Agenda
Brownfield Redevelopment Authority
Board of Directors

City of Kalamazoo

Thursday, March 16, 2023 7:45 AM

CPED Main Conference Room - 245 N. Rose Street, Suite 100

A. CALL TO ORDER/ROLL CALL

B. ADOPTION OF FORMAL AGENDA

C. APPROVAL OF MINUTES

1. Approval of Minutes from the BRA Meeting on February 16, 2023

D. PUBLIC COMMENTS

E. DIRECTORS' COMMENTS

F. NEW BUSINESS

1. Approval of a Purchase Option Agreement for a portion of the parcel at 333 E. Alcott near Belford & Reed Streets and authorize the chair to sign.

2. Public Hearing for an Act 381 Brownfield Plan for the redevelopment project at 215 E. Michigan Avenue (No Action).

3. Adoption of a Resolution approving the implementation of the Act 381 Brownfield Plan for 215 E. Michigan Avenue and recommend approval by City Commission.

4. Approval of the Second Amendment to the Purchase and Sale Agreement for property at 116 W. Cedar Street and authorize chair to sign.

5. Approval of the First Amendment to the Brownfield Plan Development Agreement with Bogan Developments, LLC for the redevelopment project at 315 E. Frank Street and authorize chair to sign.

6. Approval of a Purchase Option Agreement for parcels at 700 River Street and 812 Gull Street for the Home Start Initiative housing project and authorize the chair to sign.

7. Approval of an award and 1-year contract to Dickinson Wright for legal services not-to-exceed total of $120,000 and recommend acceptance by City Commission.

G. UNFINISHED BUSINESS

H. COMMUNICATIONS AND ANNOUNCEMENTS

I. STAFF REPORTS AND UPDATES

J. ADJOURNMENT

CITY OF KALAMAZOO
BROWNFIELD REDEVELOPMENT AUTHORITY BOARD MEETING
Thursday, February 16, 2023
Community Planning and Economic Development
245 N. Rose Street, Kalamazoo, MI 49007

MEMBERS PRESENT: Nathan Bolton; Sharon Ferraro; Michael Gurnee; Kevan Hess; Andrew Schipper; Jason Novotny; Lucas Middleton; Torean Greeley; Kyle Gulau

MEMBERS ABSENT: Rachel Bair; Qianna Decker

CITY COMMISSIONERS/CITY STAFF PRESENT: Clyde Robinson (City Attorney); Jamie McCarthy (Sustainable Development Coordinator); PJ Thuringer (Economic Development Supervisor); Logan Mulholland (Fishbeck, Consultant); Jared Chambers (Business Specialist); Beth Cheeseman (Executive Administrative Assistant); David Stegink (Fishbeck, Consultant)

Meeting was called to order at 8:04 AM by Director Hess.

MOTION TO EXCUSE ABSENT MEMBERS: Director Gulau moved to excuse absent members; seconded by Director Schipper. Motion approved by voice vote unanimously.

APPROVAL OF AGENDA: Director Gurnee, moved the approval of the agenda as presented; seconded by Director Greeley. Motion approved by voice vote unanimously.

APPROVAL OF MINUTES: Director Bolton moved the approval of the minutes from January 19, 2023; seconded by Director Gurnee. Motion approved by voice vote unanimously.

PUBLIC COMMENTS

None.

DIRECTOR'S COMMENTS

Director Novotny announced that he will abstain from discussion or vote for New Business, item 5 due to ongoing involvement with the project. Director Schipper said he would need to abstain from New Business, Item 1 for the same reason.

When questioned about quorum, Ms. McCarthy explained that their bylaws determine quorum as a yes vote by the majority of those present.

NEW BUSINESS

1. Approval of the submittal of an EGLE Brownfield Redevelopment Grant Proposal for 530 S Rose.

Ms. McCarthy shared that the property was in the Vine neighborhood and had been surface parking for a long time. The project had a strong proforma and a lot of community support in filling their gap. She reviewed the funding sources for the project: senior lender for loans, City Federal Home and FFE dollars, LISC grant dollars, county ARPA funds and senior housing millage. Ms. McCarthy said the developer had purchased the land and deferred their developers fee. They came to the City saying they had an additional gap related to costs for addressing contamination and vapor mitigation. She said this project offered 64 units of senior affordable housing. The development received a MSHDA LIHTC 9% allocation. Ms. McCarthy reported that the rent schedule ranged as low as 30%, 40%, and 50% AMI. They also had 80% AMI and market rate.

Mr. Garrett Seybert confirmed they needed funding to help fill the gap for costs related to contaminated soil, and a full vapor mitigation system with monitoring. He said they are hoping to break ground in September, and they are working with MSHDA for other funds.

Ms. McCarthy shared that the budget for this project is $449,688 broken out by tasks or activity. The BRA would have admin costs covered for this grant at $12,938.

Director Ferraro asked if they were set with the name of the development as Rose Place was a tiny historic district near there. Mr. Seybert said there were a few other names floating around from which they could choose.

Director Gurnee noted two line items in the budget - other assessment activities and other due care. He wondered what would fall into those categories. Mr. Seybert said he could get clarification on that, but he guessed the money in those categories was for the 12 months of monitoring.

Director Gurnee said that the most contamination is between one to three feet below ground. He asked if they could remove the contamination from across the site. Mr. Seybert said there was mercury showing in their samples, so that was not an option.

Director Gulau moved approval of the submittal of an EGLE Brownfield Redevelopment Grant Proposal for 530 S Rose; seconded by Director Bolton.

A roll call vote was taken, and the motion passed. Director Gurnee voted yes, but with a note that he would like clarification of those budget items. Director Schipper abstained.

2. Approval of the First Amendment to the Brownfield Plan Development Agreement.

Director Hess and Ms. McCarthy noted that part of the sentence dropped off this item. Ms. McCarthy clarified that item 2 should read as follows: Approval of the First Amendment to the Brownfield Plan Development Agreement for 615 W Kalamazoo and authorize chair to sign.

Ms. McCarthy said the purpose of the amendments to the development agreement was to reflect the total amount of TIF reimbursement for which the project has expended funds (up to $297,000). EGLE was able to provide additional dollars for soil removal disposal costs ($400,000). Ms. McCarthy explained that the developer was requesting the BRA to advance them $150,000 in TIF. These dollars could come out of the LBRF. Staff would then be prepared to reimburse the developer for about 10 years and reimburse the BRA for another 8 years on the back end for the TIF advance.

Mr. Phillip Reed reported that the change was due to unanticipated cost increases with labor and materials. He said that EGLE changed some requirement guidelines for 12-month monitoring which resulted in a substantial hold back on some funds. Once those funds are released, that chunk will pay for the $150,000 they are requesting. Mr. Reed said that residential was full, but there had been a delay in getting the commercial units rented.

Director Gulau asked if this would be the first time they had advanced TIF out of the LBRF. Ms. McCarthy said they did this previously for the Exchange.

Director Ferraro moved approval of the First Amendment to the Brownfield Plan Development Agreement for 615 W Kalamazoo and authorize chair to sign; seconded by Director Schipper.

A roll call vote was taken, and the motion passed.

3. Approval of a TIF Reimbursement Request from 615 Holdings, LLC for the project completed at 615 W. Kalamazoo Avenue.

Ms. McCarthy said the developer, in the reimbursement request, gave full invoices for $297,002. In addition to the invoices, there was proof of payment, waivers, and other documentation. She shared that there was about $15,280 in invoices that will qualify for reimbursement when they get proof of payment. Ms. McCarthy said the approval before them was what they determined was eligible and documented ($281,722.25). When proof of payment comes forward for the $15,280, that can be a second request. She reported that TIF capture would start this year and continue until the developer and the BRA was made whole. This project will be one that the BRA captures 10% of admin each year of the reimbursement.

Director Gurnee moved approval of a TIF Reimbursement Request from 615 Holdings, LLC for the project completed at 615 W. Kalamazoo Avenue; seconded by Director Gulau.

A roll call vote was taken, and the motion passed unanimously.

4. Approval of a TIF Reimbursement Request from Kzoo Hotel Partners, LLC for the completed project at 303 N. Rose Street.

Ms. McCarthy stated that this project was over a $42 million investment. An estimated 55 full-time and 35 part-time jobs were created due to the hotel use. Original eligible activities projected in Brownfield Plan were just over $4 million. She shared that the developer and City submitted an Act 381 workplan which included a line item for interest – which was a local only activity. Ms. McCarthy stated that at the time, it was a practice that BRA didn't allow interest as an eligible activity. She said the developer was able to document $2.141 million in eligible activities - below the $4 million originally anticipated. The developer asked for interest to get closer to the amount in the original proforma. Ms. McCarthy explained that the BRA policy says they may entertain the request for interest as an eligible activity. The policy includes criteria and guidelines a project must meet to be considered for interest. Ms. McCarthy shared how the project met the criteria.

- A high number of FTE was realized from the project.
- It was a significant total investment.
- The project attracted two new brands to downtown.
- Provided hotel space which was really needed in the City.

Ms. McCarthy shared that one consideration is that the length of reimbursement could be reduced from 20 years to eight years. She also explained the terms of interest.

- They are asking for 5% simple interest on approved eligible activities.
- Interest would be calculated at the end of each year on remaining non-interest eligible costs that are not reimbursed.
- Cumulative interest must not exceed 20% of non-interest eligible activities.

Ms. McCarthy said the estimated interest payout would be around $291,000. She stated that today they would be considering approval of documented eligible activities at $2.14 million and the interest calculation that would happen each year. She noted that the amount could change slightly per year but stay well below the 20% cap listed in the policy.

Mr. Wenzel asked them to keep in mind that estimates were $4.1 million, but then the pedestrian bridge was not able to be included. The developer didn't have less costs in the overall project but did have less eligible activities.

Director Gulau asked who is calculating interest every year. Ms. McCarthy said it would be City staff along with the consultant. Director Gulau wondered how they got the number of $291,000. Ms. McCarthy said that if you make that calculation each year until the $2.1 million is paid off, then you get that number. She confirmed that $291,000 is highest number they would get. Director Gulau wondered why the pedestrian bridge was not supported by the Planning Division. Ms. McCarthy thought there had been a lot of negotiation on whether that would qualify. There were some concerns about it not being open to the public. The City, at that time, didn't want it included in eligible activities.

Mr. Wenzel shared that there are different opinions on connecting bridges. The developer decided it was beneficial and proceeded forward knowing it would not be an eligible activity. He shared that the hotel partner is a new investor in Kalamazoo. They currently have some leads to bring in more retail.

Director Bolton moved approval of a TIF Reimbursement Request from Kzoo Hotel Partners, LLC for the completed project at 303 N. Rose Street; seconded by Director Middleton.

A roll call vote was taken, and the motion passed unanimously.

5. Approval of a Letter of Intent with PlazaCorp to explore potential sale of BRA-owned property at 315 Parsons and 1015 and 1025 N. Pitcher Streets and authorize Department Director to sign

Ms. McCarthy mentioned that Attorney Robinson gave some slight changes to the last paragraph of Letter of Intent (LOI). She said that PlazaCorp asked to purchase these parcels. Ms. McCarthy explained that the developer was looking at a $68 million project in the Northside neighborhood to convert the Gibson factory into a hotel, museum, and entertainment space. They are interested in purchasing these adjacent parcels and using them as surface parking to support the overall project. She said they would start with the LOI allowing both parties 3 months (90 days) for due diligence to see how this use works on this parcel. Ms. McCarthy said that would give them time to meet and understand zoning uses and parking requirements. Under this agreement, any needed zoning request applications would be made in that three month time. That will allow a consideration for an extension so that the request can be heard at the ZBA. If no zoning request is needed, the developer can notify the City they want to move forward with a purchase agreement. That would be drafted and brought back to the board to evaluate the terms of the agreement.

Mr. Wenzel shared that they worked with neighbors in small groups and 1:1 meetings. He said they want to work together to be a good neighbor in the community. Mr. Wenzel said the neighbors made it known that they don't want cars parked in the street on a full time basis. He said the parking count they have factors in using City street parking to the maximum. Mr. Wenzel shared that Jamauri Bogan was supportive of this project and willing to talk to the Directors. He said the project has received SHPO and National Parks Service approval, and Historic Tax approval. When he talks to Hard Rock, they ask how the parking situation is advancing. Mr. Wenzel said this is a major issue to move this project forward.

Director Hess complimented them on their neighborhood outreach. Mr. Wenzel shared that he has information on factors for each use: restaurant, hotel, museum, entertainment venue. Director Hess commented that the economic impact of this project is a slam dunk, however, they don't want City parking lots. Mr. Wenzel added that Factory Coffee is on south end of the parking field. They bought some parcels from them, and they will benefit from the parking as well.

Director Bolton asked if the parking requirement for Hard Rock was different than the City requirement. Mr. Wenzel said it was the same. He insisted that reducing the parking requirement would concern Hard Rock and their financial backing. Mr. Wenzel said they considered a parking ramp, but that would not be welcomed by SHPO or (he thought) the community.

Director Greeley left the meeting during Mr. Bolton's question.

Ms. McCarthy shared that the Planning division was given the use breakdown and had an internal meeting. She commented that there are situations where a lender can have different parking requirements from the City zoning code. She said that MSHDA has a different requirement than the City. Mr. Wenzel said they support parking for their projects. They also support minimal parking for projects and shared parking. He said they talked to Jamauri about sharing parking on the corner.

Director Gurnee noted that one parcel was a privately owned residence. Mr. Wenzel said they were working on that one. Two of the parcels are already overgrown parking – used for parking for Gibson. Director Gurnee noted that they were parking, but thought they were going in a direction to reduce parking and increase density.

Director Gulau said that Mr. Wenzel noted this is not Chicago, but he thought they are trying to get a step closer to becoming like Chicago – to becoming a walkable community. Mr. Wenzel said if the lots were not needed for parking in the future, they would redevelop them into uses to complement the neighborhood.

Director Gulau asked if the parking would be free or if there would be a charge. Mr. Wenzel said they were not intending to charge for parking. Director Gulau said that in the brief from City they have 446 parking spots and are trying to get to 570. He noted that even if they sold him the lots, they would still be 40-50 spots short of their self-imposed parking requirement. Director Gulau wondered how they would close the gap. Mr. Wenzel said they were banking on an administrative 10% leeway in parking that is in the zoning code. That's where the additional 40 would come from. He said they factored that into their parking count. Director Gulau felt like they were in a spot – the project needs to happen, but if they don't get the spots they need, then this project wouldn't happen. He wondered if there was another way. Director Gulau asked if the City lowered the parking requirement, would the project go forward. Mr. Wenzel said no, if they can't provide parking, Hard Rock will pull out. Director Gulau noted that was a hard line – they have to find that 120 spots. He said they also recognize, that buying the lots won't give them enough parking. Mr. Wenzel said they talked with Hard Rock Hotel about the shared parking plan, and the 10% leeway. They agree with it.

Director Schipper thought that would bring the parking count down to 513. Director Gulau asked if they could lease them the land. Mr. Wenzel replied that they would have to own it. Director Gulau said that if they sell the land, then suddenly the 570 could be less. He wondered about other options. Mr. Wenzel said they had met with businesses and neighbors around there – shared parking wasn't an option.

Director Mitchell stated that it may come down to other properties the BRA owns in the area that are not adjacent to this project. He confirmed that the issue was that there was additional parking around the area that the owners are not willing to share. The LOI is important so they can have discussions to nail down what exactly is needed. Mr.

Mitchell said the commitment is contingent upon the project happening – they want to have the option to get the property back if the project doesn't happen. He noted that the key is to find a middle ground which works for the developer and City.

Director Gulau said he was wrestling with three things. 1. It feels like there is a clear number of spots requested. However, if they sell the land, then there is flexibility with the number of parking spots. 2. The opportunity cost of these lots. This is a big development they want to see happen, but parking lots means losing opportunities for smaller developers. 3. The LOI specified they cannot talk with other developers about these lots while this conversation is happening with the City.

Director Hess thought this was tough because the lots have no value if the development doesn't happen. He was hopeful that PlazaCorp would be a good partner in the future should they transform the City into a more walkable spot – especially on the Northside. Director Gulau stated that this is a unique opportunity, and they can figure this out. He was hesitant to figure this out at the expense of opportunities to create shared prosperity for small developers and a more diverse ecosystem on the Northside.

Director Middleton understood and appreciated Director Gulau's perspective. If the project doesn't happen, then potential for the adjacent improvements doesn't exist. What he heard was that at this time the parking was necessary for the project to move forward. Director Middleton said he was leaning toward approving this parking. He was hopeful that there were other Brownfield parcels suitable for the developments Director Gulau mentioned.

Director Hess was hopeful that the City and PlazaCorp would work diligently so by the time a purchase agreement came to them there would be a lot more clarity. Director Gulau commented that he hoped there was another solution, and they didn't need the purchase agreement. He imagined a future where Hard Rock was there, and other small businesses were popping up around it. He wondered if now was the time to draw the line or if it would be the next one.

Mr. Wenzel said they agree with shared prosperity. They are engaging with the City on a new tool for housing that would be 60% AMI. They look for the highest and best use. He mentioned a project at 619 Porter and how not getting this parking may jeopardize that project as well.

Director Gulau wondered if the way the LOI was structured was their standard. Director Mitchell shared that Jamauri Bogan's project was similar. They are trying to set up all the boxes the development needs to check – outlining expectations for the City and the developer.

Director Gulau commented that if this is presented to the ZBA, it will be another group asking where to draw the line. He was concerned about it looking like the BRA is on board with the parking. Director Mitchell said they don't provide a letter of support to the ZBA board. That is a separate entity, and it is their responsibility to decide.

Director Ferraro moved approval of a Letter of Intent with PlazaCorp to explore potential sale of BRA-owned property at 315 Parsons and 1015 and 1025 N. Pitcher Streets and authorize Department Director to sign; seconded by Director Bolton.

A roll call vote was taken. Director Gulau voted no. Director Novotny abstained. All other Directors voted yes. The motion passed.

UNFINISHED BUSINESS

None.

COMMUNICATIONS AND ANNOUNCEMENTS

Director Mitchell attended the Jaqua annual luncheon. He will try to get a copy of their PowerPoint to share with the Board. A significant portion of the development in Kalamazoo will come to the Board. Director Mitchell encouraged them to review the PowerPoint - it would be helpful for them to see the difference they are making on the City.

STAFF REPORTS AND UPDATES

Ms. McCarthy said the Arcadia Lofts South Brownfield Redevelopment Plan was approved by the City Commission earlier this month.

ADJOURNMENT: 9:26 a.m.

____
Beth Cheeseman
Recording Clerk

____
Chair Signature

____
Printed Name/Title

BRA Board of Directors
Staff Report

City of Kalamazoo

TO: Brownfield Redevelopment Authority Board of Directors

FROM: Antonio Mitchell, Director of Community Planning and Economic Development
Prepared by: Jamie McCarthy, BRA Staff Liaison

DATE: March 16, 2023

SUBJECT: Approval of a Purchase Option Agreement for a portion of the parcel at 333 E. Alcott near Belford & Reed Streets and authorize the chair to sign.

SUMMARY:

The Developer submitted their LIHTC application in 2022 but was not awarded the highly competitive tax credits due to environmental review considerations. The Developer plans to re-submit the application with revisions to address environmental concerns. It is common for projects to submit multiple times before being awarded tax credits.

Staff are in support of the project because it aligns with neighborhood housing needs and recommend continuing to support the project in re-applying for tax credits. Under the new Purchase Option Agreement, BRA will continue hold the 20% deposit toward the purchase price. The Agreement allows Developer an 18-month period to exercise the option to purchase once LIHTCs are secured.

BACKGROUND:

On September 13, 2021 the BRA approved a Purchase Option Agreement (Agreement) with Kalrecovery II Limited Dividend Housing Association Limited Partnership (Developer). The option gave land control to Developer to support their application to the Michigan State Housing Development Authority for highly competitive 9% Low Income Housing Tax Credits (LIHTC). Developer made a 20% deposit ($11,400) toward the purchase price as part of the Agreement. The project consists of approximately 6.5 acres in the northeast section of the former Performance Paper Site (Site) with frontage on Belford and Bryant Streets (“Property”). The future development will include three residential apartment buildings totaling approximately 48 apartments. Two of the buildings will offer affordable rental rates (targeted at 60% AMI) and the third building will contain housing for individuals and families recovering from substance use disorders.

The project provides much needed affordable housing and supportive housing for those recovering from substance use disorder through court-sponsored programs. The development will include wrap-around services and is well positioned in the neighborhood near other medical and health services and amenities. The re-use and marketing of this property is challenged by subsurface coal ash from former industrial operations, which Developer has addressed through the site plan approval process.

FISCAL IMPACT:

The BRA will continue to own and maintain the parcel during the Purchase Option period and will incur maintenance costs. At closing, the remaining sale price ($45,600) will be paid to BRA.

RECOMMENDATION:

It is recommended that the BRA approve the Option to Purchase Agreement for the 6.5-acre portion of 333 E. Alcott Street with Kalrecovery II Limited Dividend Housing Association Limited Partnership (Developer).

OPTION TO PURCHASE REAL ESTATE AGREEMENT

THIS OPTION TO PURCHASE REAL ESTATE AGREEMENT **("Agreement")** has been made as of __________, 2023, by the City of Kalamazoo Brownfield Redevelopment Authority, a Michigan public body corporate, of 241 West South Street, Kalamazoo, Michigan 49007 **("Seller"),** and Kalrecovery II Limited Dividend Housing Association Limited Partnership, a Michigan limited partnership, of 1822 West Milham Avenue, Suite 2, Portage, Michigan 49024 **("Buyer").**

1. **Grant of Option; Memorandum; Land Division.** As of the Effective Date of this Agreement, Seller grants an option to purchase to Buyer (the **"Option"),** on the terms and subject to the conditions set forth in this Agreement, for an approximately 6.64-acre parcel, which is legally described on **Exhibit A** attached to this Agreement. The Buyer and Seller agree to process a land division application prior to Closing to create the approximately 6.64-acre parcel of property that will be sold by Seller to Buyer, which is actually part of a 15.8-acre parcel of property. The approximately 6.64-acre parcel, together with all improvements, fixtures, easements, division rights, bonus division rights, redivision rights, hereditaments and appurtenances associated with that real estate are referred to collectively in this Agreement as the **"Property".** Simultaneously with the execution of this Agreement, Seller and Buyer shall execute the Memorandum of Option to Purchase Real Estate Agreement attached to this Agreement as **Exhibit B,** which shall be recorded with the Kalamazoo County Register of Deeds **("Memorandum").**

Buyer and Seller, within thirty (30) days of the Option Date, shall have prepared drawings for the land division application. Buyer shall pay the cost of having the legal descriptions and drawings prepared and shall be responsible for payment of the application fee for processing the land division application. Seller shall apply for the land division as soon as reasonably practical thereafter. Buyer and Seller agree to keep each other reasonably informed as to the progress in obtaining land division approval. Buyer and Seller will share with each other copies of all submissions made in order to secure the approval. If approval is not obtained prior to Closing, Buyer may terminate this Agreement, receive a refund of any Option Payments, and neither Seller nor Buyer shall have any further liability to the other under this Agreement.

2. **Option Fee; Purchase Price; Duration of Option; Exercise of Option; Default.**

(a) No additional fee for the Option shall be considered. Buyer deposited Five Thousand and Seven Hundred U.S. Dollars (U.S. $5,700.00) (the **"Option Payment"),** which is 10 percent of the maximum reduced purchase price discussed in subparagraph 2(b). with the Seller on September 21, 2021. Buyer deposited an additional Five Thousand and Seven Hundred U.S. Dollars (U.S. $5,700.00) in July 2022 as part of the Extension Terms in subparagraph 2(c), which is 20 percent of the maximum reduced purchase price.

(b) The purchase price for the Property shall be the lesser of Two Hundred and Thirty Thousand and 00/100 U.S. Dollars ($230,000.00) or appraised value, either of which will be discounted by 10% for every 10% of units which are rent and income restricted to 60% of Area Median Income or less, with a maximum discount of 75%. **("Purchase Price"),** payable at Closing. Area Median Income shall be defined by the Michigan State Housing Development Authority's Income and Rent Limits for Kalamazoo County in effect at the time of Closing. If Buyer exercises the Option and the transaction contemplated by this Agreement closes, the Option Payment shall be applied to the Purchase Price at Closing.

(c) The term of the Option shall be until 11:59 p.m. on August 31, 2024 (the **"Term").**

(d) Buyer may exercise the Option by providing Seller with written notice that it is exercising the Option any time during the Term. If Buyer does not exercise the Option during the Term, the Option Payment shall be non-refundable and may be retained by Seller in which case neither Buyer nor Seller shall have any further obligations to the other under this Agreement. If Seller defaults under the terms of this Agreement so that the transaction contemplated by this Agreement is not closed, then Buyer may elect to terminate this Agreement by written notice to Seller, in which case the Option Payment shall promptly be returned to Buyer, and neither Seller nor Buyer shall have any further liability to the other under this Agreement. If the Seller fails to return the Option Payment, Buyer may pursue any claims against the Seller available at law or in equity. Alternatively, if Buyer does not elect to terminate this Agreement and have the Option Payment returned to Buyer, Buyer may pursue any other right or remedy available at law or in equity against Seller, including, without limitation, injunctive relief and specific performance of this Agreement. If Buyer exercises the Option and Buyer defaults in Buyer's obligations under this Agreement so that the transaction is not closed, then as Seller's sole remedy Seller may terminate this Agreement by notice to Buyer, retain the Option Payment, and neither Seller nor Buyer shall have any further liability to the other under this Agreement.

3. **Seller Approval.** Seller represents and warrants that the person signing this Agreement has authority to bind the Seller and Seller has obtained all approvals from any governing body authorizing this Agreement and the sale of the Property to Buyer. Seller shall provide Buyer with evidence of the same, which is satisfactory to Buyer and the Title Company.

4. **Title; Survey.**

(a) Seller agrees to convey good and marketable title to the Property to Buyer by a covenant deed ("**Covenant Deed"),** subject only to the exceptions that are permitted by this Agreement. Within fourteen (14) days of the Option Date, Buyer may obtain, as evidence of Seller's title, at Buyers expense, a commitment **("Title Commitment")** to issue an owner's title insurance policy insuring Buyer in the amount of the Purchase Price, without the standard printed exceptions, which shall be in a form approved by the American Land Title Association **("ALTA")** and acceptable to the Buyer. The Title Commitment must show good and marketable title to the Property to be in Seller's name, subject only to beneficial easements and restrictions of record that are acceptable to Buyer in its sole discretion and the requirements to be satisfied set forth in the Title Commitment and shall disclose no other easements, restrictions or encumbrances whatsoever. At Closing, Buyer shall pay the cost of the owner's title insurance policy. Buyer shall pay the cost of any lender's title insurance policies and any endorsements.

(b) Buyer may obtain a survey of the Property which locates the boundaries of the Property, all improvements to the Property, any easements or rights of way affecting or benefiting the Property and any encroachments across the boundaries of the Property **("Survey").** The Survey shall be performed at Buyer's expense within sixty (60) days after the Option Date.

(c) Buyer shall notify Seller, prior to Closing, if the Title Commitment discloses any exceptions not permitted by this Agreement or if the Survey shows any deviation from apparent boundaries or represented acreage, violation of zoning ordinances, or building and use restrictions, flood hazard area, encroachment, or a condition that in Buyer's judgment, could interfere with Buyer's intended use of the Property (individually and collectively, a **"Defect").** Seller shall remove each Defect at Seller's expense within fourteen (14) days after Buyer's notice of the Defect and the Closing shall be delayed as necessary. In addition, Seller shall satisfy the requirements set forth in the Title Commitment on or before the Closing. If Seller fails or refuses to remove any Defect, then Buyer may: (i) proceed to Closing, waiving the Defect at issue; (ii) amend the Agreement with the consent of Seller to address the Defect at issue; or (iii) terminate this Agreement by a written notice to Seller, the Option Payment will be refunded to Buyer, and neither Seller nor Buyer shall have any further liability to the other under this Agreement except for any provisions of this Agreement that specifically survive its termination.

4. **Inspections.** In addition to any other rights granted in this Agreement, Buyer and its agents, consultants, and designees **("Buyer's Agents")** may, at Buyer's expense, conduct the following inspections or inquiries, each within ninety (90) days after the Option Date: structural, plumbing, heating, cooling, electrical, mechanical, termite, radon, asbestos, and zoning. Buyer agrees to hold harmless, indemnify, and defend Seller from any and all claims, damages, and liabilities resulting from Buyer's or Buyer's Agents' inspection of the Property. If Buyer's inspections and inquiries disclose material deficiencies in the Property to which Buyer objects, then Buyer shall give Seller written notice of Buyer's objections prior to the end of this ninety (90) day period. If Buyer fails to do so, then Buyer shall be considered to have waived all objections. If Buyer gives Seller written notice of an objection within the permitted period, then Seller shall have thirty (30) days from receipt of the notice to cure the objection, during which time the Closing shall be delayed if necessary. If Seller refuses or is unable to cure the objection, then Buyer may proceed to Closing and take title to the Property subject to the objection, in which case the objection shall be considered to have been waived by Buyer, or Buyer, as Buyer's

sole remedy, may terminate this Agreement by notice to Seller, Seller will retain the Option Payment, and neither party shall have any further liability to the other under this Agreement except for any provisions of this Agreement that specifically survive its termination.

5. **Environmental Matters.** Without limiting the generality of the foregoing, prior to Closing, Buyer and Buyer's Agents shall have the right to conduct an environmental assessment of the Property in one or more phases; provided that procurement and analysis of samples of soil, groundwater, surface water, or any other environmental medium, and any building component or other material located at the Property shall be done with the least possible disturbance to the Property. The cost of the environmental assessment shall be borne by Buyer. Seller shall provide access and information to, and otherwise cooperate with, Buyer and Buyer's Agents in the environmental assessment. Buyer shall have the right to interview employees and representatives of Seller, with Seller's consent (which shall not be unreasonably withheld), who have knowledge of conditions and events relevant to the operating history or environmental condition of the Property; such interviews shall be conducted during business hours and with reasonable advance notice. Buyer may, at Buyer's expense, prepare and submit to the Department of Environment, Great Lakes and Energy **("EGLE")** a baseline environmental assessment, pursuant to Section 26 of Part 201, MCL 324.20126. Buyer may also, at Buyer's expense, prepare a plan **("Due Care Plan")** to meet due care obligations at the Property imposed under MCL 324.20107a.

Buyer is notified that the Property is a "facility" within the meaning of Section l(s) of Part 201. All information and documentation in Seller's possession regarding the general nature and extent of the release(s) that qualifies the Property as a "facility" shall be provided to Buyer within seven (7) days of the Option Date.

6. **Seller's Representations and Warranties.** Seller represents and warrants to Buyer, which representations and warranties shall be true to the closing date, as follows:

(a) To Seller's knowledge, there are no pending or threatened condemnation proceedings against the whole or any part of the Property;

(b) To Seller's knowledge, there are no claims, litigation, proceedings, inquiries, investigations, or disputes pending or threatened against or relating to the Property;

(c) Seller has at all times operated the Property in compliance with all applicable laws, ordinances, orders, codes, rules, regulations, building and use restrictions, and other legal requirements, including, without limitation, Seller's timely application for, possession of, and compliance with all applicable environmental permits (collectively, **"Applicable Law"),** and to Seller's knowledge, the Property is free and clear of all violations of Applicable Law;

(d) Seller, through the person(s) executing this Agreement, has full power and authority to enter into this Agreement, and to assume and perform all of Seller's obligations under this Agreement;

(e) There are no agreements, contracts, or leases, written or oral, which affect the Property in any manner other than this Agreement and any agreements disclosed by the Title Commitment;

(f) To the best of Seller's knowledge, all buildings and fixtures (if any) which constitute a portion of the Property are in good condition and working order, reasonable wear and tear excepted, and contain no defects which may impair Buyer's intended use of them;

(g) There is no pending or proposed special assessment affecting or which may affect the whole or any part of the Property;

(h) Seller has and can deliver to Buyer good and marketable title to the Property, subject only to the exceptions permitted by this Agreement, and the Property has legal and physical access from a publicly dedicated and improved right-of-way;

(i) All necessary action to approve, execute, deliver, and perform this Agreement has been taken by Seller, and this Agreement is the valid and binding obligation of Seller, enforceable against Seller in accordance with its terms; and

G) Seller is not a "specially designated national and blocked person" on the most current list published by the U.S. Treasury Department Office of Foreign Asset Control; that Seller is not listed in the annex to, and is not otherwise subject to the provisions of, Executive Order No. 13224 (the "Executive Order"); and that Seller is not acting on behalf of any Person or entity that is listed in the annex to, or is otherwise subject to the provisions of the Executive Order.

Seller shall hold Buyer harmless, indemnify, and at Buyer's option, defend Buyer, from and against any loss, including, without limitation, reasonable attorney fees, incurred by reason of Seller's breach of any of the foregoing representations and warranties.

7. **Condition of Property.** Buyer acknowledges that it is expressly purchasing the Property in its existing condition "AS-IS" without any warranties, except as expressly set forth in this Agreement and the warranty of title in the Covenant Deed.

8. **Contingencies.** The obligation of Buyer to close the Purchase shall be contingent upon:

(a) Buyer's reasonable satisfaction with the results of its investigation of the compliance of the Property with applicable laws, ordinances and regulations and with all inspections, to be performed at Buyer's discretion and expense within ninety (90) days of the Option Date;

(b) Buyer's satisfaction, in its sole discretion, with the results of all inspections of the Property that Buyer desires, to be performed at Buyer's discretion and expense within ninety (90) days of the Option Date;

(c) All representations and warranties of Seller set forth in this Agreement being true as of the closing date;

(d) Seller having timely performed and complied in all respects with all covenants, obligations, and agreements to be performed or complied with by Seller under this Agreement; and

(e) Buyer's satisfaction, in its sole discretion, with the environmental condition of the Property.

Except as otherwise set forth in Subparagraphs (c) and (d) above, Buyer shall promptly commence and proceed diligently and in a reasonable manner to attempt to satisfy each of the contingencies set forth above, at Buyer's expense. Seller agrees to cooperate in such endeavor. If Buyer is unable to satisfy one or more of the contingencies, and is not willing to waive the contingencies, then Buyer may terminate this Agreement by a written notice to Seller, Seller may retain the Option Payment, and neither Seller nor Buyer shall have any further liability to the other under this Agreement.

9. **Closing.** The closing **("Closing")** shall take place as soon as reasonably possible following the satisfaction of the conditions and contingencies set forth in this Agreement. Within these limitations, the closing shall take place at the offices of Chicago Title at 941 West Milham Avenue, Portage, Michigan 49024 (the **"Title Company")** or at such other location mutually agreed upon by Buyer and Seller.

10. **Seller Closing Documents.**

(a) At Closing, Seller shall execute and deliver the following:

(i) The Covenant Deed transferring all available land divisions to Buyer, in recordable form, as determined by the Title Company;

(ii) A real estate transfer tax valuation affidavit;

(iii) A closing statement setting forth the Purchase Price and closing adjustments;

(iv) Affidavit(s) in the form prescribed by the Title Company for the removal of its standard printed exceptions;

(v) A resolution or other evidence of authorization of the sale of the Property acceptable to the Title Company;

(vi) A notice of facility status;

(vii) A certificate of nonforeign status; and

(viii) Any other documents reasonably necessary or legally required to evidence the sale of the Property.

(b) At Closing, Seller shall deliver, or cause to be delivered, the following:

(i) Actual physical possession of the Property, free of all tenants or other occupants; and

11. **Buyer Closing Documents.** At Closing, Buyer shall execute and/or deliver the following:

(a) The Purchase Price, as adjusted by the Option Payment and other prorations and charges under this Agreement;

(b) a A closing statement setting forth the Purchase Price and closing adjustments; and

(c) Any other documents reasonably necessary or legally required to evidence the transaction.

12. **Closing Costs.** At Closing, Seller shall pay all recording and filing costs in connection with curing its title to the Property, the transfer taxes for the Covenant Deed. Buyer shall pay the recording fee for the Covenant Deed and any tax clearance fee to record the Covenant Deed and the cost of any lender title policies or requested endorsements. Seller and Buyer shall each pay one-half of any closing fee charged by the Title Company conducting the Closing.

13. **Possession.** Buyer shall have possession of the Property immediately following the Closing.

14. **Taxes and Assessments.** Seller represents and warrants to Buyer that the Property is currently tax exempt and that there are no real estate taxes or special assessments with respect to the Property.

15. **Condemnation; Fire; Other Casualty.** Seller shall promptly notify Buyer of any impending or actual condemnation proceedings against the whole or any part of the Property of which Seller has actual notice or any fire or other casualty to the Property. If any portion of the Property is threatened to be taken or is taken as a result of condemnation proceedings or is damaged as a result of fire or other casualty prior to the Closing, Buyer shall have the right:

(a) To terminate this Agreement by a written notice to Seller within ten (10) days after receipt of notice of such proceedings or damage and neither Seller nor Buyer shall have any further liability to the other under this Agreement; or

(b) To proceed to Closing as provided in this Agreement, agreeing to take the Property in its then-current condition, in which case Buyer will be entitled to receive all of the condemnation or insurance proceeds payable as a result of such condemnation or such damage, which Seller will assign to Buyer at Closing pursuant to an assignment that is reasonably acceptable to Buyer.

16. **Miscellaneous.**

(a) Seller and Buyer each agrees and represents to the other that no broker is involved in the Purchase who is entitled to a commission. If a broker makes a claim for remuneration in connection with the transaction described in this Agreement, Seller and Buyer each shall indemnify and hold harmless the other from any amount that the other may be required to pay to a broker that the other did not retain, including, without limitation, reasonable attorney fees expended to defend against such claim. The provisions of this paragraph shall survive the Closing.

(b) This Agreement contains the entire agreement of the parties and may not be modified except by an agreement in writing signed by both Seller and Buyer. No statement, representation, warranty, covenant or agreement of any kind not expressly set forth in this Agreement shall affect, or be used to interpret, change or restrict, the express terms and provisions of this Agreement.

(c) Each party to this Agreement acknowledges and agrees that: (i) such party and the party's counsel have reviewed and negotiated, or have had the opportunity to review and negotiate, the terms and provisions of this Agreement and have contributed to its review and revision; (ii) any rule of construction to the effect that any ambiguities are resolved against the drafting party shall not be used to interpret this Agreement; and (iii) the terms and provisions of this Agreement shall be construed fairly as to all parties to this Agreement and not in favor of or against any party, regardless of which party was generally responsible for the preparation of this Agreement.

(d) This Agreement shall bind and benefit Seller and Buyer and their respective successors and assigns. Buyer may not assign this Agreement without Seller's consent, however Seller's consent may not be unreasonably withheld.

(e) Time is of the essence of this Agreement. If the date for Closing, for the delivery of a document, or for giving of a notice falls on a Saturday, Sunday, or bank holiday, then it shall be automatically deferred to the next day that is not a Saturday, Sunday, or bank holiday.

(t) Seller and Buyer recognize that the law firm of Warner Norcross + Judd LLP is representing the Buyer in this transaction and Miller Johnson is representing Seller in this transaction. Buyer may, at its option, engage their respective Legal Counsel to prepare additional documents necessary to the Closing of this transaction.

(g) All notices, requests, consents and other communications under this Agreement must be in writing, shall be addressed to the receiving party's address set forth below or to any other address a party may designate by notice under this Agreement, and shall be either (i) delivered by hand, (ii) sent by nationally recognized overnight courier, or (iii) sent by certified mail, postage prepaid:

If to Seller to:

City of Kalamazoo Brownfield Redevelopment Authority
241 South Street
Kalamazoo, Michigan 49007
Attention: Rebekah Kik

With a copy to:
Clyde Robinson
City Attorney
241 West South Street
Kalamazoo, MI 49007

If to Buyer to:

Hollander Development Corporation
1105 Portage Street
Kalamazoo, Michigan 49001
Attention: Matthew Hollander

With a copy to:

Rachel J. Foster
Warner Norcross+ Judd, LLP
180 E. Water Street, Suite 7000
Kalamazoo, Michigan 49007

All notices, requests, consents and other communications under this Agreement shall be deemed to have been given either (i) if by hand, at the time of the delivery of the notice to the receiving party, (ii) if by overnight courier, on the next business day following the day the notice is delivered to the courier service, or (iii) if by certified mail, on the fifth (5th) business day following the day of the mailing. Any party, by notice to the other parties to this Agreement, may designate additional or different addresses for subsequent notices or communications.

(h) Nothing in this Agreement shall be construed to create any rights or obligations except between the parties to this Agreement, and no person or entity shall be regarded as a third-party beneficiary of this Agreement.

(i) The terms and provisions of this Agreement may be waived, or consent for the departure from the terms and provisions may be granted, only by written document executed by the parties. No waiver or consent shall be deemed to be or shall constitute a waiver or consent with respect to any other terms or provisions of this Agreement, whether or not similar. Each waiver or consent shall be effective only in the specific instance and for the purpose for which it was given, and shall not constitute a continuing waiver or consent.

(j) This Agreement and the rights and obligations of the parties under this Agreement shall be governed and interpreted by Michigan law.

(k) In the event that any court of competent jurisdiction shall determine that any provision, or any portion of a provision, contained in this Agreement shall be unenforceable in any respect, then the provision shall be deemed limited to the extent that the court deems it enforceable, and as so limited shall remain in full force and effect. In the event that the court shall deem any provision, or portion of any provision, wholly unenforceable, the remaining provisions of this Agreement shall nevertheless remain in full force and effect.

(1) The headings and captions of the various subdivisions of this Agreement are for convenience of reference only and shall in no way modify or affect the meaning or construction of any of the terms or provisions of this Agreement.

(m) The representations, warranties and agreements set forth in this Agreement shall survive the Closing.

(n) Except as otherwise specifically set forth in this Agreement, each party shall pay the party's respective fees and expenses (including the fees of any attorneys, accountants, appraisers or others engaged by the party) in connection with the preparation or enforcement of, or of any requests for consents or waivers under, this Agreement, including any amendments or waivers to this Agreement.

(o) This Agreement may be signed in one or more counterparts, and by different parties to this Agreement on separate counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same document. Faxed signatures, or scanned and electronically transmitted signatures, on this Agreement or any notice delivered pursuant to this Agreement, shall be deemed to have the same legal effect as original signatures.

(p) In the event of a dispute arising out of this Agreement, the prevailing party will not be entitled to attorney fees and costs.

(q) The **"Effective Date"** of this Agreement shall be last date that a party signs this Agreement.

(r) The **"Option Date"** shall be the date that Buyer exercises the Option by providing written notice to Seller that Buyer is exercising the Option.

Seller and Buyer have signed or caused this Option to Purchase Real Estate Agreement to be signed by their duly authorized representatives as of the date(s) set forth opposite their signatures.

Dated: _____________, 2023

Kalamazoo Brownfield Authority

____

By: Kevan Hess

Its: Board Chair

Seller

Dated: _____________, 2023

Kalrecovery II Limited Dividend Housing Association Limited Partnership

By: Hollander Development Corporation

Its: General Partner

____

By: Matthew Hollander

Its: President

Buyer

EXIIlBIT A

PART OF THE NORTHEAST 1/4 OF SECTION 27, TOWN 02 SOUTH, RANGE 11 WEST, CITY OF KALAMAZOO, KALAMAZOO COUNTY, MICHIGAN, DESCRIBED AS: COMMENCING AT THE NORTH 1/4 CORNER OF SAID SECTION 27; THENCE ALONG THE NORTH LINE OF SAID SECTION 27, SOUTH 89 DEGREES 56 MINUTES 17 SECONDS EAST 502.63 FEET TO THE INTERSECTION OF SAID NORTH LINE AND THE EASTERLY RIGHT OF WAY LINE OF THE CONRAIL RAILROAD: THENCE ALONG SAID EASTERLY RIGHT OF WAY LINE, SOUTH 16 DEGREES 50 MINUTES 37 SECONDS WEST 35.82 FEET TO THE SOUTH RIGHT OF WAY LINE OF REED STREET: THENCE ALONG SAID SOUTHERLY RIGHT OF WAY LINE, NORTH 89 DEGREES 59 MINUTES 10 SECONDS EAST 727.59 FEET (PREVIOUSLY DESCRIBED AS 727.35 FEET) TO THE WEST RIGHT OF WAY LINE OF BELFORD STREET FOR THE POINT OF BEGINNING; THENCE ALONG SAID WEST RIGHT OF WAY LINE, SOUTH 00 DEGREES 11 MINUTES 37 SECONDS WEST 648.58 FEET (PREVIOUSLY DESCRIBED AS SOUTH 00 DEGREES 11 MINUTES 35 SECONDS WEST 649.46 FEET) TO THE NORTH LINE OF THE PLAT OF REED AND MILHAM'S ADDITION; THENCE ALONG SAID NORTH LINE, SOUTH 89 DEGREES 50 MINUTES 44 SECONDS WEST 200.41 FEET (PREVIOUSLY DESCRIBED AS NORTH 89 DEGREES 51 MINUTES 08 SECONDS WEST 200.40 FEET) TO THE WEST LINE OF SAID PLAT; THENCE ALONG SAID WEST LINE, SOUTH 00 DEGREES 04 MINUTES 57 SECONDS WEST 172.12 (PREVIOUSLY DESCRIBED AS SOUTH 00 DEGREES 06 MINUTES 51 SECONDS WEST 172.08 FEET TO THE NORTH RIGHT OF WAY LINE OF BRYANT STREET; THENCE ALONG THE NORTH RIGHT OF WAY LINE OF BRYANT STREET AND AN EXTENSION THEREOF, NORTH 89 DEGREES 49 MINUTES 00 SECONDS WEST (PREVIOUSLY DESCRIBED AS NORTH 89 DEGREES 51 MINUTES 08 SECONDS WEST) 279.11 FEET TO THE CENTERLINE OF PORTAGE CREEK, THENCE ALONG SAID CENTERLINE, NORTH 13 DEGREES 36 MINUTES 44 SECONDS EAST 223.46 FEET; THENCE CONTINUING ALONG SAID CENTERLINE, NORTH 12 DEGREES 56 MINUTES 11 SECONDS EAST 223.59 FEET; THENCE CONTINUING ALONG SAID CENTERLINE, NORTH 07 DEGREES 05 MINUTES 34 SECONDS EAST 210.63 FEET; THENCE CONTINUING ALONG SAID CENTERLINE, NORTH 04 DEGREES 51 MINUTES 04 SECONDS EAST 176.78 FEET TO THE SOUTH RIGHT OF WAY LINE OF REED STREET; THENCE ALONG SAID SOUTH RIGHT OF WAY LINE, NORTH 89 DEGREES 59 MINUTES 10 SECONDS EAST 338.35 FEET TO THE POINT OF BEGINNING. SUBJECT TO EASEMENTS, RESTRICTIONS, AND RIGHT OF WAYS APPARENT AND OF RECORD. SAID PARCEL CONTAINS 6.64± ACRES (289,210± SQ. FT.).

The property address and tax parcel number listed below are provided solely for informational purposes, without warranty as to accuracy or completeness. If the information listed below is inconsistent in any way with the legal descriptions listed above, the legal descriptions listed above shall control.

Part of Property address: 333 E. Alcott Street, Kalamazoo, Michigan 49001

Part of Tax parcel number: 06-27-213-002

17416112-2

EXIIlBITB

Memorandum of Option to Purchase

MEMORANDUM OF OPTION
TO PURCHASE REAL ESTATE AGREEMENT

THIS MEMORANDUM OF OPTION TO PURCHASE REAL ESTATE AGREEMENT **("Memorandum"),** is made and entered into on the _____ day of _____________ 2023 by and between the City of Kalamazoo Brownfield Redevelopment Authority, a Michigan public body corporate, of 241 West South Street, Kalamazoo, Michigan 49007 **("Seller"),** and Kalrecovery II Limited Dividend Housing Association Limited Partnership, a Michigan limited partnership, of 1105 Portage Street, Kalamazoo, Michigan 49001 **("Buyer").**

Seller and Buyer have entered into an Option to Purchase Real Estate Agreement dated the same date as this Memorandum (the **"Option Agreement"),** wherein Seller has granted to Buyer, and its assignee, the option to purchase certain real property located in the City of Kalamazoo, County of Kalamazoo, State of Michigan, more particularly described on **Exhibit** A attached hereto.

Seller and Buyer desire to record this Memorandum for the purpose of placing the public on notice of inquiry as to the specific provisions, terms, conditions and covenants of the Option Agreement, all of which are incorporated herein by reference with the same force and effect as if herein set forth in full, and none of which are amended, modified or affected hereby.

[Signatures follow on succeeding pages.]

Dated: _____________, 2023

Kalamazoo Brownfield Authority

____

By: Kevan Hess
Its: Board Chair

STATE OF MICHIGAN)
)
COUNTY OF _______________)

The foregoing instrument was acknowledge before me in _________________ County, Michigan on this ____ day of _____________, 2023, by ______________ the ________________ of Ciyt of Kalamazo Brownfield Redevelopment Authority, a Michigan public body corporation, on behalf of the public body corporate.

____
Notary Public, ____________ County, Michigan
Acting In, ________________ County, Michigan
My commission ___________________________

Kalrecovery II Limited Dividend Housing
Association Limited Partnership
By: Hollander Development Corporation
Its: General Partner

____
By: Matthew Hollander
Its: President **Buyer**

STATE OF MICHIGAN)
)
COUNTY OF _______________)

The foregoing instrument was acknowledge before me in __________________ County, Michigan on this ____ day of ______________, 2023, by _______________ the _________________ of Ciyt of Kalamazo Brownfield Redevelopment Authority, a Michigan public body corporation, on behalf of the public body corporate.

____
Notary Public, _____________ County, Michigan
Acting In, _________________ County, Michigan
My commission ____________________________

Exhibit A to Memorandum of Option to Purchase Real Estate Agreement

PART OF THE NORTHEAST 1/4 OF SECTION 27, TOWN 02 SOUTH, RANGE 11 WEST, CITY OF KALAMAZOO, KALAMAZOO COUNTY, MICHIGAN, DESCRIBED AS: COMMENCING AT THE NORTH 1/4 CORNER OF SAID SECTION 27; THENCE ALONG THE NORTH LINE OF SAID SECTION 27, SOUTH 89 DEGREES 56 MINUTES 17 SECONDS EAST 502.63 FEET TO THE INTERSECTION OF SAID NORTH LINE AND THE EASTERLY RIGHT OF WAY LINE OF THE CONRAIL RAILROAD: THENCE ALONG SAID EASTERLY RIGHT OF WAY LINE, SOUTH 16 DEGREES 50 MINUTES 37 SECONDS WEST 35.82 FEET TO THE SOUTH RIGHT OF WAY LINE OF REED STREET: THENCE ALONG SAID SOUTHERLY RIGHT OF WAY LINE, NORTH 89 DEGREES 59 MINUTES 10 SECONDS EAST 727.59 FEET (PREVIOUSLY DESCRIBED AS 727.35 FEET) TO THE WEST RIGHT OF WAY LINE OF BELFORD STREET FOR THE POINT OF BEGINNING; THENCE ALONG SAID WEST RIGHT OF WAY LINE, SOUTH 00 DEGREES 11 MINUTES 37 SECONDS WEST 648.58 FEET (PREVIOUSLY DESCRIBED AS SOUTH 00 DEGREES 11 MINUTES 35 SECONDS WEST 649.46 FEET) TO THE NORTH LINE OF THE PLAT OF REED AND MILHAM'S ADDITION; THENCE ALONG SAID NORTH LINE, SOUTH 89 DEGREES 50 MINUTES 44 SECONDS WEST 200.41 FEET (PREVIOUSLY DESCRIBED AS NORTH 89 DEGREES 51 MINUTES 08 SECONDS WEST 200.40 FEET) TO THE WEST LINE OF SAID PLAT; THENCE ALONG SAID WEST LINE, SOUTH 00 DEGREES 04 MINUTES 57 SECONDS WEST 172.12 (PREVIOUSLY DESCRIBED AS SOUTH 00 DEGREES 06 MINUTES 51 SECONDS WEST 172.08 FEET TO THE NORTH RIGHT OF WAY LINE OF BRYANT STREET; THENCE ALONG THE NORTH RIGHT OF WAY LINE OF BRYANT STREET AND AN EXTENSION THEREOF, NORTH 89 DEGREES 49 MINUTES 00 SECONDS WEST (PREVIOUSLY DESCRIBED AS NORTH 89 DEGREES 51 MINUTES 08 SECONDS WEST) 279.11 FEET TO THE CENTERLINE OF PORTAGE CREEK, THENCE ALONG SAID CENTERLINE, NORTH 13 DEGREES 36 MINUTES 44 SECONDS EAST 223.46 FEET; THENCE CONTINUING ALONG SAID CENTERLINE, NORTH 12 DEGREES 56 MINUTES 11 SECONDS EAST 223.59 FEET; THENCE CONTINUING ALONG SAID CENTERLINE, NORTH 07 DEGREES 05 MINUTES 34 SECONDS EAST 210.63 FEET; THENCE CONTINUING ALONG SAID CENTERLINE, NORTH 04 DEGREES 51 MINUTES 04 SECONDS EAST 176.78 FEET TO THE SOUTH RIGHT OF WAY LINE OF REED STREET; THENCE ALONG SAID SOUTH RIGHT OF WAY LINE, NORTH 89 DEGREES 59 MINUTES 10 SECONDS EAST 338.35 FEET TO THE POINT OF BEGINNING. SUBJECT TO EASEMENTS, RESTRICTIONS, AND RIGHT OF WAYS APPARENT AND OF RECORD. SAID PARCEL CONTAINS 6.64± ACRES (289,210± SQ. FT.).

The property address and tax parcel number listed below are provided solely for informational purposes, without warranty as to accuracy or completeness. If the information listed below is inconsistent in any way with the legal descriptions listed above, the legal descriptions listed above shall control.

Part of Property address: 333 E. Alcott Street, Kalamazoo, Michigan

Part of Tax parcel number: 3906-27-213-002

ACT 381 BROWNFIELD PLAN

215 E. Michigan
Kalamazoo County, City of Kalamazoo
City of Kalamazoo Brownfield Redevelopment Authority

March 7, 2023

Prepared by
Michigan Growth Advisors
100 W. Michigan Avenue, Suite 200
Kalamazoo, MI 49008
269.226.2950

Approved by the Brownfield Redevelopment Authority on ______________________________

Approved by the Kalamazoo City Commission on _____________________________________

TABLE OF CONTENTS

EXHIBITS

ACT 381 BROWNFIELD PLAN

1.0 INTRODUCTION

1.1 Proposed Redevelopment and Future Use for Each Eligible Property

The proposed redevelopment consists of a single vacant parcel totaling 0.153 acres in the City of Kalamazoo which is a qualified local governmental unit ("QLGU"). This project will involve redeveloping a functionally obsolete property at 215 E Michigan Avenue and renovating the property into a commercial space occupied by a casual taco restaurant and taqueria, Barrio Taco. A proposed site plan is included as Attachment D to this brownfield plan.

Following the completion of the mixed-use project at 180 E Water Street and a revitalized downtown consumer market following COVID-19, this project will help serve the growing demand for additional dining downtown Kalamazoo and attract pedestrians to the Haymarket Plaza. The project is expected to create 20 new full-time equivalent positions paying an average wage of $15 per hour.

The total capital investment on the project is expected to be approximately $4 million. Construction on the project is planned to begin in 2023 and will be completed by 3rd quarter 2023.

1.2 Eligible Property Information

Basis of Eligibility

The City of Kalamazoo Assessor, Aaron P. Powers, has determined that the property can no longer function for which it was intended due to a substantial loss in value resulting from factors such as overcapacity, changes in technology, deficiencies or super adequacies in design, or other similar factors that affect the property itself or the property's relationship with other surrounding property. The functionally obsolete nature of the property qualifies the site as eligible property under Act 381.

An Affidavit of Functional obsolescence is included as Attachment C.

Location and Legal Description

215 E. Michigan	Parcel ID: 06-15-378-098	0.153 Acres
Kalamazoo, MI 49008	Parcel ID: 06-83-022-029 (OPRA)	
	Parcel ID: 06-84-022-029 (OPRA)	

Legal Description:

276 ORIGINAL PLAT OF THE TOWN (NOW CITY) OF KALAMAZOO, Liber 6 of Plats Page 8; Commencing on the north line of East Michigan Avenue at a point South 60 degrees West 264.81 feet from the west line of North Edwards Street; thence North 30 degrees West 100 feet parallel with the west line of North Edwards Street; thence

South 60 degrees West 66.83 feet parallel with the north line of East Michigan Avenue; thence South 30 degrees East 100 feet parallel with the west line of North Edwards Street to the north line of East Michigan Avenue; thence North 60 degrees East 66.83 feet along the north line of East Michigan Avenue to the point of beginning.

2.0 Information Required by Section 13(2) of the Statute

2.1 Description of Costs to Be Paid for With Tax Increment Revenues

Tax increment revenues will be used to reimburse 215 EM Partners LLC ("Developer:") for the cost of eligible activities as authorized by the Brownfield Redevelopment Financing Act (Act 381). It is anticipated that an Act 381 Work Plan will be pursued and upon approval by the Michigan Strategic Fund (MSF), non-environmental eligible activities and statutorily approved EGLE environmental eligible activities will be reimbursed with local and school tax increment revenues ("TIR"). The remaining eligible activities will be reimbursed with local TIR only.

The total cost of eligible activities including contingency are anticipated to be $257,088. Authority administrative costs are anticipated to be $23,924. Funding to the State Brownfield Redevelopment Fund is anticipated to be $34,991. Capitalization of the Local Brownfield Revolving Fund is estimated to be $127,129. The estimated cost of all eligible activities under this plan are summarized in Table 1.

Environmental Activities

Department specific activities considered under this plan include a Phase I & Phase II Environmental Site Assessment ("ESA") and a Hazardous Materials Survey.

Non-Environmental Activities

Because the City of Kalamazoo is a QLGU, additional non-environmental costs ("Michigan Strategic Fund ("MSF") Eligible Activities") can be reimbursed through a brownfield plan. This plan will provide for reimbursement of eligible demolition; lead, asbestos & mold abatement, site preparation and/or infrastructure improvements.

Authority Expenses

Actual eligible costs incurred by the City of Kalamazoo Brownfield Redevelopment Authority (KBRA) are included in this plan as an eligible expense. These expenses will be reimbursed with local tax increment revenues only.

2.2 Summary of Eligible Activities

2.2..1 Phase I & Phase II ESA, BEA and Due Care Plan

A Phase I and limited Phase II ESA was completed when the properties were acquired. The total cost for these services was $21,100. This is a cost statutorily approved for reimbursement with school taxes.

2.2..2 Demolition

Demolition activities will include selective interior demolition and limited site demolition. Demolition planning & design is also included as an eligible activity. The total cost of demolition activities is anticipated to be $54,000.

2.2..3 Lead, Asbestos & Mold Abatement

The building contains know lead and asbestos which will be abated as part of the project at anticipated cost of $78,000.

2.2..4 Infrastructure Improvements

Infrastructure improvement activities will include the construction and repair of curbs and gutters on the site. The cost of infrastructure improvement activities is estimated to be $5,000.

2.2..5 Site Preparation

Site Preparation activities are expected to include Survey and Staking, temporary traffic, site and access control, and temporary facilities. Engineering and design of these activities are also included as eligible activities. The cost of site preparation activities is estimated to be $19,500.

2.2..6 Contingency

A 15% contingency is included to account for any unanticipated costs that may be encountered while conducting the eligible activities. The contingency is $26,640.

2.2..7 Interest

Financing costs associated with the developer's eligible activities are included as an eligible activity. Interest will be capped at 20% of the non-interest eligible activities. The financing costs associated with eligible activities are anticipated to be $42,848.

2.2..8 Brownfield Plan and Act 381 Work Preparation

The cost to prepare the Brownfield Plan and Act 381 Work Plan is anticipated to be $10,000.

2.2..9 Local Brownfield Revolving Fund

The Authority intends to capture school and non-school tax increments for deposit in the local brownfield revolving fund for five years. This capture is estimated to be $127,129.

2.3 Estimate of Captured Taxable Value and Tax Increment Revenues

An estimate of the captured taxable value for this redevelopment by year is depicted in Table 2. This plan captures all available TIR, including real and personal property TIR.

2.4 Method of Financing and Description of Advances Made by the Municipality

The cost of the Eligible Activities included in the Plan will initially be paid for by the Talbot and they will seek reimbursement through local and school property tax increment during the term of the Plan Amendment.

2.5 Maximum Amount of Note or Bonded Indebtedness

No bonds or notes will be issued by the Authority for the Project.

2.6 Duration of Brownfield Plan

The duration of this plan is estimated to be 23 years, plus an additional five years of capture to the Local Brownfield Revolving Fund. It is estimated that the redevelopment of the property will be completed in 2023 and that full recapture of eligible costs and eligible administrative costs of the authority will continue until 2054. Capture of TIR is expected to begin in 2028, with capture being delayed for 5 years after the approval of this plan as permitted by Act 381. In no event shall capture extend beyond 30 year as required by Act 381. An analysis showing the reimbursement schedule is attached as Table 3.

2.7 Estimated Impact of Tax Increment Financing on Revenues of Taxing Jurisdictions

An estimate of the impact of tax increment financing on the revenues of all taxing jurisdictions is illustrated in detail within Table 2.

2.8 Legal Description, Property Map, Statement of Qualifying Characteristics and Personal Property

The property consists of a single parcel which is 0.153 acres in size and is located at 215 E. Michigan in the City of Kalamazoo, Kalamazoo County (Parcel Identification Number 06-15-378-098). A legal description of the property along with a scaled map showing eligible property dimensions, is attached as Figure 1.

The City of Kalamazoo Assessor, Aaron P. Powers, has determined that the property can no longer function for which it was intended due to a substantial loss in value resulting from factors such as overcapacity, changes in technology, deficiencies or super adequacies in design, or other similar factors that affect the property itself or the property's relationship with other surrounding property. The functionally obsolete nature of the property qualifies the site as eligible property under Act 381.

Taxable personal property, if any, is included in this plan.

2.9 Estimates of Residents and Displacement of Individuals/Families

No persons reside at the property therefore this section is not applicable.

2.10 Plan for Relocation of Displaced Persons

No persons reside at the property thus none will be displaced. Therefore, this section is not applicable.

2.11 Provisions for Relocation Costs

No persons reside at the property thus none will be displaced. Therefore, this section is not applicable.

2.12 Strategy for Compliance with Michigan's Relocation Assistance Law

No persons reside at the property thus none will be displaced. Therefore, this section is not applicable.

2.13 Other Material that the Authority or Governing Body Considers Pertinent

None.

Figure 1

Legal Description and Eligible Property Map

Legal Description:
276 ORIGINAL PLAT OF THE TOWN (NOW CITY) OF KALAMAZOO, Liber 6 of Plats Page 8; Commencing on the north line of East Michigan Avenue at a point South 60 degrees West 264.81 feet from the west line of North Edwards Street; thence North 30 degrees West 100 feet parallel with the west line of North Edwards Street; thence South 60 degrees West 66.83 feet parallel with the north line of East Michigan Avenue; thence South 30 degrees East 100 feet parallel with the west line of North Edwards Street to the north line of East Michigan Avenue; thence North 60 degrees East 66.83 feet along the north line of East Michigan Avenue to the point of beginning.

Table 1

Eligible Activity Costs

EGLE Eligible Activities Costs and Schedule		
EGLE Eligible Activities	**Cost**	**Completion Season/Year**
Department Specific Activities Sub-Total	**$ 21,100**	**Winter 2023**
Phase I & Phase II Environmental Site Assessment	$ 15,000	
Hazardous Material Survey	$ 6,100	
EGLE Eligible Activities Sub-Total	**$ 21,100**	
MSF Eligible Activities Costs and Schedule		
MSF Eligible Activities	**Cost**	**Completion Season/Year**
Demolition Sub-Total	**$ 54,000**	**Summer 2023**
Site Demolition	$ 2,000	
Building Demolition	$ 40,000	
Demolition Planning	$ 12,000	
Lead, Asbestos, Mold Abatement Sub-Total	**$ 78,000**	**Summer 2023**
Lead, Asbestos, Mold Abatement Sub-Total	$ 78,000	
Infrastructure Improvements Sub-Total	**$ 5,000**	**Summer 2023**
Curbs and Gutters	$ 5,000	
Site Preparation Sub-Total	**$ 19,500**	**Summer 2023**
Geotechnical Engineering	$ 5,000	
Survey and Staking	$ 5,000	
Temporary traffic, site and access control	$ 2,000	
Temporary facility	$ 7,500	
MSF Eligible Activities Sub-Total	**$ 156,500**	
Interest- State and Local (5%)	**$ 42,848**	
Contingency (15%)	**$ 26,640**	
Brownfield Plan & Act 381 Work Plan Preparation	**$ 10,000**	**Winter 2023**
Total Brownfield Eligible Activities	**$ 257,088**	

Table 2

Tax Capture Schedule

Tax Increment Revenue Capture Estimates
215 E. Michigan Avenue
Kalamazoo, Michigan
March 2023

		OPRA Period																
		1%										DEGA School tax expires						
Year of Plan		**1**	**2**	**3**	**4**	**5**	**6**	**7**	**8**	**9**	**10**	**11**	**12**	**13**	**14**	**15**	**16**	**17**
Year		2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039	2040
Initial Taxabl Value		$ 205,736	$ 205,736	$ 205,736	$ 205,736	$ 205,736	$ 205,736	$ 205,736	$ 205,736	$ 205,736	$ 205,736	$ 205,736	$ 205,736	$ 205,736	$ 205,736	$ 205,736	$ 205,736	$ 205,736
Future Taxable Value		$ 616,500	$ 622,665	$ 628,892	$ 635,181	$ 641,532	$ 647,948	$ 654,427	$ 660,971	$ 667,581	$ 674,257	$ 681,000	$ 687,810	$ 694,688	$ 701,635	$ 708,651	$ 715,737	$ 722,895
Increment Available for Capture		**$ 410,764**	**$ 416,929**	**$ 423,156**	**$ 429,445**	**$ 435,796**	**$ 442,212**	**$ 448,691**	**$ 455,235**	**$ 461,845**	**$ 468,521**	**$ 475,264**	**$ 482,074**	**$ 488,952**	**$ 495,899**	**$ 502,915**	**$ 510,001**	**$ 517,159**
School Capture	Millage Rate																	
State Education Tax (SET)	6.0000												$ 2,892	$ 2,934	$ 2,975	$ 3,017	$ 3,060	$ 3,103
School Operating Tax	17.6757												$ 8,521	$ 8,643	$ 8,765	$ 8,889	$ 9,015	$ 9,141
School Total	**23.6757**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ 11,413**	**$ 11,576**	**$ 11,741**	**$ 11,907**	**$ 12,075**	**$ 12,244**
Local Capture	Millage Rate																	
County Public Safety	1.4380																	
County 911	0.6487																	
County Housing	0.7485																	
County Seniors	0.3477																	
KRESA CTE	0.9942												$ 479	$ 486	$ 493	$ 500	$ 507	$ 514
KRESA Operating	3.0210												$ 1,456	$ 1,477	$ 1,498	$ 1,519	$ 1,541	$ 1,562
KRESA Enhancement	1.4977												$ 722	$ 732	$ 743	$ 753	$ 764	$ 775
KRESA Special Ed	1.5000												$ 723	$ 733	$ 744	$ 754	$ 765	$ 776
Kal Public Library	3.9117												$ 943	$ 956	$ 970	$ 984	$ 997	$ 1,011
City Operating	12.0000																	
City Solid Waste	1.8000																	
Cen Cnty Transit	0.7500																	
County Operating	4.6514																	
County Transit	0.3124																	
KVCC	2.7918																	
Kalamazoo DDA	1.9638												$ 947	$ 960	$ 974	$ 988	$ 1,002	$ 1,016
Local Total	**38.37690**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ 5,270**	**$ 5,345**	**$ 5,421**	**$ 5,498**	**$ 5,576**	**$ 5,654**
Non-Capturable Millages	Millage Rate																	
County Debt	0.1685												$ 81	$ 82	$ 84	$ 85	$ 86	$ 87
School Debt	8.2000												$ 3,953	$ 4,009	$ 4,066	$ 4,124	$ 4,182	$ 4,241
Total Non-Capturable Taxes	**8.2000**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ 4,034**	**$ 4,092**	**$ 4,150**	**$ 4,209**	**$ 4,268**	**$ 4,328**
TIR Available for Capture		$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ 14,710	$ 14,920	$ 15,132	$ 15,346	$ 15,563	$ 15,781

Footnotes:
12 Year OPRA tax abatement expires 12/31/2034

Tax Increment Revenue Capture Estimates
215 E. Michigan Avenue
Kalamazoo, Michigan
March 2023

		18	19	20	21	22	23	24	25	26	27	28	29	30	31	TOTAL
									Last year of DEGA							
		2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	
		$ 205,736	$ 205,736	$ 205,736	$ 205,736	$ 205,736	$ 205,736	$ 205,736	$ 205,736	$ 205,736	$ 205,736	$ 205,736	$ 205,736	$ 205,736	$ 205,736	$ -
Fu		$ 730,124	$ 737,425	$ 744,799	$ 752,247	$ 759,770	$ 767,367	$ 775,041	$ 782,791	$ 790,619	$ 798,526	$ 806,511	$ 814,576	$ 822,722	$ 830,949	$ -
Increment Av		**$ 524,388**	**$ 531,689**	**$ 539,063**	**$ 546,511**	**$ 554,034**	**$ 561,631**	**$ 569,305**	**$ 577,055**	**$ 584,883**	**$ 592,790**	**$ 600,775**	**$ 608,840**	**$ 616,986**	**$ 625,213**	$ -
School Capture	Millage Rate															
State Education Tax (SET)	6.0000	$ 3,146	$ 3,190	$ 3,234	$ 3,279	$ 3,324	$ 3,370	$ 3,416	$ 3,462	$ 3,509	$ 3,557	$ 3,605	$ 3,653	$ 3,702	$ 3,751	$ 66,181
School Operating Tax	17.6757	$ 9,269	$ 9,398	$ 9,528	$ 9,660	$ 9,793	$ 9,927	$ 10,063	$ 10,200	$ 10,338	$ 10,478	$ 10,619	$ 10,762	$ 10,906	$ 11,051	$ 194,966
School Total	**23.6757**	**$ 12,415**	**$ 12,588**	**$ 12,763**	**$ 12,939**	**$ 13,117**	**$ 13,297**	**$ 13,479**	**$ 13,662**	**$ 13,848**	**$ 14,035**	**$ 14,224**	**$ 14,415**	**$ 14,608**	**$ 14,802**	**$ 261,147**
Local Capture	Millage Rate															
County Public Safety	1.4380									$ 841	$ 852	$ 864	$ 876	$ 887	$ 899	$ 5,219
County 911	0.6487									$ 379	$ 385	$ 390	$ 395	$ 400	$ 406	$ 2,354
County Housing	0.7485									$ 438	$ 444	$ 450	$ 456	$ 462	$ 468	$ 2,717
County Seniors	0.3477									$ 203	$ 206	$ 209	$ 212	$ 215	$ 217	$ 1,262
KRESA CTE	0.9942	$ 521	$ 529	$ 536	$ 543	$ 551	$ 558	$ 566	$ 574	$ 581	$ 589	$ 597	$ 605	$ 613	$ 622	$ 10,966
KRESA Operating	3.0210	$ 1,584	$ 1,606	$ 1,629	$ 1,651	$ 1,674	$ 1,697	$ 1,720	$ 1,743	$ 1,767	$ 1,791	$ 1,815	$ 1,839	$ 1,864	$ 1,889	$ 33,322
KRESA Enhancement	1.4977	$ 785	$ 796	$ 807	$ 819	$ 830	$ 841	$ 853	$ 864	$ 876	$ 888	$ 900	$ 912	$ 924	$ 936	$ 16,520
KRESA Special Ed	1.5000	$ 787	$ 798	$ 809	$ 820	$ 831	$ 842	$ 854	$ 866	$ 877	$ 889	$ 901	$ 913	$ 925	$ 938	$ 16,545
Kal Public Library	3.9117	$ 1,026	$ 1,040	$ 1,054	$ 1,069	$ 1,084	$ 1,098	$ 1,113	$ 1,129	$ 2,288	$ 2,319	$ 2,350	$ 2,382	$ 2,413	$ 2,446	$ 28,672
City Operating	12.0000									$ 7,019	$ 7,113	$ 7,209	$ 7,306	$ 7,404	$ 7,503	$ 43,554
City Solid Waste	1.8000									$ 1,053	$ 1,067	$ 1,081	$ 1,096	$ 1,111	$ 1,125	$ 6,533
Cen Cnty Transit	0.7500									$ 439	$ 445	$ 451	$ 457	$ 463	$ 469	$ 2,722
County Operating	4.6514									$ 2,721	$ 2,757	$ 2,794	$ 2,832	$ 2,870	$ 2,908	$ 16,882
County Transit	0.3124									$ 183	$ 185	$ 188	$ 190	$ 193	$ 195	$ 1,134
KVCC	2.7918									$ 1,633	$ 1,655	$ 1,677	$ 1,700	$ 1,723	$ 1,745	$ 10,133
Kalamazoo DDA	1.9638	$ 1,030	$ 1,044	$ 1,059	$ 1,073	$ 1,088	$ 1,103	$ 1,118	$ 1,133	$ 1,149	$ 1,164	$ 1,180	$ 1,196	$ 1,212	$ 1,228	$ 21,661
Local Total	**38.37690**	**$ 5,733**	**$ 5,813**	**$ 5,893**	**$ 5,975**	**$ 6,057**	**$ 6,140**	**$ 6,224**	**$ 6,309**	**$ 22,446**	**$ 22,749**	**$ 23,056**	**$ 23,365**	**$ 23,678**	**$ 23,994**	$ 220,197
Non-Capturable Millages	Millage Rate															
County Debt	0.1685	$ 88	$ 90	$ 91	$ 92	$ 93	$ 95	$ 96	$ 97	$ 99	$ 100	$ 101	$ 103	$ 104	$ 105	$ 1,859
School Debt	8.2000	$ 4,300	$ 4,360	$ 4,420	$ 4,481	$ 4,543	$ 4,605	$ 4,668	$ 4,732	$ 4,796	$ 4,861	$ 4,926	$ 4,992	$ 5,059	$ 5,127	$ 90,447
Total Non-Capturable Taxes	**8.2000**	**$ 4,388**	**$ 4,449**	**$ 4,511**	**$ 4,573**	**$ 4,636**	**$ 4,700**	**$ 4,764**	**$ 4,829**	**$ 4,895**	**$ 4,961**	**$ 5,028**	**$ 5,095**	**$ 5,163**	**$ 5,232**	$ 92,306
TIR Available for Ca		$ 16,002	$ 16,224	$ 16,450	$ 16,677	$ 16,906	$ 17,138	$ 17,372	$ 17,609	$ 32,294	$ 32,731	$ 33,172	$ 33,617	$ 34,067	$ 34,521	$ 426,233

Footnotes:
12 Year OPRA tax abatement expires 12/31/2034

Table 3

Reimbursement Schedule

Tax Increment Revenue Reimbursement Allocation Table
215 E. Michigan Avenue
Kalamazoo, Michigan
March 2023

Developer Maximum Reimbursement	Proportionality	School & Local Taxes	Local-Only Taxes	Total
State		**38.2%**		
Local		**61.8%**		
TOTAL				
EGLE	8.2%			
MSF	91.8%			

Estimated Total Years of Plan: 30

Estimated Capture	$	426,233
Administrative Fees	$	22,020
State Brownfield Redevelopment Fund	$	33,090
Local Brownfield Revolving Fund	$	127,129

5 Year DELAY on Start of Brownfield Capture (2024–2028)

DEGA School tax expires (2034)

	Beginning Balance	2024	2025	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036	2037	2038	2039
Total State Incremental Revenue		$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ 11,413	$ 11,576	$ 11,741	$ 11,907	$ 12,075
State Brownfield Redevelopment Fund (50% of SET)		$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ (1,446)	$ (1,467)	$ (1,488)	$ (1,509)	$ (1,530)
State TIR Available for Reimbursement		**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ 9,967**	**$ 10,109**	**$ 10,253**	**$ 10,398**	**$ 10,545**
Total Local Incremental Revenue		$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ 5,270	$ 5,345	$ 5,421	$ 5,498	$ 5,576
BRA Administrative Fee (10%)		$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ (527)	$ (535)	$ (542)	$ (550)	$ (558)
Local TIR Available for Reimbursement		**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ 4,743**	**$ 4,811**	**$ 4,879**	**$ 4,948**	**$ 5,018**
Total State & Local TIR Available		**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ 14,710**	**$ 14,920**	**$ 15,132**	**$ 15,346**	**$ 15,563**
DEVELOPER	Beginning Balance																
DEVELOPER Reimbursement Balance	***$ 257,088***	***$ 257,088***	***$ 257,088***	***$ 257,088***	***$ 257,088***	***$ 257,088***	***$ 257,088***	***$ 257,088***	***$ 257,088***	***$ 257,088***	***$ 257,088***	***$ 257,088***	***$ 242,378***	***$ 227,457***	***$ 212,325***	***$ 196,978***	***$ 181,416***
MSF Non-Environmental Costs	*$ 235,988*	*$ -*	*$ -*	*$ -*	*$ -*	*$ -*	*$ -*	*$ -*	*$ -*	*$ -*	*$ -*	*$ -*	*$ -*	*$ -*	*$ -*	*$ -*	
State Tax Reimbursement		$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ 9,149	$ 9,280	$ 9,412	$ 9,545	$ 9,679
Local Tax Reimbursement		$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ 4,354	$ 4,416	$ 4,479	$ 4,542	$ 4,606
Total MSF Reimbursement Balance		*$ 235,988*	*$ 235,988*	*$ 235,988*	*$ 235,988*	*$ 235,988*	*$ 235,988*	*$ 235,988*	*$ 235,988*	*$ 235,988*	*$ 235,988*	*$ 235,988*	*$ 222,485*	*$ 208,789*	*$ 194,899*	*$ 180,812*	*$ 166,526*
EGLE Environmental Costs	*$ 21,100*	*$ -*	*$ -*	*$ -*	*$ -*	*$ -*	*$ -*	*$ -*									
State Tax Reimbursement		$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ 818	$ 830	$ 841	$ 853	$ 865
Local Tax Reimbursement		$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ -	$ 389	$ 395	$ 400	$ 406	$ 412
Total EGLE Reimbursement Balance		*$ 21,100*	*$ 21,100*	*$ 21,100*	*$ 21,100*	*$ 21,100*	*$ 21,100*	*$ 21,100*	*$ 21,100*	*$ 21,100*	*$ 21,100*	*$ 21,100*	*$ 19,893*	*$ 18,668*	*$ 17,426*	*$ 16,167*	*$ 14,889*
Total Annual Developer Reimbursement		*$ -*	*$ -*	*$ -*	*$ -*	*$ -*	*$ -*	*$ -*	*$ -*	*$ -*	*$ -*	*$ -*	*$ 14,710*	*$ 14,920*	*$ 15,132*	*$ 15,346*	*$ 15,563*
LOCAL BROWNFIELD REVOLVING FUN																	
LBRF Deposits *		**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	**$ -**	
State Tax Capture	*$ -*	*$ -*	*$ -*	*$ -*	*$ -*	*$ -*	*$ -*	*$ -*	*$ -*	*$ -*	*$ -*	*$ -*	*$ -*	*$ -*	*$ -*	*$ -*	
Local Tax Capture	*$ -*	*$ -*	*$ -*	*$ -*	*$ -*	*$ -*	*$ -*	*$ -*	*$ -*	*$ -*	*$ -*	*$ -*	*$ -*	*$ -*	*$ -*	*$ -*	
Total LBRF Capture																	

* Up to five years of capture for LBRF Deposits after eligible activities are reimbursed. May be taken from EGLE & Local TIR only.

Footnotes:
MSF Authorized School tax capture for DEGA expires in 2034
OPRA Tax abatment Expires in 2034
Existing DEGA TIF plan expires in 2048

Tax Increment Revenue Reimbursement Allocation Table
215 E. Michigan Avenue
Kalamazoo, Michigan
March 2023

									DEGA capture Expires							
	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	2051	2052	2053	2054	TOTAL
Total State Incremental Revenue	$ 12,244	$ 12,415	$ 12,588	$ 12,763	$ 12,939	$ 13,117	$ 13,297	$ 13,479	$ 13,662	$ 13,848	$ 14,035	$ 14,224	$ 14,415	$ 14,608	$ 14,802	$ 261,147
State Brownfield Redevelopment Fund (50% o	$ (1,551)	$ (1,573)	$ (1,595)	$ (1,617)	$ (1,640)	$ (1,662)	$ (1,685)	$ (1,708)	$ (1,731)	$ (1,755)	$ (1,778)	$ (1,802)	$ (1,827)	$ (1,851)	$ (1,876)	$ (33,090)
State TIR Available for Reimbursement	**$ 10,693**	**$ 10,842**	**$ 10,993**	**$ 11,146**	**$ 11,300**	**$ 11,455**	**$ 11,612**	**$ 11,771**	**$ 11,931**	**$ 12,093**	**$ 12,256**	**$ 12,421**	**$ 12,588**	**$ 12,757**	**$ 12,927**	$ 228,056
Total Local Incremental Revenue	$ 5,654	$ 5,733	$ 5,813	$ 5,893	$ 5,975	$ 6,057	$ 6,140	$ 6,224	$ 6,309	$ 22,446	$ 22,749	$ 23,056	$ 23,365	$ 23,678	$ 23,994	$ 220,197
BRA Administrative Fee (10%)	$ (565)	$ (573)	$ (581)	$ (589)	$ (597)	$ (606)	$ (614)	$ (622)	$ (631)	$ (2,245)	$ (2,275)	$ (2,306)	$ (2,337)	$ (2,368)	$ (2,399)	$ (22,020)
Local TIR Available for Reimbursement	**$ 5,088**	**$ 5,160**	**$ 5,231**	**$ 5,304**	**$ 5,377**	**$ 5,451**	**$ 5,526**	**$ 5,602**	**$ 5,678**	**$ 20,201**	**$ 20,474**	**$ 20,750**	**$ 21,029**	**$ 21,310**	**$ 21,594**	$ 198,177
																$ -
Total State & Local TIR Available	**$ 15,781**	**$ 16,002**	**$ 16,224**	**$ 16,450**	**$ 16,677**	**$ 16,906**	**$ 17,138**	**$ 17,372**	**$ 17,609**	**$ 32,294**	**$ 32,731**	**$ 33,172**	**$ 33,617**	**$ 34,067**	**$ 34,521**	$ 426,233
																$ -
DEVELOPER																$ -
DEVELOPER Reimbursement Balance	***$ 165,635***	***$ 149,633***	***$ 133,408***	***$ 116,959***	***$ 100,282***	***$ 83,376***	***$ 66,238***	***$ 48,865***	***$ 31,256***	***$ 0***	***$ 0***	***$ 0***	***$ 0***	***$ 0***	***$ 0***	$ 4,784,174
																$ -
																$ -
																$ -
																$ -
																$ -
MSF Non-Environmental Costs																$ -
State Tax Reimbursement	$ 9,815	$ 9,952	$ 10,091	$ 10,231	$ 10,372	$ 10,515	$ 10,659	$ 10,805	$ 10,952	$ 10,947	$ -					$ 151,403
Local Tax Reimbursement	$ 4,671	$ 4,736	$ 4,802	$ 4,869	$ 4,936	$ 5,004	$ 5,073	$ 5,142	$ 5,212	$ 17,744	$ -					$ 84,585
Total MSF Reimbursement Balance	*$ 152,040*	*$ 137,352*	*$ 122,459*	*$ 107,360*	*$ 92,052*	*$ 76,533*	*$ 60,801*	*$ 44,855*	*$ 28,691*	*$ -*	*$ -*	*$ -*	*$ -*	*$ -*		$ 235,988
																$ -
EGLE Environmental Costs																*$ -*
State Tax Reimbursement	$ 878	$ 890	$ 902	$ 915	$ 927	$ 940	$ 953	$ 966	$ 979	$ 979	$ -					$ 13,537
Local Tax Reimbursement	$ 418	$ 423	$ 429	$ 435	$ 441	$ 447	$ 454	$ 460	$ 466	$ 1,587	$ -					$ 7,563
Total EGLE Reimbursement Balance	*$ 13,594*	*$ 12,281*	*$ 10,949*	*$ 9,599*	*$ 8,230*	*$ 6,843*	*$ 5,436*	*$ 4,011*	*$ 2,565*	*$ -*	*$ -*	*$ -*	*$ -*	*$ -*		*$ 21,100*
Total Annual Developer Reimbursement	*$ 15,781*	*$ 16,002*	*$ 16,224*	*$ 16,450*	*$ 16,677*	*$ 16,906*	*$ 17,138*	*$ 17,372*	*$ 17,609*	*$ 31,256*	*$ -*	*$ -*	*$ -*	*$ -*		*$ 257,088*
LOCAL BROWNFIELD REVOLVING FUN																
LBRF Deposits *																**$ -**
State Tax Capture										*$ 167*	*$ 12,256*	*$ 8,676*				*$ 21,100*
Local Tax Capture										*$ 871*	*$ 20,474*	*$ 20,750*	*$ 21,029*	*$ 21,310*	*$ 21,594*	*$ 106,029*
Total LBRF Capture																*$ 127,129*

* Up to five years of capture for LBRF Deposit

Footnotes:
MSF Authorized School tax capture for DEGA e
OPRA Tax abatment Expires in 2034
Existing DEGA TIF plan expires in 2048

Attachment A

Brownfield Plan Resolutions

Attachment B

Reimbursement Agreement

Attachment C

Affidavit of Functinal Obsolescence

AFFIDAVIT OF CITY OF KALAMAZOO ASSESSOR

I, Aaron P. Powers, being duly sworn, states that if called upon will testify to the following facts:

1. I am employed by the City of Kalamazoo in the Management Services Department as the City Assessor.
2. I am a certified Michigan Master Assessing Officer (4).
3. I am familiar with the property located at 215 East Michigan Avenue, in the City of Kalamazoo
4. This affidavit is given in accordance with MCL 125.2663(1) (h) and is made to confirm this property qualifies as 'Functionally Obsolete Property' as that term is defined under MCL 125.2652(r). The following facts, without limitation, form the basis for my expert opinion:
5. The property is unable to be used to adequately perform the function for which it was intended due to a substantial loss in value resulting from factors such as overcapacity, changes in technology, deficiencies or super adequacies in design, or other similar factors that affect the property itself or the property's relationship with other surrounding property.

Aaron P. Powers, City Assessor

Subscribed and sworn to before me by Aaron Powers on September 13, 2022.

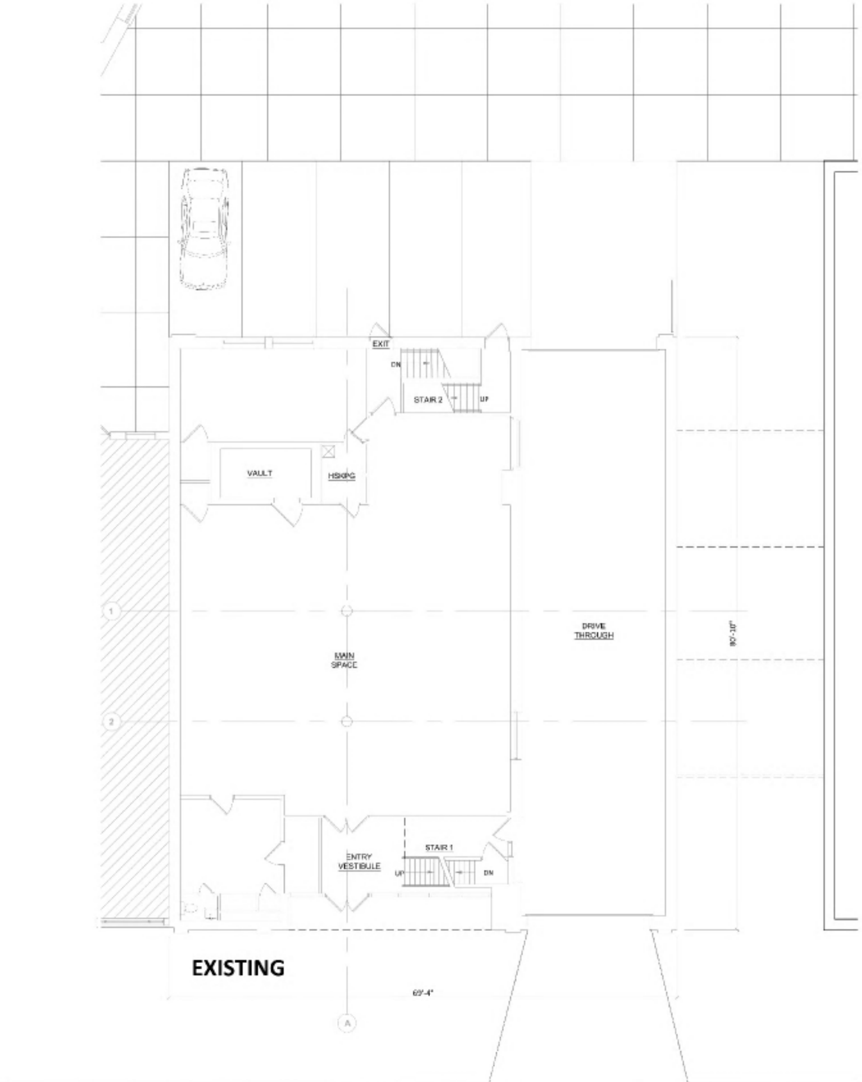
Priscilla K Dibble, Notary Public
Kalamazoo County, Michigan
Commission Expires: 01-18-2025
Acting in Kalamazoo County

PRISCILLA K. DIBBLE
Notary Public, State of Michigan
County of Kalamazoo
My Commission Expires Jan. 18, 2025
Acting in the County of Kalamazoo

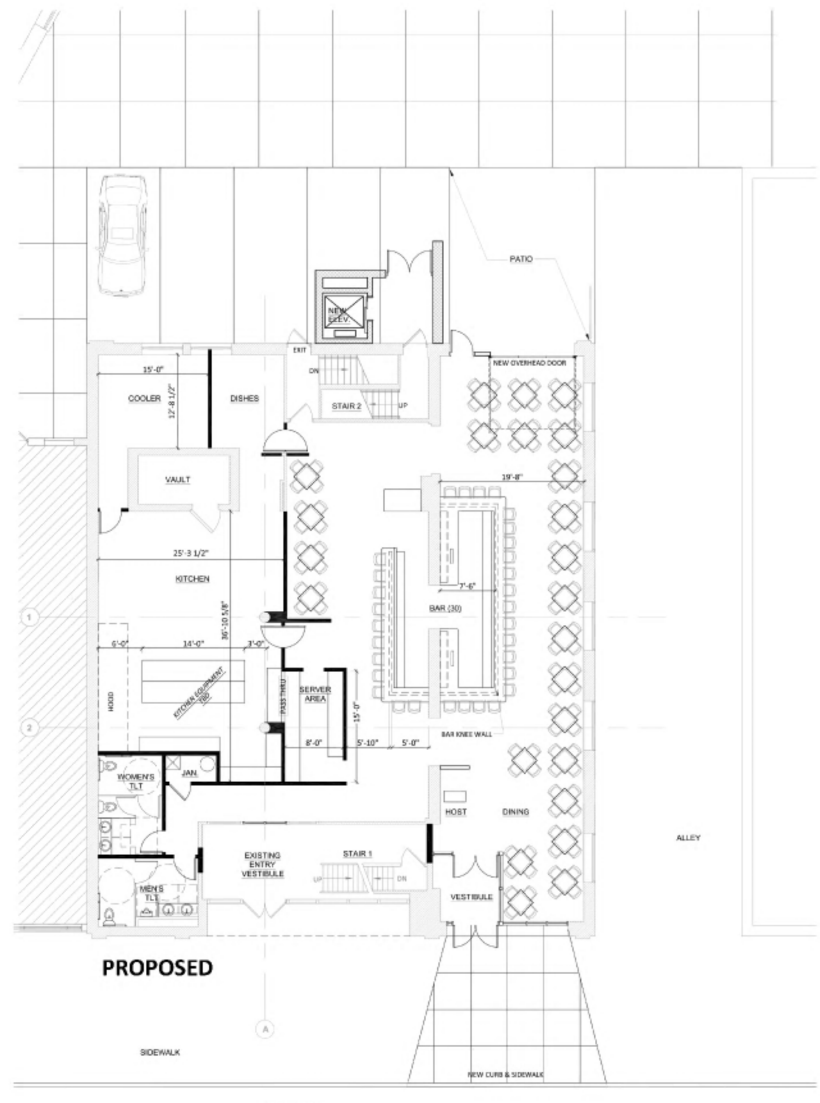
Prepared by:
Aaron P. Powers (R-6684)
City Assessor
241 West South Street
Kalamazoo, MI 49008
(269) 337-8011

Attachment D

Site Plan



EXISTING



PROPOSED

FIRST FLOOR PLAN - TEST FIT

215 EAST MICHIGAN AVE., KALAMAZOO

GREYSTAR
barris
ECKERT WORDELL

© ECKERT WORDELL LLC
5 APRIL 2022

BRA Board of Directors Staff Report

City of Kalamazoo

TO: Brownfield Redevelopment Authority Board of Directors

FROM: Antonio Mitchell, Director of Community Planning and Economic Development
Prepared by: Jamie McCarthy, BRA Staff Liaison

DATE: March 16, 2023

SUBJECT: Adoption of a Resolution approving the implementation of the Act 381 Brownfield Plan for 215 E. Michigan Avenue and recommend approval by City Commission.

SUMMARY:

The Brownfield Plan includes both local and State school tax capture (62% local, 38% State). Other plan details and fiscal impacts include the following:

- Plan will take 30 years to implement completely; it defers developer reimbursement for 12 years until OPRA expires, reimbursement to development is anticipated from 2034 - 2049, which falls within the incentives policy scoring.
- Developer eligible activities include EGLE-eligible assessments ($21,100), MSF-eligible demolition ($54,000), lead & asbestos abatement ($78,000), infrastructure improvements ($5,000), site preparation ($19,500), contingence ($26,640), interest ($42,848), and work plans ($10,000).
- LBRF will capture one partial (2049) and five full years (2050-2054) for a total estimate of $127,129.
- BRA administrative costs are estimated to be $23,924.
- The project will not capture DEGA millage; only BRA-eligible mils will be captured and used for reimbursement and LBRF.
- The project is estimated to create 20 new FTE, retain 18 FTE, and employ up to 50 construction jobs/contractors.
- The project will bring the functionally obsolete building into compliance with all modern health and safety codes, including addition of an elevator.
- Project will reactivate this vacant, former bank space into a vibrant public dining and office space along the Michigan Avenue commercial corridor in the urban core of Kalamazoo.

BACKGROUND:

The redevelopment project is located on eligible property consisting of a single parcel which is 0.153 acres in size and is located at 215 E. Michigan in the City of Kalamazoo, Kalamazoo County (Parcel Identification Number 06-15-378-098). The City of Kalamazoo Assessor, Aaron P. Powers, has determined that the property can no longer function the way it was intended due to a substantial loss in value resulting from factors such as overcapacity, changes in technology, deficiencies or super adequacies in design. The functionally obsolete nature of the property qualifies the site as eligible property under Act 381.

The building is a former bank space that has been vacant for more than 10 years. The redevelopment project proposes to rehabilitate the building for use as a new restaurant space on the first floor and office space for Treystar on the second floor. The project will connect to new outdoor amenities like the Haymarket Plaza.

FISCAL IMPACT:

RECOMMENDATION:

It is recommended the BRA adopt the Resolution approving implementation of the 215 E. Michigan Avenue redevelopment project and recommend approval by City Commission.

CITY OF KALAMAZOO
BROWNFIELD REDEVELOPMENT AUTHORITY

A RESOLUTION APPROVING THE IMPLEMENTATION OF AN ACT 381 BROWNFIELD PLAN FOR 215 E. MICHIGAN AVENUE AND RECOMMENDING ADOPTION BY THE CITY COMMISSION

Minutes of a regular meeting of the City of Kalamazoo Brownfield Redevelopment Authority ("BRA") held on March 16, 2023 at 7:30 a.m., local time at 245 N. Rose Street, Ste. 100 in Kalamazoo, Michigan.

PRESENT: ____

____

ABSENT: ____

The following resolution was offered by Member______________and seconded by Member______________.

RECITALS:

A. The City has created the City of Kalamazoo Brownfield Redevelopment Authority (the "Authority"), under the provisions of Act 381, Public Acts of Michigan, 1996, as amended ("Act 381").

B. Under Resolution No. 08-16, the City Commission delegated the public hearing process to the Authority regarding any future proposed Act 381 Brownfield Plan, including proposed Act 381 Brownfield Plan for 215 E. Michigan Avenue.

C. A public hearing was held by the Authority on March 16, 2023, on the Brownfield Plan for 215 E. Michigan Avenue, Kalamazoo; notice of the public hearing was given to all taxing authorities levying ad valorem or specific taxes against any parcels within the Brownfield Plan, as required by Act 381.

D. Following the public hearing on the 215 E. Michigan Avenue Brownfield Plan, the Authority, in consideration of any comments heard at the public hearing or written communications received at or prior to the public hearing, determines that the Brownfield Plan constitutes a public purpose in that:

a. It meets all requirements of Section 13 of Act 381.

b. The proposed method of financing the costs of eligible activities of the 215 E. Michigan Avenue Brownfield Plan is feasible, and the Authority has the authority to arrange the necessary financing.

c. The description of eligible activities and their estimated costs are reasonable and necessary to carry out the purposes of Act 381, and

d. The amount of captured taxable value estimated to result from the 215 E. Michigan Avenue Brownfield Plan is reasonable.

THEREFORE, IT IS RESOLVED THAT:

The City of Kalamazoo Brownfield Redevelopment Authority approves the implementation of the Act 381 Brownfield Plan for 215 E. Michigan Avenue in Kalamazoo and recommends the City Commission adopt a resolution approving this Brownfield Plan.

AYES: ____

____

NAYS: ____

RESOLUTION DECLARED.

CERTIFICATE

The foregoing is a true and complete copy of a resolution adopted by the Brownfield Redevelopment Authority at a regular meeting held on March 16, 2023. Public notice was given and the meeting was conducted in full compliance with the Michigan Open Meetings Act (PA 267, 1976). Minutes of the meeting will be available as required by the Act.

____
Elizabeth Cheeseman
Recording Secretary

BRA Board of Directors
Staff Report

City of Kalamazoo

TO: Brownfield Redevelopment Authority Board of Directors

FROM: Antonio Mitchell, Director of Community Planning and Economic Development
Prepared by: Jamie McCarthy, BRA Staff Liaison

DATE: March 16, 2023

SUBJECT: Approval of the Second Amendment to the Purchase and Sale Agreement for property at 116 W. Cedar Street and authorize chair to sign.

SUMMARY:

Staff have been meeting regularly with 116 West Cedar, LLC and Burdick@Cedar, LLC (Developer) and MEDC to discuss the development project along South Burdick and West Cedar Streets. The project is positioned to submit application to MEDC for incentives in April 2023. The Developer has requested an extension of the Investigation Period in the Purchase and Sale Agreement to finalize development plans and secure financing for the project. Staff is recommending a 12-month extension to allow time for the state approval process to be completed. During this time, staff will work with Developer to finalize brownfield and other incentive package that will be finalized in a Brownfield Plan Development Agreement prior to closing.

BACKGROUND:

In September 2022, the BRA signed the First Amendment to the Purchase and Sale Agreement (Agreement) to extend the investigation period to March 31, 2023. Since this time, Developer has made progress in acquiring other parcels in and around the 116 W Cedar parcel to advance development plans. The proposed development is a mixed-use project consisting of new residential and commercial space. The project anticipates seeking brownfield and other economic development incentives to assist with significant demolition and asbestos abatement costs associated with the former public safety building on the site.

FISCAL IMPACT:

The Developer has deposited 10% ($35,000) of the price towards the purchase that BRA will continue to hold. At closing, BRA will receive the remaining funds ($315,000) to complete sale.

RECOMMENDATION:

It is recommended the BRA approve the Second Amendment to the Purchase and Sale Agreement for 116 W Cedar Street and authorize the chair to sign.

SECOND AMENDMENT TO PURCHASE AND SALE AGREEMENT

The City of Kalamazoo Brownfield Redevelopment Authority, a Michigan public corporate body, whose address is 241 West South Street, Kalamazoo, Michigan 49007, (the **"BRA")** and 116 WEST CEDAR,LLC a Michigan domestic limited liability company, having an address at 750 Trade Centre Way, Suite 100, Portage, Michigan 49002 ("116 West Cedar"), BURDICK@CEDAR, LLC, a Michigan domestic limited liability company, having an address at 4200 W. Centre Avenue, Portage, Michigan 49024 ("Burdick@Cedar"), (collectively the **"Purchaser")** entered a Purchase and Sale Agreement dated September 27, 2021 (hereinafter, the **"Agreement")** for the Premises described and located at 116 West Cedar Street, Kalamazoo, MI 49007.

BACKGROUND

A. The BRA and Purchaser signed the First Amendment to the Purchase and Sale Agreement on September 19, 2022 to extend the Investigation Period by an additional 6 months to end March 31, 2023.
B. Since signing the First Amendment to the Purchase and Sale Agreement, Purchaser has made progress toward other property acquisition and redevelopment plans. Both BRA and Purchaser desire to extend the original Agreement for an additional 12-month period.
C. Therefore both BRA and Purchaser agree to enter this Second Amendment to Purchase and Sale Agreement:

1. The first sentence of Section 4, <u>Investigation Period</u> at page 2 of the Agreement, is amended to read:

"The **"Investigation Period"** commences on the Effective Date of this Agreement and expires on March 31, 2024 at 5:00 p.m. Eastern Daylight Time."

2. In all other regards the Agreement is unchanged and affirmed by the parties.

3. This Amendment becomes effective on the last signature date set forth below.

IN WITNESS WHEREOF, the authorized representatives of the parties have executed this Second Amendment to Purchase and Sale Agreement dated September 27,2021.

[Signatures by the authorized representatives of the parties are on the following page.]

City of Kalamazoo Brownfield Redevelopment Authority

____ Dated__________________________

Kevan Hess, Chairperson

116 W. CEDAR, LLC

____ Dated__________________________

Roger E. Hinman, Manager

BURDICK@CEDAR. LLC

____ Dated__________________________

Joseph L. Gesmundo, Manager

BRA Board of Directors
Staff Report

City of Kalamazoo

TO: Brownfield Redevelopment Authority Board of Directors

FROM: Antonio Mitchell, Director of Community Planning and Economic Development
Prepared by: Jamie McCarthy, BRA Staff Liaison

DATE: March 16, 2023

SUBJECT: Approval of the First Amendment to the Brownfield Plan Development Agreement with Bogan Developments, LLC for the redevelopment project at 315 E. Frank Street.

SUMMARY:

The project broke ground in February 2023 and has applied for reimbursement of grant-eligible costs for the project. Developer is requesting that reimbursement payments to Developer for eligible activities of the Grant be paid to a third-party fiduciary. Sun Title Agency will serve as a third-party fiduciary. Staff recommend the BRA memorialize this change by amending the Brownfield Plan Development Agreement, which currently states all payments made to Developer will be issued to Bogan Developments, LLC. The attached amendment specifies payment for annual TIF reimbursement will be paid to Bogan Developments, LLC and Grant reimbursement will be paid to Sun Title Agency.

BACKGROUND:

The BRA received a Brownfield Redevelopment Grant (Grant) from the Michigan Department of Environment, Great Lakes, and Energy (EGLE) on behalf of the Project to reimburse BRA and Developer for certain eligible activities. The Grant Agreement was executed on June 21, 2022 between the BRA and EGLE.

FISCAL IMPACT:

There is no fiscal impact to BRA if the City uses electronic fund transfer or check to pay grant reimbursement requests to Sun Title Agency on behalf of Bogan Developments, LLC.

Community Planning and Economic Development Department | 245 N. Rose Street, Ste 100, Kalamazoo, MI 49007
Voice: (269) 337-8744 | Fax: (269) 337-8513 | www.kalamazoocity.org

RECOMMENDATION:

It is recommended the BRA approve the First Amendment to the Brownfield Plan Development Agreement with Bogan Developments, LLC for the redevelopment project at 315 E. Frank Street.

FIRST AMENDMENT TO BROWNFIELD PLAN DEVELOPMENT AGREEMENT

The City of Kalamazoo Brownfield Redevelopment Authority, a Michigan public body corporate established pursuant to Act 381 of the Public Acts of 1996, as amended, MCL 125.2651 et seq. ("Act 381"), whose address is 241 W. South Street, Kalamazoo, Michigan 49007 (the "Authority"), and Bogan Developments, LLC, a Michigan limited liability company, whose address is 180 E. Water Street, Apt. 6111, Kalamazoo, Michigan 49007, (the "Developer") entered into a BROWNFIELD PLAN DEVELOPMENT AGREEMENT (the "Agreement"), dated May 23, 2022 for the redevelopment project located at 315 E. Frank Street, Kalamazoo, MI 49007 ("Project").

BACKGROUND

A. The BRA received a Brownfield Redevelopment Grant ("Grant") from the Michigan Department of Environment, Great Lakes, and Energy (EGLE) on behalf of the Project to reimburse BRA and Developer for certain eligible activities. The Grant Agreement was executed on June 21, 2022 between the BRA and EGLE.
B. Developer is requesting that reimbursement payments to Developer for eligible activities of the Grant be paid to a third-party fiduciary. Sun Title Agency, whose address is 925 S. Burdick St, Kalamazoo, Michigan 49001, will serve as a third-party fiduciary.
C. Therefore, BRA and Developer agree to enter this First Amendment to the Agreement:

1. Section 7.4, <u>Method of Reimbursement</u> at page 4 of the Agreement, is replaced in its entirety with:

"7.4 **Method of Reimbursement**. The Authority will reimburse the Developer for Eligible Costs as follows:

For annual TIF payments, payments shall be payable to:

BOGAN DEVELOPMENTS, LLC
180 E. Water Street, Apt. 6111
Kalamazoo, Michigan 49007

For Grant reimbursement payments, payments shall be payable to:

SUN TITLE AGENCY
925 S. Burdick Street

Kalamazoo, Michigan 49001"

2. In all other regards the Agreement is unchanged and affirmed by the parties.

3. This Amendment becomes effective on the last signature date set forth below.

IN WITNESS WHEREOF, the authorized representatives of the parties have executed this First Amendment to Brownfield Plan Development Agreement dated May 23, 2022.

City of Kalamazoo Brownfield Redevelopment Authority

_______________________________________ Dated_________________________

Kevan Hess, Chairperson

BOGAN DEVELOPMENTS, LLC

_______________________________________ Dated________________________

Jamauri Bogan, Authorized Representative

BRA Board of Directors Staff Report

City of Kalamazoo

TO: Brownfield Redevelopment Authority Board of Directors

FROM: Antonio Mitchell, Director of Community Planning and Economic Development
Prepared by: Jamie McCarthy, BRA Staff Liaison

DATE: March 16, 2023

SUBJECT: Approval of a Purchase Option Agreement for parcels at 700 River Street and 812 Gull Street for the Home Start Initiative housing project and authorize the chair to sign.

SUMMARY:

Playgrown L3C (Developer) is working with local partners to develop a new model for home ownership in Kalamazoo through a potential land trust model. The Home Start Initiative is finalizing the design concept for single family housing and amenity space at 700 River Street and 812 Gull Street. Through a series of community engagement activities held over the last several years, the Developer has been responsive to needs of the community and is planning an affordable (60% AMI and lower), home ownership opportunity. The project is targeted toward traditionally unsheltered individuals and families that would include the necessary wrap-around services.

The Developer has been awarded Kalamazoo County millage funding and is actively seeking additional funding sources. The project is requesting a 12-month purchase option to secure land control as part of several funding requests. Staff is recommending a 12-month period to provide time for zoning requests, site plan approval, final cost analysis, and to secure financial sources and incentives.

BACKGROUND:

The Purchase Option Agreement for 700 River Street includes a purchase price of $55,000, which is based on the True Cash Value from the Assessor's Office. Developer has deposited 10% ($1,375.00) toward the purchase price, assuming the property discount from the BRA incentives policy. Similarly, the BRA has received a 10% ($2,900) deposit for 812 Gull Street toward the purchase price. The True Cash Value from Assessing is $116,000.

FISCAL IMPACT:

If the purchase option is exercised, the BRA would receive a total of $42,750 after closing.

RECOMMENDATION:

It is recommended the BRA approve a Purchase Option Agreement for parcels at 700 River Street and 812 Gull Street for the Home Start Initiative housing project and authorize the chair to sign.

OPTION TO PURCHASE AGREEMENT

THIS AGREEMENT is entered into this **____**day of **______**, **________**, between the **CITY OF KALAMAZOO BROWNFIELD REDEVELOPMENT AUTHORITY** , 245 North Rose Street, Suite 100, Kalamazoo, Michigan 49007, a Michigan municipal corporation, hereafter referred to as "BRA," and **PLAYGROWN L3C,** 925 Cambridge, Kalamazoo, MI 49001**,** a Michigan limited liability company, hereafter referred to as "Purchaser", collectively, “the Parties” is as follows:

1. The Parties agree that for the sum of $2,900.00, (the receipt of which is acknowledged) BRA agrees to give the Purchaser the exclusive right to purchase certain real property (“Property”), described as follows:

M. AMPERSE'S PLAT ON UNION ADDITION, Liber 3 of Plats Pages 26 to 28; Lot 31, Lot 32, Lot 33, Lot 34, Lot 35. Also, a parcel beginning at the northwest corner of Lot 35; thence Southwesterly along the southeasterly line of Gull Street 36.5ft; thence Southeasterly and perpendicular to the southeasterly line of Gull Street 25.5ft more or less to a point on the northerly line of Bridge Street as extended westerly; thence Easterly along the northerly line of Bridge Street as extended westerly to the southwest corner of Lot 35; thence Northwesterly 46.86ft along the westerly line of Lot 35 to beginning.

(Commonly known as: 812 Gull Road, Kalamazoo, MI)

2. This option to purchase the Property shall expire at 5:00 pm local time one (1) year from the time this Agreement is fully executed. If not executed at the same time, the date of execution is the date the second party executes this Agreement. At the Purchaser’s expense, it shall record this Agreement with the Kalamazoo County Register of Deeds within thirty-five (35) days of its execution and provide copy of same to the BRA.

3. During the term of the option to purchase the BRA will neither take nor allow any action which will give to another any type of interest in said Property nor take or allow any action which will create a cloud on the title of the Property; this prohibition forbids, for example, sales, mortgages, easements, leases, etc.

4. During the period of its option (or extended option) the Purchaser shall have full rights to access said Property (without notice but at reasonable times) for the purpose of conducting or causing to be conducted an environmental assessment or evaluation. Said assessment or evaluation shall be conducted in such a fashion that the Property is either not affected or, if it is affected, returned to its original condition. Said assessment or evaluation may involve activities such as soil samples or soil borings. Purchaser shall provide the BRA with copies of any environmental assessment or evaluation.

5. If the Purchaser desires to exercise its option to purchase the Property, it shall so indicate in writing. Said writing shall be mailed or personally delivered to the BRA at the address

listed above. If mailed, such shall be postmarked at least 30 days prior to the expiration of this Agreement. Alternatively, the Purchaser may personally deliver said writing to the BRA at the above address 30 days before the date this Agreement expires.

6. Prior to closing Purchaser shall provide BRA proof of project financing to acquire the Property and development of the Property to provide for lease or sale low-income housing units. Closing shall occur within one hundred eighty (180) days of said postmark date or personal delivery date of the excise of the option to purchase, at which time the Purchaser shall pay to the BRA the purchase price of $116,000.00. It is agreed that the option fee set forth in paragraph 1 shall be applied to the purchase price. It is agreed that the option fee set forth in paragraph 1 shall be applied to the purchase price. The purchase price may be further reduced by the application of the BRA incentives policy. The parcel will be discounted by 5% for every 5% of units which are rent and/or income restricted to 60% or less of the Kalamazoo Area Median Income as determined by the U.S. Department of Housing and Urban Development (HUD), with a maximum discount of 75%. The final housing rental or sale price must be reflected in a Development Agreement executed between the Parties prior to closing. Upon receipt of said purchase price, the BRA shall deliver to the Purchaser a fully executed covenant deed. Real property taxes shall be apportioned as per local custom.

7. If the Purchaser intends to exercise the option to purchase the Property, it shall obtain a title commitment more than 45 days prior to the end of the option period and if said commitment reveals any clouds or defects on title of the Property, the option period shall be extended for whatever reasonable time is required to resolve said conflicts. If sale of the Property to the Purchaser is consummated, the cost of the title policy (regardless of when it is obtained) and any action necessary to clear the title shall be borne by the BRA and shall be paid by deducting same from the purchase price. If Purchaser determines at its sole option that the title has not been made clear, then Purchaser may terminate this Agreement with no further liability and the BRA shall retain the option fee.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed as follows:

WITNESSES: PLAYGROWN, L3C

_________________________ By: __________________________________

Its: __________________________________

____

STATE OF MICHIGAN }
} ss.
COUNTY OF KALAMAZOO }

On this ____ day of ________________, ______, before me, a notary public, personally appeared ________________________, known to me to be the same person as described herein and who executed the foregoing Option to Purchase Agreement, and acknowledged the execution thereof to be their free act and deed.

____
Notary Public
Kalamazoo County, Michigan
My commission expires: ________________

WITNESSES: BROWNFIELD REDEVELOPMENT AUTHORITY

_________________________ By: __________________________________

Its: __________________________________

____

STATE OF MICHIGAN }
} ss.
COUNTY OF KALAMAZOO }

On this ____ day of ________________, ______, before me, a notary public, personally appeared ________________________, known to me to be the same person as described herein and who executed the foregoing Option to Purchase Agreement, and acknowledged the execution thereof to be their free act and deed.

____
Notary Public
Kalamazoo County, Michigan
My commission expires: _______________

Drafted By:

Clyde J. Robinson (P30389)
City Attorney
241 W. South St
Kalamazoo, MI 49007

<u>OPTION TO PURCHASE AGREEMENT</u>

THIS AGREEMENT is entered into this ____day of ______, ________, between the **CITY OF KALAMAZOO BROWNFIELD REDEVELOPMENT AUTHORITY** , 245 North Rose Street, Suite 100, Kalamazoo, Michigan 49007, a Michigan municipal corporation, hereafter referred to as "BRA," and **PLAYGROWN L3C,** 925 Cambridge, Kalamazoo, MI 49001**,** a Michigan limited liability company, hereafter referred to as "Purchaser", collectively, "the Parties" is as follows:

1. The Parties agree that for the sum of $1,375.00, (the receipt of which is acknowledged) BRA agrees to give the Purchaser the exclusive right to purchase certain real property ("Property"), described as follows:

    M AMPERSE'S PLAT ON UNION ADDITION, Liber 3 of Plats Pages 26 to 28;
    Lot 36, Lot 37, Lot 38, Lot 39, Lot 40, Lot 41, Lot 42, Lot 43

    (commonly known as: 700 River St, Kalamazoo, MI)

2. This option to purchase the Property shall expire at 5:00 pm local time one (1) year from the time this Agreement is fully executed. If not executed at the same time, the date of execution is the date the second party executes this Agreement. At the Purchaser's expense, it shall record this Agreement with the Kalamazoo County Register of Deeds within thirty-five (35) days of its execution.

3. During the term of the option to purchase the BRA will neither take nor allow any action which will give to another any type of interest in said Property nor take or allow any action which will create a cloud on the title of the Property; this prohibition forbids, for example, sales, mortgages, easements, leases, etc.

4. During the period of its option (or extended option) the Purchaser shall have full rights to access said Property (without notice but at reasonable times) for the purpose of conducting or causing to be conducted an environmental assessment or evaluation. Said assessment or evaluation shall be conducted in such a fashion that the Property is either not affected or, if it is affected, returned to its original condition. Said assessment or evaluation may involve activities such as soil samples or soil borings. Purchaser shall provide the BRA with copies of any environmental assessment or evaluation.

5. If the Purchaser desires to exercise its option to purchase the Property, it shall so indicate in writing. Said writing shall be mailed or personally delivered to the BRA at the address listed above. If mailed, such shall be postmarked at least 30 days prior to the expiration of this Agreement. Alternatively, the Purchaser may personally deliver said writing to the BRA at the above address 30 days before the date this Agreement expires.

6. Prior to closing Purchaser shall provide BRA proof of project financing to acquire the Property and development of the Property to provide for lease or sale low-income housing units. Closing shall occur within one hundred eighty (180) days of said postmark date or personal delivery date of the excise of the option to purchase, at which time the Purchaser shall pay to the BRA the

purchase price of $55,000.00. It is agreed that the option fee set forth in paragraph 1 shall be applied to the purchase price. The purchase price may be further reduced by the application of the BRA incentives policy. The parcel will be discounted by 5% for every 5% of units which are rent and/or income restricted to 60% or less of the Kalamazoo Area Median Income as determined by the U.S. Department of Housing and Urban Development (HUD), with a maximum discount of 75%. The final housing rental or sale price must be reflected in a Development Agreement executed between the Parties prior to closing. Upon receipt of said purchase price, the BRA shall deliver to the Purchaser a fully executed covenant deed. Real property taxes shall be apportioned as per local custom.

7. If the Purchaser intends to exercise the option to purchase the Property, it shall obtain a title commitment more than 45 days prior to the end of the option period and if said commitment reveals any clouds or defects on title of the Property, the option period shall be extended for whatever reasonable time is required to resolve said conflicts. If sale of the Property to the Purchaser is consummated, the cost of the title policy (regardless of when it is obtained) and any action necessary to clear the title shall be borne by the BRA and shall be paid by deducting same from the purchase price. If Purchaser determines at its sole option that the title has not been made clear, then Purchaser may terminate this Agreement with no further liability and the BRA shall retain the option fee.

IN WITNESS WHEREOF, the parties hereto have caused this agreement to be executed as follows:

WITNESSES: PLAYGROWN, L3C

_________________________ By: ___________________________________

Its: ___________________________________

____

STATE OF MICHIGAN }
} ss.
COUNTY OF KALAMAZOO }

On this ____ day of _______________, ______, before me, a notary public, personally appeared ________________________, known to me to be the same person as described herein and who executed the foregoing Option to Purchase Agreement, and acknowledged the execution thereof to be their free act and deed.

____
Notary Public
Kalamazoo County, Michigan
My commission expires: _______________

WITNESSES: BROWNFIELD REDEVELOPMENT AUTHORITY

_________________________ By: __________________________________

Its: __________________________________

____

STATE OF MICHIGAN }
} ss.
COUNTY OF KALAMAZOO }

On this ____ day of ________________, ______, before me, a notary public, personally appeared ________________________, known to me to be the same person as described herein and who executed the foregoing Option to Purchase Agreement, and acknowledged the execution thereof to be their free act and deed.

____
Notary Public
Kalamazoo County, Michigan
My commission expires: _______________

BRA Board of Directors
Staff Report

City of Kalamazoo

TO: Brownfield Redevelopment Authority Board of Directors

FROM: Antonio Mitchell, Director of Community Planning and Economic Development
Prepared by: Jamie McCarthy, BRA Staff Liaison

DATE: March 16, 2023

SUBJECT: Approval of an award and 1-year contract to Dickinson Wright for legal services not-to-exceed total of $120,000 and recommend acceptance by City Commission.

SUMMARY:

City staff went through the City's competitive RFP process to obtain bids for third party legal services. Five proposals were received. Following the procurement process, the RFPs were scored for various criteria by a team of staff and Attorney's Office. Staff and a board representative, Director Middleton, interviewed the top two scoring firms. Dickinson-Wright was selected as the top RFP unanimously by the interview team. Dickinson-Wright has extensive experience in municipal law and brownfield and other economic development incentive areas. Additionally, the firm offered the most competitive rates.

BACKGROUND:

Recently, the City Attorney provided feedback to staff that EDC/BRA, as semi-autonomous agencies, are empowered by statute to hire their own legal counsel. The purpose of using third party legal services is to provide dedicated attorney time with specific expertise in economic development and incentives practice areas.

FISCAL IMPACT:

Legal services will be paid by BRA for costs incurred, not-to-exceed $120,000 for a 1-year contract. Funding to cover legal services will come from BRA administrative fees and applications fees collected as part of new and existing Brownfield Plans. The cost for services was adopted in the 2023 operating budget for the BRA.

RECOMMENDATION:

It is recommended the BRA approve the award and 1-year contract to Dickinson Wright for legal services not-to-exceed total of $120,000 and recommend acceptance by City Commission.

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