

[REDACTED]

30 September 2024

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Federal Bureau of Investigation - Detroit
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Detroit, Michigan 48226

Mr. Mark A. Totten
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Western District of Michigan
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The Honorable Dana Nessel
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First Lieutenant Josh Lator, Commander
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Via fax (989) 772-2854

Dear Ms. Gibson, Mr. Totten, Attorney General Nessel, and Commander Lator:

I am writing to you about recent court filings in the *Gotion, Inc. v Green Charter Township* in the U.S. District Court for the Western District of Michigan that appear to reveal engagements by Gotion Vice President of North American Operations, Chuck Thelen, with several now recalled Green Charter Township elected officials, including former Supervisor Jim Chapman, former Treasurer Denise MacFarlane, and former Trustee Dale Jernstadt that may violate both federal and state statutes prohibiting the offering and acceptance of a bribe or gratuity.

Several of these engagements seem to involve the bribery of a public officer, or the giving, offering, or promising commission, gift, or gratuity to a public officer with intent to influence or reward, and a public officer accepting a bribe, offering, commission, gift, or gratuity in return for being influenced in their acts, votes, opinions, decisions or judgments involving the proposed *Development Agreement between Gotion, Inc. and Green Charter Township*.

The statutes that appear to have been violated are as follows:

- a. [§ 201\(b\)\(1\): offering a bribe to a public official](#)
- b. [§ 201\(b\)\(2\): acceptance of a bribe by a public official](#)
- a. [§ 201\(c\)\(1\)\(A\): offering a gratuity to a public official](#)
- b. [§ 201\(c\)\(1\)\(B\): acceptance of a gratuity by a public official](#)

MCL 750.117

<https://www.legislature.mi.gov/Laws/MCL?objectName=mcl-750-117>

MCL 750.118

<https://www.legislature.mi.gov/Laws/MCL?objectName=mcl-750-118>

MCL 750.121

<https://www.legislature.mi.gov/Laws/MCL?objectName=mcl-750-121>

MCL 750.125

<https://www.legislature.mi.gov/Laws/MCL?objectName=mcl-750-125>

Please find attached for your convenience the relevant filings highlighted via a via the apparent violation of the aforementioned statutes.

As a taxpayer of the United States and the State of Michigan, I respectfully request your respective offices investigate this matter immediately.

Thank you for your time and consideration in this matter. I look forward to your responses.

Sincerely Y

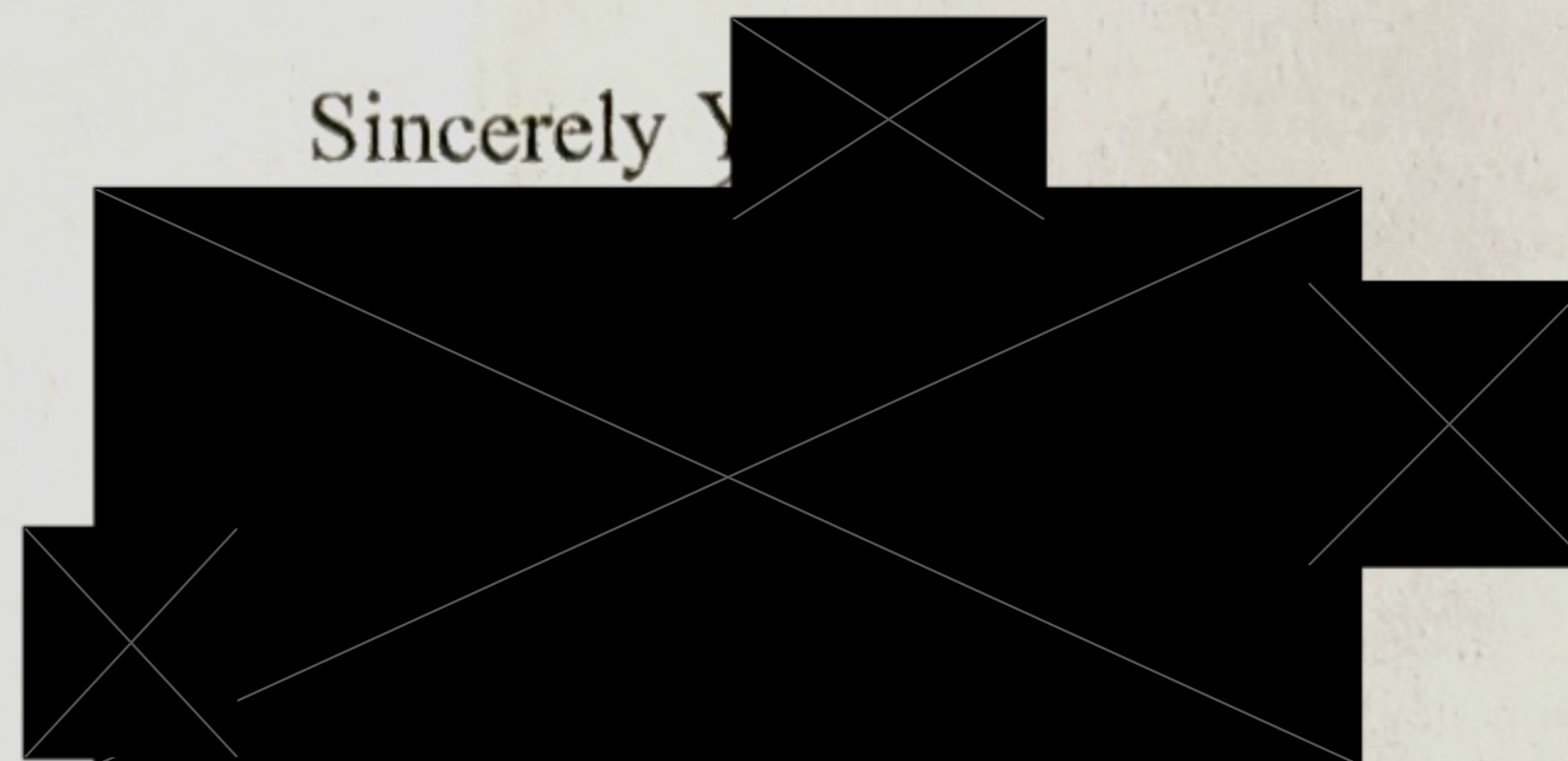


EXHIBIT F

VOLUME I

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

GOTION, INC.,

Case No. 1:24-cv-00275

Plaintiff,

HON. JANE M. BECKERING

v.

HON. MAGISTRATE JUDGE PHILLIP J.
GREEN

GREEN CHARTER TOWNSHIP,
a Michigan charter township,

Defendant.

**DEFENDANT GREEN CHARTER TOWNSHIP’S FIRST AMENDED ANSWER TO
PLAINTIFF GOTION’S COMPLAINT**

Green Charter Township (“Township”), through counsel, for its First Amended Answer to Plaintiff Gotion, Inc.’s (“Gotion”) complaint states as follows:

INTRODUCTION

1. This case presents a simple breach of contract claim arising from the unlawful actions of the new members of the Township, the majority of whom are motivated by clear anti-Gotion animus.

ANSWER: The Township denies that this is a simple breach of contract case as this case involves, in part, Gotion attempting to overthrow duly enacted legislation of the Township under the guise of injunctive relief, that it breached any contract, and that any actions of the new Township Board members were unlawful.

2. In August 2023, Gotion and the Township entered into a binding contract (the “**Development Agreement**”), under which, in relevant part, the Township agreed to assist Gotion in obtaining the necessary governmental authorizations to advance Gotion’s electric vehicle

battery component manufacturing project, which includes authorizations to construct water infrastructure for the project.

ANSWER: The Township admits that former Township Supervisor, Jim Chapman, signed the Development Agreement, but denies that it is an enforceable agreement.

3. Under a long-standing agreement between the Township and the City of Big Rapids, any proposed extension of the City's water system through the Township is subject to the Township's review and approval.

ANSWER: The Township denies that any such agreement is in effect between the Township and the City of Big Rapids.

4. In October 2023, the Township complied with its contractual obligations by adopting a resolution approving Gotion's plans to connect the City's water system to Gotion's project.

ANSWER: The Township admits that it adopted a resolution approving Gotion's plans to connect the City's water system to Gotion's project, but denies that such action by Township was required by the Development Agreement or that the Development Agreement could bind future Township Boards' legislative authority regarding the revocation of a franchise agreement.

5. Just one month later, the Township abruptly reneged on its contractual obligations by rescinding the resolution. The only thing that changed between October and November was the composition of the Township's Board, most of whose members are now ardently opposed to Gotion's project. The Board gave no justifiable reason for its sudden refusal to honor its contractual obligations.

ANSWER: The Township admits that the Township rescinded the resolution, but denies that the rescission is a violation of any contractual obligation or that the Board lacked a justifiable reason for this action.

6. Since that time, the Township has continued to engage in actions that violate the Development Agreement in an admitted attempt to block Gotion's project.

ANSWER: The Township denies the allegations contained in paragraph 6.

7. To prevent the Township's sudden recalcitrance from unraveling an endeavor already years and millions of dollars in the making, this Court should order the Township to comply with its obligations under the parties' agreement by, among other things, reinstating the resolution to approve the connection of the City's water systems to Gotion's project.

ANSWER: The Township denies the allegations contained in paragraph 7.

PARTIES, JURISDICTION, AND VENUE

8. Plaintiff Gotion, Inc., is a California corporation with its registered office located in the State of California at 48660 Kato Road, Fremont, California 94538.

ANSWER: The Township lacks knowledge or information sufficient to form a belief about the truth regarding the allegations contained in paragraph 8, and leaves Gotion to its proofs.

9. Defendant Green Charter Township is a Michigan general law township existing under the laws of the State of Michigan with its principal office at 21431 Northland Drive, Paris, Michigan 49338.

ANSWER: The Township admits the allegations contained in paragraph 9.

10. This Court has jurisdiction over the subject matter of this action under 28 U.S.C. § 1332, because the amount in controversy exceeds \$75,000, exclusive of interest and costs, and the dispute is between citizens of different states.

ANSWER: The Township admits that this case involves a dispute between citizens of different states. The Township lacks knowledge or information sufficient to form a belief about the truth regarding the actual amount in controversy, leaves Gotion to its proofs, and reserves the right to challenge jurisdiction.

11. Moreover, the Development Agreement provides that jurisdiction is proper in federal courts in Michigan. *See Exhibit 1*, Dev. Agmt. § 14.

ANSWER: The Township admits that the Development Agreement provides for jurisdiction in Michigan federal courts; however, the Township denies the validity and effectiveness of the Development Agreement and reserves the right to challenge jurisdiction.

12. This Court is a proper venue for this action under 28 U.S.C. § 1391(b) because Defendant is located in this district.

ANSWER: The Township admits the allegations contained in Paragraph 12, assuming that all claims are ripe and that Gotion has standing to bring the claims; however, the Township reserves the right to challenge ripeness of the claims and standing.

GENERAL ALLEGATIONS

Gotion and the Project

13. Incorporated in California in 2014, Gotion is a subsidiary of Gotion High-Tech Co., which is one of the world's largest electric vehicle (“EV”) battery manufacturers and has been named on Bloomberg's list of top 25 new energy producers.

ANSWER: The Township lacks knowledge or information sufficient to form a belief about the truth regarding the allegations contained in paragraph 13, and leaves Gotion to its proofs.

14. Gotion has been engaged since 2022 in the planning and construction of a new battery component manufacturing site and industrial park in Mecosta County, Michigan (the “**Project**”).

ANSWER: The Township lacks knowledge or information sufficient to form a belief about the truth regarding the allegations contained in paragraph 14, and leaves Gotion to its proofs.

15. Once completed, the Project is expected to produce up to 400,000 tons of cathode material every year. Both cathode material and anode material are essential components of lithium-ion batteries used in electric and hybrid vehicles.

ANSWER: The Township lacks knowledge or information sufficient to form a belief about the truth regarding the allegations contained in paragraph 15, and leaves Gotion to its proofs.

16. Nationally, the Project is one component of Gotion’s larger strategy to establish a domestic EV battery supply chain. Gotion operates a battery pack factory in Fremont, California, and expects to begin production of lithium-ion batteries in a new facility located in Manteno, Illinois, by the end of 2024.

ANSWER: The Township lacks knowledge or information sufficient to form a belief about the truth regarding the allegations contained in paragraph 16, and leaves Gotion to its proofs.

17. Gotion has undertaken these initiatives with the support of German automobile manufacturer Volkswagen, which holds approximately one quarter of Gotion’s shares and is a major purchaser of Gotion’s batteries.

ANSWER: The Township lacks knowledge or information sufficient to form a belief about the truth regarding the allegations contained in paragraph 17, and leaves Gotion to its proofs.

18. Locally, the Project presents an enormous opportunity for Mecosta County and West Michigan.

ANSWER: The Township lacks knowledge or information sufficient to form a belief about the truth regarding the allegations contained in paragraph 18, and leaves Gotion to its proofs.

19. Gotion intends to invest \$2.36 billion into the Project, which is expected to create approximately 2,350 well-paying jobs and bring transformative economic vitality to Mecosta County and its surrounding areas.

ANSWER: The Township lacks knowledge or information sufficient to form a belief about the truth regarding the allegations contained in paragraph 19, and leaves Gotion to its proofs.

20. The hourly compensation for the Project's employees is expected to be around \$24.50, nearly 150% of the area's average hourly wage of \$16.50. Combined with benefits such as health insurance and paid vacation, the total compensation package for employees of the Project is anticipated to be around \$60,000.

ANSWER: The Township lacks knowledge or information sufficient to form a belief about the truth regarding the allegations contained in paragraph 20, and leaves Gotion to its proofs.

21. The anticipated indirect benefits of the Project are numerous.

ANSWER: The Township lacks knowledge or information sufficient to form a belief about the truth regarding the allegations contained in paragraph 21, and leaves Gotion to its proofs.

22. The Project is spurring significant improvements to local infrastructure, and anticipates creating new jobs by attracting ancillary businesses to the area. Additionally, Gotion plans to partner with nearby educational institutions to train a new generation of employees from the local population.

ANSWER: The Township lacks knowledge or information sufficient to form a belief about the truth regarding the allegations contained in paragraph 22, and leaves Gotion to its proofs.

23. Overall, the Project is expected to generate nearly \$12 billion in personal income for those directly and indirectly employed by the Project over the next 20 years.

ANSWER: The Township lacks knowledge or information sufficient to form a belief about the truth regarding the allegations contained in paragraph 23, and leaves Gotion to its proofs.

24. Gotion has already invested substantial resources and efforts to the Project. For example, Gotion invested approximately \$24,000,000 into the Project to acquire nearly 270 acres of land in the Township in August 2023, the majority of which is zoned for industrial use.

ANSWER: The Township lacks knowledge or information sufficient to form a belief about the truth regarding the allegations contained in paragraph 24, and leaves Gotion to its proofs.

25. Since October 2023 (after the Development Agreement was executed), Gotion has invested nearly \$500,000 in additional costs for management and marketing fees, among other things.

ANSWER: The Township lacks knowledge or information sufficient to form a belief about the truth regarding the allegations contained in paragraph 25, and leaves Gotion to its proofs.

26. Further, Gotion has already committed \$56,000,000 for employee salaries and infrastructure costs, and anticipates committing an additional \$7,300,000 in architectural and engineering design contract commitments, among other things, in March 2024.

ANSWER: The Township lacks knowledge or information sufficient to form a belief about the truth regarding the allegations contained in paragraph 26, and leaves Gotion to its proofs.

National and State investments in EV technology

27. In August 2022, the United States Congress passed, and the President signed into law, the Inflation Reduction Act (“IRA”).

ANSWER: The Township admits the allegations contained in paragraph 27.

28. The IRA provides tax incentives for domestic green energy initiatives. Within one year of its passage, the IRA prompted more than \$110 billion of capital investments announced for clean energy manufacturing projects, including \$70 billion towards establishing an electric vehicle (“EV”) and battery supply chain in the United States.¹

¹*One Year On, Biden’s IRA Has Changed the Battery Landscape*, Benchmark Source (Aug. 15, 2023), <https://source.benchmarkminerals.com/article/one-year-on-the-ira-has-changed-the-battery-landscape-in-the-us> (last accessed March 7, 2024).

ANSWER: The Township lacks knowledge or information sufficient to form a belief about the truth regarding the allegations contained in paragraph 28, and leaves Gotion to its proofs.

29. The IRA provides a much-needed overhaul to the domestic production of EVs and EV batteries: today, the United States accounts only for approximately 10% of EV assembly globally and 7% of EV battery production.²

ANSWER: The Township lacks knowledge or information sufficient to form a belief about the truth regarding the allegations contained in paragraph 29, and leaves Gotion to its proofs.

30. Michigan is one of the leading states in the production of green and renewable energy.

ANSWER: The Township lacks knowledge or information sufficient to form a belief about the truth regarding the allegations contained in paragraph 30, and leaves Gotion to its proofs.

31. As laid out in its Michigan Healthy Climate Plan, promulgated by Michigan's Department of Environment, Great Lakes, and Energy, the state has taken ambitious aim at obtaining 100% carbon neutrality by 2050.³

² *Global Supply Chains of EV Batteries*, Int'l Energy Agency (July 2022), (<https://iea.blob.core.windows.net/assets/4eb8c252-76b1-4710-8f5e-867e751c8dda/GlobalSupplyChainsofEVBatteries.pdf>) (last accessed March 7, 2024).

³ *MI Healthy Climate Plan*, Mich. Dep't of Env't, Great Lakes, & Energy (Apr. 2022), at 4, <https://www.michigan.gov/egle/-/media/Project/Websites/egle/Documents/Offices/OCE/MI-Healthy-Climate-Plan.pdf?rev=d13f4adc2b1d45909bd708cafcbfffa&hash=99437BF2709B9B3471D16FC1EC692588> (last accessed March 7, 2024).

ANSWER: The Township lacks knowledge or information sufficient to form a belief about the truth regarding the allegations contained in paragraph 31, and leaves Gotion to its proofs.

32. Michigan's commitment to clean and renewable energy initiatives was reaffirmed recently, in November 2023, when the state legislature passed a series of landmark clean energy laws. *See* 2023 Mich. Pub. Acts 229, 231, 233-35.

ANSWER: The Township admits that Public Act 229, 331, 233-35 were enacted in 2023. The Township lacks knowledge or information sufficient to form a belief about the truth regarding the remainder of the allegations contained in paragraph 32, and leaves Gotion to its proofs.

33. The state's endorsement of these initiatives has spurred \$20 billion in investments in various energy-related sectors within one year of the passage of the IRA and has secured for Michigan 14 large-scale works in clean energy, battery, and EV manufacturing, including Gotion's Project.⁴

ANSWER: The Township lacks knowledge or information sufficient to form a belief about the truth regarding the allegations contained in paragraph 33, and leaves Gotion to its proofs.

State and Local Efforts to Bring the Project to West Michigan

34. Historic efforts by state and local governments secured the Project for West Michigan.

⁴ *Gov. Whitmer Announces Launch of "State of Michigan Community EV Toolkit,"* Mich. Exec. Off. Of the Governor (Apr. 25, 2023), <https://www.michiganbusiness.org/press-releases/2023/04/michigan-winning-clean-energy-race> (last access March 7, 2024).

ANSWER: The Township lacks knowledge or information sufficient to form a belief about the truth regarding the allegations contained in paragraph 34, and leaves Gotion to its proofs.

35. In September 2022, Mecosta County and the Township approved the designation of a 30-year Renaissance Zone tax abatement to attract Gotion and its Project to the region.

ANSWER: The Township admits that the former Township Board approved the 30-year Renaissance Zone.

36. The designation is estimated to provide the Project a tax incentive package of \$540 million.

ANSWER: The Township lacks knowledge or information sufficient to form a belief about the truth regarding the allegations contained in paragraph 36, and leaves Gotion to its proofs.

37. On September 29, 2022, Gotion submitted to the Michigan Economic Development Corporation (MEDC) an application for financial assistance to facilitate land acquisition, public infrastructure improvements, engineering, permitting, wetland mitigation and other associated costs in support of the Project.

ANSWER: The Township lacks knowledge or information sufficient to form a belief about the truth regarding the allegations contained in paragraph 37, and leaves Gotion to its proofs.

38. The MEDC is a subdivision of the Michigan Strategic Fund (MSF), a Michigan state agency that assists in identifying and promoting opportunities for economic development in the State of Michigan.

ANSWER: The Township admits the allegations contained in paragraph 38.

39. The MSF approved Gotion's application on October 5, 2022, for a grant of up to \$50 million through the Strategic Site Readiness Program (SSRP), a program that offers economic assistance for the development of investment-ready sites throughout Michigan and improves the infrastructure in the local community.

ANSWER: The SSRP Agreement, attached as Exhibit 3 to Gotion's complaint, speaks for itself and no answer is required.

40. The MSF also approved an additional \$125 million Critical Industry Program (CIP) grant for the Project.

ANSWER: The Township admits the allegations contained in paragraph 40.

41. Through their combined efforts, state and local governments put forward a competitive \$715 million tax incentive package that secured the Project for Michigan over forty-four other greenfield sites and twelve brownfield sites throughout the United States.

ANSWER: The Township lacks knowledge or information sufficient to form a belief about the truth regarding the allegations contained in paragraph 41, and leaves Gotion to its proofs.

42. On December 13, 2022, the Township unanimously adopted Resolution No. 01-122022 (the "Support Resolution"), expressing its support for Gotion and the Project and declaring that the Township "strongly supports efforts to bring Gotion Incorporated to our township and community, [and] that we will make every effort to work in the interests of our constituents and community by assisting Gotion Inc. in their efforts to join our community." A copy of the Support Resolution is attached hereto as **Exhibit 2**.

ANSWER: The Township admits that the previous Board adopted Resolution No. 01-122022. Gotion cites a copy of the Support Resolution as Exhibit 2 to their Complaint. Exhibit 2 speaks for itself.

The Grant Agreement and Development Agreement

43. On September 15, 2023, Gotion and the MSF executed a Grant Agreement, which defines the terms and conditions for the disbursement of SSRP and CIP grant funds. A copy of the Grant Agreement is attached hereto as **Exhibit 3**.

ANSWER: No answer is required. Exhibit 3 speaks for itself.

44. The Grant Agreement required Gotion and the Township to enter into a separate agreement to provide for the completion of the public infrastructure improvements and site development in the Township necessary for the continuing viability of the Project. Ex. 3, Grant Agreement § 2.6(b)(i).

ANSWER: The Township admits that Gotion cited Section 2.6(b)(i) of the Grant Agreement. The Grant Agreement (Exhibit 3) speaks for itself.

45. In a regular meeting of the Township Board on August 1, 2023, a first draft of the Development Agreement was unanimously approved and then-Supervisor James Chapman was unanimously authorized to finalize its terms and conditions with Gotion.

ANSWER: The Township admits that the former Township Board passed a motion to approve the first draft of the Development Agreement and authorized the then-Supervisor to “finish the terms and conditions and reimbursement fees”; but denies that former Supervisor Chapman was authorized to execute the Development Agreement.

46. Pursuant to Section 2.6(b)(i) of the Grant Agreement, Gotion and the Board executed the Development Agreement to define the terms and conditions governing the completion

of public infrastructure improvements and site development in the Township necessary for the Project.

ANSWER: Section 2.6(b)(i) speaks for itself; however, the Township denies that the Development Agreement was properly executed by the Board.

47. Among other things, the Development Agreement obligates the Township to:

assist Gotion . . . in obtaining or causing to obtain any licenses, permits, or other governmental authorizations necessary to advance the Project and conduct business to support the Project, for which the failure to obtain such licenses, permits, or other governmental authorizations is reasonably likely to materially and adversely affect the Project (financially or otherwise), or impair Gotion’s ability to perform its obligations under this Agreement.

Ex. 1, Dev. Agmt., at § 4.c.

ANSWER: No answer is required. Gotion cited a specific provision of the Development Agreement, which speaks for itself; however, the Township denies that the Development Agreement is valid and binding.

48. The Development Agreement further provides that “any material failure by either Party to comply with any of the terms, covenants and conditions” of the Agreement is an “event of default.” *Id.* at § 7.b.

ANSWER: No answer is required. Gotion cited a specific provision of the Development Agreement, which speaks for itself; however, the Township denies that the Development Agreement is valid and binding.

49. In the event of a default, the Development Agreement provides that “the non-breaching Party may immediately, after the expiration of any applicable Cure Period without a cure . . . exercise an[y] other available remedy at law or equity.” *Id.* at § 7.g.a.

ANSWER: Gotion cited a specific provision of the Development Agreement, which speaks for itself; however, the Township denies that the Development Agreement is valid and binding.

50. The “Cure Period” is defined as the sixty-day period after the non-breaching party provides written notice of the breach to the breaching party. *Id.*

ANSWER: Gotion cited a specific provision of the Development Agreement, which speaks for itself; however, the Township denies that the Development Agreement is valid and binding.

The City of Big Rapids Water System and the Water Resolution

51. Water infrastructure is a critical part of the Project’s success, particularly in the Project’s nascent stages, with an potential need of up to 715,000 gallons per day in the initial phases of operation.

ANSWER: The Township lacks knowledge or information sufficient to form a belief about the truth regarding the allegations contained in paragraph 51, and leaves Gotion to its proofs.

52. Because of the sizeable water needs of the Project, Gotion must obtain water from a source with sufficient capacity to effectively service the Project.

ANSWER: The Township lacks knowledge or information sufficient to form a belief about the truth regarding the allegations contained in paragraph 52, and leaves Gotion to its proofs.

53. After diligently reviewing its options for extending water to the Project, Gotion determined that the most feasible source is obtaining water from the City of Big Rapids.

ANSWER: The Township lacks knowledge or information sufficient to form a belief about the truth regarding the allegations contained in paragraph 53, and leaves Gotion to its proofs.

54. Pursuant to long-term agreements with the City, the Township has limited review-and-approval rights over proposed extensions of the City’s water system. Specifically, in May 2000, the Township adopted Ordinance No. 16-52000, which granted the City the right to construct, install, maintain, operate, repair, and replace the City’s water system along and under the public rights-of-way in the Township for a period of thirty years. A copy of Ordinance No. 16-52000 is attached hereto as **Exhibit 4**.

ANSWER: Gotion cites Exhibit 4, which speaks for itself. To the extent an answer is required, the Township admits that a previous Township Board adopted Ordinance No. 16-52000 in 2000 but denies that any agreements related to extensions of the City’s water system are effective between the Township and the City of Big Rapids.

55. Under Ordinance No. 16-52000, proposed extensions of the City’s water system through the Township “shall be subject to the review and approval of the Township.” Ex. 4, Ord. No. 16-52000, at § 9. However, the scope of that review and approval process is strictly “limited to the impact such extensions may have on the orderly development of the Township consistent with the Township Master Plan.” *Id.*

ANSWER: Gotion cites Exhibit 4, which speaks for itself. Answering further, and upon information and belief, the Township has never adopted the master plan referenced in Ordinance No. 16-52000, therefore necessitating the revocation of Ordinance No. 16-52000.

56. After the adoption of Ordinance No. 16-52000, the Township and the City executed the Retail Water Service Agreement (“Water Agreement”) in June and July 2000, which further defines the City’s right to construct, install, maintain, operate, repair, and replace the various components of the water system in the Township. A copy of the Water Agreement is attached hereto as **Exhibit 5**.

ANSWER: The Township denies that the Water Agreement defines anything permitted (or not) under Ordinance No. 16-52000 as the Ordinance itself is premised on the existence of a Township master plan that, upon information and belief, does not exist. Further answering, the Township has since properly revoked Ordinance No. 16-52000.

57. Under the terms of the Water Agreement, while the Township has the initial obligation to review plans and specifications to determine whether they are consistent with the Township’s Master Plan, ultimately, “[t]he City shall have the *sole authority* for accepting or rejecting the request of the Township for service.” Ex. 5, Water Agmt., at § 7 (emphasis added).

ANSWER: No answer is required. Gotion cites Exhibit 5, which speaks for itself. Answering further, and upon information and belief, the Township has never adopted the master plan referenced by Ordinance No. 16-52000.

58. In accordance with Ordinance 16-52000, Gotion submitted to the Township two sets of alternative plans and specifications to extend the City’s water system through the Township to service the Project.

ANSWER: The Township lacks knowledge or information sufficient to form a belief about the truth regarding the allegations contained in paragraph 58, and leaves Gotion to its proofs.

59. Option A would involve extending a new water main from the City's current system to Gotion's property in Green Charter Township and constructing a water tower. *See Exhibit 6*, Option A Plans & Specs.

ANSWER: No answer is required. Gotion cites Exhibit 6, which speaks for itself.

60. Option B would involve constructing a new city well and water plant directly on or near Gotion's property. *See Exhibit 7*, Option B Plans & Specs.

ANSWER: No answer is required. Gotion cites Exhibit 7, which speaks for itself.

61. After reviewing both Options proposed by Gotion, the Mayor of Big Rapids, Fred Guenther, sent a letter to the Township "seeking Green Charter Township's approval of the plans and specifications for both options [A] and [B] so as not to require the City to come back later if one or the other option proves unfeasible."

ANSWER: The Township admits that the Mayor of Big Rapids sent a letter to the Township containing the quoted language. The quoted language speaks for itself.

62. The Mayor further noted that "[i]n the City's view, neither option will have any adverse impact on future development in the Township inconsistent with the Township's Master Plan. Therefore, based on the limited scope of the Township's review, it is our hope that this review and approval process will not be controversial." *Id.*

ANSWER: No answer is required. Gotion cites quoted language from the Mayor of Big Rapids. The quoted language, which is purely an opinion, speaks for itself.

63. Honoring its obligation under the Development Agreement to obtain the necessary governmental authority necessary to advance the Project, the Township unanimously adopted Resolution No. 1012023 on October 10, 2023, approving Gotion's plans and specifications (the

“Water Extension Resolution”). A copy of the Water Extension Resolution is attached hereto as **Exhibit 8**.

ANSWER: The Township admits that the previous Township Board adopted Resolution No. 1012023 on October 10, 2023. Gotion cites Exhibit 8, which speaks for itself. At this juncture, however, the Township further answers that Ordinance No. 16-52000 has been properly revoked.

64. In the Water Extension Resolution, the Township acknowledged the limitations of the scope of its review and approval for proposed water extensions. Specifically, the Township noted that its oversight was limited to an evaluation of “the impact, if any, such extension may have on the orderly development of the Township consistent with the Township Master Plan[.]” Ex. 8, Water Extension Resolution.

ANSWER: No answer is required. Gotion cites Exhibit 8, which speaks for itself. Answering further, and upon information and belief, the Township has never adopted the master plan referenced by Ordinance No. 16-52000, so the Township could not have reviewed the proposed water extensions consistent with such a document.

65. The Resolution further stated that the “Township Board hereby approves both sets of plans and specifications for the proposed extensions of the Water System . . . with the understanding that the City may select, at its sole discretion, the option that is most feasible and convenient based on the circumstances and results of its efforts to obtain other required outside approvals.” *Id.*

ANSWER: No answer is required. Gotion cites Exhibit 8, which speaks for itself.

66. The Water Extension Resolution further noted that, “[t]he Township Board, in approving the plans and specifications finds and determines that neither of the two alternative

proposed extensions of the Water System will adversely impact the orderly development of the Township consistent with the Township’s Master Plan.” *Id.*

ANSWER: No answer is required. Gotion cites Exhibit 8, which speaks for itself. Answering further, and upon information and belief, the Township has never adopted the master plan referenced by Ordinance No. 16-52000, so the Township could not have reviewed the proposed water extensions consistent with such a document.

Township Board turnover and rescission of the Water Extension Resolution and Support Resolution

67. Efforts to recall members of the Green Charter Township Board (the “Board”) because of their support for the Project began in late 2022.

ANSWER: The Township lacks knowledge or information sufficient to form a belief about the truth regarding the allegations contained in paragraph 67, and leaves Gotion to its proofs.

68. As a result of the recall efforts, Trustee James Peek resigned on June 13, 2023, and Trustee Gary Todd resigned on September 13, 2023. Peek was replaced by Sara Rasmussen and Todd was replaced by Daniel Hoeh.

ANSWER: The Township admits the allegations contained in paragraph 68.

69. On November 7, 2023, the Township held an election to recall the other five members of the Board. All five remaining members, including the supervisor, two trustees, the clerk, and the treasurer, were recalled.

ANSWER: The Township admits the allegations contained in paragraph 69.

70. The five new members of the Board are Jason Kruse (Supervisor), Kelly Cushway (Trustee), Jeff Thorne (Trustee), Robert Henderson (Treasurer), and Corri Riebow (Clerk).

ANSWER: The Township admits the allegations contained in paragraph 70.

71. All five new members of the current Township Board have publicly expressed anti-Gotion sentiment.

ANSWER: The Township admits that the new Board members have made public statements about Gotion; the contents of those statements are subject to individual interpretation. The Township further answers that no individual Board member speaks on behalf of the Township Board.

72. Clerk Corrie Riebow, speaking on the new Board's stance on Gotion, shared with the media that "[w]e just plan on making it as difficult as possible for them to continue their process."⁵

ANSWER: The Township admits that the quoted language is contained in the cited material but denies that Ms. Riebow spoke on the "new Board's stance" as she does not have the authority to unilaterally speak on behalf of the Township Board.

73. She added that Gotion was "not their friend."⁶

ANSWER: The Township admits that the quoted language is contained in the cited material. The Township further answers that no individual Board member speaks on behalf of the Township Board.

74. Immediately prior to his election to the Board, Supervisor Jason Kruse was the founder and president of the Mecosta Environmental & Security Alliance ("MESA"), an organization that "exists to fund the legal efforts to stop the construction of" the Project.⁷

⁵ B. Entin & D. Markham, *Michigan Town Votes to Oust Entire Govt. over Chinese Factory Plans*, NewsNation (November 8, 2023), <https://www.newsnationnow.com/world/china/election-government-chinese-factory-plans> (last accessed on March 7, 2024).

⁶ *Id.*

⁷ MESA, <https://protectmecosta.org> (last accessed on February 14, 2024).

ANSWER: The Township admits that Supervisor Jason Kruse was a founder and president of MESA and that the quoted language is contained in the cited material.

75. Supervisor Kruse told reporters shortly after assuming the role of Board Supervisor that Gotion “can be stopped, 100 percent,” and that his political office could be used to undermine Gotion’s efforts: “There’s a lot of holes that can be pulled apart and we can dissect this project.”⁸

ANSWER: The Township denies that Mr. Kruse speaks in his individual capacity on behalf of the Township Board. The Township admits that the quoted language is contained in the cited material and further responds that these statements are merely an expression of personal opinion.

76. In another instance, Supervisor Kruse explained the straightforward purpose of his candidacy: “I’m elected to be a no-Gotion guy.”⁹

ANSWER: The Township denies that Mr. Kruse speaks in his individual capacity on behalf of the Township Board. The Township admits that the quoted language is contained in the cited material and further responds that these statements are merely an expression of personal opinion.

77. Trustee Jeff Thorne told the media that he ran for the Board to “be in th[e] fight” against the Project: “I wouldn’t be involved in this if I thought it was fruitless, if [the Project] was a done deal. There are a lot of things that can be done.”¹⁰

⁸ M. Dilworth, *Michigan Campaigners Who Kicked Out Township’s Entire Local Government*, Daily Mail (November 19, 2023), <https://www.dailymail.co.uk/news/article-12754729/Michigan-Green-Charter-board-China-Gotion-factory> (last accessed on March 7, 2024).

⁹ P. Gardner, *New Scrutiny Challenges Michigan’s Investment in Gotion EV Battery Plant*, Bridge Michigan (December 5, 2023), <https://www.bridgemi.com/business-watch/new-scrutiny-challenges-michigans-investment-gotion-ev-battery-plant>, (last accessed on March 7, 2024).

¹⁰ Dilworth, *supra* note 8.

ANSWER: The Township denies that Mr. Thorne speaks in his individual capacity on behalf of the Township Board. The Township admits that the quoted language is contained in the cited material and further responds that these statements are merely an expression of personal opinion.

78. Trustee Kelly Cushway bluntly told reporters: “Nothing would make me happier than for Gotion to pull out.”¹¹

ANSWER: The Township denies that Mr. Cushway speaks in his individual capacity on behalf of the Township Board. The Township admits that the quoted language is contained in the cited material and further responds that these statements are merely an expression of personal opinion.

79. On November 14, 2023—just one week after the recall election and in their first meeting—the new Township Board adopted Resolution No. 2023.01 in a 4-to-3 vote, rescinding the Water Extension Resolution, which had been unanimously adopted only a month prior. A copy of Resolution No. 2023.01, henceforth the “Resolution to Rescind,” is attached hereto as **Exhibit 9**.

ANSWER: The Township admits the allegations contained in paragraph 79.

80. In breaking the tie on the 3-3 vote to adopt the Resolution to Rescind, the Township Supervisor stated that he would “flip a coin” and go with a vote to rescind the Water Extension Resolution.

ANSWER: The Township admits the allegations contained in paragraph 80.

¹¹ M. Cho, *New Green Charter Township Board Sworn In*, WZZM13 (November 8, 2023), <https://www.wzzm13.com/article/news/local/new-green-charter-twp-board-sworn-in/69-2c425548-e43c-4832-8eda-0cecb112c507> (last accessed on March 7, 2024).

81. The Township justified its abrupt reversal on the grounds that “the current elected board” lacked “sufficient time and legal expertise to review the Resolution and agreement terms.” Ex. 10, Resolution to Rescind.

ANSWER: Gotion cited Exhibit 10, however, the Township believes Gotion intended to cite Exhibit 9. The Township admits that the language quoted in paragraph 81 is contained in Exhibit 9.

82. The Township also claimed that “the current board” had not been in “contact with the City to fully understand the details and or scope of the project.” *Id.*

ANSWER: The Township admits that the language quoted in paragraph 82 is contained in Exhibit 9.

83. The Township also claimed to have “NOT reviewed the two alternative sets of plans and specifications for the proposed extension of the Water System.” *Id.*

ANSWER: The Township admits that the language quoted in paragraph 83 is contained in Exhibit 9.

84. The Township failed to cite any authority to rescind the Water Extension Resolution.

ANSWER: The Township denies this averment in the manner and form alleged as it assumes a need to cite authority to rescind the Water Extension Resolution when there is no legal obligation to do so. Further responding, while the resolution does not cite legal authority for rescinding the Water Extension Resolution, its rescission was a lawful act taken by the Board.

85. At that same meeting, the Township also approved a motion to “continue investigating matters concerning Gotion.” *Id.*

ANSWER: The Township admits that it passed the quoted motion at its November 14, 2024, meeting; however, the quoted language is not contained in Exhibit 10, as cited by Gotion.

86. At a special meeting held on Sunday, December 3, 2023, the Township Board voted 5-to-2 to rescind the Support Resolution. A copy of the minutes of this special meeting is attached hereto as **Exhibit 10**.

ANSWER: The Township admits that the Board voted to rescind the Support Resolution at a December 3, 2023, special meeting. Exhibit 10 speaks for itself.

87. In the Support Resolution, adopted unanimously less than a year earlier, the Township had expressed its support for Gotion and the Project and declared that the Township would “assist[] Gotion Inc in their efforts to join our community.” Ex. 2, Support Resolution.

ANSWER: The Township admits that the former Board adopted the Support Resolution. Exhibit 2 speaks for itself.

88. With the rescission of the Support Resolution the Township made clear that it was not interested in “fully understanding” the nature of its Agreement with Gotion. The Township’s only goal was, in the words of Clerk Corrie Riebow, to make it “as difficult as possible for them to continue their process.”

ANSWER: The Township denies the allegations contained in paragraph 88. By way of further response, this averment is misleading because Ms. Riebow’s personal opinion has been improperly misconstrued as a Township policy, which is entirely untrue, as no individual Board member speaks on behalf of the Township Board.

89. Nevertheless, the Development Agreement was and remains a legally binding agreement between Gotion and the Township.

ANSWER: The Township denies that the Development Agreement is legally binding and leaves Gotion to its proofs.

Breach Letter and the Township's Response

90. On December 8, 2023, Gotion, through its counsel, notified the Township that it was in material breach of the Development Agreement. A copy of this letter is attached hereto as **Exhibit 11**.

ANSWER: The Township admits that Exhibit 11 was mailed to the Township. Exhibit 11 speaks for itself; the Township denies that any breach occurred because the Development Agreement is not valid or effective, and because the Township has taken no actions that violate the Development Agreement.

91. Gotion requested that the Township cure its breaches by rescinding the recently adopted resolutions and reinstating the Water Extension Resolution and the Support Resolution.

ANSWER: The Township admits that Gotion requested a cure, but the Township denies that any breach occurred.

92. Pursuant to the Development Agreement, the Township had 60 days from the date of the letter to cure as requested. Ex 1, Dev. Agmt. at § 7.g.a.

ANSWER: The Township admits that the cited language is contained in the Development Agreement; however, the Township denies that any breach occurred.

93. On February 8, 2024, the Township refused to cure its breach. A copy of this letter is attached hereto as **Exhibit 12**.

ANSWER: The Township denies that it breached the Development Agreement.

94. The letter “presumed that the Development Agreement is a binding and enforceable agreement on the parties,” but added that “that presumption should not be construed as an admission by the Township that the Development Agreement is binding and enforceable.” *Id.*

ANSWER: The Township admits that the quoted language is contained in Exhibit 12.

95. In its letter, the Township did not dispute that the rescission of these resolutions was contrary to its obligations in the Development Agreement. Rather, the Township provided four supposed excuses for why it believed the rescissions of the Water Extension and Support Resolutions did not constitute a breach of the Development Agreement.

ANSWER: The Township denies that it breached the Development Agreement or took any actions that were contrary to its obligations thereunder; answering further, the Township maintains that the Development Agreement is not a valid or effective contract.

96. First, it argued that the rescission of the Support Resolution did not affect the Project because the Support Resolution only “contained blanket *opinions*,” and did not propose any particular action for the Project. *Id.*

ANSWER: The Township admits that the quoted language is contained in Exhibit 12, but denies that it breached the Development Agreement. By way of further response, the Township further states that the Support Resolution was ministerial in nature and predated the Development Agreement.

97. Second, the Township argued that the Project’s need for water was not presently necessary because Gotion lacked various permits, governmental approvals, and “a finalized public project design.” *Id.*

ANSWER: The Township admits that the quoted language is contained in Exhibit 12, but denies that it breached the Development Agreement.

98. Third, it claimed that Gotion’s December 8 letter indicated that Gotion believed the Township had no authority to approve expansions of the City’s water system, and thus, should Gotion be correct, “Gotion should recognize that Township action is unnecessary for Proposed Project approvals and that the Township could not materially or adversely impact the Proposed Project.” *Id.*

ANSWER: The Township admits that the quoted language is contained in Exhibit 12, but denies that it breached the Development Agreement.

99. Finally, the Township cited a December 6, 2023 article in the Big Rapids Pioneer that reported on “a very good meeting” between the Big Rapids City Manager and Township Supervisor Kruse, during which they discussed, among other topics, Gotion’s proposed extensions to the water system.

ANSWER: The Township admits the allegations contained in paragraph 99.

100. The Township included in its letter a list of six questions about the Project which the Township alleged to be “passing” to Gotion from “the public.” *Id.* Most of the questions asked by the Township have nothing to do with the extension of water by the City.

ANSWER: The Township admits that it included questions in its letter to Gotion.

101. It also requested reasoning as to “why it will not answer” “if Gotion chooses to not answer” the questions. *Id.*

ANSWER: No answer is required. Gotion cites Exhibit 12, which speaks for itself.

102. A representative from Gotion has attended every Board meeting since November 2023 to answer questions from the Board and the public. The questions asked have either been addressed by Gotion in those public meetings or are questions that Gotion presently could not provide an answer.

ANSWER: The Township lacks knowledge or information sufficient to form a belief about the truth regarding the allegations contained in paragraph 102, and leaves Gotion to its proofs.

The Township Continues to Breach the Development Agreement

103. Even after Gotion provided notice of the Township's breaches of the Development Agreement, the Township has continued to take actions to intentionally interfere with Gotion's project in clear violation of the Development Agreement.

ANSWER: The Township denies the allegations contained in paragraph 103; and further, the Township denies that the Development Agreement is valid and enforceable.

104. For instance, shortly before this lawsuit was filed, the Township held yet another series of special meetings in February to initiate a proposed ordinance to create a planning commission, despite the fact that Township citizens already voted down a referendum to create a planning commission in the November 2023 election. A copy of a February 21, 2024, meeting minutes is attached hereto as **Exhibit 13**.

ANSWER: The Township admits that it held a special meeting in February 2024 to create a planning commission pursuant to its legislative authority. The Township admits that the Township electors voted down an initiative to establish a planning commission by the previous Township Board. The Township denies that this has any relevance to the pending action.

105. The Township Board indicated that it intends to appoint a 7-person planning commission to create township zoning, rezone Gotion's property, and reject all building permits.

ANSWER: The Township admits that it intends on creating a seven-person planning commission to create township zoning; however, the Township denies the remainder of the allegations of paragraph 105 as untrue.

106. On March 7, 2024, the Township served a Notice of Preliminary and Permanent Injunction on the Mecosta County Planning Commission. A copy of this Notice is attached hereto as **Exhibit 14**.

ANSWER: The Township admits to the allegations contained in paragraph 106. Exhibit 14 speaks for itself.

107. In the Notice, the Township threatened a lawsuit against the County if the County did not stop processing Gotion’s site plan and special use permit application that was submitted to the County for review on March 1, 2024 even though the ordinance to establish a planning commission will not take effect until April 27, 2024 at the earliest per Michigan’s Zoning Enabling Act, and the Township does not currently have a zoning ordinance in place that would confer zoning jurisdiction on the Township. (*Id.*) The Mecosta County Planning Commission is currently the sole body with zoning jurisdiction with respect to Gotion’s site plan and special use permit application.

ANSWER: The Township admits it made the statements in Exhibit 14, which speaks for itself.

108. The Township’s March 7, 2024 Notice constitutes yet another breach of the Development Agreement, as it is a blatant refusal to “assist Gotion . . . in obtaining or causing to obtain any licenses, permits, or other governmental authorizations necessary to advance the Project.” *See Exhibit 1*, Dev. Agmt. § 4(c).

ANSWER: The Township denies the allegations contained in paragraph 108. Additionally, at the time of this filing, no action has been filed against Mecosta County and it is speculative as to whether the Township will ever file an action against the County. Answering further, the Development Agreement expressly states that Gotion will comply with all lawful existing and future Township ordinances.

109. The Township's continued breaches of the Development Agreement threaten to undermine the Project and thereby unravel an endeavor already years and millions of dollars in the making.

ANSWER: The Township denies that it has breached the Development Agreement in any way.

110. To protect its investment, Gotion is left with no other option but to seek equitable relief from this Court.

ANSWER: The Township denies the allegations contained in paragraph 110.

COUNT I

Breach of Development Agreement

111. Gotion realleges and incorporates by reference the allegations of the preceding paragraphs.

ANSWER: No answer is required.

112. Gotion and the Township entered into a binding contract in the form of the Development Agreement.

ANSWER: The Township denies that the Development Agreement was ever legally entered into by the Township.

113. Gotion has fully performed its obligations under the Development Agreement and remains ready, willing, and able to continue performance.

ANSWER: The Township denies the allegations contained in paragraph 113. Answering further, to the extent the Development Agreement is a binding contract, Gotion materially breached the same by engaging in significant political activity in violation of Section 3(m) of the Development Agreement.

114. Under the Development Agreement, the Township is obligated to, among other things, “assist Gotion, to the extent legally permissible, in obtaining or causing to obtain any licenses, permits, or other governmental authorizations necessary to advance the Project or conduct business to support the Project.” *See Exhibit 1*, Dev. Agmt. § 4(c).

ANSWER: The Township denies that the Development Agreement is enforceable; if it is deemed to be enforceable then the Township denies that it must comply with certain provisions of the Development Agreement that usurp the Township’s legislative authority. Answering further, the Township is not aware of any pending applications for “licenses, permits, or other governmental authorizations” by Gotion that would trigger this purported obligation.

115. The Township breached the Development Agreement by its actions following the November recall election, including rescinding the Water Extension Resolution and the Support Resolution.

ANSWER: The Township denies that any breach of the Development Agreement, if it is enforceable, has occurred.

116. The Township further breached the Development Agreement through the March 7, 2024 Notice to the Mecosta County Planning Commission which threatens to enjoin the County from exercising its statutory obligations under the Zoning Enabling Act.

ANSWER: The Township denies the allegations contained in paragraph 116.

117. Specific performance is an appropriate remedy here because there is no adequate remedy at law for the Township's continuing refusal to follow its obligations under the Development Agreement, including approving the plans and specifications for the extension of the Township's water system to service the Project and otherwise supporting the Project.

ANSWER: The Township denies the allegations contained in paragraph 117.

PRAYER FOR RELIEF

WHEREFORE, Green Charter Township respectfully requests this Honorable Court to deny Gotion's requested relief and enter a judgment dismissing all Gotion's claims and requested relief against Green Charter Township, with prejudice; award costs and attorneys' fees; and order any other relief this Court determines is just and proper.

Respectfully submitted,

*Bauckham, Thall, Seeber,
Kaufman & Koches, P.C.*

Dated: September 20, 2024

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AFFIRMATIVE DEFENSES

NOW COMES Defendant Green Charter Township, by and through its attorneys, and in response to the Complaint of Plaintiff, Gotion Inc., affirmatively states as follows:

1. Gotion has failed to state a claim upon which relief may be granted.
2. Gotion lacks standing.
3. Gotion's claims are not ripe.
4. Gotion's claim is moot.
5. The Development Agreement is contrary to public policy.
6. The Development Agreement is illegal.
7. The Development Agreement is unenforceable.
8. The Development Agreement is void due to undisclosed conflicts of interest.
9. Separation of power.
10. Violation of the Michigan Constitution.
11. Gotion committed the first material breach of the Development Agreement excusing performance by the Township.
12. Fraud in the inducement.
13. Defendant reserves the right to file such additional affirmative defenses as may become apparent pursuant to discovery procedures during the pendency of this matter.

WHEREFORE, Green Charter Township respectfully requests this Honorable Court to deny Gotion's requested relief, enter a declaratory judgment that the Development Agreement is not a valid or binding contract, and enter a judgment dismissing all Gotion's claims and requested relief against Green Charter Township, with prejudice; award costs and attorneys' fees; and any other relief this Court determines is just and proper.

Respectfully submitted,

*Bauckham, Thall, Seeber,
Kaufman & Koches, P.C.*

Dated: September 20, 2024

/s/ T. Seth Koches

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Dated: September 20, 2024

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**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

GOTION, INC.,

Plaintiff/Counter-Defendant,

Case No. 1:24-cv-00275

v.

HON. JANE M. BECKERING

GREEN CHARTER TOWNSHIP,
a Michigan charter township,

**GREEN CHARTER TOWNSHIP'S
COUNTERCLAIM**

Defendant/Counter-Plaintiff.

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GREEN CHARTER TOWNSHIP'S COUNTERCLAIM

I. The Project: First Steps and Public Reception

1. This suit concerns a purported Development Agreement between the Township and Gotion dated August 22, 2023, intended to facilitate Gotion's placement of a \$2.36 billion battery component manufacturing plant and industrial campus within the Township (the "Project").
2. Preliminary discussions about siting the Project in the Township began in 2022, and upon information and belief, involved high-level discussions between Gotion Vice President Charles "Chuck" Thelen and various key officials from the Michigan Strategic Fund ("MSF"), Michigan Economic Development Corporation ("MEDC"), the Right Place, Inc. (a nonprofit economic development corporation located in West Michigan), the City of Big Rapids, Big Rapids Charter Township, and Green Charter Township. **Exhibit H**, pp. 63-65.
3. Upon information and belief, preliminary discussions about the Project took place at private meetings that were not open to the public, and the Project was initially and clandestinely referred to as "Project Elephant," with no disclosure of Gotion's identity or interest in the Project, at least to Green Charter Township. **Exhibit A**, p. 30.
4. The first official Township action related to the Project occurred on September 26, 2022, during a joint meeting of the Mecosta County Board of Commissioners, the Big Rapids Charter Township Board, and the Township Board, at which all three entities announced the establishment of a 30-year renaissance zone encompassing Gotion's proposed Project site, providing a purported tax incentive of \$540,000,000. **Exhibit J**.

5. At the September 26, 2022, joint meeting, Green Charter Township Trustee Dale Jernstadt was present, but abstained from voting on the basis that he owned land within the proposed renaissance zone. *Id.*
6. Upon information and belief, around this same time Gotion began purchasing options on the real property that would comprise its project site within the Township.
7. This included a vacant 72-acre parcel owned by Trustee Jernstadt, who upon information and belief, had purchased the property in question in 2012 for \$180,000. **Exhibit G.**
8. Jernstadt testified that he contracted with Gotion to sell the property in September of 2022, with a final purchase price of \$2,000,000 being payable only upon the successful siting of the project. **Exhibit E**, pp. 22-24, 31-32.
9. Jernstadt's purchase agreement with Gotion was never disclosed to the Township Board by either Jernstadt or, upon information and belief, by Gotion. *Id.* at p. 34.
10. In December of 2022, the Township Board adopted No. 01-122022, titled "A Resolution to support Gotion inc. and their bringing their industrial project to Green Charter Township," which generally pledged the Township's support for the Gotion Project without establishing any specific duties or obligations the Township would be required to perform relative to the Project (the "Support Resolution," ECF 1-2, PageID.38).
11. Although the Support Resolution was a ceremonial show of support rather than an obligation on the Township to take any particular action, it did not reflect community attitudes towards the Project, and public opposition to the Project and the apparent trajectory of the Board grew sharply following the passage of the Support Resolution.

12. By the spring of 2023, Gotion’s development of the Project grew highly political, including efforts to recall the Board, with recall petitions citing the Board’s passage of the Support Resolution as the basis for the recall (See, e.g., **Exhibit K**, Recall Petition).
13. Recall petitions were submitted to the Mecosta County Clerk on April 28, 2023, which certified the petitions for circulation on May 11, 2023, and established a deadline of August 4, 2023, for recall organizers to submit a sufficient number of signatures to trigger a recall election. The recall election would ultimately be held on November 7, 2023.
14. In April of 2023, the Board adopted an ordinance creating a Township Planning Commission with the aim of obtaining zoning jurisdiction over the Township, which at the time was subject to County zoning. **Exhibit L**.
15. Communications between Supervisor Chapman and Gotion Vice President Thelen around this time period indicate that the Township’s zoning ordinance would be tailored specifically to accommodate the Gotion Project, with Chapman offering to “set the zoning ordinance” restrictions maximum height to whatever clearance was necessary for Gotion’s buildings. **Exhibit B**, pp. 119-118.¹
16. The residents of the Township ostensibly realized that the Board’s efforts to establish zoning were intended to facilitate the Project and, following the circulation and certification of referendum petitions in June of 2023, the ordinance establishing a Township Planning Commission was also placed on the November 7, 2023, ballot.²

¹ As produced by Gotion, the text messages between Thelen and Chapman read in reverse chronological order and from the bottom of the page to the top.

²*Referendum for Planning Commission Back on Ballot in Green Charter Township*, Cathie Crew, Published April 22, 2024 (accessed 9/20/24). <https://www.bigrapidsnews.com/news/article/green-charter-township-vote-planning-commission-19416375.php>.

II. Negotiation of the Development Agreement

17. With the recall and referendum elections on the horizon and public opposition mounting, Gotion began negotiating a development agreement in the Summer of 2023 with Chapman, which would ostensibly govern the rights and obligations of Gotion and the Township related to the Project.
18. Initial drafts of the development agreement were circulated in late July of 2023. **Exhibit I**, pp. 95, 106.
19. Although negotiations of the proposed development agreement involved at least some meetings involving the parties' attorneys, key negotiations occurred via text messages and possibly telephone calls directly between former Township Supervisor Jim Chapman and Gotion Vice President Charles Thelen. **Exhibit B**, pp. 88-94, 79-86.
20. In these messages, Thelen exerted considerable pressure on Chapman to push the development agreement through the Township Board prior to the impending recall election and possible turnover of the then pro-Gotion Board.
21. These messages established a pattern of quid pro quo, with Thelen stating to Chapman: "We got each other's backs," and "You have had my back now its (sic) my turn to help." *Id.* at pp. 74, 123.
22. Much of the negotiations between Thelen and Chapman surrounded the amounts Gotion would reimburse the Township for its administrative and professional expenses incurred related to the Project, as well as payments to offset the costs of providing police, fire, and other essential services to the Project normally funded by property taxes, given that the Project would be exempt from property taxes for 30 years pursuant to the Renaissance Zone designation.

23. Despite having not reached a consensus on these terms (and despite negotiations of the development agreement beginning just weeks before), Thelen directed Chapman to take an incomplete version of the proposed agreement before the Township Board for approval on August 1, 2023, instructing Chapman to “prime your board to sign.” *Id.* at p. 86.
24. Thelen also instructed Chapman to prepare a summary of the proposed development agreement for the Board, and Chapman did so. *Id.* at p. 85.
25. On August 1, 2023, the same day as the Township Board meeting at which the draft development agreement was to be discussed, the Mecosta County Clerk announced that it had received approximately 600 signatures for the recall against the Township Board and would begin verifying them.
26. Just hours before the August 1, 2023, Township Board meeting, Thelen offered Chapman an all-expenses-paid trip to Hefei, China. *Id.*
27. Although the two ultimately agreed that the trip to China should be postponed until after the recall election to “keep the heat off,” Chapman never disclosed this offer to the Board. *Id.* at p. 82. *See also*, **Exhibit M**, p. 125.
28. At the August 1, 2023, Township Board meeting, Chapman presented the Board with a document labeled as the “first draft of the development agreement” (**Exhibit N**), as well as a “summary” of the terms and conditions of the same (ECF 13-2, PageID.261-262).
29. The draft development agreement presented to the Board was missing several material terms related to the Township’s reimbursement of expenses associated with the Project.
30. The “summary” provided by Chapman indicated that the reimbursement terms might include a “\$250K escrow for expenses,” to be provided by Gotion, that the parties would negotiate in good faith for further reimbursement after the exhaustion of this escrow, and

that the Township's liability insurance would be implicated to some extent. These terms were absent from the draft agreement presented to the Board (ECF 13-2, PageID.261-262).

31. Following the presentation of Chapman's inaccurate summary of the proposed Development Agreement, the Board unanimously voted "to approve the first draft of the Development Agreement Gotion Inc. and further to authorize the Supervisor to finish the terms conditions and reimbursement fees." *Id.*

32. Significantly, Trustee Jernstadt joined in the discussion and the vote to approve the Development Agreement without disclosing that he was positioned to receive \$2,000,000 from Gotion if the Project was successfully sited. *Id.*

III. Post-Meeting Negotiations

33. Chapman and Thelen's negotiation of the development agreement over text resumed the following day after the Board's vote directing Chapman to "finish the terms."

34. On August 8, 2023, Chapman alerted Thelen that the development agreement (which was still being negotiated at this point) had been requested under Michigan's Freedom of Information Act ("FOIA") and informed Thelen that he had extended the Township's deadline to respond to the request, ostensibly to give Thelen and Chapman additional time to negotiate. **Exhibit B**, p. 79.

35. On August 11, Thelen sent Chapman a revised version of the draft development agreement. *Id.* at p. 78.

36. That same day, Thelen asked for the name of Chapman's "security friend" to discuss a possible contract with Gotion to patrol against trespassers on Gotion's property. *Id.*

37. On August 14, the Mecosta County Clerk notified Clerk Clark, Treasurer MacFarlane, and Trustees Carroll, Jernstadt, and Todd that the recall petitions filed against them had been deemed sufficient, with a recall election scheduled for November 7, 2023.
38. That same day, and while Chapman was still reviewing the latest round of edits proposed by Gotion on August 11, Thelen messaged Chapman stating: “Hi jim tracey and I would like to donate to your defense fund. Do u take venmo? I think I heard u say alsonthat [sic] the limit is \$1200 that u can accept from a single donor is that correct?” *Id.* at p. 77.
39. Chapman’s campaign finance report reflects a donation of \$1,000 made to his recall campaign fund by Tracey Thelen (Charles Thelen’s wife) on August 14, 2023. **Exhibit O**, p. 12.
40. Chapman responded to Thelen: “Wow... thank you,” and Thelen promptly took credit for the donation, stating: “The least we can do Jim. You have had my back now its my turn to help.” **Exhibit B**, p. 73-74.
41. Notably, Chapman had previously shared the QR code to his campaign fund with Thelen on July 12, 2023, but Thelen did not elect to make a donation until it was understood that Chapman held final negotiation and signatory authority on the development agreement. *Id.* at p. 98.
42. Chapman never disclosed this donation to the Board (*see, e.g.*, **Exhibit C**, p. 58; **Exhibit D**, pp. 57-58; **Exhibit E**, p. 65), nor did he reveal the quid pro quo revealed by Thelen’s comment that: “You [Jim] have had my back now its my turn to help.” **Exhibit A**, pp. 253-54.
43. Later that day, Thelen invited Chapman to a golf foursome in Oakland County. **Exhibit B**, p. 75.

44. On August 16, 2023, a revised draft of the development agreement was sent from the Township to Gotion. *Id.* at p. 71.
45. On August 17, 2023, Thelen requested that Chapman provided him a “1 day notice before you send the contract to the foi [FOIA] requesters,” to which Chapman responded: “We want to work with you on news release etc. My hard date [for the FOIA response] is the 22nd.” *Id.*
46. Consistent with the agreed-upon deadline, Supervisor Chapman and Clerk Janet Clark signed the Development Agreement—without obtaining approval of the final version from the Township Board—on August 22, 2023 (ECF 1, PageID.31).
47. The three weeks of negotiations that followed the Township Board’s vote on the first draft of the Development Agreement saw substantive changes to not only the section dealing with the Township’s reimbursement in Section 2, but also two other sections that were never discussed before the Board—one dealing with Gotion’s obligations to complete improvements related to the Project in Section 1, and another dealing with force majeure events in Section 20 (previously numbered Section 22). Compare **Exhibit N** with ECF 1, PageID.22-36.
48. The executed Development Agreement did away with the “\$250K escrow for expenses” promised by Chapman’s summary of Section 2 of the draft development agreement presented to the Township Board, and instead implemented a reimbursement process whereby the Township would be required to send Gotion invoices that would be payable 30 days following receipt (ECF 1, PageID.23).

49. The executed version of the Development Agreement also excluded reimbursement for costs that would be covered by the Township's insurance coverage, a liability that was not clearly spelled out in Chapman's summary to the Board. *Id.*
50. Despite the initial scramble to have Chapman execute the Development Agreement, Gotion's President Chen Li did not execute the Development Agreement until October of 2023, notwithstanding the Agreement indicating an effective date of August 22, 2023. **Exhibit H**, p. 166.

IV. Recall; Final Board Actions

51. On August 30, 2023, the Mecosta County Clerk announced that the recall election against Chapman and the remaining Board members would take place on November 7, 2023.
52. With the majority of residents opposed to the Project and frustrated with the Board's continued efforts to site the Project despite considerable objection, Trustee Peek resigned on June 13, 2023, and Trustee Todd resigned on September 13, 2023.
53. The last action the Board took in furtherance of the Gotion Project before the recall election occurred on October 10, 2023, at which the Board voted unanimously to approve "two alternative sets of plans and specifications for the proposed extension of the Water System" from the City of Big Rapids to serve the Gotion Project within the Township (ECF 1, PageID.118-123).
54. This decision was ostensibly made under the Township's Ordinance No. 16-52000, which granted a franchise to the City of Big Rapids to provide water service within the Township upon the Township's approval of such extensions (ECF 1, PageID.92-100).
55. Under Ordinance No. 16-52000, the Township's right to review proposed extensions to the City of Big Rapids' water system was "limited to the impact, if any, such extension may

have on the orderly development of the Township consistent with the Township Master Plan” (ECF 1, PageID.96).

56. However, the Township had never adopted the master plan referenced by Ordinance No. 16-52000 at the time Gotion’s water plans were approved.

57. Despite the fact that it was impossible for the Board to conduct the review required under Ordinance No. 16-52000, the Board’s October 2023 Resolution approving Gotion’s water plans falsely states that the plans are consistent with the Township’s Master Plan—a “plan” that simply does not exist (ECF 1, PageID.122); (**Exhibit A**, p. 142).

58. None of the Board members that voted on this Resolution were able to articulate any objective standards for approving these plans. *See, e.g.*, **Exhibit A**, pp. 145-46; **Exhibit C**, pp. 54-55; **Exhibit D**, pp. 50-51.

59. On November 7, 2023, the remaining members of the Board who had voted in favor of the Support Resolution were handily recalled, and a new Board took its place.³

60. The proposed Planning Commission ordinance adopted by the previous Board in hopes of facilitating the Gotion Project was also defeated at the November 7, 2023, election.

61. Following the recall, Chapman maintained his close relationship with Thelen and began providing fire and security consulting services to Gotion through his firm Redoubt Protection Inc. less than two weeks after being ousted from the Township. **Exhibit A**, pp. 262-63; **Exhibit B**, p. 44.

62. Around this time, Treasurer MacFarlane also inquired about possible employment with Gotion. **Exhibit D**, pp. 54-55.

³ R. White, *Michigan township board recalled for backing Gotion battery plant*, Michigan Live (November 8, 2023) <https://www.mlive.com/public-interest/2023/11/michigan-township-board-recalled-for-backing-gotion-battery-plant.html> (last accessed on September 17, 2024).

63. Treasurer MacFarlane has admitted that there were discussions about obtaining a job at Gotion while the recall efforts were pending and that she was desperate for a job; it is unclear whether those conversations were before or after the Board's approval of Gotion's water plans. *Id.* at p. 54.

V. Actions by the New Board

64. Upon taking office, the newly-elected members of the Board took several actions that Gotion has targeted in its suit against the Township.
65. First, the Board rescinded the ceremonial and ambiguously worded Support Resolution that was adopted by the previous Board (ECF 1-10, PageID.131).
66. The Board also rescinded its prior approval of Gotion's water plans, citing an inability to fully understand the nature of the plans submitted to the Township, consistent with the Township's inability to meaningfully apply any substantive standard of review given the nonexistence of a Master Plan, the document designated by Ordinance No. 16-52000 to govern Township evaluations and approvals of extensions of the City of Big Rapids water system into the Township (ECF 1-9, PageID.128).
67. Also consistent with the Township's inability to review and approve extensions of the City of Big Rapids into the Township, the Board repealed Ordinance No. 16-52000 and revoked its water franchise with the City of Big Rapids, which was expressly revokable at the will of the Township (ECF 17-5, PageID.316-17).
68. Lastly, in an effort to obtain meaningful control and regulate land development within the Township, the Board formed a Planning Commission and adopted an interim zoning ordinance in February of 2024 (ECF 13-2, PageID.272).

69. Such legislative actions are consistent with the authority reserved to the Township under the Development Agreement, which expressly states in Section 3(n) that: “Notwithstanding anything herein, [*Gotion shall*] comply with all lawful existing and future ordinances, rules, or regulations of GCT [*Green Charter Township*],” and in Section 4(a) provides that the Township will “Diligently review plans and specifications for the Project [...] to ensure they comply with applicable Township ordinances” (ECF 1-1, PageID.26).

VI. Gotion Engages in Politicking

70. Gotion and its employees have been significantly involved in local politics following the execution of the Development Agreement by Chapman and have taken numerous actions to sway public opinion in favor of the Project, which has undeniably and admittedly become a political issue within the Township and the Big Rapids community. *See. e.g., Exhibit A*, p. 185; *Exhibit H*, pp. 213-16, p. 186.

71. On September 10, 2023, Thelen offered Chapman to arrange for the attendance of “pro Gotion folks” to attend the September Board meeting to “combat the knuckleheads” (referring to anti-Gotion protesters). *Exhibit B*, p. 64.

72. Following the Board’s recent formation of the Planning Commission, Chapman and Tracy Ruell, a publicly pro-Gotion candidate for Michigan’s House of Representatives, undertook efforts to place the issue of the Planning Commission on the ballot, ostensibly viewing Township zoning as an impediment to the Project.

73. These efforts were communicated by Chapman to Thelen, who stated that “Signatures are rolling in for referendum. No problem there. We intend to file it quickly to give the county some cover,” referring to blocking the Township’s bid for zoning control and allowing the Project to be approved by the Mecosta Planning Commission.

74. On March 12, 2024, Thelen arranged for a Zoom meeting titled “Legal conversation about voter referendum” with Chapman, Tracy Ruell, several Gotion employees, and Gotion’s legal counsel Warner Norcross + Judd for the purpose of providing legal advice related to the referendum petition. **Exhibit P**.
75. Despite admitting that he was never represented by Warner Norcross + Judd, Chapman refused to answer questions about what was discussed in this meeting or who prepared the referendum petition that he and others ultimately circulated in opposition to the Township Planning Commission, citing attorney client privilege.
76. Chapman and Thelen have both admitted that the formation of Township Planning Commission is a political issue. **Exhibit A**, p. 90; **Exhibit H**, p. 287.
77. On August 21, 2024, Republican U.S. Senate Candidate Mike Rogers held a rally in the Township where he spoke out about the Gotion Project.
78. On this same day, Thelen attended a counter-rally⁴ across the street along with pro-Gotion candidate Tracy Ruell where he circulated pro-Gotion signs to attendees that were provided by Gotion’s PR firm. **Exhibit H**, pp. 35-37.
79. Although Thelen testified that Gotion did not organize the rally on August 21, 2024, Chapman testified that same day that Thelen had “organized [the] pro-Gotion Rally” and had invited him to participate. **Exhibit H**, p. 36; **Exhibit A**, p. 186.

⁴ Interestingly, during his deposition Thelen testified that the pro-Gotion counter-rally was a “celebration” (**Exhibit H**, p. 54). More than 100 signs were made for the pro-Gotion “celebration” by Gotion’s PR firm, which happened to be planned and scheduled directly across the street from a political rally held by Mike Rogers, a Republican Senate Candidate that has taken political policy positions adverse to the Gotion Project. Thelen testified it was likely not a coincidence that the Gotion “celebration” occurred where and when it did. (*Id.* at pp. 226-227).

80. Thelen also made statements in support of the Project to the press at this rally⁵, incorrectly asserting that Gotion had no ties to the CCP and contending that the Project would bring jobs to the Big Rapids community. **Exhibit Q**, p. 4.
81. Thelen also engaged in efforts to sway political opinions by hosting a series of “virtual town hall” interactive video discussions titled “Chats with Chuck” in 2024 in which he admitted were conceived in part by Gotion’s PR firm and were designed to “improve [Gotion’s] perception” within the community. **Exhibit H**, pp. 213-16.
82. Additionally, Thelen has and continues to make numerous statements to local news publications in support of the Project, ostensibly to garner public support and to counteract political opposition to the Project.

VII. Count I: Breach of Contract

83. The Township incorporates the allegations of the proceeding paragraphs as if fully set forth herein.
84. Section 3(m) of the Development Agreement provides that Gotion shall “not support or encourage any activity which supports or encourages any political philosophy amongst its employees or the Big Rapids community.”
85. Although the Township disputes that the Development Agreement is a validly formed contract, Gotion insists that it is binding and enforceable.
86. To the extent that the Development Agreement is a valid contract, Gotion materially breached Section 3(m) by its extensive involvement in patently political issues in the

⁵ R. Brewer, *Rogers and Republican leaders rally to bring down Gotion plant*, WCMU Public Media (August 22, 2024) <https://radio.wcmu.org/local-regional-news/2024-08-22/rogers-and-republican-leaders-rally-to-bring-down-gotion-plant> (last accessed on September 17, 2024).

Township, specifically by facilitating pro-Gotion rallies, assisting in voter referendum efforts, hosting virtual townhall meetings to improve Gotion's perception in the community, and by publishing numerous pro-Gotion statements designed to influence public opinion.

87. Section 7(a) of the Development Agreement provides: "If a Party fails to meet any of its obligations under this Agreement, the non-breaching party may immediately, after expiration of any applicable Cure Period without a cure, terminate this Agreement or exercise [any] other remedy at law or equity." Section 7(a).
88. The political division sown in the Big Rapids Community by Gotion's material breaches of the Development Agreement, which are captured in news articles, social media, and which occurred in the public, are incurable, thereby excusing any obligation on behalf of the Township to comply with the Development Agreement's cure provision. *See Dix v. Atos IT Solutions & Servs*, ___ F. Supp. 3d ___; 2021 U.S. Dist. LEXIS 56632, at *21 (S.D. Ohio, Mar. 25, 2021); *see also Patel v. Wyandotte Hosp. & Med. Ctr., Inc.*, No. 230189, 2003 Mich. App. LEXIS 1068, 2003 WL 1985257 (Mich. Ct. App. Apr. 29, 2003).
89. Gotion's breaches of the Development Agreement occurred prior to any purported breach by the Township and thus the Township was excused from performance.
90. It is impossible for Gotion to cure its breaches and for the Township to give notice to cure as the offending events have already cured and cannot be corrected or rescinded.
91. Therefore, the appropriate remedy is rescission or termination of the Development Agreement.

JURY DEMAND

Defendant/Counter-Plaintiff Green Charter Township demands a trial by jury on all counts so triable pursuant to Fed. R. Civ. P. 38 and the Seventh Amendment to the United States Constitution.

RELIEF REQUESTED

For the reasons set forth above, Defendant/Counter-Plaintiff Green Charter Township respectfully requests that this Court:

1. Order rescission or termination of the purported Development Agreement;
2. Award the Township its attorney fees and costs; and
3. Enter any other relief this Court deems equitable and just.

Respectfully submitted,

Dated: September 20, 2024

s/ T. Seth Koches

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*Attorneys for Defendant Green Charter
Township*

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

GOTION, INC.,

Plaintiff,

Case No. 1:24-cv-00275

v.

HON. JANE M. BECKERING

GREEN CHARTER TOWNSHIP,
a Michigan general law township,

Defendant.

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| Exhibit C | Roger Carroll Deposition Transcript Excerpts |
| Exhibit D | Denise MacFarlane Deposition Transcript Excerpts |
| Exhibit E | Dale Jernstadt Deposition Transcript Excerpts |
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EXHIBIT A

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

GOTION, INC.,
Plaintiff,

Case No. 1-24-cv-00275
Hon. Jane M. Beckering

v

GREEN CHARTER TOWNSHIP,
a Michigan charter township,
Defendant.

DEPOSITION OF: JAMES M. CHAPMAN - VOLUME 1

DATE: August 13, 2024
TIME: 2:32 p.m.
LOCATION: Green Charter Township
21431 Northland Drive
Paris, Michigan
REPORTER: Lori J. Cope, RPR, CSR-4113

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1 UNITED STATES DISTRICT COURT
2 WESTERN DISTRICT OF MICHIGAN
3 SOUTHERN DIVISION
4

5 GOTION, INC.,

Case No. 1-24-cv-00275

6 Plaintiff,

Hon. Jane M. Beckering

7 v

8 GREEN CHARTER TOWNSHIP,

9 a Michigan charter township,

10 Defendant.
11

12
13 DEPOSITION OF: JAMES M. CHAPMAN - VOLUME 1
14

15 DATE: August 13, 2024

16 TIME: 2:32 p.m.

17 LOCATION: Green Charter Township

18 21431 Northland Drive

19 Paris, Michigan

20 REPORTER: Lori J. Cope, RPR, CSR-4113
21
22
23
24
25

1 APPEARANCES:

2
3 WARNER NORCROSS + JUDD, LLP

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13 FAHEY SCHULTZ BURZYCH RHODES PLC

14 BY: Jacob Witte (P82558)

15 Eric P. Conn (P64500)

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23 Appearing on behalf of the Defendant

1 APPEARANCES CONTINUED:

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8 koches@michigantownshiplaw.com

9 Appearing on behalf of the Defendant

10
11 ALSO PRESENT:

12 Addisyn Lewis

13 Robby Dube - via Zoom

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I N D E X

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|---|--------------------------|--|------|
| 1 | | | |
| 2 | WITNESS: | | PAGE |
| 3 | JAMES M. CHAPMAN | | |
| 4 | Examination by Mr. Witte | | 5 |
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E X H I B I T S

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|----|-----|-----|-------------------------------------------------------|
| 8 | | | |
| 9 | NO. | PG. | IDENTIFICATION |
| 10 | 16 | 15 | Deposition Notice |
| 11 | 17 | 55 | 5-5-23 Email Talking Points for Development Agreement |
| 12 | 18 | 94 | Emails Re Gotion Preliminary Injunction |
| 13 | 19 | 94 | Documents produced on SanDisk Thumb Drive |
| 14 | | | |

(Previously marked Exhibits 2-7 also referenced and attached.)

(Original exhibits retained by Mr. Conn.)

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1 August 13, 2024

2 2:32 p.m.

3 Paris, Michigan

4 ***

5 THE REPORTER: Would you raise your right hand,
6 please. Do you swear to tell the truth, the whole truth, and
7 nothing but the truth?

8 MR. CHAPMAN: I do.

9 THE REPORTER: Thank you.

10 JAMES M. CHAPMAN,

11 after having been duly sworn, was examined and
12 testified as follows:

13 EXAMINATION

14 BY MR. WITTE:

15 Q. Can you please state your full name for the record?

16 A. James Marion Chapman.

17 Q. Do you prefer James or Jim?

18 A. Jim.

19 MR. WITTE: So let the record reflect that this is
20 the deposition of James Chapman, taken pursuant to notice and
21 to be used for all purposes under the Federal Rules of Civil
22 Procedure and the Federal Rules of Evidence.

23 BY MR. WITTE:

24 Q. Jim, my name is Jake Witte and my firm represents Green
25 Charter Township in this case. We are here to take your

1 Q. Okay. And do you know why the township would have done
2 that?

3 A. The township did -- why the township did that? The township
4 did that in support of the Project Elephant coming to our
5 community.

6 Q. I'm sorry, did you say Project Elephant?

7 A. Yes.

8 Q. Can you explain what that is?

9 A. Project Elephant was the designated name used by The Right
10 Place to designate what ended up being the Gotion project.

11 Q. Okay. When you heard it referred to as Project Elephant, did
12 you know it was going to be Gotion that was behind it?

13 A. No.

14 Q. So there was no details as to who was going to be building or
15 operating or owning the plant --

16 A. No.

17 Q. -- at this point in time?

18 A. At this point in time, when this was produced, is that what
19 you are asking me?

20 Q. Well, I guess maybe -- maybe when it was first brought up in
21 front of the township.

22 A. When it was first brought up as Project Elephant I had no idea
23 what company or what product was being brought to our
24 community.

25 Q. But by the time that the resolution to consent to

1 that from?

2 A. From the actual action of the board and the discussion during
3 the meeting.

4 Q. Well, the actual action of the board is normally what's in the
5 meeting minutes. So is there something --

6 A. I can't help what's in the meeting minutes. I can tell you
7 what happened at the meeting.

8 Q. Okay. What happened at the meeting?

9 A. What happened at the meeting was I was authorized to complete
10 section 2 and execute the document.

11 Q. Okay. Is that -- is that -- did someone making a motion on
12 behalf of the board use that language and it just wasn't
13 captured in the minutes or --

14 A. Exact wording I can't tell you, but apparently it wasn't
15 captured in the minutes. You would have to review the tape.

16 Q. Okay. But your -- your recollection is somewhere in the tape
17 there is authority from the board for you to sign this?

18 A. Yes, the board would have heard me actually check with Seth
19 Koches, our attorney, to ask him if that was legal, and he
20 told us it was. He had also told me it was legal when we were
21 discussing how to handle that before, earlier in the
22 afternoon.

23 Q. And what specifically did he say was legal, if you can
24 elaborate on that at all?

25 A. That the board can authorize the document to be completed and

1 A. (Reading sotto voce.)

2 If you look at section 4, GCT obligations, in
3 subsection C there are a number of requirements in regard to
4 obtaining licenses and so on. It also includes a clause
5 that -- where did it go -- and conduct business to support the
6 project.

7 So if they are creating ordinances or resolutions to
8 obstruct it by definition, then they are not supporting it.

9 Q. Okay. But, I guess, obstruct is one thing. My question was
10 just adopting regulations that apply to Gotion.

11 A. It's a question of intent. If the intent is to interfere with
12 Gotion, then it is in violation of this agreement that --

13 Q. So as -- as you read section 4 C, that actually restricts the
14 kind of regulations the township can enact?

15 A. No, it doesn't restrict what they can do. It restricts their
16 intent. And if the intent of passing of clauses in whatever
17 resolution or ordinance and so on is with the intent of
18 interfering with Gotion, it's in violation of this agreement.

19 Q. And I guess I am just not sure where -- where you are gleaning
20 intent out of here. I don't know that I see the word intent.

21 A. The word intent isn't in there, but rather is implied.

22 Q. Okay.

23 A. And if I -- you know, never mind.

24 Q. No, no, you can continue on.

25 A. I was just going to try to elaborate a little with an example,

1 MR. CONN: I am just offering this up for everybody.
2 It's 5:00 right now. I think we should probably try to
3 coordinate our schedules.

4 THE REPORTER: Do you want to do this on the record
5 or off?

6 MR. WITTE: Off.

7 MR. CONN: We will go off the record.

8 (Off the record 4:59 to 5:07 p.m.)

9 MR. CONN: On the record. Attach those as the next
10 exhibit number.

11 THE REPORTER: Exhibit 18.

12 (Exhibit 18 marked.)

13 MR. CONN: And then this is the next exhibit number.

14 (Exhibit 19 marked.)

15 MR. CONN: And then for the record we agreed to
16 reconvene at 9:00 on August 21st here. It's a Wednesday.

17 THE WITNESS: That's what I have.

18 MR. CONN: We are good, Counsel.

19 MS. CHRYSLER: I am good for right now.

20 MR. CONN: Spoken like a lawyer.

21 THE REPORTER: Counsel, would you like to place an
22 order for the transcripts from today?

23 MR. CONN: Yes, expedited please.

24 THE REPORTER: When do you need it?

25 MR. CONN: Before Wednesday, August 21st at 9 a.m.

1 THE REPORTER: Okay.
2 MR. REUTER: We will do the same.
3 THE REPORTER: Anything else?
4 MR. WITTE: Nothing further.
5 (Whereupon the deposition was adjourned at
6 5:08 p.m.)
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GOTION, INC. v GREEN CHARTER TOWNSHIP
CHAPMAN, JAMES 08/13/2024

Job 32373
96

CERTIFICATE

STATE OF MICHIGAN)
)
COUNTY OF KENT)

I, LORI J. COPE, Certified Shorthand Reporter and Notary Public, do hereby certify that the foregoing matter was taken before me at the time and place hereinbefore set forth.

I FURTHER CERTIFY that this matter was taken in shorthand and thereafter transcribed by me and that it is a true and accurate transcript.

IN WITNESS WHEREOF, I have hereunto set my hand this 18th day of August, of 2024, at Fremont, Michigan.

Lori J. Cope

LORI J. COPE, CSR-4113, RPR
Notary Public for Newaygo County
My Commission Expires: 3-25-2027

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

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Plaintiff,

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19 Paris, Michigan

20 REPORTER: Lori J. Cope, RPR, CSR-4113
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1 APPEARANCES:

2
3 WARNER NORCROSS + JUDD, LLP

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11 Appearing on behalf of the Plaintiff

12
13 FAHEY SCHULTZ BURZYCH RHODES PLC

14 BY: Jacob Witte (P82558)

15 Eric P. Conn (P64500)

16 Kyle A. O'Meara (P83075) - via Zoom

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23 Appearing on behalf of the Defendant

1 APPEARANCES CONTINUED:

2
3 BAUCKMAN, THALL, SEEBER, KAUFMAN & KOCHES, P.C.

4 BY: T. Seth Koches (P71761) - via Zoom

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9 Appearing on behalf of the Defendant

10
11 ALSO PRESENT:

12 Addisyn Lewis

13 Robby Dube - via Zoom

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I N D E X

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|---|--------------------------|--|------|
| 1 | | | |
| 2 | WITNESS: | | PAGE |
| 3 | JAMES M. CHAPMAN | | |
| 4 | Examination by Mr. Witte | | 5 |
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E X H I B I T S

| | | | |
|----|-----|-----|-------------------------------------------------------|
| 8 | | | |
| 9 | NO. | PG. | IDENTIFICATION |
| 10 | 16 | 15 | Deposition Notice |
| 11 | 17 | 55 | 5-5-23 Email Talking Points for Development Agreement |
| 12 | 18 | 94 | Emails Re Gotion Preliminary Injunction |
| 13 | 19 | 94 | Documents produced on SanDisk Thumb Drive |
| 14 | | | |

(Previously marked Exhibits 2-7 also referenced and attached.)

(Original exhibits retained by Mr. Conn.)

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1 August 13, 2024

2 2:32 p.m.

3 Paris, Michigan

4 ***

5 THE REPORTER: Would you raise your right hand,
6 please. Do you swear to tell the truth, the whole truth, and
7 nothing but the truth?

8 MR. CHAPMAN: I do.

9 THE REPORTER: Thank you.

10 JAMES M. CHAPMAN,

11 after having been duly sworn, was examined and
12 testified as follows:

13 EXAMINATION

14 BY MR. WITTE:

15 Q. Can you please state your full name for the record?

16 A. James Marion Chapman.

17 Q. Do you prefer James or Jim?

18 A. Jim.

19 MR. WITTE: So let the record reflect that this is
20 the deposition of James Chapman, taken pursuant to notice and
21 to be used for all purposes under the Federal Rules of Civil
22 Procedure and the Federal Rules of Evidence.

23 BY MR. WITTE:

24 Q. Jim, my name is Jake Witte and my firm represents Green
25 Charter Township in this case. We are here to take your

1 MS. CHRYSLER: Object to form.

2 Mischaracterizes testimony.

3 THE WITNESS: The board can only approve what's
4 authorized within the -- within the ordinance.

5 BY MR. WITTE:

6 Q. Okay. And the ordinance requires us that the review has
7 to be consistent with the township master plan, correct?

8 A. The board -- master plan is mentioned it needs to be
9 in -- in accordance with the development of -- with
10 the -- I believe it says "orderly development," but
11 development -- with the, yeah, orderly development of the
12 township.

13 Q. Consistent with the township master plan, correct?

14 MS. CHRYSLER: Asked and answered.

15 THE WITNESS: That line's also in there too.

16 BY MR. WITTE:

17 Q. So how can the board comply with the ordinance if there
18 is no master plan to consider?

19 MS. CHRYSLER: Objection. Asked and answered.

20 THE WITNESS: By looking at the orderly
21 development of the township.

22 BY MR. WITTE:

23 Q. And would you agree that that kind of -- strike that.

24 Would you agree that that shifts the board's
25 review from an objective review to subjective review?

1 MS. CHRYSLER: Objection. Calls for a legal
2 conclusion.

3 THE WITNESS: No.

4 BY MR. WITTE:

5 Q. What objective standards are there?

6 A. All of -- all of the decision is subjective whether --
7 whether what we believe to be the future is -- is
8 documented within the master plan or not, it is still a
9 subjective review.

10 Q. So the board's review was purely subjective here?

11 MS. CHRYSLER: Objection. Asked and answered.

12 THE WITNESS: There was no checklist, so yes.

13 BY MR. WITTE:

14 Q. Why did the board approve both sets of plans?

15 A. Because we weren't -- because in discussions, the board
16 and the city was unsure of objections coming from Big
17 Rapids Charter Township for the waterline running through
18 their township to complete the route from the city to
19 Green Township.

20 Q. Would one of the options have been more beneficial to the
21 township than the other?

22 A. We -- the better route, if I remember correctly, and
23 allow me to look at those sheets, I believe the route of
24 waterline was -- was the cheaper route. Thank you.

25 Yeah. The waterline from the city --

1 Q. Okay. Are you still in contact with Tracey?

2 A. Yes.

3 Q. And then do you know who the last person on this e-mail
4 Troy Cumings is?

5 A. No, I don't.

6 Q. Okay. So this e-mail is dated March 12, 2024, and
7 there's a Zoom meeting. The title of the e-mail is
8 "Legal conversation about voter referendum." What was
9 discussed at this meeting?

10 A. I believe some generalized questions about voter
11 referendum on the zoning ordinance.

12 Q. Okay. Can you explain in more detail? What kind of
13 generalized questions were you asking?

14 A. I talked to a number of attorneys, a number of legal
15 firms in regards to this question.

16 Q. Which other firms?

17 A. I don't believe I need to name those. I don't need to --
18 do I even need to divulge my discussion with attorneys?

19 Q. Did you sign --

20 MR. CONN: Yes, he has to answer that question.
21 He doesn't have to divulge the information, but he does
22 need to divulge the attorneys.

23 THE WITNESS: Taking your statement for -- as
24 at value --

25 MR. CONN: Thank you.

1 Q. -- chuck sent out this e-mail saying rescheduling for
2 2:30. Did you have a conversation with Chuck about this
3 meeting before the meeting?

4 A. I don't remember having one, no.

5 Q. Okay. Do you remember how this meeting got scheduled?

6 A. No.

7 Q. Okay. Do you remember having any other conversations
8 about this meeting with the people that are listed in the
9 address line on the third page?

10 A. The only person -- other person would have been Tracey
11 Ruell, but I don't remember what the contents of that
12 conversation was.

13 Q. Okay. Now, this meeting was about a voter referendum in
14 relation to a zoning ordinance, correct?

15 A. Yes.

16 Q. Okay. And we talked a little earlier about your thoughts
17 and impressions on the township adopting a zoning
18 ordinance and a planning commission when you were on the
19 board, right?

20 A. Yes.

21 Q. Okay. Would you consider that to be a political decision
22 whether to enact zoning?

23 A. In a generalized term, probably.

24 Q. Okay. I do want to follow up there. What did -- you
25 mentioned earlier that you talked to Chuck between the

1 last deposition and this -- this deposition. And I'm
2 referring to Chuck Thelen.

3 A. Yes.

4 Q. Can you tell me about that conversation, what was it
5 about?

6 A. He organized a pro-Gotion Rally for this morning and was
7 talking to me about participation, who might participate
8 in it.

9 Q. Okay. The rally was this morning?

10 A. Yes.

11 Q. Okay. Did you guys talk about anything else?

12 A. His nieces are up to visit. He's trying to get some time
13 off to go over to the Thumb area because he likes to
14 fish. I don't remember any other details.

15 Q. Do you talk to him pretty regularly still?

16 A. On and off.

17 Q. How frequently would you say, if you had to guess?

18 A. Every couple weeks.

19 Q. So like once every couple weeks?

20 A. Probably.

21 Q. Okay. So we got on this topic asking about conversations
22 with Gotion's legal team and then I think we kind of went
23 down a rabbit hole talking about conversations with
24 Warner Norcross. Any other firms or attorneys
25 representing Gotion that you have had conversations with?

1 Q. Do you know if any other board members were offered this
2 opportunity?

3 A. I don't know.

4 Q. Did you make anything of the fact, you know, this is just
5 a couple days after donation of \$1200 and now he's
6 inviting you to go to a golf event still while the
7 agreement is being negotiated?

8 A. I've never been to a golf event, so I can't -- I can't
9 judge it.

10 Q. Has Chuck made any other donations to your defense fund
11 or any other kind of donations to you?

12 A. No.

13 Q. Okay. Has he invited you to any other events like this
14 golf outing?

15 A. Not that I can remember, no.

16 Q. So it's just these kind of two incidents and I think the
17 donation -- the donation was on August 14, the golf
18 outing was on August 14. So you don't see any
19 correlation with the fact that both of these events
20 occurred while there were versions of the agreement being
21 exchanged and no signature yet?

22 A. No.

23 MS. CHRYSLER: Object to form. Asked and
24 answered.

25 THE WITNESS: There was no indication of any

1 form to quid pro quo.

2 BY MR. WITTE:

3 Q. Page 46 where you have your excellent quip about a rifle
4 range on August 14, '23. You say "Wow. . . Thank you."

5 Do you know what you would have been thanking
6 Chuck for here?

7 A. No, I don't.

8 Q. Chuck responds "The least we can do, Jim. You have had
9 my back now it's my turn to help."

10 A. Okay.

11 Q. Any clue what Chuck did?

12 A. Do you want me to guess? My guess is that the -- that
13 the donation came through, but I don't know for -- I
14 don't know what it is.

15 Q. Would there have been something else that Chuck would
16 have done that would have caused you to thank him like
17 that?

18 A. Nothing that I can think of, no.

19 Q. Okay. We'll go to page 47, August 15, 2023. You state
20 "Your lawyer should have our answer. One word change
21 'cuz made Denise nervous. Let's get this done."

22 First question here, is this Denise, is it
23 MacFarlane?

24 A. Yes.

25 Q. So she's on the board?

1 MR. CONN: On the privilege.

2 MS. CHRYSLER: Okay.

3 MR. CONN: So I think we'll have to come back.
4 So I just -- I'm just stating aloud we're going to come
5 up on our -- on our window here pretty soon. The witness
6 has the right obviously so. . .

7 MS. CHRYSLER: Yeah. I mean I've got some
8 questions for him so I don't know if you want to take
9 your time until 3:50 and then I can ask him questions or
10 I don't know what you want to do.

11 MR. CONN: Well, the witness only has seven
12 hours. We have more questions, I would imagine. So you
13 didn't cross-notice the deposition either. I understand
14 that you have questions, but we have more too. So thus
15 my saying I don't know how you want to handle it.

16 MS. CHRYSLER: Right. I mean under the rule,
17 there's seven hours, but it says the court has to allow
18 additional time for fairness, which would be for us to
19 ask additional questions so --

20 MR. CONN: That would be the court providing
21 that. Yeah, I get it.

22 MS. CHRYSLER: I mean we can either handle it
23 by us asking questions today, if you want to be present.
24 We can also do it by declaration later. So it's
25 really --

1 is still not signed by Gotion?

2 A. Yes.

3 Q. Was this ever brought up to the board?

4 A. I don't believe it was in a meeting, but it probably was
5 informally.

6 Q. Okay. Page 105. Chuck says "I need a security and fire
7 safety consultant."

8 You said "I'm interested."

9 Did you serve as a consultant for Gotion?

10 A. No.

11 Q. You never did?

12 A. No. Never hired me as a consultant.

13 MR. CONN: I'm sorry, I didn't hear that.

14 THE WITNESS: I said no, I did not serve as a
15 consultant.

16 BY MR. WITTE:

17 Q. Okay. On page 113 Chuck says "FYI I have legal working
18 on a statement of work. Meanwhile make sure your company
19 entity can provide a security quote and then invoice for
20 cost."

21 Earlier I asked if you ever received any kind
22 of compensation from Gotion. Did a corporation that
23 you're a part of ever receive compensation from Gotion?

24 A. Not a penny.

25 Q. Do you have a corporation that does work for Gotion?

1 A. Do I have one? No.

2 Q. You don't have a corporation?

3 A. I have a corporation.

4 Q. Did that corporation ever do work for Gotion?

5 A. The corporation was the -- was the entity that did the
6 pro bono work in, what? January, December-January of
7 '24.

8 Q. What's the name of that corporation?

9 A. Ridout Protection.

10 Q. Did Ridout Protection ever submit a bid or a quote for
11 work to Gotion?

12 A. I don't believe so, no.

13 MR. WITTE: Okay. I think that's. . .

14 MR. CONN: That's time. That's our time.

15 But, for the record, you have additional
16 questions?

17 MR. WITTE: Yeah, I do.

18 MS. CHRYSLER: Jim, are you okay with me asking
19 you some additional questions?

20 THE WITNESS: Sure, let's get it done.

21 MS. CHRYSLER: Do you need to take a break?

22 THE WITNESS: No, when I'm ready, when I need a
23 break, I'll tell you.

24 MS. CHRYSLER: Okay. Sounds good. I will do
25 my best to keep it very short. I know we all want to get

GOTION, INC. v GREEN CHARTER TOWNSHIP
CHAPMAN, JAMES 08/21/2024

Job 32711
271

1 Q. Mr. Chapman, do you recall discussing earlier today with
2 the township's attorney text messaging that you sent --
3 and we can look at it if you want, but I'm trying to
4 speed us along -- where you said "I can't sign without
5 board approval." Do you recall that text message?

6 A. I know that text message is in there, yes.

7 Q. So is it fair to say based on that text message that you
8 would not have signed the development agreement unless
9 you believed you had board approval to do so?

10 A. Correct.

11 MR. WITTE: Objection. Calls for speculation.

12 BY MS. CHRYSLER:

13 Q. And you've had several discussions today with the
14 township's attorney about Mr. Thelen, Chuck Thelen,
15 donating to your recall campaign fund. Do you recall
16 that?

17 A. Yes, ma'am.

18 Q. When -- when Chuck donated to your campaign -- or excuse
19 me, recall campaign fund, the board at that point had
20 already authorized you to execute the agreement with
21 Gotion, correct?

22 A. I'd have to double check the dates, but I believe, yes.

23 MR. WITTE: I'm going to object. I think that
24 misstates his testimony.

25 BY MS. CHRYSLER:

1 Q. All right. If you can pull up Exhibit 25 and go to Bates
2 Number 43, please.

3 A. Twenty-five. And also you said 43?

4 Q. Correct.

5 A. Okay.

6 Q. And is this the text conversation with Mr. Thelen where
7 he asked you about donating to your campaign -- excuse
8 me -- your recall campaign fund?

9 A. Yes, the one on 43 is.

10 Q. And what's the date of that?

11 A. 8/14 of '23, 9:04 in the morning.

12 Q. Was that before or after the board meeting where you were
13 authorized to execute the development agreement?

14 A. Two weeks after.

15 MR. WITTE: Same objection.

16 BY MS. CHRYSLER:

17 Q. During your discussions earlier with the township's
18 attorney, I believe you testified that you couldn't say
19 for sure whether the escrow amount was discussed at the
20 August 1st meeting. Do you remember that?

21 A. Yes.

22 Q. If we wanted to know exactly what was said at that
23 meeting, could we look at the video of that meeting?

24 A. That would provide an accurate -- a replay of the
25 meeting, yes.

1 MS. CHRYSLER: Yes.

2 MR. CONN: That is correct. And it's -- it's
3 only amendment -- an amendment to Mr. Chapman's second
4 deposition that we appeared for today.

5 MS. CHRYSLER: Yes. Yes. We agree.

6 (At 4:25 a.m., deposition adjourned.)

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GOTION, INC. v GREEN CHARTER TOWNSHIP
CHAPMAN, JAMES 08/21/2024

Job 32711
281

1 STATE OF MICHIGAN)
2 COUNTY OF MECOSTA) SS

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I certify that this transcript, consisting of 184 pages, is a complete, true, and correct record of the testimony of JAMES M. CHAPMAN, held in this case on August 21, 2024.

I also certify that prior to taking this deposition JAMES M. CHAPMAN, was duly sworn to tell the truth.

August 26, 2024

Angela L. Chritz

Angela L. Chritz, RPR, CSR-4305

Notary Public

Midland County; Midland, MI

My Commission Expires: 6-11-2025

EXHIBIT B

Conversation with Jim Chapman Green Township

8/21/2024

MMS - Received on 8/21/2024 at 8:06 PM from Jim Chapman Green Township (2312504590).

JT



SMS - Sent on 8/21/2024 at 10:27 AM.

Please call me as soon as you can

8/17/2024

SMS - Sent on 8/17/2024 at 2:50 PM.

I'll call you back.

8/16/2024

SMS - Sent on 8/16/2024 at 11:48 AM.

Call me please

8/9/2024

SMS - Received on 8/9/2024 at 8:38 AM from Jim Chapman Green Township (2312504590).

JT

Agreed

SMS - Sent on 8/9/2024 at 8:38 AM.

Glad someone benefitted from our efforts. Every farm has tires laying around that need to be dealt with.

8/8/2024

SMS - Received on 8/8/2024 at 3:49 PM from Jim Chapman Green Township (2312504590).

JT

Just wanted to say thank you from the Chapman family ref the tire recycling. We were able to clear 3 generations of collection with 4 loads. Thanks again.

7/30/2024

SMS - Received on 7/30/2024 at 11:55 AM from Jim Chapman Green Township (2312504590).

JT

Sounds good

SMS - Sent on 7/30/2024 at 11:54 AM.

I will call u in an hour or so

SMS - Sent on 7/30/2024 at 11:49 AM.

Glad u liked it. Got more on the stove now hoping we can do more this week

SMS - Received on 7/30/2024 at 9:36 AM from Jim Chapman Green Township (2312504590).

JT

Last night was fantastic

7/27/2024

SMS - Sent on 7/27/2024 at 1:49 PM.

I'll call you back.

7/21/2024

SMS - Received on 7/21/2024 at 1:48 PM from Jim Chapman Green Township (2312504590).

JT

Oh yeah!!!

SMS - Sent on 7/21/2024 at 1:48 PM.

Oh wow. Guess what my opening statement for chat with Chuck will be

SMS - Received on 7/21/2024 at 1:46 PM from Jim Chapman Green Township (2312504590).

JT

If he's inviting car companies Gotion should be treated well.
<https://fortune.com/asia/2024/07/19/trump-invites-chinese-carmakers-evs-us-mexico-tariffs-200/>

SMS - Sent on 7/21/2024 at 1:42 PM.

Have not heard it. I'm in Idaho.

SMS - Received on 7/21/2024 at 8:24 AM from Jim Chapman Green Township (2312504590).

JT

Quite the statement by Trump yesterday

7/15/2024

SMS - Received on 7/15/2024 at 8:25 PM from Jim Chapman Green Township (2312504590).

JT

Waiting impatiently for next announcement.

7/10/2024

SMS - Received on 7/10/2024 at 7:41 PM from Jim Chapman Green Township (2312504590).

JT

You can call Dale at (231)250.8592

MMS - Received on 7/10/2024 at 7:39 PM from Jim Chapman Green Township (2312504590).

JT

MECOSTA COUNTY FREE FAIR LIVESTOCK AUCTION

Mecosta County Fairgrounds
(across railroad street)
Thursday, July 11, 2024
Check-in begins at 4 PM
Auction begins at 5 PM
 Buyer's Meal will be served from 4-6 pm

The Mecosta County Fair is almost here!

One of the highlights of the fair is the Mecosta County Free Fair Livestock Auction. The youth members selling project animals at this year's auction have worked hard over the past year to raise a quality market project. Thank you for taking the time to support the youth in the Mecosta County Livestock Program.

Why buy here instead of the grocery store? You are helping a local youth member learn different life skills while raising their project to bring to the sale arena. You get a premium quality and locally raised product. You also received FREE trussing for animals to go to processor.

Can't make it to the sale? Find a bidder or call the number below and we will find a bidder on your behalf.

New buyers can register on our [New Buyer Registration Link](#) or scan this QR code

We accept cash, check, and credit card. Credit cards will be charged a 3% service fee.

FREE parking for buyers will be located at the parking lot on the north side of West Avenue, across the street from the Exhibit Building. This is closer and easier for buyers to get to check in and the sale. Buyers who choose to enter through the main gate will be charged parking.

For more information, contact:
 Mecosta County Fair Board
 231-829-7273
mchschubert@gmail.com

SALE ORDER

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|-------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|-------------------------------------------------------------------------------------|
|  | Broilers |  |
|  | Turkeys |  |
|  | Ducks |  |
|  | Rabbits |  |
| | Beef Steers | |
| | Dairy Steers | |
| | Sheep | |
| | Dairy Ewelets | |
| | Milk Project | |
| | Goats | |
| | Sow/ie | |
| |  | |

SMS - Received on 7/10/2024 at 7:17 PM from Jim Chapman Green Township (2312504590).

JT

Dale is checking

SMS - Received on 7/10/2024 at 7:15 PM from Jim Chapman Green Township (2312504590).

JT

I'll check

SMS - Sent on 7/10/2024 at 7:15 PM.

Time?

SMS - Received on 7/10/2024 at 7:15 PM from Jim Chapman Green Township (2312504590).

JT Yes

SMS - Sent on 7/10/2024 at 7:15 PM.

Br fairgrounds?

SMS - Received on 7/10/2024 at 4:54 PM from Jim Chapman Green Township (2312504590).

JT REMINDER Tomorrow is the livestock auction at the fair.
Good PR.

SMS - Received on 7/10/2024 at 9:58 AM from Jim Chapman Green Township (2312504590).

JT The twp is screwing over ISI to the point that the company is in danger of folding. If there is any IT work they could bid on, it would be great for a local business.

SMS - Received on 7/10/2024 at 8:32 AM from Jim Chapman Green Township (2312504590).

JT I went to tonights meeting. What a clown show. Call me and I'll fill you in.

6/19/2024

SMS - Received on 6/19/2024 at 11:13 AM from Jim Chapman Green Township (2312504590).

JT Ok

SMS - Sent on 6/19/2024 at 11:12 AM.

I'll call you back.

6/16/2024

SMS - Received on 6/16/2024 at 1:37 PM from Jim Chapman Green Township (2312504590).

JT She isn't set up for heavy material. Sorry.

SMS - Sent on 6/16/2024 at 12:03 PM.

No hurry. Is my fish boat cooler

SMS - Sent on 6/16/2024 at 12:03 PM.

Cool thanks.

SMS - Received on 6/16/2024 at 11:52 AM from Jim Chapman Green Township (2312504590).

JT

Sister in law. I'll check after church is out

SMS - Sent on 6/16/2024 at 11:50 AM.

Hi bud. Can ur daughter in law put a new zipper in my cooler? And what is cost? Needs to be kinda heavy duty.

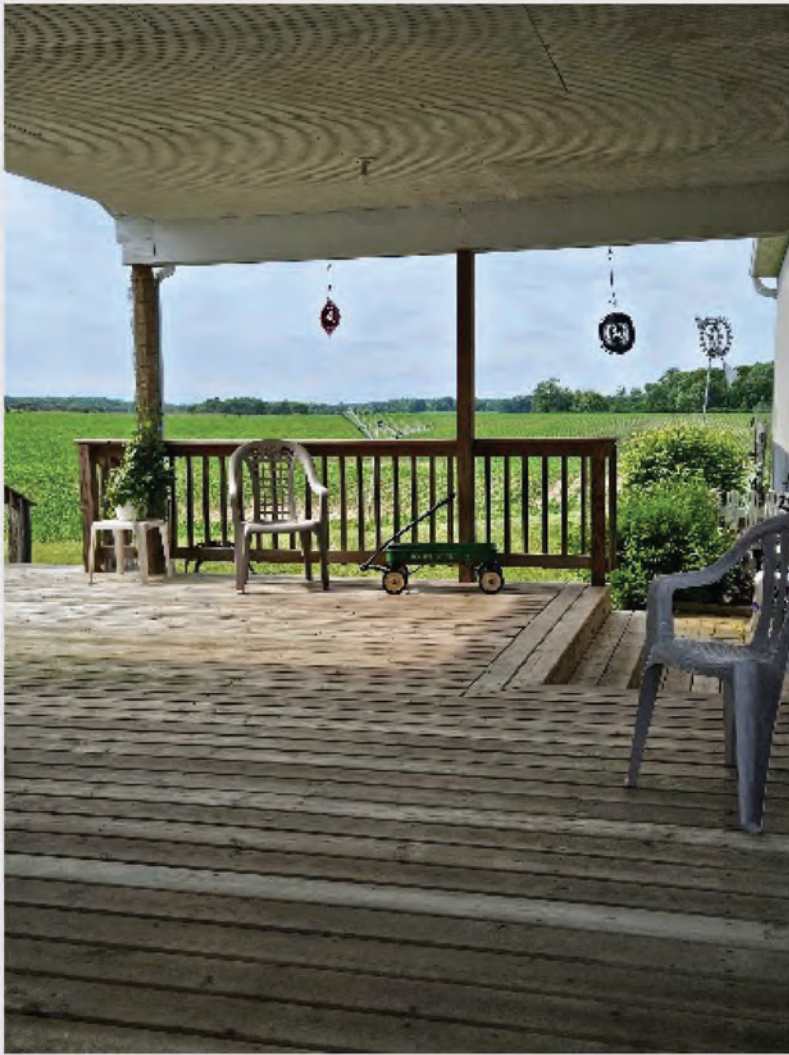
6/12/2024

SMS - Sent on 6/12/2024 at 8:01 PM.

Beauty!

MMS - Received on 6/12/2024 at 5:09 PM from Jim Chapman Green Township (2312504590).

JT



Nice breeze too.

MMS - Received on 6/12/2024 at 4:09 PM from Jim Chapman Green Township (2312504590).

JT



5/14/2024

SMS - Sent on 5/14/2024 at 4:43 PM.

I'll call you back.

SMS - Received on 5/14/2024 at 11:48 AM from Jim Chapman Green Township (2312504590).

JT

Okay

SMS - Sent on 5/14/2024 at 11:31 AM.

I'll call you back.

SMS - Received on 5/14/2024 at 8:56 AM from Jim Chapman Green Township (2312504590).

JT Send me the link for tonight podcast.

5/9/2024

SMS - Received on 5/9/2024 at 9:59 AM from Jim Chapman Green Township (2312504590).

JT Sounds good

SMS - Sent on 5/9/2024 at 9:59 AM.

I will call back in 45 mins or so.

5/6/2024

SMS - Received on 5/6/2024 at 10:08 AM from Jim Chapman Green Township (2312504590).

JT 10 minutes. With campaign management

5/4/2024

SMS - Received on 5/4/2024 at 7:09 PM from Jim Chapman Green Township (2312504590).

JT Okay

SMS - Sent on 5/4/2024 at 7:07 PM.

I'll call you back.

5/1/2024

SMS - Received on 5/1/2024 at 12:51 PM from Jim Chapman Green Township (2312504590).

JT What a joke

SMS - Received on 5/1/2024 at 12:20 PM from Jim Chapman Green Township (2312504590).

JT Thanks

SMS - Sent on 5/1/2024 at 12:18 PM.

Look at between 103 and 115 minutes. Not sure if it is green township or green charter township.

SMS - Sent on 5/1/2024 at 12:17 PM.

<https://www.facebook.com/share/v/fwS4D1fJNmf9F7um/?mibextid=oFDknk>

4/29/2024

SMS - Received on 4/29/2024 at 8:43 AM from Jim Chapman Green Township (2312504590).

JT

Both meetings

SMS - Sent on 4/29/2024 at 8:37 AM.

Is Steve planning to record the upcoming gct meetings?

4/20/2024

SMS - Received on 4/20/2024 at 2:54 PM from Jim Chapman Green Township (2312504590).

JT

Call me

4/16/2024

SMS - Sent on 4/16/2024 at 1:38 PM.

I'll call you back.

4/2/2024

SMS - Received on 4/2/2024 at 1:49 PM from Jim Chapman Green Township (2312504590).

JT

Contact
<https://edraofmi.org/contact>

SMS - Received on 4/2/2024 at 1:46 PM from Jim Chapman Green Township (2312504590).

JT

[Name] Jerrilyn Strong
[Mobile] (231) 679-2678

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

GOTION, INC.,

Plaintiff,

Case No. 1:24-cv-00275

v.

HON. JANE M. BECKERING

GREEN CHARTER TOWNSHIP, a
Michigan charter township,

Defendant.

**DEFENDANT GREEN CHARTER TOWNSHIP'S MOTION FOR LEAVE TO FILE
FIRST AMENDED ANSWER AND COUNTERCLAIM**

Defendant Green Charter Township (“Township”), pursuant to Fed. R. Civ. P. 15(a), respectfully submits this Motion for Leave to File Amended Answer and Counterclaim, and in support states as follows:

1. This lawsuit arises out of an alleged agreement (“Development Agreement”) dated August 22, 2023, between Gotion, Inc. (“Gotion”) and the Township related to Gotion’s proposed construction of an electronic vehicle battery component manufacturing plant and related industrial campus (“Project”) in the Township.
2. Gotion filed its Complaint alleging the Township breached the Development Agreement on March 15, 2024, seeking specific performance to compel the Township to comply with its alleged obligations under the Development Agreement (ECF 1).
3. The Township filed its Answer to the Complaint on April 4, 2023 (ECF 12).
4. Since that time, the parties have exchanged written discovery and have conducted depositions, including the depositions of former Township Supervisor James Chapman on August 13 and 21, 2024, former Township Trustee Dale Jernstadt on September 5, 2024, and Gotion Vice-President Charles Thelen on August 29, 2024.
5. The discovery process has revealed the following:
 - a. On August 1, 2023, just hours before the Board meeting at which the “first draft” of the Development Agreement was presented to the Township Board by Chapman, Thelen offered Chapman an all-expenses paid trip to Hefei, China. Chapman did not disclose this offer to the Board. (**Counterclaim Exhibit A.**)
 - b. On August 1, 2023, the Township Board approved the incomplete “first draft of the Development Agreement Gotion Inc” and “further to authorize the Supervisor to finish the terms and conditions and reimbursement fees” (ECF 13-2). Chapman incorrectly believed this vested him with unlimited discretion to make changes to the Development Agreement, with only his “ethics” as his guide, and undertook negotiations directly with Thelen with no Board oversight (**Counterclaim Exhibit A.**)

- c. On August 14, 2023, while Chapman was negotiating the Development Agreement with Thelen and the same day that recall petitions against the former Board members were certified by the Mecosta County Clerk, Thelen donated \$1,000 to Chapman's recall campaign fund and invited Chapman to a golf outing in Oakland County (Counterclaim Exhibit B) (Counterclaim Exhibit A).
 - d. Chapman did not disclose Thelen's monetary contributions or other offers to the Board, which at this time had no cause to believe that Chapman possessed a conflict of interest that would otherwise disqualify him from participating in the negotiation of a contract on behalf of the Township. (See, e.g., Counterclaim Exhibits C; D; E.)
 - e. The deposition of former Trustee Dale Jernstadt also revealed that he had signed an option contract with Gotion in September of 2022 to purchase land he owned in the Gotion Project area (Counterclaim Exhibit E).
 - f. Jernstadt understood the offer was contingent on the successful siting of the Gotion Project, at which point Gotion would pay Jernstadt a purchase price of \$2,000,000.00 for Jernstadt's property, which Jernstadt reportedly purchased for \$180,000.00 in 2012.
 - g. Jernstadt participated in several key decision related to Gotion's Project—including voting in favor of the December 2022 Support Resolution, the Development Agreement, and the October 2023 approval of Gotion's water plans—all without disclosing his staggering personal pecuniary interest in the successful siting of the Project.
 - h. Deposition testimony from Chapman and Thelen also revealed that Gotion had engaged in significant political activity following the execution of the Development Agreement, including by coordinating and equipping pro-Gotion rallies, providing legal assistance to voter referendum efforts, and hosting virtual townhall meetings to improve Gotion's perception in the community, all in violation of Gotion's obligation under the purported Development Agreement to "not support or encourage any activity which supports or encourages any political philosophy amongst its employees or the Big Rapids community." [ECF 1-1, PageID.25.]
6. These facts, among others uncovered during discovery, reveal that at least two of the former Board members possessed undisclosed and disqualifying conflicts of interest, and that Gotion significantly breached the purported Development Agreement, which gives rise to new defenses and a counterclaim for breach of contract against Gotion.

7. Fed. R. Civ. P. 15(a)(2) permits a party to amend a pleading by leave of the court when justice so requires, noting that leave to amend shall be freely given.
8. Generally, a motion to amend should be granted in the absence of undue delay, bad faith, dilatory motive, undue prejudice, or futility. *Foman v. Davis*, 371 U.S. 178, 182; 9 L. Ed. 2d 222; 83 S. Ct. 227 (1962).
9. This Motion is based upon documents and information that were revealed just weeks ago during the course of discovery and were unavailable to the Township at the time of its Answer, so it is not the product of bad faith or dilatory motive.
10. Although discovery closed a week prior to the filing of this Motion, dispositive motions have not been exchanged, the parties have already engaged in discovery relative to the issues giving rise to the Township's new defenses and counterclaim, and Gotion has had the opportunity to examine all of the witnesses on which the Township's amended pleadings are based, so Gotion will not suffer any undue prejudice or injustice by the granting of this Motion.
11. A copy of the Township's proposed First Amended Answer and Counterclaim is attached hereto as **Exhibit F**.

WHEREFORE, the Township respectfully requests that this Court grant it leave to file its First Amended Answer and Counterclaim within 14 days and award any other relief this Court deems just.

Respectfully submitted,

*Bauckham, Thall, Seeber,
Kaufman & Koches, P.C.*

Dated: September 20, 2024

/s/ T. Seth Koches

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Fahey Schultz Burzych Rhodes PLC

Dated: September 20, 2024

/s/ Kyle A. O'Meara

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Eckland & Blando

Dated: September 20, 2024

/s/ Robert T. Dube Jr.

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rdube@ecklandblando.com

*Attorneys for Defendant
Green Charter Township*

CERTIFICATE OF SERVICE

I, Kaylin J. Montague, hereby certify that on the 20th day of September 2024, I electronically filed the foregoing document and any attachments with the ECF system which will send notification of such to all parties of record.

/s/ Kaylin J. Montague
Kaylin J. Montague