

**City of South Lyon**  
**Solid Waste, Yard Waste, Recycling Collection and Disposal Agreement**

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- D. **Additional Extension by Mutual Agreement:** Upon mutual agreement of both parties, the Contract may be extended by the terms referenced above.
- E. **THE CITY Termination of the Contract Services:** THE CITY may, after giving Contractor and the surety one hundred and eighty (180) days written notice and to the extent permitted by laws and regulations, terminate the contract. THE CITY may, after giving Contractor and the surety seven (7) days written notice and to the extent permitted by laws and regulations, terminate the contract if the Contractor:
1. Fails to Perform the required work as specified in this Agreement as determined by THE CITY, and fails to correct the deficiency within thirty (30) days after receiving written notice from THE CITY.
  2. Materially Violates Any Law or Regulation of any municipal, local, state or federal laws, rules, regulations, ordinances and specifications, in performance of this Contract.
  3. Files for Bankruptcy or Insolvency. If Contractor commences a voluntary case under any chapter of the Bankruptcy Code (Title II, United States Code), as now or hereafter in effect, or if Contractor takes any equivalent or similar action by filing a petition or otherwise under any other federal or state law in effect at such time relating to the bankruptcy or insolvency;
  4. If a petition is filed against Contractor under any chapter of the Bankruptcy Code as now or hereafter in effect at the time of filing, or if a petition is filed seeking any such equivalent or similar relief against Contractor under other federal or state law in effect at the time relating to bankruptcy or insolvency.
  5. Assigns this Contract or any portion thereof in violation of Section 5.H.
- F. **Contractor Termination of the Contract Services:** Contractor may stop service or terminate the contract if, through no act or fault of the Contractor, THE CITY Solid Waste Program is suspended for a period of more than ninety days by THE CITY. Under this circumstance, the Contractor may, upon seven (7) day's written notice to THE CITY, terminate the Agreement and recover from THE CITY payment for completed services.

In the event that Contractor terminates the contract pursuant to the above conditions, Contractor understands and agrees that Contractor's sole remedy shall be recovery from THE CITY of payment for completed services and understands and agrees that any consequential damages and any claimed damages resulting from loss of future profits are hereby waived.

In the event that the contract is terminated pursuant to this provision and THE CITY subsequently resumes the Solid Waste Program, the Agreement may be reinstated upon mutual agreement.

4. **COMPENSATION**

- A. **Monthly Invoices:** The Contractor shall submit monthly invoice statements for payments for services rendered, said statements to be submitted to THE CITY.
- B. **Service Components:** Monthly invoices shall be in a form as specified in Attachment C "Contractor's Compensation" (incorporated herein to this agreement).
- C. **Payment for Services:** THE CITY shall pay the Contractor for services rendered as invoiced within 30 days upon receipt of the invoice and upon successful completion of all services required, including, but not limited to, the Monthly Service Report as specified in Attachment B.

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- D. **Taxes:** The Contractor shall pay all Federal, State, and local taxes including, but not limited to, property taxes, sales taxes, social security taxes, income taxes, and fees, which may be chargeable against the labor, material, equipment, real estate or any other items necessary in the performance of this contract, except for: (1) additional fees that are imposed upon the Contractor by Federal or State legislation enacted following the Effective Date, and (2) exceptions otherwise noted.

**5. LEGAL AND INSURANCE REQUIREMENTS**

- A. **Responsibility for Waste:** Ownership of acceptable waste shall transfer to the Contractor at the time that it is loaded into the Contractor's collection vehicles.
- B. **Indemnification:** To the fullest extent permitted by law, the Contractor shall indemnify, defend, and hold harmless THE CITY and its officials, agents, and employees from and against all claims, damages, losses, and expenses, including attorney's fees, which THE CITY may suffer or for which it may be held liable, arising out of or resulting from the Contractor's or its agent's or employee's actions or negligent actions or omissions in the performance of this contract.

This indemnification shall survive the expiration or termination of this contract. By entering this contract, the parties do not waive any immunity provided by law.

- C. **Pollution Liability:** To the fullest extent permitted by law, the Contractor shall indemnify, defend, and hold harmless THE CITY and its officials, agents, and employees from and against all claims, damages, losses, and expenses, including attorney's fees, which THE CITY may suffer or for which it may be held liable, arising out of or resulting from the death or bodily injuries to any person, destruction or damage to any property, contamination of or adverse effects on the environment, or any violation of governmental laws, regulations or orders resulting from Contractor's collection of waste.

This indemnification shall survive the expiration or termination of this contract. By entering this contract, the parties do not waive any immunity provided by law.

- D. **Independent Contractor:** The Contractor shall be deemed an independent contractor, and not an employee of THE CITY. Any and all employees, members or associates of the Contractor or other persons, while engaged in the work or services required to be performed by the Contractor, shall not be considered employees of THE CITY. Any and all claims that might arise on behalf of employees of Contractor or other persons as a consequence of any act or omission on the part of said employees of Contractor shall in no way be the obligation or responsibility of THE CITY. Contractor fully understands all consequences, financial and legal, of the status of an independent contractor.

- E. **Contractor Performance Bond:** The Contractor will be required to furnish financial assurance to compensate THE CITY for losses that may be incurred in the event Contractor fails to faithfully perform Contractor's obligations under this Contract. Said financial assurance shall be equal to one fourth of the amount of the annual total contract price and shall take the form of a corporate surety bond, letter of credit, or other financial assurance deemed acceptable by THE CITY. Said financial assurance shall be renewed annually and stay in effect throughout the contract period. The bond shall be with a surety licensed and permitted to do business in the State of Michigan and in a form acceptable to THE CITY.

Annual contract price, for purposes of this performance bond, shall be based on estimates derived by THE CITY for the first year and actual contract payments for subsequent years.

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- F. **Insurance Requirements:** The Contractor shall submit a Certificate of Insurance prior to the execution of a contract meeting the minimum limits of liabilities as outlined. All insurance carriers must be acceptable to THE CITY and licensed in the State of Michigan.

A new certificate of insurance shall be provided to THE CITY each year at the time of policy renewal. The Vendor shall not allow for any lapse of insurance coverage in the amounts shown below. Failure of the Vendor to maintain the required insurance shall be grounds for contract cancellation.

1. **Workers' Compensation Insurance:** The Contractor shall procure and maintain during the life of this contract, Workers' Compensation Insurance, including employers Liability Coverage, in accordance with all applicable statutes of the State of Michigan.
2. **Commercial General Liability Insurance:** The Contractor shall procure and maintain during the life of the blanket purchase order, Commercial General Liability Insurance on an "Occurrence Basis" and motor vehicle insurance with limits of liability not less than \$1,000,000.00 (one million dollars) per occurrence, Personal Injury, Bodily Injury, and Property Damage. Coverage shall include the following extensions: (A) Contractual Liability; (B) Products and Completed Operations Liability; (C) Independent Contractors Coverage; (D) Broad Form General Liability Extensions or equivalent; (E) Deletion of all Explosion, Collapse and Underground (XCU) Exclusions, if applicable. Additionally, the Contractor shall procure and maintain Umbrella Coverage of not less than \$1,000,000.00 (one million dollars).
3. **Additional Insured:** Commercial General Liability and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating the following shall be Additional Insureds: "THE CITY, all elected and appointed officials, all employees and volunteers." This coverage shall be primary to the Additional Insureds, and not contributing with any other insurance or similar protection available to the Additional Insureds, whether other available coverage is primary, contributing or excess.
4. **Cancellation Notice:** Workers' Compensation Insurance, Commercial General Liability Insurance and Motor Vehicle Liability Insurance, as described above, shall include an endorsement stating the following. "It is understood and agreed that Sixty (60) days Advance Written Notice of Cancellation, Non-Renewal, Reduction and/or Material Change shall be sent to the City of South Lyon, 335 S. Warren, South Lyon, MI 48178."

If any of the above coverages expire during the term of the contract, the Contractor shall deliver renewal certificates and/or policies to THE CITY at least ten (10) days prior to the expiration date.

- G. **Non-Discrimination:** Contractor agrees that Contractor shall not discriminate against any employee, applicant for employment or other person, supplier, or contractor because of race, color, religion, sex, marital status, national origin, disability or public assistance.
- H. **Assignment and Subcontracting:** The Contractor shall not delegate or assign the Agreement, or any part thereof, to an unaffiliated entity, nor shall the Contractor sub-contract this Agreement or any part thereof without the prior written approval of THE CITY, which shall not be unreasonably withheld.

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The Contractor may not assign any parts of this Agreement via sale, merger or acquisition of the Contractor's company without the prior written approval of THE CITY, which shall not be unreasonably withheld.

**I. Compliance with All Laws, Rules, Regulations and Licensing Requirements:**

The Contractor shall comply with all municipal, county, state and federal laws, regulations, ordinances and specifications.

**J. Liquidated Damages:** THE CITY and Contractor agree, in addition to any other remedies available to THE CITY, THE CITY may impose the amounts specified below as liquidated damages for failure of the Contractor to fulfill its obligations as determined by THE CITY. THE CITY shall have authority to deduct the amounts specified herein from payments due the Contractor.

1. Failure to clean up spilled refuse:  
\$25 for each incident.
2. Failure to clean vehicle, conveyances, containers, docks, yards, shops, and other equipment as provided in the specifications:  
\$50 for each incident.
3. Failure to complete all routine pickups by 6:00 p.m. on the scheduled day or failure to complete all routine pickups on major roads by 5:00 p.m. on the scheduled day:  
\$100.00 for each incident.
4. Failure to collect solid waste, recyclables, and yard waste within 36 hours after notification of a complaint or by the end of the following regular business day:  
\$100.00 for each incident.
5. Failure to maintain vehicle in operable condition and acceptable appearance after inspection and notice by THE CITY:  
\$500.00 for each incident.

The liquidated damages provided for herein are not considered as penalties and were not calculated in contemplation or anticipation that the Contractor would default. In the event the Contractor does default or otherwise abandon the project, THE CITY reserves the right to collect from the Contractor or its surety, in addition to the liquidated damages, the actual damages incurred by THE CITY as a result of the default or abandonment.

The assessment of liquidated damages shall be determined by THE CITY and deductions made from the payment each month to the Contractor. The decision of THE CITY in the matter will be binding. The Contractor may at their option initiate the dispute resolution process included in this service agreement.

**K. Contact Persons for Legal Notices:** The Contractor identifies Tom Duncan, Owner, of Duncan Disposal Systems, Inc. at P.O. Box 727, South Lyon, MI 48178, who shall be designated to receive all notices and communications on behalf of the contracting parties with regard to the contract. Written notice required to be provided to THE CITY pursuant to this Agreement shall be provided the City of South Lyon, c/o City Manager, 335 S. Warren, South Lyon, MI 48178.

**L. Performance:** Contractor shall see that all work done pursuant to this Agreement is accomplished with work forces and equipment which are adequate to insure the satisfactory transportation of said materials at all times. Either Party may be excused from performance under this agreement by reason of an event defined herein as Force Majeure which is outside of the Party's control and cannot be avoided by the exercise of due care.

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- M. **Conflict of Interest:** Neither the Contractor nor its employees neither presently have, nor shall acquire interest, direct or indirect, in the contract in any manner forbidden by law. No CITY official shall be directly or indirectly interested in this contract.
- N. **Severability:** This Agreement is subject to the laws of the United States of America, the State of Michigan, and the Ordinances of the City of South Lyon. In the event that any provision of this Agreement shall be held to be contrary to law or Ordinance by a court of competent jurisdiction from whose final judgment or decree no appeal has been taken within the time provided, such provision or provisions shall be voided. All other terms and conditions of the Agreement shall continue in full force and effect. The voided provision or provisions may be renegotiated at the written request of either party to this Agreement.
- O. **Governing Law:** This Agreement shall be deemed to be a contract made in the State of Michigan and shall be interpreted and construed in all respects in accordance with the laws of the State of Michigan applicable to contracts wholly to be performed therein.
- P. **Modification:** Any alterations, variations, modifications or waivers of the provisions of this Agreement shall only be valid when they have been reduced to writing, signed by the authorized representatives of THE CITY and Contractor and attached to this Agreement.
- Q. **Representation:** THE CITY and the Contractor each represent to the other that, by their respective execution of this Agreement they have obtained all necessary consents and approvals required for their respective execution and performance thereof.
- R. **Integration:** The Parties agree that the entire Agreement between the Parties is contained herein and that this Agreement, including any and all exhibits attached hereto, supersede all oral agreements and negotiations between the Parties relating to the subject matter hereof, as well as any previous agreements between the Contractor and THE CITY or either of them relating to the subject matter hereof.

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**EXECUTION**

In Witness whereof, the Parties hereto set their hands.

By the duly elected or appointed representatives of **THE CITY**:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
Date

By the duly appointed representatives of the **CONTRACTOR**:

The Contractor acknowledges by his/her signature on this document that the Contractor has received a copy of this contract and is in full agreement with the terms as imposed upon the Contractor by this Agreement and that the Contractor will comply with those terms and conditions.

\_\_\_\_\_  
*[Signature]*

\_\_\_\_\_  
RANDALL DUNCAN  
Name

\_\_\_\_\_  
3/12/13  
Date

\_\_\_\_\_  
*[Signature]*

\_\_\_\_\_  
C SCOTT DUNCAN  
Witness

\_\_\_\_\_  
3/12/13  
Date

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**Attachment A**

**GENERAL PROVISIONS**

**1.1 Term**

The term of this contract is for five (5) years commencing on July 1, 2013, and ending June 30, 2018. THE CITY may renew the Contract for one (1) three-year term (extension) under the conditions set forth in the Contract. THE CITY shall give the Contractor written notice of its intention to extend the contract period at least three (3) months prior to the expiration of the Contract.

**1.2 Customer Communications and Complaint Handling Procedure**

The Contractor must designate a Manager to supervise all work and operations to be performed under this contract. Said manager shall have substantial experience in the management and operation of refuse collection and recycling systems for a similar size service area.

The Contractor shall have at least one (1) full-time Field Supervisor, exclusive to and approved by THE CITY. The Field Supervisor shall familiarize himself with all service stops under contract. The Field Supervisor shall make a daily check with THE CITY to assure pick-up as scheduled.

The Contractor shall make a local telephone number available to receive all service complaints, which shall be logged. At its discretion, the CITY may designate a CITY department or agency and a telephone number to receive all service complaints, which shall be logged. The Field Supervisor shall arrange to pick up or receive such complaints every day for immediate action. The Field Supervisor will have until the end of the day to resolve complaints, with a maximum time limit of 36 hours or the end of the following regular business day. The complaint resolution action will be logged the next day or before. Any complaint not closed out during the required period will be noted and reviewed by THE CITY, or its designee, to determine if liquidated damages are appropriate.

The Contractor shall ensure that the Field Supervisor is equipped with a cellular telephone by which THE CITY may contact the Field Supervisor during business hours regarding, but limited to, complaints and special pickups.

**1.3 Service Standards**

The Contractor shall provide complete service for all routes each day as scheduled. The Contractor shall not commence collection in residential areas prior to 7:00 a.m. and shall be completed by 6:00 p.m. Collection on major roadways shall be completed by 5:00 p.m. All collections shall be made as quietly as possible. Unnecessarily noisy trucks or equipment are prohibited.

The Contractor shall pick-up all blown, littered, and broken materials occurring at the point of collection resulting from its collection and hauling operations. Each vehicle shall be equipped with a broom, shovel, and suitable absorbent material for use in cleaning up any spilled debris or material from city streets, sidewalks, or residential property when said spillage is caused by the Contractor. Care shall be taken to prevent damage to property, including lawns, shrubs, and other plants.

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THE CITY shall cooperate in requiring residents to provide and maintain suitable containers. The Contractor shall exercise care in the handling of containers, making certain that containers are emptied completely. The Contractor must replace containers in an erect position with the lids replaced thereon, or adjacent thereto. In the event the Contractor damages a resident's container(s), the Contractor shall be responsible to replace said container(s) with one of equivalent value at the Contractor's expense and within forty-eight (48) hours, excluding weekends.

Adverse weather shall not be considered reason for not providing services unless approved by THE CITY, which shall be not be unreasonably withheld. When adverse weather conditions exist, the contractor shall notify THE CITY if the continuation of service jeopardizes the safety of employees.

The Contractor shall assign a qualified person or persons to be in charge of its performance of this Contract, and shall advise THE CITY of such persons in advance and when changes occur.

All persons employed by the Contractor shall be competent, skilled, and qualified in the performance of the work to which they are assigned. All personnel shall maintain a courteous and respectful attitude towards the public at all times. The Contractor shall furnish employees with uniforms, which shall always be as neat and clean as circumstances permit. The Contractor shall inform THE CITY of all employee training programs related to customer relations, services, and safety issues.

At no time shall the Contractor's employees solicit, request or receive gratuities of any kind. The Contractor shall direct its employees to avoid loud/or profane language at all times during the performance of their duties. Any employee of the Contractor who engages in misconduct or is incompetent or negligent in the proper performance of their duties or is dishonest, disorderly, intoxicated or discourteous, shall be subject to discharge by the Contractor.

THE CITY may request the dismissal or removal of any employee of the Contractor who violates the provisions hereto, or who is wantonly negligent or discourteous in the performance of their duties.

**1.3.1 Field Rules and Regulations**

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The Contractor, in performing services under the contract, shall abide by the following rules and regulations and such other rules and regulations as THE CITY may promulgate from time to time.

1. All refuse spilled by the Contractor, or any spilled refuse caused by wind, animals, etc., shall be picked up by the Contractor in the course of its regularly scheduled pick-up.
2. Employees must be courteous. Disorderly workers shall be removed when so ordered by THE CITY.
3. Containers must be put back in approximately the place from where they were picked up.
4. Container lids shall be replaced on containers or must be neatly placed next to containers and not scattered.
5. Rough handling of containers will not be tolerated. Damaged containers shall be replaced or repaired by Contractor at the Contractor's expense.



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6. Collection crews will neither consume controlled substances nor drink alcoholic beverages nor accept remuneration of any kind from residents while performing services under this contract. Violation of this rule shall be cause for dismissal of the employee when requested by THE CITY.

7. THE CITY expressly reserves the right to make additional reasonable rules and regulations by which the Contractor shall abide.

**1.4 DETERMINATION OF RESIDENTIAL UNITS SERVICED**

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For the purposes of responding to this proposal, the number of residential units expected to be provided with curbside collection services for solid waste, recycling, and yard waste is as indicated in Section 1.1.3 and Appendix B of the Request for Proposals issued by RRRASOC on February 28, 2007, including addenda, unless otherwise specified and agreed to by both the Contractor and THE CITY. THE CITY shall provide the Contractor with a list of identifying the addresses of the homes to be serviced upon request.

For billing purposes prior to the initiation of service, the selected contractor and THE CITY will jointly complete and agree on a total unit count for each service type and for each route day. Route days shall be determined by mutual agreement between THE CITY and the Contractor.

At the time such a unit count becomes documented, the number of residential units serviced for billing purposes shall be updated monthly by 1) adding the number of occupancy permits for residential structures with single-family, two-family, three-family and four family residences per structure requiring curbside refuse service as issued by the Building Department of The CITY; and 2) deleting the number of complete demolition permits for residential structures with single-family, two-family, three-family and four family residences issued by that Building Department; or in a manner deem acceptable by the Contractor and THE CITY.

**1.5 COLLECTION AND DISPOSAL OF SOLID WASTE ON SUNDAY**

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The collection and disposal of solid waste on Sundays shall not be allowed unless otherwise approved by THE CITY. The Contractor shall not utilize Sundays as a designated collection day in the Schedule of Operations.

**1.6 HOLIDAYS**

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The Contractor shall honor only the following holidays: New Year's Day, Memorial Day, Independence Day, Labor Day, Thanksgiving Day, and Christmas Day. The Contractor shall provide THE CITY with the following year's collection schedule by August of the current year. THE CITY shall be responsible for publicizing any changes in collection schedules due to observance of the above holidays.

**1.7 VEHICLES AND EQUIPMENT**

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The Contractor shall provide adequate and sufficient garages, shops, and yards to provide all-weather year round operation and to adequately clean and maintain vehicles and equipment. All vehicles, equipment and facilities used by the Contractor shall be kept and maintained in sanitary condition, in good repair, and free of visual defects, such as but not limited to, rust or body damage. Vehicles, equipment and facilities shall be subject to inspection for safety, sanitation, repair, and appearance, and subject to approval or rejection THE CITY at any time. Employees driving Contractor's vehicles shall have a valid operator's license of the State of Michigan and shall meet state and federal requirements concerning commercial licensing.

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The Contractor shall not use THE CITY's name or other words implying ownership on stationery, vehicles or equipment, except for a sign on vehicles designating that the Contractor is an official Contractor.

All vehicles and equipment used in collection and transportation of solid waste, recyclables, and yard waste within THE CITY shall be of sufficient size, capacity, and number to adequately and efficiently collect solid waste, recyclables, and yard waste in accordance with the terms of this contract, including under special or unique circumstances.

**1.8 LIQUIDATED DAMAGES**

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THE CITY shall notify the Contractor for each violation of the contract reported to THE CITY. It shall be the duty of the Contractor to take proper action to remedy the cause of the complaint within thirty-six (36) hours after notification. Failure to remedy the cause of the complaint within the specified time period shall constitute a breach of this contract. For the purpose of computing damages under the provisions of this section, it is agreed that THE CITY shall have authority to deduct from payments due the Contractor, the following amount as liquidated damages:

1. Failure to clean up spilled refuse:  
\$25 for each incident.
2. Failure to clean vehicle, conveyances, containers, docks, yards, shops, and other equipment as provided in the specifications:  
\$50 for each incident.
3. Failure to complete all routine pickups by 6:00 p.m. on the scheduled day or failure to complete all routine pickups on major roads by 5:00 p.m. on the scheduled day:  
\$100.00 for each incident with each late pickup as a separate incident.
4. Failure to collect solid waste, recyclables, and yard waste within 36 hours after notification of a complaint or by the end of the following regular business day:  
\$100.00 for each incident.
5. Failure to maintain vehicle in operable condition and acceptable appearance after inspection and notice by THE CITY:  
\$500.00 for each incident.

The liquidated damages provided for herein are not considered as penalties and were not calculated in contemplation or anticipation that the Contractor would default. Liquidated damages shall not be initiated in for violations that occur due to events beyond the Contractor's control. In the event the Contractor does default or otherwise abandon the project, THE CITY reserves the right to collect from the Contractor or its surety, in addition to the liquidated damages, the actual damages incurred by THE CITY as a result of the default or abandonment.

The assessment of liquidated damages shall be determined by THE CITY and deductions made from the payment each month to the Contractor. The decision of THE CITY in the matter will be binding. The Contractor may at their option initiate the dispute resolution process included in this service agreement.

**1.9 CONTRACT PRICE ADJUSTMENTS**

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The contract price schedule shall be reviewed and revised in June of each contract year and extension period, if any, in accordance with the most recent full calendar year annual percentage increase or decrease in the reference annual Consumer Price Index escalator, and the contract

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price shall be established for the next contract year beginning on July 1, following the June evaluation, except, however, that the price adjustment shall not exceed three (3) percent. No other changes in contract prices are permitted, except as authorized by this agreement.

The reference Consumer Price Index shall be the Consumer Price Index - All Urban Consumers for the Detroit-Ann Arbor-Flint area (all items), base period: 1982-84=100, as published by the Bureau of Labor Statistics, U.S. Department of Labor.

In the event the U.S. Department of Labor, Bureau of Labor Statistics ceases to publish the CPI, another equally authoritative measure of change in the purchasing power of the U. S. dollar as may be then available shall be substituted.

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**1.10 BASIS AND METHOD OF PAYMENT**

The Contractor shall be paid for services rendered under the terms of the Contract, within a reasonable time (normally 30 days) after completion of the work at month end, and receipt and approval by THE CITY of the Itemized billing, the fees earned the previous month. The amount remitted to the Contractor by THE CITY shall be the number of units serviced times the rate agreed upon in the Contract for each unit.

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**1.11 DISPOSAL OF SOLID WASTE AND OTHER MATERIALS**

THE CITY specifically reserves the right to direct the yard waste and recyclables collected under these provisions to a specific state approved disposal facility or, if appropriate, to an approved collection site, recycling facility or compost facility, upon agreement by the Contractor, which shall not be unreasonably withheld. THE CITY retains the right to terminate the contract, on ninety (90) days written notice, if the Contractor does not comply with the direction of yard waste or recyclables as set forth. Should THE CITY exercise its right to direct material to specific facilities, THE CITY shall pay the disposal fees directly to such facilities, unless otherwise specified. The Contractor shall be entitled compensation for services in accordance with the Contractor's response to the RFP issued by RRRASOC on February 28, 2007, including addenda.

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**1.12 ACCESS**

The Contractor will not be required to pick up waste if a road becomes impassable and prohibits access to a residential unit from any direction on a roadway. The Contractor, however, will be required to notify THE CITY of this occurrence and will be required to pick up waste at the nearest public roadway or at a point of closure.

The Contractor may be required to pick up waste in an alternate vehicle under circumstances that prohibit the standard collection vehicle from access to a residential unit.

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**1.13 PRIVATE DRIVEWAYS**

The Contractor shall not be required to enter private driveways. However, certain private roads may be considered access roads for purposes of this Agreement.

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**1.14 ROUTES AND SERVICED ADDRESSES**

THE CITY shall provide an accurate address list identifying the homes to be serviced by the Contractor, upon request.

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**1.15 HAULING**

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All solid waste hauled by the Contractor shall be contained, tied, or enclosed so that leaking, spilling, or blowing are prevented.

**1.16 STORMS AND OTHER DISASTERS**

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In case of an unusual storm or other disaster, THE CITY may, at its discretion, grant the Contractor reasonable variance from regular schedules and routes. As soon as practicable after such storm or disaster, the Contractor shall advise THE CITY of the estimated time required before regular schedules and routes can be resumed.

**1.17 ADDITIONAL SERVICE**

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THE CITY shall not be responsible to the Contractor for any additional services that fall outside the scope of this Agreement which are provided by the Contractor without the request of THE CITY. The Contractor shall not charge any residents for services provided under the terms of the contract, unless otherwise specified by the Agreement.

**1.18 INFRASTRUCTURE RENOVATION/STREETS BLOCKED BY CONSTRUCTION**

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Periodically major renovation is necessary to maintain the infrastructure within THE CITY. This includes such activities as replacing gas, water and sewer lines, surfacing or resurfacing streets, and replacing wiring for telephone, electricity, or cable television.

If THE CITY or designee is notified in advance of these activities, the Contractor will be notified. However, it is not uncommon for work to be initiated without prior notification. Alternate sanitation service must be provided during this period of disruption. No additional fees shall be payable for services provided under these conditions.

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**Attachment B**

**CONTRACTOR'S SERVICE SPECIFICATIONS**

**2.1 Residential Collection Services**

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The Contractor shall be required to maintain a high level of solid waste, recycling, and yard waste collection and disposal services. Refuse shall be collected from all containers presently in use and in all forms presently used. The Contractor shall collect, transport and dispose all refuse, rubbish, debris, recyclables, and yard waste which the resident may desire to have removed weekly. The Contractor shall collect, transport and dispose all material residents properly place at the curb, unless otherwise specified herein. Residents shall be provided with written instructions and/or explanations by the Contractor when the Contractor deems an item or items to be improperly prepared or unsuitable for curbside collection.

**2.1.1 Residential Refuse Collection**

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The Contractor shall operate a curbside refuse collection, transportation, and disposal system, which shall result in the removal of all solid waste from all designated residential units and its being transported for disposal to an appropriate solid waste disposal facility, in accordance with all municipal, county, state and federal laws, ordinances, and regulations.

Residential units are comprised of housing that is located in single-family neighborhoods or streets. These include duplex and triplex type multi-family housing and units. An account of the current number and location of these units has been included in the RFP issued February 28, 2007, including addenda.

Refuse means all animal and vegetable food waste and all waste which normally results from the operation of a household, except body waste and yard waste, including but not limited to rubbish, metal cans, papers, cardboard, glass jars, bottles, wood, logs, ashes, sod, dirt, rocks, cement, bricks, small household appliances, furniture, plastics and any other household refuse small enough for one person to handle and no more than sixty (60) pounds.

Residents will place refuse in refuse bags, or watertight containers of substantial construction with tight fitting lids and lifting handles and not to exceed 35 gallons in size. Refuse placed in cardboard containers and plastic or paper bags shall be considered part of the refuse and shall be collected as part of residential solid waste collection. Total weight of a single container and its contents shall not exceed sixty (60) pounds. Some articles cannot be conveniently placed in containers. Such articles, if within the weight and size limitations, must be handled individually by the Contractor. No single piece of refuse must be collected if it weighs more than sixty (60) pounds, except bulky items as hereinafter set forth.

The Contractor shall exercise reasonable care and diligence in handling containers. THE CITY will cooperate in requiring homeowners to provide and maintain suitable containers, and the Contractor must exercise due care in preventing damage to containers, thereto, and shall return all containers to an upright position with the lids replaced thereon or adjacent thereto. In the event the Contractor damages a container(s), the Contractor shall be responsible for replacing said container(s) with one of equivalent value at Contractor's expense within forty-eight (48) hours (excluding Saturdays and Sundays).

THE CITY reserves the right to impose a bag/can limit on the housing units to be serviced and implement a variable rate, bag/tag, or Pay-As-You-Throw system. Should such a system be implemented, the Contractor would only pick up bags, containers or other household items that are within the bag/can limit or are properly tagged. THE CITY will give the Contractor ninety (90) days notice before implementing such a system.

**City of South Lyon**  
**Solid Waste, Yard Waste, Recycling Collection and Disposal Agreement**

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A written monthly tonnage report must be supplied to THE CITY and RRRASOC, or made accessible in a compatible electronic format, via email or Internet, indicating the daily and monthly volume of deliveries made to the disposal facility by the Contractor on behalf of THE CITY. Further, THE CITY retains the right to require the use of specific reporting means at any time during the contract, without additional cost to THE CITY.

**2.1.2 Residential Bulky Waste**

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As part of the solid waste unit price and not as a separate pay item, the Contractor shall pick up as part of the refuse pick-up and shall deposit in the same truck or separate trucks if necessary all bulky items including but not limited to fixtures and furniture, storm doors and windows, tubs, toilets, sinks, carpets and pads, railroad ties, and fence posts or fences not exceeding 3' x 4' in dimension, and small quantities of building debris resulting from repair or remodeling personally done by the home occupant which have been placed at the curb.

The Contractor shall not be required to collect engines, transmissions or rear axles, or bulky items resulting from the home occupant's personal repair or remodeling that exceed five feet (5') in length. The Contractor will not be required to pick up junk cars, large parts of cars, demolition materials or other material resulting from the repair or construction of buildings except as otherwise provided herein.

**2.1.3 Residential White Goods**

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As part of the solid waste unit price and not as a separate pay item, the Contractor shall collect recyclable metal bulky items including, but not limited to household appliances such as stoves, refrigerators, freezers, washers, dryers, water heaters, water softeners and water tanks in a separate truck. Such items shall be recycled whenever feasible. Generally these household metal bulky items may also include small metal sheds, swimming pools, garage doors, fenders, hoods of cars, etc. This collection is required to be made on the same day as scheduled refuse collection.

The Contractor shall be responsible for complying with all applicable laws concerning the disposal or recycling of air conditioning and refrigeration equipment, including but not limited to the provisions of the Clean Air Act which prohibits the venting of refrigerants into the atmosphere. It shall be the Contractor's responsibilities to haul material and to insure that freon-containing material that are not tagged are delivered to a designated facility for proper removal. Residents shall not be required to ensure that freon or other such refrigerants are removed prior to collection.

A written monthly report must be supplied to THE CITY and RRRASOC, or made accessible in a compatible electronic format, via email or Internet, indicating the tonnage of this material that is recycled and the scrap metal recycling facility to which it was delivered.

**2.1.4 Handicap/Back-Door Pickup**

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There may be residential units on the collection routes that are occupied by individuals who have been determined by THE CITY to be unable to move refuse and yard debris to the curb. These locations will require back-door service by the Contractor as part of the regularly scheduled refuse collection. The Contractor will be required to bring the containers to the curb and will be encouraged, but not be required, to return the container to the back door. The Contractor and THE CITY will mutually agree upon the eligibility, price, and frequency of such service.

**City of South Lyon**  
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**2.1.5 Multi-Family Solid Waste and Recycling Collection**

---

THE CITY provides solid waste and recycling collection services to certain multi-family complexes located within THE CITY. Such services are generally considered individual stops but may be subject to a discounted price based on the waste generation characteristics of such households. Such locations shall be identified by THE CITY.

**2.1.6 Christmas Trees**

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Christmas trees placed out at any time may be collected as part of the regular refuse collection, unless otherwise prohibited by law.

**2.1.7 Yard Waste/Lawn Debris Collection**

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As part of the solid waste unit price and included as part of weekly regular curbside pick-ups, the Contractor shall separately pick up unlimited, separated yard waste and lawn debris as part of the regularly scheduled collection required by this Contract. The period of collection shall be from the Monday of the first full week of April through the Friday of the last full week of November, unless otherwise specified by mutual agreement between the Contractor and THE CITY. The Contractor will provide, upon request of THE CITY, additional yard waste/ lawn debris collection, provided the Contractor has access to a compost site that is open and accepting material. The rate for this additional service shall be as specified in Attachment C.

All yard waste and lawn debris shall be transported for disposal to an appropriate compost site, in accordance with all municipal, county, state and federal laws, ordinances, and regulations, and under no circumstances to a landfill or disposal facility, unless otherwise specified herein and permitted by law. A written monthly report must be supplied to THE CITY and RRRASOC, or made accessible in a compatible electronic format, via email or Internet, indicating the daily and monthly volume of deliveries made to the facility by the Contractor on behalf of THE CITY.

Acceptable yard waste and lawn debris shall include grass clippings, weeds, leaves, small twigs, prunings, shrub clippings, garden waste materials and fruit; old potting soil, Halloween pumpkins, dirt incidental to minor plantings or edging of lawns; brush, branches, tree trimmings, shrub clippings tied and bundled with biodegradable string or twine; and small shrubs and bushes with dirt removed from root systems; or any other material defined by law as "yard clippings".

Acceptable yard waste and lawn debris shall include so called "woody" or "hard" yard waste as long as it is properly prepared. The Contractor will not be required to pick up tree branches or logs greater than three inches (3") in diameter, longer than four feet (4') in length, tied or secured with string or twine in bundles larger than eighteen inches (18") in diameter, or weighing in excess of sixty (60) pounds. Such material shall be collected as part of regular refuse collection unless otherwise prohibited by law.

The yard debris will be bundled as required, placed in large capacity kraft / paper bags or placed loose in cans with a "yard waste recycling" or "compost" sticker provided by THE CITY on opposite sides of the container.

Brush, branches, tree trimmings, shrub clippings tied and bundled and set out for collection at other than the designated yard waste/lawn debris collection season shall be collected as part of the regular refuse collection, unless otherwise prohibited by law.

**City of South Lyon**  
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**2.1.8 Recycling Collection**

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As part of the solid waste unit price and included as part of weekly regular curbside pick-ups, the Contractor shall separately pick up on the same day as the regularly scheduled refuse collection required by this Contract, recyclable materials set-out as per the specifications identified by THE CITY, as specified in the MSA.

The recyclable materials shall be collected in single stream fashion using the existing curbside bin system.

All recyclable material shall be transported to and tipped at no cost to the Contractor at the RRRASOC Material Recovery Facility, located at 20000 W. Eight Mile Rd., Southfield, MI 48075. A written monthly report must be supplied to THE CITY and RRRASOC, or made accessible in a compatible electronic format, via email or Internet, indicating the weekly and monthly volume of deliveries made to the facility by the Contractor on behalf of THE CITY. Further, THE CITY retains the right to require the use of specific reporting means at any time during the contract, without additional cost to THE CITY.

**2.2 Other Municipal Solid Waste Services**

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THE CITY may request other Municipal Solid Waste Services including, but not limited to, solid waste container service at municipal buildings and facilities, clean-up assistance, and DPW debris transport and disposal. Such services shall be billed in accordance with the fee schedule included in Attachment C and included in the monthly invoice submitted to THE CITY.



**City of South Lyon**  
**Solid Waste, Yard Waste, Recycling Collection and Disposal Agreement**

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**Attachment C**

**CONTRACTOR'S COMPENSATION**

1. **Form of Invoice:** The monthly Invoice submitted by the Contractor must contain the following information.
  - (a) **Fee for Units Serviced:** Provide an Itemization of the total number of units serviced, the type of service provided, the unit price for that service as modified by any applicable price escalation factor as provided for in this agreement and the extension of that unit price multiplied by the number of units serviced.
  - (b) **Subtotal for Invoice:** Sum a total of any Itemization in 1(a) above.
  - (c) **Deducts:** Subtract and deductions allowed for Liquidated Damages (See Section 5-J, Liquidated Damages).
  - (d) **Final Amount Due:** Sum the total of charges and deductions that is to be paid by THE CITY to the Contractor.
2. **Contractor's Base Price Rate Schedule for collection, transportation, and disposal (solid waste unit price as of July 1, 2013):**
  - (a) Residential Units (\$/year):

	Single-Family Units		Multi-Family Units	
Refuse	\$	84.60	\$	67.68
Yard Waste	\$	28.44	\$	28.44
Recycling	\$	20.88	\$	20.88
<b>Total</b>	<b>\$</b>	<b>133.92</b>	<b>\$</b>	<b>117.00</b>

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(b) Other Services

**Municipal Solid Waste Containers (with Disposal Costs Included), Special Services, and Recycling Containers.**

Solid Waste Containers	Price effective FY 2013/14
96 Gallon Cart, cost per pull (hauling & disposal)	3.96
96 Gallon Cart, rental cost/month	
2 CY Dumpster, cost per pull (hauling & disposal)	\$ 12.18
2 CY Dumpster, rental cost/month	included
4 CY Dumpster, cost per pull (hauling & disposal)	\$ 17.05
4 CY Dumpster, rental cost/month	included
6 CY Dumpster, cost per pull (hauling & disposal)	\$ 21.93
6 CY Dumpster, rental cost/month	included
8 CY Dumpster, cost per pull (hauling & disposal)	\$ 26.79
8 CY Dumpster, rental cost/month	included
10 CY Roll-off, cost per pull (hauling & disposal)	\$ 184.76
10 CY Roll-off, rental cost/month	\$ 52.79
30 CY Roll-off, cost per pull (hauling & disposal)	\$ 263.94
30 CY Roll-off, rental cost/month	\$ 79.18
40 CY Roll-off cost per pull (hauling & disposal)	\$ 369.51
40 CY Roll-off, rental cost/month	\$ 105.57

**City of South Lyon**  
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Recycling Containers	Price
96 Gallon Cart, cost per pull (hauling only)	\$ 3.96
96 Gallon Cart, rental cost/month	included
2 CY Dumpster, cost per pull (hauling only)	\$ 12.18
2 CY Dumpster, rental cost/month	included
4 CY Dumpster, cost per pull (hauling only)	\$ 17.05
4 CY Dumpster, rental cost/month	included
6 CY Dumpster, cost per pull (hauling only)	\$ 21.93
6 CY Dumpster, rental cost/month	included
8 CY Dumpster, cost per pull (hauling only)	\$ 26.79
8 CY Dumpster, rental cost/month	included
10 CY Roll-off, cost per pull (hauling only)	\$ 105.57
10 CY Roll-off, rental cost/month	\$ 52.79
30 CY Roll-off, cost per pull (hauling only)	\$ 158.36
30 CY Roll-off, rental cost/month	\$ 79.18
40 CY Roll-off cost per pull (hauling only)	\$ 205.87
40 CY Roll-off, rental cost/month	\$ 105.57

**City of South Lyon**  
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<b>Special Services and Disposal</b>	<b>Price</b>
Pickup Truck and Crew, \$/hour	\$ 79.18
Stake Truck and Crew, \$/hour	\$ 131.97
Dump Truck and Crew, \$/hour	\$ 158.36
Rear Load Compacting Truck & Crew, \$/hour	\$ 158.36
Front Load Compacting Truck & Crew, \$/hour	\$ 184.76
Roll-off Truck and Crew, \$/hour	\$ 158.36
"Log Grabber" Truck and Crew, \$/hour	na
Skid Steer w/Grapple Bucket & Crew, \$/hour	na
Front-End Loader and Crew, \$/hour	na
DPW Debris Disposal <sup>(2)</sup> , \$/ton	na
Leaf Vacuum Program Leaf Disposal, \$/ton	na
C & D Debris Disposal, \$/ton	na

**City of South Lyon**  
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**Attachment D**

**RECYCLABLE MATERIALS SPECIFICATIONS**

**COMMINGLED CONTAINERS** consist of the following, loose, uncompacted, and commingled, placed in bins or carts:

- Glass, transparent and translucent food and beverage bottles and jars. Paper labels are acceptable as are rings and lids on glass containers.
- Tin/Steel cans, tin plated, food and beverage containers, all sizes; paper labels are acceptable.
- Aluminum used beverage containers and foil clean of food.
- All plastic bottles.
- Plastic Household Tubs/Containers #1, 2 and 4-7 which Includes plastic yogurt and margarine tubs, frozen concentrated juice containers, Folgers coffee 'cans,' freezer microwave trays, berry boxes (#1) including attached lids, salad/carryout boxes (#1). Clean and free of residue, No #3.
- Agricultural Plant Trays and Pots; clean, free of residue and soil.
- Household scrap metal that will fit in the recycling bin.
- Multi-coated/plastic-coated paper beverage cartons: Including milk and juice cartons (Aseptic).
- Bulky HDPE is defined as large HDPE items (buckets, crates, toys, trays, furniture, bins, barrels etc.), no larger than 2' x 2'. This category is often referred to as "Injection HDPE".

**COMMINGLED FIBER** consist of the following, loose, and commingled

- ONP - old newspapers and advertisement inserts, loose or placed in Kraft (brown) paper bags. Old newspaper that contains incidental moisture from rain on collection days is acceptable. Soaked paper or yellowed newsprint is unacceptable.
- OMG - old magazines containing glossy coated paper, including catalogues, glossy fillers or mailers, loose or placed in Kraft (brown) paper bags, with the exception of wet material or material that was once wet.
- OCC - old corrugated containers (cardboard) that are flattened and either cut down or folded to size no more than 2 by 2 feet and that have liners of Kraft, jute, or test liner. Staples and tape with water soluble glues do not have to be removed. OCC can be damp but not soaked. Wax-coated and oriental old corrugated containers are not acceptable.
- Kraft (brown) paper bags - all sizes of loose, bundled or bagged Kraft paper grocery sacks.

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- Junk mail - all dry, loose or bagged bulk mail consisting of paper or cardboard. All unopened junk mail and envelopes with window are acceptable.
- High-grade paper - all dry, loose or bagged white and colored ledger and copier paper, note pad paper (no backing), loose leaf fillers, computer paper (continuous-form perforated white bond or green-bar paper).
- Boxboard - all non-corrugated cardboard, commonly used in dry food and cereal boxes, shoe boxes, and other similar packaging. Boxboard with wax or plastic coating and boxboard that has been contaminated by food is not acceptable.
- Telephone Books

Maximum allowable contamination rate: 6%

**DELIVERY RULES AND REGULATIONS**

- Residents and businesses shall discard containers' contents and rinse the containers. They are encouraged to discard, labels, caps, and rings; but there is no requirement for these to be removed from Recyclable Materials.
- Materials delivered will contain all of the commingled items listed for each category and in proportions that can be reasonably expected from a municipal curbside collection, recycling program.
- Recyclables, particularly non-fiber items, will not be delivered in bags unless specifically allowed or directed above.
- Operators of rear-dumping vehicles will be required to sweep clean all materials from the empty compartment before proceeding to the next tipping area.
- Loads will be considered non-conforming to Facility Delivery Standards if:
  1. They are found to be contaminated with Hazardous or Infectious Waste.
  2. A load contains more than the maximum allowable contamination of materials that are not acceptable as Recyclables, but are not Hazardous or Infectious Waste.

# AGENDA NOTE

~~New~~ Business: Item # 4  
OLD

**MEETING DATE:** March 12, 2018

**PERSON PLACING ITEM ON AGENDA:** Councilmember Kurtzweil

**AGENDA TOPIC:** Workplace Seminar

**EXPLANATION OF TOPIC:** to discuss possible topics of workplace seminar

**MATERIALS ATTACHED AS SUPPORTING DOCUMENTS:** List of possible topics

**POSSIBLE COURSES OF ACTION:** Discussion and action

**RECOMMENDATION:**

**SUGGESTED MOTION:** Motion by \_\_\_\_\_, supported by  
\_\_\_\_\_ to

## EMPLOYMENT POSSIBLE TOPICS

1. Whistle Blower
2. ELCRA (replaces Fair Employment Practices Act)  
Prohibits discrimination against a person's race, color, religion, national origin, age, sex (including pregnancy), height, weight or marital status.
3. Elliott-Larsen Civil Rights Act  
Retaliation for opposing a violation of the act, filing a charge, testifying, assisting or participant in an investigation, proceeding or hearing, is also prohibited.
4. Genetic Information Nondiscrimination Act of 2008
5. Age Discrimination in Employment Act of 1967
6. Discriminatory Harassment  
Quid pro quo; unwelcome conduct; same sex harassment; supervisor conduct; co-worker conduct  
Hostile work environment  
Anti retaliation protection
7. Employee Polygraph Protection Act
8. Uniformed Services Employment and Reemployment Rights Act of 1994
9. FMLA (family medical leave act) (DOL website)
10. Bullard-Plawecki Employee Right to Know Act
11. Right to Work Act
12. City Ethics Ordinance



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**Practice areas:** Negligence/Torts/No-Fault, Employment/Labor

Stefani A. Carter practices in the areas of personal injury, malpractice, and employment discrimination. Ms. Carter has served as a guest faculty member at the University of Michigan Law School and is a member of the Washtenaw County Bar Association (past president), the Washtenaw Trial Lawyers Association, the Vanzetti M. Hamilton Bar Association, and many civic organizations. She also serves as a trustee for the Michigan Bar Foundation and formerly served on the State Bar of Michigan Board of Commissioners. She has been a team leader and faculty member at ICLE's Trial Skills and Deposition Skills Workshop.

#### Featured ICLE Contributions:

[A Practical Guide to Depositions in Michigan, Second Edition \(Book\)](#)

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Civil Litigation, Alternative Dispute Resolution (ADR)

James K. Fett practices in the areas of non-union employment law, personal injury, commercial litigation, and arbitration. Mr. Fett is a member of the Washtenaw County Trial Lawyers Association, the Michigan Trial Lawyers Association, the National Employment Lawyers Association, and the Labor and Employment Law Sections of the American and State Bar Associations. Mr. Fett was recognized by Michigan Lawyers Weekly as one of the top ten Michigan lawyers for the year 2000. He is a member of the Million Dollar Advocates Forum, which recognizes exceptional skill, experience, and excellence in advocacy as demonstrated by achieving a trial verdict in the amount of one million dollars or more.

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**Practice areas:** Employment/Labor, Ethics

Donald J. Gasiorek practices in the areas of labor and employment law and malpractice law. Mr. Gasiorek has frequently lectured for the American Bar Association Section on Individual Rights and Responsibilities in the Work Place, the Michigan State Bar Association, the Oakland County Bar Association, the Michigan Trial Lawyers Association and ICLE. He is a member of the Labor Law Section of the American Bar Association and the State Bar of Michigan. Mr. Gasiorek is a former adjunct professor of law at the Detroit College of Law and co-developed the course entitled "Trial Litigation and Advocacy." He has been listed in the "Best Lawyers in America" since 1995.

### Featured ICLE Contributions:

Michigan Model Civil Jury Instructions (Book)

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Jeffrey A. Levine practices in the areas of buying and selling business interests; mergers, acquisitions, and related transactions; and corporate, business, estate, and individual planning. He is a member of the Taxation Section of the American Bar Association and the Taxation, Business, Antitrust, Franchising and Trade Regulation, and Health Care Law Sections of the State Bar of Michigan. Mr. Levine has also served as secretary/treasurer, vice chair, and chair of the Taxation Section of the State Bar of Michigan. An adjunct professor at Wayne State University School of Law from 1996 to 2008, he taught a course on the taxation of corporations and shareholders. Mr. Levine is a frequent lecturer and author on business law and taxation issues.

**Featured ICLE Contributions:**

[Buying and Selling a Business in Michigan, Second Edition](#) (Book)

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**Practice areas:** Employment/Labor

Sonja L. Lengnick practices in the area of labor and employment law. She specializes in defending employers in individual and class action litigation in state and federal courts and in administrative proceedings, as well as counseling employers in a variety of preventive contexts including sexual harassment training and investigations, workplace discipline, and policy reviews. Ms. Lengnick has developed a special expertise on issues regarding the Family and Medical Leave Act and Americans with Disabilities Act. Before joining Kienbaum Opperwall Hardy & Pelton, she was a partner in the labor and employment group at Perkins Coie in Seattle, Washington. Ms. Lengnick holds a master's degree in social psychology in addition to her law degree, both from the University of Minnesota, where she was a member of the Order of the Coif and note and comment editor for the Law Review. Ms. Lengnick is a member of the Labor and Employment Law Sections of the American Bar Association and the State Bar of Michigan.

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# AGENDA NOTE

New Business Item # 1

**MEETING DATE:** March 12, 2018

**PERSON PLACING ITEM ON AGENDA:** Recommendation from Planning Commission

**AGENDA TOPIC:** First Reading of Ordinance to Amend the Official Zoning Map of the City of South Lyon rezoning the property located at 500 Stryker Street - Parcel No. 21-29-176-012 from R-3 (One-Family Residential) to RM-2 (Multiple Family Residential)

**EXPLANATION OF TOPIC:** On January 5, 2018, the owner of 500 Stryker Street applied to rezone the property from R-3 Single Family Residential to RM-2 Multiple Family Residential.

In 2017, at the applicant/owner's request, the City conditionally rezoned the property to I-1 Light Industrial to allow for the construction of a self-storage facility. As part of the conditional rezoning the City and the property owner entered into a conditional rezoning agreement as authorized under MCL 125.3405. One of the conditions on the 2017 rezoning to I-1 required that the owner meet specific deadlines for the completion of the planning approval process, construction and obtaining a certificate of occupancy for the facility. The owner did not meet any of the deadlines, and by the terms of the conditional rezoning agreement, the property's zoning reverted to R-3.

Since another self-storage facility was recently constructed nearby in Lyon Township, the property owner has decided instead to pursue a townhouse development for the site. The requested rezoning to RM-2 matches the Future Land Use designation for the site in the City of South Lyon Master Plan. As such, this is a regular rezoning request, as opposed to the previous conditional rezoning request, which did not match the Future Land Use designation.

On February 8, 2018, the Planning Commission held a public hearing on the owner's rezoning request, and adopted a motion recommending that City Council approve the rezoning request.

The next step in the zoning ordinance amendment process is for Council to consider the recommendation of the Planning Commission. An ordinance to rezone the property requires two readings.

## **MATERIALS ATTACHED AS SUPPORTING DOCUMENTS:**

- Ordinance to amend the official zoning map of the City of South Lyon conditionally rezoning Parcel No. 21-29-176-012 – 500 Stryker Street, from R-3 to RM-2
- Planning Commission Minutes of February 8, 2018 (Draft)
- CIB Review dated January 15, 2018
- Rezoning Application and supporting materials

**POSSIBLE COURSES OF ACTION:** Approve/Deny/Table/Postpone

**RECOMMENDATION:** Approve first reading

**SUGGESTED MOTION:** Motion to approve the first reading of the ordinance to amend the official zoning map of the City of South Lyon rezoning Parcel 21-29-176-012, 500 Stryker Street, from R-3 to RM-



## CITY OF SOUTH LYON

335 S. Warren Street ■ South Lyon, Michigan 48178

TEL (248) 437-1735

FAX (248) 486-0049

[www.southlyonmi.org](http://www.southlyonmi.org)

### APPLICATION FOR A REZONING REQUEST

#### APPLICANT INFORMATION

Name of Applicant: Designhaus Architecture - Mark Schovers

Address: 301 Walnut Blvd., Rochester MI 48307

Telephone: 248.601.4422 E-mail: mark@designhaus.com

Are you the owner of record for the property of the requested rezoning? ☐ YES ☒ NO

*If you are NOT the owner of record for the property of the requested rezoning, please complete the below section PROPERTY OWNER INFORMATION.*

#### PROPERTY OWNER INFORMATION

Name of Applicant: Raymond Schovers

Address: 44425 Chedworth Drive, Northville, MI 48167

Telephone: 248.348.0365 E-mail: dschovers@gmail.com

#### LOCATION OF PROPERTY FOR WHICH THIS REZONING IS REQUESTED

Property Address: 500 Stryker Street

Cross Streets: 9 Mile Road and 10 Mile Road (South side of Stryker)

Parcel ID Number: 21-29-176-012 Lot Size (in acres): 6.95 Acres

Lot Width: 261.60' Lot Depth: 1,163.76'

Present Zoning Classification: R-3 One Family Residential

Requested Zoning Classification: RM - Multiple Family Residential District

Zoning District of Adjacent Properties to the: North RT South Residential East            West             
(Lyon Twp.)

In the area provided or on a separate sheet, provide a statement indicating why, in your opinion, the requested rezoning is necessary for the presentation and enjoyment of substantial property rights, and why such change will not be detrimental to the public welfare, nor the property of other persons located in the vicinity:

See attached letter

In the area provided or on a separate sheet, explain how the requested rezoning is consistent with the goals, policies and Future Land Use Map of the City of South Lyon Master Plan, including any sub-area or corridor studies. If conditions have changed since the Plan was adopted, the consistency with recent development trends in the area:

See attached letter

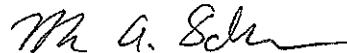
#### ADDITIONAL REQUIREMENTS

As part of the Application to Request a Rezoning, the City requires a deed as proof that the applicant is owner of record for the property in question. Deeds can be obtained from Oakland County. If applicant is not the owner of the property, the City will require a letter from the owner of record authorizing the applicant to make this application.

**SKETCH:** Include 15 copies of a parcel map drawn at a scale of not less than 1" = 200' if the parcel is under three acres and 1" = 100' if the parcel is three acres or more. This sketch must show the property dimensions, all buildings existing or proposed on the site, the size of all structures within 50 feet of the property, the location and size of other important property characteristics such as easements, public right of way, septic fields, etc.

Mark Schovers

PRINT Name of Applicant



SIGNATURE of Applicant

1.5.18

Date

#### **FOR OFFICE USE ONLY**

Date Received: \_\_\_\_\_ Checked By: \_\_\_\_\_ Fee Collected: \_\_\_\_\_





## CIB PLANNING

Community Image Builders

January 15, 2018

Planning Commission  
City of South Lyon  
335 South Warren Street  
South Lyon, Michigan 48178

Attention: Megan Blaha, Zoning Administrator

<b>Subject:</b>	500 Stryker Rezoning Request
<b>Description of Application:</b>	The applicant is requesting the parcel at 500 Stryker be rezoned from R3, Single-Family Residential to RM-2, Multiple-Family Residential
<b>Applicant:</b>	DesignHaus Architecture 301 Walnut Boulevard Rochester, MI. 48307
<b>Zoning Request:</b>	RM-2 Multiple-Family Residential
<b>Application Date:</b>	January 5, 2018

Dear Commissioners:

We have reviewed the above application to rezone the above property from R-3, Single Family Residential, to RM-2, Multiple-Family Residential. In 2017 the property owners applied for a received a conditional rezoning of the property to I-1, Light Industrial, to allow the construction of self-storage units. Because the property owners are no longer interested in pursuing this endeavor, the property's zoning reverted back to R3, Single-Family Residential. This proposed rezoning to RM-2 would allow for the construction of multiple-family residential units. The parcel has 261 feet of frontage on Stryker and is characterized as a long rectangular parcel. Currently the parcel has a vacant single-family residential structure at the front of the property, with a majority of the parcel being

undeveloped.

Based upon our review of the zoning ordinance and master plan, discussions with City Staff, and a visit to the site, we offer the following comments for your consideration.

#### LOCATION AND DESCRIPTION

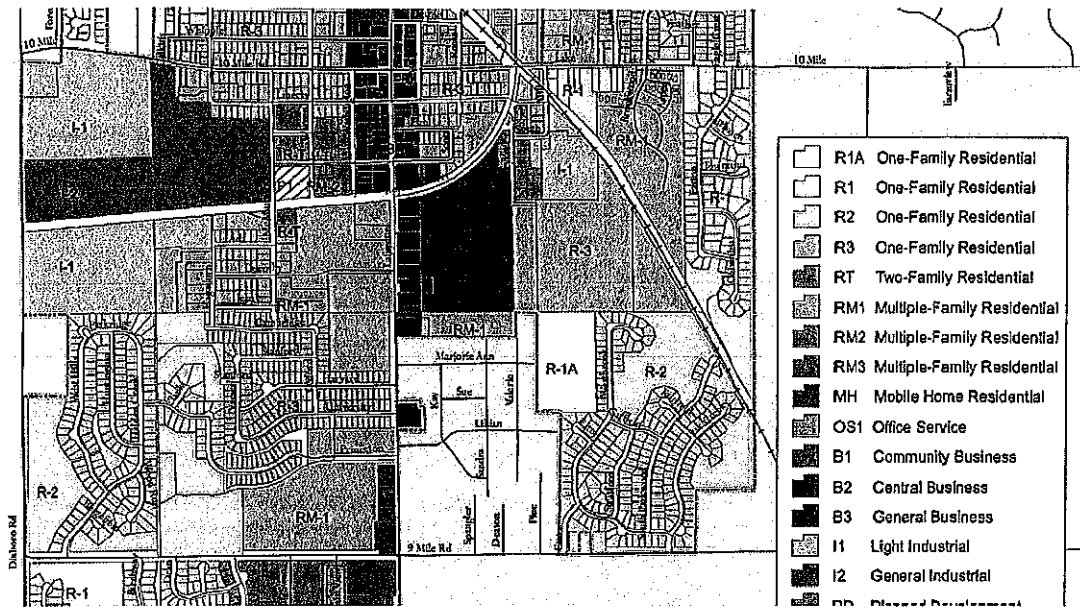
The subject site is surrounded by primarily residential uses, including manufactured homes and two-family residential homes. To the north is a single-family residential structure; to the south is property in Lyon Township (residential uses and zoning); to the east is a city-owned property, South Lyon Cemetery; and to the west is South Lyon Manufactured Housing Community. The parcel is wooded with a significant amount of trees including: Box Elder, Elm, Chinese Elm, Cherry, Maple, and Poplar, with scrub brush. The condition of the trees is not know at this time. The rear third of the parcel is bisected by the Yerkes Drain and difficult to develop. No significant topographic issues are present.

Surrounding Land Use and Zoning			
	Existing Use	Zoning	Future Land Use / Master Plan
Subject Property	Single-Family Residential & Vacant	R-3, Single-Family Residential	Traditional Residential
North	Single-Family Residential	RT, Two-Family Residential	Traditional Residential
South	Residential	Township	Township
East	Governmental (Cemetery)	R-3, Single-Family Residential	Traditional Residential
West	Single-Family Residential	MH-Manufactured Housing	Traditional Residential



Zoom	PIN	ACRES
1	2120175012	5.96289215





The following lists summarize the permitted and special land uses in both the existing and proposed zoning districts.

## Existing Zoning

### R-3, One Family Residential

#### ***Permitted Uses***

- Single-Family *attached* dwellings
- In-Home Office
- Senior Housing
- Adult & child residential care facilities
- Public, Institutional, & Utilities
- Cemeteries, lawfully occupied at the adoption of Ordinance
- Essential Public Services
- Accessory Uses
- Accessory buildings, structures & uses, customarily incidental to any of the above principal uses

#### ***Special Uses***

- Nursing & Convalescent Homes
- Adult & child residential care facilities
- Private Parks & Recreation Facilities, Owned & Operated by Homeowner or Condo Associations
- Recreation Facilities, Private
- Recreation Facilities Public
- Churches, Temples, & other Places of Worship or Public Assembly w Max. Seating of 750 persons
- Colleges & Universities
- Public & Quasi-Public Institutional Buildings, Structures & Uses
- Schools, including Public, Private & Parochial Elementary, Middle & High
- Accessory buildings, structures & uses, customarily incidental to any of the above special land uses

## Proposed Zoning

### RM-2 Multiple Family Residential

#### *Permitted Uses*

- Single-Family *attached* dwellings
- Two-family dwellings (duplexes)
- Multiple-family Dwellings
- In-Home Office
- Senior Housing
- Adult & child residential care facilities
- Public, Institutional, & Utilities
- Cemeteries, lawfully occupied at the adoption of Ordinance
- Essential Public Services
- Accessory Uses
- Accessory buildings, structures & uses, customarily incidental to any of the above principal uses

#### *Special Land Uses*

- Nursing & Convalescent Homes
- Adult & child residential care facilities
- Private Parks & Recreation Facilities, Owned & Operated by Homeowner or Condo Associations
- Recreation Facilities, Private
- Recreation Facilities Public
- Churches, Temples, & other Places of Worship or Public Assembly w Max. Seating of 750 persons
- Colleges & Universities
- Public & Quasi-Public Institutional Buildings, Structures & Uses
- Schools, including Public, Private & Parochial Elementary, Middle & High
- Accessory buildings, structures & uses, customarily incidental to any of the above special land uses

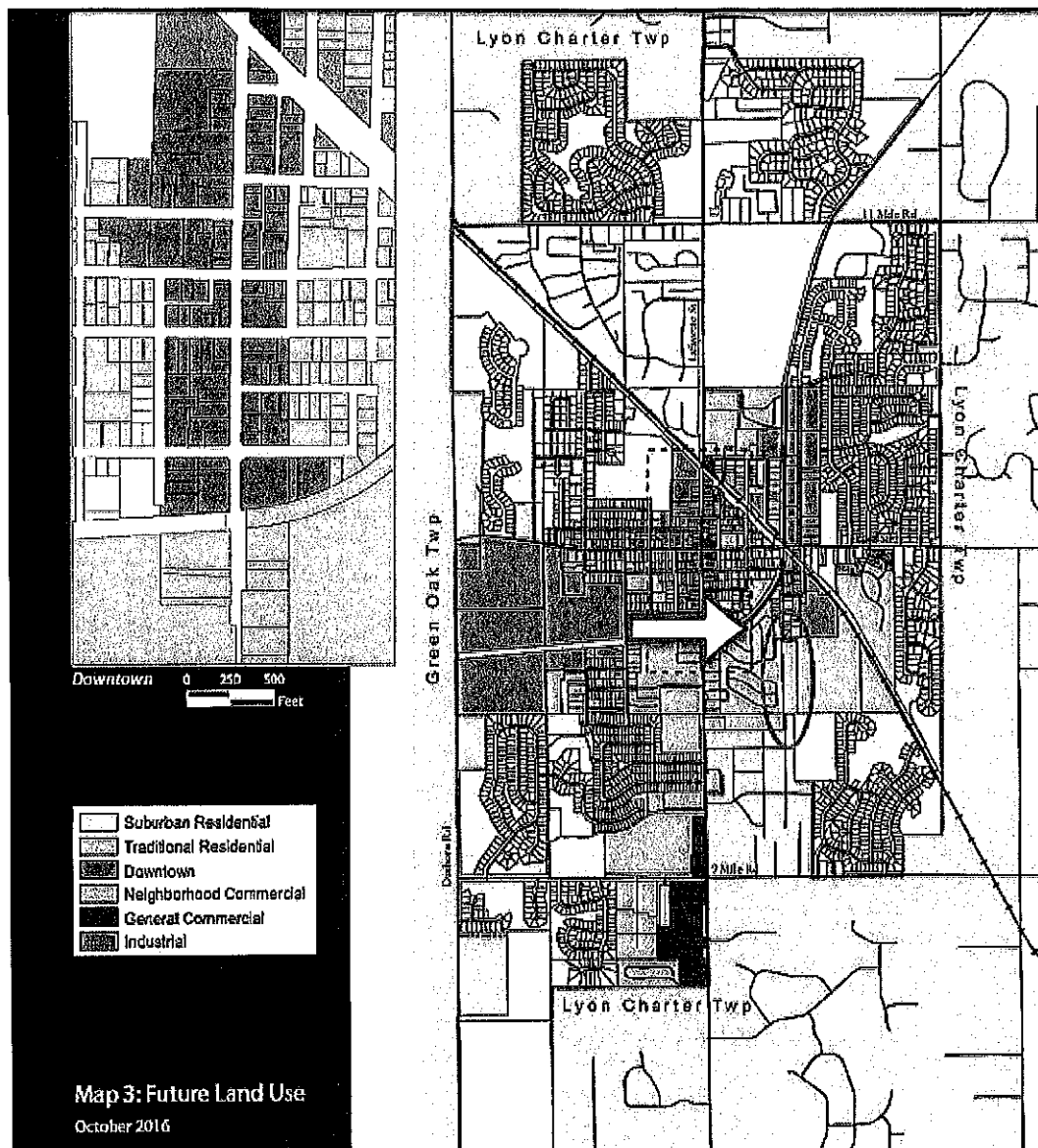
## FINDINGS

The rezoning request was reviewed based on the following criteria:

- a. *Consistency with the goals, policies, and Future Land Use Map of the City of South Lyon Master Plan, including any subarea or corridor studies. If conditions have changed since the City of South Lyon Master Plan was drafted, the consistency with recent development trends in the area.*

The Master Plan designates this site as Traditional Residential on the Future Land Use Map, along with abutting parcels to the north, south, east, and west. Traditional Residential is described as: higher density; smaller lot size; single-, two-, and multiple-family residential use; rectilinear and grid pattern streets; established neighborhoods; urban in character; and manufactured home parks. The corresponding Land Use and Policy Goals text indicates that Traditional Residential shall "encourage new developments to include high-quality, secure, and affordable housing and to provide housing that matches the varied needs and incomes of present and future populations in the City of South Lyon." The proposed

rezoning matches the Future Land Use designation for the subject site.



- b. *Compatibility of the site's physical, geological, hydrological and other environmental features with the potential uses allowed in the proposed zoning district.*

The parcel is surrounded by existing residential uses. The site is large enough to accommodate the uses permitted in the RM-2 District, however, there is a wooded and wet area south of the Yerkes Drain (which divides the southern one-third of the property) that may remain undeveloped due to physical constraints and the cost of improvements required to cross the drain.

- c. *Evidence the applicant cannot receive a reasonable return on investment through developing the property with one (1) of the uses permitted under the current zoning.*

The current zoning allows single-family residential housing. It is unlikely that a reasonable return on investment can be obtained by developing the property for single-family residential use given: the size and shape of the parcel; difficulties in crossing the Yerkes Drain to access the rear third of the parcel; lot size minimums and setback constraints; the requirement for two points of access to the residential development; and the varying uses on adjacent properties.

- d. *The compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure, and potential influence on property values.*

The residential uses allowed in the RM-2 Multiple Family Zoning District are compatible with surrounding land uses and with proper site design would have minimal impact in terms of traffic, environment, aesthetics, etc.

- e. *The capacity of city infrastructure and services sufficient to accommodate the uses permitted in the requested district without compromising the "health, safety and welfare" of the City.*

Should the property be rezoned, the proposed development of the property will require the extension of water and sewer into the property. Water and sewer lines are currently located along Stryker and the adequate public services should be available to the site.

- f. *The apparent demand for the types of uses permitted in the requested zoning district in the City in relation to the amount of land in the City currently zoned to accommodate the demand.*

The City of South Lyon land use inventory is rich in residential development, however a majority of the residential use is single-family residential; representing sixty percent (60%) of the land within the City. Only four percent (4.3%) of the City's housing inventory is multiple family residential. It is challenging to find affordable, quality housing that serves young families, seniors, empty-nesters, young adults, and diverse populations in this area of Oakland County and Michigan. Given the lack of developable land in the City, the City should secure opportunities to provide diverse and affordable housing.

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

The Master Plan designates this site for Residential use so no other zoning districts would therefore not be more appropriate.

## RECOMMENDATION

Given the above analysis, we recommend approval of the rezoning request from R3, Single-Family Residential District, to RM-2, Multiple-Family Residential District for the following reasons:

1. The proposed rezoning is consistent with the City of South Lyon Master Plan, and more specifically, the Future Land Use Plan;
2. There is a need to provide land that is zoned for multiple-family housing;
3. Rezoning the land to multiple-family residential addresses a community need (multiple family housing represents only 4.3 % of the City's land uses);
4. The site is capable of accommodating the range of uses permitted in the RM-2 District;
5. Adequate public services are available to service this site; and
6. Residential use at this location is appropriate due to adjacent, existing single- and multiple-family housing.

If you have any further questions, please contact us at 810-335-3800.

Sincerely,

**CIB PLANNING**

A handwritten signature in cursive script, reading "Carmine P. Avantini".

Carmine P. Avantini, AICP  
President



January 5, 2018

City of South Lyon  
335 S. Warren Street  
South Lyon, MI 48178  
Attn.: Carmine Avantini

**Re:** 500 Stryker Street – Rezoning

**Parcel I.D.:** 21-29-176-012

**Zoning:** Current R-3 One Family Residential, Requested RM-2 Multiple-Family Residential District

Mr. Avantini,

Designhaus Architecture of Rochester, Michigan and has been retained by Mr. Raymond Schovers to pursue the rezoning of his property in the City of South Lyon. The property is located on Stryker Street, between Nine and Ten Mile Roads, east of S. Lafayette St. and west of Griswold Road on 6.989 acres.

This parcel is currently vacant and zoned R-3 One Family Residential. To the west is zoned MH Mobile Home Residence, to the east is R-3 One Family Residential – the use is a cemetery, to the north is R-T Two-Family Residential and the southern property line is a residential use in Lyon Township.

Due to the site location and shape, surrounding uses and Yerkes Drain, we are asking to be rezoned to RM-2 Multiple-Family Residential Districts. Screening and buffering on site will be provided in accordance to city ordinance and presented during the site plan approval process. Zoning codes and building codes will be upheld in the design and construction of the multi-family facility.

Based on previous conversations with the Planning Department, we have submitted a site survey (included with this letter). We are asking that this rezoning request be placed on the next available Planning Commission meeting.

Please review the included application and survey. We will be happy to discuss any comments or concerns at future meetings.

Sincerely, Designhaus Architecture

Signed

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

Peter Stuhlreyer, Principal Architect



# January is busiest month for divorce filings



**Talks From  
The Front Lines**  
Helen Goldstein  
USA TODAY NETWORK —  
MICHIGAN

**Q:** I have read that January is the busiest month for new divorces being filed. Is this true?

**A:** You are raising a good issue. Studies have shown that January is the busiest month for new divorces being filed. Following are some of my thoughts on this issue.

I think of that Carrier and Ives scene, with one big happy family congregating together to celebrate the Christmas and/or Chanukah holiday season. Reality is often far from the ideal. Coming together for the holidays is often fraught with tension and conflict.

Therapists are very busy during the holidays because people are so unhappy in their marriages. Therapy can result in someone becoming more resolved to move forward and file for a divorce after the holidays.

I have had marriages break up over one drink too many at an office Christ-

mas party. Often alcoholism will tear its ugly head during the holidays, when people tend to let loose.

An indiscretion can happen at the office party, where someone is acting inappropriately with someone who is not his or her spouse.

People are often very disappointed with the holidays because of unrealistic expectations of family and holiday traditions.

Issues that have been festering for months or years can be exacerbated over the holidays.

I see many people toward the end of the year who are considering a divorce, but want to wait until after the holidays so as not to spoil the holidays for their children or other family members.

People will make resolutions during the holidays to make sure that this is the last one to spend with a spouse.

A common New Year's resolution will be to get rid of a spouse and not spend another year in an unhappy marriage. I have had a wife resolve to lose 200 pounds of ugly fat — her husband!

You may hate your in-laws or other relatives and decide that enough is

enough. Dealing with them during the holidays can be daunting.

Sometimes the holidays will escalate an abusive situation. Alcohol, drugs and abuse often go hand in hand. There is often a lot of domestic abuse during the holidays.

The year end is a time for reckoning and taking account of your personal life, as well as your career. People often decide to change jobs as well as spouses.

There may be a bonus that does not come through or is too small, with the result that this can bring more tension to your marriage.

People often act more rashly during the holidays. The result can be a divorce being filed in January.

Holidays are during the dark, cold, winter months, when people are often more depressed than during the spring and summer. This can lead to action and a divorce as well.

Disappointment in life, unreasonable expectations, a failure to communicate. These are all issues that people will look at and take stock of as the end of the year and bring in the new year.

This could mean that change is

necessary, including a divorce.

To recap: Drinking, alcohol, drugs, infidelity, money issues, lack of communication and growing apart are just some of the many examples that lead to divorces being filed at a higher rate in January than any other month.

Last but not least, we have the rise of Facebook and other social media, which means that everything is being shared. We are losing our privacy, which contributes to more divorces being filed after the new year as well.

These are some of my thoughts. Please share yours.

**Henry S. Garbain specializes in all aspects of family law. He is a partner in the Birmingham law firm of Lippitt O'Keefe Garbain PLLC, where he heads the family law unit. He is creator and host of the recent-winning cable television show "Practical Law," with more than 800 episodes aired to date. He is the author of the book "Divorce Demystified, Everything You Need To Know Before You File For Divorce." Contact him at hgarbain@lippittokeefe.com or 248-646-8292.**

## Installing security cameras takes careful deliberation



**Condo Living**  
Robert Neimer  
USA TODAY NETWORK —  
MICHIGAN

**Q:** I'm on the board of directors of our townhouse-style condo association and we just received a request from a new co-owner who wants to install a security camera outside her unit. She has explained that she was previously a victim of assault committed in her prior home. For the by-laws, the co-owners need to get the association's permission before modifying the common elements. We're leaning toward letting her do it, but are there any risks involved?

**A:** This reminds me of a famous case from California, *Frances T. v. Village Green Owners Association*, which I frequently cited to my law students. The court found that there was a foreseeable danger to an owner due to a prior burglary of the unit and lack of exterior lighting and, with respect to a subsequent break-in and assault, the court found the association and individual directors could be held responsible for negligence in not addressing the lack of exterior lighting.

Does this mean that you must allow the security camera in your situation? Not necessarily. The facts applicable to *Frances T.* led the court to conclude there was a foreseeable danger as likely different from your situation in that I assume there is adequate lighting around the unit and there has not been a prior break-in at that particular unit. It may be that even if you were to deny installation of the camera and a crime subsequently occurred at the unit, you would be able to argue that the crime was not foreseeable and that you did not have a duty to allow a security camera. And associations do not have a general duty to protect residents from crime. On the other hand, if you have experienced se-

curity/safety issues recently in the development, I would want to know how those have been addressed.

Of course, if you allow one person to install a camera, you might expect others to request the same and you would have to approve other reasonable requests to install cameras, lest you face a claim of disparate treatment or discrimination. Note that it would probably not be defensible to require that the applicant had previously been a victim of assault.

If you decide to allow co-owners to install cameras, the board should adopt rules that: 1) provide standard approved camera models to ensure uniformity (and choose a model[s] that you can observe which direction it is pointed); 2) require that surveillance be limited to the areas immediately outside of the unit and specifically do not monitor neighbors or amenities in the common elements (such as pools); and 3) require the co-owner enter into a standard modification of common elements agreement with the association.

Among other things, the modification agreement should identify where the camera is allowed to be placed and indemnify the association from any damage or injury caused by the installation/operation of the camera or any failure of the camera to function.

Of course, all of the above should be considered further and prepared with assistance from your experienced community association attorney.

**Robert N. Neimer, Esq., is principal attorney of The Neimer Law Group, based in Bingham Farms, which provides legal representation for condominiums, homeowner associations, individual co-owners and developers. He can be reached at 248-644-4433 or rneimer@neimer-law.com. Go to the firm's blog at neimer-law.com/blog.**

## Peripheral arterial disease and narrowing of arteries



**Healthy Living**  
Bipin Chandra Patel  
Guest Columnist

Have you ever discussed peripheral arterial disease with your spouse or a parent? Do you recall a time when you have ever discussed this health topic with your physician?

For most adults in our community, the answer is no. And this reality alarms me.

Peripheral arterial disease occurs when plaque accumulates and narrows or clogs the arteries, reducing blood flow to limbs or organs.

Don't think this affects you or someone you love? Statistics suggest otherwise. According to the Centers for Disease Control and Prevention, approximately 8.5 million people in the United States have PAD.

PAD most commonly affects blood flow to the legs, feet and toes. What may begin as light tingling following physical activity could lead to cramping and numbness. Those affected will sense a loss of energy and stamina. Even walking a short distance to the mailbox may prove challenging.

If not addressed by a physician promptly, symptoms can worsen and could lead to pain during rest, which can get so severe that it can wake people from their sleep. If left unchecked, PAD in your legs could lead to sores

that don't heal, gangrene and even amputation.

The carotid artery, located in your neck, is another common artery where narrowing or clogging can occur. This is the most dangerous form of PAD, since blood is limited or stopped from reaching your brain. This can result in a stroke. Symptoms may include vision disturbances, facial droop, arm weakness or speech impairment.

If you ever feel these symptoms, call 9-1-1 immediately and get to your nearest emergency room. This is life threatening and time is of the essence. Do not wait or delay.

The National Institute of Health lists these controlling risk factors:

Be physically active.  
Be screened for PAD. A simple doctor's office test, called an ankle-brachial index or ABI, can help determine whether you have PAD.

Follow heart-healthy eating.  
If you smoke, quit. Speak with your doctor or local hospital about programs and products that can help you quit smoking.

If you're overweight or obese, work with your doctor to create a reasonable weight-loss plan.

The important thing to remember is that it is never too late to begin making healthy lifestyle choices.

**Bipin Chandra Patel, D.O., is a vascular surgeon at St. Mary Mercy Livonia.**

### To Hawkeye Petroleum Land Services, Inc.

I, the undersigned, an authorized agent of the owner of the following described land situated in Oakland County, Michigan, to wit:

Part of West 1/2 of the Southwest 1/4 of Section 33, Town 1 North, Range 7 East, Lyon Township, Oakland County, Michigan, described as follows: Beginning at the Southwest corner of said Section 33; 2632.27 feet to the West 1/4 corner of Section 33; thence South 89 degrees 00 minutes 00 seconds East, along the East-West 1/4 line of Section 33, 1315.61 feet; thence South 00 degrees 35 minutes 10 seconds West 2235.54 feet; thence North 88 degrees 55 minutes 18 seconds West 611.78 feet; thence North 88 degrees 55 minutes 18 seconds West, along the South line of Section 33, 813.00 feet to the point of beginning. EXCEPTING therefrom all of the oil, gas and other mineral rights in and under said land.

upon which a lease dated as of September 17, 1989 was given to Hawkeye Petroleum Land Services, Inc., I, Jesse, do hereby notify you that the term of said lease has expired, that I hereby elect to declare and do declare the said lease forfeited and void, and that unless you do within 30 days from this date notify the register of deeds of said county as provided by law, that said lease has been forfeited, I will file with the said register of deeds an affidavit of forfeiture as provided by law; and I hereby demand that you execute or have executed a proper surrender of said lease and that you put the same on record in the office of the register of deeds in said county within 30 days from this date.

Dated this 18th day of January, 2018.

Nicholas G. Canzano, Authorized Agent of Four Seasons Land Holding Company, LLC

Published January 18, January 19, and January 25, 2018.

100-000000-0000

### To Smith Petroleum Company:

I, the undersigned, an authorized agent of the owner of the following described land situated in Oakland County, Michigan, to wit:

Part of West 1/2 of the Southwest 1/4 of Section 33, Town 1 North, Range 7 East, Lyon Township, Oakland County, Michigan, described as follows: Beginning at the Southwest corner of said Section 33; 2632.27 feet to the West 1/4 corner of Section 33; thence South 89 degrees 00 minutes 00 seconds East, along the East-West 1/4 line of Section 33, 1315.61 feet; thence South 00 degrees 35 minutes 10 seconds West 2235.54 feet; thence North 88 degrees 55 minutes 18 seconds West 611.78 feet; thence North 88 degrees 55 minutes 18 seconds West, along the South line of Section 33, 813.00 feet to the point of beginning. EXCEPTING therefrom all of the oil, gas and other mineral rights in and under said land.

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Dated this 11th day of January, 2018.

Nicholas G. Canzano, Authorized Agent of Four Seasons Land Holding Company, LLC

Published January 11, January 18, and January 25, 2018.

100-000000-0000

### CITY OF SOUTH LYON PUBLIC HEARING

A Public Hearing will be held by and before the Planning Commission of the City of South Lyon at City Hall, 335 S. Warren, South Lyon, Michigan, on Thursday, February 8, 2018 at 7:00 p.m., or at such thereafter as the agenda will permit, to consider a rezoning request to change the zoning for the following described property from R-3 (One-Family Residential) District to RM-2 (Multiple-Family Residential) District:

The subject property address is 590 Stryker and is located on the south side of Stryker Street, west of the South Lyon Cemetery and east of South Woods Manufactured Housing Community; and the Parcel # is 21-29-179-012.

Comments can be expressed at the Public Hearing, or written comments can be directed to the attention of the Planning Department, City of South Lyon, 335 S. Warren, South Lyon, Michigan 48178, or by e-mail to mlshah@southlyon.org no later than 5:00 p.m. one day prior to the date of the meeting. If you have questions you may contact the Planning Department by e-mail or by phone at (248) 354-1735.

The application on file can be viewed at the Planning Department, City of South Lyon, 335 S. Warren, South Lyon, Michigan 48178.

Notices and information for public hearings will also be posted on the City website at [www.southlyonmi.org](http://www.southlyonmi.org).

Lisa Deaton City Clerk

NOTICE: Persons with disabilities needing accommodations for effective participation in this meeting should contact the City Clerk by calling (248) 354-1735 at least two working days in advance of the meeting. An attempt will be made to make reasonable accommodations.

7-Michigan January 19, 2018

100-000000-0000



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**BE IT MADE KNOWN THAT THE FOLLOWING ADVERTISEMENT APPEARED IN:**  
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**Publication: South Lyon Herald  
Placed by: City of South Lyon  
Subject: Public Hearing 500 Stryker  
Date of Publication: January 18, 2018**

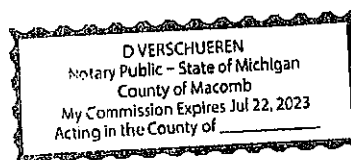
*Susan Totoraitis* (Susan Totoraitis), being duly sworn, deposes  
and says that the advertising illustrated above/attached was published in the  
South Lyon Herald Newspaper on the following date/s/: January 18, 2018,  
INVOICE Number 337671, and as an authorized employee of the Observer and  
Eccentric Media, she knows well the facts stated/herein. Cost: \$159.30.

**STATE OF MICHIGAN**

**NOTARIZED BY:** *D. Verschueren*

**Commission Expires: July 22, 2023**

**(Acting in County of) Macomb Notary Public in and for said County**



**City of South Lyon  
Planning Commission  
Regular Meeting Minutes  
February 8, 2018**

Approved: \_\_\_\_\_

The meeting was called to order by Chairman, Scott Lanam at 7:00 p.m.

Roll Call:        Scott Lanam, Chair  
                     Keith Bradley, Vice Chair  
                     Steve Mosier, Commissioner  
                     Mike Joseph, Commissioner  
                     Jason Rose, Commissioner  
                     Erin Kopkowski, Commissioner

Absent:            Wayne Chubb, Commissioner, Excused

Also Present:    Megan Blaha, City of South Lyon  
                     Kelly McIntyre, Planning Consultant  
                     Judy Pieper, Deputy Clerk  
                     Tim Wilhelm, City Attorney

**Motion to excuse Commissioner Chubb's absence as advised by Attorney Wilhelm**  
**Motion by Kopkowski, Second by Bradley**

Voice Vote: Ayes:    Unanimous  
                     Nays:        None

**Motion Approved**

**Approval of Agenda**

Attorney Wilhelm asks the Commission to add New Business item #4, to schedule the 2018 Planning Commission meetings. Commissioner Bradley adds that we need to make a few more changes, he states that item #2 needs to be moved to #1 Public Hearings, and the new #2 should be Sun Steele Site Plan Review – Addition #2.

**Motion to approve Agenda as amended**  
**Motion by Bradley, Second by Kopkowski**

Voice Vote: Ayes: Unanimous  
Nays: None

**Motion Approved**

### **Approval of Minutes**

Chair Lanam gets a clarification from Commissioner Mosier regarding the statement that he made about Alexander's on page 3 of the minutes at the end of the Planning Consultant Report.

**Motion to approve Minutes as amended**  
**Motion by Mosier, Second by Rose**

Voice Vote: Ayes: Unanimous  
Nays: None

**Motion Approved**

### **Public Comments**

None

Attorney Wilhelm brings up that he has seen other community's add a standard agenda item for Conflicts of Interest. This has come up at the Council level and this would be a proactive move.

**Motion to add Conflict of Interest to the regular agenda items**  
**Motion by Rose, Second by Bradley**

Voice Vote: Ayes: Unanimous  
Nays: None

**Motion Approved**

### **Public Hearing**

Rezoning of 500 Stryker Street

Public hearing open at 7:10 p.m. and closed at 7:12 p.m.

Planning Consultant, Kelly McIntyre, begins with a bit of history on the zoning and rezoning of 500 Stryker Street. Stating that in 2017 the original owners of the property applied for and received a conditional zoning of property to light industrial to do storage units. For a number of reasons, they changed their mind so with that it went back to R3 single family. They are now asking for a rezoning to R2, which would be multiple family. She stated when rezoning is looked at, we look at the surrounding properties as well as the master plan. This property is surrounded by the mobile home park as well as some residential. Per the master plan this will serve as transitional residential district and we believe there is an abundance of housing in South Lyon and there is a need for multiple housing which is also in the master plan. She stated for a number of reasons, they are supporting their request. Kopkowski asked if they gave any information on what they are wanting to do, or are they just asking for the rezoning. McIntyre stated we have an idea, but we can't base our decision on the rezoning issue. Commissioner asked what their reason for was not building the storage facility. McIntyre stated they had a concern about a new storage facility that had recently opened and the competition. Mark Schober of 301 Walnut Blvd in Rochester Hills. He then stated there was a new facility that is being erected and that absorbed a lot of the market so they decided to go in a new direction. Commissioner Lanam stated there seems to be some concern about buffering around the Cemetery. Mr. Schober stated there will be a buffer between them and the cemetery as well as them and the mobile park. Lanam asked if he realizes there is a drain that is there. Mr. Schober stated they don't plan on crossing over the drain. Kopkowski asked if you are looking at ranch or with stairs. Mr. Schober stated they are looking at both.

**MOTION TO RECOMMEND COUNCIL TO APPROVE REZONING OF 500 STRYKER STREET FROM R3 TO RM2**

Motion by Kopkowski, supported by Bradley

VOTE: 1 OPPOSED



## CIB PLANNING

Community Image Builders

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January 15, 2018

Planning Commission  
City of South Lyon  
335 South Warren Street  
South Lyon, Michigan 48178

Attention: Megan Blaha, Zoning Administrator

<b>Subject:</b>	500 Stryker Rezoning Request
<b>Description of Application:</b>	The applicant is requesting the parcel at 500 Stryker be rezoned from R3, Single-Family Residential to RM-2, Multiple-Family Residential
<b>Applicant:</b>	DesignHaus Architecture 301 Walnut Boulevard Rochester, MI. 48307
<b>Zoning Request:</b>	RM-2 Multiple-Family Residential
<b>Application Date:</b>	January 5, 2018

Dear Commissioners:

We have reviewed the above application to rezone the above property from R-3, Single Family Residential, to RM-2, Multiple-Family Residential. In 2017 the property owners applied for a received a conditional rezoning of the property to I-1, Light Industrial, to allow the construction of self-storage units. Because the property owners are no longer interested in pursuing this endeavor, the property's zoning reverted back to R3, Single-Family Residential. This proposed rezoning to RM-2 would allow for the construction of multiple-family residential units. The parcel has 261 feet of frontage on Stryker and is characterized as a long rectangular parcel. Currently the parcel has a vacant single-family residential structure at the front of the property, with a majority of the parcel being

undeveloped.

Based upon our review of the zoning ordinance and master plan, discussions with City Staff, and a visit to the site, we offer the following comments for your consideration.

## LOCATION AND DESCRIPTION

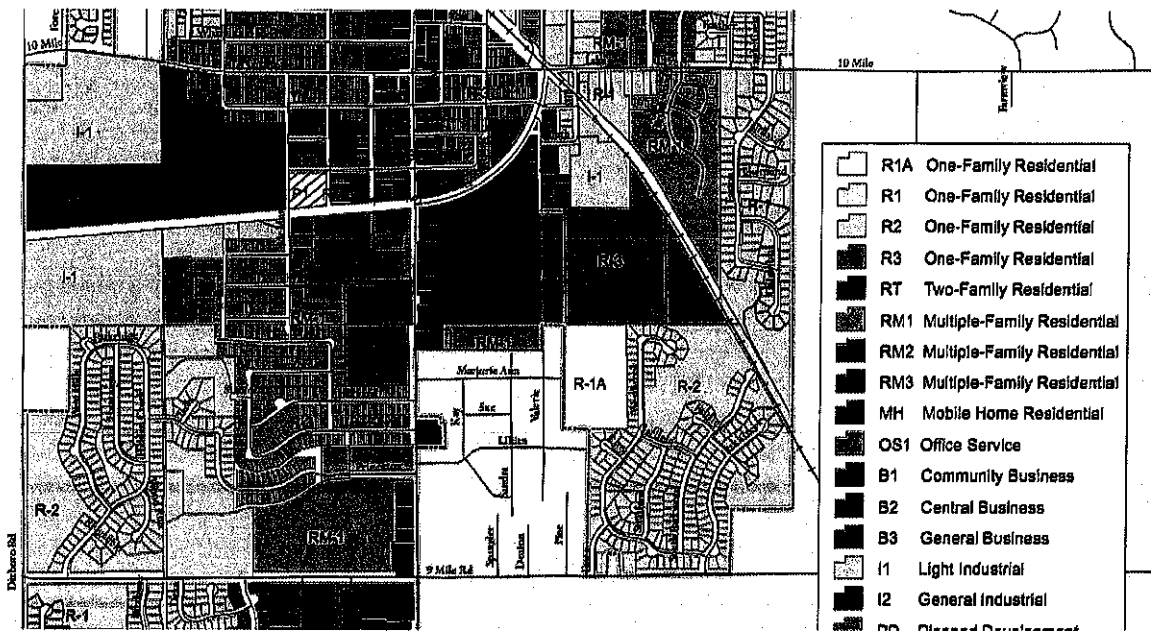
The subject site is surrounded by primarily residential uses, including manufactured homes and two-family residential homes. To the north is a single-family residential structure; to the south is property in Lyon Township (residential uses and zoning); to the east is a city-owned property, South Lyon Cemetery; and to the west is South Lyon Manufactured Housing Community. The parcel is wooded with a significant amount of trees including: Box Elder, Elm, Chinese Elm, Cherry, Maple, and Poplar, with scrub brush. The condition of the trees is not know at this time. The rear third of the parcel is bisected by the Yerkes Drain and difficult to develop. No significant topographic issues are present.

Surrounding Land Use and Zoning			
	Existing Use	Zoning	Future Land Use / Master Plan
<b>Subject Property</b>	Single-Family Residential & Vacant	R-3, Single-Family Residential	Traditional Residential
North	Single-Family Residential	RT, Two-Family Residential	Traditional Residential
South	Residential	Township	Township
East	Governmental (Cemetery)	R-3, Single-Family Residential	Traditional Residential
West	Single-Family Residential	MH-Manufactured Housing	Traditional Residential



Zoom	PIN	ACK#
1	2120174012	15.96289219





The following lists summarize the permitted and special land uses in both the existing and proposed zoning districts.

## Existing Zoning

### R-3, One Family Residential

#### **Permitted Uses**

- Single-Family *attached* dwellings
- In-Home Office
- Senior Housing
- Adult & child residential care facilities
- Public, Institutional, & Utilities
- Cemeteries, lawfully occupied at the adoption of Ordinance
- Essential Public Services
- Accessory Uses
- Accessory buildings, structures & uses, customarily incidental to any of the above principal uses

#### **Special Uses**

- Nursing & Convalescent Homes
- Adult & child residential care facilities
- Private Parks & Recreation Facilities, Owned & Operated by Homeowner or Condo Associations
- Recreation Facilities, Private
- Recreation Facilities Public
- Churches, Temples, & other Places of Worship or Public Assembly w Max. Seating of 750 persons
- Colleges & Universities
- Public & Quasi-Public Institutional Buildings, Structures & Uses
- Schools, including Public, Private & Parochial Elementary, Middle & High
- Accessory buildings, structures & uses, customarily incidental to any of the above special land uses



## Proposed Zoning

### RM-2 Multiple Family Residential

#### *Permitted Uses*

- Single-Family *attached* dwellings
- Two-family dwellings (duplexes)
- Multiple-family Dwellings
- In-Home Office
- Senior Housing
- Adult & child residential care facilities
- Public, Institutional, & Utilities
- Cemeteries, lawfully occupied at the adoption of Ordinance
- Essential Public Services
- Accessory Uses
- Accessory buildings, structures & uses, customarily incidental to any of the above principal uses

#### *Special Land Uses*

- Nursing & Convalescent Homes
- Adult & child residential care facilities
- Private Parks & Recreation Facilities, Owned & Operated by Homeowner or Condo Associations
- Recreation Facilities, Private
- Recreation Facilities Public
- Churches, Temples, & other Places of Worship or Public Assembly w Max. Seating of 750 persons
- Colleges & Universities
- Public & Quasi-Public Institutional Buildings, Structures & Uses
- Schools, including Public, Private & Parochial Elementary, Middle & High
- Accessory buildings, structures & uses, customarily incidental to any of the above special land uses

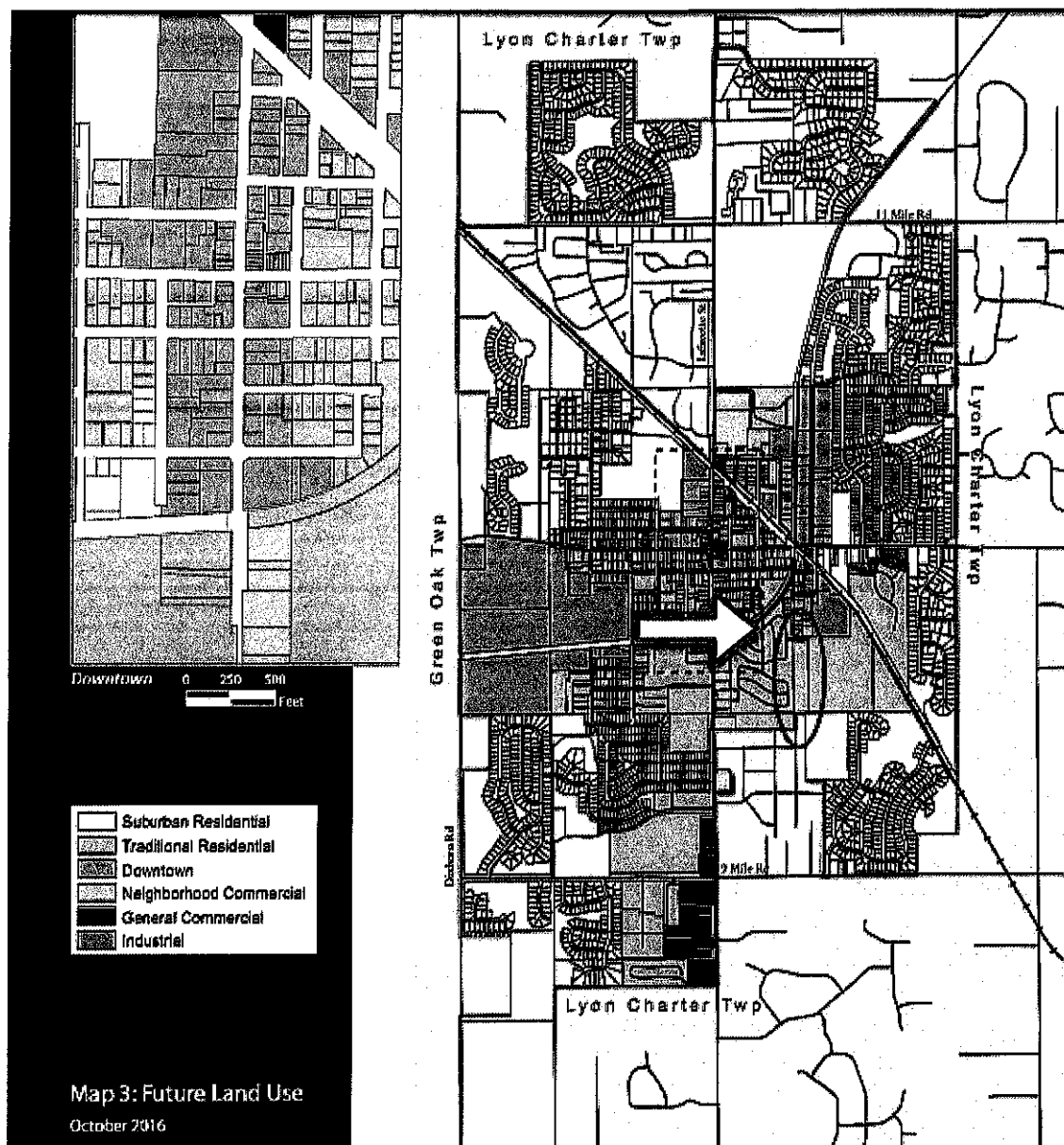
## FINDINGS

The rezoning request was reviewed based on the following criteria:

- a. *Consistency with the goals, policies, and Future Land Use Map of the City of South Lyon Master Plan, including any subarea or corridor studies. If conditions have changed since the City of South Lyon Master Plan was drafted, the consistency with recent development trends in the area.*

The Master Plan designates this site as Traditional Residential on the Future Land Use Map, along with abutting parcels to the north, south, east, and west. Traditional Residential is described as: higher density; smaller lot size; single-, two-, and multiple-family residential use; rectilinear and grid pattern streets; established neighborhoods; urban in character; and manufactured home parks. The corresponding Land Use and Policy Goals text indicates that Traditional Residential shall “encourage new developments to include high-quality, secure, and affordable housing and to provide housing that matches the varied needs and incomes of present and future populations in the City of South Lyon.” The proposed

rezoning matches the Future Land Use designation for the subject site.



- b. *Compatibility of the site's physical, geological, hydrological and other environmental features with the potential uses allowed in the proposed zoning district.*

The parcel is surrounded by existing residential uses. The site is large enough to accommodate the uses permitted in the RM-2 District, however, there is a wooded and wet area south of the Yerkes Drain (which divides the southern one-third of the property) that may remain undeveloped due to physical constraints and the cost of improvements required to cross the drain.

- c. *Evidence the applicant cannot receive a reasonable return on investment through developing the property with one (1) of the uses permitted under the current zoning.*

The current zoning allows single-family residential housing. It is unlikely that a reasonable return on investment can be obtained by developing the property for single-family residential use given: the size and shape of the parcel; difficulties in crossing the Yerkes Drain to access the rear third of the parcel; lot size minimums and setback constraints; the requirement for two points of access to the residential development; and the varying uses on adjacent properties.

- d. *The compatibility of all the potential uses allowed in the proposed zoning district with surrounding uses and zoning in terms of land suitability, impacts on the environment, density, nature of use, traffic impacts, aesthetics, infrastructure, and potential influence on property values.*

The residential uses allowed in the RM-2 Multiple Family Zoning District are compatible with surrounding land uses and with proper site design would have minimal impact in terms of traffic, environment, aesthetics, etc.

- e. *The capacity of city infrastructure and services sufficient to accommodate the uses permitted in the requested district without compromising the "health, safety and welfare" of the City.*

Should the property be rezoned, the proposed development of the property will require the extension of water and sewer into the property. Water and sewer lines are currently located along Stryker and the adequate public services should be available to the site.

- f. *The apparent demand for the types of uses permitted in the requested zoning district in the City in relation to the amount of land in the City currently zoned to accommodate the demand.*

The City of South Lyon land use inventory is rich in residential development, however a majority of the residential use is single-family residential; representing sixty percent (60%) of the land within the City. Only four percent (4.3%) of the City's housing inventory is multiple family residential. It is challenging to find affordable, quality housing that serves young families, seniors, empty-nesters, young adults, and diverse populations in this area of Oakland County and Michigan. Given the lack of developable land in the City, the City should secure opportunities to provide diverse and affordable housing.

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

The Master Plan designates this site for Residential use so no other zoning districts would therefore not be more appropriate.

## RECOMMENDATION

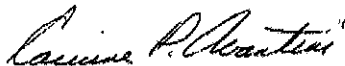
Given the above analysis, we recommend approval of the rezoning request from R3, Single-Family Residential District, to RM-2, Multiple-Family Residential District for the following reasons:

1. The proposed rezoning is consistent with the City of South Lyon Master Plan, and more specifically, the Future Land Use Plan;
2. There is a need to provide land that is zoned for multiple-family housing;
3. Rezoning the land to multiple-family residential addresses a community need (multiple family housing represents only 4.3 % of the City's land uses);
4. The site is capable of accommodating the range of uses permitted in the RM-2 District;
5. Adequate public services are available to service this site; and
6. Residential use at this location is appropriate due to adjacent, existing single- and multiple-family housing.

If you have any further questions, please contact us at 810-335-3800.

Sincerely,

**CIB PLANNING**

A handwritten signature in black ink, reading "Carmine P. Avantini". The signature is written in a cursive, flowing style.

Carmine P. Avantini, AICP  
President

# AGENDA NOTE

*New* New Business Item # 2

**MEETING DATE:** March 12, 2018

**PERSON PLACING ITEM ON AGENDA:**

**AGENDA TOPIC:** Consider Setting date for public hearing on Superb Fabricating, LLC's request to establish an industrial development district

**EXPLANATION OF TOPIC:** Superb Fabricating has advised the City of its plans for expanding its facility located in the City – North Reese Street – Tax ID 80-21-20-355-004, and it has requested that the City establish an industrial development district for its property as allowed under Public Act 198 of 1974, as amended. The creation of a district is a requirement under the Act which would make a project eligible to submit an application for an industrial facilities tax abatement under the Act.

The City staff is in the process of preparing a tax abatement policy for Council consideration and approval.

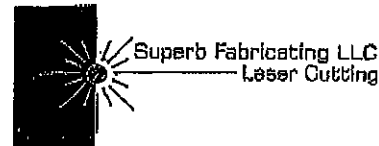
**MATERIALS ATTACHED AS SUPPORTING DOCUMENTS:**

- Superb Fabricating letter requesting creation of a district

**POSSIBLE COURSES OF ACTION:** Approve/Deny/No Action/Postpone

**RECOMMENDATION:** Set a public hearing date for at least 30 days in the future

**SUGGESTED MOTION:** Motion to set a public hearing on Superb Fabricating, LLC's request to establish an industrial development district for \_\_\_\_\_, 2018 at \_\_\_\_\_ p.m.



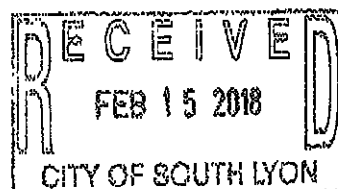
February 15, 2018

Lloyd Collins  
Interim City Manager  
City of South Lyon  
335 South Warren Street  
South Lyon, MI 48178

Dear Mr. Collins:

Superb Fabricating, LLC is a metal fabricating facility for laser cutting, metal fabricating and welding and robotic welding needs, as well as press brake operations, CNC machining, prototyping, design/reverse engineering of customer's products. It began in 2000 by Herb & Jon Stricker in a pole barn in the backyard of their home off Trebor Street. Herb moved into the South Lyon area in 1989. Jon was raised in South Lyon and is a 1999 graduate of South Lyon High School. One of their first customer's was Jeff's Bronco Graveyard located in Brighton. As the company grew they found an industrial bay in Milford. They grew from one bay to two, two bays to three, then three bays to four. With the continued growth, it became apparent they needed to move into a different facility; which lead us to purchasing our current facility in the year 2010 on Reese Street in the City of South Lyon.

We have already added onto our present facility, but with our constant growth we are in need of expanding further. If you were to visit our shop you would see that we have more work than we have floor space capacity. With projections from current customers and new customers our sales and work load continue to increase. We are in need of more manufacturing and office space.



Superb Fabricating LLC  
330 N. Reese South Lyon, MI 48178  
248-684-5297

We have acquired the parcel of land located south of our present building on North Reese Street. The vacant property consists of parcel #80-21-20-355-004 (T1N, R73, Sec 20 of Albert Botsford's Plat of The Village of South Lyon, Lots 2 & 8 Exc N 21.34 ft of both, also Lots 3 to 6 Incl, also Lots 9 to 14 Incl, also all of vac alley adj to same blk 15). We are looking to build a 9,567 sq foot building which will become our headquarters; it will double our manufacturing area. With this expansion we project that we will be adding at least another 6 jobs over the next 2 to 5 years.

When we moved to the South Lyon facility we had approximately 8 employees. We now employ three times that number at 24 employees. 11 of the 24 employees are South Lyon residents. 2 are from New Hudson and the others are from neighboring communities. We have at least 4 employees that have mentioned that they would like to relocate their families to the South Lyon area; those employees currently live in Sterling Heights, Highland, Commerce and Milford.

Our customer base continues to grow. But it continues to grow within the South Lyon area as well as neighboring communities. We do business with South Lyon Machine, GM Refractories, Copa Tool, Michigan Seamless Tube, South Lyon Hotel, Peter's True Value Hardware, Good Day Café, etc. We have over 30 companies listed in our customer data base with the South Lyon address. Recently we have been involved with the South Lyon Hotel, making the railing/fencing on the porches, signs, benches in the inside, bar counter tops, decorative railing inside and various other items. We have also been involved in the making of the signs for the Good Day Café.

In the past we have donated flag pole hangers for the light poles with connection of the VFW. We made the flower pot hangers for the light poles in the City. We are members of the Chamber. We have donated turkeys to the Active of Faith and also to the Methodist Church for Thanksgivings. We have donated funds to the Kiwanis Foundation, Operation Injured Soldier, Active Faith and various South Lyon School clubs/organizations. We have worked with the South Lyon Robotics team for several years. This year we participated in the Pumpkin Festival parade.

We are also working with community leaders to make signs and benches for the parks. We hosted the 2016 Lansing to Dearborn Run for Antique Automobile Club of America, which brought in more business for the local businesses. We want to continue to give back by participating in city events. It is also our goal to continue giving back to the community by ways of employing residents, working with local companies not only as selling our goods and services but purchasing from them as well. Our employees purchase consumables from the local business; such as gas, food, etc.

We believe that we are an asset to this community and are asking that the City Council create an Industrial Development District designation for the property for a tax abatement for our new facility. Superb Fabricating takes pride in its location in South Lyon and we are looking forward to increasing our strong presence with this proposed project.

Sincerely,

SUPERB FABRICATING, LLC



Jonathan Stricker  
Member



# **AGENDA NOTE**

New Business: Item # **3**

**MEETING DATE:** March 12, 2018

**PERSON PLACING ITEM ON AGENDA:** Michael Boven, Utility Superintendent/DPW Director

**AGENDA TOPIC:** Rental house in the park

**EXPLANATION OF TOPIC:** The roofing contractor inspected attic March 1, 2018 in the rental house. They found inadequate ventilation and almost no insulation.

**MATERIALS ATTACHED AS SUPPORTING DOCUMENTS:**

- Email from contractor to Ron Brock
- Inspection checklist

**POSSIBLE COURSES OF ACTION:** Approve/Deny/No Action

**RECOMMENDATION:** Approve the fixes.

**SUGGESTED MOTION:** Motion by \_\_\_\_\_, supported by \_\_\_\_\_ to approve the purchase of \_\_\_\_\_

**FW: attic inspection**

Ron Brock

**Sent:** Wednesday, March 07, 2018 12:32 PM**To:** Mike Boven**Attachments:** 464 s lafayette attic insp~1.pdf (487 KB)**From:** James Halfacer [mailto:james@johnmccarterconstruction.com]**Sent:** Wednesday, March 07, 2018 12:21 PM**To:** Ron Brock <RBrock@southlyonmi.org>**Cc:** Bruce Ellis <bruce@johnmccarterconstruction.com>; Gillis McCarter <gillis@johnmccarterconstruction.com>**Subject:** attic inspection

Ron,

Attached you will find the attic inspection report from my visit to 464 S Lafayette last week. Also, here is the link to the photos I took while I was there : <https://app.companycam.com/galleries/gtdm1JmN>

The attic has almost no insulation; the warm air from the house escapes into the attic where it's stagnant due to the inadequate venting and causes the shingles to fail prematurely. The house has no overhangs/soffits, therefore no place to cut in soffit venting to allow fresh air into the attic. I recommend installing a system called Deck-Air, which is a roof mounted, shingled over venting system that is designed for homes with no soffits that will allow fresh air into the attic. The cost to install this system in conjunction with the roof install would be \$910.00. if you wanted to bring the attic insulation up to code of R49, the cost for us to do that would be 3250.00. Let me know if you have any questions or concerns.

Sincerely,

*James Halfacer**John McCarter Construction**james@johnmccarterconstruction.com**(248) 446-1750*



# Attic Inspection Checklist

DATE 3/1/2018

CUSTOMER BRACK - 464 S. Lafayette

INSPECTOR JH

## Completed

<input checked="" type="checkbox"/>	Insulation -Depth in place <u>ALMOST NONE. 0"-3"</u> -Type <u>BATT Fiberglass?</u>
<input checked="" type="checkbox"/>	Baffles Installed properly YES or <u>NO</u>
<input checked="" type="checkbox"/>	Powervent Working? YES/NO/ <u>NA</u> Setting Correct?
<input checked="" type="checkbox"/> <input checked="" type="checkbox"/>	Soffit vent type Is it adequate? YES or <u>NO</u> <u>no overhangs</u>
<input checked="" type="checkbox"/>	System balanced? (2/3 Bottom) (1/3 Top) YES or <u>NO</u>
<input checked="" type="checkbox"/>	Top venting type <u>Static CANS</u>
<input checked="" type="checkbox"/>	Gable vent <u>-Open/Closed</u> <u>YES</u> or NO
<input checked="" type="checkbox"/>	Bath vent -Correct install? <u>yes</u> -Insulated pipe? <u>NO</u> -Connected at both ends? <u>yes</u>

**Completed**

<input checked="" type="checkbox"/>	Roof deck condition (Inside)	Fairly solid 1x12"
<input checked="" type="checkbox"/>	General Framing Condition	Good - Some Areas wet
<input checked="" type="checkbox"/>	Air temperature in attic	45-46°
	Outside temperature	28°
	Should be +/- 10° of each other	
<input checked="" type="checkbox"/>	Visual mold/mildew	YES or NO

r.

# AGENDA NOTE

New Business: Item # 4

**MEETING DATE:** March 12, 2018

**PERSON PLACING ITEM ON AGENDA:** Michael Boven, Utility Superintendent/DPW Director

**AGENDA TOPIC:** Contract with Bio-tech has expired. They provided the City with a new contract to extend biosolid's removal services.

**EXPLANATION OF TOPIC:** They have proposed to continue providing biosolid's removal for an additional 3 year period, with no increase. The current rate is \$0.0465 per gallon and they will hold that price for three more years.

**MATERIALS ATTACHED AS SUPPORTING DOCUMENTS:**

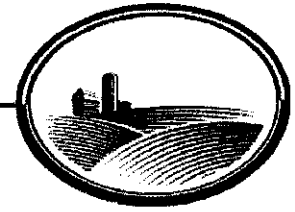
- Bio-tech's Contract for Testing, Removal and Land Application

**POSSIBLE COURSES OF ACTION:** Approve/Deny/No Action

**RECOMMENDATION:** Approve the contract.

**SUGGESTED MOTION:** Motion by \_\_\_\_\_, supported by \_\_\_\_\_ to approve the purchase of \_\_\_\_\_

# BioTech Agronomics, Inc.



## Residual Management Company

1651 Beulah Highway • Beulah • Michigan • 49617

February 23, 2018

### **CONTRACT FOR TESTING, REMOVAL AND LAND APPLICATION OF BIOSOLIDS FROM THE SOUTH LYON WASTEWATER TREATMENT PLANT**

**Mr. Mike Boven**

**City of South Lyon**

**23500 N. Dixboro**

**South Lyon, Michigan 48178**

#### **Proposal**

BIOTECH AGRONOMICS, INC. is pleased to present this proposal to define proposed work associated with the removal and land application of Biosolids generated by the South Lyon WWTP physically located at 23500 N. Dixboro, South Lyon, Michigan.

#### **Biosolids Loading and Transport**

BIOTECH AGRONOMICS, INC. will furnish the necessary labor and equipment to efficiently and safely provide Biosolids Management services for the South Lyon WWTP. BIOTECH AGRONOMICS, INC. will pump and load Biosolids into transport vehicles, transport the Biosolids to MDEQ and federally approved application sites, and finally to land apply the Biosolids to suitable local farmland sites. All work performed will be under Michigan Part 24, Federal 503 and local regulations.

#### **Land Application of Biosolids**

BIOTECH AGRONOMICS, INC. will provide the labor and equipment to properly apply the Biosolids to suitable local application sites at agronomic rates in accordance with Michigan State University recommendations and applicable federal, state and local regulations. The Biosolids will be subsurface injected or surface applied according to a DEQ approved Residuals Management Plan using sewage sludge applicators equipped with a pressure/vacuum application system.

#### **Determination of Quantity Removed**

BIOTECH AGRONOMICS, INC. shall provide the Plant Superintendent a duplicate copy of load sheets, which detail the following items:

- Date of removal
- Time the applicator loaded in the field
- Applicator identification number
- Operator name
- Gallons of Biosolids on the applicator
- Farmer name and approved field identification number and the number of acres acceptable for use in the field
- Number of acres accepting Biosolids

One copy of the load sheet(s) will stay with the plant superintendent and the other will remain with BIOTECH AGRONOMICS, INC. The quantity of Biosolids loaded on and transported by the vehicle will be recorded as the certified capacity of the vehicle. All billed quantities will be invoiced by the gallon capacity of each vehicle transporting the material.

#### **Agronomic Services**

BIOTECH AGRONOMICS, INC. will provide agronomic management services that include the location of suitable local farmland application sites. Application sites will meet the requirements for land application in accordance with applicable federal, state and local regulations for the use and disposal of Biosolids. Proposed farmland application sites shall be properly documented in accordance with Michigan Part 24 requirements. Records at a minimum shall include the following:

- Landowner agreement and permission form
- Soil analyses
- MDEQ site I.D. information
- Plat maps indicating location and ownership of property
- SCS or equivalent soil survey map indicating soil types, slope and drainage class
- Relative sludge analyses, soil analyses or cropping information
- Proof of notification to local governing bodies as per MDEQ requirements

#### **Regulatory Reports**

BIOTECH AGRONOMICS, INC. shall complete all required federal or state reports applicable to the Biosolids land application program including yearend requirements. These records shall be maintained by BIOTECH AGRONOMICS, INC. as required by federal, state and local regulations and shall be provided to the Owner.

#### **Laboratory Analyses and Permits**

BIOTECH AGRONOMICS, INC. will be provided a MDEQ approved Residuals Management Plan (RMP) by the facility. BIOTECH AGRONOMICS, INC. will provide laboratory analyses for total metals and nutrients and fecal coliform testing as needed on the Biosolids prior to removal from the facility. BIOTECH AGRONOMICS, INC. will be responsible for all routine soil fertility analyses associated with land application of the Owner's Biosolids during the term of this Agreement. BIOTECH AGRONOMICS, INC. shall not be responsible for any additional analytical testing that federal, state or local regulatory agencies may require.

#### **Health and Safety**

BIOTECH AGRONOMICS, INC. shall comply with the federal, state and local laws and regulations and take any needed actions to protect the life and health of employees on the job and the safety of the public and to protect property during the performance of the Agreement.

#### **Insurance**

BIOTECH AGRONOMICS, INC. shall provide and maintain at all times during the term of this Agreement the following minimum insurance coverage:

- a) Workers Compensation Insurance in compliance with the statutes of the State of Michigan which has jurisdiction of BIOTECH AGRONOMICS, INC. employees engaged in the performance of services hereunder with a limit of FIVE HUNDRED THOUSAND DOLLARS (\$500,000)
- b) General Liability Insurance with a minimum combined single limit of THREE MILLION DOLLARS (\$3,000,000), including the broad form property damage endorsement

- c) Automobile Liability Insurance (owned, non-owned or hired units) with a minimum combined single coverage limit of ONE MILLION DOLLARS (\$1,000,000)
- d) Pollution Liability Insurance with a minimum combined single limit of FIVE MILLION DOLLARS (\$5,000,000), including the broad form property endorsement

A certificate of insurance will be presented if requested, upon award of contract.

#### **Digester or Tank Cleaning**

If requested, BIOTECH AGRONOMICS, INC. will provide confined space Digester or Tank cleaning services to remove accumulated Biosolids and or related mater for subsequent land application. Under these conditions, the WWTP shall provide for all required cleaning water at no cost to BIOTECH AGRONOMICS, INC. Any material removed under this confined space option shall be billed at the appropriate hourly rate plus the unit rate per gallon for land application of the Biosolids.

#### **Biosolids Tender**

The City shall tender all biosolids generated to BIOTECH AGRONOMICS, INC. that are suitable for land application on agricultural land as specified in the scope of this Agreement.

#### **Notification**

BIOTECH AGRONOMICS, INC. will be provided with adequate advance notice of when the WWTP desires for BIOTECH AGRONOMICS, INC. to remove biosolids from the WWTP. Depending on weather, seasonal weight restrictions, and farm land cropping cycles, additional notification may be required.

#### **Cost of Services –**

July 1, 2018 – June 30, 2019 - \$0.0465 per gallon for Biosolids hauling and land application.  
Standard metals & nutrients testing – Included in the per gallon rate.  
Fecal coliform testing – Included in the per gallon rate.

July 1, 2019 – June 30, 2020 - \$0.0465 per gallon for Biosolids hauling and land application.  
Standard metals & nutrients testing – Included in the per gallon rate.  
Fecal coliform testing – Included in the per gallon rate.

July 1, 2020 – June 30, 2021 - \$0.0465 per gallon for Biosolids hauling and land application.  
Standard metals & nutrients testing – Included in the per gallon rate.  
Fecal coliform testing – Included in the per gallon rate.

#### **Good Faith**

In the event BIOTECH AGRONOMICS, INC. is unable to remove and land apply the biosolids because (i) changes in the biosolids make it unfit for utilization on agricultural land as defined or interpreted by federal, state or local regulatory agencies, or (ii) changes in law prohibit providing the services or increase the cost of providing the services, or (iii) if unfavorable climatic or agronomic conditions have impeded efforts by BIOTECH AGRONOMICS, INC. to faithfully dispose of the biosolids as contemplated by this proposal, or (iv) as the result of flood, fire, strikes, acts of God, act of war or terrorism, civil disturbance, force majeure, or other occurrences not reasonable within the province and control of BIOTECH AGRONOMICS, INC. performance is hindered or halted, BIOTECH AGRONOMICS, INC. shall not be liable for any additional costs incurred by the City, and BIOTECH AGRONOMICS, INC. will not be deemed in default under this proposal unless thirty (30) days after the impediment has been resolved or eliminated BIOTECH AGRONOMICS, INC. fails or refuses to remove biosolids tendered to it.



BIOTECH AGRONOMICS INC work schedule is highly controlled by weather, soil conditions, permits and the availability of suitable farmland due to cropping cycles. As such we cannot liable for any losses either directly or indirectly associated with any weather related delays. BIOTECH AGRONOMICS, INC will not accept responsibility for any assessment of liquidated damages.

#### **Spill Plan and Protocol**

BIOTECH AGRONOMICS, INC. has a strict protocol to be followed in the untimely event of a spill. If such an event occurs the person in charge of the load, the operator of the application equipment, load stand operator or truck driver, must contact their immediate supervisor after making a visual assessment of the action and if possible taking action to contain or correct the problem. The supervisor is to contact the BIOTECH AGRONOMICS, INC. Operations Manager and the chain of contacts begins. The plant personnel are informed and an assessment will be done by personnel from both entities. At this time the decisions will be made to contact local authorities, MDEQ representative, additional emergency services and so on depending upon severity. All the above continues while the containment efforts are addressed. All assets and efforts of BIOTECH AGRONOMICS, INC. will be focused on cleanup and rectifying the problem to protect the health and safety of the public.

#### **Fuel Cost and Adjustment**

BIOTECH AGRONOMICS, INC. shall adjust the cost of services for each hauling event should fuel costs exceed \$4.00 per gallon. The fuel adjustment schedule will be the fixed document used for such purpose throughout the duration of this contract.

The unit price for biosolids management beneficial use services for any given removal operation will be subject to the adjustment below depending on the weekly fuel price (based on the week biosolids removal commences) determined by the United States Department of Energy's Energy Information Administration publication of Retail Prices for the Midwest United States in the On-Highway Diesel Fuel Price Table.

<b>Diesel Price \$/Gallon</b>	<b>% Increase to Contract Price</b>
Below \$4.00	None
\$4.00 - \$4.099	1.0%
\$4.10 - \$4.199	2.0%
\$4.20 and above = 1% increase per each \$0.10 increase in price/gallon.	

(This information is available at the website <http://www.eia.doe.gov>).

(On-Highway Diesel Prices Table – Midwest Column)

#### **Terms**

Payment terms shall be net 30 days from the date of invoice. Overdue payments will be assessed a finance charge of 1.5% per month on the unpaid balance.

**Contract Duration**

This Agreement shall remain in full force and effect through June 30, 2021.

**Extensions**

The term of this Agreement may be extended at any time upon written mutual agreement of both parties.

**BIOTECH AGRONOMICS, INC.**

Submitted by: Don Popma

Printed Name: Don Popma

Its: General Manager

Date: 2/23/18

**CITY OF SOUTH LYON, MICHIGAN**

Accepted By: \_\_\_\_\_

Printed Name: \_\_\_\_\_

Its: \_\_\_\_\_

Date: \_\_\_\_\_

This document is representative of a complete contract. Upon award the document can be signed by both parties to become binding.

# AGENDA NOTE

New Business: Item # 85

**MEETING DATE:** March 12, 2018

**PERSON PLACING ITEM ON AGENDA:** Interim City Manager

**AGENDA TOPIC:** Lease of 318 W. Lake Street – South Lyon Area Recreation Authority (SLARA)

**EXPLANATION OF TOPIC:** SLARA has notified the City regarding lease termination effective June 30, 2018. A request was submitted for the option to extend occupancy on a month-to-month basis.

**MATERIALS ATTACHED AS SUPPORTING DOCUMENTS:** Two letters from Recreation Director Amy Allen; Copy of Lease

**POSSIBLE COURSES OF ACTION:** Authorize extension of SLARA occupancy of 318 W. Lake St. on a month-to-month basis, if needed or give the Interim City Manager direction regarding preferred future use of the property.

**RECOMMENDATION:** None

**SUGGESTED MOTION:** Motion by \_\_\_\_\_, supported by \_\_\_\_\_ to \_\_\_\_\_

03/12/18



March 1<sup>st</sup>, 2018

City of South Lyon Interm Manager,

The South Lyon Area Recreation Authority (SLARA) officially gave notice that our intention is not to renew our lease with the City of South Lyon for the premises located at 318 W. Lake Street. The SLARA plans to vacate the premises by June 30<sup>th</sup>, 2018 assuming all necessary permits, inspections and approvals for the new location are completed at that time. However, if for any reason the SLARA is delayed in this process, we would like to remain at our current location on a month to month basis until all hurdles have been cleared. We will certainly keep the City of South Lyon informed on all our progress pertaining to the move so the City is aware of the status every step of the way. Could you please advise us if a month to month lease is possible if needed?

If you have any questions I can be reached at (248) 437-8105.

Sincerely,

A handwritten signature in black ink, appearing to read "Amy Allen".

Amy Allen  
Recreation Director  
South Lyon Area Recreation Authority  
248-437-8105  
[aallen@slrec.com](mailto:aallen@slrec.com)

318 W. Lake Street - South Lyon, Michigan 48178  
Office: 248/437-8105 - Fax: 248/437-4324  
[www.slrec.com](http://www.slrec.com)

**Creating Community through People, Parks and Programs**

Serving the communities of Green Oak Charter Township, Charter Township of Lyon and City of South Lyon since 1999.



March 1<sup>st</sup>, 2018

City of South Lyon Council Members,

The South Lyon Area Recreation Authority (SLARA) is officially giving notice that it is our intention not to renew our lease with the City of South Lyon for the premises located at 318 W. Lake Street. Per the Lease Agreement, this letter shall serve as the one hundred twenty days (120) official notice. The SLARA plans to vacate the premises by June 30<sup>th</sup>, 2018 assuming all necessary permits, inspections and approvals for the new location are completed at that time.

The SLARA would like to take this opportunity to thank the City of South Lyon for all the support it has given over the past 19 years and for being such a gracious host to the organization. The 318 W. Lake Street location has served as a great facility for the SLARA and allowed us the opportunity to grow and flourish since splitting from South Lyon Community Schools Community Education in 1999. Without the support from the City of South Lyon in providing housing for the SLARA, we truly wouldn't be where we are now. Special thanks to the Department of Public Works that has provided us maintenance, landscaping and repair over the years, we appreciate all your hard work and support!

In the past few years our organization has continued to grow at an incredible rate. We are looking forward and planning to relocate to a location that has enough space to allow us to do onsite programming. As a member of our recreation authority, we will continue to work and be active in the City of South Lyon and look forward to working with the City on many more programs in the future!

If you have any questions I can be reached at (248) 437-8105.

Sincerely,

A handwritten signature in black ink, appearing to read "Amy Allen".

Amy Allen  
Recreation Director  
South Lyon Area Recreation Authority  
248-437-8105  
[aallen@slrec.com](mailto:aallen@slrec.com)

318 W. Lake Street - South Lyon, Michigan 48178  
Office: 248/437-8105 - Fax: 248/437-4324  
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## **LEASE AGREEMENT**

This Lease Agreement ("Lease") is entered into on this \_\_\_\_ day of \_\_\_\_\_, 2016, by and between the CITY OF SOUTH LYON, a Michigan municipal corporation, 335 S. Warren Street, South Lyon, Michigan 48178 ("Landlord"), and the SOUTH LYON AREA RECREATION AUTHORITY, a Michigan municipal corporation, 318 W. Lake Street, South Lyon, Michigan 48178 ("Tenant").

### **RECITALS**

A. Landlord is the owner of land and improvements commonly known and numbered as 318 W. Lake Street, South Lyon, Michigan 48178 (the "Premises").

B. Landlord desires to lease the Premises to Tenant, and Tenant desires to lease the Premises from Landlord for the term, at the rental and upon the covenants, conditions and provisions herein set forth.

THEREFORE, in consideration of the mutual promises herein, contained and other good and valuable consideration, it is agreed:

1. Description of the Premises. The Premises is located at 318 W. Lake Street and includes the buildings and improvements located thereon including the parking lot, and the Premises is formerly known as the South Lyon Library Building.

2. Term. The term of the Lease shall be two (2) years, commencing July 1, 2016 and ending June 30, 2018.

3. Renewal. If the Tenant is not in default under this Lease, the Tenant may, at its option, renew the Lease for single two (2) year term. Tenant shall exercise such renewal option by giving written notice to Landlord at least one hundred twenty days (120) before the expiration of the term of the Lease. If Tenant elects to renew the Lease, monthly rent shall increase two percent (2%).

4. Rent. For and during the initial term of the Lease, Tenant shall pay to Landlord annual rent of \$9144.36 per year. The annual rent shall be payable in advance in equal monthly installments of \$762.03 per month. The monthly payment shall be due and payable on the first day of each calendar month at the following address 335 S. Warren Street, South Lyon, Michigan 48178 or at such other place designated by written notice from Landlord. Any rent payment not made by the fifth day of the month shall be considered overdue and in addition to Landlord's other remedies, Landlord may levy a late payment charge of \$25.00 per month on any overdue amount.

5. Use of Premises. The Premises are to be used and occupied exclusively by Tenant for its general office use and for no other purpose without the prior written consent of Landlord. No activity shall be conducted on the Premises that does not comply with applicable local, state and federal laws, ordinances, and regulations. Tenant shall neither use nor occupy the Premises, or any part of it, for any unlawful, disreputable, or ultrahazardous activity and shall take action to halt such activity.

6. Condition of Premises. Tenant has inspected the Premises, finds them in good order and repair, acceptable for Tenant's intended use, and accepts the Premises as is.

7. Quiet Enjoyment. The Landlord covenants that as long as the Tenant pays the rent and complies with the other provisions of the Lease, the Tenant may quietly enjoy the Premises for the full term of this Lease.

8. Right of Entry. Landlord shall have the right to enter upon the Premises at reasonable hours to inspect the same and for purposes of maintaining and repairing the Premises, provided Landlord shall not thereby unreasonably interfere with Tenant's business.

9. Utilities. Unless otherwise expressly agreed in writing by Landlord, all utilities, including, but not limited to, gas, electric, water, sewer, heat, telephone, internet) shall be paid by the Tenant.

10. Maintenance and Repairs. Unless otherwise agreed to in writing and signed by the parties, Landlord shall be responsible for general building maintenance and repairs which are unrelated to Tenant's use of the Premises, such as general building maintenance (doors, windows, etc), fire extinguisher maintenance, pest control, lighting, lawn, snow removal, but Tenant shall be responsible, at its own cost and expense, for all other maintenance and repairs to the Premises. Tenant shall also use all reasonable care and precautions to prevent waste, damage or injury to the Premises.

11. Alterations, Additions and Improvements. No portion of the Premises, building or other improvements located thereon shall be altered, improved, or demolished without the prior written consent of the Landlord.

12. Surrender of Premises. Tenant shall surrender the Premises to Landlord at the expiration of the term of this Lease broom clean and in the same condition as at the commencement of the Lease, excepting normal wear and tear and except that all improvements made to the Premises by Landlord and/or Tenant shall become the property of Landlord at no expense to Landlord.

13. Holding Over. If Tenant remains in possession of the Premises after the termination of the term of the Lease with the consent of the Landlord, it will occupy the Premises as a holdover tenant on a month-to-month basis. Landlord may withhold its consent to holdover in its sole discretion. If Landlord consents to the holdover, Tenant is subject to all the covenants of this Lease to the extent they can be applied to a month-to-month tenancy, except that the Monthly Rent for each month of the holdover will be 150% of the monthly rent installment amount payable during the last month of the term. This covenant does not preclude Landlord from recovering damages if Tenant fails to timely deliver possession of the Premises after termination of the holdover, nor does it establish any right to extend or renew the term. If Tenant holds over after the expiration of the term without Landlord's consent, Tenant is liable for all damages resulting from the holdover. It is expressly within the contemplation of the parties that such damages may include: a) the reasonable rental value of the Premises; b) any damages arising from the loss of any sale or lease of the Premises; c) any lost profits incurred by Landlord; and d) any treble, double, or statutory damages allowed under law.

14. Taxes. Landlord will pay any real property taxes, assessments, or other governmental charges that shall or may during the Lease be imposed on, or arise in connection with the use of the Premises.

15. Signs. Tenant may construct or place signs in accordance with the applicable ordinances governing signs subject to the written consent of the City of South Lyon.

16. Insurance. Tenant shall obtain and maintain at its own expense, the following types and amounts of insurance:

- a. Fire Insurance. Tenant shall keep all furniture, records, and equipment on the Premises, including alterations, additions and improvements insured against loss or damage by fire with all standard extended coverage that may be required by any supplier or lien holder. The insurance shall be in an amount sufficient to cover Tenant for all risks or any event, in the full insurable value of the Premises occupied by Tenant and waive the right of recovering against the Landlord, excluding the cost of excavation and of foundations. If at any time there is a dispute as to the amount of such insurance, the same shall be settled by arbitration.
- b. Personal Injury and Property Damage Insurance. Insurance against liability for bodily injury and property damage and machinery insurance, all to be in amounts and in forms of insurance policies as may from time to time be specifically required by Landlord, shall be provided by Tenant.
- c. All insurance provided by Tenant as required by this section shall be carried in favor of Landlord and Tenant as their respective interests may appear. In case of insurance against damage to the Premises by fire or other casualty, the policy shall provide that loss, if any, shall be adjusted with and be payable to Landlord. Rent insurance and use and occupancy insurance maybe carried in favor of Tenant, but the proceeds are hereby assigned to Landlord to be held by Landlord as security for the payment of the rent and any additional rent under this Lease until restoration of the Premises.
- d. All insurance shall be written with responsible companies that Landlord shall approve, and the policies or certificates of insurance shall be delivered by Tenant to Landlord. All policies shall require thirty (30) days' notice by registered mail to Landlord of any cancellation or change affecting any interest of Landlord.

17. Damage and Destruction. In the event the Premises, or any portion of it, is damaged by fire, casualty or structural defects that the same cannot be used for Tenant's purposes, then Tenant shall have the right within ninety (90) days following damage to elect by written notice to Landlord to terminate this Lease. In the event if such damage does not render the Premises unusable for Tenant's purposes, Landlord shall promptly repair such damage at its cost and expense. During any portion of the Lease term that the Premises are inoperable or unfit for occupancy, or use, in whole or in part, for Tenant's purposes, Tenant shall be relieved from paying rent and other charges relating to the portion(s) of the Premises it is unable to use.



18. Indemnity. Tenant will indemnify and defend Landlord against all claims, actions, suits, proceedings, costs, expenses, damages and liabilities, including reasonable attorney's fees and costs, arising out of, connected with, or resulting from Tenant's use or misuse of the Premises, for bodily injury or property damage relating to the Premises. The claims covered by this indemnification include all claims for bodily injury or property damage relating to: a) the condition of the Premises; b) the maintenance and/or repair, or lack thereof, of the Premises; c) the use or misuse of the Premises by Tenant or its agents, contractors, or invitees; or d) any event on the Premises whatever the cause. Tenant's indemnification does not extend to liability for damages resulting from the sole or gross negligence of the Landlord.

19. Tenant's Liability. All Lessee's personal property, including trade fixtures, on the Premises shall be kept at Lessee's sole risk. Landlord shall not be responsible or liable to Tenant for any loss of business or other loss or damage that may be occasioned by or through the acts or omissions of persons occupying the Premises for any loss or damage resulting to Tenant or its business or property from water, gas, sewer, or steam pipes that burst, overflow, stop, or leak; from heating, cooling, or plumbing fixtures; or from electric wires or gas odors within the leased Premises from any cause, or from the maintenance and repair of the Premises, except as may result from and be directly caused by the gross negligence, or willful or intentional actions of Landlord. The provisions of this section shall not be interpreted to prevent Tenant from recovering any losses under the coverage provided by Landlord's fire and extended coverage insurance policy, if any losses of Tenant are covered by that policy.

20. Subletting and Assignment. Tenant shall not sublet the Premises, or any portion of it, or assign this Lease without the prior written consent of the Landlord. Any such attempt to sublet or assign the Lease by Tenant shall be a breach of this Lease and cause for immediate termination.

21. Easements, Agreements, or Encumbrances. The parties shall be bound by all existing easements, agreements, and encumbrances of record relating to the Premises, and Landlord shall not be liable to the Tenant for any damages resulting from any action taken by a holder of interest pursuant to the rights of that holder.

22. Defaults and Remedies. Default means a) Tenant's failure to pay Rent within five (5) days of its due date; b) Tenant's failure to perform any covenant or condition of the Lease for ten (10) days following a written demand by Landlord to cure; (c) Tenant's filing of a petition for bankruptcy, reorganization, liquidation, dissolution, or similar relief; (d) any proceeding filed against Tenant seeking bankruptcy, reorganization, liquidation, dissolution, or similar relief that is not dismissed within thirty (30) days after filing; (e) the appointment of a trustee, receiver, or liquidator for Tenant or a substantial part of Tenant's property; or (f) Tenant's abandonment of the Premises.

- a. Landlord has the power to terminate this Lease and evict Tenant on the occurrence of a Default. Landlord will exercise this power by the delivery of a written notice of termination. The termination is effective on the third day following delivery of the notice to Tenant. If Landlord terminates this Lease, Landlord is entitled to recover all damages suffered as the result of the Default or any breach. It is within the contemplation of the parties that such damages include a) the difference between the contract rent and the market rent through the remainder of the Term; b) Landlord's expenditures to fit the Premises to the

needs of Tenant, including expenditures for Landlord Work, interior partitions, doors, floor coverings, wall coverings, paint, plaster, cabinetry, and all other work performed on the Premises; c) the estimated cost of restoring the Premises to their original condition; d) any commissions paid to re-lease the Premises; e) reasonable attorneys fees and costs; and f) any other damages identified in this Lease.

- b. Landlord may also evict Tenant without terminating this Lease. Tenant waives any right to possession of the Premises after eviction. Despite eviction, Tenant remains fully obligated for the payment of Rent through the remainder of the Term. Landlord has no obligation to re-lease the Premises, and Landlord's failure or refusal to re-lease does not affect Tenant's obligation to pay Rent.
- c. The remedies provided to Landlord under this Lease are cumulative, regarding other remedies provided by the Lease and any remedies provided by law. If Landlord commences an action to enforce this Lease, Tenant agrees to pay Landlord's reasonable attorneys fees and costs. Landlord and Tenant knowingly and voluntarily waive trial by jury in any action a) to enforce this Lease; b) to evict Tenant from the Premises; or c) that is in any way related to the Lease, the Premises, or the relationship between Landlord and Tenant.

23. Waiver. Any failure of the Landlord to insist on strict performance of any provisions of this Lease shall not be deemed a waiver of the provisions of the Lease in any subsequent default.

24. Amendment. This Lease may not be amended, changed, modified, or discharged except by a writing signed by both parties.

25. Notices. All notices under this Lease shall be in writing and shall be deemed to be given when they are either delivered personally or mailed by certified or registered mail to the receiving party at the address stated in this Lease or at an address furnished to the other party in writing during the term of this Lease.

26. Captions and Headings. The captions and headings used in this Lease are intended only for convenience and are not to be used in construing the Lease.

27. Applicable Law. This Lease shall be construed under Michigan Law.

28. Successors and Assigns. This Lease is binding on successors and assigns.

29. Severability. If any provision of this Lease is unenforceable, the other provisions of the Lease shall remain valid and enforceable to the fullest extent permitted by law.

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

31. Binding Effect. The covenants and conditions contained in this Lease shall apply to and bind the successor's legal representatives and assigns of the parties to this Lease and all covenants are to be construed as conditions of this Lease.

32. Attorney Fees. If Landlord files an action to enforce the Lease, or for breach of the Lease or any covenant or condition therein, Tenant shall pay Landlord's reasonable costs and attorneys fees incurred in connection with the action.

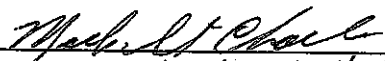
In witness whereof, each party to this Lease has caused it to be executed on the date first above written:

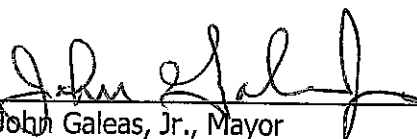
TENANT

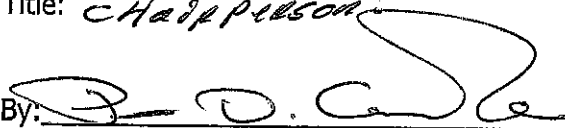
LANDLORD

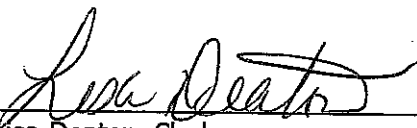
SOUTH LYON AREA RECREATION AUTHORITY

CITY OF SOUTH LYON

By:   
Name: MARK ST. CHARLES  
Title: CHAIRPERSON

By:   
John Galeas, Jr., Mayor

By:   
Name: PATRICIA D. CARCONE  
Title: TREASURER

By:   
Lisa Deaton, Clerk

# AGENDA NOTE

OLD Business Item # 6

**MEETING DATE:** March 12, 2018

**PERSON PLACING ITEM ON AGENDA:** Postponed from 2/26/18

**AGENDA TOPIC:** Council Meeting Conduct

**EXPLANATION OF TOPIC:** At the January 22, 2018 meeting, Council considered rules relating to Council meeting conduct including public comment. Council separated consideration of public comment rules by postponing that matter to February 12, 2018, and postponing consideration of rules pertaining to Council conduct to June 25, 2018. The following is a brief summary of concepts for consideration in deciding on any rules for public comment during Council meetings. Numerous samples of meeting rules and procedures have been provided.

Number of Public Comment Periods. With respect to rules on audience comment during public meetings, there is no uniformity among communities on this issue. Some communities provide one public comment period at the beginning of the meeting while others provide two periods – one at the beginning and one near the end. Some communities make clear that the call to the public periods are for non-agenda items, and some allow audience participation on agenda items while the governing body is considering the agenda items, or alternatively, stating that audience participation is only during the public comment periods. The public does not have a right to address the Council during its consideration of and deliberation on a particular matter. But, the City of South Lyon has, as past practice, allowed audience participation during Council consideration of specific agenda items as well as non-agenda comments during public comment. Council may want to clarify the purposes and permitted topics for the public comment periods, and as appropriate, clarify whether audience participation during agenda items is permitted and under what circumstances.

Number of Times an Individual May Speak. This concept varies from community to community, but several specify that an individual may not speak more than once on a topic until everyone wishing to speak has had an opportunity to do so.

Time Limits. As to time limits on public comment, some communities do not expressly limit the time an individual may speak during public comment, but many do and those limits typically range from 2-5 minutes, and some allow for a longer time (e.g. 10 minutes) for a group presentation. The use of audio or video by an individual during public comment may be a factor in a time limitation, but depending whether the request is made in advance, it may be a presentation rather than a public comment. In some instances, the rules make clear that the chair or governing body can suspend the time limit on public comment. Council may want to decide whether to set time limits (recommended) and, if so, specify who determines whether the time limits will be extended, or suspended, and, if so, by what procedure and under what circumstances. For example, a group may be permitted more time than an individual with the understanding that having a representative

of a group may avoid duplicative comments, and others use a more subjective discretionary standard of "for good cause" which is essentially a discretionary standard.

Individual Must Be Recognized Before Addressing Council. Many communities specify that an individual must be recognized by the Chair before addressing the governing body, but there are some that do not address the concept. Related to this procedure is a requirement that audience members direct their comments to the Chair rather than to specific Council Members or staff.

Individuals Must Identify Themselves and Provide Address or Residency Information. Many rules and procedures relating to public or audience comment require that the person provide his or her name and address either verbally or in writing. It appears that this requirement may be to assist in identifying the speaker and whether he or she is a resident of the community. One community allowed an individual wishing not to verbally state their address to place it on a sign-in sheet, while another requires only the person's name and a statement whether she is or is not a resident. Note, the City cannot require an individual to provide her name and/or address as a condition of attending the meeting, but the City is allowed to ask for or require it when addressing the Council. If this latter is made a requirement, it would be a best practice to have this rule or requirement in writing and made public so anyone attending a meeting is or can be aware of it. Some communities include the rules regarding audience comment on the agenda.

Advance Sign-up. Some communities require advance sign-up for public comment. This may be a procedure used in communities that have a lot of audience participation in an attempt to control the duration of a meeting. This is not recommended for South Lyon.

Interaction Between Audience and Council. Some communities' rules are more formal and restrict immediate interaction between an audience member and the Council and staff while others provide for limited interaction and response, and others do not address the concept. South Lyon has, by past practice, utilized the public comment to receive comments and questions and have not allowed Council Members or staff to respond until later in the meeting. Council may wish to consider how it wants to address this concept.

Decorum, Behavior and Conduct. Many of the rules and procedures for communities require that audience members addressing the Council through the Chair be respectful and courteous, and some delve into restrictions on speaking beyond the time limits, speaking out of order, personal attacks, vulgarities, slanderous statements, and consequences for such conduct or for being disorderly or disrupting the meeting which can range from being ruled out of order, being restricted from speaking further, or being removed in the event the person breaches the peace.

Public Comment Distinguished from Comment during Public Hearing. It should be noted that the public comment or call to the public inviting audience members to make comments or ask questions is distinguished from comments made during a public hearing. A public hearing is held in a different portion of the meeting and may use a different format depending on the matter. Also, the topic of a public hearing will be known and comments would pertain to that matter, while general public comment may touch on any topic or question relevant to the City or of public interest.

**MATERIALS ATTACHED AS SUPPORTING DOCUMENTS:**

- Agenda Note 1/22/18 – Council Meeting Conduct
- Council Resolution Setting Procedures for Council Deliberations (1/23/06)

**POSSIBLE COURSES OF ACTION:**

**RECOMMENDATION:** Address the various concepts for rules on audience or public comment and direct staff / attorney / subcommittee to prepare proposed Council rules and procedures consistent with the discussion and for subsequent Council review and approval

**SUGGESTED MOTION:** Motion to direct \_\_\_\_\_ to prepare proposed Council rules and procedures for audience and public comment based on Council discussion for presentation at the Council meeting on \_\_\_\_\_, 2018