROAD CLOSURE

Resolution authorizing the temporary road closure of Rosewood St. between Davis St. and Ecorse Rd. for the Calvary Baptist Church Fall Festival from 11am to 6pm on October 15, 2022.

WHEREAS, the Charter Township of Ypsilanti Board of Trustees has approved the temporary closure of Ypsilanti Township roads as indicated above; and

WHEREAS, the Driveways, Banners, and Parades Act 200 of 1969 requires the Township to authorize an official designated by resolution to make such request from the Road Commission.

NOW THEREFORE, BE IT RESOLVED that the Township of Ypsilanti Board of Trustees designates and agrees that Fred Crothers, Cavalry Baptist Church Facility Manager be the authorized official designee in this instance, when application is made to the Washtenaw County Road Commission for this temporary road closure.

I, Heather Jarrell Roe, Clerk of the Charter Township of Ypsilanti, County of Washtenaw, State of Michigan hereby certify the above resolution is a true and exact copy of Resolution No. 2022-13 approved by the Charter Township of Ypsilanti, Board of Trustees assembled at a Regular Meeting held on September 20, 2022.



Heather Jarrell Roe, Clerk
Charter Township of Ypsilanti

Ypsilanti Township Recreation Department

Program: Enhance® Fitness

VENUE ACCESS AGREEMENT

This Venue Access Agreement ("Agreement") is dated as of the date below and is by and between The National Kidney Foundation of Michigan ("NKFM") and the Ypsilanti Township Recreation Department ("Owner"). Owner acknowledges and agrees that the person that signs this Agreement on Owner's behalf is Owner's authorized representative and NKFM's primary contact for purposes of this Agreement.

1. Venue. Owner hereby grants to NKFM the right to use the venue described in Exhibit A ("Venue"), during the time periods listed in Exhibit A and such other time periods as the parties may otherwise agree, for the purposes described in Exhibit A. Owner shall comply with the protocols and requirements described in Exhibit B, as may be updated from time to time by NKFM, and shall deliver the Venue and all related furniture, fixtures and equipment in good, clean, safe and secure order and condition.

2. Term and Termination. The term of this Agreement shall begin on the date listed below and shall automatically renew unless it is terminated earlier in accordance with its terms. Notwithstanding the foregoing, either party may terminate this Agreement at any time and for any or no reason upon ten (10) days' prior written notice to the other party. For the avoidance of doubt, the Exhibits to this Agreement shall remain in full force and effect throughout the initial term and any renewal term of this Agreement unless otherwise amended in accordance with this Agreement.

3. Equipment, Utilities, Janitorial Services and Laws. Owner shall provide NKFM use of the furniture, fixtures and equipment located in the Venue and the building in which the Venue is situated, as well as such other furniture, fixtures and equipment that are described in Exhibit B. Owner shall also provide the Venue with heat, air conditioning, cold and hot water and electricity for lighting and operation, as well as janitorial services, including trash removal. Owner shall comply with all applicable laws in connection with this Agreement and represents and warrants that it has the full right, power and authority to enter into, grant the rights and licenses and otherwise perform its obligations under this Agreement.

4. Confidentiality. All non-public, confidential or proprietary information of NKFM, its related persons or entities or its program participants is confidential and may not be disclosed or copied by Owner at any time unless authorized by NKFM in writing.

5. Financial Obligations and Liability.

(a) The parties shall comply with their financial and other obligations described in Exhibit C, which may be updated from time to time by the parties.

(b) **Hold Harmless.** Both NKFM and Owner agree to remain responsible for its own negligence, or tortious acts, errors or omissions occurring during the terms of this Agreement, and the acts errors, or omissions of any its employees, agents or associated and affiliated entities.

Ypsilanti Township Recreation Department

Program: Enhance® Fitness

(c) IN NO EVENT WILL NKFM BE LIABLE TO OWNER, ANY OWNER'S PERSONNEL OR TO ANY THIRD PARTY FOR (i) ANY LOSS OF USE, REVENUE OR PROFIT OR LOSS OF DATA OR CONSEQUENTIAL, INCIDENTAL, DIRECT, INDIRECT, EXEMPLARY, SPECIAL OR PUNITIVE DAMAGE OR (ii) AGGREGATE DAMAGES IN EXCESS OF \$10,000, REGARDLESS OF WHETHER ANY SUCH DAMAGE ARISES OUT OF BREACH OF CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE OR WHETHER ANY SUCH DAMAGE WAS FORESEEABLE OR WHETHER OR NOT NKFM HAD BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGE.

6. Insurance. At all times during the term of this Agreement and for a period of two (2) years thereafter, Owner shall maintain commercial general liability insurance coverage with limits no less than \$1,000,000 per occurrence and \$2,000,000 in the aggregate, including bodily injury and property damage, which policy will include contractual liability coverage insuring the activities of NKFM under this Agreement. Such insurance policy shall waive any right of subrogation of the insurers against NKFM, provide that such insurance be primary insurance and any similar insurance in the name of and/or for the benefit of NKFM shall be excess and non-contributory and name NKFM and its related persons and entities as additional insureds.

7. Intellectual Property. As between NKFM and Owner, NKFM is and shall be the sole and exclusive owner of (a) all right, title and interest in and to the program that it operates in connection with the Venue and any and all copyrights, trademarks, logos, patents, trade secrets, information, documents, data, know-how, methodologies and other materials and intellectual property rights (collectively, "Intellectual Property") related thereto; and (b) all Intellectual Property developed or acquired by NKFM prior to or independently of this Agreement. Nothing in this Agreement shall, by implication, estoppel or otherwise, grant Owner any rights in any of the foregoing, including, without limitation, any trademarks or logos, and Owner shall refrain from using the NKFM or program names or logos, or any other NKFM Intellectual Property, without first obtaining NKFM's prior written consent.

8. Miscellaneous. This Agreement, including its exhibits, constitutes the sole and entire agreement between the parties with respect to the subject matter contained herein and supersedes all prior and contemporaneous understandings, agreements, representations and warranties regarding such subject matter. All notices and other communications under this Agreement must be in writing and addressed to the other party at its address set forth below. If any provision of this Agreement is found by a court of competent jurisdiction to be invalid, illegal or unenforceable, such invalidity, illegality or unenforceability shall not affect any other term or provision of this Agreement or invalidate or render unenforceable such term or provision in any other jurisdiction. Upon a determination that any term or provision is invalid, illegal or unenforceable, the parties shall negotiate in good faith to modify this Agreement to effect the original intent of the parties as closely as possible. Except as set forth above, no amendment to or modification of this Agreement is effective unless it is in writing, identified as an amendment to this Agreement and signed by each party. No waiver by any party of any of the provisions of this Agreement shall be effective unless explicitly set forth in writing and signed by the party so waiving. No failure to exercise or delay in exercising any right, remedy, power or privilege arising from this Agreement shall operate or be construed as a waiver thereof, nor shall any single or partial exercise preclude any other or further exercise. This Agreement and all matters arising out of or relating to this Agreement is governed by and is to be construed in accordance with the laws of the State of Michigan, without regard to the conflict of laws provisions thereof. This Agreement may be executed in counterparts, each of which is deemed an original, but all of which together are deemed to be one and the same agreement. The provisions of this Agreement that, by their nature, survive its expiration or

Ypsilanti Township Recreation Department

Program: Enhance[®] Fitness

termination, including, without limitation, Sections 4, 5, 6 and 7, shall so survive. A signed copy of this Agreement delivered by facsimile, email or other means of electronic transmission is deemed to have the same legal effect as delivery of an original signed copy of this Agreement.

[SIGNATURE PAGE FOLLOWS]

Ypsilanti Township Recreation Department

Program: Enhance® Fitness

This agreement shall be effective on September 1, 2022 and will automatically renew annually, unless either party needs to make changes or decides to terminate the agreement. It is understood by both parties that at anytime this agreement may be terminated by written notification from either party to the other.

National Kidney Foundation of Michigan

Ypsilanti Township Recreation Department

Signature: _____

Signature: _____

Name: Charlene Cole

Name: Brenda Stumbo

Title: Vice President NKFM

Title: Ypsilanti Township Supervisor

Address: 1169 Oak Valley Drive, Ann Arbor, MI
48108

Address: 2025 E. Clark Road, Ypsilanti, MI 48198

Signature: _____

Name: Heather Jarrell-Roe

Title: Ypsilanti Township Clerk

Address: 2025 E. Clark Road, Ypsilanti, MI 48198

Ypsilanti Township Recreation Department
Program: Enhance[®] Fitness

EXHIBIT A

VENUE, TIME PERIODS, PURPOSE

Venue Description:

Ypsilanti Township Recreation Department, 2025 E. Clark Road, Ypsilanti, MI 48198

Phone Number:

Office 734-544-3838

Program Contact People:

Nichole Passmore, npassmore@ytown.org

John Hines, jhines@ytown.org

Purpose:

Operation of the EnhanceFitness Program.

Room where the EnhanceFitness Program will take place:

Gym

Square Footage:

62' x 26' = 1612 sq. ft.

Days/Times of the Week for EnhanceFitness Classes:**

3 Classes*/week:

Monday 10:30 - 11:30am

Tuesday and Friday 1:00 pm-2:00pm

1 hour each session with 15 minutes before and after for set up/take down.

* The number of days/week that classes may be offered will be dependent on funding.

**classes may be cancelled for public health concerns, inclement weather, or upon unforeseen circumstances.

Ypsilanti Township Recreation Department

Program: Enhance[®] Fitness

EXHIBIT B

OWNER REQUIREMENTS

- Provide an ADA accessible facility large enough to hold an Enhance[®] Fitness (EF) class for participants.
- Provide a chair for every participant to use during an EF class.
- Maximum number of participants in class will be: 50 **(Participants must be Socially Distance)**
- Provide an Automated External Defibrillator (AED) Machine in a location accessible to NKFM EF Instructor.
- Have a First Aid Kit available and accessible to EF instructors.
- Owner shall keep equipment cart in secure office (includes weights, CPR mask, and lockbox).
- Owner shall lock the office where equipment kept at the end of the day.
- As agreed upon between NKFM and Owner, Owner shall be responsible for loss or theft of equipment from the cart.
- Communicate with participants.
- When deemed necessary, by NKFM staff, manage the confidential collection of waivers, attendance, participant demographic data, fitness checks and health and income information as required by NKFM.
- Follow HIPAA requirements at all times when managing the collection of confidential participant information.
- Recruit participants to attend EF classes, which is inclusive for all adults with varying fitness abilities, including those with intellectual and developmental disabilities and those in wheelchairs.
- Discuss sustainability plan with NKFM, if funding was to change.
- Actively and diligently offer and promote NKFM's services and the EF program, subject to Section 7 of the Agreement.
- Carry out its obligations under the Agreement and otherwise act with a high degree of professionalism, due diligence, care and efficiency.
- Not in any manner represent that it has any ownership in NKFM's intellectual property or that of the EF program.
- Not at any time do, or cause to be done, any act or thing in any way impairing or tending to impair, or challenge the validity of, any part of NKFM's intellectual property or that of the EF program.
- Ensure that the NKFM and EF logos appear on all Owner materials that are relevant to promoting the EF program in the community. This includes brochures, promotional materials, and resource materials, as well as recognition in all media materials such as news releases, public service announcements, online and social media, and event listings.

Charter Township of Ypsilanti

RESOLUTION NO. 2022-10

2020 MICHIGAN DEPARTMENT OF NATURAL RESOURCES

LAND AND WATER CONSERVATION FUND PROJECT

AGREEMENT RESOLUTION

It is Resolved that the Charter Township of Ypsilanti, Michigan, does hereby accept the terms of the Agreement as received from the Michigan Department of Natural Resources, and that the Charter Township of Ypsilanti does hereby specifically agree, but not by way of limitation, as follows:

1. To appropriate all funds necessary to complete the project during the project period and to provide \$176,200 (or 50%) dollars to match the grant authorized by the DEPARTMENT.
2. To maintain satisfactory financial accounts, documents, and records to make them available to the DEPARTMENT for auditing at reasonable times.
3. To construct the project and provide such funds, services, and materials as may be necessary to satisfy the terms of said Agreement.
4. To regulate the use of the facility constructed and reserved under this Agreement to assure the use thereof by the public on equal and reasonable terms.
5. To comply with any and all terms of said Agreement including all terms not specifically set forth in the foregoing portions of this Resolution.”

I, Heather Jarrell Roe, Clerk of the Charter Township of Ypsilanti, County of Washtenaw, State of Michigan hereby certify the above resolution is a true and exact copy of Resolution No. 2022-10 approved by the Charter Township of Ypsilanti, Board of Trustees assembled at a Regular Meeting held on September 20, 2022.



Heather Jarrell Roe, Clerk
Charter Township of Ypsilanti



Michigan Department of Natural Resources - Grants Management
**LAND AND WATER CONSERVATION FUND
 DEVELOPMENT PROJECT AGREEMENT**

This information is required by authority of Part 5 of Act 451, P.A. 1994 as amended, to receive funds.
 CFDA 15.916, Outdoor Recreation, Acquisition, Development & Planning

This Agreement is between **Ypsilanti Charter Township** in the county of **Washtenaw County**, hereinafter referred to as the "GRANTEE," and the MICHIGAN DEPARTMENT OF NATURAL RESOURCES, an agency of the State of Michigan, hereinafter referred to as the "DEPARTMENT." The DEPARTMENT has authority to issue grants to local units of government for the development of public outdoor recreation facilities under Part 703 of the Natural Resources and Environmental Protection Act, P.A. 451 of 1994, as amended. The GRANTEE has been approved by the DEPARTMENT and the United States Department of the Interior, National Park Service ("SERVICE") to receive a grant. In Public Act 166 of 2, the Legislature appropriated funds to the DEPARTMENT for a Land and Water Conservation Fund (LWCF) grant to the GRANTEE. The Federal Award Date is 05/16/2022 and the Federal Award ID Number for these funds is P22AP0214.

The purpose of this Agreement is to provide funding in exchange for completion of the project named below. This Agreement is subject to the terms and conditions specified herein.

Project Title: Community Center Park Improvements **Project Number:** 26-01845

Amount of grant: \$176,200.00 50% **PROJECT TOTAL:** \$352,400.00

Amount of match: \$176,200.00 50%

Start Date: Date of Execution by DEPARTMENT **End Date:** 06/30/2025

As a precondition to the effectiveness of the Agreement, the GRANTEE is required to sign the Agreement and return it to the DEPARTMENT with the required attachments by **07/15/2022**, or the Agreement may be cancelled by the DEPARTMENT. **This Agreement is not effective until the GRANTEE has signed it, returned it, and the DEPARTMENT has signed it.** The Agreement is considered executed when signed by the DEPARTMENT.

The individuals signing below certify by their signatures that they are authorized to sign this Agreement on behalf of their agencies, and that the parties will fulfill the terms of this Agreement, including any attached appendices, as set forth herein.

GRANTEE

SIGNED

| | |
|--|----------------------------|
| | |
| By [Print Name]: <u>Brenda L. Stumbo</u> | <u>Heather Jarrell Roe</u> |
| Title: <u>Supervisor</u> | <u>Clerk</u> |
| Organization: <u>Charter Township of Ypsilanti</u> | |

Unique Entity Identifier

CV0048511

SIGMA Vendor Number

SIGMA Address ID

MICHIGAN DEPARTMENT OF NATURAL RESOURCES

SIGNED

By:

Grants Section Manager

Date of Execution by DEPARTMENT

Phone: 517-284-7268

Email: dnr-grants@michigan.gov

1. This Agreement shall be administered on behalf of the DEPARTMENT by the Grants Management Section within the Finance and Operations Division. All notices, reports, documents, requests, actions or other communications required between the DEPARTMENT and the GRANTEE shall be submitted through the department's online grant management system, MiGrants, which is accessed through www.michigan.gov/dnr-grants, unless otherwise instructed by the DEPARTMENT. Primary points of contact pertaining to this agreement shall be:

GRANTEE CONTACT

Name/Title

Organization

Address

Address

Telephone Number

E-mail Address

DEPARTMENT CONTACT

LWCF Grant Program Manager

Name/Title

Grants Management/DNR Finance & Operations

Organization

525 W. Allegan Street, Lansing, MI 48933

Address

P.O. Box 30425, Lansing, MI 48909

Address

517-284-7268

Telephone Number

DNR-Grants@michigan.gov

E-mail Address

2. The legal description of the project area, boundary map of the project area, the development grant application bearing the number **26-01845** uploaded to MiGrants. The Agreement together with the referenced documents in MiGrants and Appendices constitute the entire Agreement between the parties and may be modified only in writing and executed in the same manner as the Agreement is executed.
3. Grant funds are made available to the GRANTEE through a grant by the SERVICE to the DEPARTMENT.
4. The budget period allowed for project completion is from **05/16/2022** through **06/30/2025**, hereinafter referred to as the "project period." Requests by the GRANTEE to extend the project period shall be submitted in MiGrants before the expiration of the project period. Extensions to the project period are at the discretion of the DEPARTMENT and may only be extended by an amendment to this Agreement.
5. The words "project area" shall mean the land and area described in the uploaded legal description and boundary map already referenced as being a part of the project file.
6. The words "project facilities" shall mean the following individual components, as further described in the application.

- Access Pathway 6' wide or more
- Bench(es)
- Fence
- Paved ADA Parking Space(s)
- Pickelball Court
- Rain Garden with Native Plants
- Recycle Bin(s)
- Tennis Court
- Permit Fees

SIGMA Vendor Number

7. The award is not for Research and Development.

8. The DEPARTMENT will:

- a. grant to the GRANTEE a sum of money equal to **Fifty Percent (50%) of Three Hundred and Fifty-Two Thousand Four Hundred dollars (\$352,400.00)**, which is the total eligible cost of construction of the project facilities including engineering costs, but in any event not to exceed **One Hundred and Seventy-Six Thousand Two Hundred dollars (\$176,200.00)** which is the total amount obligated by this action.
- b. grant these funds in the form of reimbursements to the GRANTEE for eligible costs and expenses incurred as follows:
 - i. Payments will be made on a reimbursement basis at **Fifty Percent (50%)** of the eligible expenses incurred by the GRANTEE up to 90% of the maximum reimbursement allowable under the grant.
 - ii. Reimbursement will be made only upon DEPARTMENT review and approval of a complete reimbursement request submitted by the GRANTEE through the MiGrants website which includes an expenditure list supported by documentation as required by the DEPARTMENT, including but not limited to copies of invoices, cancelled checks, EFTs and/or list of volunteer labor and/or force account time and attendance records.
 - iii. The DEPARTMENT shall conduct an audit of the project's financial records upon approval of the final reimbursement request by DEPARTMENT engineering staff. The DEPARTMENT may issue an audit report with no deductions or may find some costs ineligible for reimbursement.
 - iv. Final payment will be released pending satisfactory project completion as determined by the DEPARTMENT and completion of a satisfactory audit.

9. The GRANTEE will:

- a. immediately make available all funds required to complete the project and to **One Hundred and Seventy-Six Thousand Two Hundred dollars (\$176,200.00)** in local match. This sum represents **Fifty Percent (50%)** of the total eligible cost of construction including engineering costs. Any cost overruns incurred to complete the project facilities called for by this Agreement shall be the sole responsibility of the GRANTEE. The indirect rate for this award is zero because it has been waived by the GRANTEE.
- b. with the exception of section 106 consultation and engineering costs as provided for in Section 9 incur no costs toward completion of the project facilities before execution of this Agreement and before DEPARTMENT approval of plans, specifications, and bid documents.
- c. complete construction of the project facilities to the satisfaction of the DEPARTMENT and to comply with the development project procedures set forth by the DEPARTMENT in completion of the project, including but not limited to the following:
 - i. Retain the services of a professional architect, landscape architect, or engineer, registered in the State of Michigan to serve as the GRANTEE'S Prime Professional. The Prime Professional shall prepare the plans, specifications and bid documents for the project and oversee project construction.
 - ii. Within 180 days of execution of this Agreement and before soliciting bids or quotes or incurring costs other than costs associated with the development of plans, specifications, or bid documents, provide the DEPARTMENT with plans, specifications, and bid documents for the project facilities, sealed by the GRANTEE'S Prime Professional.
 - iii. Upon DEPARTMENT approval of plans, specifications and bid documents, openly advertise and seek written bids for contracts for purchases or services with a value equal to or greater than \$50,000 and accept the lowest qualified bid as determined by the GRANTEE'S Prime Professional.
 - iv. Upon DEPARTMENT approval of plans, specifications and bid documents, solicit three (3) written quotes for contracts for purchases or services between \$5,000 and \$50,000 and accept the lowest qualified bid as determined by the GRANTEE'S Prime Professional.
 - v. Maintain detailed written records of the contracting processes used and to submit these records to the DEPARTMENT upon request.
 - vi. Complete construction to all applicable local, state and federal codes, as amended; including but not limited to the federal Americans with Disabilities Act (ADA) of 2010, as amended; the Persons with Disabilities Civil Rights Act, Act 220 of 1976, as amended; the Playground Equipment Safety Act, P.A. 16 of 1997, as amended; the Utilization of Public Facilities by Physically Limited Act, P.A. 1 of 1966, as amended; the Elliott-Larsen Civil Rights Act, Act 453 of 1976, as amended; and the 2013 Access Board's

SIGMA Vendor Number

Final Guidelines for Outdoor Developed Areas.

- vii. Bury all overhead utility lines.
 - viii. Correct any deficiencies discovered at the final inspection within 90 days of written notification by the DEPARTMENT. These corrections shall be made at the GRANTEE'S expense and are eligible for reimbursement at the discretion of the DEPARTMENT and only to the degree that the GRANTEE'S prior expenditures made toward completion of the project are less than the grant amount allowed under this Agreement.
- d. operate the project facilities for a minimum of their useful life as determined by the DEPARTMENT, and as appropriate the SERVICE, to regulate the use thereof to the satisfaction of the DEPARTMENT, and as appropriate the SERVICE, and to appropriate such monies and/or provide such services as shall be necessary to provide such adequate maintenance.
 - e. provide to the DEPARTMENT for approval, a complete tariff schedule containing all charges to be assessed against the public utilizing the project area and/or any of the facilities constructed thereon, and to provide to the DEPARTMENT for approval, all amendments thereto before the effective date of such amendments. Membership or annual permit systems are prohibited, except to the extent that differences in admission and other fees may be instituted based on residence. Nonresident fees shall not exceed twice that charged residents. If no resident fees are charged, nonresident fees may not exceed the rate charged residents at other comparable state and local public recreation facilities
 - f. adopt ordinances and/or resolutions necessary to effectuate the provisions of this Agreement; certify copies of all ordinances and/or resolutions adopted for these purposes shall be forwarded to the DEPARTMENT before the effective date thereof.
 - g. separately account for any revenues received from the project area which exceed the demonstrated operating costs and to reserve such surplus revenues for the future maintenance and/or expansion of the GRANTEE'S park and outdoor recreation program.
 - h. furnish the DEPARTMENT, upon request, detailed statements covering the annual operation of the project area and/or project facilities, including income and expenses and such other information the DEPARTMENT may reasonably require.
 - i. maintain the premises in such condition as to comply with all federal, state, and local laws which may be applicable and to make any and all payments required for all taxes, fees, or assessments legally imposed against the project area.
 - j. erect and maintain a sign on the park entry sign of the property which designates this project as one having been constructed with assistance from the Land and Water Conservation Fund. The size, color, and design of this sign shall be in accordance with DEPARTMENT and SERVICE specifications.
 - k. conduct a dedication/ribbon-cutting ceremony as soon as possible after the project is completed and the LWCF signs erected within the project area. At least 30 days prior to the dedication/ribbon-cutting ceremony, the DEPARTMENT must be notified in writing of the date, time, and location of the dedication/ribbon-cutting ceremony. GRANTEE shall provide notice of ceremony in the local media. Use of the grant program logo and a brief description of the program are strongly encouraged in public recreation brochures produced by the GRANTEE. At the discretion of the DEPARTMENT, the requirement to conduct a dedication/ribbon-cutting ceremony may be waived.
10. Only eligible costs and expenses incurred toward completion of the project facilities during the project period shall be considered for reimbursement under the terms of this Agreement. Eligible section 106 consultation expenses incurred prior to the issue of this agreement and eligible engineering costs incurred toward completion of the project facilities in the six months preceding the project period are also eligible for reimbursement. Any costs and expenses incurred after the project period shall be the sole responsibility of the GRANTEE.
11. To be eligible for reimbursement, the GRANTEE shall comply with DEPARTMENT requirements. At a minimum, the GRANTEE shall:
- a. Submit a progress report every 180 days during the project period.
 - b. Submit complete requests for partial reimbursement when the GRANTEE is eligible to request at least 25 percent of the grant amount and construction contracts have been executed or construction by force account labor has begun.
 - c. Submit a complete request for final reimbursement within **90 days of project completion and no later than 9/30/2025**. If the GRANTEE fails to submit a complete final request for reimbursement by this date, the DEPARTMENT may audit the project costs and expenses and make final payment based on documentation on file

SIGMA Vendor Number

as of that date or may terminate this Agreement and require full repayment of grant funds by the GRANTEE .

12. During the project period, the GRANTEE shall obtain prior written authorization from the DEPARTMENT before adding, deleting or making a significant change to any of the project facilities as proposed. Approval of changes is solely at the discretion of the DEPARTMENT. Furthermore, following project completion, the GRANTEE shall obtain prior written authorization from the DEPARTMENT before implementing a change that significantly alters the project facilities as constructed and/or the project area, including but not limited to discontinuing use of a project facility or making a significant change in the recreational use of the project area. Changes pursuant to this Section may also require prior approval of the SERVICE.
13. All project facilities constructed or purchased by the GRANTEE under this Agreement shall be placed and used at the project area and solely for the purposes specified in the application and this Agreement .
14. The project area and all facilities provided thereon and the land and water access ways to the project facilities shall be open to the general public at all times on equal and reasonable terms. No individual shall be denied ingress or egress thereto or the use thereof on the basis of sex, race, color, religion, national origin, residence, age, or disability.
15. Unless an exemption has been authorized by the DEPARTMENT, and as appropriate the SERVICE, pursuant to this Section, the GRANTEE hereby represents that it possesses fee simple title, free of all liens and encumbrances, to the project area. The fee simple title acquired shall not be subject to: (a) any possibility of reversion or right of entry for condition broken or any other executory limitation which may result in defeasance of title or (b) to any reservation or prior conveyance of coal, oil, gas, sand, gravel or other mineral interests.
16. The GRANTEE shall not allow any encumbrance, lien, security interest, mortgage or any evidence of indebtedness to attach to or be perfected against the project area or project facilities included in this Agreement .
17. None of the project area nor any of the project facilities constructed under this Agreement shall be wholly or partially conveyed during the life of the project, either in fee or otherwise or leased for a term of years or for any other period, nor shall there be any whole or partial transfer of the lease title, ownership, or right of maintenance or control by the GRANTEE except with the written approval and consent of the DEPARTMENT and the SERVICE.
18. The assistance provided to the GRANTEE as a result of this Agreement is intended to have a lasting effect on the supply of outdoor recreation, scenic beauty sites, and recreation facilities beyond the financial contribution alone and permanently commits the project area to Michigan's outdoor recreation estate , therefore:
 - a. The GRANTEE agrees that the project area or any portion thereof will not be converted to other than public outdoor recreation use without prior written approval by the DEPARTMENT and the SERVICE and implementation of mitigation approved by the DEPARTMENT and the SERVICE, including, but not limited to, replacement with land of equal or greater recreational usefulness and market value.
 - b. Approval of a conversion shall be at the sole discretion of the DEPARTMENT and the SERVICE.
 - c. Before completion of the project, the GRANTEE, the DEPARTMENT and the SERVICE may mutually agree to alter the project area through an amendment to this Agreement to provide the most satisfactory public outdoor recreation area.
19. Should title to the project area or any portion thereof be acquired from the GRANTEE by any other entity through exercise of the power of eminent domain, the GRANTEE agrees that the proceeds awarded to the GRANTEE shall be used to replace the lands and project facilities affected with outdoor recreation lands and project facilities of at least equal or greater market value, and of equal or greater usefulness and locality. The DEPARTMENT and the SERVICE shall approve such replacement only upon such conditions as it deems necessary to assure the substitution of GRANTEE of other outdoor recreation properties and project facilities of at least equal or greater market value and of equal or greater usefulness and location. Such replacement shall be subject to all the provisions of this Agreement .
20. The GRANTEE acknowledges that:
 - a. The GRANTEE has examined the project area and that it has found the property to be safe for public use or that action will be taken by the GRANTEE before beginning the project to assure safe use of the property by the public, and
 - b. The GRANTEE is solely responsible for development, operation, and maintenance of the project area and project

SIGMA Vendor Number

- facilities, and that responsibility for actions taken to develop, operate, or maintain the property is solely that of the GRANTEE, and
- c. The DEPARTMENT'S involvement in the premises is limited solely to the making of a grant to assist the GRANTEE in developing the project site.
21. The GRANTEE assures the DEPARTMENT that the proposed State-assisted action will not have a negative effect on the environment and, therefore, an Environmental Impact Statement is not required.
22. The GRANTEE hereby acknowledges that this Agreement does not require the State of Michigan or the federal government to issue any permit required by law to construct the outdoor recreational project that is the subject of this Agreement. Such permits include, but are not limited to, permits to fill or otherwise occupy a floodplain, and permits required under Parts 301 and 303 of the Natural Resources and Environmental Protection Act, Act 451 of the Public Acts of 1994, as amended. It is the sole responsibility of the GRANTEE to determine what permits are required for the project, secure the needed permits and remain in compliance with such permits.
23. Before the DEPARTMENT will approve plans, specifications, or bid documents; or give approval to the GRANTEE to advertise, seek quotes, or incur costs for this project, the GRANTEE must provide documentation to the DEPARTMENT that indicates either:
- a. It is reasonable for the GRANTEE to conclude, based on the advice of an environmental consultant, as appropriate, that no portion of the project area is a facility as defined in Part 201 of the Michigan Natural Resources and Environmental Protection Act, Act 451 of the Public Acts of 1994, as amended; or
- b. If any portion of the project area is a facility, documentation that Department of Environment, Great Lakes and Energy-approved response actions have been or will be taken to make the site safe for its intended use within the project period, and that implementation and long-term maintenance of response actions will not hinder public outdoor recreation use and/or the resource protection values of the project area.
24. If the DEPARTMENT determines that, based on contamination, the project area will not be made safe for the planned recreation use within the project period, or another date established by the DEPARTMENT in writing, or if the DEPARTMENT determines that the presence of contamination will reduce the overall usefulness of the property for public recreation and resource protection, the grant may be cancelled by the DEPARTMENT with no reimbursement made to the GRANTEE.
25. The GRANTEE shall acquire and maintain, or cause to be acquired or maintained, insurance which will protect the GRANTEE from claims which may arise out of or result from the GRANTEE'S operations under this Agreement, whether performed by the GRANTEE, a subcontractor or anyone directly or indirectly employed by the GRANTEE, or anyone for whose acts any of them may be liable. Such insurance shall be with companies authorized to do business in the State of Michigan in such amounts and against such risks as are ordinarily carried by similar entities, including but not limited to public liability insurance, worker's compensation insurance or a program of self-insurance complying with the requirements of Michigan law. The GRANTEE shall provide evidence of such insurance to the DEPARTMENT at its request.
26. Nothing in this Agreement shall be construed to impose any obligation upon the DEPARTMENT or the SERVICE to operate, maintain or provide funding for the operation and/or maintenance of any recreational facilities in the project area.
27. The GRANTEE hereby represents that it will defend any suit brought against either party which involves title, ownership, or specific rights, including appurtenant riparian rights, of any lands connected with or affected by this project.
28. The GRANTEE is responsible for the use and occupancy of the premises, the project area and the facilities thereon. The GRANTEE is responsible for the safety of all individuals who are invitees or licensees of the premises. The GRANTEE will defend all claims resulting from the use and occupancy of the premises, the project area and the facilities thereon. The DEPARTMENT is not responsible for the use and occupancy of the premises, the project area and the facilities thereon.
29. Failure by the GRANTEE to comply any of the provisions of this Agreement shall constitute a material breach of this Agreement.
30. Upon breach of the Agreement by the GRANTEE, the DEPARTMENT, in addition to any other remedy provided by law, may:

SIGMA Vendor Number

- a. Terminate this Agreement; and/or
 - b. Withhold and/or cancel future payments to the GRANTEE on any or all current recreation grant projects until the violation is resolved to the satisfaction of the DEPARTMENT; and/or
 - c. Withhold action on all pending and future grant applications submitted by the GRANTEE under the Land and Water Conservation Fund, the Michigan Natural Resources Trust Fund and the Recreation Passport Grant Program ; and/or
 - d. Require the GRANTEE to pay penalties or perform other acts of mitigation or compensation as directed by the DEPARTMENT or the SERVICE; and/or
 - e. Require repayment of grant funds paid to GRANTEE; and/or
 - f. Require specific performance of the Agreement.
31. This Agreement may be canceled by the DEPARTMENT, upon 30 days written notice, due to Executive Order, budgetary reduction, other lack of funding, upon request by the GRANTEE, or upon mutual agreement by the DEPARTMENT and GRANTEE. The DEPARTMENT may honor requests for just and equitable compensation to the GRANTEE for all satisfactory and eligible work completed under this Agreement up until 30 days after written notice, upon which time all outstanding reports and documents are due to the DEPARTMENT and the DEPARTMENT will no longer be liable to pay the GRANTEE for any further charges to the grant.
32. The GRANTEE agrees that the benefit to be derived by the State of Michigan from the full compliance by the GRANTEE with the terms of this Agreement is the preservation, protection and net increase in the quality of public recreation facilities and resources which are available to the people of the State and of the United States and such benefit exceeds to an immeasurable and unascertainable extent the amount of money furnished by the State of Michigan by way of assistance under the terms of this Agreement. The GRANTEE agrees that after final reimbursement has been made to the GRANTEE, repayment by the GRANTEE of grant funds received would be inadequate compensation to the State for any breach of this Agreement. The GRANTEE further agrees therefore, that the appropriate remedy in the event of a breach by the GRANTEE of this Agreement after final reimbursement has been made shall be the specific performance of this Agreement
33. The GRANTEE shall return all grant money if the project area or project facilities are not constructed, operated or used in accordance with this Agreement.
34. The GRANTEE agrees not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of religion, race, color, national origin, age, sex, sexual orientation, height, weight, marital status, partisan considerations, or a disability or genetic information that is unrelated to the person's ability to perform the duties of a particular job or position. The GRANTEE further agrees that any subcontract shall contain non-discrimination provisions which are not less stringent than this provision and binding upon any and all subcontractors. A breach of this covenant shall be regarded as a material breach of this Agreement.
35. The DEPARTMENT shall terminate this Agreement and recover grant funds paid if the GRANTEE or any subcontractor, manufacturer, or supplier of the GRANTEE appears in the register compiled by the Michigan Department of Licensing and Regulatory Affairs pursuant to Public Act No. 278 of 1980.
36. The GRANTEE may not assign or transfer any interest in this Agreement without prior written authorization of the DEPARTMENT, and as appropriate, the SERVICE.
37. The rights of the DEPARTMENT under this Agreement shall continue in perpetuity.

If this Agreement is approved by Resolution, a true copy must be attached to this Agreement. A sample Resolution is attached.

SAMPLE RESOLUTION
(Development)

Upon motion made by _____, seconded by _____, the following Resolution was adopted:

"RESOLVED, that _____, Michigan, does hereby accept the terms of the Agreement as received from the Michigan Department of Natural Resources, and that the _____ does hereby specifically agree, but not by way of limitation, as follows:

1. To appropriate all funds necessary to complete the project during the project period and to provide _____ (\$ _____) dollars to match the grant authorized by the DEPARTMENT.
2. To maintain satisfactory financial accounts, documents, and records to make them available to the DEPARTMENT for auditing at reasonable times in perpetuity.
3. To construct the project and provide such funds, services, and materials as may be necessary to satisfy the terms of said Agreement.
4. To regulate the use of the facility constructed and reserved under this Agreement to assure the use thereof by the public on equal and reasonable terms.
5. To comply with any and all terms of said Agreement including all terms not specifically set forth in the foregoing portions of this Resolution."

The following aye votes were recorded: _____

The following nay votes were recorded: _____

STATE OF MICHIGAN)
) ss
COUNTY OF _____)

I, _____, Clerk of the _____, Michigan, do hereby certify that the above is a true and correct copy of the Resolution relative to the Agreement with the Michigan Department of Natural Resources, which Resolution was adopted by the _____ at a meeting held _____.

Signature

Title

September 12, 2022

Mike Hoffmeister, CPRP
Residential Services Director
Charter Township of Ypsilanti
7200 South Huron River Drive
Ypsilanti, MI 48197

RE: Community Center Park Improvements
Charter Township of Ypsilanti, Michigan
Letter Agreement for Professional Services

Mr. Hoffmeister:

At your request, we are furnishing you with a letter agreement to provide professional services related to the design, bidding, construction administration, and inspection of the Community Center Park Improvements project.

BACKGROUND

In 2020, Ypsilanti Charter Township contracted with Spicer Group to apply for a Land and Water Conservation Fund (LWCF) grant through the Michigan Department of Natural Resources (MDNR) to remove existing tennis courts at the Community Center Park and construct new tennis and pickleball courts. The estimated project cost is \$352,400.00 and 50% (\$176,200.00) is to be funded by the grant, with the remainder to be funded by the Township. Up to \$49,500.00 for engineering fees are eligible for 50% grant reimbursement.

The scope of this project includes the removal of the existing tennis court playing surface, equipment, and fence enclosure that is in unusable condition, replacing with a new surface, fence enclosure, and equipment for both tennis and pickleball courts, paving ADA-accessible parking spaces and a short trail from the parking area to the courts, a rain garden, and various site amenities including park benches and waste/recycle receptacles.

In November 2020, the grant application we submitted on your behalf for this project was recommended by MDNR Director Dan Eichinger for award. The Township now must retain the services of a *Prime Professional* and may incur costs associated with the preparation of plans, specifications, and bid documents for the project. This document is our proposal to fulfill the role of *Prime Professional*.

September 12, 2022

Page 2 of 4

SCOPE OF BASIC PROFESSIONAL SERVICES

Spicer Group's proposed services follow. They are phased to reflect the orderly and reasonable progress of the project.

1. Survey

- a. Submit MissDIG design ticket, organize utility information, and coordinate with affected utility companies as necessary
- b. Perform a topographical survey of the site and prepare an existing conditions base plan.
 - i. Horizontal and vertical control will be established.
 - ii. Survey limits will include the area of the park necessary for creating plans, including 100' beyond the property lines where the project abuts a property line. We do not intend to survey the entire park property.
 - iii. All visible physical features will be located, including all walls, drives, paved areas, fences, sidewalks, pathways, trees, shrubs, drainage structures, culverts, etc.
- c. Procure a sub-contractor for soil borings

2. Design

- a. Create plans in CAD based on the conceptual drawings submitted in the grant application. These plans will include details necessary for construction.
- b. Anticipated sheets include:
 - i. Cover
 - ii. Notes
 - iii. Existing Conditions
 - iv. Site Plan
 - v. SESC plan
 - vi. Details
- c. Prepare bidding documents including standard contract language and a project manual complete with technical specifications defining pay items and materials/products to be used.
- d. Acquire a soil erosion permit. Permit fees are not included in our professional services fee.
- e. Hold a design review meeting with the Township prior to advertising the project for bids.

3. Bidding Assistance

- a. Post Plans and Specifications on the Spicer Group bidding website. We will post an advertisement on MITA and will provide the Township with an electronic copy of the advertisement to post elsewhere, if desired.
- b. Issue addenda as necessary to clarify the bidding documents.
- c. Host a bid opening
- d. Review bids and analyze for completeness; provide a bid tabulation for review
- e. Provide a recommendation of award

September 12, 2022

Page 3 of 4

4. Grant Administration

- a. Assist with MiGrants submittals required by the Nation Parks Service (NPS)
- b. Assist with executing the DNR Project Agreement
- c. Submit plans and specifications to MDNR with Professional Services Certification Form, itemized project cost estimate, and implementation schedule.
- d. Assist with the Contract/Vendor Selection Form and process with MDNR.
- e. Submit Reimbursement Request form PR 1919 with each contractor pay request

5. Construction Administration

- a. Issue notice of award
- b. Prepare contract documents and circulate for signatures
- c. Host pre-construction meeting
- d. Issue Notice to Proceed
- e. Review all product submittals and shop drawings
- f. Review pay requests and recommend payment
- g. Provide inspection and materials testing services on site as necessary
 - i. 80 hours of inspection and travel time estimated.
 - ii. Provide the following materials tests:
 1. Compaction testing during HMA paving
 2. Entrained air, temperature, slump, and compressive strength of concrete
- h. Conduct a substantial completion inspection and provide a punch list to the contractor
- i. Conduct a final completion inspection
- j. Project closeout – provide owner with copies of warranties and as-built drawings.

SERVICES NOT INCLUDED

For a clearer understanding of our work scope, the following is not included in our Scope of Basic Professional Services:

- Seeking or securing additional funding
- Expanding or altering the scope of work defined in the grant application and award
- Permit fees
- Boundary Survey

ADDITIONAL SERVICES

Additional services related to this project will be furnished by us after you authorize the work. Our fee for the additional services will be determined at the time they are agreed to and rendered.

September 12, 2022

Page 4 of 4

FEE SCHEDULE

Our proposed fee schedule follows. We will submit monthly invoices to you for our basic professional services, any additional authorized services, and any reimbursable expenses. Unless other payment arrangements are made, we will include any of our project subconsultants costs on our invoice including a 10% fee to cover taxes, administration, and insurance.

| | |
|-----------------------------------|-----------------|
| Survey | \$7,000 |
| Design | \$20,000 |
| Bidding Assistance..... | \$5,000 |
| Grant Administration | \$3,000 |
| Construction Administration..... | \$17,000 |
| Total (Not to exceed)..... | \$52,000 |

We have calculated these fees based on our understanding of what you want us to do and what you have told us. Should we approach the amount of the fee for any reason before we are finished with the work, if the scope changes or our understanding was incorrect, we will notify you and discuss with you the option of adjusting the amount of the fee or adjusting the scope of services.

If this proposal meets with your approval, please acknowledge this approval with an authorized signature below and return one of the enclosed copies to us. We deeply appreciate your confidence in Spicer Group, and we look forward to working with you and for you on your project.

Sincerely,



Kevin J. Wilks, P.E.
Project Manager



Philip A. Westmoreland, P.E.
Sr. Project Manager
SPICER GROUP, INC.
125 Helle Blvd, Suite 2
Dundee, MI 48131
Phone: (734) 823-3308

Attachment: General Conditions

Cc: SGI File 129784PR2020

Above proposal accepted and approved by Owner.

YPSILANTI CHARTER TOWNSHIP

By: 

Brenda Stumbo, Supervisor

Date: Sept. 21, 2022

By: 

Heather Jarrell Roe, Clerk

Date: Sept. 21, 2022

GENERAL CONDITIONS ATTACHED TO LETTER AGREEMENT

SECTION 1

1.1 **Preamble.** This agreement is based upon a mutual obligation of good faith and fair dealing between the parties in its performance and enforcement. Accordingly, the OWNER and the PROFESSIONAL, with a positive commitment to honesty and integrity, agree to the following:

That each will function within the laws and statutes that apply to its duties and responsibilities; that each will assist in the other's performance; that each will avoid hindering the other's performance; that each will work diligently to fulfill its obligations; and that each will cooperate in the common endeavor of the contract.

1.2 **Ownership of Instruments of Service.** All reports, plans, specifications, computer files, field data, notes and other documents and instruments prepared by the PROFESSIONAL as instruments of service shall be property of the OWNER. The PROFESSIONAL shall retain all common law, statutory and other reserved rights, including the copyright thereto.

1.3 **Covenant not to Hire.** OWNER agrees that during the term of this agreement and for a period of one (1) year thereafter that it will not hire for its own employment any person employed by the PROFESSIONAL in the performance of this agreement.

1.4 **Standard of Care.** Service performed by PROFESSIONAL under this AGREEMENT will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. No other representation, express or implied, and no warranty or guarantee is included or intended in this AGREEMENT, or in any report, opinion, document or otherwise.

1.5 **Defects in Service.** OWNER and OWNER's personnel, contractors and subcontractors shall upon discovery promptly report to PROFESSIONAL any defects or suspected defects in PROFESSIONAL's work, in order that PROFESSIONAL may take prompt, effective measures which in PROFESSIONAL's opinion will minimize the consequences of a defect in service. PROFESSIONAL shall not be responsible for additional costs due to any tardiness in reporting defects in service.

1.6 **Reimbursable Expenses** mean the actual expenses incurred by PROFESSIONAL or PROFESSIONAL's independent professional associates or consultants, directly or indirectly in connection with the Project, such as expenses for; transportation and subsistence incidental thereto; obtaining bids or proposals from Contractor(s); providing and maintaining field office facilities including furnishings and utilities; subsistence and transportation of Resident Project Representatives and their assistants; toll telephone calls and courier services; reproduction of reports, drawings, specifications, bidding documents, and similar project-related items; and, if authorized in advance by OWNER, overtime work requiring higher than regular rates.

1.7 **Standard Hourly Rates** used as a basis for payment mean those rates in effect at the time that the work is performed, for all PROFESSIONAL's personnel engaged directly on the Project, including, but not limited to, architects, engineers, surveyors, designers, planners, drafters, specification writers, estimators, other technical and business personnel. The Standard Hourly Rates include salaries and wages, direct and indirect payroll costs and fringe benefits. The Standard Hourly Rates of personnel of PROFESSIONAL will be adjusted periodically to reflect changes in personnel and in PROFESSIONAL's overall compensation procedures and practices.

1.8 **Limitation of Liability.** To the fullest extent permitted by law, and not withstanding any other provision of this Agreement, the total liability, in the aggregate, of the PROFESSIONAL and the PROFESSIONAL's officers, directors, partners, employees and subconsultants, and any of them, to the OWNER and anyone claiming by or through the OWNER, for any and all claims, losses, costs or damages, including attorneys' fees and costs and expert-witness fees and costs of any nature whatsoever or claims expenses resulting from or in any way related to the Project or the Agreement from any cause or causes shall not exceed the total compensation received by the PROFESSIONAL under this Agreement, or the total amount of \$100,000.00, whichever is greater. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.

1.9 **Indemnification.** The PROFESSIONAL agrees, to the fullest extent permitted by law, to indemnify and hold harmless the OWNER, its officers, directors and employees (collectively, Owner) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the PROFESSIONAL's negligent performance of professional services under this Agreement.

The OWNER agrees, to the fullest extent permitted by law, to indemnify and hold harmless the PROFESSIONAL, its officers, directors, employees and subconsultants (collectively, Professional) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the OWNER's negligent acts in connection with the Project and the acts of its contractors, subcontractors or PROFESSIONAL or anyone for whom the OWNER is legally liable.

Neither the OWNER nor the PROFESSIONAL shall be obligated to indemnify the other party in any manner whatsoever for the other party's own negligence.

Nothing herein shall in any way, shape or form be construed to waive Ypsilanti Township's defense of governmental immunity.

1.10 **Severability.** Any term or provision of this Agreement found to be invalid under any applicable statute or rule of law shall be deemed omitted and the remainder of this Agreement shall remain in full force and effect.

1.11 **Survival.** Notwithstanding completion or termination of this Agreement for any reason, all rights, duties and obligations of the parties to this Agreement shall survive such completion or termination and remain in full force and effect until fulfilled.

1.12 **Betterment.** If, due to the PROFESSIONAL's negligence, a required item or component of the Project is omitted from the PROFESSIONAL's construction documents, the PROFESSIONAL shall not be responsible for paying the cost required to add such item or component to the extent that such item or component would have been required and included in the original construction documents. In no event will the PROFESSIONAL be responsible for any cost or expense that provides betterment or upgrades or enhances the value of the Project.

1.13 **Mediation.** In an effort to resolve any conflicts that arise during the design and construction of the Project or following the completion of the Project, the OWNER and the PROFESSIONAL agree that all disputes between them arising out of or relating to the Agreement or the Project shall be submitted to nonbinding mediation unless the parties mutually agree otherwise.

The OWNER and the PROFESSIONAL further agree to include a similar mediation provision in all agreements with independent contractors and consultants also to include a similar mediation provision in all agreements with their subcontractors, subconsultants, suppliers and fabricators, thereby providing for mediation as the primary method for dispute resolution between the parties to all those agreements.

1.14 **Changed Conditions.** If, during the term of this Agreement, circumstances or conditions that were not originally contemplated by or known to the PROFESSIONAL are revealed, to the extent that they affect the scope of services, compensation, schedule, allocation of risks or other material terms of this Agreement, the PROFESSIONAL may call for renegotiation of appropriate portions of this Agreement. The PROFESSIONAL shall notify the OWNER of the changed conditions necessitating renegotiation, and the PROFESSIONAL and the OWNER shall promptly and in good faith enter into renegotiation of this Agreement to address the changed conditions.

1.15 **Hazardous Materials.** Both parties acknowledge that the PROFESSIONAL's scope of services does not include any services related to the presence of any hazardous or toxic materials. In the event the PROFESSIONAL or any other party encounters any hazardous or toxic materials, or should it become known to the PROFESSIONAL that such materials may be present on or about the job site or any adjacent areas that may affect the performance of the PROFESSIONAL's services, the PROFESSIONAL may, at its option and without liability for consequential or any other damages, suspend performance of its services under this Agreement until the OWNER retains appropriate PROFESSIONAL's or contractors to identify and abate or remove the hazardous or toxic materials and warrants that the job site is in full compliance with all applicable laws and regulations.

SECTION 2

2.1 **Assignment.** Neither party to this Agreement shall transfer, sublet or assign any rights under or interest in this Agreement (including but not limited to monies that are due or monies that may be due) without the prior written consent of the other party. Subcontracting to subconsultants normally contemplated by the PROFESSIONAL shall not be considered an assignment for purposes of this Agreement.

2.2 **Governing Law & Jurisdiction.** The OWNER and the PROFESSIONAL agree that this Agreement and any legal actions concerning its validity, interpretation and performance shall be governed by the laws of the State of Michigan.

2.3 **Billing and Payment Terms.** *Payment Due:* invoices shall be submitted by the PROFESSIONAL (monthly) are due upon presentation and shall be considered past due if not paid within thirty (30) calendar days of the due date. *Interest:* If payment in full is not received by the PROFESSIONAL within thirty (30) calendar days of the due date, invoices shall bear interest at one-and one-half (1.5) percent of the PAST DUE amount per month, which shall be calculated from the invoice due date. Payment thereafter shall first be applied to accrued interest and then to the unpaid principal.

2.4 **Suspension of Services.** If the OWNER fails to make payments when due or otherwise is in breach of this Agreement, the PROFESSIONAL may suspend performance of service upon ten (10) calendar days' notice to the OWNER. The PROFESSIONAL shall have no liability whatsoever to the OWNER for any costs or damages as a result of such suspension caused by any breach of this Agreement by the OWNER. Upon payment in full by the OWNER the PROFESSIONAL shall resume services under this Agreement, and the time scheduled and compensation shall be equitably adjusted to compensate for the period of suspension plus any other reasonable time and expenses necessary for the PROFESSIONAL to resume performance. *Termination of Services:* If the OWNER fails to make payment to the PROFESSIONAL in accordance with the payment terms herein, this shall constitute a material breach of this Agreement and shall be cause for termination of this Agreement by the PROFESSIONAL. *Set-off, Backcharges, Discounts:* Payment of invoices shall not be subject to any discounts or set-offs by the OWNER unless agreed to in writing by the PROFESSIONAL. Payment to the PROFESSIONAL for services rendered and expenses incurred shall be due and payable regardless of any subsequent suspension or termination of this Agreement by either party.

2.5 **Collection of Costs.** In the event legal actions necessary to enforce the payment terms of this Agreement, the PROFESSIONAL shall be entitled to collect from the OWNER any judgement or settlement sums due, plus reasonable attorneys' fees, court costs and other expenses incurred by the PROFESSIONAL in connection therewith and, in addition, the reasonable value of the PROFESSIONAL's time and expenses spent in connection with such collection action, computed according to the PROFESSIONAL's prevailing fee schedule and expense policies.

2.6 **Delays.** The OWNER agrees that the PROFESSIONAL is not responsible for damages arising directly or indirectly from any delays for causes beyond the PROFESSIONAL's control. For purposes of this Agreement, such causes include, but are not limited to, strikes or other labor disputes; severe weather disruptions or other natural disasters; fires, riots, war or other emergencies or acts of God; failure of any government agency to act in timely manner; failure of performance by the OWNER or the OWNER's contractors or consultants; or discovery of any hazardous substances or differing site conditions.

In addition, if the delays resulting from any such causes increase the cost or time required by the PROFESSIONAL to perform its services in an orderly and efficient manner, the PROFESSIONAL shall be entitled to an equitable adjustment in schedule and/or compensation.

2.7 Delivery and Use of Electronic Files. In accepting and utilizing any drawings, reports and data on any form of electronic media generated and furnished by the PROFESSIONAL, the OWNER agrees that all such electronic files are instruments of service of the PROFESSIONAL, who shall be deemed the author, and shall retain all common law, statutory law and other rights, including copyrights.

The OWNER agrees not to reuse these electronic files, in whole or in part, for any purpose other than for the Project. The OWNER agrees not to transfer these electronic files to others without the prior written consent of the PROFESSIONAL. The OWNER further agrees to waive all claims against the PROFESSIONAL resulting in any way from any unauthorized changes to or reuse of the electronic files for any other project by anyone other than the PROFESSIONAL.

The OWNER and the PROFESSIONAL agree that any electronic files furnished by either party shall conform to the original specifications. Any changes to the original electronic specifications by either the OWNER or the PROFESSIONAL are subject to review and acceptance by the other party. Additional services by the PROFESSIONAL made necessary by changes to the electronic file specifications shall be compensated for as Additional Services.

Electronic files furnished by either party shall be subject to an acceptance period of fourteen (14) days during which the receiving party agrees to perform appropriate acceptance tests. The party furnishing the electronic file shall correct any discrepancies or errors detected and reported within the acceptance period. After the acceptance period, the electronic files shall be deemed to be accepted and neither party shall have any obligation to correct errors or maintain electronic files.

The OWNER is aware that differences may exist between the electronic files delivered and the printed hard-copy construction documents. In the event of a conflict between the signed construction documents prepared by the PROFESSIONAL and electronic files, the signed or sealed hard-copy construction documents shall govern.

In addition, the OWNER agrees, to the fullest extent permitted by law, to indemnify and hold harmless the PROFESSIONAL, its officers, directors, employees and subconsultants (collectively, Professional) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising from any changes made by anyone other than the PROFESSIONAL or from any reuse of the electronic files without the prior written consent of the PROFESSIONAL.

Under no circumstances shall delivery of electronic files for use by the OWNER be deemed a sale by the PROFESSIONAL, and the PROFESSIONAL makes no warranties, either expressed or implied, or merchantability and fitness for any particular purpose. In no event shall the PROFESSIONAL be liable for indirect or consequential damages as a result of the OWNER's use or reuse of the electronic files.

2.8 Opinions of Probable Construction Costs. In providing opinions of probable construction cost, the OWNER understands that the PROFESSIONAL has no control over the cost or availability of labor, equipment or materials, or over market conditions or the Contractor's method of pricing, and that the PROFESSIONAL's opinions of probable construction costs are

made on the basis of the PROFESSIONAL's judgement and experience. The PROFESSIONAL makes no warranty, express or implied that the bids or the negotiated cost of the Work will not vary from the PROFESSIONAL's opinion of probable construction costs.

SECTION 3

3.1 Verification of Existing Conditions. Inasmuch as the remodeling and/or rehabilitation of the existing structures requires that certain assumptions be made by the PROFESSIONAL regarding existing conditions, and because some of these assumptions may not be verifiable without the OWNER's expending substantial sums of money or destroying otherwise adequate or serviceable portions of the structure, the OWNER agrees to bear all costs, losses and expenses, including the cost of the PROFESSIONAL's Additional Services, arising from the discovery of concealed or unknown conditions in the existing structure.

3.2 Construction Observation. The PROFESSIONAL shall visit the site if authorized at intervals appropriate to the stage of construction, or as otherwise agreed to in writing by the OWNER and the PROFESSIONAL, in order to observe the progress and quality of the Work completed by the Contractor. Such visits and observation are not intended to be an exhaustive check or a detailed inspection of the Contractor's work but rather are to allow the PROFESSIONAL, as an experienced professional, to become generally familiar with the Work in progress and to determine, in general, if the Work is proceeding in accordance with the Contract Documents.

Based on this general observation, the PROFESSIONAL shall keep the OWNER informed about the progress of the Work and shall endeavor to guard the OWNER against deficiencies in the work.

If the OWNER desires more extensive project observation or full-time project representation, the OWNER shall request that such services be provided by the PROFESSIONAL as Additional Services in accordance with the terms of this Agreement.

The PROFESSIONAL shall not supervise, direct or have control over the Contractor's work nor have any responsibility for the construction means, methods, techniques, sequences or procedures selected by the Contractor nor for the Contractor's safety precautions or programs in connection with the Work. These rights and responsibilities are solely those of the contractor in accordance with the Contract Documents.

The PROFESSIONAL shall not be responsible for any acts or omissions of the contractor, subcontractor, any entity performing any portions of the Work, or any agents or employees of any of them. The PROFESSIONAL does not guarantee the performance of the Contractor and shall not be responsible for the Contractor's failure to perform its Work in accordance with the Contract Documents or any applicable laws, codes, rules or regulations.

3.3 Jobsite Safety. Neither the professional activities of the PROFESSIONAL, nor the presence of the PROFESSIONAL or its employees and subconsultants at a construction/project site, shall relieve the General Contractor of its obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending and coordinating the Work in accordance with the contract documents and any health or safety

precautions required by any regulatory agencies, the PROFESSIONAL and its personnel have no authority to exercise any control over any construction contractor or its employees in connection with their work or any health or safety programs or procedures. The OWNER agrees that the General Contractor shall be solely responsible for jobsite safety, and warrants that this intent shall be carried out in the OWNER's contract with the General Contractor. The OWNER also agrees that the OWNER, the PROFESSIONAL and the PROFESSIONAL's subconsultants shall be indemnified by the General Contractor and shall be made additional insureds under the General Contractor's policies of general liability insurance.

3.4 Design Without Construction Administration. Unless Authorized, it is understood and agreed that the PROFESSIONAL's Basic Services under this Agreement do not include project observation or review of the Contractor's performance or any other construction phase services, and that such services will be provided for by the OWNER. The OWNER assumes all responsibility for interpretation of the Contract Documents and for construction observation, and the OWNER waives any claims against the PROFESSIONAL that may be in any way connected thereto.

3.5 Client Requested Substitutions. Upon request by the OWNER, the PROFESSIONAL shall evaluate and make recommendations regarding substitutions of materials, products or equipment proposed by the OWNER's consultants or contractors. The PROFESSIONAL shall be compensated for these services, as well as any services required to modify and coordinate the construction documents prepared by the PROFESSIONAL with those of the PROFESSIONAL's subconsultants and the OWNER's consultants, as Additional Services. The PROFESSIONAL also shall be entitled to an adjustment in schedule caused by this additional effort.

3.6 Record Drawings. If authorized by the Agreement, upon completion of the Work, the PROFESSIONAL shall compile for and deliver to the OWNER a reproducible set of Record Documents based upon the marked-up record drawings, addenda, change orders and other data furnished by the Contractor. These Record documents will show significant changes made during construction. Because these Record Documents are based on unverified information provided by other parties, which the PROFESSIONAL shall assume will be reliable, the PROFESSIONAL cannot and does not warrant their accuracy.

3.7 Certifications, Guarantees and Warranties. The PROFESSIONAL shall not be required to sign any documents, no matter by whom requested, that would result in the PROFESSIONAL's having to certify, guarantee or warrant the existence of conditions whose existence the PROFESSIONAL cannot ascertain. The OWNER also agrees not to make resolution of any dispute with the PROFESSIONAL or payment of any amount due to the PROFESSIONAL in any way contingent upon the PROFESSIONAL's signing any such certification.

3.8 Contingency Fund. The OWNER and the PROFESSIONAL agree that certain increased cost and changes may be required because of possible omissions, ambiguities or inconsistencies in the drawings and specifications prepared by the PROFESSIONAL and, therefore, that the final construction cost of the Project may exceed the estimated construction cost. The OWNER agrees to set aside a reserve in the amount of 10 percent of the Project construction costs as a contingency to be used, as required, to pay for any such increased costs and changes. The OWNER further agrees to make no claim by way of direct or third-party action against the PROFESSIONAL or its subconsultants with respect to any increased costs within the contingency because of such changes or because of any claims made by the Contractor relating to such changes.

3.9 Permits and Approvals. The PROFESSIONAL shall assist the OWNER in applying for those permits and approvals normally required by law for projects similar to the one for which the PROFESSIONAL's services are being engaged. This assistance shall consist of completing and submitting forms to the appropriate regulatory agencies having jurisdiction over the construction documents, and other services normally provided by the PROFESSIONAL and included in the scope of Basic Services of this Agreement.

3.10 Statutes of Repose and Limitation. All legal causes of action between the parties to this Agreement shall accrue and any applicable statutes of repose or limitation shall begin to run no later than the date of Substantial Completion. If the act or failure to act complained of occurred after the date of Substantial Completion, then the date of final completion shall be used, but in no event shall any statute of repose or limitation begin to run any later than the date the PROFESSIONAL's services are completed or terminated.

3.11 Construction Layout. If requested by the Owner, or other authorized party, as detailed in the scope of services or as an Additional Service to this Agreement, the PROFESSIONAL shall provide construction layout stakes sufficient for construction purposes. The stakes will reflect pertinent information from the construction bidding and contract documents. The stakes shall be set in place one time by the PROFESSIONAL, staged and scheduled as requested by the Contractor. After the stakes are set, it shall be the Contractor's exclusive responsibility to protect the stakes from damage or removal. Once the stake is set, if the stake becomes unusable due to the Contractor's negligence it shall be reset by the PROFESSIONAL, only at the Contractor's direction. The cost for resetting the stakes shall be borne by the Contractor and shall be paid by the Owner or authorized representative of this Agreement to the PROFESSIONAL from monies due the Contractor from the construction contract. The Owner acknowledges and agrees that these staking requirements and the procedures and payments for restaking described in this section shall be stipulated in the General Conditions of the construction contract.

These General Conditions shall be attached to and made part of the Agreement between Spicer Group, Inc. (PROFESSIONAL) and the Owner.



PROFESSIONAL SERVICES AGREEMENT CHANGE ORDER

Change Order # 3 Date 2 August 2022

"Stantec" Stantec Consulting Michigan Inc.
 Stantec Project # 2075154400
 3754 Ranchero Drive
 Ann Arbor, MI 48103
 Ph: (734) 263-9031
 email: mark.pascoe@stantec.com

Client Charter Township of Ypsilanti
 Client Project # n/a
 7200 South Huron River Drive
 Ypsilanti, MI 48197
 Ph: (734) 544-3515
 email: mhoffmeister@ytown.org

Project Name and Location: Loonfeather Point Park Improvements, Ypsilanti, MI

In accordance with the original Professional Services Agreement dated 16 September 2020 and Change Orders thereto, the Agreement changes as detailed below are hereby authorized.

The Change Order 3 scope of work includes: 1. Additional site visits and construction administration to cover time from previous anticipated contractor completion date of April/May 2022, to August/September 2022. December 1, 2021 is the contractors contract deadline. Additional Township costs are subject to reimbursement through the assessment of Liquidated Damages under the construction contract.

| | | | | |
|------------------------------|---|--|-----------|------------------|
| Total fees this Change Order | | | \$ | 5,000.00 |
| Original agreement amount | | | \$ | 58,696.00 |
| Change Order Number | 1 | | \$ | 3,850.00 |
| Change Order Number | 2 | | \$ | 12,500.00 |
| Change Order Number | | | \$ | - |
| Change Order Number | | | \$ | - |
| Total Agreement | | | \$ | 80,046.00 |

Effect on Schedule: Contractor closeout anticipated August/September 2022.

Payments shall be made in accordance with the original agreement terms. All other items and conditions of the original Agreement shall remain in full force and effect.

Stantec Consulting Michigan Inc.

Mark Pascoe, Principal
 Print Name and Title

Signature Mark D. Digitally signed by Mark D. Pascoe

Date Signed: Pascoe Date: 2022.08.02 17:58:45 -04'00'

Charter Township of Ypsilanti

Brendal Stumbo | Heather Jarrell Roe
 Supervisor | Clerk
 Print Name and Title

Signature _____

Date Signed: Sept. 21, 2022

Charter Township of Ypsilanti

RESOLUTION NO. 2022-15

2021 MICHIGAN DEPARTMENT OF NATURAL RESOURCES

LAND AND WATER CONSERVATION FUND PROJECT

AGREEMENT RESOLUTION

It is Resolved that the Charter Township of Ypsilanti, Michigan, does hereby accept the terms of the Agreement as received from the Michigan Department of Natural Resources for improvements at Clubview Park, and that the Charter Township of Ypsilanti does hereby specifically agree, but not by way of limitation, as follows:

1. To appropriate all funds necessary to complete the project during the project period and to provide \$147,500 (or 50%) dollars to match the grant authorized by the DEPARTMENT.
2. To maintain satisfactory financial accounts, documents, and records to make them available to the DEPARTMENT for auditing at reasonable times.
3. To construct the project and provide such funds, services, and materials as may be necessary to satisfy the terms of said Agreement.
4. To regulate the use of the facility constructed and reserved under this Agreement to assure the use thereof by the public on equal and reasonable terms.
5. To comply with any and all terms of said Agreement including all terms not specifically set forth in the foregoing portions of this Resolution.”

I, Heather Jarrell Roe, Clerk of the Charter Township of Ypsilanti, County of Washtenaw, State of Michigan hereby certify the above resolution is a true and exact copy of Resolution No. 2022-15 approved by the Charter Township of Ypsilanti, Board of Trustees assembled at a Regular Meeting held on September 20, 2022.



Heather Jarrell Roe, Clerk
Charter Township of Ypsilanti



LAND AND WATER CONSERVATION FUND
DEVELOPMENT PROJECT AGREEMENT

This information is required by authority of Part 5 of Act 451, P.A. 1994 as amended, to receive funds.
CFDA 15.916, Outdoor Recreation, Acquisition, Development & Planning

This Agreement is between Ypsilanti Charter Township in the county of Washtenaw County, hereinafter referred to as the "GRANTEE," and the MICHIGAN DEPARTMENT OF NATURAL RESOURCES, an agency of the State of Michigan, hereinafter referred to as the "DEPARTMENT."

The purpose of this Agreement is to provide funding in exchange for completion of the project named below. This Agreement is subject to the terms and conditions specified herein.

Project Title: Clubview Park Improvements Project Number: 26-01858

Amount of grant: \$147,500.00 50% PROJECT TOTAL: \$295,000.00

Amount of match: \$147,500.00 50%

Start Date: Date of Execution by DEPARTMENT End Date: 06/30/2025

As a precondition to the effectiveness of the Agreement, the GRANTEE is required to sign the Agreement and return it to the DEPARTMENT with the required attachments by 10/31/2022, or the Agreement may be cancelled by the DEPARTMENT. This Agreement is not effective until the GRANTEE has signed it, returned it, and the DEPARTMENT has signed it.

The individuals signing below certify by their signatures that they are authorized to sign this Agreement on behalf of their agencies, and that the parties will fulfill the terms of this Agreement, including any attached appendices, as set forth herein.

GRANTEE
SIGNED [Signatures]
By [Print Name]: Brenda L. Stumbo, Heather Jarrell Roe
Title: Supervisor, Clerk
Organization: Charter Township of Ypsilanti

Unique Entity Identifier
CV0048511
SIGMA Vendor Number SIGMA Address ID

MICHIGAN DEPARTMENT OF NATURAL RESOURCES
SIGNED
By: Grants Section Manager
Date of Execution by DEPARTMENT

Phone: 517-284-7268
Email: dnr-grants@michigan.gov

1. This Agreement shall be administered on behalf of the DEPARTMENT by the Grants Management Section within the Finance and Operations Division. All notices, reports, documents, requests, actions or other communications required between the DEPARTMENT and the GRANTEE shall be submitted through the department's online grant management system, MiGrants, which is accessed through www.michigan.gov/dnr-grants, unless otherwise instructed by the DEPARTMENT. Primary points of contact pertaining to this agreement shall be:

GRANTEE CONTACT

Name/Title

Organization

Address

Address

Telephone Number

E-mail Address

DEPARTMENT CONTACT

LWCF Grant Program Manager

Name/Title

Grants Management/DNR Finance & Operations

Organization

525 W. Allegan Street, Lansing, MI 48933

Address

P.O. Box 30425, Lansing, MI 48909

Address

517-284-7268

Telephone Number

DNR-Grants@michigan.gov

E-mail Address

2. The legal description of the project area, boundary map of the project area, the development grant application bearing the number **26-01858** uploaded to MiGrants. The Agreement together with the referenced documents in MiGrants and Appendices constitute the entire Agreement between the parties and may be modified only in writing and executed in the same manner as the Agreement is executed.
3. Grant funds are made available to the GRANTEE through a grant by the SERVICE to the DEPARTMENT.
4. The budget period of performance allowed for project completion is from **09/01/2022** through **06/30/2025**, hereinafter referred to as the "project period." Requests by the GRANTEE to extend the project period shall be submitted in MiGrants before the expiration of the project period. Extensions to the project period are at the discretion of the DEPARTMENT and may only be extended by an amendment to this Agreement.
5. The words "project area" shall mean the land and area described in the uploaded legal description and boundary map already referenced as being a part of the project file.
6. The words "project facilities" shall mean the following individual components, as further described in the application.

- Access Pathway 6' wide or more
- Bench(es)
- Fence
- Pickelball Court
- Rain Garden with Native Plants
- Recycle Bin(s)
- Tennis Court
- Permit Fees

7. The award is not for Research and Development.

8. The DEPARTMENT will:

- a. grant to the GRANTEE a sum of money equal to **Fifty Percent (50%) of Two Hundred and Ninety-Five Thousand dollars (\$295,000.00)**, which is the total eligible cost of construction of the project facilities including engineering costs, but in any event not to exceed **One Hundred and Forty-Seven Thousand Five Hundred dollars (\$147,500.00)** which is the total amount obligated by this action.
- b. grant these funds in the form of reimbursements to the GRANTEE for eligible costs and expenses incurred as follows:
 - i. Payments will be made on a reimbursement basis at **Fifty Percent (50%)** of the eligible expenses incurred by the GRANTEE up to 90% of the maximum reimbursement allowable under the grant.
 - ii. Reimbursement will be made only upon DEPARTMENT review and approval of a complete reimbursement request submitted by the GRANTEE through the MiGrants website which includes an expenditure list supported by documentation as required by the DEPARTMENT, including but not limited to copies of invoices, cancelled checks, EFTs and/or list of volunteer labor and/or force account time and attendance records.
 - iii. The DEPARTMENT shall conduct an audit of the project's financial records upon approval of the final reimbursement request by DEPARTMENT staff. The DEPARTMENT may issue an audit report with no deductions or may find some costs ineligible for reimbursement.
 - iv. Final payment will be released pending satisfactory project completion as determined by the DEPARTMENT and completion of a satisfactory audit.

9. The GRANTEE will:

- a. immediately make available all funds required to complete the project and to **One Hundred and Forty-Seven Thousand Five Hundred dollars (\$147,500.00)** in local match. This sum represents **Fifty Percent (50%)** of the total eligible cost of construction including engineering costs. Any cost overruns incurred to complete the project facilities called for by this Agreement shall be the sole responsibility of the GRANTEE. The indirect rate for this award is zero because it has been waived by the GRANTEE.
- b. Follow the requirements of 2 CFR 200.92 Subaward; 200.101 Applicability; 200.332 Requirements for pass through entities; and 2 CFR 200.318 - 200.327 Procurement Standards.
- c. For infrastructure projects, comply with the Build America, Buy America (BABA) Act. All of the iron, steel, manufactured products, and construction materials used in the project must be produced in the United States. For further information, refer to the Development Procedures Booklet.
- d. with the exception of section 106 consultation and engineering costs as provided for in Section 9 incur no costs toward completion of the project facilities before execution of this Agreement and before DEPARTMENT approval of plans, specifications, and bid documents.
- e. complete construction of the project facilities to the satisfaction of the DEPARTMENT and to comply with the development project procedures set forth by the DEPARTMENT in completion of the project, including but not limited to the following:
 - i. Retain the services of a professional architect, landscape architect, or engineer, registered in the State of Michigan to serve as the GRANTEE'S Prime Professional. The Prime Professional shall prepare the plans, specifications and bid documents for the project and oversee project construction, which must include reference of the BABA Act for infrastructure project, as noted in our Development Procedure's Booklet..
 - ii. Within 180 days of execution of this Agreement and before soliciting bids or quotes or incurring costs other than costs associated with the development of plans, specifications, or bid documents, provide the DEPARTMENT with plans, specifications, and bid documents for the project facilities, sealed by the GRANTEE'S Prime Professional.
 - iii. Upon DEPARTMENT approval of plans, specifications and bid documents, openly advertise and seek written bids for contracts for purchases or services with a value equal to or greater than \$50,000 and accept the lowest qualified bid as determined by the GRANTEE'S Prime Professional.
 - iv. Upon DEPARTMENT approval of plans, specifications and bid documents, solicit three (3) written quotes for contracts for purchases or services between \$5,000 and \$50,000 and accept the lowest qualified bid as determined by the GRANTEE'S Prime Professional.
 - v. Maintain detailed written records of the contracting processes used and to submit these records to the

- DEPARTMENT upon request.
- vi. Complete construction to all applicable local, state and federal codes, as amended; including but not limited to the federal Americans with Disabilities Act (ADA) of 2010, as amended; the Persons with Disabilities Civil Rights Act, Act 220 of 1976, as amended; the Playground Equipment Safety Act, P.A. 16 of 1997, as amended; the Utilization of Public Facilities by Physically Limited Act, P.A. 1 of 1966, as amended; the Elliott-Larsen Civil Rights Act, Act 453 of 1976, as amended; and the 2013 Access Board's Final Guidelines for Outdoor Developed Areas.
 - vii. Bury all overhead utility lines.
 - viii. Correct any deficiencies discovered at the final inspection within 90 days of written notification by the DEPARTMENT. These corrections shall be made at the GRANTEE'S expense and are eligible for reimbursement at the discretion of the DEPARTMENT and only to the degree that the GRANTEE'S prior expenditures made toward completion of the project are less than the grant amount allowed under this Agreement.
- f. operate the project facilities for a minimum of their useful life as determined by the DEPARTMENT, and as appropriate the SERVICE, to regulate the use thereof to the satisfaction of the DEPARTMENT, and as appropriate the SERVICE, and to appropriate such monies and/or provide such services as shall be necessary to provide such adequate maintenance.
 - g. provide to the DEPARTMENT for approval, a complete tariff schedule containing all charges to be assessed against the public utilizing the project area and/or any of the facilities constructed thereon, and to provide to the DEPARTMENT for approval, all amendments thereto before the effective date of such amendments. Membership or annual permit systems are prohibited, except to the extent that differences in admission and other fees may be instituted based on residence. Nonresident fees shall not exceed twice that charged residents. If no resident fees are charged, nonresident fees may not exceed the rate charged residents at other comparable state and local public recreation facilities
 - h. adopt ordinances and/or resolutions necessary to effectuate the provisions of this Agreement; certify copies of all ordinances and/or resolutions adopted for these purposes shall be forwarded to the DEPARTMENT before the effective date thereof.
 - i. separately account for any revenues received from the project area which exceed the demonstrated operating costs and to reserve such surplus revenues for the future maintenance and/or expansion of the GRANTEE'S park and outdoor recreation program.
 - j. furnish the DEPARTMENT, upon request, detailed statements covering the annual operation of the project area and/or project facilities, including income and expenses and such other information the DEPARTMENT may reasonably require.
 - k. maintain the premises in such condition as to comply with all federal, state, and local laws which may be applicable and to make any and all payments required for all taxes, fees, or assessments legally imposed against the project area.
 - l. erect and maintain a sign on the park entry sign of the property which designates this project as one having been constructed with assistance from the Land and Water Conservation Fund. The size, color, and design of this sign shall be in accordance with DEPARTMENT and SERVICE specifications.
 - m. conduct a dedication/ribbon-cutting ceremony as soon as possible after the project is completed and the LWCF signs erected within the project area. At least 30 days prior to the dedication/ribbon-cutting ceremony, the DEPARTMENT must be notified in writing of the date, time, and location of the dedication/ribbon-cutting ceremony. GRANTEE shall provide notice of ceremony in the local media. Use of the grant program logo and a brief description of the program are strongly encouraged in public recreation brochures produced by the GRANTEE. At the discretion of the DEPARTMENT, the requirement to conduct a dedication/ribbon-cutting ceremony may be waived.
10. Only eligible costs and expenses incurred toward completion of the project facilities during the project period shall be considered for reimbursement under the terms of this Agreement. Eligible section 106 consultation expenses incurred prior to the issue of this agreement and eligible engineering costs incurred toward completion of the project facilities in the six months preceding the project period are also eligible for reimbursement. Any costs and expenses incurred after the project period shall be the sole responsibility of the GRANTEE.
11. To be eligible for reimbursement, the GRANTEE shall comply with DEPARTMENT requirements. At a minimum, the GRANTEE shall:
- a. Submit a progress report every 180 days during the project period.

- b. Submit complete requests for partial reimbursement when the GRANTEE is eligible to request at least 25 percent of the grant amount and construction contracts have been executed or construction by force account labor has begun.
 - c. Submit a complete request for final reimbursement within **90 days of project completion and no later than 9/30/2025**. If the GRANTEE fails to submit a complete final request for reimbursement by this date, the DEPARTMENT may audit the project costs and expenses and make final payment based on documentation on file as of that date or may terminate this Agreement and require full repayment of grant funds by the GRANTEE.
12. During the project period, the GRANTEE shall obtain prior written authorization from the DEPARTMENT before adding, deleting or making a significant change to any of the project facilities as proposed. Approval of changes is solely at the discretion of the DEPARTMENT. Furthermore, following project completion, the GRANTEE shall obtain prior written authorization from the DEPARTMENT before implementing a change that significantly alters the project facilities as constructed and/or the project area, including but not limited to discontinuing use of a project facility or making a significant change in the recreational use of the project area. Changes pursuant to this Section may also require prior approval of the SERVICE.
13. All project facilities constructed or purchased by the GRANTEE under this Agreement shall be placed and used at the project area and solely for the purposes specified in the application and this Agreement.
14. The project area and all facilities provided thereon and the land and water access ways to the project facilities shall be open to the general public at all times on equal and reasonable terms. No individual shall be denied ingress or egress thereto or the use thereof on the basis of sex, race, color, religion, national origin, residence, age, or disability.
15. Unless an exemption has been authorized by the DEPARTMENT, and as appropriate the SERVICE, pursuant to this Section, the GRANTEE hereby represents that it possesses fee simple title, free of all liens and encumbrances, to the project area. The fee simple title acquired shall not be subject to: (a) any possibility of reversion or right of entry for condition broken or any other executory limitation which may result in defeasance of title or (b) to any reservation or prior conveyance of coal, oil, gas, sand, gravel or other mineral interests.
16. The GRANTEE shall not allow any encumbrance, lien, security interest, mortgage or any evidence of indebtedness to attach to or be perfected against the project area or project facilities included in this Agreement.
17. None of the project area nor any of the project facilities constructed under this Agreement shall be wholly or partially conveyed during the life of the project, either in fee or otherwise or leased for a term of years or for any other period, nor shall there be any whole or partial transfer of the lease title, ownership, or right of maintenance or control by the GRANTEE except with the written approval and consent of the DEPARTMENT and the SERVICE.
18. The assistance provided to the GRANTEE as a result of this Agreement is intended to have a lasting effect on the supply of outdoor recreation, scenic beauty sites, and recreation facilities beyond the financial contribution alone and permanently commits the project area to Michigan's outdoor recreation estate, therefore:
 - a. The GRANTEE agrees that the project area or any portion thereof will not be converted to other than public outdoor recreation use without prior written approval by the DEPARTMENT and the SERVICE and implementation of mitigation approved by the DEPARTMENT and the SERVICE, including, but not limited to, replacement with land of equal or greater recreational usefulness and market value.
 - b. Approval of a conversion shall be at the sole discretion of the DEPARTMENT and the SERVICE.
 - c. Before completion of the project, the GRANTEE, the DEPARTMENT and the SERVICE may mutually agree to alter the project area through an amendment to this Agreement to provide the most satisfactory public outdoor recreation area.
19. Should title to the project area or any portion thereof be acquired from the GRANTEE by any other entity through exercise of the power of eminent domain, the GRANTEE agrees that the proceeds awarded to the GRANTEE shall be used to replace the lands and project facilities affected with outdoor recreation lands and project facilities of at least equal or greater market value, and of equal or greater usefulness and locality. The DEPARTMENT and the SERVICE shall approve such replacement only upon such conditions as it deems necessary to assure the substitution of GRANTEE of other outdoor recreation properties and project facilities of at least equal or greater market value and of equal or greater usefulness and location. Such replacement shall be subject to all the provisions of this Agreement.

20. The GRANTEE acknowledges that:

- a. The GRANTEE has examined the project area and that it has found the property to be safe for public use or that action will be taken by the GRANTEE before beginning the project to assure safe use of the property by the public, and
- b. The GRANTEE is solely responsible for development, operation, and maintenance of the project area and project facilities, and that responsibility for actions taken to develop, operate, or maintain the property is solely that of the GRANTEE, and
- c. The DEPARTMENT'S involvement in the premises is limited solely to the making of a grant to assist the GRANTEE in developing the project site.

21. The GRANTEE assures the DEPARTMENT that the proposed State-assisted action will not have a negative effect on the environment and, therefore, an Environmental Impact Statement is not required.

22. The GRANTEE hereby acknowledges that this Agreement does not require the State of Michigan or the federal government to issue any permit required by law to construct the outdoor recreational project that is the subject of this Agreement. Such permits include, but are not limited to, permits to fill or otherwise occupy a floodplain, and permits required under Parts 301 and 303 of the Natural Resources and Environmental Protection Act, Act 451 of the Public Acts of 1994, as amended. It is the sole responsibility of the GRANTEE to determine what permits are required for the project, secure the needed permits and remain in compliance with such permits.

23. Before the DEPARTMENT will approve plans, specifications, or bid documents; or give approval to the GRANTEE to advertise, seek quotes, or incur costs for this project, the GRANTEE must provide documentation to the DEPARTMENT that indicates either:

- a. It is reasonable for the GRANTEE to conclude, based on the advice of an environmental consultant, as appropriate, that no portion of the project area is a facility as defined in Part 201 of the Michigan Natural Resources and Environmental Protection Act, Act 451 of the Public Acts of 1994, as amended; or
- b. If any portion of the project area is a facility, documentation that Department of Environment, Great Lakes and Energy-approved response actions have been or will be taken to make the site safe for its intended use within the project period, and that implementation and long-term maintenance of response actions will not hinder public outdoor recreation use and/or the resource protection values of the project area.

24. If the DEPARTMENT determines that, based on contamination, the project area will not be made safe for the planned recreation use within the project period, or another date established by the DEPARTMENT in writing, or if the DEPARTMENT determines that the presence of contamination will reduce the overall usefulness of the property for public recreation and resource protection, the grant may be cancelled by the DEPARTMENT with no reimbursement made to the GRANTEE.

25. The GRANTEE shall acquire and maintain, or cause to be acquired or maintained, insurance which will protect the GRANTEE from claims which may arise out of or result from the GRANTEE'S operations under this Agreement, whether performed by the GRANTEE, a subcontractor or anyone directly or indirectly employed by the GRANTEE, or anyone for whose acts any of them may be liable. Such insurance shall be with companies authorized to do business in the State of Michigan in such amounts and against such risks as are ordinarily carried by similar entities, including but not limited to public liability insurance, worker's compensation insurance or a program of self-insurance complying with the requirements of Michigan law. The GRANTEE shall provide evidence of such insurance to the DEPARTMENT at its request.

26. Nothing in this Agreement shall be construed to impose any obligation upon the DEPARTMENT or the SERVICE to operate, maintain or provide funding for the operation and/or maintenance of any recreational facilities in the project area.

27. The GRANTEE hereby represents that it will defend any suit brought against either party which involves title, ownership, or specific rights, including appurtenant riparian rights, of any lands connected with or affected by this project.

28. The GRANTEE is responsible for the use and occupancy of the premises, the project area and the facilities thereon. The GRANTEE is responsible for the safety of all individuals who are invitees or licensees of the premises. The GRANTEE will defend all claims resulting from the use and occupancy of the premises, the project area and the facilities thereon. The DEPARTMENT is not responsible for the use and occupancy of the premises, the project area and the facilities thereon.

29. Failure by the GRANTEE to comply any of the provisions of this Agreement shall constitute a material breach of this Agreement.
30. Upon breach of the Agreement by the GRANTEE, the DEPARTMENT, in addition to any other remedy provided by law, may:
 - a. Terminate this Agreement; and/or
 - b. Withhold and/or cancel future payments to the GRANTEE on any or all current recreation grant projects until the violation is resolved to the satisfaction of the DEPARTMENT; and/or
 - c. Withhold action on all pending and future grant applications submitted by the GRANTEE under the Land and Water Conservation Fund, the Michigan Natural Resources Trust Fund and the Recreation Passport Grant Program; and/or
 - d. Require the GRANTEE to pay penalties or perform other acts of mitigation or compensation as directed by the DEPARTMENT or the SERVICE; and/or
 - e. Require repayment of grant funds paid to GRANTEE; and/or
 - f. Require specific performance of the Agreement.
31. This Agreement may be canceled by the DEPARTMENT, upon 30 days written notice, due to Executive Order, budgetary reduction, other lack of funding, upon request by the GRANTEE, or upon mutual agreement by the DEPARTMENT and GRANTEE. The DEPARTMENT may honor requests for just and equitable compensation to the GRANTEE for all satisfactory and eligible work completed under this Agreement up until 30 days after written notice, upon which time all outstanding reports and documents are due to the DEPARTMENT and the DEPARTMENT will no longer be liable to pay the GRANTEE for any further charges to the grant.
32. The GRANTEE agrees that the benefit to be derived by the State of Michigan from the full compliance by the GRANTEE with the terms of this Agreement is the preservation, protection and net increase in the quality of public recreation facilities and resources which are available to the people of the State and of the United States and such benefit exceeds to an immeasurable and unascertainable extent the amount of money furnished by the State of Michigan by way of assistance under the terms of this Agreement. The GRANTEE agrees that after final reimbursement has been made to the GRANTEE, repayment by the GRANTEE of grant funds received would be inadequate compensation to the State for any breach of this Agreement. The GRANTEE further agrees therefore, that the appropriate remedy in the event of a breach by the GRANTEE of this Agreement after final reimbursement has been made shall be the specific performance of this Agreement
33. The GRANTEE shall return all grant money if the project area or project facilities are not constructed, operated or used in accordance with this Agreement.
34. The GRANTEE agrees not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of religion, race, color, national origin, age, sex, sexual orientation, height, weight, marital status, partisan considerations, or a disability or genetic information that is unrelated to the person's ability to perform the duties of a particular job or position. The GRANTEE further agrees that any subcontract shall contain non-discrimination provisions which are not less stringent than this provision and binding upon any and all subcontractors. A breach of this covenant shall be regarded as a material breach of this Agreement.
35. The DEPARTMENT shall terminate this Agreement and recover grant funds paid if the GRANTEE or any subcontractor, manufacturer, or supplier of the GRANTEE appears in the register compiled by the Michigan Department of Licensing and Regulatory Affairs pursuant to Public Act No. 278 of 1980.
36. The GRANTEE may not assign or transfer any interest in this Agreement without prior written authorization of the DEPARTMENT, and as appropriate, the SERVICE.

SAMPLE RESOLUTION
(Development)

Upon motion made by _____, seconded by _____, the following Resolution was adopted:

"RESOLVED, that _____, Michigan, does hereby accept the terms of the Agreement as received from the Michigan Department of Natural Resources, and that the _____ does hereby specifically agree, but not by way of limitation, as follows:

1. To appropriate all funds necessary to complete the project during the project period and to provide _____ (\$ _____) dollars to match the grant authorized by the DEPARTMENT.
2. To maintain satisfactory financial accounts, documents, and records to make them available to the DEPARTMENT for auditing at reasonable times in perpetuity.
3. To construct the project and provide such funds, services, and materials as may be necessary to satisfy the terms of said Agreement.
4. To regulate the use of the facility constructed and reserved under this Agreement to assure the use thereof by the public on equal and reasonable terms.
5. To comply with any and all terms of said Agreement including all terms not specifically set forth in the foregoing portions of this Resolution."

The following aye votes were recorded: _____

The following nay votes were recorded: _____

STATE OF MICHIGAN)
) ss
COUNTY OF _____)

I, _____, Clerk of the _____, Michigan, do hereby certify that the above is a true and correct copy of the Resolution relative to the Agreement with the Michigan Department of Natural Resources, which Resolution was adopted by the _____ at a meeting held _____.

Signature

Title

September 12, 2022

Mike Hoffmeister, CPRP
Residential Services Director
Charter Township of Ypsilanti
7200 South Huron River Drive
Ypsilanti, MI 48197

RE: Clubview Park Improvements
Charter Township of Ypsilanti, Michigan
Letter Agreement for Professional Services

Mr. Hoffmeister:

At your request, we are furnishing you with a letter agreement to provide professional services related to the design, bidding, construction administration, and inspection of the Clubview Park Improvements project.

BACKGROUND

In 2019, Ypsilanti Charter Township contracted with Spicer Group to apply for a Recreation Passport (RP) grant through the Michigan Department of Natural Resources (MDNR) to remove existing tennis courts at Clubview Park and construct new tennis and pickleball courts. The project was not selected for funding, so in 2021 we applied for a Land and Water Conservation Fund (LWCF) grant. This grant application was recommended for approval with an estimated project cost of \$295,000.00; 50% (\$147,500.00) of which is to be funded by the grant, with the remainder to be funded by the Township. Up to \$38,400.00 for engineering fees are eligible for 50% grant reimbursement.

The scope of this project includes the removal of the existing tennis court playing surface, equipment, and fence enclosure that is in unusable condition, replacing with a new surface, fence enclosure, and equipment for both tennis and pickleball courts, resurfacing the crushed stone pathway within the park, a rain garden, and various site amenities including park benches and waste/recycle receptacles.

Since January 2022, the status of this grant application was listed as “NPS Approval Pending,” meaning that it was selected by MDNR for funding and must now be approved by NPS. In anticipation of this approval, the Township may now retain the services of a *Prime Professional*. To ensure the Township is able to receive the 50% reimbursement for engineering services, we will not proceed with effort on this project until approved by the NPS. This document is our proposal to fulfill the role of *Prime Professional*.

SCOPE OF BASIC PROFESSIONAL SERVICES

Spicer Group's proposed services follow. They are phased to reflect the orderly and reasonable progress of the project.

1. Survey

- a. Submit MissDIG design ticket, organize utility information, and coordinate with affected utility companies as necessary
- b. Perform a topographical survey of the site and prepare an existing conditions base plan.
 - i. Horizontal and vertical control will be established.
 - ii. Survey limits will include the area of the park necessary for creating plans, including 100' beyond the property lines where the project abuts a property line. We do not intend to survey the entire park property.
 - iii. All visible physical features will be located, including all walls, drives, paved areas, fences, sidewalks, pathways, trees, shrubs, drainage structures, culverts, etc.
- c. Procure a sub-contractor for soil borings

2. Design

- a. Create plans in CAD based on the conceptual drawings submitted in the grant application. These plans will include details necessary for construction.
- b. Anticipated sheets include:
 - i. Cover
 - ii. Notes
 - iii. Existing Conditions
 - iv. Site Plan
 - v. SESC plan
 - vi. Details
- c. Prepare bidding documents including standard contract language and a project manual complete with technical specifications defining pay items and materials/products to be used.
- d. Acquire a soil erosion permit. Permit fees are not included in our professional services fee.
- e. Hold a design review meeting with the Township prior to advertising the project for bids.

3. Bidding Assistance

- a. Post Plans and Specifications on the Spicer Group bidding website. We will post an advertisement on MITA and will provide the Township with an electronic copy of the advertisement to post elsewhere, if desired.
- b. Issue addenda as necessary to clarify the bidding documents.
- c. Host a bid opening
- d. Review bids and analyze for completeness; provide a bid tabulation for review
- e. Provide a recommendation of award

September 12, 2022

Page 3 of 4

4. Grant Administration

- a. Assist with MiGrants submittals required by the Nation Parks Service (NPS)
- b. Assist with executing the DNR Project Agreement
- c. Submit plans and specifications to MDNR with Professional Services Certification Form, itemized project cost estimate, and implementation schedule.
- d. Assist with the Contract/Vendor Selection Form and process with MDNR.
- e. Submit Reimbursement Request form PR 1919 with each contractor pay request

5. Construction Administration

- a. Issue notice of award
- b. Prepare contract documents and circulate for signatures
- c. Host pre-construction meeting
- d. Issue Notice to Proceed
- e. Review all product submittals and shop drawings
- f. Review pay requests and recommend payment
- g. Provide inspection and materials testing services on site as necessary
 - i. 80 hours of inspection and travel time estimated.
 - ii. Provide the following materials tests:
 1. Compaction testing during HMA paving
 2. Entrained air, temperature, slump, and compressive strength of concrete
- h. Conduct a substantial completion inspection and provide a punch list to the contractor
- i. Conduct a final completion inspection
- j. Project closeout – provide owner with copies of warranties and as-built drawings.

SERVICES NOT INCLUDED

For a clearer understanding of our work scope, the following is not included in our Scope of Basic Professional Services:

- Seeking or securing additional funding
- Expanding or altering the scope of work defined in the grant application and award
- Permit fees
- Boundary Survey

ADDITIONAL SERVICES

Additional services related to this project will be furnished by us after you authorize the work. Our fee for the additional services will be determined at the time they are agreed to and rendered.

September 12, 2022

Page 4 of 4

FEE SCHEDULE

Our proposed fee schedule follows. We will submit monthly invoices to you for our basic professional services, any additional authorized services, and any reimbursable expenses. Unless other payment arrangements are made, we will include any of our project subconsultants costs on our invoice including a 10% fee to cover taxes, administration, and insurance.

| | |
|-----------------------------------|-----------------|
| Survey | \$7,000 |
| Design | \$16,000 |
| Bidding Assistance..... | \$4,000 |
| Grant Administration | \$3,000 |
| Construction Administration..... | \$17,000 |
| Total (Not to exceed)..... | \$47,000 |

We have calculated these fees based on our understanding of what you want us to do and what you have told us. Should we approach the amount of the fee for any reason before we are finished with the work, if the scope changes or our understanding was incorrect, we will notify you and discuss with you the option of adjusting the amount of the fee or adjusting the scope of services.

If this proposal meets with your approval, please acknowledge this approval with an authorized signature below and return one of the enclosed copies to us. We deeply appreciate your confidence in Spicer Group, and we look forward to working with you and for you on your project.

Sincerely,



Kevin J. Wilks, P.E.
Project Manager



Philip A. Westmoreland, P.E.
Sr. Project Manager
SPICER GROUP, INC.
125 Helle Blvd, Suite 2
Dundee, MI 48131
Phone: (734) 823-3308

Attachment: General Conditions

Cc: SGI File 129784PR2020

Above proposal accepted and approved by Owner.

YPSILANTI CHARTER TOWNSHIP

By: 

Brenda Stumbo, Supervisor

Date: Sept. 21, 2022

By: 

Heather Jarrell Roa, Clerk

Date: Sept. 21, 2022

GENERAL CONDITIONS ATTACHED TO LETTER AGREEMENT

SECTION 1

1.1 **Preamble.** This agreement is based upon a mutual obligation of good faith and fair dealing between the parties in its performance and enforcement. Accordingly, the OWNER and the PROFESSIONAL, with a positive commitment to honesty and integrity, agree to the following:

That each will function within the laws and statutes that apply to its duties and responsibilities; that each will assist in the other's performance; that each will avoid hindering the other's performance; that each will work diligently to fulfill its obligations; and that each will cooperate in the common endeavor of the contract.

1.2 **Ownership of Instruments of Service.** All reports, plans, specifications, computer files, field data, notes and other documents and instruments prepared by the PROFESSIONAL as instruments of service shall be property of the OWNER. The PROFESSIONAL shall retain all common law, statutory and other reserved rights, including the copyright thereto.

1.3 **Covenant not to Hire.** OWNER agrees that during the term of this agreement and for a period of one (1) year thereafter that it will not hire for its own employment any person employed by the PROFESSIONAL in the performance of this agreement.

1.4 **Standard of Care.** Service performed by PROFESSIONAL under this AGREEMENT will be conducted in a manner consistent with that level of care and skill ordinarily exercised by members of the profession currently practicing in the same locality under similar conditions. No other representation, express or implied, and no warranty or guarantee is included or intended in this AGREEMENT, or in any report, opinion, document or otherwise.

1.5 **Defects in Service.** OWNER and OWNER's personnel, contractors and subcontractors shall upon discovery promptly report to PROFESSIONAL any defects or suspected defects in PROFESSIONAL's work, in order that PROFESSIONAL may take prompt, effective measures which in PROFESSIONAL's opinion will minimize the consequences of a defect in service. PROFESSIONAL shall not be responsible for additional costs due to any tardiness in reporting defects in service.

1.6 **Reimbursable Expenses** mean the actual expenses incurred by PROFESSIONAL or PROFESSIONAL's independent professional associates or consultants, directly or indirectly in connection with the Project, such as expenses for; transportation and subsistence incidental thereto; obtaining bids or proposals from Contractor(s); providing and maintaining field office facilities including furnishings and utilities; subsistence and transportation of Resident Project Representatives and their assistants; toll telephone calls and courier services; reproduction of reports, drawings, specifications, bidding documents, and similar project-related items; and, if authorized in advance by OWNER, overtime work requiring higher than regular rates.

1.7 **Standard Hourly Rates** used as a basis for payment mean those rates in effect at the time that the work is performed, for all PROFESSIONAL's personnel engaged directly on the Project, including, but not limited to, architects, engineers, surveyors, designers, planners, drafters, specification writers, estimators, other technical and business personnel. The Standard Hourly Rates include salaries and wages, direct and indirect payroll costs and fringe benefits. The Standard Hourly Rates of personnel of PROFESSIONAL will be adjusted periodically to reflect changes in personnel and in PROFESSIONAL's overall compensation procedures and practices.

1.8 **Limitation of Liability.** To the fullest extent permitted by law, and not withstanding any other provision of this Agreement, the total liability, in the aggregate, of the PROFESSIONAL and the PROFESSIONAL's officers, directors, partners, employees and subconsultants, and any of them, to the OWNER and anyone claiming by or through the OWNER, for any and all claims, losses, costs or damages, including attorneys' fees and costs and expert-witness fees and costs of any nature whatsoever or claims expenses resulting from or in any way related to the Project or the Agreement from any cause or causes shall not exceed the total compensation received by the PROFESSIONAL under this Agreement, or the total amount of \$100,000.00, whichever is greater. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.

1.9 **Indemnification.** The PROFESSIONAL agrees, to the fullest extent permitted by law, to indemnify and hold harmless the OWNER, its officers, directors and employees (collectively, Owner) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the PROFESSIONAL's negligent performance of professional services under this Agreement.

The OWNER agrees, to the fullest extent permitted by law, to indemnify and hold harmless the PROFESSIONAL, its officers, directors, employees and subconsultants (collectively, Professional) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, to the extent caused by the OWNER's negligent acts in connection with the Project and the acts of its contractors, subcontractors or PROFESSIONAL or anyone for whom the OWNER is legally liable.

Neither the OWNER nor the PROFESSIONAL shall be obligated to indemnify the other party in any manner whatsoever for the other party's own negligence.

Nothing herein shall in any way, shape or form be construed to waive Ypsilanti Township's defense of governmental immunity.

1.10 **Severability.** Any term or provision of this Agreement found to be invalid under any applicable statute or rule of law shall be deemed omitted and the remainder of this Agreement shall remain in full force and effect.

1.11 **Survival.** Notwithstanding completion or termination of this Agreement for any reason, all rights, duties and obligations of the parties to this Agreement shall survive such completion or termination and remain in full force and effect until fulfilled.

1.12 **Betterment.** If, due to the PROFESSIONAL's negligence, a required item or component of the Project is omitted from the PROFESSIONAL's construction documents, the PROFESSIONAL shall not be responsible for paying the cost required to add such item or component to the extent that such item or component would have been required and included in the original construction documents. In no event will the PROFESSIONAL be responsible for any cost or expense that provides betterment or upgrades or enhances the value of the Project.

1.13 **Mediation.** In an effort to resolve any conflicts that arise during the design and construction of the Project or following the completion of the Project, the OWNER and the PROFESSIONAL agree that all disputes between them arising out of or relating to the Agreement or the Project shall be submitted to nonbinding mediation unless the parties mutually agree otherwise.

The OWNER and the PROFESSIONAL further agree to include a similar mediation provision in all agreements with independent contractors and consultants also to include a similar mediation provision in all agreements with their subcontractors, subconsultants, suppliers and fabricators, thereby providing for mediation as the primary method for dispute resolution between the parties to all those agreements.

1.14 **Changed Conditions.** If, during the term of this Agreement, circumstances or conditions that were not originally contemplated by or known to the PROFESSIONAL are revealed, to the extent that they affect the scope of services, compensation, schedule, allocation of risks or other material terms of this Agreement, the PROFESSIONAL may call for renegotiation of appropriate portions of this Agreement. The PROFESSIONAL shall notify the OWNER of the changed conditions necessitating renegotiation, and the PROFESSIONAL and the OWNER shall promptly and in good faith enter into renegotiation of this Agreement to address the changed conditions.

1.15 **Hazardous Materials.** Both parties acknowledge that the PROFESSIONAL's scope of services does not include any services related to the presence of any hazardous or toxic materials. In the event the PROFESSIONAL or any other party encounters any hazardous or toxic materials, or should it become known to the PROFESSIONAL that such materials may be present on or about the job site or any adjacent areas that may affect the performance of the PROFESSIONAL's services, the PROFESSIONAL may, at its option and without liability for consequential or any other damages, suspend performance of its services under this Agreement until the OWNER retains appropriate PROFESSIONAL's or contractors to identify and abate or remove the hazardous or toxic materials and warrants that the job site is in full compliance with all applicable laws and regulations.

SECTION 2

2.1 **Assignment.** Neither party to this Agreement shall transfer, sublet or assign any rights under or interest in this Agreement (including but not limited to monies that are due or monies that may be due) without the prior written consent of the other party. Subcontracting to subconsultants normally contemplated by the PROFESSIONAL shall not be considered an assignment for purposes of this Agreement.

2.2 **Governing Law & Jurisdiction.** The OWNER and the PROFESSIONAL agree that this Agreement and any legal actions concerning its validity, interpretation and performance shall be governed by the laws of the State of Michigan.

2.3 **Billing and Payment Terms.** *Payment Due:* invoices shall be submitted by the PROFESSIONAL (monthly) are due upon presentation and shall be considered past due if not paid within thirty (30) calendar days of the due date. *Interest:* If payment in full is not received by the PROFESSIONAL within thirty (30) calendar days of the due date, invoices shall bear interest at one-and one-half (1.5) percent of the PAST DUE amount per month, which shall be calculated from the invoice due date. Payment thereafter shall first be applied to accrued interest and then to the unpaid principal.

2.4 **Suspension of Services.** If the OWNER fails to make payments when due or otherwise is in breach of this Agreement, the PROFESSIONAL may suspend performance of service upon ten (10) calendar days' notice to the OWNER. The PROFESSIONAL shall have no liability whatsoever to the OWNER for any costs or damages as a result of such suspension caused by any breach of this Agreement by the OWNER. Upon payment in full by the OWNER the PROFESSIONAL shall resume services under this Agreement, and the time scheduled and compensation shall be equitably adjusted to compensate for the period of suspension plus any other reasonable time and expenses necessary for the PROFESSIONAL to resume performance. *Termination of Services:* If the OWNER fails to make payment to the PROFESSIONAL in accordance with the payment terms herein, this shall constitute a material breach of this Agreement and shall be cause for termination of this Agreement by the PROFESSIONAL. *Set-off, Backcharges, Discounts:* Payment of invoices shall not be subject to any discounts or set-offs by the OWNER unless agreed to in writing by the PROFESSIONAL. Payment to the PROFESSIONAL for services rendered and expenses incurred shall be due and payable regardless of any subsequent suspension or termination of this Agreement by either party.

2.5 **Collection of Costs.** In the event legal actions necessary to enforce the payment terms of this Agreement, the PROFESSIONAL shall be entitled to collect from the OWNER any judgement or settlement sums due, plus reasonable attorneys' fees, court costs and other expenses incurred by the PROFESSIONAL in connection therewith and, in addition, the reasonable value of the PROFESSIONAL's time and expenses spent in connection with such collection action, computed according to the PROFESSIONAL's prevailing fee schedule and expense policies.

2.6 **Delays.** The OWNER agrees that the PROFESSIONAL is not responsible for damages arising directly or indirectly from any delays for causes beyond the PROFESSIONAL's control. For purposes of this Agreement, such causes include, but are not limited to, strikes or other labor disputes; severe weather disruptions or other natural disasters; fires, riots, war or other emergencies or acts of God; failure of any government agency to act in timely manner; failure of performance by the OWNER or the OWNER's contractors or consultants; or discovery of any hazardous substances or differing site conditions.

In addition, if the delays resulting from any such causes increase the cost or time required by the PROFESSIONAL to perform its services in an orderly and efficient manner, the PROFESSIONAL shall be entitled to an equitable adjustment in schedule and/or compensation.

2.7 Delivery and Use of Electronic Files. In accepting and utilizing any drawings, reports and data on any form of electronic media generated and furnished by the PROFESSIONAL, the OWNER agrees that all such electronic files are instruments of service of the PROFESSIONAL, who shall be deemed the author, and shall retain all common law, statutory law and other rights, including copyrights.

The OWNER agrees not to reuse these electronic files, in whole or in part, for any purpose other than for the Project. The OWNER agrees not to transfer these electronic files to others without the prior written consent of the PROFESSIONAL. The OWNER further agrees to waive all claims against the PROFESSIONAL resulting in any way from any unauthorized changes to or reuse of the electronic files for any other project by anyone other than the PROFESSIONAL.

The OWNER and the PROFESSIONAL agree that any electronic files furnished by either party shall conform to the original specifications. Any changes to the original electronic specifications by either the OWNER or the PROFESSIONAL are subject to review and acceptance by the other party. Additional services by the PROFESSIONAL made necessary by changes to the electronic file specifications shall be compensated for as Additional Services.

Electronic files furnished by either party shall be subject to an acceptance period of fourteen (14) days during which the receiving party agrees to perform appropriate acceptance tests. The party furnishing the electronic file shall correct any discrepancies or errors detected and reported within the acceptance period. After the acceptance period, the electronic files shall be deemed to be accepted and neither party shall have any obligation to correct errors or maintain electronic files.

The OWNER is aware that differences may exist between the electronic files delivered and the printed hard-copy construction documents. In the event of a conflict between the signed construction documents prepared by the PROFESSIONAL and electronic files, the signed or sealed hard-copy construction documents shall govern.

In addition, the OWNER agrees, to the fullest extent permitted by law, to indemnify and hold harmless the PROFESSIONAL, its officers, directors, employees and subconsultants (collectively, Professional) against all damages, liabilities or costs, including reasonable attorneys' fees and defense costs, arising from any changes made by anyone other than the PROFESSIONAL or from any reuse of the electronic files without the prior written consent of the PROFESSIONAL.

Under no circumstances shall delivery of electronic files for use by the OWNER be deemed a sale by the PROFESSIONAL, and the PROFESSIONAL makes no warranties, either expressed or implied, or merchantability and fitness for any particular purpose. In no event shall the PROFESSIONAL be liable for indirect or consequential damages as a result of the OWNER's use or reuse of the electronic files.

2.8 Opinions of Probable Construction Costs. In providing opinions of probable construction cost, the OWNER understands that the PROFESSIONAL has no control over the cost or availability of labor, equipment or materials, or over market conditions or the Contractor's method of pricing, and that the PROFESSIONAL's opinions of probable construction costs are

made on the basis of the PROFESSIONAL's judgement and experience. The PROFESSIONAL makes no warranty, express or implied that the bids or the negotiated cost of the Work will not vary from the PROFESSIONAL's opinion of probable construction costs.

SECTION 3

3.1 Verification of Existing Conditions. Inasmuch as the remodeling and/or rehabilitation of the existing structures requires that certain assumptions be made by the PROFESSIONAL regarding existing conditions, and because some of these assumptions may not be verifiable without the OWNER's expending substantial sums of money or destroying otherwise adequate or serviceable portions of the structure, the OWNER agrees to bear all costs, losses and expenses, including the cost of the PROFESSIONAL's Additional Services, arising from the discovery of concealed or unknown conditions in the existing structure.

3.2 Construction Observation. The PROFESSIONAL shall visit the site if authorized at intervals appropriate to the stage of construction, or as otherwise agreed to in writing by the OWNER and the PROFESSIONAL, in order to observe the progress and quality of the Work completed by the Contractor. Such visits and observation are not intended to be an exhaustive check or a detailed inspection of the Contractor's work but rather are to allow the PROFESSIONAL, as an experienced professional, to become generally familiar with the Work in progress and to determine, in general, if the Work is proceeding in accordance with the Contract Documents.

Based on this general observation, the PROFESSIONAL shall keep the OWNER informed about the progress of the Work and shall endeavor to guard the OWNER against deficiencies in the work.

If the OWNER desires more extensive project observation or full-time project representation, the OWNER shall request that such services be provided by the PROFESSIONAL as Additional Services in accordance with the terms of this Agreement.

The PROFESSIONAL shall not supervise, direct or have control over the Contractor's work nor have any responsibility for the construction means, methods, techniques, sequences or procedures selected by the Contractor nor for the Contractor's safety precautions or programs in connection with the Work. These rights and responsibilities are solely those of the contractor in accordance with the Contract Documents.

The PROFESSIONAL shall not be responsible for any acts or omissions of the contractor, subcontractor, any entity performing any portions of the Work, or any agents or employees of any of them. The PROFESSIONAL does not guarantee the performance of the Contractor and shall not be responsible for the Contractor's failure to perform its Work in accordance with the Contract Documents or any applicable laws, codes, rules or regulations.

3.3 Jobsite Safety. Neither the professional activities of the PROFESSIONAL, nor the presence of the PROFESSIONAL or its employees and subconsultants at a construction/project site, shall relieve the General Contractor of its obligations, duties and responsibilities including, but not limited to, construction means, methods, sequence, techniques or procedures necessary for performing, superintending and coordinating the Work in accordance with the contract documents and any health or safety

precautions required by any regulatory agencies, the PROFESSIONAL and its personnel have no authority to exercise any control over any construction contractor or its employees in connection with their work or any health or safety programs or procedures. The OWNER agrees that the General Contractor shall be solely responsible for jobsite safety, and warrants that this intent shall be carried out in the OWNER's contract with the General Contractor. The OWNER also agrees that the OWNER, the PROFESSIONAL and the PROFESSIONAL's subconsultants shall be indemnified by the General Contractor and shall be made additional insureds under the General Contractor's policies of general liability insurance.

3.4 Design Without Construction Administration. Unless Authorized, it is understood and agreed that the PROFESSIONAL's Basic Services under this Agreement do not include project observation or review of the Contractor's performance or any other construction phase services, and that such services will be provided for by the OWNER. The OWNER assumes all responsibility for interpretation of the Contract Documents and for construction observation, and the OWNER waives any claims against the PROFESSIONAL that may be in any way connected thereto.

3.5 Client Requested Substitutions. Upon request by the OWNER, the PROFESSIONAL shall evaluate and make recommendations regarding substitutions of materials, products or equipment proposed by the OWNER's consultants or contractors. The PROFESSIONAL shall be compensated for these services, as well as any services required to modify and coordinate the construction documents prepared by the PROFESSIONAL with those of the PROFESSIONAL's subconsultants and the OWNER's consultants, as Additional Services. The PROFESSIONAL also shall be entitled to an adjustment in schedule caused by this additional effort.

3.6 Record Drawings. If authorized by the Agreement, upon completion of the Work, the PROFESSIONAL shall compile for and deliver to the OWNER a reproducible set of Record Documents based upon the marked-up record drawings, addenda, change orders and other data furnished by the Contractor. These Record documents will show significant changes made during construction. Because these Record Documents are based on unverified information provided by other parties, which the PROFESSIONAL shall assume will be reliable, the PROFESSIONAL cannot and does not warrant their accuracy.

3.7 Certifications, Guarantees and Warranties. The PROFESSIONAL shall not be required to sign any documents, no matter by whom requested, that would result in the PROFESSIONAL's having to certify, guarantee or warrant the existence of conditions whose existence the PROFESSIONAL cannot ascertain. The OWNER also agrees not to make resolution of any dispute with the PROFESSIONAL or payment of any amount due to the PROFESSIONAL in any way contingent upon the PROFESSIONAL's signing any such certification.

3.8 Contingency Fund. The OWNER and the PROFESSIONAL agree that certain increased cost and changes may be required because of possible omissions, ambiguities or inconsistencies in the drawings and specifications prepared by the PROFESSIONAL and, therefore, that the final construction cost of the Project may exceed the estimated construction cost. The OWNER agrees to set aside a reserve in the amount of 10 percent of the Project construction costs as a contingency to be used, as required, to pay for any such increased costs and changes. The OWNER further agrees to make no claim by way of direct or third-party action against the PROFESSIONAL or its subconsultants with respect to any increased costs within the contingency because of such changes or because of any claims made by the Contractor relating to such changes.

3.9 Permits and Approvals. The PROFESSIONAL shall assist the OWNER in applying for those permits and approvals normally required by law for projects similar to the one for which the PROFESSIONAL's services are being engaged. This assistance shall consist of completing and submitting forms to the appropriate regulatory agencies having jurisdiction over the construction documents, and other services normally provided by the PROFESSIONAL and included in the scope of Basic Services of this Agreement.

3.10 Statutes of Repose and Limitation. All legal causes of action between the parties to this Agreement shall accrue and any applicable statutes of repose or limitation shall begin to run no later than the date of Substantial Completion. If the act or failure to act complained of occurred after the date of Substantial Completion, then the date of final completion shall be used, but in no event shall any statute of repose or limitation begin to run any later than the date the PROFESSIONAL's services are completed or terminated.

3.11 Construction Layout. If requested by the Owner, or other authorized party, as detailed in the scope of services or as an Additional Service to this Agreement, the PROFESSIONAL shall provide construction layout stakes sufficient for construction purposes. The stakes will reflect pertinent information from the construction bidding and contract documents. The stakes shall be set in place one time by the PROFESSIONAL, staged and scheduled as requested by the Contractor. After the stakes are set, it shall be the Contractor's exclusive responsibility to protect the stakes from damage or removal. Once the stake is set, if the stake becomes unusable due to the Contractor's negligence it shall be reset by the PROFESSIONAL, only at the Contractor's direction. The cost for resetting the stakes shall be borne by the Contractor and shall be paid by the Owner or authorized representative of this Agreement to the PROFESSIONAL from monies due the Contractor from the construction contract. The Owner acknowledges and agrees that these staking requirements and the procedures and payments for restaking described in this section shall be stipulated in the General Conditions of the construction contract.

These General Conditions shall be attached to and made part of the Agreement between Spicer Group, Inc. (PROFESSIONAL) and the Owner.

Charter Township of Ypsilanti
RESOLUTION 2022-14

**RESOLUTION AUTHORIZING THE WATER RESOURCES COMMISSIONER TO EXCEED THE
STATUTORY SPENDING AND ASSESSMENT LIMIT OF FIVE THOUSAND DOLLARS (\$5,000.00) PER
YEAR FOR THE MAINTENANCE AND REPAIR OF THE SOUTH FORD LAKE DRAIN.**

WHEREAS, the South Ford Lake Drain is a drain located in the municipality of Ypsilanti Charter Township, which drain was constructed in accordance with the Drain Code of 1956; and

WHEREAS, the Water Resources Commissioner is entrusted with the responsibility of ensuring proper maintenance and repairs are made to said drain; and

WHEREAS, the Water Resources Commissioner, pursuant to statute, has inspected the drain which inspection revealed that repair work is necessary inasmuch as said inspection identified the need to stabilize the outfall of the South Ford Lake Drain; and

WHEREAS, the Water Resources Commissioner of Washtenaw County has estimated that the repair of the drain will be approximately one hundred thousand dollars (\$100,000.00); and

WHEREAS, pursuant to the Drain Code of 1956, the Water Resources Commissioner cannot exceed the statutory spending limit of five thousand dollars (\$5,000.00) for the maintenance and repair of the drain unless approved by a resolution of the Township Board; and

WHEREAS, the Water Resources Commissioner has requested the Township Board to pass such resolution authoring the Office of the Water Resources Commissioner to exceed the statutory spending limit allowed on the South Ford Lake Drain, to wit: five thousand dollars (\$5,000.00) per year, so as to allow repair of said drain.

NOW THEREFORE, BE IT RESOLVED, that the Ypsilanti Charter Township Board of Trustees for the municipality of Ypsilanti Charter Township hereby approves and authorizes the Office of the Water Resources Commissioner to exceed the statutory spending limit of five thousand dollars (\$5,000.00) per year for the repair of the South Ford Lake Drain in the exceeded amount of ninety-five thousand dollars (\$95,000.00).

I, Heather Jarrell Roe, Clerk of the Charter Township of Ypsilanti, County of Washtenaw, State of Michigan hereby certify the above resolution is a true and exact copy of Resolution No. 2022-14 approved by the Charter Township of Ypsilanti, Board of Trustees assembled at a Regular Meeting held on September 20, 2022.



Heather Jarrell Roe, Clerk
Charter Township of Ypsilanti

**CHARTER TOWNSHIP OF YPSILANTI
2022 BUDGET AMENDMENT #12**

September 20, 2022

AMOUNTS ROUNDED UP TO THE NEAREST DOLLAR

| | | |
|--------------------------------------|-----------------------|---------------------|
| 101 - GENERAL OPERATIONS FUND | Total Increase | \$190,806.00 |
|--------------------------------------|-----------------------|---------------------|

Request to increase the election due to a special election held in May ,which was not budgeted, resulting in a budget amendment request now. The Township was reimbursed \$20,252 for the special school election. This will be funded by an increase in the election reimbursement revenue and an appropriation of prior year fund balance.

| | | | |
|--------------------------|--------------------------|-------------------------|--------------------|
| Revenues: | Reimbursement Elections | 101-000-676.006 | \$20,250.00 |
| | Prior Year Fund Balance | 101-000-699.999 | \$3,000.00 |
| | | Net Revenues | \$23,250.00 |
| Expenditures: | Appointed Officials | 101-262-704.000 | \$15,000.00 |
| | Office Supplies | 101-262-727.000 | \$3,000.00 |
| | Programming Ballots | 101-262-801.200 | \$1,500.00 |
| | Equipment Rental/Leasing | 101-262-941.000 | \$3,750.00 |
| | | Net Expenditures | \$23,250.00 |

Request to increase the revenue line for a reimbursement coming in for work done on the Vietnam Veterans Memorial. The Vietnam Veterans of America 310 have a 99 year lease with the Township for the memorial property. There is a fund held and administered by the Ann Arbor Community Foundation-Ypsilanti Community Fund. Project work done on the Memorial by the Vietnam Veterans can be reimbursed to them through the fund. The Township has sent in the request for reimbursement. All invoices and cancelled checks for the project have been received. This is a pass through and will be funded by a reimbursement and paid out to the Vietnam Veterans of America 310.

| | | | |
|--------------------------|----------------------------------|-------------------------|-------------------|
| Revenues: | Reimburse - Vietnam Vet Memorial | 101-000-676.015 | \$5,556.00 |
| | | Net Revenues | \$5,556.00 |
| Expenditures: | Professional Service | 101-272-801.000 | \$5,556.00 |
| | | Net Expenditures | \$5,556.00 |

Request to transfer the funds received from the DTE escrow account on behalf of the Hydro Dam for 2021 and 2022. The amount received into the General fund for 2021 and 2022 was \$81,000 each year. These funds are needed in the Hydro Station for major repairs. This will be funded by an appropriation from prior year fund balance.

| | | | |
|--------------------------|---------------------------|-------------------------|---------------------|
| Revenues: | Prior Year Fund Balance | 101-000-699.999 | \$162,000.00 |
| | | Net Revenues | \$162,000.00 |
| Expenditures: | Transfer to Hydro Station | 101-999-995.252 | \$162,000.00 |
| | | Net Expenditures | \$162,000.00 |

**CHARTER TOWNSHIP OF YPSILANTI
2022 BUDGET AMENDMENT #12**

September 20, 2022

| | | |
|--|-----------------------|---------------------------|
| 213 - BIKE, SIDEWALK, REC, ROADS FUND (BSRII) | Total Increase | <u>\$54,000.00</u> |
|--|-----------------------|---------------------------|

Request to increase budget for tennis and pickle ball court improvements at the Clubview Park. The Township has been awarded a grant in the amount of \$147,500 with a match from the Township of the same amount. This project will begin in 2022 with engineering survey and design in the amount of 23K. This will be fund 50% by grant funds and 50% by an appropriation of prior year fund balance.

| | | | |
|----------------------|------------------------------|-------------------------|---------------------------|
| Revenues: | ST Grant - DNR - Park Courts | 213-000-569.026 | \$11,500.00 |
| | Prior Year Fund Balance | 213-000-699.999 | <u>\$11,500.00</u> |
| | | Net Revenues | <u>\$23,000.00</u> |
| Expenditures: | Clubview Park Improvements | 213-901-974.026 | \$23,000.00 |
| | | Net Expenditures | <u>\$23,000.00</u> |

Request to increase budget for tennis and pickle ball court improvements at the Community Center Park. The Township has been awarded a grant in the amount of \$176,200 with a match from the Township of the same amount. This project will begin in 2022 with engineering survey and design in the amount of 27K. This will be fund 50% by grant funds and 50% by an appropriation of prior year fund balance.

| | | | |
|----------------------|-----------------------------------|-------------------------|---------------------------|
| Revenues: | ST Grant - DNR - Park Courts | 213-000-569.026 | \$13,500.00 |
| | Prior Year Fund Balance | 213-000-699.999 | <u>\$13,500.00</u> |
| | | Net Revenues | <u>\$27,000.00</u> |
| Expenditures: | Community Ctr - Park Improvements | 213-901-975.520 | \$27,000.00 |
| | | Net Expenditures | <u>\$27,000.00</u> |

Request to increase budget for the annual purchase of trees to be planted at our parks and properties. This is funded by a reserve account for tree replacement within the appropriated prior year fund balance.

| | | | |
|----------------------|-------------------------------|-------------------------|--------------------------|
| Revenues: | Prior Year Fund Balance | 213-000-699.999 | \$4,000.00 |
| | | Net Revenues | <u>\$4,000.00</u> |
| Expenditures: | Capital - Landscape and Trees | 213-901-975.600 | \$4,000.00 |
| | | Net Expenditures | <u>\$4,000.00</u> |

**CHARTER TOWNSHIP OF YPSILANTI
2022 BUDGET AMENDMENT #12**

September 20, 2022

236- 14B DISTRICT COURT FUND

Total Increase \$3,691.00

Request to increase budget for PTO payouts of available hours to be paid at 75%. This will be funded by an appropriation for prior year fund balance.

| | | | |
|---------------|-------------------------|------------------|--------------------------|
| Revenues: | Prior Year Fund Balance | 236-000-699.999 | \$3,691.00 |
| | | Net Revenues | <u><u>\$3,691.00</u></u> |
| Expenditures: | Salaries Payout PTO | 236-286-708.004 | \$3,429.00 |
| | FICA | 236-286-715.000 | \$262.00 |
| | | Net Expenditures | <u><u>\$3,691.00</u></u> |

252 - HYDRO STATION FUND

Total Increase \$0.00

Request to receive the funds from DTE that were deposited into the General Fund in 2021 and 2022. The amount received into the General fund for 2021 and 2022 was \$81,000 each year. This transfer will reduce the funds needed from the prior year fund balance. This will be funded by the transfer from General Fund.

| | | | |
|-----------|--------------------------------|------------------|------------------------------|
| Revenues: | Transfer In: From General Fund | 252-000-699.101 | \$162,000.00 |
| | | Net Revenues | <u><u>\$162,000.00</u></u> |
| Revenues: | Prior Year Fund Balance | 252-000-699.999 | (\$162,000.00) |
| | | Net Expenditures | <u><u>(\$162,000.00)</u></u> |

Motion to Amend the 2022 Budget (#12)

Move to increase the General Fund budget by \$190,806 to \$11,159,105 and approve the department line item changes as outlined.

Move to increase the Bike, Sidewalk, Recreation and Road (BSRII) Fund budget by \$54,000 to \$2,798,107 and approve the department line item changes as outlined.

Move to increase the 14B District Court Department Fund budget by \$3,691 to \$1,832,018 and approve the department line item changes as outlined.

Move to do a line transfer for the Hydro Station Fund budget by net zero \$0 and approve the department line item changes as outlined.