



AGENDA

REGULAR MEETING OF THE PARCHMENT CITY COMMISSION

January 2, 2024

7 P.M.

Parchment City Commission

Mayor Robert D. Britigan III

Vice Mayor Thomas Jordan

Commissioner Doug Fooy

Commissioner Robin Madaras

Commissioner Michael Conner

Commissioner Tammy Cooper

Commissioner Justin Mendoza

Officers

City Manager Nancy R. Stoddard

City Attorney Robert Soltis

City Treasurer/Clerk Shannon Stutz

1. Call to Order

2. Pledge of Allegiance

3. Roll Call

4. Approval of Minutes

From the City Commission Meeting of December 18, 2023

5. Additions/Changes to the Agenda - Approval

6. Citizen Comments – Items ON the Agenda

If you wish to comment regarding items ON the agenda, please follow the format below:

- *State your name and address for the records*
- *You are allowed up to 5 minutes for your comments*
- *Please let us know if you require special accommodations by notifying the Clerk*

- *Reminder: You will be making a statement, without discussion from the Commission. You are always welcome to make an appointment with the City Manager to further discuss your comments.*

7. Consent Agenda

Items on the consent agenda will be dealt with one vote by the City Commission unless a Commissioner requests an item be dealt with individually.

Motion to RECEIVE OR APPROVE as indicated:

- i. Warrant No. 1506 – action
- ii. Kalamazoo Area Transit Study Policy Meeting Minutes, November 29, 2023- receive

8. Unfinished Business

- A. Consideration of Purchase Agreements for Mill Property – PP# 06-03-280-022
 - i. Purchase Agreement, Fidel Coronado – action
 - ii. Purchase Agreement, Mavcon Properties, James Dally – action

9. New Business

- A. Prein & Newhof Engineering Services Agreement – action
- B. Resolution to Approve MDOT(TEDF) Contract for Haymac Drive, Link Lane, and Island Drive – action
- C. Proclamation for Retiring DPW Superintendent Phillip Wolthuis - action

10. Citizen Comments – Items ON or OFF the Agenda

Persons wishing to comment on items that are on/off the agenda are instructed to please follow the same format as Citizen Comments for items on the agenda.

11. Mayor and Commissioner Comments

12. City Manager Comments

13. Adjournment

MINUTES OF THE REGULAR MEETING OF THE PARCHMENT CITY COMMISSION HELD ON MONDAY, DECEMBER 18, 2023.

1. Call to order

Mayor Britigan called the meeting to order at 7:00 p.m. then led everyone in the Pledge of Allegiance.

2. Roll Call.

Present: Mayor Britigan, Commissioners Cooper, Conner, Fooy, Jordan, Madaras, and Mendoza. City Manager Stoddard, City Treasurer/Clerk Stutz, Attorney Soltis.

Absent: None.

3. Approval of Minutes

Moved by Vice Mayor Jordan supported by Commissioner Fooy to approve the minutes of the December 4, 2023 Regular meeting. **Motion Carried.**

4. Additions or changes to the agenda.

None. Moved by Commissioner Madaras, supported by Vice Mayor Jordan to approve the agenda as presented. **Motion Carried.**

5. Citizen Comments – Items ON the Agenda

None.

6. Consent Agenda

A. Questions by Commissioners were answered regarding specific items. Moved by Commissioner Conner, supported by Commissioner Mendoza to receive the consent agenda items. **Motion Carried.**

7. Unfinished Business

None.

8. New Business

- A. Update from Kalamazoo County Commission, Commissioner Jeff Heppler – receive. County Commissioner Heppler highlighted some of the accomplishments of the county including: the opening of the new courthouse, expansion of the jail facility, much-improved animal services building. He mentioned the state has mandated that each county have a plan for waste materials handling so he will be looking for municipalities' cooperation for the project. Lastly, he said Kalamazoo County is a "great place to work and play".
- B. Appointments to Planning Commission, Zoning Board of Appeals, and Kindleberger Arts Commission – action. Moved by Commissioner Cooper, supported by Vice Mayor Jordan to approve the appointments as presented in the memos in the agenda packet. **Motion Carried.**
- C. Consideration of Purchase Agreement for Mill Property parcel 06-03-226-050.
1. Parchment Vegetable Products Inc., Dan Bussema – action. Mayor Britigan went over how the commission got to this point, saying that for the southernmost buildings, the city solicited letters of intent from interested parties that went to the city's Planning Commission. The PC then checks for whether the uses fit within the Master Plan, then sends along their recommendation to the City Commission. He indicated that these agreements are similar, adding that exhibit C spells out the use of the property and restrictions on resale. In this case, it is indoor urban farming of vegetables. City Manager Stoddard reported that Mr. Bussema is sick and unable to come to tonight's meeting. Moved by Commissioner Cooper, supported by Commissioner Madaras to table any action on this item until the second meeting in January, 2024. **Motion Carried.**
- D. Consideration of Purchase Agreements for Mill Property parcel 06-03-280-022. Mayor Britigan invited each of the parties interested to come to the podium to address the commission.
1. Purchase agreement, Fidel Coronado – action. Mr. Coronado says he's had his commercial (interior) construction business on Wilson since 2012. His goal is to expand to exterior construction and needs space for materials, tools, etc. He would upgrade the outside, remodel restrooms, and have office space as well. He has 28-30 employees and would add more as needed. Questions from commissioners were

answered. Moved by Commissioner Cooper, supported by Commissioner Mendoza to table action pending the next presentation to the January 2, 2024 meeting. **Motion Carried.**

2. Purchase agreement, Mavcon Properties, James Dally – action. Mr. Dally said he'd "never competed" for properties like these. He noted other projects he's worked on throughout the county (e.g. Biddergy), saying this property would be used for his own office, and patents and products that are in the works. He, too, answered commissioner questions. Moved by Commissioner Mendoza, supported by Commissioner Conner to table action on this item to the January 2, 2024 meeting. **Motion Carried.**

- E. Appointment of Fire Code Enforcement Officer – action. City Manager Stoddard explained that the city needs the fire marshal to be able to act immediately on issues that arise, not wait for manager approval each time. Attorney Soltis added that it will be much like how KABA runs, being able to issue citations based on the fire code already adopted. Commissioner questions were answered. Moved by Commissioner Madaras, supported by Commissioner Fooy to approve the appointment of Todd Kowalski as the Fire Code Enforcement Officer effective immediately. **Motion Carried.**

- F. KATS Contributed Services Agreement – action. City Manager Stoddard detailed how this agreement works, saying that it is "in kind" which means that we can turn in the city's hours or other vendor payments that would offset the city's portion. She added that the calculated amount is \$1380. She cited an example of the truck study the city paid for. Moved by Commissioner Mendoza, supported by Commissioner Conner to approve the KATS Contributed Services Agreement as presented. Roll call vote was as follows:

Ayes: Britigan, Cooper, Conner, Fooy, Jordan, Madaras, and Mendoza.

Nays: None.

Abstain: None.

Absent: None.

9. Citizen Comments

None.

10. Mayor and Commissioner Comments

Commissioner Mendoza said how excited he was to hear that multiple people are interested in the mill parcels, and that the city's vision is coming to fruition.

Commissioner Cooper said she is similarly excited, adding that it's especially nice to see both local people and "outsiders" be interested. She then wished everyone happy holidays.

Commissioner Conner told everyone happy holidays.

Commissioner Madaras was also enthusiastic that there are multiple interests in mill properties; she gave accolades to the planning commission for doing the work for the master plan that got us to this great spot. She thanked City Manager Stoddard for her part in that as well, then wished all a happy holiday.

Commissioner Fooy recommended a drive by Mr. Coronado's property on Wilson before making any decisions. He then wished all a wonderful and safe holiday.

Vice Mayor Jordan wished everyone a Happy Holiday.

Mayor Britigan said he was honored and humbled to serve another term as City Mayor. He noted it is a privilege to work with city staff, highlighting some of the city's recent accomplishments. He expressed looking forward to working with this commission, saying it's a "team effort" between the commission and residents. He then thanked everyone for their confidence in his leadership.

11. City Manager Comments/Reports

City Manager Stoddard wished everyone a Merry Christmas, Happy Holidays and Happy New Year, then offered anyone with questions or concerns to call or text her.

12. Adjournment

There being no further business to come before the Commission, it was moved by Commissioner Mendoza and supported by all to adjourn the meeting at 8:20 p.m.

Shannon Stutz, City Clerk



City of Parchment
Check Register Report
Warrant 1506

37908	12/20/2023	APEX SOFTWARE	MAINTENANCE RENEWAL - SKETCHING SOFTWARE	260.00
37909	12/20/2023	ESPER ELECTRIC, LTD.	CAMERA SYSTEM FOR NEW BALLOT BOX	4,697.00
37910	12/20/2023	HONIGMAN	BROWNFIELD REDEV - ISLAND & G AVE THRU 1	4,239.40
37911	12/20/2023	J & H OIL COMPANY	FUEL CHARGES - 11/16/23 TO 11/30/23	369.64
37912	12/20/2023	KAL CO HEALTH & COMMUNITY SERV	HHW - OCTOBER	41.49
37913	12/20/2023	NANCY STODDARD	ZOOM - ONLINE MEETING PLATFORM	16.95
37914	12/20/2023	PHIL WOLTHUIS	INSURANCE DED REIMB (JAN-OCT)	875.06

KALAMAZOO AREA TRANSPORTATION STUDY POLICY COMMITTEE

Minutes of the November 29, 2023 Meeting

CALL TO ORDER

The November 29, 2023 Policy Committee Meeting was called to order at 9:02 a.m. at Metro in Kalamazoo, by Chairperson Thompson.

INTRODUCTIONS

Introductions were made by all present.

ROLL CALL

Meeting attendance was recorded on the sign-in sheet.

MEMBERS PARTICIPATING

Curt Aardema	Central County Transportation Authority
Heather Bowden	Michigan Department of Transportation, Planning
Tim Frisbie	Village of Vicksburg
Todd Hackenberg	Village of Lawton
Robert Henderson	Van Buren Public Transit
Jeff Heppler	Village of Augusta
Greg Kinney	Van Buren County Road Commission
Pat McGinnis	City of Portage
Sherine Miller	Kalamazoo Township
Pete Pfeiffer	Michigan Department of Transportation, TSC
Aditya Rama	Kalamazoo County Transportation Authority
Jeff Sorensen	Cooper Township
Paul Sotherland	KATS Citizens' Advisory Committee
Randy Thompson, Chair	Comstock Township
Jerry VanderRoest	Charleston Township
Mark Worden	Road Commission of Kalamazoo County

MEMBERS ABSENT

Rob Britigan	City of Parchment
Marsha Drouin	Richland Township
John Gisler	Kalamazoo County
Judy Lemon	City of Galesburg
Chris Praedel	City of Kalamazoo
Randy Smith	Brady Township
Don Ulsh	Schoolcraft Township

OTHERS PARTICIPATING

Megan Mickelson	Kalamazoo Area Transportation Study
Elizabeth Rumick	Kalamazoo Area Transportation Study
Jon Start	Citizen
Steve Stepek	Kalamazoo Area Transportation Study
Ali Townsend	Kalamazoo Area Transportation Study

CHANGES OR ADDITIONS TO THE AGENDA

There were no changes or additions to the agenda.

APPROVAL OF THE AGENDA

Sorensen moved, and it was duly seconded by Heppler, **“to approve the agenda of the November 29, 2023 Policy Committee Meeting.”** MOTION CARRIED.

PUBLIC COMMENTS

There were no public comments.

CONSENT AGENDA

- ACCEPTANCE OF THE TREASURER REPORT
- ACCEPTANCE OF THE TECHNICAL COMMITTEE REPORT
- ACCEPTANCE OF THE SOUTHCENTRAL MICHIGAN PLANNING COUNCIL REPORT
- APPROVAL OF THE MINUTES FROM THE OCTOBER 25, 2023 MEETING

Heppler moved, and it was duly seconded by Sorensen, **“to accept and approve the items on the Consent Agenda.”** MOTION CARRIED.

FY 2023-2026 TRANSPORTATION IMPROVEMENT PROGRAM AMENDMENTS

Referring to the amendments enclosed in the meeting packet, Stepek explained there are two small safety projects. Both are Michigan Department of Transportation safety projects. One is for pedestrian improvements along West Main. The other is for pavement markings along M-43 and M-51.

Aardema moved, and it was duly seconded by Miller, **“to approve the FY 2023-2026 Transportation Improvement Program Amendments.”** MOTION CARRIED.

DRAFT PUBLIC PARTICIPATION PLAN

Referring to the draft Public Participation Plan in the meeting packet, Stepek reminded attendees the plan has been out for feedback for the past several months. A summary of changes to the document has been provided. Once Kalamazoo Area Transportation Study (KATS) receives the Certification Review report from FHWA and FTA in early 2024, additional edits may need to be incorporated into the document. KATS staff and the Technical Committee recommend adoption of the document as presented.

Sorensen moved, and it was duly seconded by Heppler, **“to approve the Public Participation Plan.”** MOTION CARRIED.

2024 MEETING SCHEDULE

The proposed 2024 meeting schedule is included in your packet. The schedule is based off our current practice of meeting on the last Wednesday of the month. A few of the dates are adjusted for the Michigan Township Association's annual conference and the holiday season.

Miller moved, and it was duly seconded by Worden, ***"to approve the 2024 Meeting Schedule."***
MOTION CARRIED.

2024 POLICY COMMITTEE OFFICER DISCUSSION

Every calendar year, the KATS Policy Committee nominates new officers. The current slate of officers is willing to continue for another year. That includes Randy Thompson as Chair, Curtis Aardema as Vice-Chair, and Rob Britigan as Treasurer. This is an opportunity for anyone else to express their interest in a position so action can be taken in December. Members discussed closing nominations and voting on current officers. Stepek thanked the officers for volunteering.

Sorensen moved, and it was duly seconded by McGinnis, ***"to approve Randy Thompson as Chair, Curtis Aardema as Vice-Chair, and Rob Britigan as Treasurer for another year term."*** MOTION CARRIED.

FISCAL YEAR 2023 CONTRIBUTED SERVICE

The finalized FY 23 contributed service totals are included in your packet. Stepek reported Kalamazoo Area Transportation Study far exceeded our required minimum for the year. Stepek reminded attendees to continue to fill out timesheets.

PUBLIC TRANSPORTATION UPDATES

Aardema reported Metro has received a good response from their Request for Proposals for the Microtransit program. The group agreed in the interest of having McBride do a Microtransit presentation at the December meeting. The target date for the pilot program to start is mid-to-late spring. Metro purchased a new touchless wash system for buses. It should be installed within the next few months in the main facility bus garage. The new system will replace the current 22-year-old wash rack. The current system is built for 40-foot buses. The new one will accommodate different sized buses as needed. Metro's External Relations Committee participated in the Maple Hill Holiday Parade with a decorated bus. The Central County Transportation Authority (CCTA) / Kalamazoo County Transportation Authority (KCTA) board continues jurisdictional outreach. The process is being refreshed. Within the next six months, board members will be visiting jurisdictions to answer questions and provide information. Reach out if you would like a visit. Rama added that Metro Connect ridership in October was the highest since the pandemic. Aardema echoed that Metro ridership is also increasing. Rama reported KCTA hired a consultant to lead the transit hub study. Cooper complimented the Metro Connect service. Heppler brought up the idea of expanding service beyond the VA Battle Creek Hospital. There is currently service to the VA Hospital, but jurisdictional limitations inhibit further service. Further discussion ensued.

EXECUTIVE DIRECTOR'S REPORT

The updates are included in the meeting packet. Stepek added there may be a Public Participation Plan corrective action write-up in the upcoming Kalamazoo Area Transportation Study (KATS) Certification Review report resulting from recent Executive Orders. Then the plan would be updated and presented for approval. The KATS fiscal year 2023 audit is complete. There were no audit findings. The auditors noted that some KATS staff have banked sizeable amounts of sick leave and vacation leave time. This creates risk of a potential large liability should payout be required. However, the payout is capped, limiting the liability. Auditors discussed this with the Committee Chair and staff. Additional earmark funding of approximately \$26.5 million dollars will allow the US-131 BR interchange project to be fully funded. The project will be on the proposed December Transportation Improvement Program Amendments. Details of this project were further discussed.

NEW BUSINESS

No new business was brought forth.

PUBLIC COMMENTS

No citizens' comments were made.

MEMBER COMMENTS

Sotherland of the KATS Citizens Advisory Committee complimented Michigan Department of Transportation for how nice the finished Portage Road and I-94 project turned out. Sotherland pointed out the much-improved non-motorized upgrades.

McGinnis reported the City of Portage hired an engineer for the Centre Road from Oakland to Shaver project. The Milham Road project from 12th Street to Oakland is planned for 2025 construction.

Heppler reported the Village of Augusta water project on the south side of the village has been completed. Plans are underway for 2024 projects including the resurfacing of M-96, and replacement of the Washington Street bridge. Heppler voiced concern about the heavy traffic and numerous accidents in Richland Township at E D Avenue and 343.

VanderRoest announced a \$13-million-dollar building is going to be built at I-94 Exit 92.

Sorensen mentioned construction is underway for the renovations at Cooper Township Hall creating a cold, noisy, and drafty environment.

Worden gave the Road Commission of Kalamazoo (RCKC) updates. Winter operations are underway. 26th Street is open to traffic. RCKC's new facility will be open ahead of schedule and under budget. Move-in is anticipated in March with an open house to follow.

Frisbie invited attendees to the Village of Vicksburg Christmas in the Burg festival December 9, 2023 from 12:00 p.m. to 8:30 p.m. Family friendly activities are planned all day. The Christmas Parade with lighted floats and Santa Claus kicks off at 6:00 p.m.

Bowden reported the Michigan Department of Transportation (MDOT) 2024 allocations as well as the 2025 and 2026 estimated allocations have been sent out. The penalty for the drunk driving violation was estimated conservatively. Therefore, there will be a small increase in allocation. The Federal

Highway Administration passed new Transportation Performance Measures on greenhouse gas. MDOT is discussing internally how to provide guidance to Metropolitan Planning Organizations on the new measure. MDOT delayed the call for projects due to state match issues. MDOT is considering updating their Complete Streets Policy based on the Infrastructure Investment and Jobs Act (IIJA).

Pfeiffer reported that the Michigan Department of Transportation (MDOT) US-131 project between Schoolcraft and Three Rivers is ongoing. Work is expected to wrap up on December 19, 2023. In spring of 2024, work will begin on Schoolcraft to the north. The US-131 project over KL and Amtrak project that includes the bridge replacement will be in letting Friday. Use caution when driving in winter weather.

Thompson invited attendees to the open house for the new Comstock Township Hall on December 13, 2023 from 4:00 p.m. to 6:00 p.m. Please email Thompson if you plan to attend so they have an estimate of the number of people to expect. A ribbon cutting ceremony will be held tomorrow for new condos on Gull and G.

Steppek mentioned the flyer by the door and reminded attendees of the invitation to the holiday breakfast preceding the next meeting on December 20, 2023.

ADJOURNMENT

There being no further business, Chairperson Thompson adjourned the meeting at 9:48 a.m.

*The next meeting of the Kalamazoo Area Transportation Study Policy Committee will be held on
Wednesday, December 20, 2023 at 9:00 a.m.*

Approved 12/20/23 (er)

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (this “**Agreement**”) is entered into and made effective as of this ____ day of _____, 2023 (the “**Effective Date**”), by and between the CITY OF PARCHEMENT, a Michigan municipal corporation (“**Seller**”), and FIDEL CORONADO, an individual (“**Purchaser**”).

Background

Purchaser desires to acquire from Seller, and Seller desires to convey to Purchaser, an approximately 2.3 acre parcel located in the City of Parchment, County of Kalamazoo, State of Michigan and legally described in attached Exhibit “A” (the “**Property**”). The parties desire to consummate such transactions in accordance with the terms and conditions set forth herein.

Agreement

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS SET FORTH HEREIN THE PARTIES AGREE AS FOLLOWS:

1. Property. Purchaser shall purchase and Seller shall convey the Property in accordance with the terms and conditions set forth herein. The Property shall include all improvements and fixtures located upon the land, all easements that affect the land, and all rights to divisions under the Michigan Land Division Act (if any).

2. Purchase Price. The purchase price for the Property shall be Five Thousand and No/100 Dollars (\$5,000.00) (the “**Purchase Price**”). Purchaser and Seller acknowledge and agree that the amount of the Purchase Price is partial consideration for Purchaser’s agreement to be bound by the Declaration and the Restrictions therein (each as defined below) following the Closing. The Purchase Price, less the Deposit defined below, and adjusted by other charges and credits as set forth herein, shall be delivered at Closing in immediately available funds subject to the terms and conditions of this Agreement.

3. Deposit. Purchaser shall deliver to Chicago Title Insurance Company, 941 W. Milham Ave., Portage, MI 49024 (“**Title Company**”) the sum of Five Thousand and No/100 Dollars (\$5,000.00) by wire transfer or certified, cashier’s or corporate check (the “**Deposit**”) within three (3) business days of the execution of this Agreement by both parties. The Deposit shall be credited against the Purchase Price at Closing.

4. Investigation Period. The “**Investigation Period**” shall commence on the Effective Date and shall expire sixty (60) days after the Effective Date at 5:00 p.m. eastern time. During the Investigation Period, Purchaser and/or its agents and representatives shall have the right to enter the Property and have the Property and improvements located thereon inspected, evaluated, analyzed, tested, appraised and/or assessed for any matter whatsoever, including but not limited to, condition of improvements including structure, plumbing and mechanical systems and the presence of wood destroying insects; survey and boundaries of the Property including any easements serving the Property; the service agreements related to the Property; market value; soil conditions; location of flood plains; presence of wetlands and necessary mitigation, if any; storm water drainage systems; presence of environmental contamination; health and safety conditions; access to utilities; access to public roads; signage; zoning; compliance with laws, codes and ordinances and any other matter desired by Purchaser.

Notwithstanding the foregoing, to the extent Purchaser desires to undertake environmental, wetland or soils investigations of the Property during the Investigation Period (collectively, the

“**Environmental Assessments**”), the parties agree that the Environmental Assessments shall be undertaken and performed by an environmental consultant that is approved by Seller in writing. The parties further agree that the Environmental Assessments shall not include any soil borings, groundwater testing, monitoring wells or invasive sampling or testing techniques without the prior written consent of Seller. Purchaser will not initiate contact with local, state or federal environmental agencies, except through Seller. If, for any reason, this Agreement terminates or if the Property is not transferred to Purchaser for any reason, the results, conclusions, reports and information regarding the environmental condition of the Property shall be held strictly confidential by Purchaser and Purchaser’s consultants and may only be disclosed to any third party after obtaining the prior written consent of Seller. Purchaser shall indemnify and hold Seller harmless from any and all claims, actions, losses, liabilities that arise from the unauthorized disclosure of any such information. The parties agree this obligation and indemnity shall survive termination of the Agreement.

Purchaser agrees to pay all costs and expenses associated with the Purchaser’s inspections conducted pursuant to this Section 4, and Purchaser further agrees to repair and restore any damage to the Property and/or to any portions thereof resulting from or arising out of the Purchaser’s investigations if the transaction contemplated by this Agreement does not close. Purchaser and Seller agree to work together in good faith to determine the timing of Purchaser’s inspections to minimize interference with the operation of Seller’s business at the Property.

In the event that, after conducting its investigations, Purchaser desires not to proceed with the Purchase of the Property, Purchaser shall have the right to terminate this Agreement by delivery of written notice of termination to Seller and the Title Company prior to the expiration of the Investigation Period (“**Termination Notice**”). In the event Purchaser terminates this Agreement pursuant to its rights under this Section, and the Termination Notice is delivered before the expiration of the Investigation Period, then, upon Purchaser’s return or destruction of the Property Information (as defined below) as directed by Seller, the full amount of the Deposit shall be promptly refunded to Purchaser. Upon such termination, all rights and obligations of the parties hereunder shall immediately and forever terminate with the exception of those rights and obligations that are expressly intended to survive termination of this Agreement.

5. Title and Survey Matters.

A. Within three (3) business days after the Effective Date, Purchaser may order a commitment (the “**Title Commitment**”) for the Property from the Title Company to issue to Purchaser, at the Closing, an ALTA owner’s title insurance policy in the amount of the Purchase Price (the “**Title Insurance Policy**”), and with such endorsements as Purchaser may require, to the extent reasonably available (any such endorsements shall be at Purchaser’s sole cost and expense), free and clear of any liens and encumbrances except for (i) taxes and/or assessments, not yet due and payable, (ii) rights of the public to any portion of the Property lying within the bounds of any street, road, alley or highway, (iii) matters that would be revealed or disclosed by an accurate ALTA/NSPS survey of the Property, (iv) all building and zoning laws and ordinances and municipal codes and regulations, and any state, county or federal regulations affecting the Property, and (v) matters set forth in the Title Commitment not objected to by Purchaser, as permitted hereunder, or objected to by Purchaser but waived by Purchaser or the Title Company or insured over by the Title Company (collectively, the “**Permitted Exceptions**”).

B. Within three (3) business days after the Effective Date, Purchaser may order a survey of the Property in such form as Purchaser may desire (the “**Survey**”) at Purchaser’s sole cost and expense which Purchaser shall cause to also be certified to Seller and to the Title Company.

C. If written objection to title and/or Survey matters is made by Purchaser, no later than fourteen (14) days prior to the expiration date of the Investigation Period, that the title and/or Survey is

not acceptable to Purchaser, Seller shall have ten (10) days from the date that it received written notice of each of the particular defects (with reasonable specificity), in order, in Seller's sole and absolute discretion, to notify Purchaser of its proposed cure for each defect or to provide Purchaser with a revised Title Commitment evidencing that such defects have been remedied and/or that at Closing the Title Company shall insure over the same, it being expressly understood that Seller shall have no obligation to remedy any such defect or have the Title Company insure over any such defect. If Seller is unable or unwilling to obtain such revised Title Commitment or does not elect to cure such defects within such ten (10) day period, Purchaser shall have the option (i) to proceed with the purchase of the Property without any reduction in the Purchase Price, in which event such defects or objections will be deemed Permitted Exceptions or (ii) to terminate this Agreement by delivery of written notice of termination to Seller and the Title Company prior to the expiration of the Investigation Period and, upon Purchaser's return or destruction of the Property Information as directed by Seller, Purchaser shall promptly receive a refund of the Deposit and thereafter Purchaser and Seller shall be relieved of any and all obligations and liability under this Agreement (except for any surviving obligations under this Agreement). Failure of Purchaser to timely deliver such written notice of termination to Seller shall be deemed an election by Purchaser to choose the foregoing option (i).

6. Property Information. Within five (5) business days after the Effective Date, Seller agrees to deliver to Purchaser the documents and materials listed on Exhibit "B" attached hereto (collectively, the "**Property Information**"). Notwithstanding the foregoing, Purchaser acknowledges and agrees that it is relying exclusively on its own investigations and due diligence of the Property in relation to determining whether it will exercise its right to terminate this Agreement prior to the expiration of the Investigation Period. The parties further acknowledge and agree that Seller makes no representations or warranties regarding the accuracy or completeness of the Property Information and that Purchaser agrees it is not, and shall not, rely on the Property Information and that Purchaser is relying exclusively on its own investigations, due diligence and information.

7. Closing. The sale shall be closed at the offices of the Title Company, or in escrow by mail, on a mutually agreeable date on or before the date which is fifteen (15) days after the expiration of the Investigation Period, subject to a day-for-day extension to accommodate any permitted cure, response or similar period as expressly provided herein (the "**Closing Deadline**"). At Closing, Seller shall make the Seller Deliveries described herein and Purchaser shall make the Purchaser Deliveries described herein.

8. Seller's Closing Deliveries. At the Closing, Seller shall deliver to Title Company for delivery to Purchaser, the following items:

A. A Covenant Deed conveying to Purchaser title to the Property, subject to the Permitted Exceptions, executed and acknowledged by Seller in recordable form, along with a Real Estate Transfer Tax Valuation Affidavit.

B. An affidavit of ownership as is acceptable to Seller in its commercially reasonable discretion and as the Title Company may reasonably require to remove its standard printed exceptions from the Title Insurance Policy relating to, among other things, construction liens and rights of parties in possession, but not with respect to matters of survey.

C. A certificate in such form as may be required by the Internal Revenue Service pursuant to Section 1445 of the Internal Revenue Code of 1986, as amended, or the regulations issued pursuant thereto, certifying as to the non-foreign status of a transferor.

D. Such other documents, including a signed closing statement, as are necessary and appropriate for the consummation of this transaction by Seller.

9. Purchaser's Closing Deliveries. At the Closing, Purchaser shall deliver to the Title Company for delivery to Seller, the following items:

A. The Purchase Price adjusted by the Deposit and other credits and debits as set forth on the closing statement to be prepared by Title Company.

B. A certificate certifying that all of Purchaser's representations and warranties contained in this Agreement are true and correct.

C. Such other documents, including a signed closing statement, as are necessary and appropriate for the consummation of this transaction by Purchaser.

10. Closing Costs and Prorations. Seller shall pay (i) all transfer and/or conveyance taxes assessed in connection with the Closing, (ii) the base premium for the Title Insurance Policy (excluding removal of standard exceptions and the cost of any endorsements), (iii) one-half of the Title Company's closing fee in connection with this transaction and (iv) all costs related to Seller's professionals and consultants. Purchaser shall pay (A) all recording costs for recordation of the Covenant Deed, (B) all costs and expenses associated with Purchaser's inspections conducted pursuant to this Agreement and Purchaser's professionals and consultants, (C) the cost of the Title Company's search and examination fees, the Title Commitment, and any endorsements issued with the Title Insurance Policy, (D) the costs related to Purchaser's lender, if any, including any lender's policy of title insurance, (E) the cost of the Survey, if any, and (F) one-half of the Title Company's closing fee connection with this transaction.

Seller shall be responsible for and will pay at or prior to Closing all ad valorem property taxes and installments of special assessments that first came due and payable in calendar years prior to Closing. Ad valorem property taxes and installments of special assessments that first come due and payable in the year of Closing shall be prorated as of the Closing Date on a calendar year basis.

Other regular and customary costs and expenses related to the Property shall also be prorated based on the date of Closing. To the extent appropriate for the adjustment of the foregoing amounts to achieve the requirements of this Section, the terms of this Section shall survive Closing.

11. Representations and Warranties of Seller. Seller hereby represents and warrants to Purchaser, that as of the date hereof, and on the date of Closing:

A. Seller has the right, power and authority to enter into this Agreement and to sell the Property in accordance with the terms hereof. Seller has the right, power and authority to enter into all of the agreements, assignments and other documents contemplated by this Agreement. The individuals signing this Agreement and all other documents executed or to be executed pursuant hereto on behalf of Seller are and shall be duly authorized to sign the same on Seller's behalf and to bind Seller thereto.

B. There are no leases, occupancy agreements, rights of first refusal, rights of first offer, or options in effect with respect to the Property to which Seller is a party.

C. The execution and delivery of, and the performance of all obligations under this Agreement by Seller do not and will not require any consent or approval of any person or entity, and do not and will not result in a breach of any agreement or instrument to which Seller is a party.

12. Representations and Warranties of Purchaser. Purchaser hereby represents and warrants to Seller, that as of the date hereof, and on the date of Closing:

A. Purchaser has the full power and authority to execute, deliver and perform this Agreement and all of Purchaser's obligations under this Agreement; and

B. The individuals signing this Agreement and all other documents executed or to be executed pursuant hereto on behalf of Purchaser are and shall be duly authorized to sign the same on Purchaser's behalf and to bind Purchaser thereto.

13. Indemnification.

A. Seller agrees to indemnify and hold Purchaser harmless from and against any and all liabilities, claims, demands, and expenses, of any kind or nature, including but not limited to, all expenses related thereto, including, without limitation, court costs and attorney's fees for matters arising from or related to the inaccuracy or breach of any of Seller's representations and warranties up to an not to exceed \$20,000.

B. Purchaser agrees to indemnify and hold Seller harmless from and against any and all liabilities, claims, demands, and expenses, of any kind or nature, including but not limited to, all expenses related thereto, including, without limitation, court costs and attorney's fees for matters arising from or related to the inaccuracy or breach of any of Purchaser's representations and warranties up to and not to exceed \$20,000.

C. In the event either party hereto receives notice of a claim or demand for which the other party may be entitled to indemnification pursuant to this Section, such party shall promptly give notice thereof to the other party. The indemnifying party shall immediately take such measures as may be reasonably required to properly and effectively defend such claim, and may defend same with counsel of its own choosing and approved by the other party (which approval shall not be unreasonably withheld or delayed). In the event the indemnifying party refuses to defend such claim or fails to properly and effectively defend such claim, then the other party may defend such claim with counsel of its own choosing at the expense of the indemnifying party. In such event, the indemnified party may settle such claim without the consent of the indemnifying party. It is expressly stipulated, covenanted, and agreed that the provisions of this Section shall survive the Closing for a period of 90 days.

14. Condemnation; Casualty. Purchaser shall have the right to terminate this Agreement if any part of the Property is destroyed without fault of Purchaser or any part of the Property is taken or is threatened to be taken by eminent domain. Purchaser shall give written notice of Purchaser's election to terminate this Agreement within ten (10) business days after Purchaser receives written notice from Seller of any such damage or threatened condemnation. In the event of such a termination by Purchaser, upon Purchaser's return or destruction of the Property Information as directed by Seller, the Title Company shall promptly refund to Purchaser the Deposit and the rights and obligations of the parties hereunder shall terminate, with the exception of those rights and obligations that are expressly intended to survive termination of this Agreement.

15. Default and Remedies.

A. Purchaser's Default; Seller's Remedy. If Purchaser breaches this Agreement, then Seller may terminate this Agreement by written notice thereof to Purchaser and the Deposit shall promptly be paid to Seller as liquidated damages, as Seller's sole and exclusive remedy, and upon payment to Seller of the Deposit, this Agreement and all rights and obligations of the parties shall terminate, with the exception of those rights and obligations that are expressly intended to survive termination of this Agreement. The parties agree that it would be impracticable and extremely difficult to ascertain the actual damages suffered by Seller as a result of Purchaser's failure to complete the purchase of the Property and that under the circumstances existing as of the date of this Agreement, the liquidated

damages provided for in this Section represents a reasonable estimate of the damages which Seller will incur as a result of such failure. The parties acknowledge that the payment of such liquidated damages is not intended as a forfeiture or penalty but is intended to constitute liquidated damages to Seller.

B. Seller's Default; Purchaser's Remedies. If Seller materially breaches this Agreement, then Purchaser shall, as its sole remedy, have the right to either (i) terminate this Agreement by written notice thereof to Seller, in which event Purchaser shall, upon Purchaser's return or destruction of the Property Information as directed by Seller, receive a refund of the Deposit, and neither party shall have any further liability under this Agreement except for liability which expressly survives termination as provided herein, or (ii) seek specific performance of Seller's obligations hereunder. Purchaser hereby unconditionally and irrevocably waives, to the greatest extent permitted by law, any claim for monetary damages against Seller arising out of a default by Seller hereunder, which waiver will survive the termination of this Agreement. Notwithstanding anything to the contrary contained herein, in the event Purchaser has not commenced an action for specific performance pursuant to the foregoing subclause (ii) within thirty (30) days after the date of Seller's default, Purchaser shall be deemed to have waived its right to pursue and obtain specific performance pursuant to such foregoing subclause (ii).

C. Attorneys' Fees. The prevailing party in any legal proceeding brought under or with relation to this Agreement or transaction shall be entitled to recover court costs, reasonable attorneys' fees and all other litigation expenses from the non-prevailing party.

16. Sale and Assignment of Agreement. Purchaser shall not assign this Agreement or its rights hereunder without the prior written consent of Seller, which consent may be withheld in its sole discretion. Notwithstanding the foregoing, Purchaser shall have the right to assign its rights in this Agreement, without Seller's consent, to an affiliate of Purchaser that is owned, in whole or in majority part, and controlled by Purchaser or Purchaser's principal owners. Notwithstanding any assignment, Purchaser shall not be released from any, and Purchaser shall cause all, of its obligations hereunder to be performed, including, without limitation, Purchaser's agreement to be bound by the Declaration and the Restrictions therein following the Closing. Purchaser shall provide Seller not less than three (3) business days' notice of any such assignment, such notice to include the name and signature block of the assignee and reasonable evidence of the relationship of Purchaser to such assignee.

17. AS-IS. Notwithstanding anything contained in this Agreement to the contrary, Purchaser hereby expressly acknowledges and agrees that Purchaser has or will have, prior to the end of the Investigation Period, thoroughly inspected and examined the Property to the extent deemed necessary by Purchaser in its sole discretion in order to enable Purchaser to evaluate the purchase of the Property. Purchaser hereby further acknowledges and agrees that Purchaser is relying solely upon its examination and evaluation of the Property and that Purchaser is purchasing the Property on an "**AS IS**", "**WHERE IS**" and "**WITH ALL FAULTS**" basis, without representations or warranties (other than the limited representations and warranties set forth in Section 11 above), express or implied, of any kind or nature including, but not limited to, the zoning of the Property, the tax consequences to Purchaser, the physical condition of the Property, environmental compliance, governmental approvals and compliance of the Property with applicable rules, regulations, ordinances and statutes. Purchaser hereby waives and relinquishes all rights and privileges arising out of, or with respect to or in relation to, any representations or warranties (other than the limited representations and warranties set forth in Section 11 above), whether express or implied, which may have been made or given, or which may be deemed to have been made or given, by Seller. Without limiting the generality of the foregoing, Purchaser hereby further acknowledges and agrees that warranties of merchantability and fitness for a particular purpose are excluded from the transactions contemplated hereby, as are any warranties arising from a course of dealing or usage or trade, and that, except as expressly provided in Section 11 above, Seller has not represented or warranted, and Seller does not hereby represent or warrant, that the Property now or in the future will meet or comply with the requirements of any health, environmental or safety code or

regulation of the United States of America, the State of Michigan or any other authority or jurisdiction. Without limiting the generality of the foregoing and subject to the limited representations and warranties set forth in Section 11 above, in the event Purchaser actually takes title to the Property or any portion thereof, Purchaser hereby assumes all risk and agrees that Seller shall not be liable to Purchaser (or Purchaser's successors and assigns) for, and Purchaser hereby expressly waives any claims it may have now or in the future against Seller on account of, any special, direct, indirect, consequential or any other damages resulting or arising from or relating to the ownership, use, condition, location, maintenance, repair or operation of the Property.

18. Miscellaneous.

A. TIME IS OF THE ESSENCE OF THIS AGREEMENT.

B. This Agreement shall be governed by and construed under the laws of the state in which the Property is located.

C. This Agreement may be executed in any number of counterparts, each of which, when taken together, shall be deemed to be one and the same instrument. Executed copies of this Agreement may be delivered between the parties via electronic mail.

D. Should any provision of this Agreement require judicial interpretation, it is agreed that the court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the party who itself or through its agent prepared the same, it being agreed that the agents of all parties have participated in the preparation hereof.

E. This Agreement supersedes all prior discussions and agreements between Seller and Purchaser with respect to the conveyance of the Property and all other matters contained herein and constitutes the sole and entire agreement between Seller and Purchaser with respect thereto. This Agreement may not be modified or amended unless such amendment is set forth in writing and signed by both Seller and Purchaser.

F. For purposes of this Agreement, all notices shall be in writing and shall be addressed to the party or parties being notified at the address set forth below or at such other address as a party may from time to time designate in writing to the other party.

To Seller:

City of Parchment
Attn: Parchment City Manager
650 S Riverview Drive
Parchment, MI 49004
Email: manager@parchment.org

To Purchaser:

Attn: Fidel Coronado
114 Wilson Avenue
Parchment, MI 49004
Email: _____

All notices to any party required or permitted hereunder may be given by reputable overnight delivery, all charges prepaid, certified mail, return receipt requested, postage prepaid, or by email, at the address set forth above, and will be deemed effective three (3) days after mailing, one (1) business day after the date sent by reputable overnight delivery, provided, that it is sent for and guarantees next business day

delivery, and/or on the day sent by email, provided, that the sending party does not receive an error or other message indicating the email was undeliverable. Notices may be sent by counsel to Purchaser or Seller on behalf of Purchaser or Seller, as applicable.

G. This Agreement shall inure to the benefit of and bind the parties hereto and their respective heirs, legal representatives, successors and permitted assigns.

H. If any date of performance hereunder falls on a Saturday, Sunday or legal holiday, such date of performance shall be deferred to the next day which is not a Saturday, Sunday or legal holiday.

I. In case one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provisions hereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provision is severed and deleted from this Agreement.

J. Purchaser and Seller represent and warrant to the other that there has been no direct or indirect dealings with any real estate brokers, salesmen or agents in connection with this Property, or the transactions contemplated herein. Each party to this Agreement shall indemnify, defend, and hold harmless the other party from and against any and all real estate brokerage commissions, finder's fees, or other like charges due or claimed to be due to any broker who dealt with the party from whom indemnification is sought with respect to the transaction contemplated hereunder. This subsection shall survive the Closing.

K. If either party wishes to include the transaction contemplated by this Agreement in a Section 1031 like kind exchange transaction, that party shall give the other party written notice of that intention. The other party shall cooperate with the party that wishes to undertake a Section 1031 transaction, at no cost to the other party. The other party will not be required to take title to any other property that is included in the Section 1031 transaction or to delay the closing of the transaction contemplated by this Agreement in order to accommodate the Section 1031 transaction.

36. Restrictive Covenant. Purchaser acknowledges and agrees that Seller will, prior to Closing, prepare, file and record a Declaration of Covenants and Restrictions and Option to Repurchase substantially in the form attached as Exhibit "C" hereto and made a part hereof (the "**Declaration**"). The Declaration will impose certain restrictive covenants upon the Property requiring, among other things, Purchaser, its transferees, successors, assigns, licensees and/or lessees and any future owners and/or users of the Property to restrict the use, operation, transfer, lease or license of the Property to the following uses and any other uses that may be expressly permitted by the Declaration:

Light manufacturing

(collectively, the "**Restrictions**"). Purchaser acknowledges and agrees that the Restrictions shall run with the land and may be enforceable by Seller, its successors or assigns in accordance with the terms of the Declaration.

Signatures on following page

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as of the Effective Date.

SELLER:

CITY OF PARCHMENT,
a Michigan municipal corporation

By: _____

Name: _____

Its: _____

PURCHASER:

FIDEL CORONADO,
an individual

By: _____

Name: Fidel Coronado

EXHIBIT "A"

THE PROPERTY

Parcel #: 3906-03-280-022

Combined Split #4 from Parcel 3906-03-226-040, Split #5 from Parcel 3906-03-226-040, Parcel 3906-03-280-021 and Parcel 3906-03-280-011:

Beginning at the Northwest corner of Lot 1, Block 19, Amended Plat of Blocks 1, 6, 13 and 16, Lots 1, 2, 8, 9, 10 of Block 2, Lot 7 of Block 3, Lots 1, 2, 4, 5, 6 of Block 4, Lots 1-19 of Block 5, Lots 1-12 of Block 8, Vacated Parts of Everett Lane, Maiden Lane, Gallup Avenue, Sanford Street and Robert Lane of the Revised Plat of Glendale, as recorded in Liber 42 of Plats on Page 49, Kalamazoo County Records; thence North $89^{\circ}-24'-57''$ East along the North line of said Lot 1, Block 19, 535.44 feet to the Northeast corner of Lot 3, Block 18, of said Plat; thence continuing North $89^{\circ}-24'-57''$ East, 47.02 feet; thence Southwesterly 178.16 feet along a curve to the left with a radius of 1922.41 feet and a chord bearing South $09^{\circ}-57'-52''$ West, 178.10 feet; thence South $89^{\circ}-57'-21''$ West, 46.38 feet to the East line of said Lot 3, Block 18; thence continuing South $89^{\circ}-57'-21''$ West, 464.76 feet to the West line of said Lot 1, Block 19; thence continuing South $89^{\circ}-57'-21''$ West, 21.52 feet; thence North $12^{\circ}-45'-56''$ West, 186.60 feet to the extension of the North line of said Lot 1, Block 19; thence South $89^{\circ}-24'-57''$ East thereon, 21.22 feet to the Northwest corner of said Lot 1, Block 19 and the place of beginning. Containing 2.3 Acres, more or less.

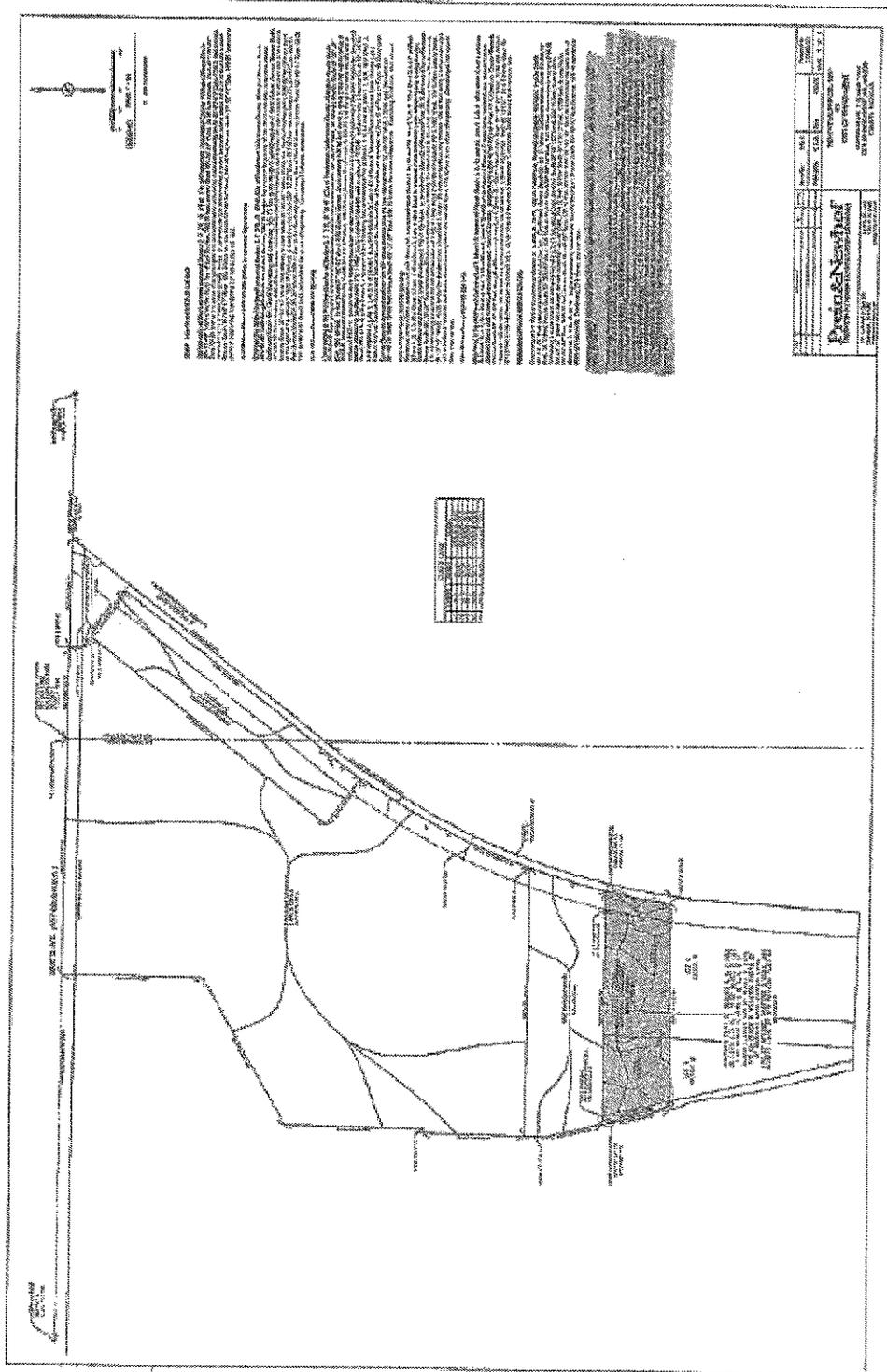


EXHIBIT "B"

PROPERTY INFORMATION

That certain Baseline Environmental Assessment, prepared by Envirologic Environmental Consulting (since acquired by Fishbeck), dated December 16, 2019.

EXHIBIT "C"
DECLARATION

DRAFT – SUBJECT TO REVIEW AND DISCUSSION

**DECLARATION OF COVENANTS AND RESTRICTIONS
AND OPTION TO REPURCHASE**

THIS DECLARATION (this "**Restriction**") is made as of _____, 2024, by CITY OF PARCHEMENT, a Michigan municipal corporation, whose address is 650 Riverview Drive, Parchment, Michigan 49004 ("**Declarant**").

Background

A. Declarant is the owner in fee simple of the lands commonly known as [_____] , Parchment, Michigan and more particularly described on the attached Exhibit "A" (defined below as the "**Property**").

B. Declarant has agreed to sell the Property to Fidel Coronado, an individual ("**Purchaser**") pursuant to that certain Purchase and Sale Agreement dated as of [_____] (the "**Agreement**") between Declarant and Purchaser, which Agreement also provides that the amount of the Purchase Price (as defined in the Agreement) is partial consideration for Purchaser's agreement to be bound by this Restriction.

C. From and after the date of this Restriction, the Property is to be renovated and used as a facility for light manufacturing (the "**Use**") in the manner, and subject to the covenants, terms and conditions set forth herein.

Restriction

NOW, THEREFORE, Declarant hereby publishes, declares and makes known to all intending purchasers and future owners of the Property, that the same shall be subject to the following conditions, restrictions, covenants and agreements, which shall be incorporated by reference in all deeds of conveyance and contracts and shall run with the land and bind all grantees in the Property, including their respective heirs, personal representatives, successors and assigns:

1. Renovation of Property. The Property shall be renovated to accommodate the Use and approximately in accordance with the site plan and other plans and specifications attached hereto as Exhibit "B" (the "**Renovation**"). As such, the Property (and facility to be renovated

thereon) may only be used for the Use and storage, distribution and office purposes that are related to the Use. The Renovation shall be completed (as evidenced by a permanent certificate of occupancy), and the Property shall reopen to the public for business, no later than twelve (12) months from the date of this Restriction. Notwithstanding the foregoing, if, despite using commercially reasonable efforts, the property owner is unable to complete the Renovation and reopen to the public for business within such twelve (12) month period as a direct result of any delays not caused by the actions or omissions of the property owner or that were not within the reasonable control of the property owner (for example, any delays in obtaining third party approvals that were timely sought by the property owner), then such twelve (12) month period will be extended on a day for day basis until the property owner completes the Renovation and reopens to the public for business, not to exceed eighteen (18) months from the date of this Restriction. No new building, facility, structure or other improvement, or change of use, shall be commenced or established prior to obtaining the prior written approval of Declarant and in accordance with the terms of this Restriction.

2. Change of Use to Facility. The property owner may submit a written request to the Declarant to change the Use to another permitted use ("**Change Request**"). Any Change Request shall contain a detailed description of the desired permitted use together with any additional documentation or information that Declarant deems necessary or appropriate. Declarant will use reasonable efforts to issue an approval (subject to any terms and/or conditions that are acceptable to Declarant in its sole discretion), denial or comments within twenty-one (21) days after its receipt of any Change Request. In the event Declarant approves any Change Request, Declarant and the property owner shall promptly execute and record (at the property owner's expense) an amendment to this Restriction which reflects the permitted change of use (subject to any terms and/or conditions that are acceptable to Declarant in its sole discretion) and which is otherwise mutually acceptable to Declarant and the property owner. Any permitted change of use of the Property shall at all times comply with the terms and conditions of this Restriction (as it may be amended), other restrictive covenants or conditions (if any), and applicable laws, statutes, codes, ordinances and planned unit development plans, including without limitation the terms and conditions of any permits or approvals related to the Renovation.

3. Option to Repurchase. The parties acknowledge and agree that Declarant is transferring the Property for the purpose of the Renovation and establishment of the Use. As such, to the extent that the Renovation is not complete and the Property has not reopened to the public for business within the twelve (12) month period (as it may be extended) provided in Section 1 above, then Declarant shall have an option to re-purchase the Property from the Purchaser or any subsequent property owner for the Purchase Price that Declarant received when it transferred the Property to Purchaser. The terms of such purchase shall be otherwise based on the terms of the Agreement with the exception that Declarant shall be "Purchaser" and Purchaser or any subsequent property owner shall be "Seller" for purposes of such option and Purchaser or any subsequent property owner shall be responsible for removal and release of any liens, mortgages, judgments or financial encumbrances against the Property. Declarant shall exercise the option by providing written notice to Purchaser or any subsequent property owner at any time after the expiration of the twelve (12) month period (as it may be extended) set forth above.

4. Additional Restrictions. In addition to the Use and other covenants and restrictions set forth in Sections 1 and 2 of this Restriction, the Property shall also be subject to the following restrictions on use:

- (i) The Property shall be restricted solely to uses that are not exempt, including any so-called "partial exemption" and whether such uses are exempt (or partially exempt) under applicable laws, regulations, rules, and/or programs currently existing or hereafter enacted, from the payment of ad valorem taxes, assessments and other governmental costs and charges (the "**Property Taxes**") generally applicable to real property where the Property is located. For example, since the following types of uses are generally exempt from Property Taxes, the Property shall not be used for, and shall be restricted against use as (but not limited to): hospitals, clinics or medical centers; churches, religious organizations or places of worship; governmental buildings, government agencies, governmental authorities and/or government related uses; schools, colleges, and/or educational related uses; philanthropic organizations, charities and/or non-profit corporations; unless such uses or users enter into (A) an agreement to pay subject to Property Taxes or (B), if applicable to such uses or users, a Payment in Lieu of Taxes (PILOT) agreement, in either case that is approved by Declarant.
- (ii) The Property is restricted against use any and all marijuana and/or cannabis uses or related uses, including without limitation, dispensaries, grow facilities and/or provisioning centers.

5. Remedies.¹ Declarant shall have the right to specifically enforce, by any proceeding at law or equity, all restrictions, conditions, covenants, reservations, now or hereafter imposed by the provisions of this Restriction. Declarant shall also have the right recover all of its damages that arise from any breach of this Restriction (including any and all terms and conditions contained herein), including, without limitation, all fees (including actual attorneys' fees and any other professional fees), costs (including court costs) and expenses of enforcement.

6. Term. The term of this Restriction shall run with the land. Notwithstanding the foregoing, the term of the option to repurchase set forth in Section 3 shall expire, and all rights and obligations thereunder shall be deemed forever released and discharged, upon the completion of the Renovation in accordance with the terms of this Restriction (including without limitation in compliance with the plans and specifications that are approved by Declarant as contemplated herein) and the establishment of the Use within the twelve (12) month period (as it may be extended) provided in Section 1 above.

Signature line on following page

¹ NOTE TO DRAFT: Full scope of available remedies to be discussed with the City of Parchment.

In Witness Whereof, the Declarant has executed and imposed this Restriction on the date set forth above.

CITY OF PARCHMENT
a Michigan municipal corporation

By: _____

Its: _____

STATE OF MICHIGAN)
)
COUNTY OF _____)

The foregoing instrument was acknowledged before me in _____ County, Michigan, on _____, by _____, as _____ of the City of Parchment, a Michigan municipal corporation, on behalf of the corporation.

State of Michigan
County of _____
My Commission Expires _____
Acting in the County of _____

Prepared by and Return to after recording:

Honigman, LLP
Attn.. J. Patrick Lennon, Esq.
650 Trade Centre Way
Suite 200
Kalamazoo, Michigan 49002

EXHIBIT "A" TO RESTRICTIONS

PROPERTY

Parcel #: 3906-03-280-022

Combined Split #4 from Parcel 3906-03-226-040, Split #5 from Parcel 3906-03-226-040, Parcel 3906-03-280-021 and Parcel 3906-03-280-011:

Beginning at the Northwest corner of Lot 1, Block 19, Amended Plat of Blocks 1, 6, 13 and 16, Lots 1, 2, 8, 9, 10 of Block 2, Lot 7 of Block 3, Lots 1, 2, 4, 5, 6 of Block 4, Lots 1-19 of Block 5, Lots 1-12 of Block 8, Vacated Parts of Everett Lane, Maiden Lane, Gallup Avenue, Sanford Street and Robert Lane of the Revised Plat of Glendale, as recorded in Liber 42 of Plats on Page 49, Kalamazoo County Records; thence North $89^{\circ}-24'-57''$ East along the North line of said Lot 1, Block 19, 535.44 feet to the Northeast corner of Lot 3, Block 18, of said Plat; thence continuing North $89^{\circ}-24'-57''$ East, 47.02 feet; thence Southwesterly 178.16 feet along a curve to the left with a radius of 1922.41 feet and a chord bearing South $09^{\circ}-57'-52''$ West, 178.10 feet; thence South $89^{\circ}-57'-21''$ West, 46.38 feet to the East line of said Lot 3, Block 18; thence continuing South $89^{\circ}-57'-21''$ West, 464.76 feet to the West line of said Lot 1, Block 19; thence continuing South $89^{\circ}-57'-21''$ West, 21.52 feet; thence North $12^{\circ}-45'-56''$ West, 186.60 feet to the extension of the North line of said Lot 1, Block 19; thence South $89^{\circ}-24'-57''$ East thereon, 21.22 feet to the Northwest corner of said Lot 1, Block 19 and the place of beginning. Containing 2.3 Acres, more or less.

EXHIBIT "B" TO RESTRICTIONS
SITE PLAN AND OTHER PLANS AND SPECIFICATIONS

PURCHASE AND SALE AGREEMENT

THIS PURCHASE AND SALE AGREEMENT (this “**Agreement**”) is entered into and made effective as of this ____ day of _____, 2023 (the “**Effective Date**”), by and between the CITY OF PARCHEMENT, a Michigan municipal corporation (“**Seller**”), and MAVCON PROPERTIES, LLC, a Michigan limited liability company (“**Purchaser**”).

Background

Purchaser desires to acquire from Seller, and Seller desires to convey to Purchaser, an approximately 2.3 acre parcel located in the City of Parchment, County of Kalamazoo, State of Michigan and legally described in attached Exhibit “A” (the “**Property**”). The parties desire to consummate such transactions in accordance with the terms and conditions set forth herein.

Agreement

NOW, THEREFORE, IN CONSIDERATION OF THE MUTUAL COVENANTS AND CONDITIONS SET FORTH HEREIN THE PARTIES AGREE AS FOLLOWS:

1. Property. Purchaser shall purchase and Seller shall convey the Property in accordance with the terms and conditions set forth herein. The Property shall include all improvements and fixtures located upon the land, all easements that affect the land, and all rights to divisions under the Michigan Land Division Act (if any).

2. Purchase Price. The purchase price for the Property shall be Five Thousand and No/100 Dollars (\$5,000.00) (the “**Purchase Price**”). Purchaser and Seller acknowledge and agree that the amount of the Purchase Price is partial consideration for Purchaser’s agreement to be bound by the Declaration and the Restrictions therein (each as defined below) following the Closing. The Purchase Price, less the Deposit defined below, and adjusted by other charges and credits as set forth herein, shall be delivered at Closing in immediately available funds subject to the terms and conditions of this Agreement.

3. Deposit. Purchaser shall deliver to Chicago Title Insurance Company, 941 W. Milham Ave., Portage, MI 49024 (“**Title Company**”) the sum of Five Thousand and No/100 Dollars (\$5,000.00) by wire transfer or certified, cashier’s or corporate check (the “**Deposit**”) within three (3) business days of the execution of this Agreement by both parties. The Deposit shall be credited against the Purchase Price at Closing.

4. Investigation Period. The “**Investigation Period**” shall commence on the Effective Date and shall expire sixty (60) days after the Effective Date at 5:00 p.m. eastern time. During the Investigation Period, Purchaser and/or its agents and representatives shall have the right to enter the Property and have the Property and improvements located thereon inspected, evaluated, analyzed, tested, appraised and/or assessed for any matter whatsoever, including but not limited to, condition of improvements including structure, plumbing and mechanical systems and the presence of wood destroying insects; survey and boundaries of the Property including any easements serving the Property; the service agreements related to the Property; market value; soil conditions; location of flood plains; presence of wetlands and necessary mitigation, if any; storm water drainage systems; presence of environmental contamination; health and safety conditions; access to utilities; access to public roads; signage; zoning; compliance with laws, codes and ordinances and any other matter desired by Purchaser.

Notwithstanding the foregoing, to the extent Purchaser desires to undertake environmental, wetland or soils investigations of the Property during the Investigation Period (collectively, the

“**Environmental Assessments**”), the parties agree that the Environmental Assessments shall be undertaken and performed by an environmental consultant that is approved by Seller in writing. The parties further agree that the Environmental Assessments shall not include any soil borings, groundwater testing, monitoring wells or invasive sampling or testing techniques without the prior written consent of Seller. Purchaser will not initiate contact with local, state or federal environmental agencies, except through Seller. If, for any reason, this Agreement terminates or if the Property is not transferred to Purchaser for any reason, the results, conclusions, reports and information regarding the environmental condition of the Property shall be held strictly confidential by Purchaser and Purchaser’s consultants and may only be disclosed to any third party after obtaining the prior written consent of Seller. Purchaser shall indemnify and hold Seller harmless from any and all claims, actions, losses, liabilities that arise from the unauthorized disclosure of any such information. The parties agree this obligation and indemnity shall survive termination of the Agreement.

Purchaser agrees to pay all costs and expenses associated with the Purchaser’s inspections conducted pursuant to this Section 4, and Purchaser further agrees to repair and restore any damage to the Property and/or to any portions thereof resulting from or arising out of the Purchaser’s investigations if the transaction contemplated by this Agreement does not close. Purchaser and Seller agree to work together in good faith to determine the timing of Purchaser’s inspections to minimize interference with the operation of Seller’s business at the Property.

In the event that, after conducting its investigations, Purchaser desires not to proceed with the Purchase of the Property, Purchaser shall have the right to terminate this Agreement by delivery of written notice of termination to Seller and the Title Company prior to the expiration of the Investigation Period (“**Termination Notice**”). In the event Purchaser terminates this Agreement pursuant to its rights under this Section, and the Termination Notice is delivered before the expiration of the Investigation Period, then, upon Purchaser’s return or destruction of the Property Information (as defined below) as directed by Seller, the full amount of the Deposit shall be promptly refunded to Purchaser. Upon such termination, all rights and obligations of the parties hereunder shall immediately and forever terminate with the exception of those rights and obligations that are expressly intended to survive termination of this Agreement.

5. Title and Survey Matters.

A. Within three (3) business days after the Effective Date, Purchaser may order a commitment (the “**Title Commitment**”) for the Property from the Title Company to issue to Purchaser, at the Closing, an ALTA owner’s title insurance policy in the amount of the Purchase Price (the “**Title Insurance Policy**”), and with such endorsements as Purchaser may require, to the extent reasonably available (any such endorsements shall be at Purchaser’s sole cost and expense), free and clear of any liens and encumbrances except for (i) taxes and/or assessments, not yet due and payable, (ii) rights of the public to any portion of the Property lying within the bounds of any street, road, alley or highway, (iii) matters that would be revealed or disclosed by an accurate ALTA/NSPS survey of the Property, (iv) all building and zoning laws and ordinances and municipal codes and regulations, and any state, county or federal regulations affecting the Property, and (v) matters set forth in the Title Commitment not objected to by Purchaser, as permitted hereunder, or objected to by Purchaser but waived by Purchaser or the Title Company or insured over by the Title Company (collectively, the “**Permitted Exceptions**”).

B. Within three (3) business days after the Effective Date, Purchaser may order a survey of the Property in such form as Purchaser may desire (the “**Survey**”) at Purchaser’s sole cost and expense which Purchaser shall cause to also be certified to Seller and to the Title Company.

C. If written objection to title and/or Survey matters is made by Purchaser, no later than fourteen (14) days prior to the expiration date of the Investigation Period, that the title and/or Survey is

not acceptable to Purchaser, Seller shall have ten (10) days from the date that it received written notice of each of the particular defects (with reasonable specificity), in order, in Seller's sole and absolute discretion, to notify Purchaser of its proposed cure for each defect or to provide Purchaser with a revised Title Commitment evidencing that such defects have been remedied and/or that at Closing the Title Company shall insure over the same, it being expressly understood that Seller shall have no obligation to remedy any such defect or have the Title Company insure over any such defect. If Seller is unable or unwilling to obtain such revised Title Commitment or does not elect to cure such defects within such ten (10) day period, Purchaser shall have the option (i) to proceed with the purchase of the Property without any reduction in the Purchase Price, in which event such defects or objections will be deemed Permitted Exceptions or (ii) to terminate this Agreement by delivery of written notice of termination to Seller and the Title Company prior to the expiration of the Investigation Period and, upon Purchaser's return or destruction of the Property Information as directed by Seller, Purchaser shall promptly receive a refund of the Deposit and thereafter Purchaser and Seller shall be relieved of any and all obligations and liability under this Agreement (except for any surviving obligations under this Agreement). Failure of Purchaser to timely deliver such written notice of termination to Seller shall be deemed an election by Purchaser to choose the foregoing option (i).

6. Property Information. Within five (5) business days after the Effective Date, Seller agrees to deliver to Purchaser the documents and materials listed on Exhibit "B" attached hereto (collectively, the "**Property Information**"). Notwithstanding the foregoing, Purchaser acknowledges and agrees that it is relying exclusively on its own investigations and due diligence of the Property in relation to determining whether it will exercise its right to terminate this Agreement prior to the expiration of the Investigation Period. The parties further acknowledge and agree that Seller makes no representations or warranties regarding the accuracy or completeness of the Property Information and that Purchaser agrees it is not, and shall not, rely on the Property Information and that Purchaser is relying exclusively on its own investigations, due diligence and information.

7. Closing. The sale shall be closed at the offices of the Title Company, or in escrow by mail, on a mutually agreeable date on or before the date which is fifteen (15) days after the expiration of the Investigation Period, subject to a day-for-day extension to accommodate any permitted cure, response or similar period as expressly provided herein (the "**Closing Deadline**"). At Closing, Seller shall make the Seller Deliveries described herein and Purchaser shall make the Purchaser Deliveries described herein.

8. Seller's Closing Deliveries. At the Closing, Seller shall deliver to Title Company for delivery to Purchaser, the following items:

A. A Covenant Deed conveying to Purchaser title to the Property, subject to the Permitted Exceptions, executed and acknowledged by Seller in recordable form, along with a Real Estate Transfer Tax Valuation Affidavit.

B. An affidavit of ownership as is acceptable to Seller in its commercially reasonable discretion and as the Title Company may reasonably require to remove its standard printed exceptions from the Title Insurance Policy relating to, among other things, construction liens and rights of parties in possession, but not with respect to matters of survey.

C. A certificate in such form as may be required by the Internal Revenue Service pursuant to Section 1445 of the Internal Revenue Code of 1986, as amended, or the regulations issued pursuant thereto, certifying as to the non-foreign status of a transferor.

D. Such other documents, including a signed closing statement, as are necessary and appropriate for the consummation of this transaction by Seller.

9. Purchaser's Closing Deliveries. At the Closing, Purchaser shall deliver to the Title Company for delivery to Seller, the following items:

A. The Purchase Price adjusted by the Deposit and other credits and debits as set forth on the closing statement to be prepared by Title Company.

B. A certificate certifying that all of Purchaser's representations and warranties contained in this Agreement are true and correct.

C. Such other documents, including a signed closing statement, as are necessary and appropriate for the consummation of this transaction by Purchaser.

10. Closing Costs and Prorations. Seller shall pay (i) all transfer and/or conveyance taxes assessed in connection with the Closing, (ii) the base premium for the Title Insurance Policy (excluding removal of standard exceptions and the cost of any endorsements), (iii) one-half of the Title Company's closing fee in connection with this transaction and (iv) all costs related to Seller's professionals and consultants. Purchaser shall pay (A) all recording costs for recordation of the Covenant Deed, (B) all costs and expenses associated with Purchaser's inspections conducted pursuant to this Agreement and Purchaser's professionals and consultants, (C) the cost of the Title Company's search and examination fees, the Title Commitment, and any endorsements issued with the Title Insurance Policy, (D) the costs related to Purchaser's lender, if any, including any lender's policy of title insurance, (E) the cost of the Survey, if any, and (F) one-half of the Title Company's closing fee connection with this transaction.

Seller shall be responsible for and will pay at or prior to Closing all ad valorem property taxes and installments of special assessments that first came due and payable in calendar years prior to Closing. Ad valorem property taxes and installments of special assessments that first come due and payable in the year of Closing shall be prorated as of the Closing Date on a calendar year basis.

Other regular and customary costs and expenses related to the Property shall also be prorated based on the date of Closing. To the extent appropriate for the adjustment of the foregoing amounts to achieve the requirements of this Section, the terms of this Section shall survive Closing.

11. Representations and Warranties of Seller. Seller hereby represents and warrants to Purchaser, that as of the date hereof, and on the date of Closing:

A. Seller has the right, power and authority to enter into this Agreement and to sell the Property in accordance with the terms hereof. Seller has the right, power and authority to enter into all of the agreements, assignments and other documents contemplated by this Agreement. The individuals signing this Agreement and all other documents executed or to be executed pursuant hereto on behalf of Seller are and shall be duly authorized to sign the same on Seller's behalf and to bind Seller thereto.

B. There are no leases, occupancy agreements, rights of first refusal, rights of first offer, or options in effect with respect to the Property to which Seller is a party.

C. The execution and delivery of, and the performance of all obligations under this Agreement by Seller do not and will not require any consent or approval of any person or entity, and do not and will not result in a breach of any agreement or instrument to which Seller is a party.

12. Representations and Warranties of Purchaser. Purchaser hereby represents and warrants to Seller, that as of the date hereof, and on the date of Closing:

A. Purchaser has the full power and authority to execute, deliver and perform this Agreement and all of Purchaser's obligations under this Agreement; and

B. The individuals signing this Agreement and all other documents executed or to be executed pursuant hereto on behalf of Purchaser are and shall be duly authorized to sign the same on Purchaser's behalf and to bind Purchaser thereto.

13. Indemnification.

A. Seller agrees to indemnify and hold Purchaser harmless from and against any and all liabilities, claims, demands, and expenses, of any kind or nature, including but not limited to, all expenses related thereto, including, without limitation, court costs and attorney's fees for matters arising from or related to the inaccuracy or breach of any of Seller's representations and warranties up to an not to exceed \$20,000.

B. Purchaser agrees to indemnify and hold Seller harmless from and against any and all liabilities, claims, demands, and expenses, of any kind or nature, including but not limited to, all expenses related thereto, including, without limitation, court costs and attorney's fees for matters arising from or related to the inaccuracy or breach of any of Purchaser's representations and warranties up to and not to exceed \$20,000.

C. In the event either party hereto receives notice of a claim or demand for which the other party may be entitled to indemnification pursuant to this Section, such party shall promptly give notice thereof to the other party. The indemnifying party shall immediately take such measures as may be reasonably required to properly and effectively defend such claim, and may defend same with counsel of its own choosing and approved by the other party (which approval shall not be unreasonably withheld or delayed). In the event the indemnifying party refuses to defend such claim or fails to properly and effectively defend such claim, then the other party may defend such claim with counsel of its own choosing at the expense of the indemnifying party. In such event, the indemnified party may settle such claim without the consent of the indemnifying party. It is expressly stipulated, covenanted, and agreed that the provisions of this Section shall survive the Closing for a period of 90 days.

14. Condemnation; Casualty. Purchaser shall have the right to terminate this Agreement if any part of the Property is destroyed without fault of Purchaser or any part of the Property is taken or is threatened to be taken by eminent domain. Purchaser shall give written notice of Purchaser's election to terminate this Agreement within ten (10) business days after Purchaser receives written notice from Seller of any such damage or threatened condemnation. In the event of such a termination by Purchaser, upon Purchaser's return or destruction of the Property Information as directed by Seller, the Title Company shall promptly refund to Purchaser the Deposit and the rights and obligations of the parties hereunder shall terminate, with the exception of those rights and obligations that are expressly intended to survive termination of this Agreement.

15. Default and Remedies.

A. Purchaser's Default; Seller's Remedy. If Purchaser breaches this Agreement, then Seller may terminate this Agreement by written notice thereof to Purchaser and the Deposit shall promptly be paid to Seller as liquidated damages, as Seller's sole and exclusive remedy, and upon payment to Seller of the Deposit, this Agreement and all rights and obligations of the parties shall terminate, with the exception of those rights and obligations that are expressly intended to survive termination of this Agreement. The parties agree that it would be impracticable and extremely difficult to ascertain the actual damages suffered by Seller as a result of Purchaser's failure to complete the purchase of the Property and that under the circumstances existing as of the date of this Agreement, the liquidated

damages provided for in this Section represents a reasonable estimate of the damages which Seller will incur as a result of such failure. The parties acknowledge that the payment of such liquidated damages is not intended as a forfeiture or penalty but is intended to constitute liquidated damages to Seller.

B. Seller's Default; Purchaser's Remedies. If Seller materially breaches this Agreement, then Purchaser shall, as its sole remedy, have the right to either (i) terminate this Agreement by written notice thereof to Seller, in which event Purchaser shall, upon Purchaser's return or destruction of the Property Information as directed by Seller, receive a refund of the Deposit, and neither party shall have any further liability under this Agreement except for liability which expressly survives termination as provided herein, or (ii) seek specific performance of Seller's obligations hereunder. Purchaser hereby unconditionally and irrevocably waives, to the greatest extent permitted by law, any claim for monetary damages against Seller arising out of a default by Seller hereunder, which waiver will survive the termination of this Agreement. Notwithstanding anything to the contrary contained herein, in the event Purchaser has not commenced an action for specific performance pursuant to the foregoing subclause (ii) within thirty (30) days after the date of Seller's default, Purchaser shall be deemed to have waived its right to pursue and obtain specific performance pursuant to such foregoing subclause (ii).

C. Attorneys' Fees. The prevailing party in any legal proceeding brought under or with relation to this Agreement or transaction shall be entitled to recover court costs, reasonable attorneys' fees and all other litigation expenses from the non-prevailing party.

16. Sale and Assignment of Agreement. Purchaser shall not assign this Agreement or its rights hereunder without the prior written consent of Seller, which consent may be withheld in its sole discretion. Notwithstanding the foregoing, Purchaser shall have the right to assign its rights in this Agreement, without Seller's consent, to an affiliate of Purchaser that is owned, in whole or in majority part, and controlled by Purchaser or Purchaser's principal owners. Notwithstanding any assignment, Purchaser shall not be released from any, and Purchaser shall cause all, of its obligations hereunder to be performed, including, without limitation, Purchaser's agreement to be bound by the Declaration and the Restrictions therein following the Closing. Purchaser shall provide Seller not less than three (3) business days' notice of any such assignment, such notice to include the name and signature block of the assignee and reasonable evidence of the relationship of Purchaser to such assignee.

17. AS-IS. Notwithstanding anything contained in this Agreement to the contrary, Purchaser hereby expressly acknowledges and agrees that Purchaser has or will have, prior to the end of the Investigation Period, thoroughly inspected and examined the Property to the extent deemed necessary by Purchaser in its sole discretion in order to enable Purchaser to evaluate the purchase of the Property. Purchaser hereby further acknowledges and agrees that Purchaser is relying solely upon its examination and evaluation of the Property and that Purchaser is purchasing the Property on an "**AS IS**", "**WHERE IS**" and "**WITH ALL FAULTS**" basis, without representations or warranties (other than the limited representations and warranties set forth in Section 11 above), express or implied, of any kind or nature including, but not limited to, the zoning of the Property, the tax consequences to Purchaser, the physical condition of the Property, environmental compliance, governmental approvals and compliance of the Property with applicable rules, regulations, ordinances and statutes. Purchaser hereby waives and relinquishes all rights and privileges arising out of, or with respect to or in relation to, any representations or warranties (other than the limited representations and warranties set forth in Section 11 above), whether express or implied, which may have been made or given, or which may be deemed to have been made or given, by Seller. Without limiting the generality of the foregoing, Purchaser hereby further acknowledges and agrees that warranties of merchantability and fitness for a particular purpose are excluded from the transactions contemplated hereby, as are any warranties arising from a course of dealing or usage or trade, and that, except as expressly provided in Section 11 above, Seller has not represented or warranted, and Seller does not hereby represent or warrant, that the Property now or in the future will meet or comply with the requirements of any health, environmental or safety code or

regulation of the United States of America, the State of Michigan or any other authority or jurisdiction. Without limiting the generality of the foregoing and subject to the limited representations and warranties set forth in Section 11 above, in the event Purchaser actually takes title to the Property or any portion thereof, Purchaser hereby assumes all risk and agrees that Seller shall not be liable to Purchaser (or Purchaser's successors and assigns) for, and Purchaser hereby expressly waives any claims it may have now or in the future against Seller on account of, any special, direct, indirect, consequential or any other damages resulting or arising from or relating to the ownership, use, condition, location, maintenance, repair or operation of the Property.

18. Miscellaneous.

A. TIME IS OF THE ESSENCE OF THIS AGREEMENT.

B. This Agreement shall be governed by and construed under the laws of the state in which the Property is located.

C. This Agreement may be executed in any number of counterparts, each of which, when taken together, shall be deemed to be one and the same instrument. Executed copies of this Agreement may be delivered between the parties via electronic mail.

D. Should any provision of this Agreement require judicial interpretation, it is agreed that the court interpreting or construing the same shall not apply a presumption that the terms hereof shall be more strictly construed against one party by reason of the rule of construction that a document is to be construed more strictly against the party who itself or through its agent prepared the same, it being agreed that the agents of all parties have participated in the preparation hereof.

E. This Agreement supersedes all prior discussions and agreements between Seller and Purchaser with respect to the conveyance of the Property and all other matters contained herein and constitutes the sole and entire agreement between Seller and Purchaser with respect thereto. This Agreement may not be modified or amended unless such amendment is set forth in writing and signed by both Seller and Purchaser.

F. For purposes of this Agreement, all notices shall be in writing and shall be addressed to the party or parties being notified at the address set forth below or at such other address as a party may from time to time designate in writing to the other party.

To Seller:

City of Parchment
Attn: Parchment City Manager
650 S Riverview Drive
Parchment, MI 49004
Email: manager@parchment.org

To Purchaser:

Attn: James Dally
1919 Kilgore Service Road, #101
Kalamazoo, MI 49001
Email: jdally@mavconusa.com

All notices to any party required or permitted hereunder may be given by reputable overnight delivery, all charges prepaid, certified mail, return receipt requested, postage prepaid, or by email, at the address set forth above, and will be deemed effective three (3) days after mailing, one (1) business day after the date sent by reputable overnight delivery, provided, that it is sent for and guarantees next business day

delivery, and/or on the day sent by email, provided, that the sending party does not receive an error or other message indicating the email was undeliverable. Notices may be sent by counsel to Purchaser or Seller on behalf of Purchaser or Seller, as applicable.

G. This Agreement shall inure to the benefit of and bind the parties hereto and their respective heirs, legal representatives, successors and permitted assigns.

H. If any date of performance hereunder falls on a Saturday, Sunday or legal holiday, such date of performance shall be deferred to the next day which is not a Saturday, Sunday or legal holiday.

I. In case one or more of the provisions contained in this Agreement shall for any reason be held to be invalid, illegal or unenforceable in any respect by a court of competent jurisdiction, such invalidity, illegality or unenforceability shall not affect any other provisions hereof and this Agreement shall be construed as if such invalid, illegal or unenforceable provision is severed and deleted from this Agreement.

J. Purchaser and Seller represent and warrant to the other that there has been no direct or indirect dealings with any real estate brokers, salesmen or agents in connection with this Property, or the transactions contemplated herein. Each party to this Agreement shall indemnify, defend, and hold harmless the other party from and against any and all real estate brokerage commissions, finder's fees, or other like charges due or claimed to be due to any broker who dealt with the party from whom indemnification is sought with respect to the transaction contemplated hereunder. This subsection shall survive the Closing.

K. If either party wishes to include the transaction contemplated by this Agreement in a Section 1031 like kind exchange transaction, that party shall give the other party written notice of that intention. The other party shall cooperate with the party that wishes to undertake a Section 1031 transaction, at no cost to the other party. The other party will not be required to take title to any other property that is included in the Section 1031 transaction or to delay the closing of the transaction contemplated by this Agreement in order to accommodate the Section 1031 transaction.

36. Restrictive Covenant. Purchaser acknowledges and agrees that Seller will, prior to Closing, prepare, file and record a Declaration of Covenants and Restrictions and Option to Repurchase substantially in the form attached as Exhibit "C" hereto and made a part hereof (the "**Declaration**"). The Declaration will impose certain restrictive covenants upon the Property requiring, among other things, Purchaser, its transferees, successors, assigns, licensees and/or lessees and any future owners and/or users of the Property to restrict the use, operation, transfer, lease or license of the Property to the following uses and any other uses that may be expressly permitted by the Declaration:

Professional office space and light manufacturing

(collectively, the "**Restrictions**"). Purchaser acknowledges and agrees that the Restrictions shall run with the land and may be enforceable by Seller, its successors or assigns in accordance with the terms of the Declaration.

Signatures on following page

IN WITNESS WHEREOF, the parties hereto have executed this Agreement to be effective as of the Effective Date.

SELLER:

CITY OF PARCHMENT,
a Michigan municipal corporation

By: _____

Name: _____

Its: _____

PURCHASER:

MAVCON PROPERTIES, LLC,
a Michigan limited liability company

By: _____

Name: _____

Its: _____

EXHIBIT "A"

THE PROPERTY

Parcel #: 3906-03-280-022

Combined Split #4 from Parcel 3906-03-226-040, Split #5 from Parcel 3906-03-226-040, Parcel 3906-03-280-021 and Parcel 3906-03-280-011:

Beginning at the Northwest corner of Lot 1, Block 19, Amended Plat of Blocks 1, 6, 13 and 16, Lots 1, 2, 8, 9, 10 of Block 2, Lot 7 of Block 3, Lots 1, 2, 4, 5, 6 of Block 4, Lots 1-19 of Block 5, Lots 1-12 of Block 8, Vacated Parts of Everett Lane, Maiden Lane, Gallup Avenue, Sanford Street and Robert Lane of the Revised Plat of Glendale, as recorded in Liber 42 of Plats on Page 49, Kalamazoo County Records; thence North $89^{\circ}-24'-57''$ East along the North line of said Lot 1, Block 19, 535.44 feet to the Northeast corner of Lot 3, Block 18, of said Plat; thence continuing North $89^{\circ}-24'-57''$ East, 47.02 feet; thence Southwesterly 178.16 feet along a curve to the left with a radius of 1922.41 feet and a chord bearing South $09^{\circ}-57'-52''$ West, 178.10 feet; thence South $89^{\circ}-57'-21''$ West, 46.38 feet to the East line of said Lot 3, Block 18; thence continuing South $89^{\circ}-57'-21''$ West, 464.76 feet to the West line of said Lot 1, Block 19; thence continuing South $89^{\circ}-57'-21''$ West, 21.52 feet; thence North $12^{\circ}-45'-56''$ West, 186.60 feet to the extension of the North line of said Lot 1, Block 19; thence South $89^{\circ}-24'-57''$ East thereon, 21.22 feet to the Northwest corner of said Lot 1, Block 19 and the place of beginning. Containing 2.3 Acres, more or less.

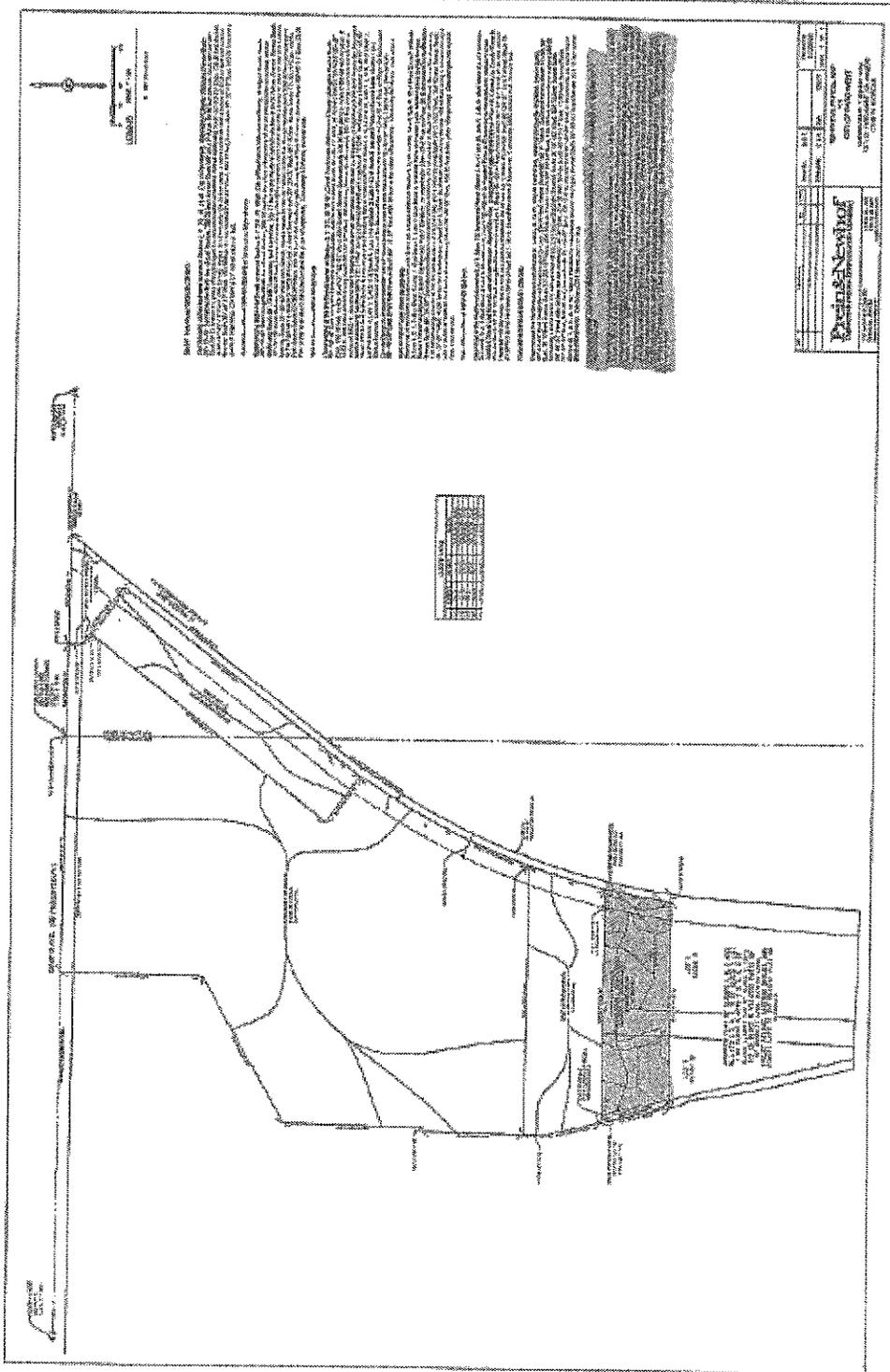


EXHIBIT "B"

PROPERTY INFORMATION

- That certain Baseline Environmental Assessment, prepared by Envirologic Environmental Consulting (since acquired by Fishbeck), dated December 16, 2019.

EXHIBIT "C"
DECLARATION

DRAFT – SUBJECT TO REVIEW AND DISCUSSION

**DECLARATION OF COVENANTS AND RESTRICTIONS
AND OPTION TO REPURCHASE**

THIS DECLARATION (this "**Restriction**") is made as of _____, 2024, by CITY OF PARCHEMENT, a Michigan municipal corporation, whose address is 650 Riverview Drive, Parchment, Michigan 49004 ("**Declarant**").

Background

A. Declarant is the owner in fee simple of the lands commonly known as [_____] , Parchment, Michigan and more particularly described on the attached Exhibit "A" (defined below as the "**Property**").

B. Declarant has agreed to sell the Property to Mavcon Properties, LLC, a Michigan limited liability company ("**Purchaser**"), pursuant to that certain Purchase and Sale Agreement dated as of [_____] (the "**Agreement**") between Declarant and Purchaser, which Agreement also provides that the amount of the Purchase Price (as defined in the Agreement) is partial consideration for Purchaser's agreement to be bound by this Restriction.

C. From and after the date of this Restriction, the Property is to be renovated and used as a facility for professional office space and light manufacturing (the "**Use**") in the manner, and subject to the covenants, terms and conditions set forth herein.

Restriction

NOW, THEREFORE, Declarant hereby publishes, declares and makes known to all intending purchasers and future owners of the Property, that the same shall be subject to the following conditions, restrictions, covenants and agreements, which shall be incorporated by reference in all deeds of conveyance and contracts and shall run with the land and bind all grantees in the Property, including their respective heirs, personal representatives, successors and assigns:

1. Renovation of Property. The Property shall be renovated to accommodate the Use and approximately in accordance with the site plan and other plans and specifications attached hereto as Exhibit "B" (the "**Renovation**"). As such, the Property (and facility to be renovated

thereon) may only be used for the Use and storage, distribution and office purposes that are related to the Use. The Renovation shall be completed (as evidenced by a permanent certificate of occupancy), and the Property shall reopen to the public for business, no later than twelve (12) months from the date of this Restriction. Notwithstanding the foregoing, if, despite using commercially reasonable efforts, the property owner is unable to complete the Renovation and reopen to the public for business within such twelve (12) month period as a direct result of any delays not caused by the actions or omissions of the property owner or that were not within the reasonable control of the property owner (for example, any delays in obtaining third party approvals that were timely sought by the property owner), then such twelve (12) month period will be extended on a day for day basis until the property owner completes the Renovation and reopens to the public for business, not to exceed eighteen (18) months from the date of this Restriction. No new building, facility, structure or other improvement, or change of use, shall be commenced or established prior to obtaining the prior written approval of Declarant and in accordance with the terms of this Restriction.

2. Change of Use to Facility. The property owner may submit a written request to the Declarant to change the Use to another permitted use ("**Change Request**"). Any Change Request shall contain a detailed description of the desired permitted use together with any additional documentation or information that Declarant deems necessary or appropriate. Declarant will use reasonable efforts to issue an approval (subject to any terms and/or conditions that are acceptable to Declarant in its sole discretion), denial or comments within twenty-one (21) days after its receipt of any Change Request. In the event Declarant approves any Change Request, Declarant and the property owner shall promptly execute and record (at the property owner's expense) an amendment to this Restriction which reflects the permitted change of use (subject to any terms and/or conditions that are acceptable to Declarant in its sole discretion) and which is otherwise mutually acceptable to Declarant and the property owner. Any permitted change of use of the Property shall at all times comply with the terms and conditions of this Restriction (as it may be amended), other restrictive covenants or conditions (if any), and applicable laws, statutes, codes, ordinances and planned unit development plans, including without limitation the terms and conditions of any permits or approvals related to the Renovation.

3. Option to Repurchase. The parties acknowledge and agree that Declarant is transferring the Property for the purpose of the Renovation and establishment of the Use. As such, to the extent that the Renovation is not complete and the Property has not reopened to the public for business within the twelve (12) month period (as it may be extended) provided in Section 1 above, then Declarant shall have an option to re-purchase the Property from the Purchaser or any subsequent property owner for the Purchase Price that Declarant received when it transferred the Property to Purchaser. The terms of such purchase shall be otherwise based on the terms of the Agreement with the exception that Declarant shall be "Purchaser" and Purchaser or any subsequent property owner shall be "Seller" for purposes of such option and Purchaser or any subsequent property owner shall be responsible for removal and release of any liens, mortgages, judgments or financial encumbrances against the Property. Declarant shall exercise the option by providing written notice to Purchaser or any subsequent property owner at any time after the expiration of the twelve (12) month period (as it may be extended) set forth above.

4. Additional Restrictions. In addition to the Use and other covenants and restrictions set forth in Sections 1 and 2 of this Restriction, the Property shall also be subject to the following restrictions on use:

- (i) The Property shall be restricted solely to uses that are not exempt, including any so-called “partial exemption” and whether such uses are exempt (or partially exempt) under applicable laws, regulations, rules, and/or programs currently existing or hereafter enacted, from the payment of ad valorem taxes, assessments and other governmental costs and charges (the “**Property Taxes**”) generally applicable to real property where the Property is located. For example, since the following types of uses are generally exempt from Property Taxes, the Property shall not be used for, and shall be restricted against use as (but not limited to): hospitals, clinics or medical centers; churches, religious organizations or places of worship; governmental buildings, government agencies, governmental authorities and/or government related uses; schools, colleges, and/or educational related uses; philanthropic organizations, charities and/or non-profit corporations; unless such uses or users enter into (A) an agreement to pay subject to Property Taxes or (B), if applicable to such uses or users, a Payment in Lieu of Taxes (PILOT) agreement, in either case that is approved by Declarant.
- (ii) The Property is restricted against use any and all marijuana and/or cannabis uses or related uses, including without limitation, dispensaries, grow facilities and/or provisioning centers.

5. Remedies.¹ Declarant shall have the right to specifically enforce, by any proceeding at law or equity, all restrictions, conditions, covenants, reservations, now or hereafter imposed by the provisions of this Restriction. Declarant shall also have the right recover all of its damages that arise from any breach of this Restriction (including any and all terms and conditions contained herein), including, without limitation, all fees (including actual attorneys’ fees and any other professional fees), costs (including court costs) and expenses of enforcement.

6. Term. The term of this Restriction shall run with the land. Notwithstanding the foregoing, the term of the option to repurchase set forth in Section 3 shall expire, and all rights and obligations thereunder shall be deemed forever released and discharged, upon the completion of the Renovation in accordance with the terms of this Restriction (including without limitation in compliance with the plans and specifications that are approved by Declarant as contemplated herein) and the establishment of the Use within the twelve (12) month period (as it may be extended) provided in Section 1 above.

Signature line on following page

¹ NOTE TO DRAFT: Full scope of available remedies to be discussed with the City of Parchment.

In Witness Whereof, the Declarant has executed and imposed this Restriction on the date set forth above.

CITY OF PARCHMENT
a Michigan municipal corporation

By: _____

Its: _____

STATE OF MICHIGAN)
)
COUNTY OF _____)

The foregoing instrument was acknowledged before me in _____ County, Michigan, on _____, by _____, as _____ of the City of Parchment, a Michigan municipal corporation, on behalf of the corporation.

State of Michigan
County of _____
My Commission Expires _____
Acting in the County of _____

Prepared by and Return to after recording:

Honigman, LLP
Attn.. J. Patrick Lennon, Esq.
650 Trade Centre Way
Suite 200
Kalamazoo, Michigan 49002

EXHIBIT "A" TO RESTRICTIONS

PROPERTY

Parcel #: 3906-03-280-022

Combined Split #4 from Parcel 3906-03-226-040, Split #5 from Parcel 3906-03-226-040, Parcel 3906-03-280-021 and Parcel 3906-03-280-011:

Beginning at the Northwest corner of Lot 1, Block 19, Amended Plat of Blocks 1, 6, 13 and 16, Lots 1, 2, 8, 9, 10 of Block 2, Lot 7 of Block 3, Lots 1, 2, 4, 5, 6 of Block 4, Lots 1-19 of Block 5, Lots 1-12 of Block 8, Vacated Parts of Everett Lane, Maiden Lane, Gallup Avenue, Sanford Street and Robert Lane of the Revised Plat of Glendale, as recorded in Liber 42 of Plats on Page 49, Kalamazoo County Records; thence North $89^{\circ}-24'-57''$ East along the North line of said Lot 1, Block 19, 535.44 feet to the Northeast corner of Lot 3, Block 18, of said Plat; thence continuing North $89^{\circ}-24'-57''$ East, 47.02 feet; thence Southwesterly 178.16 feet along a curve to the left with a radius of 1922.41 feet and a chord bearing South $09^{\circ}-57'-52''$ West, 178.10 feet; thence South $89^{\circ}-57'-21''$ West, 46.38 feet to the East line of said Lot 3, Block 18; thence continuing South $89^{\circ}-57'-21''$ West, 464.76 feet to the West line of said Lot 1, Block 19; thence continuing South $89^{\circ}-57'-21''$ West, 21.52 feet; thence North $12^{\circ}-45'-56''$ West, 186.60 feet to the extension of the North line of said Lot 1, Block 19; thence South $89^{\circ}-24'-57''$ East thereon, 21.22 feet to the Northwest corner of said Lot 1, Block 19 and the place of beginning. Containing 2.3 Acres, more or less.

EXHIBIT "B" TO RESTRICTIONS
SITE PLAN AND OTHER PLANS AND SPECIFICATIONS

Sent via email: manager@parchment.org

December 21, 2023

Ms. Nancy Stoddard
City Manager
City of Parchment
650 South Riverview Drive
Parchment, MI 49004-1298

RE: Engineering Services Letter of Engagement (2024)

Dear Ms. Stoddard:

Prein&Newhof is pleased to present our Professional Services Agreement to provide as needed engineering services to the City of Parchment. P&N will provide engineering services as requested by the City Administration. If such services are not directly related to a specific project that has a separate agreement with the City to provide professional services, then we propose to perform these services at our normal hourly rates plus expenses billed monthly (fee schedule attached).

If this proposal meets with your approval, please sign and return the Professional Services Agreement as authorization to proceed. If you have any questions, please contact our office.

Sincerely,

Prein&Newhof



Michael A. Schwartz, P.E.

MAS:dlj

Enclosures: Professional Services Agreement (2 pg.) Terms & Conditions (3 pg.)
Fee Schedule (1 pg.)

Professional Services Agreement

This Professional Services Agreement is made this _____ day of _____, 20____ (“Agreement”) by and between Prein & Newhof, Inc. (“P&N”), of 1707 South Park Street, Suite 200, Kalamazoo, MI 49001, and City of Parchment (“Client”), of 650 South Riverview Drive, Parchment, MI 49004-1298.

WHEREAS Client intends to:

Obtain as needed Engineering Services.

NOW THEREFORE, for and in consideration of the terms and conditions contained herein, the parties agree as follows:

ARTICLE 1 – DESIGNATED REPRESENTATIVES

Client and P&N each designate the following individuals as their representatives with respect to the Project.

For P&N

For Client

Name: Michael A. Schwartz, P.E.
Title: Project Manager
Phone Number: (269) 372-1158
Facsimile Number: (616) 364-6955
Email: mschwartz@preinnewhof.com

Name: Nancy Stoddard
Title: City Manager
Phone Number: (269) 349-3785
Facsimile Number: (269) 345-5441
Email: manager@parchment.org

ARTICLE 2 – GENERAL CONDITIONS

This Agreement consists of this Professional Services Agreement and the following documents which by this reference are incorporated into and made a part of this Agreement.

- P&N Standard Terms and Conditions for Professional Services
- P&N Proposal dated December 21, 2023
- P&N Standard Rate Schedule
- P&N Supplemental Terms and Conditions
- Other:

ARTICLE 3 – ENGINEERING SERVICES PROVIDED UNDER THIS AGREEMENT:

Client hereby requests, and P&N hereby agrees to provide, the following services:

- P&N Scope of Services per Proposal dated December 21, 2023

Scope of Services defined as follows:

ARTICLE 4 – COMPENSATION:

Lump Sum for Services Described in Article 3 above - \$_____.

Additional services to be billed per P&N's Standard Rate Schedule in effect on the date the additional service are performed.

Hourly Billing Rates plus Reimbursable Expenses per P&N's Standard Rate Schedule in effect on the date services are performed.

Other:

ARTICLE 5 – ADDITIONAL TERMS (If any)

None

This Agreement constitutes the entire Agreement between P&N and Client and supersedes all prior written or oral understandings. This Agreement may not be altered, modified or amended, except in writing properly executed by authorized representatives of P&N and Client.

Accepted for:

Accepted for:

Prein&Newhof, Inc.

City of Parchment

By: _____

By: _____

Printed Name: Thomas C. Wheat, P.E.

Printed Name: _____

Title: Office Manager

Title: _____

Date: _____

Date: _____

Bill To/Ship To (if different)

Name: _____

Company: _____

Address: _____

Ph: _____

Fx: _____

Email: _____

Standard Terms & Conditions

- A. General** - As used in this Prein&Newhof Standard Terms and Conditions for Professional Services (hereinafter "Terms and Conditions"), unless the context otherwise indicates: the term "Agreement" means the Professional Services Agreement inclusive of all documents incorporated by reference including but not limited to this P&N Standard Terms and Conditions for Professional Services; the term "Engineer" refers to Prein & Newhof, Inc.; and the term "Client" refers to the other party to the Professional Services Agreement.

These Terms and Conditions shall be governed in all respects by the laws of the United States of America and by the laws of the State of Michigan.

- B. Standard of Care** - The standard of care for all professional and related services performed or furnished by Engineer under the Agreement will be the care and skill ordinarily used by members of Engineer's profession of ordinary learning, judgment or skill practicing under the same or similar circumstances in the same or similar community, at the time the services are provided.
- C. Disclaimer of Warranties** - Engineer makes no warranties, expressed or implied, under the Agreement or otherwise.
- D. Construction/Field Observation** - If Client elects to have Engineer provide construction/field observation, client understands that construction/field observation is conducted to reduce, not eliminate the risk of problems arising during construction, and that provision of the service does not create a warranty or guarantee of any type. In all cases, the contractors, subcontractors, and/or any other persons performing any of the construction work, shall retain responsibility for the quality and completeness of the construction work and for adhering to the plans, specifications and other contract documents.
- E. Construction Means and Methods** - Engineer shall not have control or charge of and shall not be responsible for construction means, methods, techniques, sequences, or procedures, or for any safety precautions and programs in connection with the construction work, for the acts or omissions of the Contractor, Subcontractors, or any other persons performing any of the construction work, or for the failure of any of them to carry out the construction work in accordance with the plans, specifications or other contract documents.
- F. Opinions of Probable Costs** - Client acknowledges that Engineer has no control over market or contracting conditions and that Engineer's opinions of costs are based on experience, judgment, and information available at a specific period of time. Client agrees that Engineer makes no guarantees or warranties, express or implied, that costs will not vary from such opinions.
- G. Client Responsibilities**
1. Client shall provide all criteria, Client Standards, and full information as to the requirements necessary for Engineer to provide the professional services. Client shall designate in writing a person with authority to act on Client's behalf on all matters related to the Engineer's services. Client shall assume all responsibility for interpretation of contract documents and construction observation/field observation during times when Engineer has not been contracted to provide such services and shall waive any and all claims against Engineer that may be connected thereto.
 2. In the event the project site is not owned by the Client, the Client must obtain all necessary permission for Engineer to enter and conduct investigations on the project site. It is assumed that the Client possesses all necessary permits and licenses required for conducting the scope of services. Access negotiations may be performed at additional costs. Engineer will take reasonable precaution to minimize damage to land and structures with field equipment. Client assumes responsibility for all costs associated with protection and restoration of project site to conditions existing prior to Engineer's performance of services.
 3. The Client, on behalf of all owners of the subject project site, hereby grants permission to the Engineer to utilize a small unmanned aerial system (sUAS) for purposes of aerial mapping data acquisition. The Client is responsible to provide required notifications to the property owners of the subject project site and affected properties where the sUAS services will be performed. The Engineer will operate the sUAS in accordance with applicable State and Federal Laws.
- H. Hazardous or Contaminated Materials/Conditions**
1. Client will advise Engineer, in writing and prior to the commencement of its services, of all known or suspected Hazardous or Contaminated Materials/Conditions present at the site.
 2. Engineer and Client agree that the discovery of unknown or unconfirmed Hazardous or Contaminated Materials/Conditions constitutes a changed condition that may require Engineer to renegotiate the scope of or terminate its services. Engineer and Client also agree that the discovery of said Materials/Conditions may make it necessary for Engineer to take immediate measures to protect health, safety, and welfare of those performing Engineer's services. Client agrees to compensate Engineer for any costs incident to the discovery of said Materials/Conditions.
 3. Client acknowledges that Engineer cannot guarantee that contaminants do not exist at a project site. Similarly, a site

which is in fact unaffected by contaminants at the time of Engineer's surface or subsurface exploration may later, due to natural phenomena or human intervention, become contaminated. The Client waives any claim against Engineer, and agrees to defend, indemnify and hold Engineer harmless from any claims or liability for injury or loss in the event that Engineer does not detect the presence of contaminants through techniques commonly employed.

4. The Client recognizes that although Engineer is required by the nature of the services to have an understanding of the laws pertaining to environmental issues, Engineer cannot offer legal advice to the Client. Engineer urges that the Client seek legal assistance from a qualified attorney when such assistance is required. Furthermore, the Client is cautioned to not construe or assume that any representations made by Engineer in written or conversational settings constitute a legal representation of environmental law or practice.
5. Unless otherwise agreed to in writing, the scope of services does not include the analysis, characterization or disposal of wastes generated during investigation procedures. Should such wastes be generated during this investigation, the Client will contract directly with a qualified waste hauler and disposal facility.

I. Underground Utilities – To the extent that the Engineer, in performing its services, may impact underground utilities, Engineer shall make a reasonable effort to contact the owners of identified underground utilities that may be affected by the services for which Engineer has been contracted, including contacting the appropriate underground utility locating entities and reviewing utility drawings provided by others. Engineer will take reasonable precautions to avoid damage or injury to **underground** utilities and other underground structures. Client agrees to hold Engineer harmless for any damages to below ground utilities and structures not brought to Engineers attention and/or accurately shown or described on documents provided to Engineer.

J. Insurance

1. Engineer will maintain insurance for professional liability, general liability, worker's compensation, auto liability, and property damage in the amounts deemed appropriate by Engineer. Client will maintain insurance for general liability, worker's compensation, auto liability, and property damage in the amounts deemed appropriate by Client. Upon request, Client and Engineer shall each deliver certificates of insurance to the other evidencing their coverages.
2. Client shall require Contractors to purchase and maintain commercial general liability insurance and other insurance as specified in project contract documents. Client shall cause Engineer, Engineer's consultants, employees, and agents to be listed as additional insureds with respect to any Client or Contractor insurances related to projects for which Engineer provides services. Client agrees and must have Contractors agree to have their insurers endorse these policies to reflect that, in the event of payment of any loss or damages, subrogation rights under these Terms and Conditions are hereby waived by the insurer with respect to claims against Engineer.

K. Limitation of Liability - The total liability, in the aggregate, of Engineer and Engineer's officers, directors, partners, employees, agents, and consultants, whether jointly, severally or individually, to Client and anyone claiming by, through, or under Client, for any and all injuries, losses, damages and expenses, whatsoever, arising out of, resulting from, or in any way related to the Project or the Agreement, including but not limited to the performance of services under the Agreement, from any cause or causes whatsoever, including but not limited to the negligence, professional errors or omissions, strict liability or breach of contract or warranty, expressed or implied, of Engineer or Engineer's officers, directors, partners, employees, agents, consultants, or any of them, shall not exceed the amount of the compensation paid to Engineer under this Agreement, or the sum of fifty thousand dollars and no cents (\$50,000.00), whichever is less. Recoverable damages shall be limited to those that are direct damages. Engineer shall not be responsible for or held liable for special, indirect or consequential losses or damages, including but not limited to loss of use of equipment or facility, and loss of profits or revenue.

Client acknowledges that Engineer is a corporation and agrees that any claim made by Client arising out of any act or omission of any director, officer, or employee of Engineer, in the execution or performance of the Agreement, shall be made against Engineer and not against such director, officer, or employee.

L. Documents and Data

1. All documents prepared or furnished by Engineer under the Agreement are Engineer's instruments of service, and are and shall remain the property of Engineer.
2. Hard copies of any documents provided by Engineer shall control over documents furnished in electronic format. Client recognizes that data provided in electronic format can be corrupted or modified by the Client or others, unintentionally or otherwise. Consequently, the use of any data, conclusions or information obtained or derived from electronic media provided by Engineer will be at the Client's sole risk and without any liability, risk or legal exposure to Engineer, its employees, officers or consultants.
3. Any extrapolations, conclusions or assumptions derived by the Client or others from the data provided to the Client, either in hard copy or electronic format, will be at the Client's sole risk and full legal responsibility.

- M. Differing Site Conditions** - Client recognizes that actual site conditions may vary from the assumed site conditions or test locations used by Engineer as the basis of its design. Consequently, Engineer does not guarantee or warrant that actual site conditions will not vary from those used as the basis of Engineer's design, interpretations and recommendations. Engineer is not responsible for any costs or delays attributable to differing site conditions. .
- N. Terms of Payment** - Unless alternate terms are included in the Agreement, Client will be invoiced on a monthly basis until the completion of the **Project**. All monthly invoices are payable within 30 days of the date of the invoice. Should full payment of any invoice not be received within 30 days, the amount due shall bear a service charge of 1.5 percent per month or 18 percent per year plus the cost of collection, including reasonable attorney's fees. If Client has any objections to any invoice submitted by Engineer, Client must so advise Engineer in writing within fourteen (14) days of receipt of the invoice. Unless otherwise agreed, Engineer shall invoice Client based on hourly billing rates and direct costs current at the time of service performance. Outside costs such as, but not limited to, equipment, meals, lodging, fees, and subconsultants shall be actual costs plus 10 percent. In addition to any other remedies Engineer may have, Engineer shall have the absolute right to cease performing any services in the event payment has not been made on a current basis.
- O. Termination** - Either party may terminate services, either in part or in whole, by providing 10 calendar days written notice thereof to the other party. In such an event, Client shall pay Engineer for all services performed prior to receipt of such notice of **termination**, including reimbursable expenses, and for any shut-down costs incurred. Shut-down costs may, at Engineer's discretion, include expenses incurred for completion of analysis and records necessary to document Engineer's files and to protect its professional reputation.
- P. Severability and Waiver of Provisions** - Any provision or part of the Agreement held to be void or unenforceable under any laws or regulations shall be deemed stricken, and all remaining provisions shall continue to be valid and binding upon Client and P&N, who agree that the Agreement shall be reformed to replace such stricken provision or part thereof with a valid and enforceable **provision** that comes as close as possible to expressing the intention of the stricken provision. Non-enforcement of any provision by either party shall not constitute a waiver of that provision, nor shall it affect the enforceability of that provision or of the remainder of the Agreement.
- Q. Dispute Resolution** - If a dispute arises between the parties relating to the Agreement, the parties agree to use the following procedure prior to either party pursuing other available remedies:
1. Prior to commencing a lawsuit, the parties must attempt mediation to resolve any dispute. The parties will jointly appoint a mutually acceptable person not affiliated with either of the parties to act as mediator. If the parties are unable to agree on the mediator within twenty (20) calendar days, they shall seek assistance in such regard from the Circuit Court of the State and County wherein the Project is located, who shall appoint a mediator. Each party shall be responsible for paying all costs and expenses incurred by it, but shall split equally the fees and expenses of the mediator. The mediation shall proceed in accordance with the procedures established by the mediator.
 2. The parties shall pursue mediation in good faith and in a timely manner. In the event the mediation does not result in resolution of the dispute within thirty (30) calendar days, then, upon seven (7) calendar days' written notice to the other party, either party may pursue any other available remedy.
 3. In the event of any litigation arising from the Agreement, including without limitation any action to enforce or interpret any terms or conditions or performance of services under the Agreement, Engineer and Client agree that such action will be brought in the District or Circuit Court for the County of Kent, State of Michigan (or, if the federal courts have exclusive jurisdiction over the subject matter of the dispute, in the U.S. District Court for the Western District of Michigan), and the parties hereby submit to the exclusive jurisdiction of said court.
- R. Force Majeure** - Engineer shall not be liable for any loss or damage due to failure or delay in rendering any services called for under the Agreement resulting from any cause beyond Engineer's reasonable control.
- S. Assignment** - Neither party shall assign its rights, interests or obligations under this Agreement without the express written consent of the other party.
- T. Modification** - The Agreement may not be modified except in writing signed by the party against whom a modification is sought to be enforced.
- U. Survival** - All express representations, indemnifications, or limitations of liability included in the Agreement shall survive its completion or termination for any reason.
- V. Third-Party Beneficiary** - Client and Engineer agree that it is not intended that any provision of this Agreement establishes a third-party beneficiary giving or allowing any claim or right of action whatsoever by a third party.
- W. Fee Escalation** - Engineer's fees are based on its billing rates, which are adjusted annually. For multi-year projects, Engineer's fees incorporate an estimate of future billing rates. If inflation causes actual billing rates to exceed these estimates, Engineer reserves the right to adjust its fees accordingly.

Fee Schedule

Effective January, 2024

Unless otherwise agreed, Prein&Newhof bills for time spent on a project at the hourly rate of the employees assigned. Identified below are the hourly rates for various employee classifications. Hourly billing rates include overhead, fringe benefits, and profit.

<u>Employee Classification</u>	<u>Hourly Billing Rate</u>
Senior Project Manager II, Senior Professional V	\$194
Senior Project Manager, Senior Professional IV	\$179
Project Manager, Senior Engineer III, Senior Professional III, Landscape Architect III, Senior Technician V	\$164
Senior Engineer II, Senior Professional II, Surveyor IV, Senior Technician IV, Geologist, Lab Manager	\$153
Senior Engineer, Senior Professional, Landscape Architect II, Surveyor III, Senior Technician III	\$143
Engineer II, Surveyor II, Senior Technician II, Senior Office Technician	\$134
Engineer, Surveyor, Senior Technician	\$124
Landscape Architect, Technician IV	\$114
Technician III, Lab Technician, Office Technician	\$104
Technician II	\$91
Technician	\$78
<u>Project Expenses</u>	<u>Billing Rate</u>
Mileage	\$0.70/mile
Direct expenses and sub-consultant costs	Invoice amount plus a 10% handling charge

Prein&Newhof

**CITY OF PARCHMENT
KALAMAZOO COUNTY, MICHIGAN**

**CERTIFIED RESOLUTION APPROVING CONTRACT 23-5545 BETWEEN THE
MICHIGAN DEPARTMENT OF TRANSPORTATION ("DEPARTMENT") AND THE
CITY OF PARCHMENT ("REQUESTING PARTY") AND AUTHORIZING THE
MAYOR AND CITY CLERK TO SIGN CONTRACT**

RESOLUTION # _____

Minutes of a regular meeting held by the Parchment City Commission on
January _____, 2024, at the Parchment City Hall.

Present: _____

Absent: _____

The following preamble and resolution were offered by _____ and
supported by _____.

WHEREAS, the City of Parchment ("REQUESTING PARTY") desires to enter into
a contract with the Michigan Department of Transportation ("DEPARTMENT"), Contract
No. 23-5545 ("CONTRACT"), for the purpose of fixing the rights and obligations for the
project set forth therein described as:

Hot mix asphalt cold milling and paving along Haymac Drive from Clarnin
Street to G Avenue including speed humps, hot mix asphalt cold milling and
paving along Island Avenue from Riverview Drive westerly approximately
291 feet, and along Link Lane from Shoppers Lane to Commerce Lane; and
all together with necessary related work.

and

WHEREAS, the CONTRACT is to be partially funded by Transportation Economic
Development Funds ("TED FUNDS"); and

WHEREAS, the City Commission of the REQUESTING PARTY has reviewed the contract and is willing to enter into the above referenced Contract.

NOW, THEREFORE, BE IT HEREBY RESOLVED that REQUESTING PARTY does hereby authorize its Mayor and City Clerk to sign the Contract attached hereto approving the Contract and becoming binding upon the REQUESTING PARTY upon signature by its Mayor and City Clerk and by the Director of the Michigan Department of Transportation ("MDOT").

IT IS FURTHER RESOLVED that all Resolutions inconsistent herewith are hereby voided and shall be of no further force and effect.

RESOLUTION DECLARED ADOPTED.

CERTIFICATE

I, Shannon Stutz, Clerk, do hereby certify that the foregoing Resolution is a true and original copy of a Resolution Approving Contract 23-5545 Between the Michigan Department of Transportation ("Department") and the City of Parchment ("Requesting Party") and Authorizing the Mayor and City Clerk to Sign Contract adopted by the City of Parchment at a regular meeting thereof held on January _____, 2024.

AYES _____

NAYS _____

ABSTENTIONS _____

ABSENT _____

Shannon Stutz, Parchment City Clerk

CERTIFICATION

I, Shannon Stutz, Clerk, do hereby certify that the Contract was duly adopted by the Parchment City Commission on January _____, 2024, and that a certified copy of this Resolution shall be attached to the Contract.

Shannon Stutz, Parchment City Clerk



CITY OF PARCHMENT

Proclamation

Whereas, on January 2, 2024, Mr. Phillip Wolthuis celebrated over 31 years of service to the City of Parchment and that achievement is significant; and,

Whereas, Phillip Wolthuis started as a Public Works Worker and by December 28, 2018 was promoted to Superintendent of Public Works; and,

Whereas, through his time as an employee of the Department of Public Works, Phil's dedicated service is evident daily, through his care of the City's infrastructure, facilities, equipment and assets which improve the look, functionality and safety for City residents and staff alike; our City is better off because of Phil's work; and,

Whereas, Phil has distinguished himself as a steady, hard-working, dependable worker, who comes into work with a smile, friendly demeanor and dedication to fulfilling his duties with pride and leadership while working as the Superintendent of Public Works for the City of Parchment; and,

Whereas, the constant, reliable support from employees like Phil is vital to the efficient operation of the Public Works Department's assigned tasks and services that ensure the City's upkeep, safety, and comfort; and,

Whereas, the City of Parchment greatly depends on the quality and effectiveness of Public Works staff like Phil who, day-in and day-out, often with little recognition, works to make this City, its staff and residents better off because of his daily focus on doing the best he can; and,

Now, Therefore, I Robert D Britigan III, by virtue of the authority vested in me as Mayor of the City of Parchment, do hereby recognize Phillip Wolthuis for over 31 years of work on January 2, 2024, and join with the City staff, residents, and the City Commission to extend our appreciation and gratitude to Phil for his hard work, kind spirit, and commitment to reliable maintenance over the past 31+ years.

In Testimony Whereof, I have hereunto set my Hand and caused the Seal of the City of Parchment, Kalamazoo County, Michigan to be affixed this 2nd day of January 2024.

Robert D. Britigan, III, Mayor