

OSHTEMO CHARTER TOWNSHIP BOARD
7275 West Main Street
Kalamazoo, MI 49009

September 26, 2023

Refer to page 3 for Virtual Meeting Information

REGULAR MEETING
5:30 P.M.
AGENDA

1. Call to Order
2. Remote Location Identification (for remote attendance when permitted by statute)

WORK SESSION ITEMS

3. Discussion on 2024 Annual Budget (Ongoing)
4. Discussion of 2024 Township Millage Rates
5. Other Updates & Business

BREAK (Time Permitting) – 7:05 P.M.

REGULAR SESSION ITEMS – 7:15 P.M.

6. Pledge of Allegiance
7. Township Mission/Vision/Core Values
8. Public Comment on Non-Regular Session Items
9. Consent Agenda
 - a. Minutes of Regular Meeting September 12, 2023
 - b. Board & Committee Appointments (KATS Policy, HARC)
 - c. Second Reading: Small Cell Wireless Communication Facilities Deployment 5g Ordinance
 - d. Second Reading: Wireless Telecommunication Facilities 5g Ordinance
 - e. KL Avenue Professional Services Contract Revision
10. Presentation of Township-Wide Survey by Cobalt Community Research
11. First Reading: Solar Energy Systems Ordinance
12. First Reading: Height Standards for Single-Family & Two-Family Dwellings: Sections 2.20 Definitions, 42.30 Development Standards and 50.30 Residential Dwelling Standards
13. Consideration of Human Resources Information System
14. Consideration of 9th Street Non-Motorized Right-of-Way Agent Authorization
15. Public Hearing: Consideration to Adopt Resolution of Intent to Establish Fire and Safety Protection SAD No. 2.
16. Budget Amendments
17. Consideration of L-4029 Township Property Tax Rates
18. Consideration of Police SAD 09 and 04
19. Consideration of Fire SAD No. 1 and SAD No. 2
20. Public Comment
21. Board Member Comments and Committee Updates
22. Adjournment

**Policy for Public Comment
Township Board Regular Meetings, Planning Commission & ZBA Meetings**

All public comment shall be received during one of the following portions of the Agenda of an open meeting:

- a. Citizen Comment on Non-Agenda Items or Public Comment – while this is not intended to be a forum for dialogue and/or debate, if a citizen inquiry can be answered succinctly and briefly, it will be addressed or it may be delegated to the appropriate Township Official or staff member to respond at a later date. More complicated questions can be answered during Township business hours through web contact, phone calls, email (oshtemo@oshtemo.org), walk-in visits, or by appointment.
- b. After an agenda item is presented by staff and/or an applicant, public comment will be invited. At the close of public comment there will be Board discussion prior to call for a motion. While comments that include questions are important, depending on the nature of the question, whether it can be answered without further research, and the relevance to the agenda item at hand, the questions may not be discussed during the Board deliberation which follows.

Anyone wishing to make a comment will be asked to come to the podium to facilitate the audio/visual capabilities of the meeting room. Speakers will be invited to provide their name, but it is not required.

All public comment offered during public hearings shall be directed, and relevant, to the item of business on which the public hearing is being conducted. Comment during the Public Comment Non-Agenda Items may be directed to any issue.

All public comment shall be limited to four (4) minutes in duration unless special permission has been granted in advance by the Supervisor or Chairperson of the meeting.

Public comment shall not be repetitive, slanderous, abusive, threatening, boisterous, or contrary to the orderly conduct of business. The Supervisor or Chairperson of the meeting shall terminate any public comment which does not follow these guidelines.

(adopted 5/9/2000)
(revised 5/14/2013)
(revised 1/8/2018)

Questions and concerns are welcome outside of public meetings during Township Office hours through phone calls, stopping in at the front desk, by email, and by appointment. The customer service counter is open from Monday-Thursday, 8 a.m.-1 p.m. and 2-5 p.m., and on Friday, 8 a.m.–1 p.m. Additionally, questions and concerns are accepted at all hours through the website contact form found at www.oshtemo.org, email, postal service, and voicemail. Staff and elected official contact information is provided below. If you do not have a specific person to contact, please direct your inquiry to oshtemo@oshtemo.org and it will be directed to the appropriate person.

Oshtemo Township Board of Trustees		
<u>Supervisor</u>		
Cheri Bell	216-5220	cbell@oshtemo.org
<u>Clerk</u>		
Dusty Farmer	216-5224	dfarmer@oshtemo.org
<u>Treasurer</u>		
Clare Buszka	216-5260	cbuszka@oshtemo.org
<u>Trustees</u>		
Neil Sikora	760-6769	nsikora@oshtemo.org
Kristin Cole	375-4260	kcole@oshtemo.org
Zak Ford	271-5513	zford@oshtemo.org
Kizzy Bradford	375-4260	kbradford@oshtemo.org

Township Department Information			
<u>Assessor:</u>			
Kristine Biddle	216-5225	assessor@oshtemo.org	
<u>Fire Chief:</u>			
Greg McComb	375-0487	gmccomb@oshtemo.org	
<u>Ordinance Enforcement:</u>			
Rick Suwarsky	216-5227	rsuwarsky@oshtemo.org	
<u>Parks Director:</u>			
Vanessa Street	216-5233	vstreet@oshtemo.org	
Rental Info	216-5224	oshtemo@oshtemo.org	
<u>Planning Director:</u>			
Iris Lubbert	216-5223	ilubbert@oshtemo.org	
<u>Public Works Director:</u>			
Anna Horner	216-5228	ahorner@oshtemo.org	

Zoom Instructions for Participants

Before a videoconference:

1. You will need a computer, tablet, or smartphone with a speaker or headphones. You will have the opportunity to check your audio immediately upon joining a meeting.
2. If you are going to make a public comment, please use a microphone or headphones with a microphone to cut down on feedback, if possible.
3. Details, phone numbers, and links to videoconference or conference call are provided below. The details include a link to “**Join via computer**” as well as phone numbers for a conference call option. It will also include the 11-digit Meeting ID.

To join the videoconference:

1. At the start time of the meeting, click on this link to [join via computer](#). You may be instructed to download the Zoom application.
2. You have an opportunity to test your audio at this point by clicking on “Test Computer Audio.” Once you are satisfied that your audio works, click on “Join audio by computer.”

You may also join a meeting without the link by going to join.zoom.us on any browser and entering this **Meeting ID: 856 6068 9723**

If you are having trouble hearing the meeting or do not have the ability to join using a computer, tablet, or smartphone then you can join via conference call by following instructions below.

To join the conference by phone:

1. On your phone, dial the teleconferencing number: **1-929-205-6099**
2. When prompted using your touchtone (DTMF) keypad, enter the Meeting ID number: **856 6068 9723#**

Participant controls in the lower-left corner of the Zoom screen:



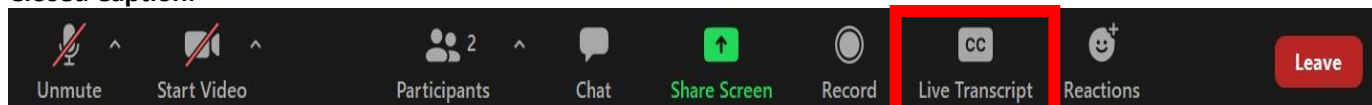
Using the icons at the bottom of the Zoom screen, you can (some features will be locked to participants during the meeting):

- Participants – opens a pop-out screen that includes a “Raise Hand” icon that you may use to raise a virtual hand. **This will be used to indicate that you want to make a public comment.**
- Chat – opens pop-up screen that allows participants to post comments during the meeting.

If you are attending the meeting by phone, to use the “Raise Hand” feature **press *9 on your touchtone keypad.**

Public comments will be handled by the “Raise Hand” method as instructed above within Participant Controls.

Closed Caption:



Turn on Closed Caption:

Using the icons at the bottom of the Zoom screen:

1. Click on the “Live Transcription” button.
2. Then select “Show Subtitle”.

Mission:

To advance the quality of life of all residents through a commitment to responsible growth, and value-driven municipal services that promote the relationships among economic vitality, environmental stewardship, and social equity.

Vision:

A sustainable and innovative community built through a legacy of planned, responsible growth and rural preservation.

Core Values:

PUBLIC SERVICE

- Fair treatment to all people.
 - Each customer is welcomed and that their input is wanted.
 - Difficult questions are not marginalized.
- Allow residents to interact directly with the township staff and officials.
- Decisions are made based on the value to our Township and residents.

SUSTAINABILITY

- Meet the needs of the present without compromising future generations.
 - Consider the environment through practices that reduce impacts.
 - Value conscious decision making.
 - Committing to quality Fire and Police protection.

INNOVATION

- Providing the best value-conscious technology currently available.
- Leverage new technologies and ways of doing business to increase accessibility and improve services.

PROFESSIONALISM

- Hire staff with strong core competencies within their given profession.
 - Commitment to continuous improvement to government operations.
- Dedicated to open communication to improve productivity and effectiveness.

INTEGRITY

- Decisions are made logically through the collection of evidence, facts, and public input.
 - When promises are made, we follow through.
 - We do not obfuscate – we say what we mean and do what we say.
 - Transparent governmental practices are of the highest priority.

FISCAL STEWARDSHIP

- Ensure that taxpayer investments are spent wisely, effectively and efficiently.

TITLE	MEMBERS	DATES	TERM END DATE	
Board of Review	Fred Gould	<i>March, July, & December</i>	12.31.2024	
<i>Two Year Term, Start Jan 1, Odd Years</i>	Kitty Gelling		12.31.2024	
Contact: Kristine Biddle, kbiddle@oshtemo.org	Harry Jachym		12.31.2024	
	Wiley Boulding (Alternate)		12.31.2024	
	VACANT (At-Large)		12.31.2024	
	Cheri Bell (Supervisor)			
	Kristine Biddle (Staff)			
CCTA (Public Transit)	Dusty Farmer			
Corridor Improvement Authority (SoDA)	Kizzy Bradford (Resident of SoDA Area)	<i>June & December, noon</i>	12.31.2023	
<i>5 to 9 members</i>	Joe Gesmundo (AVB Developer)		12.31.2024	
<i>Majority with ownership or bus int</i>	Dale Deleeuw (County Rep)	<i>(appointed by County per agreemnt)</i>	12.31.2024	
<i>At least 1 resident (w/in 1/2 mile)</i>	Corey Ashley (Grp. Mktg. Svcs., Business Rep)		12.31.2025	
<i>Four year term staggered terms</i>	Kelly Bringman (Nottingham Apts. Mgr)		12.31.2025	
Contact: Iris Lubbert, ilubbert@oshtemo.org	Dennis Patzer, At Large (School Admin)		12.31.2026	
	Theresa Spurr (Spurr Dental)		12.31.2026	
	Open (Cheri Jodoin applied; prev. served)			
	Cheri Bell (TB Liason)			
	Iris Lubbert (Staff)			
Dangerous Building Hearing Officer	Dave Breytone	<i>Supervisor appointment</i>		
Downtown Development Authority (DDA)	Stephen Dallas (Interest)	<i>3rd Thurs, every other</i>	12.31.2025	
<i>9-13 Members</i>	VACANT (At Large)	<i>month, starting Jan, 3 pm</i>	12.31.2025	
<i>Majority with ownership or bus int</i>	Dick Skalski (At Large)		12.31.2024	
<i>At least 1 resident (w/in 1/2 mile)</i>	Ryan Winfield (Resident/Interest)		12.31.2024	
<i>Four year term staggered terms</i>	Themi Corakis (Interest)		12.31.2023	
Contact: Iris Lubbert, ilubbert@oshtemo.org	Rich MacDonald (Interest)		12.31.2023	
	Tom Sowell (KPL Rep; Interest)		12.31.2026	
	Bill Cekola (Interest)		12.31.2026	
	Cheri Bell (Twp Supervisor)			
	Iris Lubbert (Staff)			
Environmental Board	Chad Hughson	<i>As needed</i>	12.31.2023	
<i>Three Year Terms</i>	Steve Malcolm		12.31.2025	
Contact: Dusty Farmer, dfarmer@oshtemo.org	Neil Sikora (Trustee)		12.31.2024	

TITLE	MEMBERS	DATES	TERM END DATE	
Oshtemo Election Commission	Dusty Farmer (Clerk)	<i>As needed</i>	12.8.2020 to 11.20.2024	
Contact: Dusty Farmer, dfarmer@oshtemo.org	Clare Buszka (Treasurer)			
	Zak Ford (TB Liason)			
Friends of the Parks	Bruce Dannenhauer, Treasurer (Resident)	<i>Monthly, 3rd Tuesday, 4 pm</i>	12.31.2023	
<i>Two Year Term</i>	Neil Sikora (Trustee)		12.31.2023	Partial
Contact: Vanessa Street, vstreet@oshtemo.org	Vanessa Street (Staff)			
	Dennis Patzer, President (Retired)		12.31.2023	
	Deb Everett, Secretary (Resident)		12.31.2024	
	David Walch (Resident, Engineer)		12.31.2024	
	Kathy Fretz (Resident Retired)		12.31.2024	
	Cheri Bell (TB Liason)		12.31.2024	
Joint Boards Meetings	Township Board	<i>3rd Tuesday, 6 pm, Twice Annually</i>		
Contact: Iris Lubbert, ilubbert@oshtemo.org	Zoning Board of Appeals			
	DDA & SoDA			
	Friends of the Parks			
	Planning Commission			
	Iris Lubbert (Staff)			
SMBA (Southwest Michigan Building Authority)	Cheri Bell (Supervisor)			
Supervisor, or other Board Member	Dusty Farmer (Clerk)			
KATS Policy (Kalamazoo Area)	Cheri Bell (Primary)	<i>Monthly, last Wed, 9 am</i>		
Transportation Study (2 votes)	Clare Buszka (Alternate)			
KATS Technical (2 votes)	Iris Lubbert or Colten Hutson (Planning Staff)	<i>Monthly, 2nd Thursday, 9 am</i>		
	Anna Horner or Zach Pearson (Public Works Staff)			
Kalamazoo Regional Water	Cheri Bell (TB/Primary)			
& Wastewater Commission (KRWWC)	Neil Sikora (TB/Alternate)			
Contact: Rich Pierson, rp5343@yahoo.com	VACANT			
(269) 998-4587	Jim Porter (Staff Attorney)			
Planning Commission	Alistair Smith	<i>2nd & 4th Thursday, 6 pm</i>	12.31.2023	1st term
Three Year Term	Micki Maxwell	<i>(& any special meetings)</i>	12.31.2023	2nd term
Contact: Iris Lubbert, ilubbert@oshtemo.org	Scott Makohn		12.31.2024	Partial
	Deb Everett		12.31.2024	Partial
	Phil Doorlag		12.31.2025	1st term
	Scot Jefferies		12.31.2025	1st term
	Zak Ford (TB Liason)		12.31.2023	Partial
	Iris Lubbert (Staff)			

TITLE	MEMBERS	DATES	TERM END DATE	
	Jim Porter (Staff Attorney)			
Public Media Network	Lisa Godfrey (Citizen Rep)			
	Clare Buszka (Board Rep)			
Township Board	Cheri Bell (Supervisor)			
	Dusty Farmer (Clerk)			
	Clare Buszka (Treasurer)			
	Kizzy Bradford (Trustee)			
	Neil Sikora (Trustee)			
	Zak Ford (Trustee)			
	Kristin Cole (Trustee)			
	Jim Porter (Staff Attorney)			
	Anna Horner (Public Works Director)			
Zoning Board of Appeals	Louis Williams (Resident)	<i>4th Tues, 3 pm</i>	12.31.2024	1st term
<i>Three Year Terms</i>	Fred Gould (Resident)		12.31.2025	1st Term; Partia
Contact: Iris Lubbert, ilubbert@oshtemo.org	Anita Smith (Vice Chair)		12.31.2023	1st Term
	Harry Jachym (1st Alternate)		12.31.2025	Partial
	Rick Everett (2nd Alternate)		12.31.2024	Partial
	Al Smith (PC Liason)			
	Dusty Farmer (TB Liason)			
	Iris Lubbert (Staff)			
	Jim Porter (Staff Attorney)			
Utility Policy Committee (UPC)	Libby Heiny-Cogswell (Chair)			
	Marc Elliott (Alternate)			
<i>Appointment through the KRWWC</i>	Jeff Sorensen (Regional Chair)			

*Bold Font Indicates Proposed Changes. Others are Continuing

TITLE	MEMBERS	DATES	TERM END DATES
Board & Committee	Cheri Bell (TB)	<i>As needed</i>	
Appointments	Dusty Farmer (TB)		
	Clare Buszka (TB)		
Buildings and Grounds	Cheri Bell (TB)	<i>Quarterly @ 8:00 a.m. July/October</i>	
	Dusty Farmer (TB)		
	Carl Benson (Resident)		
	Rick Everett (Resident)		
	Greg McComb (Staff)		
	Greg Fountain (Staff)		
Capital Improvement (CIC)	Zak Ford (TB)	<i>Quarterly, Jan, Apr, July, Oct</i>	
	Cheri Bell (TB)	<i>3rd Tues. @ 1pm</i>	
	Clare Buszka (TB)		
	Tim Mallett (Resident)		
	Ken Hudok (Resident)		
	Bernie Mein (Resident/retired builder)		
	Anna Horner (Staff)		
	Zach Pierson (Staff)		
HARC (Hardship Advisory Review Committee); 3 year, staggered terms	Fred Gould (BOR)		12/31/2024
	Neil Sikora (TB)		
	Jeff Parsons (Resident-at-large)		
	Clare Buszka (TB Treasurer)		TermofOffice
	Cheri Bell (TB Supervisor)		TermofOffice
Records Management	Dusty Farmer, Chair (Clerk)		
	Anna Horner (Staff)		
	Greg McComb (Fire Chief)		
	Kerri Tyler (Staff)		

*Bold Font Indicates Proposed Changes. Others are Continuing

TITLE	MEMBERS	DATES	TERM END DATES
	Jon Gibson (Staff)		
	Iris Lubbert (Staff)	<i>As Needed</i>	
	Cheri Bell (TB; Ex Officio)	<i>As needed</i>	
IT Committee	VACANT (Resident)		
	Marc Elliott (Staff)		
	Scott Fuller (Staff)		
	Jon Gibson (Staff)		
"Legislative Breakfast"	Open to Entire Board	<i>Quarterly</i>	
(Southwest Michigan First/Chamber)		<i>8am - 9am</i>	
Kalamazoo Brownfield Authority	Iris Lubbert (Staff)	<i>4th Thursday of each Month @ 3:00pm</i>	
Kalamazoo County Transit Authority	Dusty Farmer (Township Representative)	<i>2nd & 4th Monday, 5:30 p.m.</i>	
HR (Human Resources)	Cheri Bell (TB, Personnel Director)	<i>As Needed</i>	
Board Work Group	Clare Buszka (TB)		
	Dusty Farmer		
	Sara Fiester (HR)		
Parks	Cheri Bell (TB)	<i>3rd Wednesday @ 4 p.m.</i>	
	VACANT		
	Zak Ford (TB)		
	Deb Everett (Resident)		
	Neil Sikora (TB)		
	Vanessa Street (Staff)		
Police	Cheri Bell (TB)	<i>Quarterly as needed</i>	
	Kristin Cole (TB)		
	Zak Ford (TB)		
	Greg McComb (Staff)		
	Jack Shepperly (Staff Police Specialist)		
	Louis Parker III (Resident)		

*Bold Font Indicates Proposed Changes. Others are Continuing

TITLE	MEMBERS	DATES	TERM END DATES
	Malcolm Blair (Resident)		
	Jim Taylor (Resident)		
	Deb Everett (Resident)		
	Jim Porter (Staff Attorney)		
Safety	Greg McComb (Staff)	<i>As needed</i>	
	Sara Feister, Safety Coordinator (Staff)		
	Rod Rought (Staff)		
	Greg Fountain (Staff)		
	Jon Gibson (Staff)		
	Kyle Gibson (SMBA, tenant)		
	Cheri Bell (TB, Ex Officio)		
Sunshine	Sally Higgins (Staff)		
<i>Manage voluntary contributions from staff to recognize employee life events (determined by Staff within the Sunshine Fund, not TB)</i>	Linda Potok (Staff)		
	Clare Buszka (Treasurer)		
	Sara Feister (Staff)		
	Sierra Lucas (Staff)		
Wellhead Protection Team	Iris Lubbert/Colten Hutson (Staff)	<i>Quarterly (approx)</i>	
Fire Department Strategic Planning Committee	Cheri Bell (TB)		
	Zak Ford (TB)		
Established 7.2022	Erin Phillips (Fire Dept Administrative Asst)		
	Fire Staff (As needed)		
	Deb Everett (Resident)		
	Jared Klajnbart (Resident)		
	Themi Corakis (Business Owner)		
	Clare Buszka (TB)		
	VACANT (TB, Ex Officio)		

Memorandum



Date: September 15, 2023
To: Township Board
From: James Porter – Legal Department
Subject: Second Reading of Wireless Telecommunication Facilities 5g Ordinance Article 59 & Small Cell Wireless Communication Facilities Deployment 5g Ordinance

Objectives

To accept for Second Reading the Wireless Telecommunication Facility Provisions 5g Ordinance No. 656 to add Article 59 to the Township Zoning Ordinance and set the Wireless Telecommunication Facility Provisions 5g Ordinance for adoption.

To accept for Second Reading the Small Cell Wireless Communication Facilities Deployment 5g Ordinance No. 657, Article 239, to address 5g in the Public Right of Way and adding Article 239 to the Township Ordinances and set the Small Cell Wireless Communication Facilities Deployment 5g Ordinance for adoption.

Recommended Motion

I make the motion to accept for Second Reading the Wireless Telecommunication Facility Provisions 5g Ordinance adding Article 59 to the Township Zoning Ordinance and set for adoption.

I make the motion to accept for Second Reading the Small Cell Wireless Communication Facilities Deployment 5g Ordinance, adding Ordinance No. 657, Article 239, to the Township General Ordinance and set for adoption.

Background

Consideration to repeal Article 49.80 – Communication Towers of the Township Ordinance and adopt proposed Article 59- Wireless Telecommunication Facilities.

Consideration of adopt proposed Ordinance No. 657, Article 239, to address 5g on private property.

Information Provided

I have attached a copy of the of the Ordinance amending this Zoning Ordinance, to include Article 59 entitled “Wireless Telecommunication Facility Provisions 5g Ordinance”.

I have attached a copy of the Ordinance entitled “Small Cell Wireless Communication Facilities Deployment 5g Ordinance.”

OSHTEMO CHARTER TOWNSHIP ORDINANCE NO.656

ADOPTED:

EFFECTIVE:

AN ORDINANCE TO REGULATE THE CONSTRUCTION OF WIRELESS TELECOMMUNICATION FACILITIES ON PRIVATE PROPERTY.

Note: This section will replace Section 49.80. That section will be repealed and designated "Reserved."

THE CHARTER TOWNSHIP OF OSHTEMO
KALAMAZOO COUNTY, MICHIGAN

ORDAINS:

**WIRELESS TELECOMMUNICATION FACILITIES 5G ORDINANCE
ARTICLE 59 OF THE TOWNSHIP ZONING ORDINANCE**

Contents:

59.10 Purpose

59.20 Definitions

59.30 Activities Not Requiring Zoning Approval

59.40 Activities Requiring Administrative Approval

59.50 Activities Requiring Special Use Approval

59.60 Application Requirements

59.70 Requirements for Approval – Co-Locations and Modifications

59.80 Requirements for Approval – New Facilities

59.90 Timeline for Approval

59.100 Annual Inspections

59.110 Information Update

59.120 Abandonment and Removal

59.10. Purpose. The purpose of this section is to regulate the construction of wireless telecommunications facilities on private property, in order to accommodate the need for communication while protecting the public health, safety and welfare. Wireless telecommunications facilities in public or private rights-of-way shall not be subject to this Article, and shall instead be subject to Section 239 of the Oshtemo Township Code of Ordinances.

59.20. Definitions.

- A. CO-LOCATION:** The installation of additional antennas or other equipment to an existing wireless telecommunication facility, generally to provide service for a telecommunications company that did not previously have antennas or other equipment in the facility.

- B. GEOGRAPHICALLY EXCEMPY FACILITY:** A New Wireless Facility Support Structure between 40 and 199 feet in Height meeting all of the following geographic criteria.
1. The proposed wireless facility is located west of 6th Street.
 2. The proposed wireless facility is at least 2,500 feet from another wireless facility.
 3. The property in question is not zoned R-1, R-2, R-3, R-4, or R-5.
- C. MODIFICATION:** Any alteration to an existing wireless telecommunications facility that does not meet the definition of "Co-Location."
- D. SMALL CELL WIRELESS FACILITY:** A wireless facility that meets both of the following requirements:
4. Each antenna is located inside an enclosure of not more than 6 cubic feet in volume or, in the case of an antenna that has exposed elements, the antenna and all of its exposed elements would fit within an imaginary enclosure of not more than 6 cubic feet.
 5. All other wireless equipment associated with the facility is cumulatively not more than 25 cubic feet in volume. The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.
- E. MICRO WIRELESS FACILITY:** A Small Cell Wireless Facility that is not more than 24 inches in length, 15 inches in width, and 12 inches in height and that does not have an exterior antenna more than 11 inches in length.
- F. WIRELESS FACILITY SUPPORT STRUCTURE:** Any structure (meeting the definition of "structure" in this Ordinance) that has antennas or other telecommunication equipment attached to it. Wireless Facility Support Structure may be purpose-built Wireless Facility Support Structure, or may be buildings, telephone poles, billboards, or other structures, provided that the requirements of this section are met.

59.30. Activities Not Requiring Zoning Approval. The following activities do not require zoning approval of any kind, but shall be subject to the Small Cells Wireless Communication Facilities Deployment Ordinance Section 239.000:

- A. The construction of a Small Cell Wireless Facility or Micro Wireless Facility within a Right-of-Way on an existing Structure or new Wireless Support Structure under 40 feet in height within a Right-of-Way.
- B. The replacement of a Small Cell Wireless Facility with a Small Cell Wireless Facility that is not larger or heavier, in compliance with applicable codes.
- C. Routine maintenance of a Small Cell Wireless Facility, utility pole, or Wireless Support Structure.
- D. Co-Location of a Small Cell Wireless Facility with a previously approved Small Cell Wireless Facility.
- E. The installation, placement, maintenance, operation, or replacement of a Micro Wireless Facility that is suspended on existing cables strung between utility poles or Wireless Support Structures in compliance with applicable codes.
- F. The construction or installation of a Small Cell Wireless Facility or Micro Wireless Facility located upon a campus of an institution of higher education.

59.40. Permitted Activities with Administrative Approval. The following activities shall be considered permitted uses of land, and shall require administrative approval and a permit from the Township, but not Special Use Approval, nor Site Plan approval from the Planning Commission or Zoning Board of Appeals:

- A. Modifications to a previously approved wireless facility, including Modifications to Small Cell and Micro Wireless Facilities that are not exempt from zoning approval under Subsection C. In order to be approved, this activity must meet the criteria in Section 59.70.
- B. Co-Locations on a previously approved wireless facility, including Co-Locations on Small Cell and Micro Wireless Facilities that are not exempt from zoning approval under Subsection D. In order to be approved, this activity must meet the criteria in Section 59.70.
- C. Replacement of a Wireless Facility Support Structure with a new structure of the same or lower height. In order to be approved, this activity must meet the criteria in Section 59.80.

- D. New wireless facilities utilizing a pre-existing structure, including new Small Cell and Micro Wireless Facilities that are not exempt from zoning approval under Subsection D. In order to be approved, this activity must meet the criteria in Section 59.80.
- E. Constructing a new Wireless Facility Support Structure under 40 feet in height, including Wireless Facility Support Structure for new Small Cell and Micro Wireless Facilities that are not exempt from zoning approval under the Small Wireless Communications Deployment Act (Public Act 365 of 2018), as described in Subsection D. In order to be approved, this activity must meet the criteria in Section 59.80.
- F. Constructing a Geographically Exempt Facility. In order to be approved, this activity must meet the criteria in Section 59.80.

59.50. Activities Requiring Special Use Approval. The following activities shall require Special Use Approval and Site Plan Approval from the Planning Commission as described in Article 65.

- A. Constructing a new Wireless Facility Support Structure between 40 and 199 feet in height that is not a Geographically Exempt Facility as defined in Section 59.40.F. In order to be approved, this activity must meet the criteria in Section 59.80, and the Special Use Approval Criteria in Article 65.
- B. Constructing a new Wireless Facility Support Structure 200 feet in Height or taller. In order to be approved, this activity must meet the criteria in Section 59.80, and the Special Use Approval Criteria in Article 65.
- C. Increasing the height of an existing Wireless Facility Support Structure to 110% of its original height, or taller. In order to be approved, this activity must meet the criteria in Section 59.80, and the Special Use Approval Criteria in Article 65.
- D. Replacement of a Wireless Facility Support Structure with a new structure that is taller than the previous structure. In order to be approved, this activity must meet the criteria in Section 59.80, and the Special Use Approval Criteria in Article 65.
- E. If, during an Administrative Approval under this Article, an application is deemed to fail one or more of these criteria, the applicant shall have the option to apply for a Special Land Use approval from the Planning Commission, which shall have the authority to approve the application, despite the lack of compliance with one or more of the sections above. The Planning Commission shall be under no obligation to approve any Special Land Use application that it does not deem to meet the criteria of this Ordinance.

59.60. Application Requirements. In order to be considered complete, applications must contain the following information:

- A. All forms and fees required by the Township.

- B. A Site Plan meeting the requirements of Section 64.60.C.
- C. Name, address, phone number of Wireless Facility Support Structure owner; name, address and phone number of contact persons for engineering, maintenance and other notice purposes.
- D. Organization name, address, phone number, and contact person of each co-locator and the operational status of the equipment.
- E. Notification of date of lease expiration and/or cessation of operation of any equipment and date of removal.
- F. Wireless Facility Support Structure plans and a report from a qualified and licensed professional engineer which:
 - 1. Describes the Wireless Facility Support Structure height and design, including a cross section and elevation.
 - 2. Documents the height above grade for all potential mounting positions for co-located antennas and the minimum separation distance between antennas.
 - 3. Describes the Wireless Facility Support Structure's capacity, including the number and type of antennas/equipment that it can accommodate.
 - 4. Documents what steps the applicant will take to avoid interference with established public safety telecommunications;
 - 5. Includes an engineer's stamp and registration number
 - 6. Includes the total cumulative square footage of wireless equipment, both existing and proposed.
 - 7. Indicates that the proposed Wireless Facility Support Structure complies with regulations administered by the Federal Communications Commission and the Federal Aviation Administration.
 - 8. Information necessary to allow determination of compliance with Building Code, Electrical Code and other applicable Township Ordinances.
 - 9. Information showing that the facility will not cause interference with any nearby existing telecommunications facilities.
 - 10. All information necessary to determine compliance with all applicable requirements.

- G. A letter of intent committing the Wireless Facility Support Structure owner and his or her successors to allow the shared use of the Wireless Facility Support Structure if an additional user agrees in writing to meet reasonable terms and conditions for shared use. Further, a request to co-locate antennas on a Wireless Facility Support Structure shall not be unreasonably refused. No provider or lessee or agent thereof shall unreasonably fail to cooperate to accommodate Co-Location.
- H. A letter of support and approval from the owner of the property or right-of-way where the wireless facility is, or is proposed to be, located.
- I. Any specific relevant information listed in Section 59.70 (for Co-Location and Modifications) and/or Section 59.80 (for New Facilities).
- J. Any other information deemed necessary by the Township to evaluate the request, and requested by the Township in writing.

59.70. Requirements for Approval – Co-Locations and Modifications. In order to be approved, Co-Locations and Modifications must meet the following standards:

A. Ground Equipment and Accessory Structures. All applications shall comply with the following:

- 1. Ground equipment accessory to the wireless telecommunications facility must meet the minimum setback requirement for accessory structures in the zoning district it is located within, and shall not be located in a front yard.
- 2. The base of the Wireless Facility Support Structure and all associated equipment and accessory structures must be surrounded by a locked, opaque screening fence at least six feet in height, or a solid screening row of evergreens, at least six feet tall at planting.

B. Lighting. All applications shall comply with the following.

- 1. Wireless Facility Support Structure designed specifically for wireless telecommunications antennas shall not be illuminated by artificial means and shall not display strobe lights unless such lighting is specifically required by the Federal Aviation Administration or other federal or state authority for a particular Wireless Facility Support Structure.
- 2. Site lighting shall comply with Article 54.

C. Signs and Advertising. All applications shall comply with the following:

1. The use of any portion of a Wireless Facility Support Structure for signs other than warning or equipment information signs is prohibited, except when either of the following circumstances are met.
 - (i) The Wireless Facility Support Structure contained signage prior to containing telecommunications equipment.
 - (ii) The Wireless Facility Support Structure is designed for human habitation.

D. Interference. All applications shall comply with the following:

1. No new or existing telecommunications service shall interfere with other telecommunications, whether commercial, public, or otherwise.
2. All applications for new service shall be accompanied by an intermodulation study by a qualified and licensed professional engineer which provides a technical evaluation of existing and proposed transmissions and indicates all potential interference problems.

E. Specific Requirements for Co-Locations and Modifications: Applications for Co-Locations and Modifications shall comply with the following,

1. The applicant must submit a structural analysis, signed and sealed by a licensed engineer, demonstrating that the Wireless Facility Support Structure, in its present condition, has the structural capacity to support any proposed new antennae or other Wireless Facility Support Structure-mounted equipment.
2. The applicant must submit the results of an inspection of the condition of the Wireless Facility Support Structure and equipment compound, noting any potential problems with the facility that could impact the health, safety, and welfare of the surrounding area, or the effective provision of service from the facility. Any concerns raised by the inspection must be corrected during construction of the Modifications or Co-Locations.
3. The facility must be in compliance with all applicable Federal Communications Commission regulations.
4. The Township may require the Wireless Facility Support Structure to be painted non-reflective gray.
5. The height of the Wireless Facility Support Structure may be increased. However, an increase in the height of the Wireless Facility Support Structure to more than 110% of its previous height shall require Special Use Approval and Site Plan Approval from the Planning Commission.

59.80. Requirements for Approval – New Facilities. In order to be approved, all new wireless facilities, except those specifically exempted from Zoning Approval under Section 59.30 must meet the following requirements:

- A. **Justification.** A proposed wireless facility shall not be established unless the communications equipment/antenna(s) planned for the proposed location cannot be accommodated on an existing structure within the area of the proposed Wireless Facility Support Structure due to one of the following reasons:
 - 1. The planned equipment would exceed the structural capacity of the existing or approved Wireless Facility Support Structure as documented by a qualified and licensed engineer, and the existing or approved Wireless Facility Support Structure cannot be reinforced, modified or replaced to accommodate the planned or equivalent equipment at a reasonable cost.
 - 2. The planned equipment would cause interference materially impacting the usability of other existing equipment in the vicinity as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost.
 - 3. Existing Wireless Facility Support Structure within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.
 - 4. Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing structure.
- B. **Ground Equipment and Accessory Structures.** See Section 59.70.A
- C. **Lighting.** See Section 59.70.B.
- D. **Signs and Advertising.** See Section 59.70.C.
- E. **Interference.** See Section 59.70.D.
- F. **Setbacks.** All applications shall comply with the following:
 - 1. For existing structures proposed to support wireless telecommunications antennas, the existing setback of the structure considered sufficient to allow the addition of the telecommunications antennas.
 - 2. A new Wireless Facility Support Structure shall be located so that the setback from all property lines is equal to or greater than the height of Wireless Facility Support Structure.
 - 3. A new Wireless Facility Support Structure shall be located so that the setback from all dwelling units is equal to or greater than the height of the Wireless Facility Support Structure.

4. **Wireless Facility Support Structure over 25 feet in height shall not be located on private property between a principal structure and a public or private street, with the following exceptions:**

- (i) In industrial zoning districts, Wireless Facility Support Structure may be placed within a side yard abutting a public or private street.
- (ii) On sites adjacent to public or private streets on all sides, Wireless Facility Support Structure may be placed within a side yard abutting a public or private street.

G. Design of Wireless Facility Support Structure. New wireless facilities on existing structures and new Wireless Facility Support Structure under 40 feet in height shall be exempt from the following requirements. All other applications shall comply with the following:

- 1. Any new Wireless Facility Support Structure over 40 feet in height shall be designed and constructed to accommodate future Co-Locations. Wireless Facility Support Structure shall be designed to allow for future rearrangement of antennas and to accept antennas mounted at varying heights.
- 2. A new Wireless Facility Support Structure over 40 feet in height shall be a monopole design and painted non-reflective gray, unless required to be painted a different color by State or Federal regulation or law. In lieu of the gray color, the applicant may submit a design intended to camouflage or minimize the appearance of the Wireless Facility Support Structure, antennas, and equipment, for approval by the reviewing body.
- 3. The applicant must submit renderings or photo-sims of the proposed Wireless Facility Support Structure E as viewed from the following locations:
 - (i) The nearest public roadway.
 - (ii) The nearest residential dwelling unit.
 - (iii) Any other location requested by the reviewing body from which the Wireless Facility Support Structure may potentially be visible.

H. Height. New wireless facilities on existing structures shall be exempt from the following requirements. All other applications shall comply with the following:

- 1. The height of a Wireless Facility Support Structure shall be determined by measuring the vertical distance from the structure's point of contact with the ground to the highest point of the structure, including all antennas or other attachments.
- 2. The structure shall be the shortest possible height required to provide the service desired.

3. The applicant shall submit coverage and/or capacity information, including propagation maps and other information requested by the Township, to demonstrate the needed service improvement and why the requested height is necessary.
4. The Township may request further information, including propagation maps, demonstrating the service at lower heights, in order to determine whether the requested height is necessary.
5. Antennas and other transmission equipment, including, but not limited to, Small Cell Wireless Facility and Micro Wireless Facility, shall not extend more than five feet above the top of a Wireless Facility Support Structure, unless the structure is used for human occupancy.
6. Structures under 25 feet in height shall be automatically deemed to be "the shortest possible height" under this section and shall not be required to provide additional information.

59.90. Timeline for Approval. The Township will comply with all State and Federal requirements for approval timelines. In the event of changes to Federal or State law, this section shall be void and the laws in place at the time of application shall be followed.

- A. For new facilities, the Township shall request all required information within 14 business days of the application being filed. The Township shall notify the applicant if the application is deemed complete within 25 days of the application being filed. The Township shall issue a decision on the application within 90 days of the application being deemed complete by the Township.
- B. For Modifications and Co-Locations, the Township shall request all required information within 14 business days of the application being filed. The Township shall issue an approval or denial within 60 days of the application being deemed complete by the Township.
- C. Once the Township has notified an applicant that an application is incomplete, if the applicant does not provide any new information for 180 days, the application will be deemed to have been withdrawn. Any new information submitted after 180 days shall be deemed a new application for the purposes of this Ordinance and the Michigan Zoning Enabling Act.

59.100. Annual Inspections. All Wireless Facility Support Structure shall be inspected at regular intervals, no less than once a year, and serviced as frequently as may be necessary, to maintain the Wireless Facility Support Structure in a safe and weather-withstanding condition. Inspections shall be based on ANSI/TIA/EIA-222F or most recent applicable ANSI standards. Reports as to all inspections and servicing shall be made available to the Township upon written request.

59.110. Information Update. The Wireless Facility Support Structure owner or representative shall submit updated information whenever any of the following change:

- A. Name, address, phone number of Wireless Facility Support Structure owner; name, address and phone number of contact persons for engineering, maintenance and other notice purposes.
- B. Organization name, address, phone number, and contact person of each co-locator and the operational status of the equipment.
- C. Notification of date of lease expiration and/or cessation of operation of any equipment and date of removal.

59.120. **Abandonment and Removal.** At the time of construction, the applicant shall submit a performance bond to guarantee all required equipment and structures are removed in the event of abandonment. At the time of the application, the applicant shall submit two third-party contractor bids for removal of all equipment, and all structures that are specifically designed for the facility, and the bond shall be the higher of the two bids.

If the Wireless Facility Support Structure is not used for as a wireless telecommunications facility for any period of six consecutive months, it must be removed at the expense of the property owner and/or owner of the Wireless Facility Support Structure. If the property owner and/or owner of the Wireless Facility Support Structure fail to remove the Wireless Facility Support Structure, the bond shall be forfeited, and the bond amount shall be used by the Township to remove all structures and equipment associated specifically with the wireless telecommunications facility.

OSHTEMO CHARTER TOWNSHIP ORDINANCE NO.657

ADOPTED:

EFFECTIVE:

AN ORDINANCE to provide for the regulation of small cell wireless infrastructure by Oshtemo Charter Township, referred to herein alternatively as the "Authority", of the activities of wireless infrastructure providers and Wireless Services providers regarding the siting of certain wireless facilities.

THE CHARTER TOWNSHIP OF OSHTEMO
KALAMAZOO COUNTY, MICHIGAN

ORDAINS:

**SMALL CELL WIRELESS COMMUNICATION FACILITIES DEPLOYMENT ORDINANCE
COMPILED SECTION 239**

(A) Title and Purpose

- (1) This ordinance shall be known and may be cited as the Small Cell Wireless Communication Facilities Deployment Ordinance.
- (2) The purpose of the ordinance is to regulate the siting of "Small Cell" facilities.
- (3) This section applies only to activities of a Wireless Provider within Public and Private Rights of Way for the deployment of small cell wireless facilities and associated new or modified Utility Poles.

(B) Definitions: As used in this ordinance:

- (1) "Antenna" means communications equipment that transmits or receives electromagnetic radio frequency signals used in the provision of Wireless Services.
- (2) "Applicant" means a Wireless Provider or wireless infrastructure provider that submits an application described in this ordinance.
- (3) "Authority", unless the context implies otherwise, means Oshtemo Charter Township, to the extent authorized by law to make legislative, quasi-judicial, or administrative decisions concerning an application described in this ordinance.
- (4) "Co-Locate" means to install, mount, maintain, modify, operate, or replace wireless facilities on or adjacent to a Wireless Support Structure or Utility Pole. "Collocation" has a corresponding meaning.

- (5) "Fee" means an Authority one-time per small cell site charge for application processing.
- (6) "Rate" means an Authority annual charge per site.
- (7) "Make-Ready Work" means work necessary to enable an Authority pole or Utility Pole to support collocation, which may include modification or replacement of Utility Poles or modification of lines.
- (8) "Micro Wireless Facility" means a Small Cell Wireless Facility that is not more than 24 inches in length, 15 inches in width, and 12 inches in height and that does not have an exterior ANTENNA more than 11 inches in length.
- (9) "Right of Way" or "ROW" means the area on, below, or above a public or private roadway, highway, street, alley, bridge, sidewalk, or utility easement dedicated for compatible uses. Right of Way does not include any of the following:
- (a) A limited access highway.
 - (b) Land owned or controlled by a railroad as defined in section 109 of the railroad code of 1993, 1993 PA 354, MCL 462.109.
- (10) "Small Cells Act" means the small wireless facilities act, 2018 PA 365, MCL 460.1301, et seq, as the same may be amended from time to time.
- (11) "Small Cell Wireless Facility" means a Wireless Facility that meets both of the following requirements:
- (a) Each Antenna is not more than 6 cubic feet in volume.
 - (b) All other wireless equipment associated with the facility is cumulatively not more than 25 cubic feet in volume. Except -The following types of associated ancillary equipment are not included in the calculation of equipment volume: electric meters, concealment elements, telecommunications demarcation boxes, grounding equipment, power transfer switches, cut-off switches, and vertical cable runs for the connection of power and other services.
- (12) "Structure" means anything constructed, assembled or erected, the use of which requires location on the ground or attachment to something having location on or in the ground; this term shall include fences which are more than 50 percent solid, tanks, towers, dish antennae, advertising devices, bins, tents, wagons, trailers, dining cars, camp cars or similar structures on wheels or other support used for business or living purposes.

- (13) "Utility Pole" means a pole or similar Structure that is or may be used to support small cell wireless facilities. Utility Pole does not include a sign pole less than 15 Feet in height above ground.
- (14) "Wireless Facility" means wireless equipment, including, radio transceivers, Antennas, coaxial or fiber-optic cable, regular and backup power supplies, and comparable equipment, regardless of technological configuration. Wireless Facility does not include coaxial or fiber-optic cable between Utility Poles or Wireless Support Structures.
- (15) "Wireless Provider" is a regulated provider of telecommunications services and a "wireless infrastructure provider" is an installer of wireless equipment at small cell sites and, both terms are interchangeable terms for purposes of this ordinance.
- (16) "Wireless Services" means any services, provided using licensed or unlicensed spectrum, including the use of Wi- Fi, whether at a fixed location or mobile.
- (17) "Wireless Support Structure" means a freestanding Structure designed to support or capable of supporting small cell wireless facilities. Wireless Support Structure does not include a Utility Pole.
- (18) "Wireline Backhaul Facility" means a facility used to transport services by wire or fiber-optic cable from a Wireless Facility to a network.

(C) Scope of Authority

- (1) Except as provided in this ordinance or the Small Cells Act, the Authority shall not prohibit, regulate, or charge for the collocation of small cell wireless facilities.
- (2) The approval of a Small Cell Wireless Facility under this ordinance authorizes only the collocation of a Small Cell Wireless Facility and does not authorize either of the following:
 - (a) The provision of any services.
 - (b) The installation, placement, modification, maintenance, or operation of a wireline in the ROW.
- (3) Any work in the Right-of-Way shall also require the approval of the Road Commission of Kalamazoo County or Michigan Department of Transportation, as applicable.

(D) Small Cell ROW Access, Permitted Use, Height, Underground, Residential, Districts

- (1) The Authority shall not enter into an exclusive arrangement with any person for use of the ROW for the construction, operation, or maintenance of Utility Poles or the collocation of small cell wireless facilities.
- (2) The Authority shall not charge a Wireless Provider an annual Rate more than the amount set by the Small Cells Act or other applicable State Law.

- (3) All greater Rates and Fees in current agreements shall be modified within 90 days of application receipt, so as not to exceed the Fees provided here, except for new small cell dedicated Utility Poles installed and operational in the ROW before the effective date of this ordinance or related agreements, which shall remain in effect for the duration of the ordinance or agreement.
- (4) The following activities are permitted uses and do not require zoning approval of any kind. In all other cases, the siting of Small Cell Wireless Facility shall require approval as described in the Oshtemo Township Zoning Ordinance.
- (a) The construction of a Small Cell Wireless Facility or Micro Wireless Facility within a Right-of-Way on an existing Structure or new Wireless Support Structure under 40 feet in height within a Right-of-Way.
 - (b) The replacement of a Small Cell Wireless Facility with a Small Cell Wireless Facility that is not larger or heavier, in compliance with applicable codes.
 - (c) Routine maintenance of a Small Cell Wireless Facility, utility pole, or Wireless Support Structure.
 - (d) Co-Location of a Small Cell Wireless Facility with a previously approved Small Cell Wireless Facility.
 - (e) The installation, placement, maintenance, operation, or replacement of a Micro Wireless Facility that is suspended on existing cables strung between utility poles or Wireless Support Structures in compliance with applicable codes.
 - (f) The construction or installation of a Small Cell Wireless Facility or Micro Wireless Facility located upon a campus of an institution of higher education.
- (5) **Siting Requirements.** The location of a new Utility Pole or Wireless Support Structure requiring approval under this Ordinance must meet all of the following requirements:
- (a) Must be within three feet of the outside edge of the Right-of-Way.
 - (b) Must be on the north or west side of the roadway.
 - (c) Must meet all applicable standards for Clear Corner Vision in the Oshtemo Township Zoning Ordinance.
 - (d) Must not interfere with the Township's ability to construct non-motorized trails in the network planned in the Oshtemo Township Non-Motorized Plan.
 - (e) The proposed Utility Pole or Wireless Support Structure is at least 30 feet from another Utility Pole or Wireless Support Structure unless needed to function reasonably as documented by a qualified and licensed professional engineer.

- (6) **Alternate Siting:** Upon receipt of an application to place a new Utility Pole or Wireless Support Structure requiring approval under this Ordinance, in order to ensure that the requirements of Subsection E.2.d are met, the Authority may propose and the Applicant shall use an alternate location within the ROW or on property or Structures owned or controlled by a public utility/authority within 75 Feet of the Applicant's proposed location if reasonably achievable. The Authority may require an alternate siting even if the requirements of Sections D.5 are otherwise met.
- (7) **Justification.** A proposed wireless facility shall not be established unless the communications equipment/antenna(s) planned for the proposed location cannot be accommodated on an existing structure within the area of the proposed Wireless Facility Support Structure due to one of the following reasons:
- (a) The planned equipment would exceed the structural capacity of the existing or approved Wireless Facility Support Structure as documented by a qualified and licensed engineer, and the existing or approved Wireless Facility Support Structure cannot be reinforced, modified or replaced to accommodate the planned or equivalent equipment at a reasonable cost.
 - (b) The planned equipment would cause interference materially impacting the usability of other existing equipment in the vicinity as documented by a qualified and licensed professional engineer and the interference cannot be prevented at a reasonable cost.
 - (c) Existing Wireless Facility Support Structure within the search radius cannot accommodate the planned equipment at a height necessary to function reasonably as documented by a qualified and licensed professional engineer.
 - (d) Other unforeseen reasons that make it infeasible to locate the planned telecommunications equipment upon an existing structure.
 - (e) If, during an Administrative Approval under this Article, an application is deemed to fail one or more of these criteria, the applicant shall have the option to apply for a Special Land Use approval from the Planning Commission, which shall have the authority to approve the application, despite the lack of compliance with one or more of the sections above. The Planning Commission shall be under no obligation to approve any Special Land Use application that it does not deem to meet the criteria of this Ordinance.
- (8) **Undergrounding:** A Wireless Provider shall comply with reasonable and nondiscriminatory requirements (including concealment measures) that do not prohibit communications service providers from installing Structures on or above ground in the ROW in an area designated solely for underground or buried cable and utility facilities, if:
- (a) The Authority has required all cable and utility facilities, to place all their facilities underground and,
 - (b) A Wireless Provider may apply for a waiver of the undergrounding requirements under Utility Control Ordinance Section 230.004.B.

(9) Historic, Downtown and Residential Districts: A Wireless Provider shall comply with written, objective requirements for reasonable, technically feasible, nondiscriminatory, and technologically neutral designs or concealment measures in a Historic District, downtown district, or residential zoning district. Such requirement shall not have the effect of prohibiting any Wireless Provider technology. Any such design or concealment measures are not included in size restrictions in the definition of small Wireless Provider in section 5.

(10) All Wireless Providers shall repair all damage to the ROW caused by the activities of the Wireless Provider while occupying, constructing, installing, mounting, maintaining, modifying, operating, or replacing small cell wireless facilities, Utility Poles, or Wireless Support Structure in the ROW and, to return the ROW to its original condition. Following 60 days' written notice, the Authority or the owner of the ROW may make those repairs and charge the Wireless Provider the cost of the repairs.

(E) Provider and Authority Responsibilities, Application Information, Shot Clocks, Tollings, Deemed Approved, Basis Denial, Resubmittal, Batch Applications, Application Fees, Micro Wireless Facility Exemption, Alternate Siting, Decommissioning Sites.

(1) This section applies to activities of a Wireless Provider within a Public or Private Right-of-Way.

(2) For activities described in Section D.4 that do not require zoning approval, the provider/Applicant shall seek an Authority ROW access permit to Co-Locate a Small Cell Wireless Facility or install, modify, or replace a Utility Pole or other Wireless Support Structure on which a Small Cell Wireless Facility will be Co-Located as required of all ROW users. The processing of an application for such a permit is subject to all of the following:

(a) In-kind contributions to the Authority are not permitted in lieu of Rates and Fees described above (unless all parties voluntarily agree in furtherance of the interests of both.)

(b) The Wireless Provider shall provide all the information and documentation required by the Authority to enable the Authority to make an informed decision with regard to its criteria for authorizing ROW access including the following:

(i) A certificate of compliance with FCC rules related to radio frequency emissions from a Small Cell Wireless Facility,

(ii) Proof of notification to every other affected entity, including the owner of the right-of-way, and all necessary permits, permit applications, or easements to ensure all necessary permissions for the proposed activity are obtained.

(iii) An attestation that the small cell wireless facilities will be operational for use by a Wireless Services provider within 1 year after the permit issuance date. Failure to abide by this term shall result in termination of any permit issued in reliance on such attestation.

(iv) Design details as necessary to demonstrate compliance with this Ordinance and with all other applicable Township regulations.

(c) **Timeline for Approval.** The Township will comply with all State and Federal requirements for approval timelines. In the event of changes to Federal or State law, this section shall be void and the laws in place at the time of application shall be followed.

- i. For new facilities, the Township shall request all required information within 14 business days of the application being filed. The Township shall notify the applicant if the application is deemed incomplete within 25 days of the application being filed. The Township shall issue a decision on the application within 90 days of the application being deemed complete by the Township.
- ii. For Modifications and Co-Locations, the Township shall request all required information within 14 business days of the application being filed. The Township shall issue an approval or denial within 60 days of the application being deemed complete by the Township.
- iii. Once the Township has notified an applicant that an application is incomplete, if the applicant does not provide any new information for 180 days, the application will be deemed to have been withdrawn. Any new information submitted after 180 days shall be deemed a new application for the purposes of this Ordinance and the Michigan Zoning Enabling Act.

(d) **Basis for Denial:** The Authority shall deny a completed application for a proposed collocation of a Small Cell Wireless Facility or installation, modification, or replacement of a Utility Pole that meets the height requirements in Section D.5 if the proposed activity would do any of the following:

- (i) Materially interfere with the safe operation of traffic control equipment.
- (ii) Materially interfere with sight lines or clear zones for transportation or pedestrians.
- (iii) Materially interfere with compliance with the Americans with Disabilities Ordinance of 1990, Public Law 101- 336, or similar federal, state, or local standards regarding pedestrian access or movement
- (iv) With respect to drainage infrastructure under the jurisdiction of an Authority, either of the following:
 - 1) Materially interfere with maintenance or full unobstructed use of the drainage infrastructure as it was originally designed.
 - 2) Not be located a reasonable distance from the drainage infrastructure to ensure maintenance under the drain code of 1956, 1956 PA 40, MCL 280.1 to 280.630, and access to the drainage infrastructure.

- (v) Failure to comply with reasonable, nondiscriminatory, written spacing requirements of general applicability adopted by ordinance or otherwise that apply to the location of ground-mounted equipment and new Utility Poles and that do not prevent a Wireless Pole from serving any location.
 - (vi) Failure to meet reasonable, objective, written stealth or concealment criteria for small cell wireless facilities applicable in a Residential District or other designated area, as specified in an ordinance or otherwise and nondiscriminatorily applied to all other occupants of the ROW, including electric utilities, incumbent or competitive local exchange carriers, fiber providers, cable television operators, and the Authority.
 - (vii) Fail to comply with all other applicable codes, including, but not limited to, Ordinance 125 (Use of Right-of-Way by Telecommunications Providers) and Ordinance 294 (Non-Motorized Facilities/Sidewalks).
 - (viii) Failure to submit sufficient information for the Township to deem the application complete under Section E.2.c
- (e) **Reasons for Denial; Resubmission and 30 Day Shot Clock:** If the completed application is denied, the notice under subdivision (h) shall explain the reasons for the denial and, if applicable, cite the specific provisions of applicable codes on which the denial is based. The Applicant may cure the deficiencies identified by the Authority and resubmit the application within 30 days after the denial without paying an additional application Fee. The Authority shall approve or deny the revised application within 30 days. The Authority shall limit its review of the revised application to the deficiencies cited in the denial.
- (f) **Batch Applications:** An Applicant may file an application and receive a single permit for the collocation of up to 20 substantially similar small cell wireless installations. The Authority may approve or deny 1 or more small cell wireless facilities included in such consolidated application.
- (g) Approval of an application authorizes the Wireless Provider to undertake the installation, collocation and maintenance of such facilities.
- (h) The Applicant shall not institute a moratorium on filing, receiving, or processing applications or issuing permits for the collocation of small cell wireless facilities or the installation, modification, or replacement of Utility Poles on which small cell wireless facilities will be Co-Located.
- (i) Application Fee for a permit under subsection (2) shall not exceed the fee limitations prescribed by the Small Cells Act or other applicable State Law.
- (j) The Applicant may revoke a permit, upon 30 days' notice and an opportunity to cure, if the permitted small cell wireless facilities and any associated Utility Pole fail to meet the requirements of this ordinance.

(J) Bonding:

- (1) As a condition of a permit described in this act, the Wireless Provider shall provide a \$1,000 bond per new Utility Pole or other new Structure, for the purpose of providing for the removal of abandoned or improperly maintained small cell wireless facilities, including those that an Authority determines should be removed to protect public health, safety, or welfare, to repair the ROW as provided under section 13(10) and, to recoup Rates or Fees that have not been paid by a Wireless Provider in more than 12 months, if the Wireless Provider has received 60-day advance notice from the Authority of the noncompliance.
- (2) The Authority shall not require a cash bond, unless the Wireless Provider has failed to obtain or maintain a bond required under this section or the surety has defaulted or failed to perform on a bond given to the Authority on behalf of a Wireless Provider.

(K) Labelling: A Small Cell Wireless Facility for which a permit is issued shall be labeled with the name of the Wireless Provider, emergency contact telephone number, and information that identifies the Small Cell Wireless Facility and its location.

(L) Electric Costs: A Wireless Facility is responsible for arranging and paying for the electricity used to operate a Small Cell Wireless Facility.

(M) AUTHORITY Reservation of Rights: This ordinance is enacted in compliance with Michigan 2018 PA 365; MCL 460.1301 and 2018 PA 366; MCL 125.3205(1)(c) as amended and MCL 125.3514(10). However, the AUTHORITY takes specific note of inconsistencies as between these State Acts and certain potentially preemptive FCC Rulings concerning "Small Cells" known as the "Moratoria Order"; FCC 3rd Report and Order and Declaratory Ruling of 8/13/2018 FCC 18-111 <https://docs.fcc.gov/public/attachments/FCC-18-111A1.pdf> and "Small Cell Order"; FCC Declaratory Ruling and 3rd Report and Order of 9/27/2018 FCC 18-133 <https://docs.fcc.gov/public/attachments/FCC-18-133A1.pdf>.

- (1) The Authority also notes inconsistencies between the Small Cells Act and the Michigan Constitution of 1963 including but not limited to Article VII Sections 22, 26, 29, 30, 31 and 34. Enacting this ordinance does not preclude the Authority from engaging in or otherwise supporting a judicial or other challenge to either the State Acts or FCC rules referenced above. In the event of any interpretations, including Judicial, Legislative or Administrative, contrary to the Michigan Public Acts and/or FCC rules referenced above, the Authority specifically reserves the right to amend and or terminate this ordinance and all related agreements, policies and procedures undertaken in furtherance hereof.)

- (k) The Applicant shall not require a permit or any other approval or require Fees or RATES for maintenance or operation of a Small Cell Wireless Facility or Mico Wireless Facility, except that the Authority may require a permit as described in Section E.2 for any work deemed by the Authority to affect traffic patterns or obstruct vehicular or pedestrian traffic in the ROW.
- (l) **Decommissioning Sites:** An Authority shall notify the Authority in writing before discontinuing use of a Small Cell Wireless Facility, Utility Pole, or Wireless Support Structure. The notice shall specify when and how the Wireless Provider intends to remove the Small Cell Wireless Facility, Utility Pole, or Wireless Support Structure. The Wireless Provider shall return the property to its pre-installation condition. If the Wireless Provider does not complete the removal within 45 days after the discontinuance of use, the Authority may complete the removal and assess the costs of removal against the Wireless Provider. A permit under this section for a Small Cell Wireless Facility expires upon removal of the Small Cell Wireless Facility.
- (F) **Provider Requirement of Service:** This ordinance does not require Wireless Facility deployment or regulate Wireless Services.
- (G) **Appeals:** The Applicant may appeal any Authority determinations related to this ordinance to the highest elected body of the Authority or, the circuit court in the judicial circuit where the Authority is located.
- (H) **Defense, Indemnity, and Insurance:** All Applicant Wireless Providers shall:
- (1) Defend, indemnify, and hold harmless the Authority its officers, agents, and employees against any claims, demands, damages, lawsuits, judgments, costs, liens, losses, expenses, and attorney Fees resulting from the installation, construction, repair, replacement, operation, or maintenance of any wireless facilities, Wireless Support Structure, or Utility Pole to the extent caused by the Applicant and all entities acting on its behalf including but not limited to its contractors, its subcontractors, and the officers, employees, or agents of any of these, except as to liabilities or losses due to or caused by the sole negligence of the Authority or its officers, agents, or employees.
 - (2) Obtain insurance naming the Authority and those acting on its behalf including but not limited to its officers, agents, and employees as additional insureds against any claims, demands, damages, lawsuits, judgments, costs, liens, losses, expenses, and attorney Fees. A Wireless Provider may meet all or a portion of the Authority's insurance coverage and limit requirements by self-insurance, conditioned upon providing to the Authority, evidence demonstrating, to the Authority's satisfaction, the Wireless Provider's financial ability to meet the Authority's insurance coverage and limit requirements throughout the life of the provider's use of the ROW. To the extent it self-insures, a Wireless Provider is not required to name additional insureds under this section.
- (I) **Reduced Fees:** The Authority may establish a Fee or Rate less than the maximum specified in the Small Cells Act or other applicable State Law.

Memorandum



Date: September 26th, 2023
To: Township Board
From: Zach Pearson, Public Works Project Manager
Subject: KL Ave Shared Use Path OCBA Contract

Objective

Motion to approve O’Boyle, Blalock & Associates, Inc. updated proposal for 2023 and 2024 professional services. Approval of budget amendment for professional services.

Background

Public Works has contracted with O’Boyle, Blalock & Associates, Inc. (OCBA) since 2021 on efforts to design and construct a shared use path on the North side of KL Ave from Drake Rd. to the Paddock Apartments. The contract signed in 2021 was a multi-year contract covering 2021 through 2024 efforts for OCBA, and Wightman (subconsultant). Metro Consulting Associates were later added as a Right-of-Way agent to be billed through OCBA.

Over the course of the design process the project has seen significant delays due to on-going negotiations between Michigan Department of Transportation (MDOT) and Amtrak over the ability to reconstruct the US-131 overpass that crosses KL Ave. The project has been broken into phases to complete a portion of the path from Drake Rd. up to the overpass (phase 1) in 2023 and then phase 2 will be from West of the overpass to the Paddock apartments, and construction of phase 2 will coincide with the overpass construction. The overpass is currently projected to begin construction in 2024.

Due to the above-mentioned multi-year delays and scope changes of the project, OCBA has created a new proposal that will cover the remainder of 2023 costs and future 2024 costs, replacing the old agreement. OCBA recommends proceeding with the new proposal for 2023 and 2024 and creating new agreements for years beyond 2024 as needed. This will allow for more flexibility and easier tracking of budgets moving forward.

In the new proposal OCBA provides the following breakdown of costs:

2023 Phase 1

OCBA \$12,000
Wightman \$108,000

2023 Phase 2

OCBA \$8,000
Wightman \$37,000
MCA Appraisal Updates \$7,500
MCA – 60 hours at \$115/hour \$6,900

2024 Phase 2

OCBA \$10,000
Wightman \$31,000

The new contract proposal would result in a change of the phase 1 2023 budget of \$26,043. The Phase 2 work was not previously budgeted separately. The new proposal will result in an increase in the 2023 budget for Phase 2 of \$59,400. These contract phases and FY expenditure adjustments are covered by a budget amendment made by the Board in April 2023, which added the approved ARPA funds to the KL Non-Motorized Project budget line item. No new funds are requested.

STATEMENT OF WHAT YOU ARE ASKING BOARD TO APPROVE

Approval of 2023/2024 OCBA Professional Services agreement

Approval of budget amendment to allocate funds within the blue line to accommodate the above-described budget changes.

Attachments

OCBA Proposal



O'BOYLE, COWELL, BLALOCK
& ASSOCIATES, INC.

350 E. Michigan Avenue, Suite 415
Kalamazoo, Michigan 49007

124 Fulton Street E., Suite 6B
Grand Rapids, MI 49503

T (269) 381-3357
F (269) 381-2944

ocba.com

31 August 2023

Ms. Anna Horner, Director of Public Works
Charter Township of Oshtemo
ahorner@oshtemo.org

Re: Proposal for Professional Services – 2023/2024
KL Avenue Non-Motorized Path, Drake Road to Copper Beech Blvd CD-CA

Dear Anna:

O'Boyle, Cowell, Blalock & Associates, Inc. (OCBA) is pleased to present the following updated proposal in collaboration with Wightman & Associates, Inc. and Metro Consulting Associates (MCA) to provide professional services to develop final bidding documents and construction administration for a non-motorized path on the north side of KL Avenue from Drake Road to Copper Beech Boulevard. Thank you for inviting us to continue to be involved in this exciting project.

Our Understanding of the Project

We understand that Oshtemo Township has Phase 1 construction documents that are 100% complete based upon current coordination efforts with the Road Commission of Kalamazoo County (RCKC) and the Michigan Department of Transportation (MDOT). We understand that MDOT is nearing completion of the construction documents for the U.S. 131 overpass replacement and have tentatively scheduled construction for 2025-2026, although this is dependent on successful coordination with Amtrak. Construction of the proposed non-motorized trailway will occur in three separate phases due to grant funding and coordination with MDOT.

OCBA and Wightman had previously submitted a proposal for CD – CA scopes in 2021 that was accepted by Oshtemo Township. Since the acceptance of the proposal, the project has dealt with multiple schedule delays in order to attempt to match up with MDOT's changing construction schedule. The design team also had to put together a second set of Phase 1 construction documents to be included in MDOT's construction document package. The scope information listed below is based on the current MDOT construction schedule but that could potentially be subject to change again. OCBA and Wightman will use the previous alignment and layout and survey information prepared previously to complete the trail layout for the Phase 2 construction document packages and will coordinate with RCKC and MDOT on these layouts. OCBA and Wightman will also help with the following tasks over the next four years:

2023

- 1) **Phase 2 Construction Document Sets:** OCBA and Wightman will prepare the Phase 2 construction design document set in coordination with the RCKC, Kalamazoo Metro, and MDOT. Documentation will include demolition, layout, landscape, and grading plans as well as typical cross sections and details. Special provisions will be prepared per MDOT standards for bidding. Structural design and documentation of the Phase II boardwalk and retaining wall will also be



included in this proposal. All plans will be updated to meet current RCKC and MDOT standards to facilitate review and approval. These plans will be submitted for MDOT Grade Inspection in early 2025.

- 2) Phase 2 SHPO/Section106 Review: Wightman will consult with Orbis to prepare and submit the SHPO Section 106 documentation. This scope of work consists of the application and desktop review. This does not include any necessary fieldwork (exploratory excavations or field investigations) that may be required by SHPO or based on the findings of the desktop review. If SHPO requires additional efforts, additional fees would be requested at that time.
- 3) Phase 2 Opinion of Probable Costs: OCBA and Wightman will refine the 2022 opinion of probable costs for the Phase 2 project for Oshtemo Township staff to evaluate funding options.
- 4) Phase 2 Review Meetings: OCBA and Wightman will meet with Oshtemo Township, RCKC, and MDOT to review 50% and 90% CD plans for Phase 2.
- 5) PHASE 2 Property Acquisition: OCBA and Wightman will continue to assist Oshtemo Township and MCA on the property acquisition needed for the Phase 2 non-motorized trail. Easement exhibits for the five parcels are included in this proposal. Any easements acquired as part of the design process will need to be in accordance with MDOT Real Estate regulations.
- 6) Bidding of Phase 1 Plans: OCBA and Wightman will continue to assist Oshtemo Township in the bidding process for the Phase I construction documents through MDOT with construction scheduled to start in late fall of 2023.
- 7) Phase 1 Construction Administration: OCBA will provide construction administration services and Wightman will provide on-site engineering inspection services during the construction of the Phase 1 trail through 2023. We are estimating this phase of the project to be approximately 8 weeks in duration with an Inspector to be on site 60 hrs./week. Supplemental personnel will be added as needed during paving operations. Wightman will also be providing survey field staking during construction. Construction Engineering is listed as an estimated fee range due to the fact that the contractor is responsible for setting the construction schedule. Construction Administration will be billed on a time and materials basis.
- 8) Phase 1 Materials Testing: Wightman will perform the necessary sampling and materials testing in accordance with MDOT procedures. This testing will generally consist of density, gradations, concrete, and HMA. If there is any specialty testing required such as for geotextiles, geogrids, timber structures, structural fabrication, etc. Wightman will sub-consult this work to a third-party lab. These testing services would be billed in accordance with Wightman's Terms and Conditions as a reimbursable expense. Prior to performing the work, Wightman will provide an estimated cost of these services.
- 9) PHASE 2 New Wetland Delineation: Due to the timing delay between the original 2017 wetland delineation and the proposed 2025 EGLE permit request, EGLE will require a newer wetland delineation to be prepared. OCBA will coordinate proposals for these services (costs are not included in this proposal for the wetland delineation service) and incorporate the new wetland limit information into the construction documents.

2024

- 1) Phase 2 Right-of-Way Permit: OCBA and Wightman will submit the application and plan sets for the RCKC Right-of-Way permit for the Phase 2 construction documents. This proposal assumes that Oshtemo Township will pay the permit fees.
- 2) Phase 2 EGLE Permit: OCBA and Wightman will submit permit application to EGLE for the Joint Permit Application for the Phase 2 construction documents. The application will include plans, cross-sections, earthwork calculations, and other data required by the permitting agency. This proposal assumes that Oshtemo Township will pay the permit fees.

- 3) Phase 2 MDOT Grade Inspections: OCBA and Wightman will submit both construction document plan and specification sets to MDOT for the Grade Inspections. OCBA and Wightman will meet with Oshtemo Township staff, RCKC staff, and MDOT staff to review the MDOT comments and inspect the site.
- 4) Bidding of Phase 2 Plans: OCBA and Wightman will assist Oshtemo Township in the bidding process for the Phase 2 construction documents through MDOT to start in late 2024.

2025

- 1) Phase 2 Construction Administration: OCBA will provide construction administration services and Wightman will provide on-site engineering inspection services during the construction of the Phase 2 project through the end of 2025. We are estimating this phase of the project to be approximately 13 weeks in duration with an Inspector to be on site 60 hrs./week. Supplemental personnel will be added as needed during paving operations. Wightman will also be providing survey field staking during construction. Construction Engineering is listed as an estimated fee range due to the fact that the contractor is responsible for setting the construction schedule. Construction Administration will be billed on a time and materials basis.
- 2) Phase 2 Materials Testing: Wightman will perform the necessary sampling and materials testing in accordance with MDOT procedures. This testing will generally consist of density, gradations, concrete, and HMA. If there is any specialty testing required such as for geotextiles, geogrids, timber structures, structural fabrication, etc. Wightman will sub-consult this work to a third-party lab. These testing services would be billed in accordance with Wightman's Terms and Conditions as a reimbursable expense. Prior to performing the work, Wightman will provide an estimated cost of these services.

2026

- 1) Phase 2 Construction Administration: OCBA will provide construction administration services and Wightman will provide on-site engineering inspection services during the construction of the Phase 2 project connection to the MDOT trail under the U.S. 131 overpass through the end of 2026. We are estimating this phase of the project to be approximately 6 weeks in duration with an Inspector to be on site 60 hrs./week. Supplemental personnel will be added as needed during paving operations. Wightman will also be providing survey field staking during construction. Construction Engineering is listed as an estimated fee range due to the fact that the contractor is responsible for setting the construction schedule.
- 2) Phase 2 Materials Testing: Wightman will perform the necessary sampling and materials testing in accordance with MDOT procedures. This testing will generally consist of density, gradations, concrete, and HMA. If there is any specialty testing required such as for geotextiles, geogrids, timber structures, structural fabrication, etc. Wightman will sub-consult this work to a third-party lab. These testing services would be billed in accordance with Wightman's Terms and Conditions as a reimbursable expense. Prior to performing the work, Wightman will provide an estimated cost of these services.

Services Not Included in this Proposal: (but can be added in later after the scope is determined)

- 1) 2024 Wetland Delineation
- 2) Geotechnical Soil Borings
- 3) Property Acquisition, Title Searches for Easements, and Easement Documentation
- 4) Electrical Lighting Design and Documentation
- 5) Specialty Testing Services

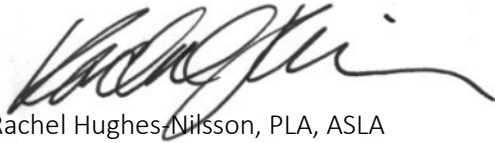
We propose to provide the services outlined in this proposal for an estimated fee of \$220,400.00, not including reimbursable expenses, which we estimate will be in the range of \$3,500.00. The fee is broken down as follows:

<u>2023</u>	<u>Phase 1</u>	<u>Phase 2</u>
OCBA	\$ 12,000.00	\$ 8,000.00
Wightman	\$108,000.00	\$ 37,000.00
MCA Appraisal Updates (\$1,500/parcel for 5 parcels)		\$ 7,500.00
MCA - 60 hours at \$115/hour		\$ 6,900.00
	<u>\$120,000.00</u>	<u>\$ 59,400.00</u>
 <u>2024</u>		
OCBA		\$ 10,000.00
Wightman		<u>\$ 31,000.00</u>
		<u>\$ 41,000.00</u>

Thank you for the opportunity to submit this proposal!

Sincerely,

O'BOYLE, COWELL, BLALOCK & ASSOCIATES, INC.



Rachel Hughes Nilsson, PLA, ASLA
Associate

Cc: B. Baker, Wightman

**CHARTER TOWNSHIP OF OSHTEMO
KALAMAZOO COUNTY, MI**

NON-DISCRIMINATION POLICY FOR FORMAL BIDDING

EFFECTIVE: AUGUST 22, 2017

Pursuant to the requirements of 1976, P.A. 453 (Michigan Civil Rights Act) and 1976, P.A. 220 (Michigan Handicapped Rights Act), and the Oshtemo Charter Township Non-Discrimination Ordinance No. 549, adopted August 27, 2013, all Contractors or their agents wishing to do business with the Township, shall agree not to discriminate against any employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, marital status, familial status, citizenship, gender identity, sexual orientation, genetic information, or because of a physical or mental disability/handicap that is unrelated to the person's ability to perform the duties of a particular job or position. All Contractors and their agents further agree that any subcontract shall contain a non-discrimination provision identical to this provision and binding upon any and all subcontractors.

Any Contractor not complying with these requirements shall be ineligible to receive award of a bid for any Township project. If awarded any Township Contracts, all Contractors and Sub-Contractors agree to the following:

- 1) The Contractor shall not discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment because of race, religion, color, national origin, handicap,

age, sex height, weight, marital status, familial status, citizenship, gender identity, sexual orientation, genetic information, or because of a physical or mental disability/handicap that is unrelated to the person's ability to perform the duties of a particular job or position. It will take affirmative action to insure that applicants are employed and that employees are treated during employment, without regard to their race, religion, color, national origin, age, sex, height, weight or marital status. Such action shall include, but not be limited to, the following: employment upgrading, demotion or transfer; recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

- 2) The Contractor will, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, state that all qualified applicants will receive consideration for employment without regard to race, religion, color, national origin, age, sex, height, weight or marital status, familial status, citizenship, gender identity, sexual orientation, genetic information, or because of a physical or mental disability/handicap.
- 3) The Contractor or its collective bargaining representative will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative its commitments under this paragraph.

- 4) The Contractor will comply with all published rules, regulations, directives, and orders of the Michigan Civil Rights Commission relevant to Section 206, 1976 PA 453, as amended, and Oshtemo Charter Township Non-Discrimination Ordinance No. 549.

- 5) Upon request, the Contractor will furnish and file compliance reports within such time and upon such forms as provided by the Michigan Civil Rights Commission, or Oshtemo Charter Township; said forms may also elicit information as to the practices, policies, programs, and employment statistics of each Subcontractor as well as the Contractor itself, and said Contractor will permit access to its books, records, and accounts by the Michigan Civil Rights Commission, Oshtemo Charter Township, and/or its agent, for purposes of investigation to ascertain compliance with this contract and with rules, regulations, and orders of the Civil Right Commission relevant to Section 206, 1976 PA 453, as amended, or Oshtemo Charter Township.

- 6) In the event that the Civil Rights Commission, or Oshtemo Charter Township, finds, after a hearing that a Contractor has not complied with the contractual obligations under this Agreement, the Civil Rights Commission, or the Township, may, as part of its order based upon such findings, certify said findings to the State Administrative Board of the State of Michigan, or the Oshtemo Township Board, which Board may order the cancellation of the Contract found to have been violated, and/or declare the Contractor ineligible for future contracts until the Contractor complies with said order of the Civil Rights Commission, or the Township Board. Notice of said declaration of future ineligibility may be given to any or all of

the persons with whom the Contractor is declared ineligible to contract as a contracting party in future contracts.

- 7) The Contractor will include, or incorporate by reference, the provisions of the foregoing Subparagraphs 1) through 6) in every subcontract or purchase order unless exempted by the rules, regulations, or orders of the Michigan Civil Rights Commission or Oshtemo Charter Township, and will provide in every subcontract or purchase order that said provisions will be binding upon each subcontractor or seller.

MEMORANDUM



Date: September 15, 2023
To: Township Board
From: James Porter
Subject: First Reading of Solar Energy Systems Ordinance

Objectives

To accept for First Reading the Solar Energy Systems Ordinance and set for Second Reading.

Recommended Motion

I make the motion to accept for First Reading the Solar Energy Systems Ordinance and set for Second Reading on October 10, 2023.

Background

Consideration to adopt Article 60 enacting the Solar Energy Systems Ordinance to permit and regulate Solar Energy Systems in the Township.

Information Provided

I have attached a copy of the Recommendation from the Planning Commission, Meeting Minutes of Public Hearing held on September 14, 2023 and a copy of the draft Ordinance.

**OSHTEMO CHARTER TOWNSHIP
PLANNING COMMISSION**

DRAFT MINUTES OF A SPECIAL MEETING HELD SEPTEMBER 14, 2023

Agenda

PUBLIC HEARING: ORDINANCE – HEIGHT STANDARDS FOR SINGLE FAMILY AND TWO-FAMILY DWELLINGS

Consideration to amend Sections 2.20 Definitions, 42.30 Developmental Standards, and 50.30 Residential Dwelling Standards of the Township Zoning Ordinance in order to adopt height standards for single-family and two-family dwellings, for recommendation to the Township Board.

PUBLIC HEARING: ORDINANCE – SOLAR ENERGY SYSTEMS

Consideration to adopt Article 60 – Solar Energy Systems to permit and regulate Solar Energy Systems in the Township, for recommendation to the Township Board.

A meeting of the Oshtemo Charter Township Planning Commission was held Thursday, September 14, 2023, commencing at approximately 6:00 p.m. at the Oshtemo Township Hall, 7275 West Main Street.

ALL MEMBERS PRESENT: Phil Doorlag, Chair
Deb Everett
Zak Ford, Board Liaison
Scot Jefferies
Micki Maxwell, Vice Chair
Scott Makohn
Alistair Smith

Also present: Iris Lubbert, Planning Director, Jim Porter, Township Attorney, LeeAnna Harris, Zoning Administrator, and Martha Coash, Recording Secretary.

Call to Order and Pledge of Allegiance

Chairperson Doorlag called the meeting to order at 6:01 p.m. and invited those present to join in the Pledge of Allegiance.

Approval of Agenda

Hearing no requests for changes to the agenda, the Chair asked for a motion.

Mr. Ford **made a motion** to approve the Agenda as presented. Ms. Everett **seconded the motion**. The **motion was approved** unanimously.

Public Comment on Non-Agenda Items

There were no members of the public in attendance.

Approval of Minutes: August 24, 2023

Approval of Minutes: August 29, 2023

Chairperson Doorlag asked for additions, deletions, or corrections to the Minutes of the Meeting of August 24, 2023 or to the Minutes of the Meeting of August 29, 2023.

Hearing none, he asked for a motion.

Mr. Ford **made a motion** to approve both the Minutes of the Meeting of August 24, 2023 and the Minutes of the Meeting of August 29, 2023 as presented. Mr. Jefferies **seconded the motion**. The **motion was approved** unanimously.

Chairperson Doorlag moved to the next agenda item.

PUBLIC HEARING: ORDINANCE – HEIGHT STANDARDS FOR SINGLE FAMILY AND TWO-FAMILY DWELLINGS

Consideration to amend Sections 2.20 Definitions, 42.30 Developmental Standards, and 50.30 Residential Dwelling Standards of the Township Zoning Ordinance in order to adopt height standards for single-family and two-family dwellings, for recommendation to the Township Board.

Ms. Lubbert noted while constructing the recently adopted Airport Ordinance, Staff became aware that the Township Ordinance does not set height limitations for a majority of single-family and two-family dwellings. To ensure the intent of the airport ordinance can be fully executed, height standards for all single-family and two-family dwellings are needed.

She said based on research of neighboring communities and discussions with the Planning Committee, staff recommended adopting a maximum height of 35 feet for single-family and two-family dwellings. Ms. Lubbert indicated this height is consistent with the height standards of neighboring communities: Texas Township, Alamo Township, Almena Township and Portage. In addition to proposing the adoption of a maximum height, clarifying and expanding on the definition of Height for how to determine the height of a structure, was also being recommended.

She noted the changes requested when Commissioners reviewed the draft at the last meeting had been made.

In response to a question from Mr. Ford regarding the item that addresses raising the natural grade used to measure dwelling height, Ms. Lubbert said it was a safety measure to ensure that the measurement from the base to the top of the

structure does not exceed the height maximum due to artificially raising the area where the foundation will be placed.

The group was satisfied with the final draft and Chairperson Doorlag asked for a motion.

Ms. Everett **made a motion** to recommend approval to the Township Board the proposed amendments to Sections 2.20 Definitions, 42.30 Developmental Standards, and 50.30 Residential Dwelling Standards of the Township Zoning Ordinance in order to adopt height standards for single-family and two-family dwellings. Mr. Smith **seconded the motion**. The **motion was approved unanimously**.

Chairperson Doorlag moved to the next agenda item.

PUBLIC HEARING: ORDINANCE – SOLAR ENERGY SYSTEMS
Consideration to adopt Article 60 – Solar Energy Systems to permit and regulate Solar Energy Systems in the Township, for recommendation to the Township Board.

Ms. Lubbert indicated the Township currently has no comprehensive general ordinance or zoning ordinance provisions to appropriately address the development of commercial Solar Energy Systems within the Township. Given the industries need to quickly develop such infrastructure, it is imperative to develop appropriate general and zoning ordinance provisions to ensure the development of Solar Energy Systems within the Township are done in a manner consistent with the adopted Master Land Use Plans of the Township and to ensure compatibility with other existing developments. Based on research and discussions with the Planning Commission, Legal and Planning staff were recommending adoption of Article 60 to address Solar Energy Systems within the community and to recommend it to the Township Board.

She noted the Legal staff was responsible for most of the work developing this ordinance, and provided illustrations of the wide variety of installation types possible for both private and businesses.

She walked through the general format of the proposed ordinance. During the course of her review, Commissioners noted two minor amendments to be made: one typographical error and striking “wildlife friendly fencing” from the definitions section.

Ms. Maxwell thanked Attorney Porter for quickly developing this ordinance and providing Commissioners with the information needed to consider it beforehand.

Mr. Ford **made a motion** to recommend adoption Article 60: Solar Energy Systems to the Township Board as proposed. Ms. Maxwell **seconded the motion**. The **motion was approved unanimously**.

OTHER UPDATES AND BUSINESS

The group welcomed new Commissioner Scott Makohn, who indicated he was pleased to join the Commission.

Mr. Ford reported the Township Board followed the Commission's recommendations on the items referred to them at recent meetings, including the required 63-day comment period for public consideration of the final draft of the Housing Plan, and the Commission's denial of a conditional rezoning request.

ADJOURNMENT

With there being no further business to consider, Chairperson Doorlag adjourned the meeting at approximately 6:19 p.m.

Minutes prepared:
September 15, 2023

Minutes approved:
_____, 2023

OSHTEMO CHARTER TOWNSHIP PLANNING COMMISSION

RECOMMENDATION OF THE OSHTEMO CHARTER TOWNSHIP PLANNING COMMISSION RESULTING FROM A PUBLIC HEARING CONDUCTED ON THURSDAY, SEPTEMBER 14, 2023


The Oshtemo Charter Township Planning Commission hereby recommends APPROVAL of the adoption of Article 60 - Solar Energy Systems of the Township Zoning Ordinance, to read, as follows:

SEE ATTACHMENT

A copy of the Planning Commission Staff Report and draft Meeting Minutes from the September 14, 2023 Public Hearing are attached to this Recommendation.

OSHTEMO CHARTER TOWNSHIP PLANNING COMMISSION

Date: September 18, 2023

By: 
Iris Lubbert, AICP
Township Planning Director

Final Action by Oshtemo Charter Township Board

_____ APPROVED _____

_____ DENIED _____

_____ REFERRED BACK TO PLANNING COMMISSION



September 7, 2023

Mtg Date: September 14, 2023
To: Planning Commission
From: Iris Lubbert, AICP, Planning Director
Subject: Public Hearing: Solar Energy Systems

Objective:

Consideration to adopt Article 60 – Solar Energy Systems to permit and regulate Solar Energy Systems within the Township, for recommendation to the Township Board.

Background:

The Township currently has no comprehensive general ordinance or zoning ordinance provisions to appropriately address the development of commercial Solar Energy Systems within the Township. Given the industries need to quickly develop such infrastructure, it is imperative to develop appropriate general and zoning ordinance provisions to ensure that the development of Solar Energy Systems within the Township are done in a manner consistent with the adopted Master Land Use Plans of the Township and to ensure compatibility with other existing developments. Based on research and discussions with the Planning Commission, Legal and Planning staff recommend adopting Article 60 to address Solar Energy Systems within the community.

Attachments: Article 60 - Solar Energy Systems

OSHTEMO CHARTER TOWNSHIP ORDINANCE NO.

Adopted: _____, 2023

Effective: _____, 2023

An Ordinance to amend the Oshtemo Township Zoning Ordinance Article 60 to permit and regulate Solar Energy Systems in the Township.

THE CHARTER TOWNSHIP OF OSHTEMO
KALAMAZOO COUNTY, MICHIGAN
ORDAINS:

SOLAR ENERGY SYSTEMS

SECTION I INTENT AND PURPOSE:

1. Purpose: The most common and prevalent land use in Oshtemo Charter Township is Residential. This Ordinance is intended to protect the health, safety, and welfare of the residents of the Township and to encourage the safe, effective, efficient, and orderly development and operation of Solar Energy Systems in the Township while preserving and protecting the character and stability of residential, agricultural, recreational, commercial, and other areas of the Township.
2. Specific locations within the Township may best support the implementation of Solar Energy Systems. To prepare for potential Solar Energy Systems projects within the Township, this Ordinance will permit smaller accessory systems but larger systems will be required to obtain a Special Land Use Permit to ensure Solar Energy Systems are appropriately located so as to protect the character and stability of the Township's residential, agricultural, recreational, commercial and/or industrial areas, open space, views, wetlands, and other ecological and environmentally sensitive areas. Accordingly, regulations are necessary to further the above goals and equally important, to minimize the potential adverse effects of this emerging land use on adjacent properties.

FINDINGS

1. This Ordinance has been developed with the intention of obtaining an appropriate balance between the desire for renewable energy resources and the need to protect the public health, safety, and welfare of the community and the character and stability of the Township's residential, agricultural, recreational, commercial and/or industrial areas and preserving and protecting the Township's important and sensitive environmental and ecological assets and areas, open space, views, wetlands, and other ecological and environmentally sensitive areas.
2. The general welfare, health, and safety of the citizens of the Township will be protected

with the enactment of this Ordinance.

SECTION II DEFINITIONS:

For the purposes of the definitions contained herein, SES shall mean Solar Energy Systems.

Accessory Building-Integrated SES: A solar energy system that is an integral part of a primary or accessory building or structure (rather than a separate mechanical device), replacing or substituting for an architectural or structural component of the building or structure. Building-integrated systems include, but are not limited to, photovoltaic or hot water solar energy systems that are contained within roofing materials, windows, skylights, and awnings.

Accessory Ground-Mounted SES: A ground-mounted solar energy system with the purpose primarily of generating electricity for the principal use on the site.

Accessory Roof-Mounted SES: A solar energy system mounted on racking that is attached to or ballasted on the roof of a building or structure with the purpose primarily of generating electricity for the principal use on the site.

Dual Use: A solar energy system that employs one or more of the following land management and conservation practices throughout the project site:

- **Pollinator Habitat:** Solar sites designed to meet a score of 76 or more on the Michigan Pollinator Habitat Planning Scorecard for Solar Sites.
- **Conservation Cover:** Solar sites designed in consultation with conservation organizations that focus on restoring native plants, grasses, and prairie with the aim of protecting specific species (e.g., bird habitat) or providing specific ecosystem services (e.g., carbon sequestration, soil health).
- **Forage:** Solar sites that incorporate rotational livestock grazing and forage production as part of an overall vegetative maintenance plan.
- **Agrivoltaics:** Solar sites that combine raising crops for food, fiber, or fuel, and generating electricity within the project area to maximize land use.

Ground-Mounted SES: A solar energy system mounted on support posts, like a rack or pole, that are attached to or rest on the ground.

Invasive Plant: Non-native (or alien) to the ecosystem under consideration and whose introduction causes or is likely to cause economic or environmental harm or harm to human health. Those species not permitted are listed on the Midwest Invasive Species Information Network at www.misin.edu

Maximum Tilt: The maximum angle of a solar array (i.e., most vertical position) for capturing solar radiation as compared to the horizon line.

Minimum Tilt: The minimal angle of a solar array (i.e., most horizontal position) for capturing solar radiation as compared to the horizon line.

Non-Participating Lot(s): One or more lots for which there is not a signed lease or easement for development of a principal-use SES associated with the applicant project.

Participating Lot(s): One or more lots under a signed lease or easement for development of a principal-use SES associated with the applicant project.

Photovoltaic (PV) System: A semiconductor material that generates electricity from sunlight.

Principal-Use SES: A commercial, ground-mounted solar energy system that converts sunlight into electricity for the primary purpose of off-site use through the electrical grid or export to the wholesale market.

Principal-Use (Large) SES: A Principal-Use SES generating more than 2 MW DC for the primary purpose of off-site use through the electrical grid or export to the wholesale market and encompassing more than twenty acres.

Principal-Use (Small) SES: A Principal-Use SES generating up to and including 2 MW DC for the primary purpose of off-site use through the electrical grid or export to the wholesale market and encompassing less than twenty acres.

Repowering: Reconfiguring, renovating, or replacing an SES to maintain or increase the power rating of the SES within the existing project footprint.

Solar Array: A photovoltaic panel, solar thermal collector, or collection of panels or collectors in a solar energy system that collects solar radiation.

Solar Carport: A solar energy system of any size that is installed on a structure that is accessory to a parking area, and which may include electric vehicle supply equipment or energy storage facilities. Solar panels affixed on the roof of an existing carport structure are considered a Roof-Mounted SES.

Solar Energy System (SES): A photovoltaic system or solar thermal system for generating and/or storing electricity or heat, including all above and below ground equipment or components required for the system to operate properly and to be secured to a roof surface or the ground. This includes any necessary operations and maintenance building(s), but does not include any temporary construction offices, substation(s) or other transmission facilities between the SES and the point of interconnection to the electric grid.

Solar Thermal System: A system of equipment that converts sunlight into heat.

SECTION III GENERAL PROVISIONS:

Permitted Accessory Uses:

- A. Accessory Roof-Mounted SES
- B. Accessory Ground-Mounted SES
- C. Accessory Building-Integrated SES

Roof-Mounted SES, Accessory Ground-Mounted SES, and Building-Integrated SES are permitted in all zoning districts where structures of any sort are allowed, and shall meet the following requirements:

All Accessory SES will require administrative review and approval by the Planning Department. The permits by the Planning Department shall be in addition to building or electrical permits required.

A. ACCESSORY ROOF-MOUNTED SES

1. **Application:** All SES applications must include a site plan. Applications for Roof-Mounted SES must include horizontal and vertical elevation drawings that show the location and height of the SES on the building and dimensions of the SES. Roof mounted SES will be evaluated and if they weren't Ordinance regulated shall be granted administrative approval.
2. **Height:** Roof-Mounted SES shall not exceed 5 feet above the finished roof in residential zoning districts. Roof-Mounted SES shall not exceed 10 feet above the finished roof in commercial, industrial, and agricultural districts. Roof-Mounted SES are exempt from any rooftop equipment or mechanical system screening.
3. **Nonconformities:** A Roof-Mounted SES or Building-Integrated SES installed on a nonconforming building, structure, or use shall not be considered an expansion of the nonconformity.
4. **Reflective Glare:** A Roof-Mounted SES shall be constructed to minimize any reflective glare onto neighboring properties.

B. ACCESSORY GROUND-MOUNTED SES

1. **Application:** All SES applications must include a site plan. Applications for Ground-Mounted SES must include drawings that show the location of the system on the property, height, tilt features (if applicable), the primary structure, accessory structures, and setbacks to property lines. Accessory use applications that meet the ordinance requirements shall be granted administrative approval.
2. **Height:** Ground-Mounted SES shall not exceed 12 feet in the Residential or Commercial Zoning District and 20 feet in the Agricultural or Rural Residential Zoning District, measured from the ground to the top of the system when oriented at maximum tilt.
3. **Setbacks:** A Ground-Mounted SES must be a minimum of 5 feet from the property line or one half the height of the Ground-Mounted SES at Maximum Tilt, whichever is greater. Setback distance is measured from the property line to the closest point of the SES at Minimum Tilt.
4. **Lot Coverage:** The area of the Solar Array shall not exceed 50 % of the square footage of the primary building of the property unless it is sited over required parking

(i.e. solar carport), in which case there is no maximum lot coverage for the Ground-Mounted SES. A Ground-Mounted SES shall not count towards the maximum number or square footage of accessory structures allowed on site or maximum impervious surface area limits if the ground under the array is pervious.

5. Visibility (Residential): A Ground-Mounted SES in all residential districts shall be located in the side or rear yard to minimize visual impacts from the public right-of-way(s).

a. Ground-Mounted SES may be placed in the front yard with administrative approval, where the applicant can demonstrate that placement of the SES in the rear or side yard will:

i. Decrease the efficiency of the SES due to topography, accessory structures, or vegetative shading from the subject lot or adjoining lots;

ii. Interfere with septic system, accessory structures, or accessory uses; or

iii. Require the SES to be placed on the waterfront side of the building housing the primary use [where applicable].

6. Exemptions: A SES used to power a single device or specific piece of equipment such as a lawn ornament, lights, weather station, thermometer, clock, well pump or other similar singular device is exempt from Section 4 [Ground-Mounted SES provisions].

7. Nonconformities: A Ground-Mounted SES installed on a nonconforming lot or use shall not be considered an expansion of the nonconformity.

8. Reflective Glare: A Roof-Mounted SES shall be constructed to minimize any reflective glare onto neighboring properties.

C. ACCESSORY BUILDING-INTEGRATED SES:

1. Building-Integrated SES are subject only to zoning regulations applicable to the structure or building and not subject to accessory ground or roof-mounted SES permits.

SECTION IV SPECIAL LAND-USE STANDARDS:

Permitted Special Uses with Conditions:

- A. Small Principal-use SES
- B. Large Principal-use SES

All applications for a Small or Large Principal-Use SES shall follow the application and review requirements of Article 65 for Special Uses. All requests to construct a Small or Large Principal-Use SES shall be reviewed by the Planning Commission.

A. SMALL PRINCIPAL-USE SES:

A Small Principal-Use SES is a special use with conditions in Agricultural and RR Rural Residential Zoning Districts or in the Commercial and Industrial Districts, if located on an existing impermeable surface of a preexisting use, subject to site plan review and shall meet all the following requirements:

For Small Principal-Use SES covering preexisting impervious, surfaces are exempt from: landscaping, ground cover, and fencing provisions set forth below.

- 1. Height:** Total height shall not exceed 20 feet measured from the ground to the top of the system when oriented at maximum tilt.
- 2. Setbacks:** Setback distance shall be measured from the property line or road right-of-way to the closest point of the solar array at minimum tilt or any SES components and as follows:
 - a.** A Ground-Mounted SES shall follow the setback distance for primary buildings or structures for the district as outlined in Article 50.
 - b.** A Ground-Mounted SES is not subject to property line setbacks for common property lines of two or more participating lots, except road right-of-way (front yard) setbacks shall apply as outlined in Article 50.
- 3. Fencing:** A Small Principal-Use SES may be secured with perimeter fencing to restrict unauthorized access. If installed, perimeter fencing shall be a maximum of 6 feet in height or up to 8ft in the Commercial or Industrial Districts. Barbed wire is prohibited. Fencing is not subject to setbacks.
- 4. Screening/Landscaping:** A Small Principal-Use SES shall be designed to follow the screening and/or landscaping standards set forth in Sec 53.40 B-F for the project site. Any required screening and landscaping shall be placed outside the perimeter fencing.
 - a.** In districts that call for screening or landscaping along rear or side property lines, these shall only be required where an adjoining non-participating lot has an existing residential or public use.
 - b.** When current zoning district screening and landscaping standards are determined to be inadequate based on a legitimate community purpose consistent with local government planning documents, the Planning Commission may require substitute screening consisting of native deciduous trees planted 30 feet on center, and native evergreen trees planted 15 feet on center along existing non-participating residential uses and public uses.

- c. The Planning Commission may reduce or waive screening requirements provided that any such adjustment is in keeping with the intent of the Ordinance and is appropriately documented (e.g. abutting participating lots; existing vegetation).
 - d. Screening/landscaping detail shall be submitted as part of the site plan that identifies the type and extent of screening for a Small Principal-Use SES, which may include plantings, strategic use of berms, and/or fencing.
- 5. **Ground Cover:** A Small Principal-Use SES shall include the installation of perennial ground cover vegetation maintained for the duration of operation until the site is decommissioned. The applicant shall include a ground cover vegetation establishment and management plan as part of the site plan.
 - a. An SES utilizing agrivoltaics is exempt from perennial ground cover requirements for the portion of the site employing the dual-use practice.
 - b. Project sites with majority existing impervious surface or those that are included in a brownfield plan adopted under the Brownfield Redevelopment Financing Act, PA 381 of 1996, as amended, are exempt from ground cover requirements. These sites must comply with the on-site stormwater requirements of the ordinance and reviewed and approved by the Township Engineer.
- 6. **Lot Coverage:** A Small Principal-Use SES shall not count towards the maximum lot coverage or impervious surface standards for the district.
- 7. **Land Clearing:** Land disturbance or clearing shall be limited to what is minimally necessary for the installation and operation of the system and to ensure sufficient all-season access to the solar resource given the topography of the land. Topsoil distributed during site preparation (grading) on the property shall be retained on site.
- 8. **Access Drives:** New access drives within the SES shall be designed to minimize the extent of soil disturbance, water runoff, and soil compaction on the premises. The use of geotextile fabrics and gravel placed on the surface of the existing soil for temporary roadways during the construction of the SES is permitted, provided that the geotextile fabrics and gravel are removed once the SES is in operation. All access drives must be approved by the Road Commission of Kalamazoo County.
- 9. **Wiring:** SES wiring (including communication lines) may be buried underground. Any above-ground wiring within the footprint of the SES shall not exceed the height of the solar array at maximum tilt.
- 10. **Lighting:** Lighting shall be limited to inverter and/or substation locations only. Light fixtures shall have downlit shielding and be placed to keep light on-site and glare away from adjacent properties, bodies of water, and adjacent roadways. Flashing or intermittent lights are prohibited.

11. **Signage:** An area up to 30 square feet [should be consistent with the district or sign type standard] may be used for signage at the project site. Any signage shall meet the setback, illumination, and materials/ construction requirements of the zoning district for the project site.
 12. **Sound:** The sound pressure level of a Small Principal-Use SES and all ancillary solar equipment shall not exceed 40 dBA (Leq (1-hour)) at the property line of an adjoining non-participating lot. The site plan shall include modeled sound isolines extending from the sound source to the property lines to demonstrate compliance with this standard.
 13. **Repowering:** In addition to repairing or replacing SES components to maintain the system, a Small Principal-Use SES may at any time be repowered by reconfiguring, renovating, or replacing the SES to increase the power rating within the existing project footprint.
 - a. A proposal to change the project footprint of an existing SES shall be considered a new application, subject to the ordinance standards at the time of the request.
 14. **Decommissioning:** Upon application, a decommissioning plan shall be submitted indicating the anticipated manner in which the project will be decommissioned, including a description of which above-grade and below-grade improvements will be removed, retained (e.g. access drive, fencing), or restored for viable reuse of the property consistent with the zoning district.
 - a. An SES owner may at any time:
 - i. Proceed with the decommissioning plan approved by the Planning Commission under this Section and remove the system as indicated in the most recent approved plan; or
 - ii. Amend the decommissioning plan with Planning Commission approval and proceed according to the revised plan.
 - b. Decommissioning an SES must commence when the soil is dry to prevent soil compaction and must be completed within 18 months after abandonment. An SES that has not produced electrical energy for 12 consecutive months shall prompt an abandonment hearing.
- B. LARGE PRINCIPAL-USE SES:** A large principal-use SES is a special land use in the Agricultural and RR Rural Residential Zoning Districts specified and shall meet the following requirements:
1. **Height:** Total height for a large principal-use SES shall not exceed the maximum allowed 20 feet.

2. **Setbacks:** Setback distance shall be measured from the property line or road right-of-way to the closest point of the solar array at minimum tilt or any SES components and as follows:
 - a. In accordance with the setbacks for principal buildings or structures for the zoning district or at least 50 feet from the property line of a non-participating lot, whichever is greater.
 - b. 100 feet from any existing dwelling unit on a non-participating lot.
 - c. A Ground-Mounted SES is not subject to property line setbacks for common property lines of two or more participating lots, except road right-of-way (front yard) setbacks shall apply.
3. **Fencing:** A large principal-use SES may ~~shall~~ be secured with perimeter fencing to restrict unauthorized access. If installed, perimeter fencing shall be a maximum of 6 feet in height. Barbed wire is prohibited. Fencing is not subject to setbacks.
4. **Screening/Landscaping:** A large principal-use SES shall follow the screening and/or landscaping standards for the zoning district of the project site. Any required screening and landscaping shall be placed outside the perimeter fencing.
 - a. In districts that call for screening or landscaping along rear or side property lines, these shall only be required where an adjoining non-participating lot has an existing residential or public use.
 - b. When current zoning district screening and landscaping standards are determined to be inadequate based on a legitimate community purpose consistent with local government planning documents, the Planning Commission may require substitute screening consisting of native deciduous trees planted 30 feet on center, and native evergreen trees planted 15 feet on center along existing non-participating residential uses.
 - c. The Planning Commission may reduce or waive screening requirements provided that any such adjustment is in keeping with the intent of the Ordinance.
 - d. Screening/landscaping detail shall be submitted as part of the site plan that identifies the type and extent of screening for a large principal-use SES, which may include plantings, strategic use of berms, and/or fencing.
5. **Ground Cover:** A large principal-use SES shall include the installation of ground cover vegetation maintained for the duration of operation until the site is decommissioned. The applicant shall include a ground cover vegetation establishment and management plan as part of the site plan. Vegetation establishment must include invasive plant species and noxious weed control. The following standards apply:

- a. Sites bound by a Farmland Development Rights (PA 116) Agreement must follow the Michigan Department of Agriculture and Rural Development’s Policy for Allowing Commercial Solar Panel Development on PA 116 Lands.
 - b. Ground cover at sites not enrolled in PA 116 must meet one or more of the four types of Dual Use defined in this ordinance.
 - i. Pollinator Habitat: Solar sites designed to meet a score of 76 or more on the Michigan Pollinator Habitat Planning Scorecard for Solar Sites.
 - ii. Conservation Cover: Solar sites designed in consultation with conservation organizations that focus on restoring native plants, grasses, and prairie with the aim of protecting specific species (e.g., bird habitat) or providing specific ecosystem services (e.g., carbon sequestration, soil health).
 - iii. Forage: Solar sites that incorporate rotational livestock grazing and forage production as part of an overall vegetative maintenance plan.
 - iv. Agrivoltaics: Solar sites that combine raising crops for food, fiber, or fuel, and generating electricity within the project area to maximize land use. Project sites that are included in a brownfield plan adopted under the Brownfield Redevelopment Financing Act, PA 381 of 1996, as amended, that contain impervious surface at the time of construction or soils that cannot be disturbed, are exempt from ground cover requirements
 - c. Project sites that are included in a brownfield plan adopted under the Brownfield Redevelopment Financing Act, PA 381 of 1996, as amended, that contain impervious surface at the time of construction or soils that cannot be disturbed, are exempt from ground cover requirements.
6. **Agricultural Protection:** For sites where agriculture is a permitted use in a district, a large principal-use SES may be sited to minimize impacts to agricultural production through site design and accommodations including:
- a. The ground mounting of panels by screw, piling, or a similar system that does not require a footing, concrete, or other permanent mounting in order to minimize soil compaction, [and/or]
 - b. Siting panels to avoid disturbance and compaction of farmland by siting panels along field edges and in nonproduction areas to the maximum extent practicable and financially feasible, [and/or]
 - c. Maintaining all drainage infrastructure on site, including drain tile and ditches, during the operation of the SES, [and/or]

- d. **Siting the SES** to avoid isolating areas of the farm operation such that they are no longer viable or efficient for agricultural production, including, but not limited to, restricting the movement of agricultural vehicles/equipment for planting, cultivation, and harvesting of crops, and creating negative impacts on support infrastructure such as irrigation systems or drains, or
7. **Lot Coverage:** A large principal-use SES shall not count towards the maximum lot coverage or impervious surface standards for the district.
8. **Land Clearing:** Land disturbance or clearing shall be limited to what is minimally necessary for the installation and operation of the system and to ensure sufficient all-season access to the solar resource given the topography of the land. Topsoil distributed during site preparation (grading) on the property shall be retained on site.
9. **Access Drives:** New access drives within the SES shall be designed to minimize the extent of soil disturbance, water runoff, and soil compaction on the premises. The use of geotextile fabrics and gravel placed on the surface of the existing soil for the construction of temporary drives during the construction of the SES is permitted, provided that the geotextile fabrics and gravel are removed once the SES is in operation. All access drives must be approved by the Road Commission of Kalamazoo County.
10. **Wiring:** SES wiring (including communication lines) may be buried underground. Any above-ground wiring within the footprint of the SES shall not exceed the height of the solar array at maximum tilt.
11. **Lighting:** Large principal-use SES lighting shall be limited to inverter and/or substation locations only. Light fixtures shall have downlit shielding and be placed to keep light on-site and glare away from adjacent properties, bodies of water, and adjacent roadways. Flashing or intermittent lights are prohibited.
12. **Signage:** An area up to 30 square feet may be used for signage at the project site. Any signage shall meet the setback, illumination, and materials/ construction requirements of the zoning district for the project site.
13. **Sound:** The sound pressure level of a large principal-use SES and all ancillary solar equipment shall not exceed 40 dBA (Leq (1-hour)) at the property line of an adjoining non-participating lot. The site plan shall include modeled sound isolines extending from the sound source to the property lines to demonstrate compliance with this standard.
14. **Repowering:** In addition to repairing or replacing SES components to maintain the system, a large principal-use SES may at any time be repowered, without the need to apply for a new special land-use permit, by reconfiguring, renovating, or replacing the SES to increase the power rating within the existing project footprint.
 - a. A proposal to change the project footprint of an existing SES shall be considered

a new application, subject to the ordinance standards at the time of the request. Expenses for legal services and other studies resulting from an application to modify an SES will be reimbursed to the Township by the SES owner in compliance with established escrow policy.

15. Decommissioning: A decommissioning plan is required at the time of application.

- a. The decommission plan shall include:
 - i. The anticipated manner in which the project will be decommissioned, including a description of which above-grade and below-grade improvements will be removed, retained (e.g. access drive, fencing), or restored for viable reuse of the property consistent with the zoning district,
 - ii. The projected decommissioning costs for removal of the SES (net of salvage value in current dollars) and soil stabilization, less the amount of the surety bond posted with the State of Michigan for decommissioning of panels installed on PA 116 lands,
 - iii. The method of ensuring that funds will be available for site decommissioning and stabilization (in the form of surety bond, irrevocable letter of credit, or cash deposit), and
- b. A review of the amount of the performance guarantee based on inflation, salvage value, and current removal costs shall be completed every 5 years, for the life of the project, and approved by the Township Board. An SES owner may at any time:
 - i. Proceed with the decommissioning plan approved by the Planning Commission under this Section and remove the system as indicated in the most recent approved plan; or
 - ii. Amend the decommissioning plan with Planning Commission approval and proceed according to the revised plan.
- c. Decommissioning an SES must commence when the soil is dry to prevent soil compaction and must be complete within 18 months after abandonment. An SES that has not produced electrical energy for 12 consecutive months shall prompt an abandonment hearing.

SECTION V EFFECTIVE DATE:

This Ordinance will take effect upon Publication after Adoption in accordance with state law. Ordinances, or parts Ordinances, are in conflict herewith are hereby suspended until the Moratorium provisions of this Ordinance are otherwise amended or repealed.

DUSTY FARMER, CLERK

OSHTEMO CHARTER TOWNSHIP

MEMORANDUM



Date: September 15, 2023

To: Township Board

From: James Porter

Subject: First Reading of Height Standards for Single-Family and Two-Family Dwellings: Sections 2.20 Definitions, 42.30 Development Standards, and 50.30 Residential Dwelling Standards

Objectives

To accept for First Reading the Height Standards for Single-Family and Two-Family Dwellings: Sections 2.20 Definitions, 42.30 Development Standards, and 50.30 Residential Dwelling Standards and set for Second Reading.

Recommended Motion

I make the motion to accept for First Reading the Height Standards for Single-Family and Two-Family Dwellings: Sections 2.20 Definitions, 42.30 Development Standards, and 50.30 Residential Dwelling Standards and set for Second Reading on October 10, 2023.

Background

Consideration of amendment to the Oshtemo Charter Township Zoning Ordinance to reflect the provisions of Sections 2.20 Definitions, 42.30 Development Standards, and 50.30 Residential Dwelling Standards.

Information Provided

I have attached a copy of the Recommendation from the Planning Commission, Meeting Minutes of Public Hearing held on September 14, 2023.

**OSHTEMO CHARTER TOWNSHIP
PLANNING COMMISSION**

DRAFT MINUTES OF A SPECIAL MEETING HELD SEPTEMBER 14, 2023

Agenda

PUBLIC HEARING: ORDINANCE – HEIGHT STANDARDS FOR SINGLE FAMILY AND TWO-FAMILY DWELLINGS

Consideration to amend Sections 2.20 Definitions, 42.30 Developmental Standards, and 50.30 Residential Dwelling Standards of the Township Zoning Ordinance in order to adopt height standards for single-family and two-family dwellings, for recommendation to the Township Board.

PUBLIC HEARING: ORDINANCE – SOLAR ENERGY SYSTEMS

Consideration to adopt Article 60 – Solar Energy Systems to permit and regulate Solar Energy Systems in the Township, for recommendation to the Township Board.

A meeting of the Oshtemo Charter Township Planning Commission was held Thursday, September 14, 2023, commencing at approximately 6:00 p.m. at the Oshtemo Township Hall, 7275 West Main Street.

ALL MEMBERS PRESENT: Phil Doorlag, Chair
Deb Everett
Zak Ford, Board Liaison
Scot Jefferies
Micki Maxwell, Vice Chair
Scott Makohn
Alistair Smith

Also present: Iris Lubbert, Planning Director, Jim Porter, Township Attorney, LeeAnna Harris, Zoning Administrator, and Martha Coash, Recording Secretary.

Call to Order and Pledge of Allegiance

Chairperson Doorlag called the meeting to order at 6:01 p.m. and invited those present to join in the Pledge of Allegiance.

Approval of Agenda

Hearing no requests for changes to the agenda, the Chair asked for a motion.

Mr. Ford **made a motion** to approve the Agenda as presented. Ms. Everett **seconded the motion**. The **motion was approved** unanimously.

Public Comment on Non-Agenda Items

There were no members of the public in attendance.

Approval of Minutes: August 24, 2023

Approval of Minutes: August 29, 2023

Chairperson Doorlag asked for additions, deletions, or corrections to the Minutes of the Meeting of August 24, 2023 or to the Minutes of the Meeting of August 29, 2023.

Hearing none, he asked for a motion.

Mr. Ford **made a motion** to approve both the Minutes of the Meeting of August 24, 2023 and the Minutes of the Meeting of August 29, 2023 as presented. Mr. Jefferies **seconded the motion**. The **motion was approved** unanimously.

Chairperson Doorlag moved to the next agenda item.

PUBLIC HEARING: ORDINANCE – HEIGHT STANDARDS FOR SINGLE FAMILY AND TWO-FAMILY DWELLINGS

Consideration to amend Sections 2.20 Definitions, 42.30 Developmental Standards, and 50.30 Residential Dwelling Standards of the Township Zoning Ordinance in order to adopt height standards for single-family and two-family dwellings, for recommendation to the Township Board.

Ms. Lubbert noted while constructing the recently adopted Airport Ordinance, Staff became aware that the Township Ordinance does not set height limitations for a majority of single-family and two-family dwellings. To ensure the intent of the airport ordinance can be fully executed, height standards for all single-family and two-family dwellings are needed.

She said based on research of neighboring communities and discussions with the Planning Committee, staff recommended adopting a maximum height of 35 feet for single-family and two-family dwellings. Ms. Lubbert indicated this height is consistent with the height standards of neighboring communities: Texas Township, Alamo Township, Almena Township and Portage. In addition to proposing the adoption of a maximum height, clarifying and expanding on the definition of Height for how to determine the height of a structure, was also being recommended.

She noted the changes requested when Commissioners reviewed the draft at the last meeting had been made.

In response to a question from Mr. Ford regarding the item that addresses raising the natural grade used to measure dwelling height, Ms. Lubbert said it was a safety measure to ensure that the measurement from the base to the top of the

structure does not exceed the height maximum due to artificially raising the area where the foundation will be placed.

The group was satisfied with the final draft and Chairperson Doorlag asked for a motion.

Ms. Everett **made a motion** to recommend approval to the Township Board the proposed amendments to Sections 2.20 Definitions, 42.30 Developmental Standards, and 50.30 Residential Dwelling Standards of the Township Zoning Ordinance in order to adopt height standards for single-family and two-family dwellings. Mr. Smith **seconded the motion**. The **motion was approved unanimously**.

Chairperson Doorlag moved to the next agenda item.

PUBLIC HEARING: ORDINANCE – SOLAR ENERGY SYSTEMS
Consideration to adopt Article 60 – Solar Energy Systems to permit and regulate Solar Energy Systems in the Township, for recommendation to the Township Board.

Ms. Lubbert indicated the Township currently has no comprehensive general ordinance or zoning ordinance provisions to appropriately address the development of commercial Solar Energy Systems within the Township. Given the industries need to quickly develop such infrastructure, it is imperative to develop appropriate general and zoning ordinance provisions to ensure the development of Solar Energy Systems within the Township are done in a manner consistent with the adopted Master Land Use Plans of the Township and to ensure compatibility with other existing developments. Based on research and discussions with the Planning Commission, Legal and Planning staff were recommending adoption of Article 60 to address Solar Energy Systems within the community and to recommend it to the Township Board.

She noted the Legal staff was responsible for most of the work developing this ordinance, and provided illustrations of the wide variety of installation types possible for both private and businesses.

She walked through the general format of the proposed ordinance. During the course of her review, Commissioners noted two minor amendments to be made: one typographical error and striking “wildlife friendly fencing” from the definitions section.

Ms. Maxwell thanked Attorney Porter for quickly developing this ordinance and providing Commissioners with the information needed to consider it beforehand.

Mr. Ford **made a motion** to recommend adoption Article 60: Solar Energy Systems to the Township Board as proposed. Ms. Maxwell **seconded the motion**. The **motion was approved unanimously**.

OTHER UPDATES AND BUSINESS

The group welcomed new Commissioner Scott Makohn, who indicated he was pleased to join the Commission.

Mr. Ford reported the Township Board followed the Commission's recommendations on the items referred to them at recent meetings, including the required 63-day comment period for public consideration of the final draft of the Housing Plan, and the Commission's denial of a conditional rezoning request.

ADJOURNMENT

With there being no further business to consider, Chairperson Doorlag adjourned the meeting at approximately 6:19 p.m.

Minutes prepared:
September 15, 2023

Minutes approved:
_____, 2023

OSHTEMO CHARTER TOWNSHIP PLANNING COMMISSION

RECOMMENDATION OF THE OSHTEMO CHARTER TOWNSHIP PLANNING COMMISSION RESULTING FROM A PUBLIC HEARING CONDUCTED ON THURSDAY, SEPTEMBER 14, 2023

The Oshtemo Charter Township Planning Commission hereby recommends APPROVAL of amendments to Sections 2.20 Definitions, 42.30 Development Standards, and 50.30 Residential Dwelling Standards of the Township Zoning Ordinance in order to adopt height standards for single-family and two-family dwellings:

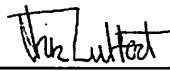
The amendments to Sections 2.20 Definitions, 42.30 Development Standards, and 50.30 Residential Dwelling Standards of the Township Zoning Ordinance, to read, as follows:

SEE ATTACHMENT

A copy of the Planning Commission Staff Report and draft Meeting Minutes from the September 14, 2023 Public Hearing are attached to this Recommendation.

OSHTEMO CHARTER TOWNSHIP PLANNING COMMISSION

Date: September 18, 2023

By: 
Iris Lubbert, AICP
Township Planning Director

Final Action by Oshtemo Charter Township Board

_____ APPROVED _____

_____ DENIED _____

_____ REFERRED BACK TO PLANNING COMMISSION



September 6, 2023

Mtg Date: September 14, 2023
To: Planning Commission
From: Iris Lubbert, AICP, Planning Director
Subject: Public Hearing: Height Standards for Single-Family and Two-Family Dwellings

Objective:

Consideration to amend Sections 2.20 Definitions, 42.30 Development Standards, and 50.30 Residential Dwelling Standards of the Township Zoning Ordinance in order to adopt height standards for single-family and two-family dwellings, for recommendation to the Township Board.

Background:

While constructing the recently adopted Airport Ordinance, Staff became aware that the Township Ordinance does not set height limitations for a majority of single-family and two-family dwellings. To ensure that the intent of the airport ordinance can be fully executed, height standards for all single-family and two-family dwellings are needed.

Based on research on neighboring communities and discussions with the Planning Commission, Staff recommends adopting a maximum height of 35 feet for single-family and two-family dwellings. This proposed height is consistent with the height standards of neighboring communities: Texas Township, Alamo Township, Alma Township, and Portage. In addition to proposing the adoption of a maximum height, clarifying and expanding on the definition of Height, for how to determine the height of a structure, is also being recommended.

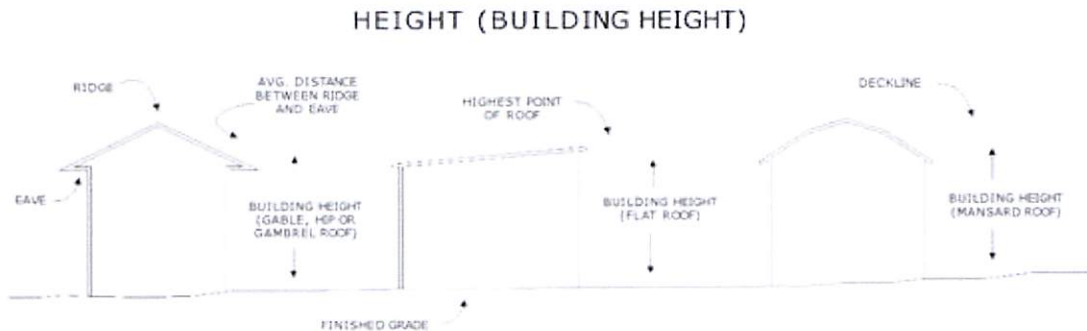
Attachments: Proposed amendments to Sections 2.20 Definitions, 42.30 Development Standards, and 50.30 Residential Dwelling Standards (proposed changes are in red)

2.20 DEFINITIONS

Height (building height) - Building height shall be measured from the elevation of the average of the highest and lowest adjacent finished grade to:

1. Mansard, Gable, Hip, or Gambrel Roof. The average height between the eaves and ridge.
2. Parapet/Flat Roof. The highest point of the roof.
3. Other Roof Type. A point equivalent to the roof types specified in this section, as determined by the Zoning Administrator

In the case of artificially raising the natural grade of the building site, the average high and low point of the pre-existing natural grade shall be used when calculating building height.



50 – SCHEDULE OF REGULATIONS

50.30 RESIDENTIAL DWELLING STANDARDS

A building, mobile home, pre-manufactured or precut dwelling structure designed and used for a single-family or two-family dwelling shall comply with the following standards:

- A. The minimum floor to ceiling height shall be 7.5 feet.
- B. Building height shall not exceed 35 feet in Height.
- C. At least 50 percent of the longest side of a dwelling must also have a depth of not less than 24 feet. In the case of a single story, two-family dwelling, at least 50 percent of the longest side of each dwelling unit shall have a depth of not less than 24 feet.
- D. Be permanently attached to a solid foundation or in the case of mobile homes, connected to piers, constructed on the site in accordance with the Michigan Building Code and any manufacture's specifications. The dwelling shall be fully enclosed with a permanent wall around its perimeter extending from the footing or slab to the ground floor. The perimeter wall shall be constructed of concrete, concrete block, wood, or other material, comparable to those used to construct the foundation of site-built homes; in no case shall metal, plastic or vinyl skirting be utilized.

- E. No exposed wheels, towing mechanisms, undercarriage, or chassis will be permitted. Any space that may exist between the foundation and the ground floor of the dwelling will be fully enclosed by an extension of the foundation wall along the perimeter of the dwelling.
- F. The dwelling will be connected to a public sewer and water supply or to such private facilities approved by the local health department.
- G. The dwelling must contain permanently attached steps connected to exterior door areas or to porches connected to said door areas where a difference in elevation requires the same.
- H. The dwelling must contain no additions of rooms or other areas which are not constructed with an appropriate foundation and permanent attachment to the principal structure.
- I. The dwelling complies with all pertinent building and fire codes including, in the case of mobile homes, the standards for mobile home construction as contained in the United States Department of Housing and Urban Development (HUD) regulations entitled "Mobile Home Construction and Safety Standards," effective June 15, 1976, as amended. Where a dwelling is required by law to comply with any federal or state standards or regulations for construction and where such standards or regulations allow standards of construction which are less stringent than those imposed by the Michigan Building Code, then and in that event, the less stringent federal or state standards or regulation will apply.
- J. The foregoing standards shall not apply to a mobile home located in a licensed mobile home park except to the extent required by state law or otherwise specifically required in the ordinance of the Charter Township of Oshtemo pertaining to such parks.
- K. Energy-saving earth shelter homes shall be constructed with a completely earth-covered roof having a structural roof system with a slope of not less than one-half inch of rise per foot of run, or constructed with a roof which is not completely earth-covered having a slope with at least a five-inch rise for each 12 inches of run, and in either case, containing at least one exposed vertical exterior elevation not less than 7.5 feet in height by 24 feet in width designed and constructed in accordance with Michigan Building Code regulations pertinent thereto and without any accommodation for any dwelling units above ground.

42 – RESIDENTIAL CONDOMINIUM DEVELOPMENT STANDARDS

42.30 DEVELOPMENT STANDARDS

- A. Density. The overall density of a condominium development shall be as follows:
 - 1. R-2 District – 4 dwelling units per acre
 - 2. R-3 District – 4 dwelling units per acre
 - 3. R-4 District – 6 dwelling units per acre

- B. In the event the development lies in more than one zoning classification, the number of dwelling units shall be computed for each zoning classification separately.**
- C. Units per Building. A two-unit building shall be permitted in the R-2 District. Up to a four-unit building shall be permitted in the R-3 and R-4 Districts.**
- D. Building height shall not exceed 35 feet in Height.**

Memorandum



Date: 26 September 2023
To: Township Board
From: Sara Feister, Human Resources Director
Subject: Consideration of an Improved Human Resources Management System

Objective

Requesting Board approval to move forward with to partner with ADP for implementation on a new Human Resources Management System.

Background

To respond and adapt to the internal growth of the Township, there is a need for an enhanced Human Resources Management system. In the past 5 years, we have grown to need an HR Department, and now we have grown to a point where we need more efficient resources to serve our employees. Our Mission Statement speaks of a commitment to responsible growth, and that growth includes internal growth as well. The purpose of the implementation of a new HRM system is to centralize HR functions, including recruiting, on-boarding, benefit administration, ACA compliance, payroll (and payroll related reporting), as well as provide employees with a one-stop self-service portal. Implementing a more comprehensive and intuitive HRM system will also streamline processes that are currently fragmented between multiple departments & programs. Implementing this new system will serve to promote the core values of the Township, most notably, Innovation, Sustainability, & Professionalism. Everything will be electronic and housed in this new HRM system, so it will eliminate the need for paper copies of on-boarding forms and reduce the Township’s environmental footprint. It will also serve to eliminate the risk of errors associated with manual entry of personal information. Another benefit will be increased communication with staff as we can utilize the platform to relay important information as well as administer a more intentional and responsible training program.

Financial Information

The total current cost of the HRM system and all things associated with payroll is as follows:

1. Annual Cost for BS&A HR Module: \$1,371*
2. Annual Cost for BS&A Timesheets Module: \$986*
3. Annual Cost for BS&A Payroll Module: \$1,766*
*BS&A Contract (expires 12/31/23): This agreement shall automatically renew for additional one-year terms unless either party provides the other with thirty days prior written notice of termination. The Township agrees that it is not entitled to any refund of fees paid under this agreement upon termination.
4. Average Annual Cost for Preparation of the 1099s & W2s: \$2,000

TOTAL: \$6,123

Per ADP, we are not billed anything until the program is live.

Additionally, there are unused funds from GL#101-228-80500 due to the timing of the implementation of the new phone system in the amount of approximately \$8,000.

Attached Information Provided

1. Proposal from ADP
2. Proposal from Tesseon

Core Values

Sustainability, Innovation, Professionalism

Company Information

Oshtemo Charter Township
7275 W Main St
Kalamazoo, MI 49009-8210
United States

Executive Contact

Sara Feister
HR Director
sfeister@oshtemo.org
(269) 655-5731



70

Total
Employees



\$3,800.00

Implementation
Costs



\$17,739.10

Total Annual
Investment



(\$2,725.00)

Total Annual Savings during
promotional period; See Terms

Expiration
9/21/2023

ADP Sales Associate

Tanner Christian
MMDM
tanner.christian@adp.com

** The Implementation Costs and Total Annual Investment listed out on this Investment Summary are estimates based on the services, frequencies, recurring rates and pay counts outlined on the sales order and are shown for illustrative purposes only. These numbers are not binding amounts and shall not become incorporated into or made a part of any sales order or services agreement governing the services contemplated therein.

Appendix : History Conversion Services

Description of Available History Conversion Services

CONVERSION SERVICE	DESCRIPTION
Check History	<p>Includes:Net/Gross Salary, Taxes, Deductions, Hours, Hours & Earnings Codes.</p> <p>History data files will be created and imported into ADP Workforce Now for Client practitioner level access only (not individual employee access).</p>
Pay Rate History	<p>Includes:Position ID, Change Effective On, Compensation change Reason, Rate Type, Rate 1 Amount, Standard Hours, Pay Frequency Code, Rate 2 Amount, Rate Currency, Annual Salary.</p> <p>History data will be loaded to an external viewer provided by ResNav Solutions (see below).</p>
Position History	<p>Includes: Job Title, Department, Business Unit, Location, Assigned Shift, Full time Employee, Pay Grade, Job Class, Salary Structure, Allocation, Union, FLSA, Workers Compensation, Scheduled Hours, Hours period, EEO Job Class, Cost Number, Management Position, Reports to Position ID. History data will be loaded to an external viewer provided by ResNav Solutions (see below). Automated Export Services are available (see below).</p>
Benefits History (Employee Benefit Selection)	<p>Includes: Employee level Benefit selection data included: Plan Type and Name, Coverage Level, Enrollment Effective and End Dates, Employee and Employer Costs per period. Does not include company level detail for Benefit plans. History data will be loaded to an external viewer provided by ResNav Solutions (see below).</p> <p>Automated Export Services are available (see below).</p>
Benefits / Dependent History	<p>Includes: Employee Level Dependents, Including: Dependent Tax ID, Relationship, Name, Address, Gender, Birth Date, Type, Status, Enrollment Start and End Dates, Plan Name and type, Plan Provider Name, Coverage level, Benefit Status.</p> <p>History data will be loaded to an external viewer provided by ResNav Solutions (see below).</p> <p>Automated Export Services are available (see below).</p>
Time & Attendance History	<p>Includes: Employee Time Zone, Pay Rule, Punch Date, Punch In/Out Times & Codes, Totaled Amount, Cumulative Total, Reason/Details.</p> <p>History data will be loaded to an external viewer provided by ResNav Solutions (see below).</p> <p>Automated Export Services are available (see below).</p>
Employee Status History	<p>Includes:Changes to Employee Status, including Termination Date and Reason, Rehire Eligibility and Date, LOA Start and Return Dates with Reasons</p>

Loading History Data Using ResNav Solutions. History data will be loaded to an external history viewer provided by ResNav Solutions, a standalone system, which allows Client to retain history from its legacy systems. History Viewer URL access will be provided to Client practitioner for login with password. Access to History Viewer will be at the practitioner level only (not individual employee access).

Automated Export Services. The Automated Export Services associated with History Viewer, applies to the custom report that loads data from the ADP Application Platform to the History Viewer on a one-time daily basis. The data loaded from the ADP Application Platform to the History Viewer is specific to pay rate, status and position data only. This enables joint reporting from History Viewer for both current and historical employee data. ResNav Solutions shall setup the custom report under a specific practitioner during the history conversion process and the ADP integration team shall initiate the automation of the report.

Data Privacy Appendix

This Data Privacy Appendix is a data processing agreement under Applicable Law and supplements the Agreement, including Sections 4 (Confidentiality), 9.3 (Data Security) and 10.1 (Data Security Breach/Notification), between ADP, Inc. and Client. Capitalized terms throughout this Data Privacy Appendix not defined in the Agreement are defined in the ADP Privacy Glossary at www.adp.com/-/media/adp/privacy/pdf/glossary_en.pdf.

PART I - GENERAL

1. Client Obligations. Client shall only provide ADP with Client Personal Data that: (a) is required to perform the Services; (b) has been collected in accordance with Applicable Law; and (c) Client has authority to provide under Applicable Law.

2. ADP Obligations. ADP, as a Data Processor (or equivalent term under Applicable Law), will comply with Applicable Law for Processing Client Personal Data pursuant to the Agreement. ADP will not: (a) "sell" or "share" Client Personal Data; (b) retain, use, disclose or otherwise Process Client Personal Data outside of its direct business relationship with Client or for any commercial or other purpose other than the business purposes specified in the agreement(s) between Client and ADP, except as permitted by Applicable Law; or (c) combine Client Personal Data with personal data that ADP receives from, or on behalf of, other persons, or collects from its own interaction with a consumer, except as permitted under Applicable Law. ADP shall have the right to Process Client Personal Data in order to comply with its legal obligations (e.g., compliance with sanction laws) or in order to prevent, detect or investigate fraud. ADP employees and contingent workers are authorized to Process Client Personal Data to the extent necessary to provide Services and as permitted under the Agreement and by Applicable Law.

3. De-identification and Aggregation. In addition to any rights granted to ADP in Section 4 of the Agreement to use aggregated and anonymized data, ADP will not attempt to, and will not, re-identify any Client Personal Data.

4. Transfers to Subprocessors. ADP may transfer Client Personal Data to ADP Subprocessors and Third Party Subprocessors located outside of the country in which Client Personal Data was collected. Third Party Subprocessors are bound by written contracts with ADP that impose data protection terms that are not less protective than those imposed by this Data Privacy Appendix.

An up-to-date list of ADP Subprocessors and Third Party Subprocessors, including locations, is accessible at <https://thebridge.adp.com/workforce-now/gdpr/m/media/634>. Such list may be updated from time to time.

5. Compliance Obligations. ADP will notify Client if ADP makes a determination that it can no longer meet its Processing obligations under Applicable Law. Client may, upon providing written notice to ADP, take reasonable steps to stop and remediate unauthorized Processing of Client Personal Data.

6. Client Instructions. When receiving a Client instruction regarding the Processing of Personal Data, ADP will notify Client if ADP considers such instruction violates Applicable Law; however, ADP is not obliged to and will not perform a legal examination with respect to a Client instruction.

7. Assistance. ADP will assist Client with its data privacy obligations where required under Applicable Law, including assisting Client in responding to and addressing Client Employee individual rights requests and complaints and providing Client with relevant information for conducting data protection impact or risk assessments. ADP reserves the right to charge for such assistance rendered. If ADP receives an individual rights request or complaint directly from a Client Employee, ADP shall promptly forward the Client Employee request to Client.

8. Client Audit. ADP will answer questions asked by Client regarding the Processing of Client Personal Data by ADP. In the event Client reasonably considers that the answers provided by ADP justify further analysis, ADP will, in agreement with Client, either:

(a) provide security materials known as ADP's trust package (which includes security policy and standards overview, password summary, resiliency program summary, disaster recovery program overview, data center and hosting service summary and a third party risk management executive summary), that details ADP's business processes and procedures for the Processing of Client Personal Data; or,

(b) make the facilities it uses to Process Client Personal Data available for an audit by a qualified independent third-party assessor reasonably acceptable to ADP, bound by confidentiality obligations satisfactory to ADP and engaged by Client. Client will provide a copy of the audit report to ADP's Global Chief Privacy Officer which will be ADP Confidential

Information. Audits shall be conducted no more than once per year during the term of the Agreement during regular business hours and will be subject to (i) a written request submitted to ADP at least 45 days in advance of the proposed audit date; (ii) a detailed written audit plan reviewed and approved in advance by ADP's security organization; and (iii) ADP's on-site security policies. Such audits will take place only in the presence of a representative of ADP's global security office, ADP's global data privacy & governance team, or such person designated by the appropriate ADP representative. The audits shall not be permitted to disrupt ADP's Processing activities or compromise the security and confidentiality of Personal Data pertaining to other ADP Clients. ADP will charge Client a reasonable fee for such audit.

PART II – GDPR

9. Scope. This Part II applies solely with respect to Client Personal Data subject to Regulation (EU) 2016/679 on the protection of natural persons with regard to the processing of Personal Data and on the free movement of such data ("General Data Protection Regulations" or "GDPR"). With respect to ADP's processing of Client Personal Data subject to GDPR, the ADP Privacy Code, located at https://www.adp.com/-/media/adp/privacy/pdf/bcrpc_en.pdf, governs. ADP has obtained EU authorization of its ADP Privacy Code.

10. International Transfers. For transfers outside of the EEA, Switzerland and United Kingdom, the ADP Privacy Code serves as the legal basis for the data transfer to an ADP Group Company or between ADP and an ADP Subprocessor, which Client acknowledges and accepts. ADP shall enter into appropriate contractual agreements, such as standard contractual

clauses, or rely upon any other lawful transfer mechanism prior to transferring Client Personal Data to a Third Party Subprocessor or to an ADP company when the ADP Privacy Code does not apply.

11. Additional Subprocessor Obligations. Within 30 days of a written update (including electronic notice) by ADP to Client adding a new Subprocessor, Client may object to such new Subprocessor by providing written notice to ADP alleging objective justifiable grounds that such Subprocessor is unable to protect Client Personal Data. If the parties cannot reach a mutually acceptable solution, ADP shall, at its option, either: (a) not allow the Subprocessor to access Client Personal Data; or (b) allow Client to terminate the relevant Services in accordance with the terms of the Agreement.

12. ADP Privacy Code EU Authorization. ADP will make commercially reasonable efforts to maintain the EU authorization of its ADP Privacy Code for the duration of the Agreement and will promptly notify Client of any subsequent material changes in the EU authorization of its ADP Privacy Code.

PART III - Miscellaneous

13. Order of Precedence. In the event of a conflict between the Agreement, this Data Privacy Appendix, the ADP Privacy Code and Applicable Law, then the conflict will be resolved by giving effect to such in the following order of precedence: (a) Applicable Law; (b) the ADP Privacy Code; (c) this Data Privacy Appendix; and (d) the Agreement.

14. Scope. This Data Privacy Appendix provides no additional rights to a Client Employee that are not already provided under the Applicable Law to which the Client Employee is subject.



Company Information

Oshtemo Charter Township
 7275 W Main St
 Kalamazoo, MI 49009-8210
 United States

Executive Contact

Sara Feister
 HR Director
sfeister@oshtemo.org
 (269) 655-5731

Recurring Fees and Considerations

Number of Employees: 70 on Oshtemo Charter Township



Per Processing

	Count	Min	Base	Rate	Bi-Weekly	Annual
Workforce Now Payroll Solutions	70	-	\$60.00	\$6.98	\$548.60	\$14,263.60
<ul style="list-style-type: none"> • Essential Plus Payroll • Enhanced HR • Essential Learning • Benefits Administration • Recruitment and Talent Acquisition • Recruiting Embedded Intelligence • DataCloud Analytics • DataCloud Enhanced Insights 						
Employment and Income Verification	70	-	-	-	\$0.00	\$0.00
<ul style="list-style-type: none"> • Employment Verification 						



Monthly Processing

	Count	Min	Base	Rate	Monthly	Annual
Workforce Now Time and Attendance	70	\$265.00	-	\$3.79	\$265.30	\$3,183.60
<ul style="list-style-type: none"> • Essential Time 						
Additional Jurisdiction (if applicable)		2+		\$11.00/month		
International Employees Rate (if applicable)				\$3.10/month		
Courier Delivery (if applicable)				\$20.00 per delivery		



Annual Processing

	Count	Min	Base	Rate	Annual
Year End Forms, W2s or 1099s	70	-	-	\$4.17	\$291.90



Total Annual Investment

Total Annual

Workforce Now Services					<u>\$17,739.10</u>
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Other Considerations

	Count	Rate	Setup
Hardware and Other Fees			
<ul style="list-style-type: none"> • Professional Services: Pay Check History Conversion 	1	\$1,800.00	\$1,800.00
Implementation			
<ul style="list-style-type: none"> • Implementation for Workforce Now Payroll Solutions 			\$2,000.00



Total Other Considerations

Total Setup

Implementation and Setup			\$12,500.00
Implementation Discount Value			(\$8,700.00)
Estimated Total Net Implementation			<u>\$3,800.00</u>



Important Project and Billing Information

Billing for Payroll Processing Services, HCM and any module bundled into the single per employee per processing fee for payroll, is billed immediately following the client's first payroll processing. The billing count is based on the number of pays submitted during each processing period, therefore total billing may fluctuate.

Billing for Essential Time will begin on the date Essential Time is available for use by the CLIENT in a production environment. The billing count is based on all non-terminated employees in the Time Module. This count includes practitioners and supervisors.

Unemployment Claims in excess of the 10% claims cap will be billed at \$36.00 per claim. The fee for optional hearing representation is \$155.00 per appearance. Attorney representation required in certain states and is subject to change (currently: AZ, DE, KY, MO, NC, SC, SD, and WV). Representation fee not to exceed actual attorney fees. Optional service available through non-ADP affiliated attorneys. Attorneys will be retained on behalf of client for limited purpose of representing Client at the hearing. No referral fee applies. No attorney-client relationship exists or will be formed between ADP and Client.

Client intends to use Direct Deposit and Paycard and be fully paperless for Employee Pay Statements using ADP Self Service and/or ADP Mobile App to view all Pay and W2 information. By doing so, ADP will not charge a delivery fee unless something is in fact delivered.

Promotion

Promotion is spread over the first two (2) years of services (also referred to as the Promotional Period) applying to months 7 & 8 each year from each product/controls start date. Actual promotional value may vary based on a number of reasons, including but not limited to: start date, number of processings during the promotional month(s) and actual number of employees paid during the promotional months.

Other

ADP's Fees for Service will be debited directly out of client's bank account of their choosing seven (7) days from invoice date. ADP will send all invoices to sfeister@oshtemo.org
Expiration Date: 9/21/2023

Important Professional Services Information

History Conversion: The services noted on this sales order are performed by ADP Professional Services and are for companies with less than 1000 active employees with a maximum of 5000 total records (a combination of both active and terminated lives) with data coming from a single data base source. Conversion of history from a database with a greater number of records or from multiple databases must be quoted via a customized statement of work.

Summary			
Estimated Annual Net Investment:	<u>\$17,739.10</u>	Total Net Implementation:	<u>\$3,800.00</u>
Estimated Annual Net Investment during promotional period:	<u>\$15,014.10</u>		

The ADP Services Listed on this Sales Order are provided at the prices set forth herein and in accordance with the ADP Master Services Agreement (or other similar agreement governing ADP's services), which shall include any appendix, exhibit, addendum, schedule or other similar document attached thereto or accompanying this Sales Order. By signing below you are acknowledging and agreeing to such terms and conditions and to the listed prices.

ADP, Inc.

Client: Oshtemo Charter Township

Signature: _____

Signature: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

Workforce Now Included Services

Essential Plus Payroll

- Tax Filing Service
- Payment Services
- Reports Library and Custom Report Writer
- Wage Garnishment Processing
- Group Term Life Auto Calculation
- Intelligent Employee Case Resolution
- Online Reports and Pay Statements
- Employee and Manager Self Service
- Access to Mobile Apps
- Employee Discount Program
- New Hire Reporting
- General Ledger Solution
- Conversational Virtual Assistant
- Wisely Pay Card Services

Enhanced HR

- Employee Development Tracking
- Paid Time Off Accruals Engine
- Multiple Languages & Currencies
- Country Specific Workflows & Processes
- Country Specific Formatting & Custom Fields
- Secure Online Document Storage with Role Based Security, Search & Audit Functionality
- Communication Broadcasts
- New Hire Onboarding / I-9 Workflow
- Compliance Reporting
- Organization Charting
- Policy Acknowledgement
- Total Rewards Statements
- Employee Feedback and Sentiment Surveys

Essential Learning

- 50 pre-packaged high quality compliance and development courses
- Supports all content formats (including SCORM, xAPI, MP3, MP4, PDF etc.)
- Employee self-enrollments, accessible on Desktop and ADP Mobile App
- Upload custom training content (employee-created or sourced from third-parties)
- Actionable course tracking dashboards and custom reporting capabilities
- Publish & track Instructor-led trainings (hosted virtually or in physical classrooms)

Benefits Administration

- Multiple Benefit Plan Types
- Flexible Rate Structures (Age Banded & Salary Tiers)
- Notifications & Approvals
- Invoice Auditing
- Annual 1095-C Forms
- Dependent & Beneficiary Tracking
- Employee Open Enrollment with Personalized Decision Support
- ACA Measurement Dashboard
- Evidence of Benefit Offering Screens
- Annual 1094-C Filing

Recruitment and Talent Acquisition

- Mobile-first, branded career site for applicants
- Seamless job posting on 25,000+ job sites
- Candidate communications using email and mobile text
- ZipRecruiter job slots
- Requisition management and reporting
- Talent communities
- Interview scheduling and offer letter management
- Industry and Geographic Compensation Benchmarks

DataCloud Analytics

- Pre-Configured Key Performance
- Executive Dashboard
- Ability to Customize Additional KPIs
- Pay Equity Storyboard

DataCloud Enhanced Insights

- Visual comparisons between your data and market averages
- Annual compensation explorer for deep compensation insight
- Filters to obtain granular benchmarks

Essential Time

- Time Collection
- PTO Management & Reporting
- Request & Approval Workflows
- ADP Portal with Customized Content
- Rule Based Calculations
- Scheduling
- Mobile Access
- Paid Time Off Accruals



Workforce Now Included Services

Employment Verification

- Commercial Employment and Income Verifications
- Social Services Verifications
- Workers Compensation Verifications
- Client access to Electronic Reports and Tools
- Immigration Verifications

Thank you for your consideration



Prepared For: **Oshtemo Township**

COST **PROPOSAL**

At Tesseon we treat every client as an individual with customized solutions that fit their needs. Our mission is to align our clients with a framework to thrive!

Real People. Right Solutions. Solving Problems.

Tesseon is a Human Capital Management (HCM) Solutions provider with offices in St. Louis and Jefferson City, MO. We are in our 30th year of business and are currently servicing clients in all 50 states and the District of Columbia.

One Dedicated Point of Contact. No call queues. No IT tickets. No waiting for days to get your questions answered. As our client, you are assigned a client services professional who understands your business, allowing quick resolutions to your questions or concerns.

Single Source Database Solution. Accessible from anywhere, at any time, one login offers you an all-inclusive solution to manage your employees, from pre-employment through post-employment. Your company can choose to have one administrative user or a team users. Permissions and access can be assigned by job function or department. You control who has access to information and reports from payroll to time and attendance to expense management and more.

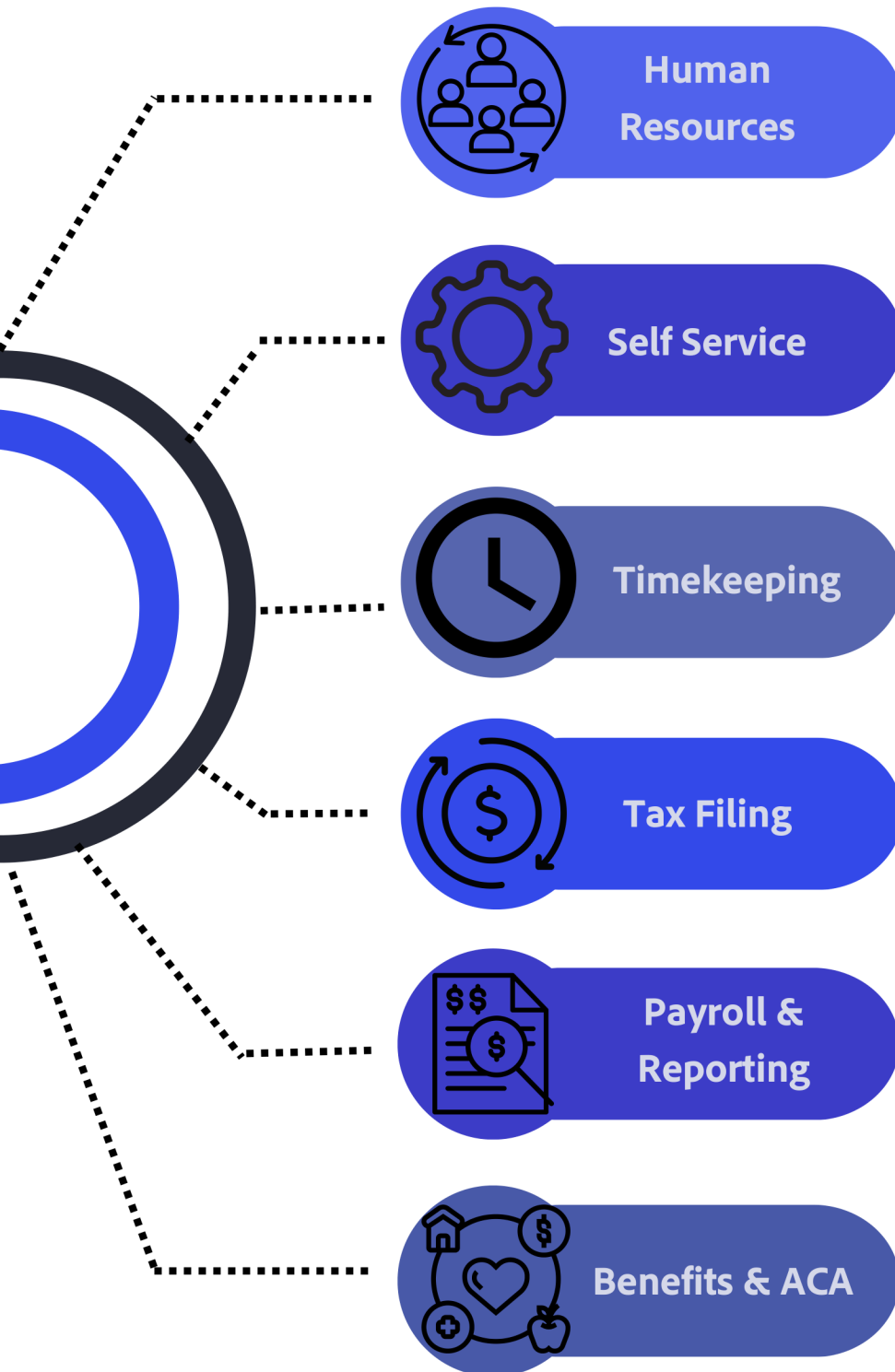
Scalable. Our solution is customized to fit your company's unique and ever-changing needs; to put it simply, we grow with you. Our current clients range from family-owned businesses with just a handful of employees to larger corporations with hundreds. Regardless of your size or how you might grow in the future, we're prepared to grow with you.

No Contracts. Our competitors use long-term contracts to hold clients hostage. We don't believe a contract is anyway to keep business. With an industry leading HCM platform and our excellent customer service, we are confident that once you become a Tesseon client, you'll stay with us!

Below is a depiction of how a client progresses from a prospect to a client through the Tesseon onboarding process, as well as the functions that are supported by each department.



- Sales**
Consult & Recommend Product
- Implementation**
System Build, Customizations & Training
- Client Services**
Payroll Processing, Maintenance & System Support
- Finance**
File & Pay Payroll Taxes



- Acknowledgements & E-Signatures
- Employee Documents
- Disciplinary Offense Tracking
- Asset Tracking
- Paperless Onboarding/Offboarding
- Electronic 1-9 and E-Verify
- WOTC Tax Credit Service
- Performance Reviews
- Learning Management System
- Web Based Portal
- View & Print Pay Stubs
- Employee & Manager Access & Permissions
- View Manage & Approve Time Cards
- Calendar View of Shifts
- Auto Labor Allocation Reporting
- Shift Templates, Recuring Schedules & Shift Eligibility
- Accruals Management
- Tax Return Filing & Deposits
- Report Library & Archive
- OSHA, EEOC, Vets & Disability Reporting
- Earnings & Premiums Calculations
- 3rd Party & Garnishment Management
- Payroll Processing
- Expense Reimbursement Management
- ACA Dashboard, Reporting & Filing
- Benefit Administration
- Eligibility Notifications
- Benefit/Open Enrollment and Updates

	Price	Quantity	Subtotal
Recurring Fees (Due 1st Payroll of Month)			
Executive	\$12.00	75	\$900.00
Per Employee Per Month (PEPM)			
Applicant Tracking 51-100 EEs	\$244.13	1	\$244.13
General Ledger	\$0.00	1	\$0.00
Per Month			
			\$1,144.13

Annual Fees (Due at Year End)			
Base (W-2/1099)	\$69.39	1	\$69.39
Charge is per FEIN (1x a year)			
PEPM (W-2/1099)	\$9.20	75	\$690.00
Per Employee (1x per year)			
Shipping	\$22.59	1	\$22.59
Prices vary based on location.			
			\$781.98

	Price	Quantity	Subtotal
Implementation Fees (Due at Signing)			
Implementation Fee	\$250.00	1	\$250.00
One Time Account Setup Fee			
			\$250.00

Select Below to Upload a Voided Check
or Proof of Bank Information

Sara

Feister



End Of Proposal

**THANK
YOU**

Let's Thrive Together!



Business Consultant

Memorandum



Date: September 26th, 2023
To: Township Board
From: Zach Pearson, Public Works Project Manager
Subject: 9th St. Local Sidewalk Project Right-of-Way Agent Authorization

Objective

Motion to approve a budget amendment for \$130,000 for easement acquisitions along South 9th Street to construct a non-motorized facility between Stadium Drive and Quail Run Drive. The \$130,000 capital outlay for non-motorized facilities will come from the American Rescue Plan Fund.

Motion to authorize Metro Consulting Associates to proceed with obtaining professional appraisals for three easements and to proceed with market-based good faith offers for the remaining easement acquisitions necessary to accommodate the 9th St. local sidewalk project.

Background

Metro Consulting Associates (MCA) has been contracted as sub-consultant of Wightman to complete a market study, appraisals, and property owner negotiations for the easements necessary to construct a 6' wide sidewalk on the West side of S. 9th St. There are twenty-six (26) necessary easements both temporary and permanent; Six (6) commercial, and twenty (20) residential.

MCA has provided estimated compensation amounts for needed easements based on a market study. Three (3) commercial property easements have an estimated market value over \$10,000. When estimated compensation exceeds \$10,000 Michigan Department of Transportation (MDOT) requires individual appraisals and review of the appraisals be completed for the properties. These appraisals, and subsequent review, may determine more or less compensation is necessary for the properties. This process will take forty-five (45) days. The cost of the appraisals will be \$3,900 each and the reviews will be \$1,500 each totaling \$16,200. These amounts were outlined as additional services in the professional services agreement with Wightman.

The referenced additional services, as well as the compensation amount to property owners was not initially budgeted because the number of parcels affected and the acquisition costs were unknown prior to survey and engineering design. While we hope property owners will donate the required easements, we will not know the final cost of compensation until acquisitions are negotiated and completed. The requested budget amount is believed sufficient to cover both the additional services of Metro Consulting Associates, as well as the market-based property compensation value. Please note, however, the results of the individual appraisals or other acquisition considerations may add further "fair compensation" value for these parcels. Should these needs exceed the approved budget, we will return to the Board to seek additional funding (if any) that may be needed to obtain the required easements.

In summary, a budget amendment of \$130,000 is requested for easement acquisitions, which includes \$16,200 in additional services for MCA to proceed with individual appraisals and reviews of three (3) properties which exceed \$10,000 in estimated compensation.

STATEMENT OF WHAT YOU ARE ASKING BOARD TO APPROVE

Authorize a budget amendment in the amount of \$130,000 to cover the costs of easement acquisitions, which is to include additional easement acquisition services described in Oshtemo's existing agreement with Wightman and MCA, their subconsultant.

Authorize MCA to complete individual appraisals and review of appraisals of three parcels, and negotiate easement acquisitions with good faith, market-study based, compensation offers to property owners. MCA, and acquisition of easements necessary for the S. 9th St. sidewalk project.

Memorandum



Date: September 19, 2023
To: Township Board
From: James Porter – Legal Department
Subject: Fire and Safety Special Assessment District No. 2

Objectives

To adopt the Resolution of Intent to Establish the Fire and Safety Protection Special Assessment District No. 2 and set the public budget hearing.

Recommended Motion

I make the motion to adopt the Resolution of Intent to Establish the Fire and Safety Protection Special Assessment District No. 2 and set the public budget hearing.

Background

I know the Board is aware of the increasing cost of operating the Fire Department and the strain on the Fire Department’s budget. After a fairly extensive analysis, it is clear that much of the financial burden put on the Fire Department comes from those areas that are zoned as commercial, multi-family and high-density residential within the Township. We split the Police Special Assessment District for the same reason the Fire Department is requesting that we split the Fire Special Assessment District. The Fire Department is requesting that we do the same to allow for a different allocation of the costs in the new District.

Information Provided

Attached you will find the excerpt of Meeting Minutes that includes a Resolution of Intent to Establish Fire and Safety Protection Special Assessment District No. 2 and a Map of the Fire and Safety Special Assessment District No. 2.

Core Values

Sustainability

CHARTER TOWNSHIP OF OSHTEMO

KALAMAZOO COUNTY, MICHIGAN

**Excerpt from Minutes of a Regular Meeting of the Township Board
held at the Township Hall on Tuesday, September 26, 2023**

Members Present:

Member Absent:

The Supervisor referred the attention of the Board to the proposed new Fire and Safety Protection Special Assessment District No. 2, to those geographic areas within the Township especially benefitted thereby for the purpose of defraying a portion of the expense of Fire and Safety Protection. The District as proposed will include that land area included within the Fire and Safety Protection Special Assessment District No. 2, designed to serve commercial, multi-family and high density residential areas of the Township requiring a higher degree of Fire and Safety Services generally described in the attached Map labeled “**FIRE & SAFETY SPECIAL ASSESSMENT DISTRICT #2**”.

(More specifically described as Oshtemo Charter Township Fire and Safety Protection Special Assessment District No.2)

It was explained that the proposed levy of 6.75 mills would raise \$1,763,031.00 from new District and approximately \$3,399,198.00 from the existing district (total= \$5,162,230.00), which would, if levied, fund a portion of the Fire Department’s services within the Township.

Following review thereof, it was moved by _____, seconded by _____, that the estimates and description of the proposed district be placed on file with the Township Clerk for public examination pending a final decision upon the same.

The motion carried with ___ ayes and ___ nays.

It was then moved by _____, seconded by _____ to adopt the following Resolution:

**RESOLUTION OF INTENT
TO ESTABLISH FIRE AND SAFETY PROTECTION SPECIAL ASSESSMENT DISTRICT
NO. 2**

BE IT HEREBY RESOLVED, that the Township, pursuant to its own determination, does hereby tentatively declare its intent to create a new Fire and Safety Protection Special Assessment District No. 2, for the purpose of defraying a portion of the expense of Fire and

Safety Protection. It was proposed that 6.75 mills be levied, which would result in revenue of approximately \$1,763,031.00 which, along with the General Fire Protection Special Assessment District, would raise \$5,162,230.00 for Fire and Safety Protection in the Township.

BE IT FURTHER RESOLVED, that the Township Board does tentatively designate the special assessment district against which the costs of Fire and Safety Protection are to be assessed as the “Oshtemo Charter Township Fire and Safety Protection Special Assessment District No. 2, which shall include all the lands and premises within the Township as described in the attached Map labeled “**FIRE & SAFETY SPECIAL ASSESSMENT DISTRICT #2**”.

All lands not lying within the above-described area shall be included within the Oshtemo Charter Township General Fire Protection Special Assessment District.

BE IT FURTHER RESOLVED, that a hearing on any objections to the estimates and to the special assessment district proposed to be established for the assessment of the cost of Fire and Safety Protection shall be held at the Township Budget Hearing at Oshtemo Charter Township Hall at 7275 West Main Street, Kalamazoo, Michigan, commencing at 7:15pm.

BE IT FURTHER RESOLVED, that the Clerk is instructed to give proper notice of such hearing by mailing and publication in accordance with law and statute provided.

BE IT FURTHER RESOLVED, that all resolutions and parts of resolutions insofar as they conflict with the provisions of this Resolution be and the same are hereby rescinded.

Upon roll call vote, the following voted “Yes”:

The following voted “No”:

The Supervisor declared the motion carried, and the Resolution duly adopted.

DUSTY FARMER, Township Clerk

CERTIFICATE

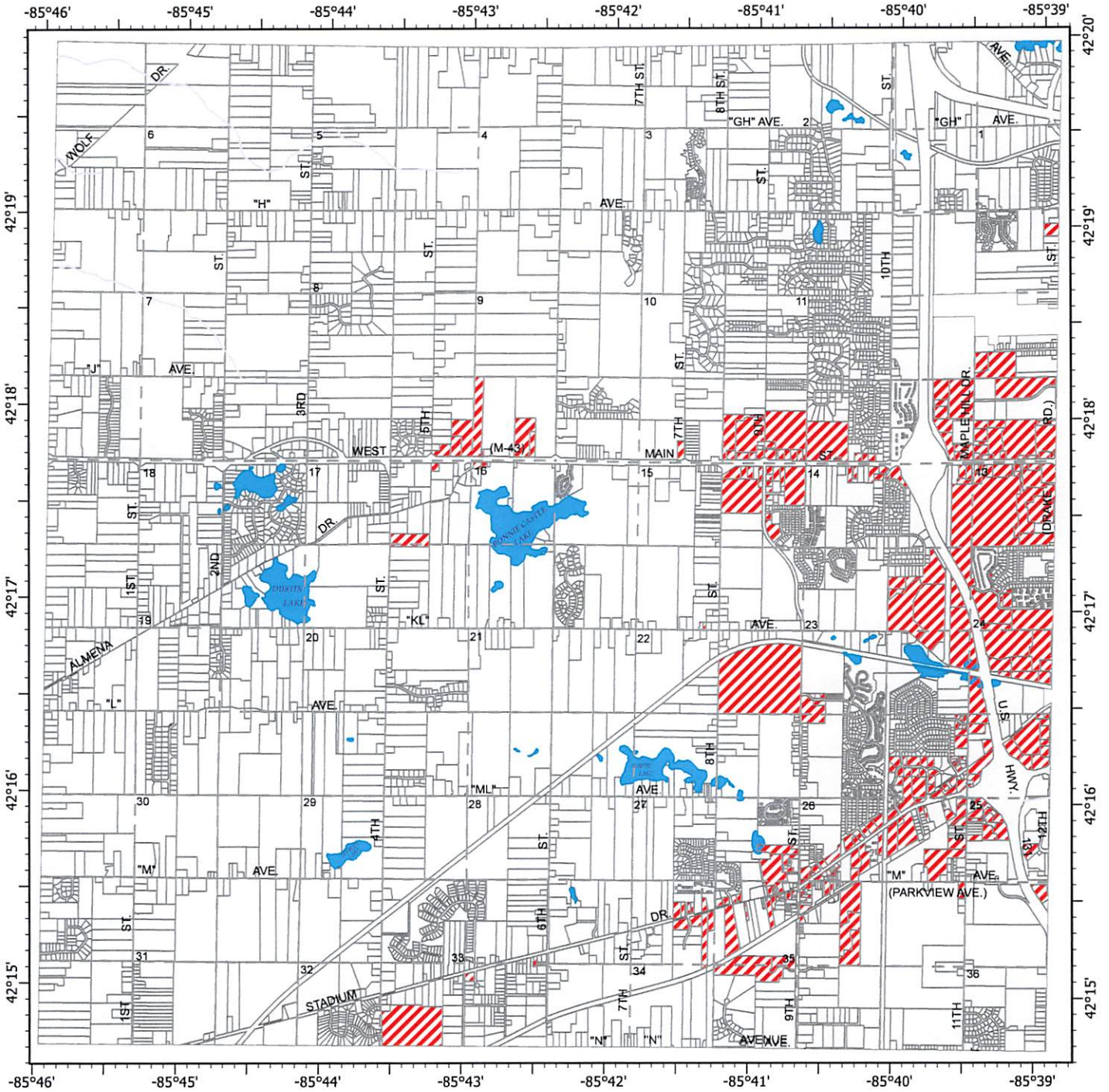
I, DUSTY FARMER, the duly elected Clerk of the Charter Township of Oshtemo hereby certifies that the foregoing constitutes a true copy of an Excerpt of the Minutes of a meeting of the Oshtemo Charter Township Board, Kalamazoo County, Michigan, held on September 26, 2023, at which meeting ___members were present as indicated in said Minutes and voted as therein set forth; that said meeting was held in accordance with the Open Meetings Act of the State of Michigan, and the foregoing Excerpt contains all material pertinent to the Oshtemo Charter Township Fire and Safety Protection Special Assessment District No. 2.

DUSTY FARMER, Township Clerk









Oshtemo Charter Township Fire & Safety Special Assessment District #2

Kalamazoo County, Michigan



Legend

-  Fire and Safety Special Assessment District #2
-  Other Parcels
-  Section Lines
-  Oshtemo Township Boundary
-  Water Bodies
-  Waterways



Budget Amendment Requests

Date	Dept. Head	Fund Name	Funds Requested To			Funds Requested From			Auth Only	Explanation of Request
			GL Number	Description	Amount	GL Number	Description	Amount		
9/13/2023	Farmer	General	101-249-90300	Legal Notices	\$ 8,000.00	101-000-40000	Carryover	\$ 8,000.00	No	Legal Notices exceeded the projected amount. No new money.
			Total		\$ 8,000.00	Total		\$ 8,000.00		
9/13/2023	Farmer	General	101-262-73000	Election Postage	\$ 10,000.00	101-249-73000	General Postage	\$ 10,000.00	No	We did not anticipate any elections this year. These dollars will be reimbursed by the County. No new money.
			Total		\$ 10,000.00	Total		\$ 10,000.00		
9/13/2023	Farmer	General	101-262-80800	Precinct Workers	\$ 16,000.00	101-249-76100	Public Education	\$ 16,000.00	No	We did not anticipate any elections this year. These dollars will be reimbursed by the County. No new money.
			Total		\$ 16,000.00	Total		\$ 16,000.00		
9/20/2023	Feister	General	101-249-87200	New Hire Expenses	\$ 3,500.00	101-000-40000	Carryover	\$ 3,500.00	No	New hire expenses (including advertising costs, pre-employment screening/testing) exceeded the budgeted amount due to unforeseen vacancies and increased costs, mostly related to job postings on Indeed.
			Total		\$ 3,500.00	Total		\$ 3,500.00		
9/20/2023	Porter	Legal	101-250-96300	Contracted Legal Counsel	\$35,000.00	101-000-40000	Carryover	\$ 35,000.00	No	Contracted Legal Counsel expenses for Solarek litigation matters.
			Total		\$ 35,000.00	Total		\$ 35,000.00		
9/20/2023	McComb	Fire Equipment	211-344-98100	Capital Outlay Facilities	\$ 650.00	211-344-98100	Capital Outlay Facilities	\$ 650.00	yes	Laundry Washing Machine broke. Had to purchase new.
			Total		\$ 650.00	Total		\$ 650.00		
9/21/2023	McComb	Fire Equipment	211-344-98000	Capital Outlay Equipment	\$ 3,550.00	211-344-98000	Capital Outlay Equipment	\$ 3,550.00	yes	Moving leftover funds from radio purchase to buy large diameter hose, which we had several of our "Short sections" fail during testing.
			Total		\$ 3,550.00	Total		\$ 3,550.00		
9/21/2023	McComb	Fire Equipment	211-344-98100	Capital Outlay Facilities	\$ 3,000.00	211-344-98100	Capital Outlay Facilities	\$ 3,000.00	yes	Vehicle exhaust extraction system in apparatus bay at 5-1 broke. These are components of that system. Specifically, a magnetic grabber base that attaches to the exhaust flange on the fire engine. This is using excess funds that will not be spent out of this years facilities budget.
			Total		\$ 3,000.00	Total		\$ 3,000.00		
9/22/2023	Horner (Interim M.Elliott)	Capital Outlay		Stadium to Quail Run West	\$ 130,000.00		ARPA Funds	\$ 130,000.00	no	Easement acquisitions to construct a non-motorized facility between Stadium Drive and Quail Run Drive.
			Total		\$ 130,000.00	Total		\$ 130,000.00		

Grand Total \$ 209,700.00

Total Added to Budget \$ 209,700.00

REVIEW DATE 9/22/2023

SIGNATURE

Cheri Bell

2022 TAX RATE REQUEST (This form must be completed and submitted on or before September 30, 2022.)

MILLAGE REQUEST REPORT TO COUNTY BOARD OF COMMISSIONERS

This form is issued under MCL Sections 211.24e, 211.34 and 211.34d. Filing is mandatory; Penalty applies.

ORIGINAL TO: County Clerk(s)

L-4029

COPY TO: Equalization Department(s)

COPY TO: Each Township or City Clerk

Carefully read the instructions on page 2.

County KALAMAZOO	2022 Taxable Value of All Properties in the unit as of 5/23/2022 978,504,485
Local Government Unit OSHTEMO TOWNSHIP	For LOCAL School Districts: Current Year Taxable Value excluding Principal Residence, Qualified Agricultural, Qualified Forest, Industrial Personal and Commercial Personal Properties.

This form must be completed for each unit of government for which a property tax is levied. Penalty for non-filing is provided under MCL Sec. 211.119.

The following tax rates have been authorized for levy on the 2022 tax roll.

(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)	(9)	(10)	(11)	(12)
Source	Purpose of Millage	Date of Election	Original Millage Authorized by Election, Charter, etc.	2021 Millage Rate Permanently Reduced by MCL 211.34d	2022 Current Year Millage Reduction Fraction	2022 Millage Rate Permanently Reduced by MCL 211.34d	Sec. 211.34 Truth in Assessing or Equalization Rollback Fraction	Maximum Allowable Millage Rate*	Millage Requested to be Levied July 1	Millage Requested to be Levied Dec. 1	Expiration Date of Millage Authorized
Charter	Operating		5.0000	4.8000	1.0000	4.8000		4.8000	1.5000		Unlimited
MCL 247.670	Roads		3.0000	3.0000	1.0000	3.0000		3.0000	1.0800		

Prepared by Mathew Hansen	Telephone Number (269) 383-8960	Title of Preparer Equalization Director	Date September 22, 2022
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CERTIFICATION: As the representatives for the local government unit named above, we certify that these requested tax levy rates have been reduced, if necessary, to comply with the state constitution (Article 9, Section 31), and that the requested levy rates have also been reduced, if necessary to comply with MCL Sections 211.24e, 211.34, and for LOCAL school districts which levy a Supplemental (Hold Harmless) Millage, MCL 380.1211(3).

Local School District Use Only. Complete if requesting millage to be levied. See STC Bulletin 2 of 2022 for instructions on completing this section.

<input type="checkbox"/> Clerk <input type="checkbox"/> Secretary	Signature	Print or Type Name	Date
<input type="checkbox"/> Chairperson <input type="checkbox"/> President	Signature	Print or Type Name	Date

Total School District Operating Rates to be levied (HH/Supp and NH Oper ONLY)	Rate
For Principal Residence, Qualified Ag, Qualified Forest and Industrial Personal.	
For Commercial Personal	
For All Other	

*Under Truth in Taxation, MCL Section 211.24e, the governing body may decide to levy a rate which will not exceed the maximum authorized rate allowed in column 9. The requirements of MCL 211.24e must be met prior to levying an operating levy which is larger than the base tax rate but not larger than the rate in column 9.

**** IMPORTANT:** See instructions on page 2 regarding where to find the millage rate used in column (5).