

**HUDSONVILLE CITY COMMISSION
SPECIAL SESSION**

August 27, 2024 • 6:00 PM

HUDSONVILLE CITY HALL COMMISSION CHAMBER

AGENDA

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. PUBLIC COMMENTS**

PUBLIC HEARING

4. Public Hearing on Commercial Rehabilitation Application for Prospect Flats, LLC.
Motion to approve Resolution No. 24-1800 approving the application of Prospect Flats, LLC for a Commercial Rehabilitation Exemption Certificate for the amount of \$8,980,000 for a period of ten (10) years. Roll Call.

NEW BUSINESS

5. Metro Act Permit
Motion to authorize the City Manager to process the Metro Act Application submitted by Metronet and to permit the application after ensuring the application is complete. Roll Call.
6. Discussion Items
 - a. City Hall Community Room – Sea Cadets
 - b. Ottawa County Road Commission – Water Bond

ADJOURNMENT

7. Motion to adjourn the meeting.



ADMINISTRATIVE OFFICES
3275 Central Blvd
Hudsonville MI 49426-1450
(616) 669-0200 Ext. 1412
(616) 669-2330 fax

MEMORANDUM

DATE: August 21, 2024

TO: Mayor and City Commissioners

FROM: Jill Gruppen
City Clerk

RE: Commercial Rehabilitation Exemption Certificate – Prospect Flats, LLC

A public hearing will be held at the special August 27, 2024 City Commission meeting to consider the application received from Prospect Flats, LLC requesting a Commercial Rehabilitation Exemption Certificate for real property in the amount of \$8,980,000. Attached is a copy of the application. Trevor Petroelje, Manager of Prospect Flats, LLC, will be present to answer any questions you may have regarding the application. They are requesting that the City Commission approve the exemption for a period of 10 years.

If the City Commission approves of this Commercial Rehabilitation Exemption, the attached Resolution No. 24-1800 can be approved. The following motion may be offered:

MOTION TO APPROVE RESOLUTION NO. 24-1800 APPROVING THE APPLICATION OF PROSPECT FLATS, LLC FOR A COMMERCIAL REHABILITATION EXEMPTION CERTIFICATE FOR REAL PROPERTY IN THE AMOUNT OF \$8,980,000, FOR A PERIOD OF 10 YEARS.

**CITY OF HUDSONVILLE
OTTAWA COUNTY, MICHIGAN**

RESOLUTION NO. 24-1800

**RESOLUTION TO APPROVE A COMMERCIAL REHABILITATION EXEMPTION
CERTIFICATE APPLICATION FOR PROSPECT FLATS, LLC, LOCATED AT 3233
PROSPECT STREET.**

Commissioner ____, supported by Commissioner ____, moved the adoption of the following resolution:

WHEREAS, the City of Hudsonville legally established the Commercial Rehabilitation District on June 11, 2024, after a public hearing held on June 11, 2024; and

WHEREAS, the taxable value of the property proposed to be exempt plus the aggregate taxable value of property previously exempt and currently in force under Public Act 210 of 2005 does not exceed 5% of the total taxable value of the City of Hudsonville; and

WHEREAS, a public hearing was held on the application as provided by section 4(2) of Public Act 210 of 2005 on August 27, 2024; and

WHEREAS, Prospect Flats, LLC is not delinquent in any taxes related to the facility; and

WHEREAS, the application is for commercial property as defined in section 2(a) of Public Act 210 of 2005; and

WHEREAS, the applicant, Prospect Flats, LLC has provided answers to all required questions under the application instructions to the City of Hudsonville; and

WHEREAS, the City of Hudsonville requires that rehabilitation of the facility shall be completed by September 1, 2025; and

WHEREAS, the commencement of the rehabilitation of the facility did not occur more than six months prior to the filing of the application for exemption; and

WHEREAS, the application relates to a rehabilitation program that when completed constitutes a qualified facility within the meaning of Public Act 210 of 2005 and that is situated within a Commercial Rehabilitation District established under Public Act 210 of 2005; and

WHEREAS, completion of the qualified facility is calculated to, and will at the time of issuance of the certificate, have the reasonable likelihood to increase commercial activity, create employment, and increase the number of residents in the community in which the facility is situated; and

WHEREAS, the rehabilitation includes improvements aggregating 10% or more of the true cash value of the property at commencement of the rehabilitation as provided by section 2(j) of Public Act 210 of 2005.

NOW, THEREFORE, BE IT RESOLVED by the City Commission of the City of Hudsonville

Be and hereby is granted a Commercial Rehabilitation Exemption for the real property, excluding land, located in a Commercial Rehabilitation District located at 3233 Prospect Street for a period of 10 years, pursuant to the provisions of PA 210 of 2005, as amended.

YEAS: Commissioners _____

NAYS: Commissioners _____

ABSTAIN: Commissioners _____

ABSENT: Commissioners _____

RESOLUTION DECLARED ADOPTED.

Dated: August 27, 2024

Jill Gruppen
City Clerk

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Commission of the City of Hudsonville at a special meeting held on August 27, 2024 and that public notice of said meeting was given pursuant to and in compliance with Act 267 of the Public Acts of Michigan of 1976, as amended.

Dated: _____

Jill Gruppen
City Clerk

RECEIVED

JUL 30 2024

Michigan Department of Treasury
4507 (Rev. 12-20)

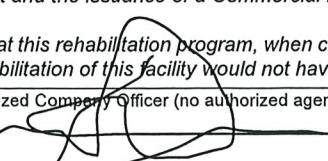
Application for Commercial Rehabilitation Exemption Certificate

City of Hudsonville

Issued under authority of Public Act 210 of 2005, as amended.

LOCAL GOVERNMENT UNIT USE ONLY	
Application No.	Date Received
STATE USE ONLY	
Application No.	Date Received
24-01	7/30/24

Read the instructions page before completing the form. **This application should be filed after the commercial rehabilitation district is established.** The applicant must complete Parts 1, 2 and 3 and file the application form (with required attachments) with the clerk of the local governmental unit (LGU). Attach the legal description of property on a separate sheet. This project will not receive tax benefits until approved by the State Tax Commission (STC). Applications received after October 31 may not be acted upon in the current year. This application is subject to audit by the STC.

PART 1: OWNER / APPLICANT INFORMATION (applicant must complete all fields)			
Applicant (Company) Name (applicant must be the owner of the facility) PROSPECT FLATS, LLC		NAICS or SIC Code 531110	
Facility's Street Address 3233 PROSPECT STREET	City HUDSONVILLE	State MI	ZIP Code
Name of City, Township or Village (taxing authority) HUDSONVILLE	County OTTAWA	School District Where Facility is Located Hudsonville	
<input checked="" type="checkbox"/> City <input type="checkbox"/> Township <input type="checkbox"/> Village			
Date of Rehabilitation Commencement (mm/dd/yyyy) 09/01/2024	Planned Date of Rehabilitation Completion (mm/dd/yyyy) 09/01/2025		
Estimated Cost of Rehabilitation \$8,980,000	Number of Years Exemption Requested (1-10) 10		
Expected Project Outcomes (check all that apply)			
<input checked="" type="checkbox"/> Increase Commercial Activity <input type="checkbox"/> Retain Employment <input checked="" type="checkbox"/> Revitalize Urban Areas <input checked="" type="checkbox"/> Create Employment <input checked="" type="checkbox"/> Prevent Loss of Employment <input checked="" type="checkbox"/> Increase Number of Residents in Facility's Community			
No. of jobs to be created due to facility's rehabilitation 2	No. of jobs to be retained due to facility's rehabilitation 0	No. of construction jobs to be created during rehabilitation 95	
PART 2: APPLICATION DOCUMENTS			
Prepare and attach the following items:			
<input checked="" type="checkbox"/> General description of the facility (year built, original use, most recent use, number of stories, square footage)		<input checked="" type="checkbox"/> Statement of the economic advantages expected from the exemption	
<input checked="" type="checkbox"/> Description of the qualified facility's proposed use		<input checked="" type="checkbox"/> Legal description	
<input checked="" type="checkbox"/> Description of the general nature and extent of the rehabilitation to be undertaken		<input type="checkbox"/> Description of the "underserved area" (Qualified Retail Food Establishments only)	
<input checked="" type="checkbox"/> Descriptive list of the fixed building equipment that will be a part of the qualified facility		<input type="checkbox"/> Commercial Rehabilitation Exemption Certificate for Qualified Retail Food Establishments (Form 4753) (Qualified Retail Food Establishments only)	
<input checked="" type="checkbox"/> Time schedule for undertaking and completing the facility's rehabilitation			
PART 3: APPLICANT CERTIFICATION			
Name of Authorized Company Officer (no authorized agents) TREVOR PETROELJE		Telephone Number (616) 813-9879	
Fax Number		E-mail Address TREVORP@WORKWITHMOXIE.COM	
Street Address 3437 EASTERN AVE SE.	City GRAND RAPIDS	State MI	ZIP Code 49508
<p><i>I certify that, to the best of my knowledge, the information contained herein and in the attachments is truly descriptive of the property for which this application is being submitted. Further, I am familiar with the provisions of Public Act 210 of 2005, as amended, and to the best of my knowledge the company has complied or will be able to comply with all of the requirements thereof which are prerequisite to the approval of the application by the local governmental unit and the issuance of a Commercial Rehabilitation Exemption Certificate by the State Tax Commission.</i></p> <p><i>I further certify that this rehabilitation program, when completed, will constitute a rehabilitated facility, as defined by Public Act 210 of 2005, as amended, and that the rehabilitation of this facility would not have been undertaken without my receipt of the exemption certificate.</i></p>			
Signature of Authorized Company Officer (no authorized agents) 		Title MEMBER & MANAGER	Date 07/26/2024

PART 4: ASSESSOR RECOMMENDATIONS (assessor of LGU must complete Part 4)

Provide the Taxable Value and State Equalized Value of Commercial Property, as provided in Public Act 210 of 2005, as amended, for the tax year immediately preceding the effective date of the certificate (December 31 of the year approved by the STC).

	Taxable Value	State Equalized Value (SEV)
Land	\$279,100	\$244,352
Building(s)	\$76,586	\$122,754

The property to be covered by this exemption may not be included on any other specific tax roll while receiving the Commercial Rehabilitation Exemption. For example, property on the Eligible Tax Reverted Property (Land Bank) specific tax roll cannot be granted a Commercial Rehabilitation Exemption that would also put the same property on the Commercial Rehabilitation specific tax roll.

By checking this box I certify that, if approved, the property to be covered by this exemption will be on the Commercial Rehabilitation Exemption specific tax roll and not on any other specific tax roll.

Name of Local Government Body
City of Hudsonville

Name of Assessor (first and last name) Telephone Number
Brian Busscher (616) 738-4819

Fax Number E-mail Address
bbusscher@miottawa.org

I certify that, to the best of my knowledge, the information contained in Part 4 of this application is complete and accurate.

Assessor's Signature *Brian Busscher* Date 07/31/2024

PART 5: LOCAL GOVERNMENT ACTION (clerk of LGU must complete Part 5)

Action Taken By LGU (attach a certified copy of the resolution):
 Exemption approved for _____ years, ending December 30, _____ (not to exceed 10 years)
 Exemption Denied

Date District Established (attach resolution for district) Local Unit Classification Identification (LUCI) Code School Code
 June 11, 2024 70-2050 70190

PART 6: LOCAL GOVERNMENT CLERK CERTIFICATION (clerk of LGU must complete Part 6)

Clerk's Name (first and last) Telephone Number
 Jill Gruppen 616-669-0200

Fax Number E-mail Address
 616-669-2330 jgruppen@hudsonville.org

Mailing Address City State ZIP Code
 3275 Central Blvd Hudsonville MI 49426

LGU Contact Person for Additional Information LGU Contact Person Telephone Number Fax Number
 Jill Gruppen 616-669-0200 616-669-2330

I certify that, to the best of my knowledge, the information contained in this application and attachments is complete and accurate and hereby request the State Tax Commission issue a Commercial Rehabilitation Exemption Certificate, as provided by Public Act 210 of 2005, as amended.

Clerk's Signature Date

For faster service, the LGU should email the completed application and required documents to PTE@michigan.gov.

An additional submission option is to mail the completed application and required documents to:

Michigan Department of Treasury, State Tax Commission
 P.O. Box 30471
 Lansing, MI 48909

Instructions for Completing Form 4507

Application for Commercial Rehabilitation Exemption Certificate

The Commercial Rehabilitation Exemption Certificate was created by Public Act 210 of 2005, as amended. The application is initially filed, reviewed, and approved by the LGU and then reviewed and approved by the State Tax Commission. According to Section 3 of Public Act 210 of 2005, as amended, the LGU must establish a Commercial Rehabilitation District. **Rehabilitation may commence after establishment of the Commercial Rehabilitation District.**

Owner / Applicant Instructions

1. Complete Parts 1, 2 and 3 of application
2. Prepare and attach all documents required under Part 2 of the application:
 - a. General description of the facility (year built, original use, most recent use, number of stories, square footage)
 - b. Description of the qualified facility's proposed use
 - c. Description of the general nature and extent of the rehabilitation to be undertaken
 - d. Descriptive list of the fixed building equipment that will be a part of the qualified facility
 - e. Time schedule for undertaking and completing the facility's rehabilitation
 - f. Statement of the economic advantages expected from the exemption
 - g. Legal description of the facility
 - h. Description of the "underserved area" (Qualified Retail Food Establishments only)
3. Qualified Retail Food Establishments:
 - a. Complete Part 1 of the *Commercial Rehabilitation Exemption Certification for Qualified Retail Food Establishments* (Form 4753). Submit to LGU clerk along with application.
 - b. Describe the "underserved area" and provide supporting documentation to show how the project area meets one or more of the following requirements:
 - i. An area that contains a low to moderate income census tract(s) which, based on per capita income, are tracts below the 66.67 percentile (\$23,643 in 1999 dollars) and a below average supermarket density
 - ii. An area that has a supermarket customer base with more than 50% living in a low income census tract(s) which based on the per capita income, are tracts below the 66.67 percentile (\$23,643 in 1999 dollars)
 - iii. An area that has demonstrated significant access limitations due to travel distance and has no Qualified Retail Food Establishments within two miles of the geo-center for an urban area or has no Qualified Retail Food Establishments within nine miles of the geo-center for a rural area.

For assistance in determining the project area's eligibility, visit www.michigan.gov/propertytaxexemptions and click on Commercial Rehabilitation Act.
4. Submit the application and all attachments to the clerk of the LGU where the property is located.

LGU Assessor Instructions

Complete and sign Part 4 of the application.

LGU Clerk Instructions

1. After LGU action, complete Part 5 of the application.
2. After reviewing the application for complete and accurate information, complete Part 6 and sign the application to certify the application meets the requirements as outlined by Public Act 210 of 2005, as amended.
3. Assemble the following for a complete application:
 - a. Completed *Application for Commercial Rehabilitation Exemption Certificate* (Form 4507)
 - b. All required attachments listed under Part 2
 - c. A copy of the resolution by the LGU establishing the district
 - d. A certified copy of the resolution by the LGU approving the application
 - e. Complete Form 4753 (Qualified Retail Food Establishments only)
4. **For faster service, email the completed application and additional required documentation to PTE@michigan.gov.** An additional submission option is to mail the completed application and required documents to: Michigan Department of Treasury, State Tax Commission, P.O. Box 30471, Lansing, MI 48909

Application Deadline

The State Tax Commission must receive complete applications on or before October 31 to ensure processing and certificate issuance for the following tax year. Applications received after October 31 may not be processed in time for certificate issuance for the following tax year.

If you have questions or need additional information or sample documents, visit www.michigan.gov/propertytaxexemptions or call 517-335-7491.

PROSPECT FLATS – GENERAL PROJECT INFORMATION

ADDRESS:

- 3233 Prospect St. Hudsonville, MI 49426

DESCRIPTION:

- 5 lots will be combined for this 41 unit multifamily development in Hudsonville. 4 of the lots are currently vacant and owned by the Hudsonville DDA. There is one (1) existing building on site which is going to be demolished. This building formerly housed an automotive appraisal business.

DETAILED PROJECT INFO:

- 41 Units with construction beginning Fall 2024.
 - Building A: 3 floors/ 28,479 SF
 - Building B: 3 floors/ 11,214 SF
 - (22) One Bed Units and (19) Two Bed Units with open floor plans.
 - First floor units will have 10' ceilings and floors 2/3 will have 9' ceiling.
 - All unit entry / building entry doors to have smart access locks controlled through phone / FOB.
 - Solid surface counters, upgraded cabinets, 36" upper cabinets, kitchen islands, tile backsplash.
 - Premium LVT flooring throughout units, walk off carpet at first floor common areas, rubber stair treads.
 - Washer/dryer, stainless steel appliances, upgraded black plumbing fixtures.
 - Smart Home technology including Smart thermostats in units, units prewired for Wi-Fi, security cameras, Smart door access, pay rent via app, etc.
 - Window coverings.
 - 1.5 parking spaces per unit parking ratio.

COMMUNITY AMENITIES:

- Located in downtown Hudsonville, urban setting, walkable to multiple restaurants, retail, and High School/Fieldhouse.
- 2 miles to Meijer and Aldi.
- 13 miles to Grand Rapids and 15 miles to Holland.
- Furnished Fitness Room
- Community Room / Lounge / Coffee Bar
- EV Charging Station
- Bike Share
- Outdoor space with seating.
- Smart Building Technology

CONSTRUCTION SCHEDULE:

- Please see accompanying sheet

ECONOMIC ADVANTAGES EXPECTED FROM THE EXEMPTION:

- A tax exemption for a 41-unit apartment complex in downtown Hudsonville can ignite a chain reaction of positive economic development. Some of the key benefits are highlighted below:



Revitalizing the Downtown Core:

- **Hub of Activity:** New residents bring increased foot traffic to local businesses, stimulating sales and creating a more vibrant downtown atmosphere.
- **Attracting Complementary Businesses:** The apartment complex can serve as a magnet for complementary businesses such as cafes, shops, and restaurants, enhancing the downtown's appeal.
- **Improved Aesthetics:** New construction often enhances the overall appearance of a downtown area, increasing property values and attracting further investment.

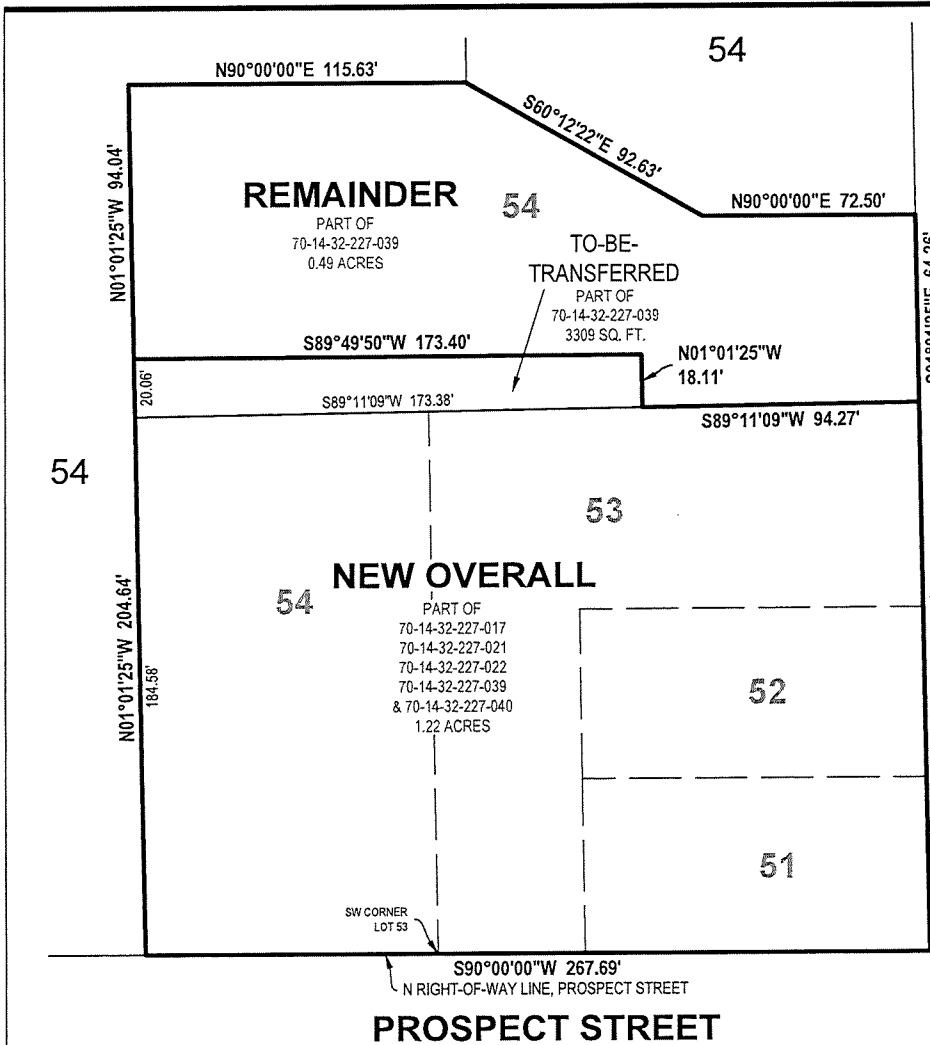
Economic Ripple Effects:

- **Job Creation Beyond Construction:** The ongoing operation of the apartment complex requires property management, maintenance, and on-site amenities like the fitness center, generating additional employment opportunities.
- **Increased Spending Power:** New residents contribute to the local economy through spending on groceries, utilities, entertainment, and other goods and services.
- **Support for Local Businesses:** A thriving downtown supports existing businesses, helping them to expand, hire more employees, and contribute to the local tax base.

Long-Term Financial Gains:

- **Accelerated Tax Revenue Growth:** While there is an initial tax revenue loss, the long-term economic benefits, including increased property values, sales tax revenue, and income tax revenue, will far outweigh the short-term sacrifice.
- **Enhanced Property Values:** The presence of a new, well-maintained apartment complex can positively impact the value of surrounding properties, increasing the overall property tax base.
- **By investing in a tax exemption for this apartment complex, Hudsonville is making a strategic move to bolster its economy, improve its quality of life, and position itself for continued growth and prosperity.**





DESCRIPTIONS

"TO-BE-TRANSFERRED" DESCRIPTION: Part of Lot 54, Ohlman's Assessor's Plat No. 1, being part of the Northeast 1/4 of Section 32, Town 6 North, Range 13 West, Village (now City) of Hudsonville, as recorded in Liber 9 of Plats, Page 22, Ottawa County Records, described as: Beginning at the Southeast corner of Lot 51 of said Plat; thence N01°01'25"W 188.38 feet along the Westerly right-of-way line of 32nd Avenue; thence S89°11'09"W 94.27 feet along the North line of Lot 53 of said Plat to the Point of Beginning; thence continuing S89°11'09"W 173.38 feet; thence N01°01'25"W 20.06 feet; thence N89°49'50"E 173.40 feet; thence S01°01'25"E 18.11 feet to the Point of Beginning. Contains 3309 square feet. Subject to easements, restrictions, and rights-of-way of record.

"NEW OVERALL" DESCRIPTION: Part of Lots 51-54, Ohlman's Assessor's Plat No. 1, being part of the Northeast 1/4 of Section 32, Town 6 North, Range 13 West, Village (now City) of Hudsonville, as recorded in Liber 9 of Plats, Page 22, Ottawa County Records, described as: Beginning at the Southeast corner of said Lot 51; thence S90°00'00"W 267.69 feet along the Northerly right-of-way of Prospect Street; thence N01°01'25"W 204.64 feet, parallel with the Westerly right-of-way line of 32nd Avenue; thence N89°49'50"E 173.40 feet; thence S01°01'25"W 18.11 feet; thence N89°11'09"E 94.27 feet along the North line of said Lot 53; thence S01°01'25"E 188.38 feet along said Westerly right-of-way line to the Point of Beginning. Contains 1.22 acres. Subject to easements, restrictions, and rights-of-way of record.

"REMAINDER" DESCRIPTION: Part of Lot 54, Ohlman's Assessor's Plat No. 1, being part of the Northeast 1/4 of Section 32, Town 6 North, Range 13 West, Village (now City) of Hudsonville, as recorded in Liber 9 of Plats, Page 22, Ottawa County Records, described as: Commencing at the Southeast corner of Lot 51 of said Plat; thence N01°01'25"W 188.38 feet along the Westerly right-of-way line of 32nd Avenue to the Point of Beginning; thence S89°11'09"W 94.27 feet along the North line of Lot 53 of said Plat; thence N01°01'25"W 18.11 feet; thence S89°49'50"W 173.40 feet; thence N01°01'25"W 94.04 feet; thence N90°00'00"E 115.63 feet, parallel with the Northerly right-of-way line of Prospect Street; thence S60°12'22"E 92.63 feet; thence N90°00'00"E 72.50 feet; thence S01°01'25"E 64.26 feet along said Westerly right-of-way line to the Point of Beginning. Contains 0.49 acres. Subject to easements, restrictions, and rights-of-way of record.

By: *Scott A. Hendges*
 Scott A. Hendges Licensed Professional Surveyor No. 80831047953 License No. 4001047953

SCALE: 1" = 50'

MOXIE Real Estate + Development
 Trevor Petroelje
 5020 E Beltline Avenue NE, Suite 201F
 Grand Rapids, MI 49525

Prospect Flats
 3233 Prospect Street

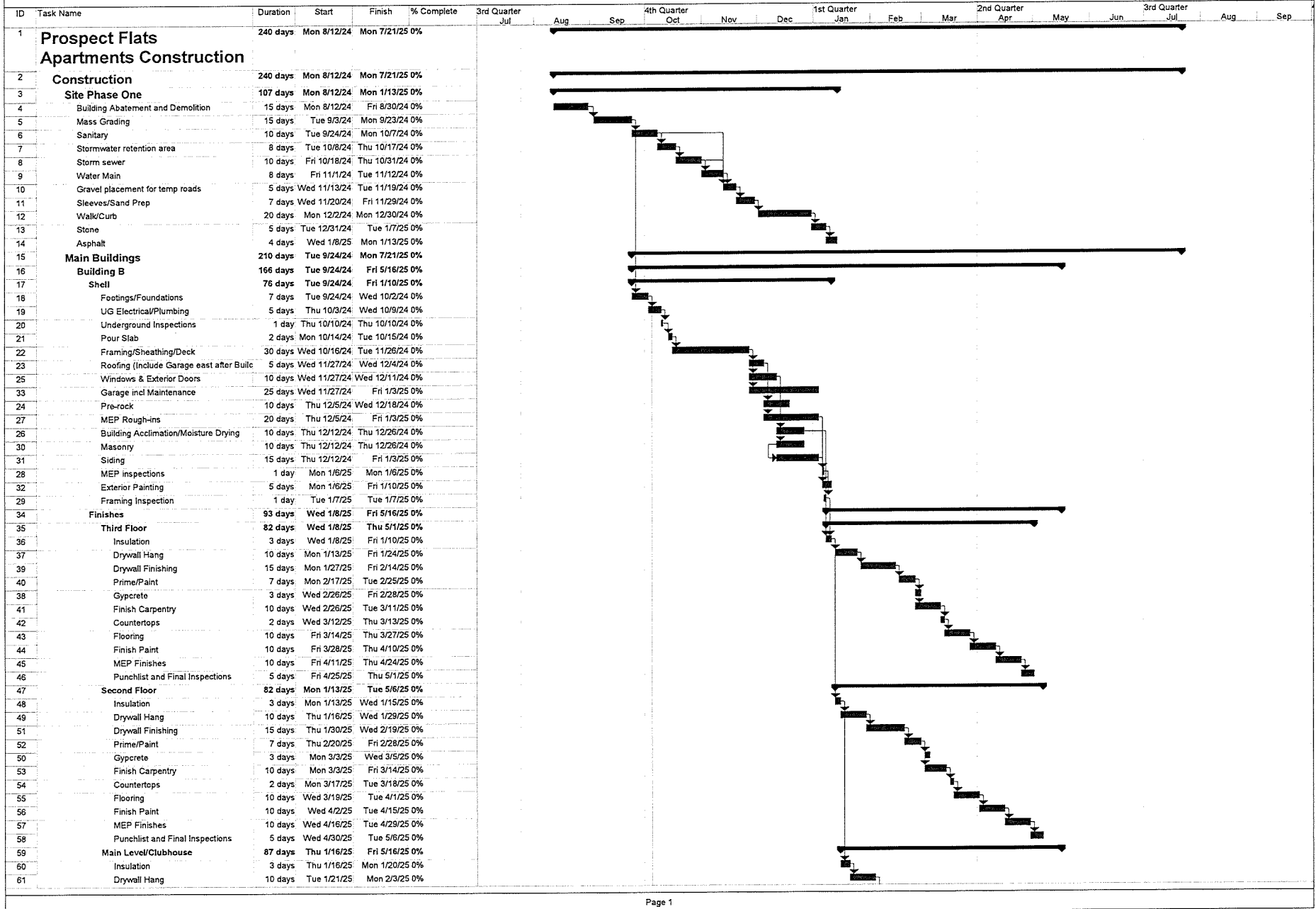
DRAWN BY: JV DATE: 07-15-2024 PRJ #: 23201776DSC
 REV. BY: REV. DATE: 1 OF 1
 REV.:

STATE OF MICHIGAN
 Scott A. Hendges
 HENDGES
 LICENSED PROFESSIONAL SURVEYOR
 NORTH

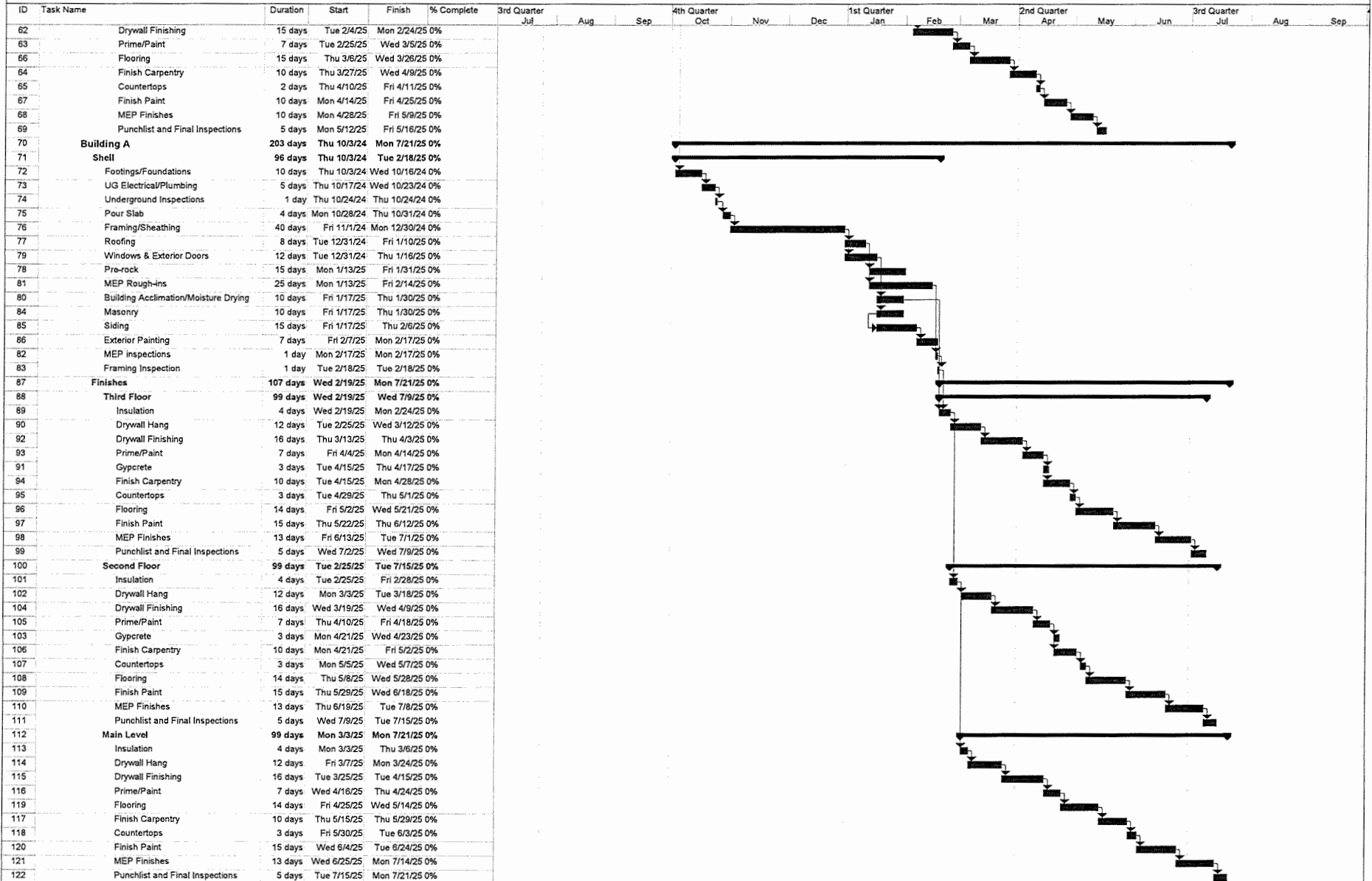
NEDERVELD
 www.nederveld.com • 800.222.1888
 Holland
 347 Hoover Blvd.
 Holland, MI 49423
 Ann Arbor, Chicago, Columbus,
 Grand Rapids, Indianapolis

This sketch was made from the legal description shown above. The description should be compared with the Abstract of Title or Title Policy for accuracy, easements and exceptions.

Prospect Flats Apartments
Preliminary Schedule
7-25-24



Prospect Flats Apartments
Preliminary Schedule
7-25-24





CITY CLERK'S OFFICE
3275 Central Blvd
Hudsonville MI 49426-1450
(616) 669-0200 Ext. 1412
(616) 669-2330 fax

MEMORANDUM

DATE: August 21, 2024
TO: Mayor and City Commissioners
FROM: Jill Gruppen, City Clerk
RE: Metro Act Right of Way Permit

Metro Fibernet, LLC has submitted a METRO ACT Permit application. Attached is a copy of the application for access to and ongoing use of public rights-of-way for the purpose of constructing a fiber optic network. Their application includes the installation of their fiber-optic network under the Michigan Metro Act.

The application allows for an initial permit term for up to 5 years, meaning the permit would have an expiration date in 2029, if Metro Net does not request a renewal.

If the City Commission approves of the following agreement, the following motion may be offered:

MOTION TO AUTHORIZE THE CITY MANAGER TO PROCESS THE METRO ACT APPLICATION SUBMITTED BY METRO FIBERNET AND TO PERMIT THE APPLICATION AFTER ENSURING THE APPLICATION IS COMPLETE.

**METRO Act
Unilateral Form
Revised 12/06/02**

**RIGHT-OF-WAY
TELECOMMUNICATIONS PERMIT**

This permit issued this ___ day of _____, 20__ by City of Hudsonville.

1 Definitions

- 1.1 Date of Issuance shall mean the date set forth above.
- 1.2 Manager shall mean Municipality's Manager or his or her designee.
- 1.3 METRO Act shall mean the Metropolitan Extension Telecommunications Right-of-Way oversight Act, Act No. 48 of the Public Acts of 2002, as amended.
- 1.4 Municipality shall mean City of Hudsonville, a Michigan municipal corporation.
- 1.5 Permit shall mean this document.
- 1.6 Permittee shall mean Metro Fibernet, LLC organized under the laws of the State of Nevada whose address is 3701 Communications Way, Evansville, IN 47715.
- 1.7 Public Right-of-Way shall mean the area on, below, or above a public roadway, highway, street, alley, easement, or waterway, to the extent Municipality has the ability to grant the rights set forth herein. Public Right-of-Way does not include a federal, state, or private right-of-way.
- 1.8 Telecommunications Facilities or Facilities shall mean the Permittee's equipment or personal property, such as copper and fiber cables, lines, wires, switches, conduits, pipes, and sheaths, which are used to or can generate, receive, transmit, carry, amplify or provide telecommunication services or signals. Telecommunication Facilities or Facilities do not include antennas, supporting structures for antennas, equipment shelters or houses, and any ancillary equipment and miscellaneous hardware used to provide federally licensed commercial mobile service as defined in Section 332(d) of Part I of Title III of the Communications Act of 1934, Chapter 652, 48 Stat. 1064, 47 U.S.C. 332 and further defined as commercial mobile radio service in 47 CFR 20.3, and service provided by any wireless, two-way communications device.
- 1.9 Term shall have the meaning set forth in Part 7.

2 Grant

- 2.1 Municipality hereby issues a permit under the METRO Act to Permittee for access to and ongoing use of the Public Right-of-Way identified on Exhibit A to construct, install and maintain Telecommunication Facilities on the terms set forth herein.
- 2.1.1 Exhibit A may be modified by Manager upon written request by Permittee.
- 2.1.2 Any decision of Manager on a request by Permittee for a modification may be appealed by Permittee to Municipality's legislative body.
- 2.2 Overlapping. Permittee shall not allow the wires or any other facilities of a third party to be overlapped to the Telecommunication Facilities without Municipality's prior written consent. Municipality's right to withhold written consent is subject to the authority of the Michigan Public Service Commission under Section 361 of the Michigan Telecommunications Act, MCL § 484.2361.
- 2.3 Nonexclusive. The rights granted by this Permit are nonexclusive. Municipality reserves the right to approve, at any time, additional permits for access to and ongoing usage of the Public Right-of-Way by telecommunications providers and to enter into agreements for use of the Public Right-of-Way with and grant franchises for use of the Public Right-of-Way to telecommunications providers, cable companies, utilities and other providers.

3 Contacts, Maps and Plans

- 3.1 Permittee Contacts. The names, addresses and the like for engineering and construction related information for Permittee and its Telecommunication Facilities are as follows:

The address, e-mail address, phone number and contact person (title or name) at Permittee's local office (in or near Municipality) is:

Dave Fritz
Project Director
1890 Bristol Ave
Grand Rapids, MI 49504
Email: david.fritz@metronet.com
Tel: 812-213-1534

- 3.1.1 If Permittee's engineering drawings, as-built plans and related records for the Telecommunication Facilities will not be located at the preceding local office, the location address, phone number and contact person (title or department) for them is:

Mark Stevens
Sr. Director Fiber Design
3701 Communications Way
Evansville, IN 47715
Email: mark.stevens@metronet.com
Tel: 812-916-4450

- 3.1.2 The name, title, address, e-mail address and telephone numbers of Permittee's engineering contact person(s) with responsibility for the design, plans and construction of the Telecommunication Facilities is:

Dave Fritz
Project Director
1890 Bristol Ave
Grand Rapids, MI 49504
Email: david.fritz@metronet.com
Tel: 812-213-1534

- 3.1.3 The address, phone number and contact person (title or department) at Permittee's home office/regional office with responsibility for engineering and construction related aspects of the Telecommunication Facilities is:

Metronet NOC
Email: mfn-noc@metronet.com
833-673-1215

- 3.1.4 Permittee shall at all times provide Manager with the phone number at which a live representative of Permittee (not voice mail) can be reached 24 hours a day, seven (7) days a week, in the event of a public emergency.

- 3.1.5 Permittee shall immediately notify Municipality in writing as set forth in Part 12 of any inaccuracies or changes in the preceding information.

- 3.2 Route Maps. Within ninety (90) days after the substantial completion of new Facilities in a Municipality, a provider shall submit route maps showing the location of the Telecommunication Facilities to both the Michigan Public Service Commission and to the Municipality, as required under Section 6(7) of the METRO Act, MCLA 484.3106(7).

3.3 As-Built Records. Permittee, without expense to Municipality, shall, upon forty-eight (48) hours notice, give Municipality access to all "as-built" maps, records, plans and specifications showing the Telecommunication Facilities or portions thereof in the Public Right-of-Way. Upon request by Municipality, Permittee shall inform Municipality as soon as reasonably possible of any changes from previously supplied maps, records, or plans and shall mark up maps provided by Municipality so as to show the location of the Telecommunication Facilities.

4 Use of Public Right-of-Way

4.1 No Burden on Public Right-of-Way. Permittee, its contractors, subcontractors, and the Telecommunication Facilities shall not unduly burden or interfere with the present or future use of any of the Public Right-of-Way. Permittee's aerial cables and wires shall be suspended so as to not endanger or injure persons or property in or about the Public Right-of-Way. If Municipality reasonably determines that any portion of the Telecommunication Facilities constitutes an undue burden or interference, due to changed circumstances, Permittee, at its sole expense, shall modify the Telecommunication Facilities or take such other actions as Municipality may determine is in the public interest to remove or alleviate the burden, and Permittee shall do so within a reasonable time period. Municipality will attempt to require all occupants of a pole or conduit whose facilities are a burden to remove or alleviate the burden concurrently.

4.2 No Priority. This Permit does not establish any priority of use of the Public Right-of-Way by Permittee over any present or future permittees or parties having agreements with Municipality or franchises for such use. In the event of any dispute as to the priority of use of the Public Right-of-Way, the first priority shall be to the public generally, the second priority to Municipality, the third priority to the State of Michigan and its political subdivisions in the performance of their various functions, and thereafter as between other permit, agreement or franchise holders, as determined by Municipality in the exercise of its powers, including the police power and other powers reserved to and conferred on it by the State of Michigan.

4.3 Restoration of Property. Permittee, its contractors and subcontractors shall immediately (subject to seasonal work restrictions) restore, at Permittee's sole expense, in a manner approved by Municipality, any portion of the Public Right-of-Way that is in any way disturbed, damaged, or injured by the construction, installation, operation, maintenance or removal of the Telecommunication Facilities to a reasonably equivalent (or, at Permittee's option, better) condition as that which existed prior to the disturbance. In the event that Permittee, its contractors or subcontractors fail to make such repair within a reasonable time, Municipality may make the repair and Permittee shall pay the costs Municipality

incurred for such repair.

- 4.4 Marking. Permittee shall mark the Telecommunication Facilities as follows: Aerial portions of the Telecommunication Facilities shall be marked with a marker on Permittee's lines on alternate poles which shall state Permittee's name and provide a toll-free number to call for assistance. Direct buried underground portions of the Telecommunication Facilities shall have (1) a conducting wire placed in the ground at least several inches above Permittee's cable (if such cable is nonconductive); (2) at least several inches above that, a continuous colored tape with a statement to the effect that there is buried cable beneath; and (3) stakes or other appropriate above ground markers with Permittee's name and a toll-free number indicating that there is buried telephone cable below. Bored underground portions of the Telecommunication Facilities shall have a conducting wire at the same depth as the cable and shall not be required to provide the continuous colored tape. Portions of the Telecommunication Facilities located in conduit, including conduit of others used by Permittee, shall be marked at its entrance into and exit from each manhole and handhole with Permittee's name and a toll-free telephone number.
- 4.5 Tree Trimming. Permittee may trim trees upon and overhanging the Public Right-of-Way so as to prevent the branches of such trees from coming into contact with the Telecommunication Facilities, consistent with any standards adopted by Municipality. Permittee shall dispose of all trimmed materials. Permittee shall minimize the trimming of trees to that essential to maintain the integrity of the Telecommunication Facilities. Except in emergencies, all trimming of trees in the Public Right-of-Way shall have the advance approval of Manager.
- 4.6 Installation and Maintenance. The construction and installation of the Telecommunication Facilities shall be performed pursuant to plans approved by Municipality. The open cut of any Public Right-of-Way shall be coordinated with the Manager or his designee. Permittee shall install and maintain the Telecommunication Facilities in a reasonably safe condition. If the existing poles in the Public Right-of-Way are overburdened or unavailable for Permittee's use, or the facilities of all users of the poles are required to go underground then Permittee shall, at its expense, place such portion of its Telecommunication Facilities underground, unless Municipality approves an alternate location. Permittee may perform maintenance on the Telecommunication Facilities without prior approval of Municipality, provided that Permittee shall obtain any and all permits required by Municipality in the event that any maintenance will disturb or block vehicular traffic or are otherwise required by Municipality.
- 4.7 Pavement Cut Coordination. Permittee shall coordinate its construction and all other work in the Public Right-of-Way with Municipality's program for street construction and rebuilding (collectively "Street Construction") and its program for

street repaving and resurfacing (except seal coating and patching) (collectively, "Street Resurfacing").

4.7.1 The goals of such coordination shall be to encourage Permittee to conduct all work in the Public Right-of-Way in conjunction with or immediately prior to any Street Construction or Street Resurfacing planned by Municipality.

4.8 Compliance with Laws. Permittee shall comply with all laws, statutes, ordinances, rules and regulations regarding the construction, installation, and maintenance of its Telecommunication Facilities, whether federal, state or local, now in force or which hereafter may be promulgated. Before any installation is commenced, Permittee shall secure all necessary permits, licenses and approvals from Municipality or other governmental entity as may be required by law, including, without limitation, all utility line permits and highway permits. Permittee shall comply in all respects with applicable codes and industry standards, including but not limited to the National Electrical Safety Code (latest edition adopted by Michigan Public Service Commission) and the National Electric Code (latest edition). Permittee shall comply with all zoning and land use ordinances and historic preservation ordinances as may exist or may hereafter be amended.

4.9 Street Vacation. If Municipality vacates or consents to the vacation of Public Right-of-Way within its jurisdiction, and such vacation necessitates the removal and relocation of Permittee's Facilities in the vacated Public Right-of-Way, Permittee shall, as a condition of this Permit, consent to the vacation and remove its Facilities at its sole cost and expense when ordered to do so by Municipality or a court of competent jurisdiction. Permittee shall relocate its Facilities to such alternate route as Municipality, applying reasonable engineering standards, shall specify.

4.10 Relocation. If Municipality requests Permittee to relocate, protect, support, disconnect, or remove its Facilities because of street or utility work, or other public projects, Permittee shall relocate, protect, support, disconnect, or remove its Facilities, at its sole cost and expense, including where necessary to such alternate route as Municipality, applying reasonable engineering standards, shall specify. The work shall be completed within a reasonable time period.

4.11 Public Emergency. Municipality shall have the right to sever, disrupt, dig-up or otherwise destroy Facilities of Permittee if such action is necessary because of a public emergency. If reasonable to do so under the circumstances, Municipality will attempt to provide notice to Permittee. Public emergency shall be any condition which poses an immediate threat to life, health, or property caused by any natural or man-made disaster, including, but not limited to, storms, floods, fire,

accidents, explosions, water main breaks, hazardous material spills, etc. Permittee shall be responsible for repair at its sole cost and expense of any of its Facilities damaged pursuant to any such action taken by Municipality.

- 4.12 Miss Dig. If eligible to join, Permittee shall subscribe to and be a member of "MISS DIG," the association of utilities formed pursuant to Act 174 of the Public Acts of 2013, as amended, MCL § 460.721 et seq., and shall conduct its business in conformance with the statutory provisions and regulations promulgated thereunder.
- 4.13 Underground Relocation. If Permittee has its Facilities on poles of Consumers Energy, Detroit Edison or another electric or telecommunications provider and Consumers Energy, Detroit Edison or such other electric or telecommunications provider relocates its system underground, then Permittee shall relocate its Facilities underground in the same location at Permittee's sole cost and expense.
- 4.14 Identification. All personnel of Permittee and its contractors or subcontractors who have as part of their normal duties contact with the general public shall wear on their clothing a clearly visible identification card bearing Permittee's name, their name and photograph. Permittee shall account for all identification cards at all times. Every service vehicle of Permittee and its contractors or subcontractors shall be clearly identified as such to the public, such as by a magnetic sign with Permittee's name and telephone number.

5 Indemnification

- 5.1 Indemnity. Permittee shall defend, indemnify, protect, and hold harmless Municipality, its officers, agents, employees, elected and appointed officials, departments, boards, and commissions from any and all claims, losses, liabilities, causes of action, demands, judgments, decrees, proceedings, and expenses of any nature (collectively "claim" for this Part 5) (including, without limitation, attorneys' fees) arising out of or resulting from the acts or omissions of Permittee, its officers, agents, employees, contractors, successors, or assigns, but only to the extent such acts or omissions are related to the Permittee's use of or installation of facilities in the Public Right-of-Way and only to the extent of the fault or responsibility of Permittee, its officers, agents, employees, contractors, successors and assigns.
- 5.2 Notice, Cooperation. Municipality will notify Permittee promptly in writing of any such claim and the method and means proposed by Municipality for defending or satisfying such claim. Municipality will cooperate with Permittee in every reasonable way to facilitate the defense of any such claim. Municipality will consult with Permittee respecting the defense and satisfaction of such claim, including the selection and direction of legal counsel.

5.3 Settlement. Municipality will not settle any claim subject to indemnification under this Part 5 without the advance written consent of Permittee, which consent shall not be unreasonably withheld. Permittee shall have the right to defend or settle, at its own expense, any claim against Municipality for which Permittee is responsible hereunder.

6 Insurance

6.1 Coverage Required. Prior to beginning any construction in or installation of the Telecommunication Facilities in the Public Right-of-Way, Permittee shall obtain insurance as set forth below and file certificates evidencing same with Municipality. Such insurance shall be maintained in full force and effect until the end of the Term. In the alternative, Permittee may satisfy this requirement through a program of self-insurance, acceptable to Municipality, by providing reasonable evidence of its financial resources to Municipality. Municipality's acceptance of such self-insurance shall not be unreasonably withheld.

6.1.1 Commercial general liability insurance, including Completed Operations Liability, Independent Contractors Liability, Contractual Liability coverage, railroad protective coverage and coverage for property damage from perils of explosion, collapse or damage to underground utilities, commonly known as XCU coverage, in an amount not less than Five Million Dollars (\$5,000,000).

6.1.2 Liability insurance for sudden and accidental environmental contamination with minimum limits of Five Hundred Thousand Dollars (\$500,000) and providing coverage for claims discovered within three (3) years after the term of the policy.

6.1.3 Automobile liability insurance in an amount not less than One Million Dollars (\$1,000,000).

6.1.4 Workers' compensation and employer's liability insurance with statutory limits, and any applicable Federal insurance of a similar nature.

6.1.5 The coverage amounts set forth above may be met by a combination of underlying (primary) and umbrella policies so long as in combination the limits equal or exceed those stated. If more than one insurance policy is purchased to provide the coverage amounts set forth above, then all policies providing coverage limits excess to the primary policy shall provide drop down coverage to the first dollar of coverage and other contractual obligations of the primary policy, should the primary policy carrier not be

able to perform any of its contractual obligations or not be collectible for any of its coverages for any reason during the Term, or (when longer) for as long as coverage could have been available pursuant to the terms and conditions of the primary policy.

- 6.2 Additional Insured. Municipality shall be named as an additional insured on all policies (other than worker's compensation and employer's liability). All insurance policies shall provide that they shall not be canceled, modified or not renewed unless the insurance carrier provides thirty (30) days prior written notice to Municipality. Permittee shall annually provide Municipality with a certificate of insurance evidencing such coverage. All insurance policies (other than environmental contamination, workers' compensation and employer's liability insurance) shall be written on an occurrence basis and not on a claims made basis.
- 6.3 Qualified Insurers. All insurance shall be issued by insurance carriers licensed to do business by the State of Michigan or by surplus line carriers on the Michigan Insurance Commission approved list of companies qualified to do business in Michigan. All insurance and surplus line carriers shall be rated A+ or better by A.M. Best Company.
- 6.4 Deductibles. If the insurance policies required by this Part 6 are written with retainages or deductibles in excess of \$50,000, they shall be approved by Manager in advance in writing. Permittee shall indemnify and save harmless Municipality from and against the payment of any deductible and from the payment of any premium on any insurance policy required to be furnished hereunder.
- 6.5 Contractors. Permittee's contractors and subcontractors working in the Public Right-of-Way shall carry in full force and effect commercial general liability, environmental contamination liability, automobile liability and workers' compensation and employer liability insurance which complies with all terms of this Part 6. In the alternative, Permittee, at its expense, may provide such coverages for any or all its contractors or subcontractors (such as by adding them to Permittee's policies).
- 6.6 Insurance Primary. Permittee's insurance coverage shall be primary insurance with respect to Municipality, its officers, agents, employees, elected and appointed officials, departments, boards, and commissions (collectively "them"). Any insurance or self-insurance maintained by any of them shall be in excess of Permittee's insurance and shall not contribute to it (where "insurance or self-insurance maintained by any of them" includes any contract or agreement providing any type of indemnification or defense obligation provided to, or for the benefit of them, from any source, and includes any self-insurance program or policy, or self-insured retention or deductible by, for or on behalf of them).

7 Term

7.1 Term. The term (“Term”) of this Permit shall be until the earlier of:

7.1.1 Five years from the Date of Issuance; or

7.1.2 When the Telecommunication Facilities has not been used to provide telecommunications services for a period of one hundred and eighty (180) days by Permittee or a successor or an assignee of Permittee; or

7.1.3 When Permittee, at its election and with or without cause, delivers written notice of termination to Municipality at least one-hundred and eighty (180) days prior to the date of such termination; or

7.1.4 Upon either Permittee or Municipality giving written notice to the other of the occurrence or existence of a default by the other party under Sections 4.8, 6, 8 or 9 of this Permit and such defaulting party failing to cure, or commence good faith efforts to cure, such default within sixty (60) days (or such shorter period of time provided elsewhere in this Permit) after delivery of such notice; or

7.1.5 Unless Manager grants a written extension, one year from the Date of Issuance if prior thereto Permittee has not started the construction and installation of the Telecommunication Facilities within the Public Right-of-Way and two years from the Date of Issuance if by such time construction and installation of the Telecommunication Facilities is not complete.

8 Performance Bond or Letter of Credit

8.1 Municipal Requirement. Municipality may require Permittee to post a bond (or letter of credit) as provided in Section 15(3) of the METRO Act, as amended [MCL § 484.3115(3)].

9 Fees

9.1 Establishment; Reservation. The METRO Act shall control the establishment of right-of-way fees. The parties reserve their respective rights regarding the nature and amount of any fees which may be charged by Municipality in connection with the Public Right-of-Way.

10 Removal

10.1 Removal; Underground. As soon as practicable after the Term, Permittee or its successors and assigns shall remove any underground cable or other portions of the Telecommunication Facilities from the Public Right-of-Way which has been installed in such a manner that it can be removed without trenching or other opening of the Public Right-of-Way. Permittee shall not remove any underground cable or other portions of the Telecommunication Facilities which requires trenching or other opening of the Public Right-of-Way except with the prior written approval of Manager. All removals shall be at Permittee's sole cost and expense.

10.1.1 For purposes of this Part 10, "cable" means any wire, coaxial cable, fiber optic cable, feed wire or pull wire.

10.2 Removal; Above Ground. As soon as practicable after the Term, Permittee, or its successor or assigns at its sole cost and expense, shall, unless waived in writing by Manager, remove from the Public Right-of-Way all above ground elements of its Telecommunication Facilities, including but not limited to poles, pedestal mounted terminal boxes, and lines attached to or suspended from poles.

10.3 Schedule. The schedule and timing of removal shall be subject to approval by Manager. Unless extended by Manager, removal shall be completed not later than twelve (12) months following the Term. Portions of the Telecommunication Facilities in the Public Right-of-Way which are not removed within such time period shall be deemed abandoned and, at the option of Municipality exercised by written notice to Permittee as set forth in Part 12, title to the portions described in such notice shall vest in Municipality.

11 Assignment. Permittee may assign or transfer its rights under this Permit, or the persons or entities controlling Permittee may change, in whole or in part, voluntarily, involuntarily, or by operation of law, including by merger or consolidation, change in the ownership or control of Permittee's business, or by other means, subject to the following:

11.1 No such transfer or assignment or change in the control of Permittee shall be effective under this Permit, without Municipality's prior approval (not to be unreasonably withheld), during the time period from the Date of Issuance until the completion of the construction of the Telecommunication Facilities in those portions of the Public Right-of-Way identified on Exhibit A.

11.2 After the completion of such construction, Permittee must provide notice to Municipality of such transfer, assignment or change in control no later than thirty (30) days after such occurrence; provided, however,

11.2.1 Any transferee or assignee of this Permit shall be qualified to perform under its terms and conditions and comply with applicable law; shall be subject to the obligations of this Permit, including responsibility for any defaults which occurred prior to the transfer or assignment; shall supply Municipality with the information required under Section 3.1; and shall comply with any updated insurance and performance bond requirements under Sections 6 and 8 respectively, which Municipality reasonably deems necessary, and

11.2.2 In the event of a change in control, it shall not be to an entity lacking the qualifications to assure Permittee's ability to perform under the terms and conditions of this Permit and comply with applicable law; and Permittee shall comply with any updated insurance and performance bond requirements under Sections 6 and 8 respectively, which Municipality reasonably deems necessary.

11.3 Permittee may grant a security interest in this Permit, its rights thereunder or the Telecommunication Facilities at any time without notifying Municipality.

12 Notices

12.1 Notices. All notices under this Permit shall be given as follows:

12.1.1 If to Municipality, rtdotson@hudsonville.org with a copy to:

R. Tyler Dotson
City Manager
City of Hudsonville
3275 Central Blvd.
Hudsonville, MI 49426

616-669-0200

12.1.2 If to Permittee, to Metronet-Legal@metronetinc.com, with a copy to

General Counsel
11800 College Blvd, Suite 100
Overland Park, KS 66210

12.2 Change of Address. Permittee and Municipality may change its address or personnel for the receipt of notices at any time by giving notice thereof to the other as set forth above.

13 Other items

- 13.1 No Cable, OVS. This Permit does not authorize Permittee to provide commercial cable type services to the public, such as “cable service” or the services of an “open video system operator” (as such terms are defined in the Federal Communications Act of 1934 and implementing regulations, currently 47 U.S.C. §§ 522 (6), 573 and 47 CFR § 76.1500).
- 13.2 Effectiveness. This Permit shall become effective when Permittee has provided any insurance certificates and bonds required in Parts 6 and 8, and signed the acknowledgement of receipt, below.
- 13.3 Authority. This Permit satisfies the requirement for a permit under Section 5 of the METRO Act [MCL 484.3105].
- 13.4 Interpretation and Severability. The provisions of this Permit shall be liberally construed to protect and preserve the peace, health, safety and welfare of the public, and should any provision or section of this Permit be held unconstitutional, invalid, overbroad or otherwise unenforceable, such determination/holding shall not be construed as affecting the validity of any of the remaining conditions of this Permit. If any provision in this Permit is found to be partially overbroad, unenforceable, or invalid, Permittee and Municipality may nevertheless enforce such provision to the extent permitted under applicable law.
- 13.5 Governing Law. This Permit shall be governed by the laws of the State of Michigan.

City of Hudsonville

By: _____

Its: _____

Date: _____

Acknowledgement of Receipt: Permittee acknowledges receipt of this Permit granted by Municipality.

Metro Fibernet, LLC



By: _____

Its: _____

Date: _____

Exhibit A

Public Right-of-Way to be Used by Telecommunication Facilities

