Agenda
Brownfield Redevelopment Authority
Board of Directors

City of Kalamazoo

Thursday, May 18, 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. Minutes from May 4, 2023 to be approved at the June 2023 Meeting

D. PUBLIC COMMENTS

E. DIRECTORS' COMMENTS

F. NEW BUSINESS

1. Adoption of a Resolution Approving the Brownfield Plan Development Agreement between the Brownfield Redevelopment Authority and 19 Props, LLC and Authorizing the Chair to Sign

2. Public Hearing for the 11th Amendment to the City's Revised Brownfield Plan

3. Adoption of a Resolution Approving the Implementation of the 11th Amendment to the City's Revised Brownfield Plan and Recommend Adoption by the City Commission

4. Approval to submit an EGLE Brownfield Redevelopment Grant on Behalf of 530 S. Rose Street and Authorize the Chair to Sign

G. UNFINISHED BUSINESS

H. COMMUNICATIONS AND ANNOUNCEMENTS

I. STAFF REPORTS AND UPDATES

J. ADJOURNMENT

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: May 18, 2023

SUBJECT: Adoption of a Resolution Approving the Brownfield Plan Development Agreement between the Brownfield Redevelopment Authority and 19 Props, LLC and Authorizing the Chair to Sign

SUMMARY:

BACKGROUND:

On February 6, 2023 the City Commission approved the Act 381 Brownfield Plan for the redevelopment project Arcadia Lofts South, located at 203 N. Rose Street. The $25 million adaptive reuse project will rehabilitate an historic building in the downtown and convert vacant office space to new uses. The first floor commercial space will be rehabbed for a future restaurant operator, and new residential apartment units will be constructed on the upper floors. The project proposes to add additional residential floors to the back portion of the building for a total of 82 new apartment units.

The developer is committed to offering a variety of rental rates ranging from 60% Area Median Income (AMI), Work Force Housing (WFH) rates up to 120% AMI, and market rate units. The Brownfield Plan Development Agreement commits the project to offering three units at 60% AMI and 32 units (or ~40%) at 80-120% AMI. The affordability commitment will be in force through the TIF reimbursement period of 10 years. In addition to meeting the City goal of more affordable and mixed-income housing, the project is anticipated to create 25 new jobs with an average wage of $20/hours.

FISCAL IMPACT:

The BRA and City administrative costs will be covered by the TIF capture during the life of the plan. Developer reimbursement is capped at $780,875 or 10 years, whichever occurs first. Immediately following developer reimbursement, the BRA will capture 5 additional years into the Local Brownfield Revolving Fund (~$437,282). The BRA administrative fees are estimated at $101,089.

RECOMMENDATION:

It is recommended the Brownfield Redevelopment Authority adopt a Resolution approving the Brownfield Plan Development Agreement between the BRA and 19 Props, LLC and authorize the chair to sign

CITY OF KALAMAZOO
BROWNFIELD REDEVELOPMENT AUTHORITY

A RESOLUTION APPROVING THE BROWNFIELD PLAN DEVELOPMENT AGREEMENT BETWEEN THE BROWNFIELD REDEVELOPMENT AUTHORITY AND 19 PROPS, LLC RELATING TO AN ACT 381 BROWNFIELD PLAN FOR 203 N. ROSE STREET

Minutes of a regular meeting of the City of Kalamazoo Brownfield Redevelopment Authority (“BRA”) held on May 18, 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 Authority, and the City of Kalamazoo (the "City"), have determined that brownfield redevelopment constitutes the performance of an essential public purpose which protects and promotes the public health, safety and welfare.

B. The City has established a Brownfield Redevelopment Authority and the Authority, and the City have adopted a Brownfield Plan specifically for this site (the "Plan"), pursuant to the provisions of Act 381.

C. The Authority and the City have designated certain properties that have conditions of environmental contamination, blight or obsolescence as appropriate sites for creating a Plan.

D. Act 381 permits the use of the real and personal property tax revenues generated from the increase in value (the "Increment") to brownfield sites constituting Eligible Property under Act 381 resulting from their redevelopment to pay or reimburse the payment of costs of conducting Eligible Activities (these costs are referred to as "Eligible Costs") and permits the reimbursement to Developer of Eligible Costs it has incurred.

E. Developer currently owns property in the City commonly known as 203 N. Rose Street, Kalamazoo, Michigan 49007, Parcel ID 06-15-324-010 (the "Property") and legally described on the attached Exhibit A of the Development Agreement.

F. The Property has been included in the Plan and qualified as an "Eligible Property" under the terms of Act 381.

G. Developer intends to construct 82 residential apartment units and rehabilitate commercial space on the first floor. Fort percent of the residential units will be leased at rates affordable to individuals making 80-120% of the area median income (workforce housing), based on MSHDA standards for Kalamazoo County in 2022; 3 units will be leased at rates affordable to individuals making 60% of the area median income (affordable housing), based on MSHDA standards for Kalamazoo County in 2022.

H. The total capital investment on the project is expected to be approximately $25 million. These investments are expected to create at least 25 new full-time equivalent positions paying an average wage of $20 per hour.

I. The Project will require the Developer to incur Eligible Costs associated with certain Eligible Activities including site assessment and baseline environmental assessment activities, lead and asbestos abatement, building demolition, public infrastructure, site demolition, site preparation, Brownfield Plan/Work Plan Preparation, and contingency and which may require the services of various contractors, engineers, environmental consultants, attorneys and other professionals.

J. The parties are entering into this Agreement to establish the procedure for the reimbursement from Tax Increment Revenues under Act 381 as amended.

THEREFORE, IT IS RESOLVED THAT:

The City of Kalamazoo Brownfield Redevelopment Authority approves the Brownfield Plan Redevelopment Agreement for 203 N. Rose Street in Kalamazoo and authorizes the Chair to sign.

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 May 18, 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

BROWNFIELD PLAN DEVELOPMENT AGREEMENT

THIS BROWNFIELD PLAN DEVELOPMENT AGREEMENT (the "Agreement"), is entered into on _____________, 2023, between 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 St., Room 101, Kalamazoo, Michigan 49007 (the "Authority"), and 19 Props, LLC, a Delaware limited liability company, whose address is 200 W. Michigan Avenue, Suite 201, Kalamazoo, Michigan 49007, (the "Developer").

RECITALS

A. The Authority, and the City of Kalamazoo (the "City"), have determined that brownfield redevelopment constitutes the performance of an essential public purpose which protects and promotes the public health, safety and welfare.

B. The City has established a Brownfield Redevelopment Authority and the Authority, and the City have adopted a Brownfield Plan specifically for this site (the "Plan"), pursuant to the provisions of Act 381.

C. The Authority and the City have designated certain properties that have conditions of environmental contamination, blight or obsolescence as appropriate sites for creating a Plan.

D. Act 381 permits the use of the real and personal property tax revenues generated from the increase in value (the "Increment") to brownfield sites constituting Eligible Property under Act 381 resulting from their redevelopment to pay or reimburse the payment of costs of conducting Eligible Activities (these costs are referred to as "Eligible Costs") and permits the reimbursement to Developer of Eligible Costs it has incurred.

E. Developer currently owns property in the City commonly known as 203 N. Rose Street, Kalamazoo, Michigan 49007, Parcel ID 06-15-324-010 (the "Property") and legally described on the attached Exhibit A.

F. The Property has been included in the Plan and qualified as an "Eligible Property" under the terms of Act 381.

G. Developer intends to construct 82 residential apartment units. Existing commercial office space on the second and third floors will be converted to residential, three new stories of residential will be added to the back portion of the building, and commercial restaurant space will be located on the first floor, as well as new outdoor amenity space. Over 40% of the residential units will be leased at rates affordable to individuals making 80-120% of the area median income (workforce housing), based on MSHDA standards for Kalamazoo County in 2022; 3 units will be leased at rates affordable to individuals making 60% of the area median income (affordable housing), based on MSHDA standards for Kalamazoo County in 2022 (together, the “Affordability Commitment”). The Affordability Commitment shall be equal to the actual TIF reimbursement period. The total capital investment on the project is expected to be approximately $25 million. These investments are expected to create at least 25 new full-time equivalent positions paying an average wage of $20 per hour. Commencement of construction of the project is intended to begin within six months of the Effective Date of this Agreement and completed within 24 months thereafter (Together, this description constitutes the “Project”).

H. The Project will require the Developer to incur Eligible Costs associated with certain Eligible Activities including site assessment and baseline environmental assessment activities, lead and asbestos abatement, building demolition, public infrastructure, site demolition, site preparation, Brownfield Plan/Work Plan Preparation, and contingency and which may require the services of various contractors, engineers, environmental consultants, attorneys and other professionals. The Developer's Eligible Costs shall not exceed $780,875, (including $748,075 in non-environmental expense, $30,500 in environmental expenses, and $2,300 in local only expenses), over a period of not-to-exceed 10 years and/or actual expenses incurred and documented to the Authority’s satisfaction.

I. The parties are entering into this Agreement to establish the procedure for the reimbursement from Tax Increment Revenues under Act 381 as amended.

NOW THEREFORE, in consideration of the mutual covenants, conditions and agreements set forth herein, the parties agree as follows:

1. Recitals. The above recitals are acknowledged as true and correct, and are incorporated by reference into this Paragraph.

2. The Plan. The Plan, approved by the Authority and the Kalamazoo City Commission, is attached as Exhibit B and incorporated as part of this Agreement. To the extent provisions of the Plan or this Agreement conflict with Act 381, Act 381 controls.

3. Term of Agreement. Pursuant to the Plan, the Authority shall capture and reimburse the Developer that amount of Tax Increment Revenues generated from real and personal property taxes allowed by law on the Eligible Property. At any time before the date that is four (4) years after the date of this Agreement, and after the completion of the Project, Developer may give to the Authority written notice directing the Authority to commence the capture of such Tax Increment Revenues (the "Capture Commencement Notice"). Completion of the Project shall be deemed achieved once a temporary or final certificate of occupancy is obtained for the Project, provided however that Completion of the Project shall not include the completion of any premises intended for office or retail tenants for which no lease has been entered into as of the date of the Capture Commencement Notice. Capture will begin in the first full year after Developer's delivery of the Capture Commencement Notice, and will continue until the earlier of:

3.1. Full reimbursement to the Authority of its Administrative Costs, plus reimbursement to the Developer of the Property as outlined in the Plan, including reimbursement of Eligible Costs for those Eligible Activities set forth in Paragraph 5, plus an additional amount captured by the Authority for an additional five full years of tax capture ("Additional Authority Amount") such Additional Authority Amount to be designated for the Local Brownfield Revolving Fund "Local Fund"; or

3.2. Up to 15 full years. With five of the fifteen years designated for Local Brownfield Revolving Fund (LBRF) only.

4. Evidence of Ownership. Not later than the date of delivery of the Capture Commencement Notice, Developer shall provide to the Authority each of the following: (a) evidence satisfactory to the Authority that the Developer has acquired fee simple title to the Property, which evidence shall include (without limitation) a copy of a recorded deed to the Property in favor of the Developer; and (b) a copy of a commitment for owner's title insurance with respect to the Property (the "Commitment"), which Commitment shall show the Developer as record owner of the Property, and shall otherwise be in form and reasonably substance satisfactory to the Authority.

5. Eligible Activities. The Developer shall diligently pursue completion of the Eligible Activities summarized in the Plan and set forth in this Paragraph. The Authority shall, in accordance with the terms of this Agreement, reimburse the Developer for Eligible Costs incurred on or after the date of the inclusion of this Project in the Plan. For purposes of this Agreement, "Eligible Costs" means costs incurred in conducting Eligible Activities including, environmental due diligence and due care activities, site assessment and baseline environmental assessment activities, lead and asbestos abatement, building demolition, public infrastructure, site demolition, site preparation, Brownfield Plan/Work Plan Preparation, and a contingency amount, and which may require the services of various contractors, engineers, environmental consultants, attorneys and other professionals and/or any other Eligible Activities permitted under Act 381 and summarized in the Plan. Additionally, the Authority shall reimburse the Developer for any Eligible Costs which were incurred on or after the date that is five (5) years before the date of the inclusion of this Project in the Plan, subject to the requirements and process set forth in this Agreement.

6. Reimbursement Source. During the term of this Agreement and except as otherwise set forth in this Agreement, the Authority shall reimburse the Developer for its Eligible Costs, in accordance with the process herein, and as limited under this Agreement, from all available (actually captured) Tax Increment Revenues collected from the real and personal property taxes on the Property.

7. Reimbursement Process.

7.1. Cost Reimbursement Request. Before December 31 of the year after Developer provides the Capture Commencement Notice, the Developer will provide sufficient documentation of the Eligible Costs incurred including the dates of each Eligible Activity, a complete description of the work, proof of payment, detailed invoices for the costs involved for each Eligible Activity, sworn statements, lien waivers from Developer's general contractor (to include verification that all applicable subcontractors were paid in full) and other back up documentation reasonably requested by the Authority; a written statement certifying to the Authority that all such costs are Eligible Costs; and a final or temporary certificate of occupancy to document completion of the Project or such other certificate as is required under any tenant lease for the applicable portion of the Project in order for Developer to turnover such space to its tenant. The information and documentation described in the preceding sentence comprise the "Completed Request".

Failure to provide the above noted information when due, or within the time permitted by the Authority under Paragraph 7.2, shall not extend the term of the Agreement and consequently may result in foregone reimbursement, to the Developer by the Authority, for Eligible Costs.

7.2. Authority Staff Review. The Authority Staff shall review each reimbursement request within 30 days after receiving it. If Authority Staff determines that the documentation submitted by the Developer is not a Completed Request, then Developer shall reasonably cooperate in the Authority's review by providing, within 30 days of the Authority's written request, any additional documentation of the Eligible Costs as is reasonable and necessary by the Authority in order to complete its review. Within 45 days following the receipt of such supplemental information, the Authority shall make the determination of whether the costs are eligible for reimbursement. If the Developer wishes to challenge that determination, it shall provide written notice to the Authority within 15 days of the Authority Staff's written determination, and the issue shall be brought to the Authority within 45 days thereafter for its determination. The Developer shall not be entitled to any claim or cause of action for consequential damages against the Authority as a result of any determinations made in good faith regarding whether or not any cost submitted by the Developer constitutes an "Eligible Cost," and hereby grants the City and the Authority and their respective officers, agents and employees, a complete release and waiver of any such claims or causes of action as a result of the foregoing. Any dispute arising out of a request for reimbursement shall not affect Developer's right to receive reimbursements as to the undisputed portions of the Completed Request.

7.3. Reimbursement. Before July 31 of the year after Developer delivers a Capture Commencement Notice (and as property taxes are received each subsequent year) after both the summer and winter taxes are captured and collected on the Property, the Authority shall reimburse its Administrative Costs and pay approved Eligible Costs to the Developer from Tax Increment Revenues that are generated from the Property in accordance with the Plan and Paragraph 7 to the extent that taxes have been captured and are available in that fiscal year. The Authority shall receive ten (10) percent of Tax Increment Revenues each year until its Administrative Costs are fully reimbursed, unless a lower percentage is otherwise designated by the Authority.

In the event that there are insufficient Tax Increment Revenues available in any given year to reimburse all of Developer's Eligible Costs, as described in Paragraph 5, then the Authority shall reimburse the Authority or Developer only from available Tax Increment Revenues. The Authority shall make additional payments, on an annual basis as property taxes are received, toward the Developer's remaining unpaid Eligible Costs during the term of this Agreement. The Developer shall not be entitled to receive any interest on amounts for which reimbursement is requested under this Agreement. The Developer shall not be entitled to reimbursement under this Agreement unless all real and personal property taxes have been timely and completely paid, including all penalties, interest and other amounts due in relation thereto when due. For purposes of this Agreement, to be timely paid, taxes must be paid before the date on which they can no longer be paid without penalties or interest. The repayment obligation under this Agreement shall expire upon the earlier of the full payment by the

Authority to the Developer of all amounts due to the Developer from the Tax Increment Revenues or up to 10 full years from the beginning of Tax Increment Revenue capture. Notwithstanding anything herein to the contrary, if there is a reduction of the Tax Increment Revenue capture for the Project from that projected, then the Authority shall, in good faith, consider requests from the Developer to extend the term of this Agreement and/or the capture and reimbursement term to allow for the full reimbursement to Developer for all of the Developer's Eligible Costs, unless the reduction of the Tax Increment Revenue capture is the result of a tax appeal.

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

Checks shall be payable to and delivered by certified mail (or through electronic transfer if available through Developer) to:

19 Props, LLC
200 West Michigan Avenue, Ste. 201
Kalamazoo, MI 49007

8. Adjustments. The parties acknowledge that adjustments regarding the amount of Tax Increment Revenue paid to the Developer may occur under any of the following circumstances:

8.1. Audit or Court Ruling: In the event that a state agency of competent jurisdiction conducting an audit of payments made to the Developer under this Agreement or a court of competent jurisdiction determines that any portion of the payments made to the Developer under this Agreement is unlawful, the Developer shall pay back to the Authority that portion of the payments made to the Developer within 30 days of the determination made by a state agency or the court as the case may be. However, the Developer shall have the right, before any such repayment is made, to appeal on its or the Authority's behalf, any such determination made by a state agency or court as the case may be. If the Developer is unsuccessful in such an appeal, the Developer shall repay the portion of payments found to be unlawful to the Authority within thirty (30) days of the date when the final determination is made on the appeal. The Developer shall be responsible for payment of all of the City's and Authority's legal fees associated with any determination of whether a cost for which reimbursement is requested constitutes an "Eligible Cost" and all of the City's and Authority's legal fees associated with the review or determination of such issues by any state agency or court.

8.2. Property Tax Appeal: In the event the Developer, or any other owner of real estate on the Property, files an appeal related to the taxable value of parcels of property included in the Brownfield Plan, the Authority shall do the following:

(a) The Authority will hold the Tax Increment Financing Reimbursement payments in a separate account for the Authority until the pending appeal is adjudicated;

(b) Once any tax appeals are adjudicated, the Authority will either return the funds held in escrow to the local unit in compliance with any tax appeal rulings or will make payments pursuant to Section 7 of this Agreement.

8.3. Reduction of Property Assessments. If the Authority (i) incurs Costs on behalf of the Developer with respect to the Project, Site or Application and (ii) the Developer initiates, participates in or supports any proceeding or process which results in a reduction of the tax increment capture for the Project from that projected and along the same term as contained within the Plan, then the provisions under Paragraph 3 will require a redetermination regarding the amount of Tax Increment Revenues that the Authority previously paid to Developer (the excess amount determined to have been paid is the "Excess Amount") as a result of such lower assessments. If that amount is less than the actual amount of Tax Increment Revenues that the Authority has already paid to the Developer, the Excess Amount shall be offset against future reimbursements to Developer of Eligible Costs.

9. Responsibilities of Developer. In consideration of the inclusion of the Property into the Plan and the resulting financial benefits, which it expects to receive, and the Authority's commitments to capture of Tax Increment Revenue and to assist the Developer in the Project, Developer agrees to the following:

9.1. Project. At its sole expense, Developer shall use its best efforts to conduct the activities described in the Plan, to demolish the building on the Property and construct the Project. Notwithstanding anything herein to the contrary, Developer's obligation to commence construction of the Project shall be subject to Developer's determination, in its business discretion, that the Project is viable. The total capital investment on all phases of the project is expected to be approximately $25 million. Subject to matters beyond the reasonable control of Developer (e.g., war, acts of God, failure to obtain governmental approvals, governmental restrictions, exceptional health concerns for which a "stay at home" or "shelter in place" order is issued by an applicable governmental authority, etc.) ("Force Majeure"), Developer shall commence construction of the Project on a date (the "Commencement Date") that is within six months of Developer acquiring all required building permits or (b) Developer closing on financing facilities sufficient to finance the Project. Developer shall use commercially reasonable efforts to substantially complete the Project to the point of obtaining a certificate of occupancy within two (2) years after the Commencement Date. Under no circumstances shall the Authority have any responsibility or liability for remediation or redevelopment of the Property, or for conducting any "Eligible Activities" at the Property, except for its obligations under this Agreement to provide funds to the extent available as permitted in Paragraph 7 hereof with respect to payments from Tax Increment Revenues.

9.2. Employment Opportunities. To make every reasonable effort to work with the City and community employment agencies to hire city residents for new employment opportunities created by the Project, and to encourage the local contracting of employment opportunities through re-entry employment programs. Regardless of Developer's ability to hire city residents it shall make every reasonable effort to follow, and to cause any contractors hired to perform work on the Project, to follow the City's "Ex-Offender Purchasing" policy regarding hiring new employees who will work on the Project. A copy of this policy is attached as Exhibit

C. and Developer will provide a copy of it to its general contractor prior to performing any work on the Project.

9.3. Ordinances. Develop the Property, including landscaping and all other improvements required for the Project, in compliance with all local ordinances, site plan reviews and this Agreement. The redevelopment of the Property shall be subject to all zoning approvals. This Agreement does not obligate any governing municipality to grant any such approvals.

9.4. Project Sign. Place on the Property during rehabilitation/redevelopment a development sign provided by the Authority to promote the Project and the Authority's participation in it. Upon completion of the Project, the sign will be returned to the Authority.

9.5. Promotion and Marketing. Permit the Authority to cite or to use any renderings or photographs or other materials of the Project as an example of private/public partnership and brownfield site redevelopment.

9.6. Cooperation. Assist and cooperate with the Authority in providing information that the Authority may require in providing necessary reports to governmental or other agencies, including, but not limited to, information regarding the amount of Developer expenditures and capital investments, jobs created, and square footage developed or rehabilitated with respect to the Project.

10. Responsibilities of the Authority. In consideration of the preceding commitments of Developer the Authority further agrees to:

10.1. Agency Contacts. Provide Developer with appropriate service/employment agency contacts for the identification of City residents to interview for potential employment; and

10.2. Tax Increment Revenues. To utilize Tax Increment Revenue to reimburse Developer for Eligible Costs incurred by Developer in completing the Project subject to actual capture and as limited and detailed in this Agreement.

11. Developer's Representations, Warranties and Covenants. The Developer hereby makes the following representations, warranties and covenants:

11.1. Eligible Property. To Developer's knowledge and belief, the Property is "eligible property" as defined in Act 381 and is eligible for the capture of Tax Increment Revenues pursuant to Act 381.

11.2. Eligible Costs. The Developer will only submit for reimbursement under Paragraph 7 hereof such costs that it has reasonably determined are Eligible Costs within the meaning of Act 381.

11.3. Due Authorization. The representatives signing this Agreement are duly authorized by the Developer to enter into this Agreement.

11.4. Developer commits to an allocation of 40 percent of its units for Workforce Housing at 80-120 percent AMI within the residential component of the Project. For purposes of this Agreement, the term Workforce Housing shall mean units offered at the rental rates as published in the Michigan State Housing Development Authority Income and Rent Limits report for Kalamazoo County in effect at the time the lease for the Workforce Housing Unit is executed (the "MSHDA Rent Report", attached as Exhibit D).

11.5. Developer commits to an allocation of 3 of its units for Affordable Housing at 60 percent AMI within the residential component of the Project. For purposes of this Agreement, the term Affordable Housing shall mean units offered at the rental rates as published the MSHDA Rent Report.

BRA agrees and acknowledges that the foregoing Undertakings shall only be effective and binding upon Developer from and after the date of this agreement.

12. **Events of Default.** Each of the following shall constitute an event of default:

12.1. Any representation or warranty made by the Developer in this Agreement proves to have been incorrect or incomplete in any material respect when made or deemed to be made.

12.2. The Developer fails to observe or perform any covenant or agreement contained in this Agreement for 30 days after written notice thereof shall have been given to the Developer by the Authority.

12.3. The Developer abandons or withdraws from the reuse and redevelopment of the Property.

12.4. The Developer fails to pay when due any funds which are required to be paid to the Authority pursuant to this Agreement, including but not limited to its real and personal property taxes as set forth in Paragraph 7 hereof, and such failure continues for thirty (30) days after written notice from the Authority.

12.5. The Developer terminates its existence in order to avoid its obligations under this Agreement.

13. **Remedies upon Default**.

13.1. If any event of default as defined above shall occur and be continuing for 30 days after written notice of default from the Authority (or such additional time as may be reasonably necessary to cure the default at issue provided that Developer has commenced such cure within the initial thirty (30) days and is proceeding in good faith to cure), the Authority shall have the right, but not the obligation, to exercise any of the following rights and remedies either individually or concurrently:

(a) Terminate this Agreement effective immediately upon notice to the Developer;

(b) All other remedies available at law or in equity;

(c) In addition, if the Developer fails to substantially complete the Project within the timelines required by this Agreement (but subject to Force Majeure), or if Developer otherwise defaults prior to substantial completion of the Project, Developer shall pay back to the Authority (within thirty (30) days following demand by the Authority) any amounts paid to Developer as reimbursement for Eligible Costs with respect to such incomplete phase of the Project pursuant to the terms of this Agreement or otherwise; and

(d) Withhold, suspend or rescind reimbursement to Developer for Eligible Costs from Tax Increment Revenue as set forth in Paragraph 5 until Developer has cured such default to the satisfaction of the Authority. Any such action by the Authority shall not under any circumstances extend the time period under subparagraph 3.2 unless specifically approved by the Authority.

(e) The Authority is responsible for its own cost and expenses including attorney fees incurred by the Authority to enforce its rights under this Agreement.

13.2. If the Authority fails in any material respect to perform or provide the Incentives, and such failure continues for a period of thirty (30) days after written notice from Developer to the Authority specifying the alleged default (or such additional time as may be reasonably necessary to cure the default at issue provided that the Authority has commenced such cure within the initial thirty (30) days and is proceeding in good faith to cure), the Developer shall have the option to exercise one or any combination of remedies under this Agreement or otherwise available at law or in equity, including without limitation: (i) to withhold or suspend the performance of all or any of the commitments under Paragraph 9;(ii) the Developer is responsible for its own cost and expenses including attorney fees incurred by Developer to enforce its rights under this Agreement.

14. **Legislative Authorization.** This Agreement is governed by and subject to the restrictions set forth in the Act. In the event that there is legislation enacted in the future which alters or affects the amount of Tax Increment Revenues subject to capture, Eligible Properties, or Eligible Activities, then the Developer's rights and the Authority's obligations under this Agreement may be modified accordingly by agreement of the parties.

15. **Freedom of Information Act.** Developer stipulates that all petitions and documentation submitted by Developer shall be open to the public under the Freedom of Information Act, Act No. 442 of the Public Acts of 1976, MCL 15.231 et seq., and no claim of trade secrets or other privilege or exception to the Freedom of lnformation Act will be claimed by Developer as it relates to this Agreement or petitions and supporting documentation.

16. **Plan Modification.** The Plan and this Agreement may be modified to the extent allowed under the Act by mutual agreement of the parties.

17. **Notices.** All notices and other communications required or permitted under this Agreement shall be in writing, shall be deemed given when delivered, and shall be sent by personal delivery, overnight courier, or registered mail, return receipt requested, to the following addresses (or any other address that is specified in writing by either party):

If to Developer:

Jeffrey A. Nicholson
19 Props, LLC
200 West Michigan
Avenue, Ste. 201
Kalamazoo, MI 49007

With copy to:

Aaron M. Smith
Mcshane & Bowie, PLC
99 Monroe Avenue NW,
Ste. 1100
Grand Rapids, MI 49503

If to the Authority:

City of Kalamazoo
Brownfield
Redevelopment Authority
241 West South Street
Kalamazoo, Michigan
49007

With copy to:

Jessica L. Wood,
Dickinson Wright PLLC
200 Ottawa Avenue NW,
Suite 1000
Grand Rapids, Michigan
49503

18. Indemnification. Developer shall defend, indemnify and hold harmless the Authority and the City, and any of their respective past, present and future members, officials, employees, agents or representatives from all losses, demands, claims, judgments, suits, costs and expenses (including without limitation the costs and fees of attorneys or other consultants) arising from or related to (i) the capture and use of Tax Increment Revenue paid to Developer as a reimbursable payment under this Agreement made in excess of the amount of tax increment revenues the Authority is determined by the State or court to be allowed by law to use for that reimbursement, and (ii) the Project.

19. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Michigan.

20. Binding Effect/Third Parties. This Agreement is binding on and shall inure to the benefit of the parties to this Agreement and their respective successors, but it may not be assigned by any party without the prior written consent of the other party except that Developer shall have the right, without the Authority's consent, to assign this Agreement to any entity owned or controlled by Jeffrey A. Nicholson provided that Developer shall provide the Authority with written notice of any such assignment. For any assignments which the Authority's consent is required, such consent will not be unreasonably withheld, conditioned or delayed. The Developer may make a collateral assignment of this Agreement to any institutional lender in connection with any financing for the Project. The parties do not intend to confer any benefits on any person, firm, corporation, or other entity which is not party to this Agreement.

21. Waiver. No failure of either party to complain of any act or omission on the part of the other party, no matter how long this same may continue, is considered as a waiver by that party to any of its rights hereunder. No waiver by either party, expressed or implied, of any breach of any provision of this Agreement is considered a waiver or a consent to any subsequent breach of this same or other provision.

22. Authorization. Each of the parties represents and warrants to the other that this Agreement and its execution by the individual on its behalf are authorized by the board of directors or other governing body of that party.

23. Entire Agreement. This Agreement supersedes all agreements previously made between the parties relating to the subject matter. There are no other understandings or agreements between them.

24. Headings. Headings in this Agreement are for convenience only and shall not be used to interpret or construe its provisions.

25. Estoppel. At the request of Developer, the Authority will , within twenty (20) days after request, deliver to Developer, or anyone designated by Developer, an estoppel certificate stating that, as of the date of the certificate, Developer: (i) has performed all of its undertakings under this Agreement; (ii) has met all of its obligations for capital investment, square footage or job creation criteria; (iii) has substantially completed the Project in accordance with project plans or satisfied the requirements set forth in the approved site plan; (iv) has fulfilled commitments under Paragraph 9; and (v) is otherwise not in default under this Agreement, if all the above are true. Further, the Authority shall indicate that the Agreement is in full force and effect and is unmodified; or if modified, Developer has complied with all modifications and that Developer is not in default under the Agreement; or if Developer is in default, stating the nature of the default.

26. Definitions. The following capitalized terms are used in this Agreement with the following meanings:

"Administrative Costs" means the Authority's out-of-pocket costs associated with the Project (including reasonable attorney fees and costs, environmental consulting fees and costs, and similar fees and costs) as well as the Authority's indirect costs associated with the Project (including allocation of the fixed costs of the Authority staff);

"Brownfield Plan" is defined by Section 2(e) of Act 381;

"Due Care Activities" is defined by Section 2(m) of Act 381;

"Eligible Activities" is defined by Section 2(o) of Act 381;

"Eligible Property or Properties" is defined by Section 2(p) Act 381;

"Tax Increment Revenues" is defined by Section 2(ss) of Act 381, and, for purposes of this Agreement, includes school taxes and local (non-school) taxes.

[Signatures appear on the following pages)

In witness of their intent to be legally bound by the terms of this Agreement, each of the parties has set forth its signature below by its duly authorized representative.

CITY OF KALAMAZOO
BROWNFIELD REDEVELOPMENT
AUTHORITY

____

19 PROPS, LLC, a Delaware limited liability company

By: FLOOR 2 MANAGER, LLC, a Delaware limited liability company, its Manager

DocuSigned by:
Jeffrey Nicholson
70BAF699A94D452...
Jeffrey A. Nicholson, its Manager

<u>EXHIBITS:</u>

A (Legal Description of Property)
B (Copy of Brownfield Plan)
C (Ex-Offender Purchasing)
D (Michigan State Housing Development Authority Income and Rent Limits report)

4868-9769-1230 v2 [33224-3]

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, Sustainable Development Coordinator

DATE: May 18, 2023

SUBJECT: Public Hearing for the 11th Amendment to the City's Revised Brownfield Plan

SUMMARY:

The 11th Amendment to the City's Revised Brownfield Plan includes the following amendments:

- **Chapter 42) 315 E. Alcott Street**: Abolish this chapter within the Brownfield Plan as the BRA finds the purposes for which the chapter was established are complete. The Project was successful in rehabilitating the former Illinois Envelop Building, bringing it back to active use as office space. In 2022, Kalamazoo County purchased the building from the original developer and the project is no longer realizing Tax Increment Revenues (TIR). In 2022, Developer and BRA executed an agreement to abolish the plan as part of the sale of the parcel at 311 E. Alcott Street. The final reimbursement payment to Developer from TIR captured in 2022 will be made in July 2023.

- **Chapter 49) 303 N. Rose Street**: Amend the chapter to include public Right-of-Ways (ROW) along N. Rose and Eleanor Streets as eligible property. The BRA invested funds to improve public infrastructure within the ROW as a benefit to the overall brownfield project and public. The BRA will seek reimbursement of eligible activities from local-only TIR after the chapter is amended.

- **Chapter 51) 180 E. Water Street**: Amend the chapter to include public Right-of-Ways (ROW) along E. Water and N. Edwards Streets. The Developer invested funds to improve public infrastructure within the ROW as a benefit to the overall brownfield project and the public. The Developer will seek reimbursement of eligible activities after the chapter is amended. This property description was approved in the Act 381 Work Plan by MEDC but excluded from the local brownfield plan chapter.

BACKGROUND:

The BRA and City Commission adopted the original City-wide Brownfield Plan in 1997. The plan has been amended over time to add chapters that represent individual brownfield redevelopment projects. Staff regularly reviews the revised brownfield plan and recommends amendments or removal of chapters as projects are completed. Staff are recommending an 11th amendment to revise Chapters 49) 303 N. Rose Street and 51) 180 E. Water Street and abolish Chapter 42) 315 E. Alcott Street.

FISCAL IMPACT:

No direct fiscal impacts are anticipated from the 11th Amendment to the Revised Brownfield Plan. Through the sale of property at 311 and 315 E. Alcott Street to Kalamazoo County, the BRA received funds to reimburse past eligible activity costs.

RECOMMENDATION:

No Action Needed.

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, Sustainable Development Coordinator

DATE: May 18, 2023

SUBJECT: Adoption of a Resolution Approving the Implementation of the 11th Amendment to the City's Revised Brownfield Plan

SUMMARY:

A summary of the amendments to the Revised Plan were presented during the Public Hearing held earlier in this meeting. Through the adoption of this Resolution, BRA finds that the 11th Amendment to the Revised Plan serves public purposes and meets other requirements under Act 381, including:

1. It meets all requirements of Section 13 of Act 381,

2. The proposed method of financing the costs of eligible activities of Revised Plan is feasible, and the Authority has the ability to arrange the necessary financing,

3. The costs of the eligible activities proposed by such amendment are reasonable and necessary to carry out the purposes of Act 381, and

4. The amount of captured taxable value estimated to result from Revised Plan is reasonable.

BACKGROUND:

Under Resolution No. 08-16, the City Commission delegated to the BRA the public hearing process regarding any future proposed amendments to the Plan, including proposed 11th Amendment to the Revised Brownfield Plan. A public hearing was held by the BRA on April 20, 2023, on the 11th Amendment to the Revised Plan; notice of the public hearing was given to all taxing authorities levying ad valorem or specific taxes against any property affected by the Plan, as required by Act 381.

FISCAL IMPACT:

RECOMMENDATION:

It is recommended the BRA adopt a Resolution approving the implementation of the 11th Amendment to the City's Revised Brownfield Plan and recommend adoption by the City Commission.

CITY OF KALAMAZOO
BROWNFIELD REDEVELOPMENT AUTHORITY

A RESOLUTION APPROVING THE IMPLEMENTATION OF CITY OF KALAMAZOO'S ELEVENTH AMENDMENT TO REVISED BROWNFIELD PLAN AND RECOMMENDING ADOPTION BY THE CITY COMMISSION

Minutes of a regular meeting of the City of Kalamazoo Brownfield Redevelopment Authority held on May 18, 2023, at 7:30 a.m., local time, at the Community Planning & Economic Development Office, 245 N. Rose Street, Ste. 100, 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. On May 2, 2017, the City replaced the then current version of the City's Brownfield Plan by adopting and implementing the City of Kalamazoo Revised Brownfield Plan (the "Revised Plan"), under Act 381. On June 6, 2022, the City Commission approved the Tenth Amendment to the Revised Plan.

C. The Authority implemented the Eleventh Amendment to Revised Brownfield Plan, which amends two chapters and abolishes one chapter, under Act 381.

D. Under Resolution No. 08-16, the City Commission delegated to the Authority the public hearing process regarding any future proposed amendments to the Plan, including proposed 11th Amendment to the Revised Plan.

E. A public hearing was held by the Authority on May 18, 2023, on the 11th Amendment to the Revised Plan; notice of the public hearing was given to all taxing authorities levying ad valorem or specific taxes against any property affected by the Plan, as required by Act 381.

F. Following the public hearing on the Revised 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 Revised Plan constitutes a public purpose in that:

1. It meets all requirements of Section 13 of Act 381,

2. The proposed method of financing the costs of eligible activities of Revised Plan is feasible, and the Authority has the ability to arrange the necessary financing,

3. The costs of the eligible activities proposed by such amendment are reasonable and necessary to carry out the purposes of Act 381, and

4. The amount of captured taxable value estimated to result from Revised Plan is reasonable.

THEREFORE IT IS RESOLVED THAT:

The City of Kalamazoo Brownfield Redevelopment Authority approves the implementation of the Eleventh Amendment to Revised Brownfield Plan and recommends the City Commission adopt a resolution approving this amendment to the Revised Plan.

AYES:

NAYS:

ABSTAIN:

RESOLUTION DECLARED.

CERTIFICATE

The foregoing is a true and complete copy of a resolution adopted by the City of Kalamazoo Brownfield Redevelopment Authority at a regular meeting held on May 18, 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 Act 381.

____
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: May 18, 2023

SUBJECT: Approval to submit an EGLE Brownfield Redevelopment Grant on Behalf of 530 S. Rose Street and Authorize the Chair to Sign

SUMMARY:

BACKGROUND:

Staff worked with EGLE and the 530 Rose Limited Dividend Housing Association Limited Partnership (Developer) to revise the original grant proposal supported by the BRA in February 2023. The grant will support environmental conditions at the parcel at 530 S. Rose Street, a 5-story affordable senior housing project in the Vine Neighborhood.

The revised proposal removes the need for Vapor Intrusion (VI) mitigation measures by proposing to remove the top 3 - 3.5 feet of soil across the site. The final depth will be confirmed with additional soil assessment supported by the grant. EGLE pre-vetted the revised proposal and received positive feedback from the technical team. An invitation to submit the full proposal is anticipated on or after May 18, 2023 after EGLE's final review. The total grant request with the revised scope is $338,540.

Grant Budget Summary:

- $95,000 (Assessment/Investigation)
- $10,000 (Demolition)
- $173,000 (Due Care - Soil Removal/Transport)
- $41,700 (Contingency)
- $8,340 (Admin)
- $10,500 (Signage/Reporting)

FISCAL IMPACT:

BRA will serve as the grantee and fiduciary, and therefore will be responsible for receiving grant funding, monitoring project tasks and milestones, and paying reimbursement requests to the Developer. The cost to administer the grant is covered by a portion of the grant budget (up to 3% of total grant costs) or up to $8,340.

RECOMMENDATION:

It is recommended the BRA approve staff to submit an EGLE Brownfield Redevelopment Grant to support redevelopment at 530 S. Rose Street for Affordable Senior Housing.

BROWNFIELD GRANT AND LOAN PROJECT PROPOSAL

I. PROJECT NAME AND LOCATION

Project Name:	The Rose		
Project Address:	530 S Rose Street		
Project City:	Kalamazoo		
Project County:	Kalamazoo	Project Zip Code:	49007
State Senate District:	20	State House District:	60

II. APPLICANT INFORMATION

Applicant Name:	City of Kalamazoo Brownfield Redevelopment Authority		
Applicant Address:	241 West South Street		
Applicant City:	Kalamazoo	Applicant Zip Code:	49007

APPLICANT CONTACT INFORMATION

	Applicant Signing Authority Contact	Applicant Project Contact	Project Consultant (if applicable)
Name:	Kevan Hess	Jamie McCarthy	Davin Ojala
Title:	BRA Chair	BRA Staff Liaison	Senior Project Consultant - SME
Phone:	(269) 998-2482	(269) 337-8789	(269) 207-0009
Email:	khess@jaquarealtors.com	mccarthyj@kalamazoocity.org	Davin.ojala@sme-usa.com

III. FUNDING REQUEST

Amount Requested:	$338,540
Funding Source:	☐ RPF ☒ 201 ☐ Site Assessment
Funding Type:	☒ Grant ☐ Loan ☐ Either

IV. GENERAL PROJECT INFORMATION

Previous use(s):	Residential
Current use(s):	Surface parking lot
Proposed new use(s):	Affordable senior housing (64 LIHTC apartment units)
Known or suspected contaminants:	See attached

PROJECT SUMMARY

Provide one paragraph below that summarizes the redevelopment, the environmental challenge that needs to be addressed, and how the brownfield funding will be used to address that challenge:

530 Rose is a proposed 5-story, affordable senior housing development that has received an award of the very competitive 9% Federal Low Income Housing Tax Credit (LIHTC). The proposed development will be built on a site that is classified as a facility and will require due care planning, including contaminated fill removal and disposal. This grant will help cover the added costs the environmental contamination poses to this development.

Does the property have any of the following:

A liable party known to have caused or contributed to a release at the site?	☐ Yes	☒ No
Known environmental actions or enforcements by a regulatory agency?	☐ Yes	☒ No
A liable party undertaking corrective actions at the site?	☐ Yes	☒ No
Known environmental liens?	☐ Yes	☒ No
Known legal, access, or title issues?	☐ Yes	☒ No
Deed restriction, land, or resource use restriction?	☐ Yes	☒ No

Provide a detailed explanation for any Yes answers above:

Provide any other relevant information regarding property ownership and operations, if applicable:

V. PROPERTY AND OWNERSHIP INFORMATION			
CURRENT OWNER			
Parcel ID#:	06-22-114-030		
Property Address:	530 S Rose Street		
Latitude & Longitude (to 8 digits):	42.171192, 85.350628		
Current Zoning:	Live Work 1		
Proposed Zoning:	NA		
Acreage:	0.5		
Property Acquisition Type (inheritance, purchase, tax reversion, other):	Purchase		
Date of Acquisition:	12/18/2021 (per deed)		
Did the Current Owner Complete a Baseline Environmental Assessment (BEA)?	☒ Yes ☐ No	☐ Yes ☐ No	☐ Yes ☐ No
Current Owner Name:	530 Rose Limited Dividend Housing Association Limited Partnership		
Current Owner Address:	702 E Michigan St, Mt. Pleasant, MI 48858		
Current Owner Email and Phone:	gseybert@psequities.com		
Name and Address of Occupant:	NA		
Operations at the Property:	Vacant		
Date Operations Began:	Anticipated August 2023		
FUTURE OWNER ☒ N/A - Ownership will not change			
Parcel ID#:			
Future Owner Name:			
Future Owner Address, City, State, Zip:			
Future Owner Email and Phone:			
How will the property be acquired? (purchase, tax inversion, inheritance, other)			

VI. PROPERTY USE AND ENVIRONMENTAL CONDITIONS

PROPERTY HISTORY

List the current and former uses of the property below, including dates, owners (if known), and potential contaminants associated with each property use.

Parcel ID / Property Address	Date Range (Year)		Property Use	Potential Contaminants and/or Recognized Environmental Conditions (RECs)	Property Owner
	From	To			
06-22-114-030/530 S Rose Street	1902	1980s	Residential (3 along S Rose Street, garages on western edge of parcel)	Potential impacted fill used to backfill basements	Various
	1980s	2021	Surface parking	NA	Troff Properties
	12/18/21 per deed	Present	Surface parking	NA	530 Rose Limited Dividend Housing

ENVIRONMENTAL RISKS

Known Contaminants:	Ethylbenzene, xylenes, arsenic, copper, lead, mercury, selenium, silver, and zinc. Contaminants likely results of fill materials present on the Property and/or residential garage use.
Pathways of Concern:	☒ Groundwater/Surface Water Interface (GSI) ☒ Drinking Water ☒ Volatilization to Indoor Air ☐ Ambient Air ☒ Direct Contact ☐ Unknown

PETROLEUM INFORMATION

Were underground storage tanks (USTs) ever located on the property?	☐ Yes	☐ No	☒ Suspected
Are USTs <u>currently</u> present on the property?	☐ Yes	☐ No	☒ Suspected
Has a UST release been reported for the property?	☐ Yes	☒ No	

Summarize known UST information below.

Tank ID #	Size	Contents	Installation Date	Removal Date	Status (active, removed, etc.)	Release ID #

HAZARDOUS SUBSTANCE INFORMATION			
Was there ever a non-UST related release of a hazardous substance on the property?	☐ Yes ☐ No ☒ Unknown		
Summarize known hazardous substance release information below.			
Date of Release	Description of Release	Status	Release ID #
To the best of your knowledge, did the applicant cause or contribute to contamination that is known or may be discovered at the project site?	☐ Yes ☒ No, did NOT cause or contribute to contamination ☐ May have caused or contributed to contamination		
To the best of your knowledge did the developer cause or contribute to contamination that is known or may be discovered at the project site?	☐ Yes ☒ No, did NOT cause or contribute to contamination ☐ May have caused or contributed to contamination ☐ Not Applicable/No developer		

ENVIRONMENTAL CONDITION OF THE PROPERTY

Provide below a brief description of what is known about the environmental condition of the property. Describe known and/or suspected contamination and the risk that needs to be mitigated/addressed to safely reuse the property. Provide maps and figures showing contaminant exceedances (see checklist in Section XII):

SME completed environmental assessments at the property in September 2021, January 2022, and February 2022 to evaluate the potential for contaminants to be present in fill and residual contamination from historical leakage or spillage of heating oil**. The assessments included advancing eight soil borings; installing three soil gas wells; and collecting soil, groundwater, and soil gas samples. The locations of the soil borings and soil gas wells are shown on Figure 6 (Appendix 2). The soil and groundwater samples were submitted for laboratory analysis of volatile organic compounds (VOCs), polynuclear aromatic hydrocarbons (PAHs), arsenic, barium, cadmium, chromium, copper, lead, mercury, selenium, silver, and zinc. Soil gas samples were submitted for laboratory analysis of VOCs and mercury. Results of the soil, groundwater and soil gas samples are summarized in the paragraphs below, and in Tables 1 through 3 (Appendix 3).

The soil profile on the property generally consists of asphalt pavement underlain by sand or clay fill that extends to an approximate depth of 3 feet below ground surface (bgs). The fill is underlain by native sand and/or clay which extends to at least 20 feet bgs. Groundwater was encountered at an approximate depth of 18 feet bgs.

Arsenic, copper, lead, mercury, and selenium were measured in soil at concentrations exceeding Part 201 Generic Residential Cleanup Criteria. This impact was found in samples collected from the fill materials

on the property. Except for arsenic and lead, these constituents were measured at concentrations above drinking water protection criteria (DWPC) and/or groundwater surface water interface protection criteria (GSIPC). Arsenic was measured at concentrations above the Part 201 Generic Residential Direct Contact Criterion (DCC) in four soil samples. Lead was measured at a concentration above the Part 201 Generic Residential and Nonresidential Direct Contact Criteria in one soil sample. In addition, ethylbenzene, toluene, and mercury were measured in soil at concentrations above Residential site-specific volatilization to indoor air criteria (SSVIAC). One groundwater sample was collected from the eastern portion of the property; no target constituents were measured in the groundwater sample at concentrations above laboratory reporting limits. Three soil gas samples were collected from the property. Toluene and dichlorodifluoromethane were measured in soil gas at concentrations above laboratory reporting limits but below Residential SSVIAC. ** At the time of the previous assessments there were 2 parcels. After the parcels were acquired on 12/18/21 they were combined into one.

PROPOSED ENVIRONMENTAL ACTIONS WITH GRANT/LOAN FUNDING		
Check all that apply.		
☐ Hazardous Material Survey ☐ BEA ☐ Excavation	☒ Assessment/Investigation ☒ Due Care Planning ☒ Soil Transport/Disposal	☐ UST Removal ☒ Demolition ☐ Vapor Mitigation
☐ Other (please describe):		

Describe the proposed actions that will be undertaken with grant and loan funds to address the environmental conditions and make the property safe for the proposed reuse. Please explain reasons why the proposed eligible activities should be funded.

A geotechnical evaluation was completed on the property in 2019 by Soils and Structures (S&S). Loose to slightly compact sand was identified at the property to depths of up to 9 feet below ground surface (bgs). The loose to slightly compact sand will not support conventional spread foundations. As such, S&S recommended excavation of the loose to slightly compact sand, placing engineered fill in the excavation, and using augercast piles for the deep foundation system. Specifically, soil will be excavated to an approximate depth of 7 feet bgs. As part of the soil profile that will be excavated, impacted fill will need to be disposed at a type II licensed landfill. Based on the environmental assessments, impact was identified in the fill at the site, which was present in soil borings at depths ranging from 2 feet to 3 feet bgs. For planning purposes, it is assumed that fill is present at an average depth of 3.5 feet across the property. Waste characterization will be completed for disposal of the fill at a type II licensed landfill. Additional excavation of native sand will be completed to meet the geotechnical recommendations. The general contractor will determine the reuse of the excavated native sand. Transportation and disposal costs of contaminated, excavated fill material are proposed as eligible activities.

Prior to excavation activities, a ground penetrating radar (GPR) survey will be completed to evaluate the average depth of fill across the property. The GPR survey will also assist in determining if a former heating oil UST is present and former residential basement remnants are present. Any USTs encountered during excavation will be removed in accordance with applicable regulations and are assumed to be an eligible activity that would utilize the contingency budget.

To accommodate the project schedule, a pre-excavation assessment will also be completed to evaluate further the average depth of fill across the property and collect verification of remediation samples (VSR) to define the vertical excavation limits. In addition, we will collect a groundwater sample from the western portion of the property to obtain additional characterization data. Based on EGLE guidance documents, in combination with the size of the property, we will advance 9 soil borings across the property and collect soil VSR samples from a depth of 7 to 7.5 feet bgs from each boring (the proposed excavation floor elevation). Please note, the proposed excavation will extend horizontally from "lot line to lot line"; therefore, no sidewall VSR samples will be collected. The VSR floor samples collected from each soil boring will be submitted for laboratory analysis of volatile organic compounds (VOCs), polynuclear aromatic hydrocarbons (PAHs), arsenic, barium, cadmium, chromium, copper, lead, mercury, selenium, silver and zinc. If results of the VSR sampling are favorable, excavation will commence and extend to the depths at which the samples were collected.

Prior to excavation activities, the existing asphalt surface parking lot will be demolished and removed. During excavation activities, an environmental consultant will be present to confirm the vertical extent of fill that is segregated for removal and disposal at a type II licensed landfill. It is anticipated that excavation of impacted fill will require 5 business days to complete.

Soil used for engineered backfill will be characterized prior to placement on the property. Following EGLE guidance, we will collect samples of the proposed soil from the aggregate provider. Specifically, a provider will be selected that has access to native sand where samples can be directly collected. Approximately 6,500 cubic yards of sand and 50 cubic yards of topsoil are anticipated to be used on the property. Based on those quantities, we will collect 14 samples of the sand and 1 sample of the topsoil and submit the samples for laboratory analysis of VOCs, PAHs, herbicides, pesticides, arsenic, barium, cadmium, chromium, copper, lead, mercury, selenium, silver and zinc. For budgeting purposes, we have included costs to characterize soil and topsoil from two separate providers, if necessary.

The development is being partially funded with assistance from MSHDA. As such, a Response Activity Plan (RespAP) is being prepared for submittal to EGLE. Based on schedule constraints, the developer is funding the RespAP. However, upon completion of the development, a Documentation of Due Care Compliance (DDCC) will be prepared and submitted to EGLE for review to meet MSHDA requirements.

Provide maps showing contamination relative to the building footprint and/or the development plan (see checklist in Section XII): See appended Figures.

DEMOLITION

If a grant or loan will be used for demolition (buildings, site features, etc.), answer the following questions:

Does the structure impede the proposed environmental response activities? ☒ Yes ☐ No

Does the structure present a health or safety threat? ☐ Yes ☒ No

Does the structure impede the reuse of the property? ☒ Yes ☐ No

Do the environmental activities exceed the cost of demolition? ☒ Yes ☐ No

Further explanation, if necessary: The property is currently developed with an asphalt surface parking lot that will need to be removed to facilitate excavation activities.

VII. ECONOMIC AND REDEVELOPMENT INFORMATION

Capital Investment: $ 20,260,507 (total) $ 14,800,000 (hard costs only)	Permanent Jobs Created: Full Time = 1 manager Part Time = 1 maintenance technician
Current State Equalization Value (SEV): $ 50,100	Anticipated post redevelopment SEV: $ 7,400,000

Provide a brief summary of how the redevelopment project will result in economic benefits including but not limited to job creation and increased tax base:

530 Rose will be developed on an underutilized piece of property that is currently being used as a surface parking lot in the well-established Vine neighborhood. It will add 64 much needed affordable senior housing units in the community, providing an affordable option for seniors to stay in their current neighborhood. The economic benefit will not only serve those seniors who choose to move here, but it will likely result in the uncapping of property taxes on several homes in the community. It will also create opportunities for first time homebuyers and families alike to purchase these homes.

Rose Place rent schedule:

- 8 units at $401 per month (30% AMI)
- 16 units between $563-673 per month (40% AMI)
- 8 units between $725-862 per month (50% AMI)
- 19 units between $889-1,065 per month (80% AMI)
- 13 units at current market rate rents.

DEVELOPER'S EXPERIENCE

Is there a developer committed to the project? ☒ Yes ☐ No

Developer's Name: PGJ Development (Phil Seybert, Garrett Seybert, and Jon Durham)

Provide a brief summary of the developer's business experience, including any other businesses, terms and conditions of their participation in the project, bankruptcies, and civil or criminal enforcement actions related to environmental violations:

PGJ Development LLC is a newly formed Development entity comprised of Phil Seybert & Garrett Seybert of PS Equities Inc. and Jon Durham of Nomi Developers. The three partnered on the recent Harrison Circle building, an 80-unit affordable housing development in the Northside neighborhood of Kalamazoo.

PS Equities Inc. has 40+ combined years of multifamily and affordable housing development experience. NOMI Developers are responsible for the successful redeveloping of several apartment, commercial, and office buildings on the Northside of Kalamazoo. Together, as PGJ Development they are focused on developing more affordable housing in Kalamazoo.

☐ N/A - Project does not have developer		
DEVELOPER'S PROJECT FINANCING		
Summarize the sources of your total capital investment and the status of the financing. ☐ N/A – Project does not have a developer		
Source of Funding	Estimated Amount	Status of Approval
Mortgage	$4,694,065	Pending
LIHTC Equity	$10,067,242	Approved
LISC Pre-development funds	$48,000	Approved
ARPA Funds	$1,000,000	Approved
HOME Funds	$408,000	Approved
Foundation for Excellence	$750,000	Approved
Housing for all County Millage Fund	$1,268,000	Approved
Developer contribution	$675,000	Approved
MSHDA GAP Financing	$1,020,000	Pending
EGLE Brownfield Grant	$330,200	Pending
TOTAL =	$20,260,507	
TAX INCREMENT FINANCING (TIF)		
Will the project use Brownfield TIF?	☐ Yes ☒ No	
If Yes, identify all sources that apply:	☐ EGLE ☐ MEDC ☐ Local	
PURCHASE AND DEVELOPMENT AGREEMENTS		
Is there a purchase agreement in place?	☐ Yes ☐ No ☒ N/A	
Status of purchase agreement:		
Status of development agreement:	The Developer and City BRA are prepared to execute a development agreement once all funding is secured.	
As a requirement of EGLE funding, is the developer willing to enter into a development agreement with the applicant?	☒ Yes ☐ No ☐ NA	
Has the project received site plan approval?	☒ Yes ☐ No If no, explain:	

SCHEDULE
Provide a summary schedule for the completion of the proposed eligible activities: **8/2023** Complete GPR survey, pre-excavation assessment and waste characterization for fill disposal at type II licensed landfill. **8/2023** Complete assessment of soil to be used for engineered fill **9/2023** Begin Construction **9/2023** Remove asphalt pavement area and begin excavation activities (transport and disposal of impacted fill at type II licensed landfill) **10/2023** Begin backfill/placement of engineered fill into excavation **11/2023** Install special deep foundations **12/2023** Begin vertical construction **12/2024** Construction completed **1/2025** Complete DDCC and submit to EGLE *Identify the dates redevelopment is expected to begin and be completed:* Estimated Start Date: **8/2023** Estimated Completion Date: **12/31/2024 (construction complete – DDCC submission early 2025)**

VIII. COMMUNITY OUTCOMES

Will existing infrastructure be reused? ☐ Yes ☒ No

Please describe: **All new infrastructure from city mains will be necessary to building to accommodate higher residential density**

Is the community in which the project is located disadvantaged, disproportionately burdened by pollution, or facing other significant challenges? ☒ Yes ☐ No

If yes, explain:

The project is located in census tract 2.01 which is identified as a disadvantaged community according to the Climate and Economic Justice Screening Tool (CEJST) due to the following factors:

- **Low income population** — the number of people in households where income is less than or equal to twice the federal poverty level (80th percentile)
- **Asthma rate** (95th percentile)
- **Lack of greenspace** — the amount of land that is covered with artificial materials such as pavement or concrete (97th percentile)
- **Proximity to superfund sites** — the count of proposed or listed superfund or national priorities list sites within 5 KM (98th percentile)
- **Traffic proximity** — the count of vehicles at major roads within 500 meters (95th percentile)

- **Underground storage tanks and releases data** — formula of the density of leaking underground storage tanks and number of all active underground storage tanks within 1,500 feet of the census tract boundaries (99th percentile)
- **Wastewater discharge** — modeled toxic concentrations at parts of streams within 500 meters (95th percentile)
- **Poverty** — the share of people in households where income is at or below 100% of the federal poverty level (96th percentile).

Does the project fit into the community's development plans? ☒ Yes ☐ No

Please explain:

The project fits well within the City's development and housing strategies and neighborhood and master plans. Major goals in the Vine neighborhood plan focus on housing, including increasing housing options and supply of affordable units. Median household income in Vine is $22,359 which means rents in the range of $560/month would be considered affordable. This project will support the neighborhood goals of creating a new rental option for seniors and had units that fit the neighborhood-specific definition of "affordable".

The City Master Plan also has goals around housing supply and affordability and infill development for sustainable land use, which this project helps advance. The property is zoned Live-Work 1, which supports flexible uses and focuses more on building form. The project fits the City's development vision by building to the street, increasing walkability, and offering public space and transparency on the ground floor.

COMMUNITY BENEFITS

Provide a brief summary of how the redevelopment project will result in social or other community benefits, not described elsewhere, including but not limited to; addressing blight, public safety and health concerns, placemaking, urban infill, walkability, incorporation of sustainable and energy efficient development measures, and intentional strategies to support equitable development and assist disadvantaged communities:

Rose Place will be developed on an underutilized, infill, piece of property that is currently used as a surface parking lot in the well-established, older, Vine neighborhood. Redeveloping this urban infill lot is a perfect example of placemaking, as the property is within walking distance to all the amenities downtown Kalamazoo has to offer (walk score = 89). The development will be constructed to meet or exceed LEED silver standards which will directly impact the tenants' utility costs, supporting the overall sustainability and affordability Rose Place will offer. LEED certified buildings also have lower carbon footprints, improved air quality, and support community climate goals.

Adding 64 much needed senior housing units (including 51 affordable units) in the community will support construction jobs and the local economy. Vine neighborhood has a vibrant commercial business district, as well as close by restaurants and businesses in the Central Business District, which will benefit from additional residents and temporary construction jobs. The project will employ a full-time property manager and a part-time maintenance person once construction is completed. The Rose is another step toward the revitalization and invigoration of one of the City's older neighborhoods which will in turn help to attract new residents and businesses.

IX. LOCAL COMMITMENT

LOCAL CONTRIBUTIONS TO THE PROJECT

Describe the local contributions to the project, including but not limited to; other funding sources provided or supported, use of TIF, tax abatements, other grants and incentives, land contribution, reduced purchase price, utility or right-of way work, staff time committed to the project:

The Rose has been awarded a 10-year $1,006,724 Federal Low Income Housing Tax Credit allocation through a very competitive process administered by MSHDA which was largely due to the help of the City of Kalamazoo staff. The equity generated by selling the tax credits to a limited partner investor is what really makes this deal possible. However, with the current market conditions the project still has a substantial gap in the deal financing due to rising construction costs and labor shortages.

To help fill the financing gap, the project successfully secured:

- $408,000 in HOME funds from the City
- $750,000 loan from the City's Foundation for Excellence
- $48,000 pre-development grant from LISC
- $1,000,000 in ARPA funding from Kalamazoo County
- $1,268,000 in Kalamazoo Senior Housing Millage funding
- Developer purchased the land for $220,000 in 2021
- $600,000 in deferred developer fee

In addition, the developer has LOIs from Mercantile Bank and Walker & Dunlop for the construction and permanent loans and has secured a PILOT (payment in lieu of tax) from the City for the proposed project. The developer is also applying for an additional $1,020,000 in MSHDA gap financing.

X. CERTIFICATION

The undersigned, as the representative of the applicant, certifies that the no government employee, or member of the legislative, judicial, or executive branches, or member of the Grantee's Board of Directors, its employees, partner agencies, or their families shall benefit financially from the grant or loan.

The undersigned, as the representative of the applicant, certifies that the information provided in this application and its attachments is true and complete to the best knowledge and belief of the applicant and the undersigned.

Jamie McCarthy
Typed name of Applicant's Representative

/s/ Jamie McCarthy
Signature

BRA Staff Liaison
Title

04/26/2023
Date

☒ **I agree to the use of electronic signatures with EGLE**

Please submit the proposal electronically to

EGLE-Brownfields@michigan.gov

Please call 517-242-9276 with questions.

#mibrownfields

www.michigan.gov/eglebrownfields

Budget Table and Required Attachments

REQUIRED ATTACHMENTS Please complete the following checklist and attach the supporting documentation.			
#	**DESCRIPTION**	**ATTACHED?**	**COMMENTS**
1	**Budget Table**	☒ Yes ☐ No	**Attachment 1**
2	**Site Maps:** Map(s) showing the location of the project area, site boundaries, existing structures, etc.	☒ Yes ☐ N/A	Attachment 2; Figure 6
	Map(s) showing the location of known contaminants, recognized environmental concerns [including contaminant boundaries (when known)], and contaminant concentrations.	☒ Yes ☐ N/A	Attachment 2; Figures 5, 7 and 8
	Map(s) showing proposed development in relation to contaminants.	☒ Yes ☐ N/A	Attachment 2; Figures 7 and 8
	Map(s) showing site development plans.	☒ Yes ☐ N/A	Attachment 2
3	**Analytical data summary tables.**	☒ Yes ☐ N/A	Attachment 3; Tables 1 through 3
4	**Agreements** Purchase Agreement	☐ Yes ☒ N/A	
	Development Agreement	☐ Yes ☐ N/A	BRA and Developer will execute a developer agreement when funding is secured.
5	**Site Photos** High quality, publishable digital photos of the site. Please also provide these electronically in jpg format.	☒ Yes ☐ N/A	Attachment 5
6	Describe other attachments provided: Elevation of building (Attachment 4)		

BUDGET TABLE

Provide the project budget in the table below. Change, add, or delete activities as appropriate for the project. Column specific notes provided below table.

Column Specific Notes:

EGLE RPF Grant: This funding can only be used for Refined Petroleum Fund related contamination. Talk to your brownfield coordinator to confirm appropriate funding source.

EGLE 201 Grant: This funding can be used for non-petroleum sites. Talk to your brownfield coordinator to confirm appropriate funding source.

EGLE Loan: This funding can be used for refined petroleum or non-petroleum sites with redevelopment potential.

Tax Increment Financing (TIF) tied to EGLE Loan: If TIF is proposed to reimburse the loan, that portion of the TIF will also be reflected in the loan amount.

Other TIF: Any TIF dollars that will NOT be used to reimburse the EGLE loan, including non-EGLE TIF would be reflected here.

Local Funds: Any funding the community is contributing to the project.

Developer Funds: Funds the developer is investing into the project.

Other: Include other federal, state, private, etc. dollars that are not already reflected.

TASK (Activity)	TOTAL Expected Cost	Proposed Funding Mechanism							
		EGLE RPF Grant	EGLE 201 Grant	EGLE Loan	TIF tied to EGLE Loan	Other TIF (not tied to EGLE Loan)	Local Funds (public)	Developer Funds (private)	Other Funds (list sources)
Assessment/Investigation									
Site assessment (Phase I/II)	$ 30,000							$ 30,000	
Baseline environmental assessment (BEA)	$ 3,500							$ 3,500	
Lead, asbestos, mold, and hazardous material survey									
Due Care Planning									
Other assessment activity	$ 95,000		$ 95,000						
Assessment/Investigation Sub-Total	***$ 128,500***	***$ -***	***$ 95,000***	***$ -***	***$ -***	***$ -***	***$ -***	***$ 33,500***	***$ -***
Activities that cannot exceed the total cost of environmentally related activities (50/50 Rule) as defined in Part 196									
Demolition	$ 10,000		$ 10,000						
Abatement									
Disposal of solid waste as defined in Part 115									
Removal of contaminated lake and river sediments as defined in Part 196									
Other 50/50 rule activities									
50/50 Rule Sub-Total	***$ 10,000***	***$ -***	***$ 10,000***	***$ -***	***$ -***	***$ -***	***$ -***	***$ -***	***$ -***
Due Care									
Transport/disposal of contaminated soils	$ 158,000		$ 158,000						
Vapor mitigation system									
Other due care activity	$ 15,000		$ 15,000						
Due Care Sub-Total	***$ 173,000***	***$ -***	***$ 173,000***	***$ -***	***$ -***	***$ -***	***$ -***	***$ -***	***$ -***
Response Activity									
Excavation/transportation/ disposal of contaminated soils									
Demolition that is a response activity									
Other response activity									
Response Activity Sub-Total	***$ -***	***$ -***	***$ -***	***$ -***	***$ -***	***$ -***	***$ -***	***$ -***	***$ -***
Other									
Removal and closure of USTs Pursuant to Parts 211 and 213									
Dust control related to construction activities									
Industrial cleaning									

Sheeting and shoring necessary for removal of contaminated soil at sites requiring permits under Part 301, 303, or 325									
Contingency (up to 15% of grant/loan)	$ 41,700		$ 41,700						
3rd Party Environmental Oversight if approved by EGLE (up to 5% of grant/loan)									
Administration (up to 3% of grant/loan)	$ 8,340		$ 8,340						
EGLE Project Sign (grant/loan requirement)	$ 500		$ 500						
Grant Closeout Report (grant/loan requirement)	$ 5,000		$ 5,000						
Remaining project costs (EGLE Work Plan)	$ 5,000		$ 5,000						
TOTAL	$ 372,040	$ -	$ 338,540	$ -	$ -	$ -	$ -	$ 33,500	$ -