

**WORK SESSION AGENDA
WYOMING CITY COUNCIL MEETING
CITY COUNCIL CHAMBERS**

Monday, November 14, 2016, 7:00 P.M.

- 1) Call to Order**
- 2) Student Recognition**
- 3) Public Comment on Agenda Items (3 minute limit per person)**
- 4) Metro Hospital – U of M Merger Discussion**
- 5) Lease for 2385 Porter Street SW – Tamaz LLC**
- 6) Any Other Matters**
- 7) Acknowledgement of Visitors/Public Comment (3 minute limit per person)**

COMMERCIAL PROPERTY LEASE

The City of Wyoming, a Michigan Municipal Corporation, of 1155 – 28th St. S.W., Wyoming, Michigan, 49509 (hereinafter “Lessor”) and Tamaz, LLC, of 2539 Byron Center Ave. S.W., Wyoming, Michigan, 49519 (hereinafter “Lessee”), enter into this commercial lease, subject to the following conditions:

1. Premises. The Lessor leases to the Lessee the property located at 2385 Porter Ave. S.W., Wyoming, Michigan described as follows:

The South 181 feet of the East 120 feet of the West 153 feet of the Northwest 1/4, Section 10, T6N, R12W, City of Wyoming, Kent County, Michigan

Parcel No. 41-17-10-151-031

2. Term. The term of this lease shall be for 3 years, commencing on January 1, 2017.
3. Rent.

- a. Base rent. The lessee shall pay the lessor \$8,400.00 per year as base rent for the premises, in equal monthly installments of \$700.00. Rent for the first month shall be paid by the lessee on signing this lease. Thereafter, monthly installments of rent shall be due and payable in advance on the first day of each calendar month. Rent for any partial month of occupancy shall be prorated. Rent shall be paid to the lessor at the address shown above or any other place designated in writing by the lessor.
- b. Late fee. In the event the monthly rental payment set forth above, is not received by lessor on or before the fifth day of each month, a late fee in the amount of \$100.00 shall be added to the monthly rental payment.
- c. Rent escalation clause. The monthly rent provided for in this lease shall be increased effective as of the first day of January of each lease year in accordance with the change in the CPI, as defined in the next paragraph.

“CPI” means the Consumer Price Index for All Urban Consumers, All Items, All Cities, issued by the Bureau of Labor Statistics of the United States Department of Labor or any successor formula used by the United States Department of Labor.

4. Signs. All signs placed on the premises shall be in keeping with the character and decor of the premises. All signs placed on the premises shall be subject to the approval of the City prior to installation. Lessee shall be responsible for maintenance and repair of all signs.

5. Acceptance of occupancy. Except as provided herein, lessee shall be entitled to occupancy of the premises on January 1, 2017, unless an earlier date is agreed to in writing by the lessor. The lessee shall also be allowed to commence work in the building at such time as lessee receives approval to conduct business from the Michigan Liquor Control Commission and from the Wyoming City Council. The lessee acknowledges that the premises are in a state of repair that is acceptable for the lessee's intended use of the premises. The lessee accepts the premises "as is" and acknowledges that lessee has inspected the premises.
6. Vacation of the premises. The lessee shall not vacate or abandon the premises during the term of this lease. If the lessee does abandon or vacate the premises or is dispossessed by process of law or otherwise, any of the lessee's personal property that is left on the premises shall be deemed abandoned by the lessee, at the option of the lessor.
7. Use. The premises are to be used and occupied by the lessee for operation of a microbrewery to be used in conjunction with the property at 2356 Porter S.W. No activity shall be conducted on the premises that does not comply with all state and local laws.
8. Repairs and maintenance. The lessee shall be responsible for all maintenance and repair of the premises. The lessee must repair and maintain the premises at the lessee's expense. The premises shall be kept in good and safe condition, including any plate glass windows, the electrical wiring, the plumbing, any other system or equipment on the premises, structural members of all buildings, parking lot surface and other improvements on the premises.
9. Utilities. Lessee shall have all utilities servicing the premises metered in its own name as of the commencement of this lease and shall be responsible for payment of all charges for those utilities during the term of the lease. Utilities shall include gas, electric, water, telephone, internet, television or any similar service. Lessee shall hold lessor harmless for any utility charges not paid by lessee.
10. Surrender of the premises. The lessee shall surrender the premises to the lessor when this lease expires, broom clean and in the same condition as on the commencement date, except for normal wear and tear.
11. Entry and inspection. The lessee shall permit the lessor or the lessor's agents to enter the premises at reasonable times and with reasonable notice, to inspect and repair the premises.
12. Taxes and assessments. The lessor shall pay all real property taxes and assessments levied against the premises during the term of this lease. All taxes levied on personal property owned or leased by the lessee are the sole responsibility of the lessee.
13. Alterations. The lessee may remodel and improve the premises. However, any remodeling or improvements that alter the premises shall require prior written approval from the lessor. Such work shall be done without damage to any structural portion of the building. Any improvements constructed on the premises shall become the property of the lessor when this lease terminates.

14. Assignment and subletting. The lessee may not assign, sublet, or otherwise transfer or convey its interest or any portion of its interest in the premises without written consent from the lessor. The lessor shall have total discretion on its approval of proposed assignments or subleases.
15. Trade fixtures. All trade fixtures and movable equipment installed by the lessee in connection with the business it conducts on the premises shall remain the property of the lessee and shall be removed when this lease expires. The lessee shall repair any damage caused by the removal of such fixtures, and the premises shall be restored to the original condition.
16. Insurance. The lessee shall insure the premises, including all buildings and improvements, for the replacement cost of the buildings and improvements, against loss or damage under a policy or policies of fire and extended coverage insurance, including additional perils. The lessee shall obtain and maintain in full force general liability and property damage insurance with coverage of not less than \$1,000,000 for injury or death to any one person, \$2,000,000 for injury or death to more than one person, and \$500,000 for property damage, covering all claims for injuries to persons occurring on or around the premises. The lessor must approve the amount and the issuing company of the insurance. Each insurance policy shall also contain a provision exempting the lessor from any loss of coverage as an insured due to the acts of the lessee. The lessee shall give the lessor customary insurance certifications evidencing that the insurance is in effect during the term of the lease. All policies must also provide for notice by the insurance company to the lessor of any termination or cancellation of a policy at least 30 days in advance. All policies shall name both the lessee and the lessor as insured parties.
17. The lessee's liability. All the lessee's personal property, including trade fixtures, on the premises shall be kept at the lessee's sole risk, and the lessor shall not be responsible for any loss of business or other loss or damage that is occasioned by the acts or omissions of persons occupying adjoining premises or any part of the premises adjacent to or connected with the premises.
18. Destruction of the premises. If the premises are partially damaged or destroyed through no fault of the lessee, the lessor shall, at its own expense, promptly repair and restore the premises. If the premises are partially damaged, rent shall not abate in whole or in part during the period of restoration. If the premises are totally destroyed through no fault of the lessee or if the premises cannot be repaired and restored within 180 days, either party may terminate this lease effective the date of the destruction by giving the other party written notice of termination within 10 days after the destruction. If such a notice is given within that period, this lease shall terminate and rent shall be adjusted between the parties to the date of the surrender of possession. If the notice is not given within the required period, this lease shall continue, without abatement of rent, and the lessor shall repair the premises.
19. Mutual releases. The lessor and the lessee, and all parties claiming under them, release each other from all claims and liabilities arising from or caused by any hazards covered by insurance on the leased premises or covered by insurance in connection with property or activities on the premises, regardless of the cause of the damage or loss. The lessor and the lessee shall each include appropriate clauses waiving subrogation against the other party,

consistent with the mutual release in this provision, in their insurance policies on the premises.

20. Indemnity. The lessee agrees to indemnify and defend the lessor its officers, agents and employees for any liability, loss, damage, cost, or expense (including attorney fees) based on any claim, demand, suit, or action by any party with respect to any personal injury (including death) or property damages, from any cause, with respect to the lessee or the premises, except for liability resulting from the intentional acts or gross negligence of the lessor or its employees, agents or employees.
21. Default and reentry. If the lessee fails to pay rent when due; if the lessee fails to perform any other obligations under this agreement within 10 days after receiving written notice of the default from the lessor; if the lessee makes any assignment for the benefit of creditors or a receiver is appointed for the lessee or its property; or if any proceedings are instituted by or against the lessee for bankruptcy (including reorganization) or under any insolvency laws, the lessor may terminate this lease, reenter the premises, and seek to relet the premises on whatever terms the lessor thinks advisable. Notwithstanding reentry by the lessor, the lessee shall continue to be liable to the lessor for rent owed under this lease and for any rent deficiency that results from reletting the premises during the term of this lease. Notwithstanding any reletting without termination, the lessor may at any time elect to terminate this lease for any default by the lessee by giving the lessee written notice of the termination.

In addition to the lessor's other rights and remedies as stated in this lease, and without waiving any of those rights, if the lessor deems necessary any repairs that the lessee is required to make or if the lessee defaults in the performance of any of its obligations under this lease, the lessor may make repairs or cure defaults and shall not be responsible to the lessee for any loss or damage that is caused by that action. The lessee shall immediately pay to the lessor, on demand, the lessor's costs for curing any defaults, as additional rent under this lease.

22. Notices. Any notices required under this lease shall be in writing and served in person or sent by registered or certified mail, return receipt requested, to the addresses of the parties stated in this lease or to such other addresses as the parties substitute by written notice. Notices shall be effective on the date of the first attempted delivery.
23. The lessee's possession and enjoyment. As long as the lessee pays the rent as specified in this lease and performs all its obligations under this lease, the lessee may peacefully and quietly hold and enjoy the premises for the term of this lease.
24. Holding over. If the lessee does not vacate the premises at the end of the term of this lease, the holding over shall constitute a month-to-month tenancy at a monthly rental rate to be set by the lessor at its sole discretion.
25. Entire agreement. This agreement, together with the security and option agreement entered into between the lessor and the lessee, contains the entire agreement of the parties with respect to its subject matter. This agreement may not be modified except by a written document signed by the parties.

26. Waiver. The failure of the lessor to enforce any condition of this lease shall not be a waiver of its right to enforce every condition of this lease. No provision of this lease shall be deemed to have been waived unless the waiver is in writing.
27. Binding effect. This agreement shall bind and benefit the parties and their successors and permitted assigns.
28. Time is the essence. Time is the essence in the performance of this lease.
29. Additional Terms.
 - A. Lessor shall approve the storage, use and consumption of alcohol on the premises as required by the applicable provisions of the City Code and City Charter and in accordance with the licenses obtained by lessee from the Michigan Liquor Control Commission.
 - B. Lessee shall provide lessor with its annual financial statements as soon as they are prepared and available to lessee.
 - C. Lessee shall have the option to purchase the premises at the end of the three year term of the lease subject to an agreement of the parties.
 - D. This lease shall be subject to a grant of the variance from the Board of Zoning Appeals of the City of Wyoming for this property and the property located at 2356 Porter S.W., Wyoming, Michigan as a micro-brewery.
 - E. This lease shall be contingent upon lessee obtaining a micro-brewery license and any other related licenses for a micro-brewery from the Michigan Liquor Control Commission.
 - F. Lessee shall be responsible for obtaining and maintaining all necessary licenses from the City of Wyoming, Kent County and the State of Michigan for the micro-brewery and the preparation and sale of any food items. Lessee shall comply with all requirements of any regulatory agency.

30. This lease shall be effective on the _____ day of _____, 2016.

Lessor:

Lessee:

CITY OF WYOMING

TAMAZ, LLC

Jack A. Poll, Its Mayor

Thomas Payne, Jr., Member

Kelli A. VandenBerg, Its City Clerk