Agenda
Brownfield Redevelopment Authority
Board of Directors

City of Kalamazoo

Thursday, August 17, 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 July 20, 2023 meeting.

D. PUBLIC COMMENTS

E. DIRECTORS' COMMENTS

F. NEW BUSINESS

1. Adoption of a Resolution Approving an EGLE Brownfield Grant Agreement and Authorizing the Chair to Sign
(ACTION: Motion to adopt a resolution approving an EGLE Brownfield Grant Agreement and authorizing the chair to sign).

G. UNFINISHED BUSINESS

H. COMMUNICATIONS AND ANNOUNCEMENTS

1. 2023 National Brownfields Conference - Share Out

I. STAFF REPORTS AND UPDATES

J. ADJOURNMENT

CITY OF KALAMAZOO
BROWNFIELD REDEVELOPMENT AUTHORITY BOARD MEETING
Thursday, July 20, 2023
Community Planning and Economic Development
245 N. Rose Street, Kalamazoo, MI 49007

MEMBERS PRESENT: Sharon Ferraro; Lucas Middleton; Rachel Bair; Andrew Schipper; Nathan Bolton; Kevan Hess; Torean Greeley; Kyle Gulau

MEMBERS ABSENT: Michael Gurnee; Jason Novotny; Qianna Decker

CITY COMMISSIONERS/CITY STAFF PRESENT: Jamie McCarthy (Sustainable Development Coordinator); PJ Thuringer (Economic Development Supervisor); Beth Cheeseman (Executive Administrative Assistant); Logan Mulholland (Fishbeck, Consultant); Heidi Gartley (Brownfield Project Assistant); Jared Chambers (Business Specialist)

Meeting was called to order at 8:12 AM by Chair Hess.

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

Ms. McCarthy shared that they would be adding an item under F. New Business. Attorney Wood planned to give an update on changes to the Brownfield Financing Act.

APPROVAL OF AGENDA: Director Gulau, moved the approval of the agenda as amended; seconded by Director Ferraro. Motion approved by voice vote unanimously.

Director Ferraro asked for a change to be made to the minutes of June 15, 2023. She said that one of her comments in the minutes should be changed from *Historic Preservation Commission* to *Historic District Commission*.

APPROVAL OF MINUTES: Director Ferraro moved approval of minutes from the meeting of June 15, 2023 as amended; seconded by Director Middleton. Motion approved by voice vote unanimously.

PUBLIC COMMENTS

None.

DIRECTOR'S COMMENTS

Director Gulau said he went to the MEDC Strategic Executive Committee retreat, and he was continuing to think about how they can be proactive and creative using these tools to incentivize economic development within the community.

NEW BUSINESS

1. Adoption of a Resolution Approving the Assignment and First Amendment to the Purchase and Sale Agreement for 501 N. Westnedge Avenue (ACTION: Motion to adopt a Resolution approving the Assignment and First Amendment to the Purchase and Sale Agreement for 501 N. Westnedge Avenue).

Ms. McCarthy shared that the business changed their name from WLP, LLC to Executive Protection Group, LLC. She said the purchase and sale agreement was expiring in August. Staff recommended adding a six-month extension for the closing. Ms. McCarthy said the business has engaged design and engineering professionals and had started the site plan approval process. She indicated that site plan approval was the last item to be taken care of before the sale of the property.

Mr. James Pitts said they are hoping to have that process completed in August. He shared that there had been some setbacks last year as he was in the hospital for two months. Ms. McCarthy shared some pictures showing the anticipated renovations.

Director Bolton wondered if six months would be a sufficient extension. Mr. Pitts and Ms. McCarthy both felt that timeframe would be adequate. Ms. McCarthy also felt that the money from EGLE should be used during that time.

Director Bolton moved to adopt a Resolution approving the Assignment and First Amendment to the Purchase and Sale Agreement for 501 N. Westnedge Avenue Motion; seconded by Director Gulau.

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

2. Approval of a Reimbursement Request from Kalamazoo County Brownfield Redevelopment Authority for Environmental Assessment Expenses at 615 W. Kalamazoo Avenue (ACTION: Motion to approve the reimbursement request from Kalamazoo County Brownfield Redevelopment Authority for environmental assessment expenses at 615 W. Kalamazoo Avenue).

Ms. McCarthy shared that Ms. Logan Mulholland, Fishbeck, did the reviews for the reimbursement request. She said there was a letter that detailed the original intention and agreement between the county and city BRAs. Fishbeck recommended they take that information and put it in a reimbursement agreement. They want to make sure everyone agrees on the details of the reimbursement. Ms. McCarthy said the county used funds for some predevelopment activities. She said that in the county's program, if a project doesn't materialize, they forgive and grant those dollars. If a Brownfield Plan materializes, then the county would like to revolve those dollars back into their fund. Ms. Mulholland added that the county invested in Phase I, Phase II, and demolition survey costs. Ms. McCarthy shared that the total amount was approximately $22,630.

Director Bair moved to approve the reimbursement request from Kalamazoo County Brownfield Redevelopment Authority for environmental assessment expenses at 615 W. Kalamazoo Avenue; seconded by Director Schipper.

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

Before voting, Director Gulau asked if they were writing the county a check or if they would be reimbursed through a TIF table. Ms. McCarthy stated that it would be through TIF, and the capture would likely be over two years.

3. Approval of a Reimbursement Request from Catalyst Development Co 12 for Eligible Activities Expenses at 180 E. Water Street (ACTION: Motion to approve the reimbursement request from Catalyst Development Co 12 for eligible activities expenses at 180 E. Water Street).

Ms. Mulholland shared that the developer submitted a reimbursement request, but there was a discrepancy in the eligible property description between the Brownfield Plan and the Development plan. She said that the chapter Brownfield Plan was amended and adopted by the City Commission. The Brownfield Plan and Development Plan are now in agreement. Ms. Mulholland said they were bringing the remaining amount ($3,110,713) to the board for review. She said this included public infrastructure in the right-of-way (ROW), site demolition of the adjacent city lot, and site preparation activities. One change was that connections for sanitary work in the ROW were not eligible.

Director Bolton moved to approve the reimbursement request from Catalyst Development Co 12 for eligible activities expenses at 180 E. Water Street; seconded by Director Gulau.

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

4. Update from Attorney Wood on changes to the Brownfield Financing Act.

Attorney Wood passed out a handout giving a summary of the updates. She indicated that the Board's scope of authority doubled in size. Attorney Wood said that the law was given immediate effect, and she felt the Board needed to put policies in place around their discretion. They anticipate that developers will come to them quickly with questions about how to capture these additional TIF dollars.

Attorney Wood reviewed some of the expanded definition of eligible activities and eligible properties. Historically the focus of brownfield was always on environmental responsibilities. The scope has been expanded to include housing development activities. Some of the definitions/items affected were eligible property, blighted property, eligible activities, term housing development activities, acquisition cost for blighted or obsolete rental units, and reimbursement provided to developers to fill financing gaps. She spoke about the definition of an income qualified household, and that tax increment revenues would include PILOT only to the extent that such payments are in excess of the amount of property taxes levied for the year that the property became eligible.

Attorney Wood shared that MSHDA would need to approve housing properties in a Brownfield Plan if it resulted in a housing property that was subsidized because it was sold or rented below market rate. She said they were not clear if MSHDA would have to approve reimbursement requests where housing was offered at market rate. Attorney Wood said that if MSHDA fails to respond within 60 days, then the plan is approved as submitted. She said they will consider whether the housing development activity aligns with the statewide housing plan, the capacity of the agency monitoring price and income, if the project supports housing and prices that align with the local workforce, and whether property deed is restricted to regulate short-term rentals or otherwise ensure long-term local housing needs, and any other criteria considered appropriate.

Attorney Wood stated that additional administrative and operating expenses were permitted. She said it raises the caps on what Authority can keep for themselves. There was also an increase in cap for reimbursement to developers for additional costs of developing Brownfield plans, combined plans, and workplans. This will permit the use of local taxes (not to exceed $50,000) to pay for the developers cost of implementing, monitoring, and maintaining compliance with income and price monitoring responsibilities associated with housing development activities.

Attorney Wood also shared information about the additional authority to use school operating taxes, submit annual financial reports to MSHDA, tax increment revenue sharing, proportionality of captured taxes levied for school operating purposes, and the transformational brownfield program.

Director Gulau summarized that the fundamentals of a Brownfield Plan hadn't changed, but they will have more opportunities to allocate the surplus to a developer. Attorney Wood added that it will operate the same way, but the definitions have broadened to include affordable housing. She said the Assessor has broader definitions as far as which taxes they capture, and this raises the caps on everything. Attorney Wood agreed with Director Gulau that none of the old rules have gone away - these are additional things.

Attorney Wood stated that almost all economic incentives are discretionary. The Board will need to put policies in place as guardrails. Director Gulau wondered how the policies would impact their label as being Redevelopment Ready. Attorney Wood thought that as long as they are following the statute, it shouldn't be impacted.

Director Middleton asked Attorney Wood for her thoughts on what additional administrative burden this will place on the Authority - specifically on the monitoring and verification requirement regarding income. Attorney Wood thought there would be quite a bump in terms of administrative work. She said the City of Grand Rapids anticipates hiring four new people. Attorney Wood said if it falls on them to do the reporting, monitoring income, pricing, and rent received, it could be a sizable burden depending on the number of requests.

Director Bolton asked Attorney Wood to clarify *immediate*. He wondered if that would include projects already in place or just new projects happening. He also wondered if MSHDA would give them reporting forms or if they would need to come up with their own. Attorney Wood said the law is not retroactive. She anticipates that MSHDA will come up with reporting forms.

Director Hess wondered how much of this would fall on developers. Attorney Wood thought the Authority should put a policy or agreement in place where developers have to provide documentation or reimbursements will not be paid.

Director Bair asked if the broadened definition of blighted property was an incentive for keeping green space in urban areas. Attorney Wood agreed that the expanded definition included municipality or state owned properties that were previously developed.

Director Middleton noted that developers often used Land Bank properties to qualify for Brownfield. That wouldn't be necessary anymore. Attorney Wood agreed that if the property was city or state owned, they wouldn't need the Land Bank.

Director Bair wondered how much time the additional approval by MSHDA would add to the process. Attorney Wood stated that it wouldn't be more than 60 days. Ms. McCarthy was hopeful that the review period would stay the same. She felt that the new requirements would increase staff and developer workload. Director Gulau said that they would need to notice MSHDA for public hearings. Ms. McCarthy said they do that now with EGLE and MEDC. They will be monitored by three agencies instead of two.

Ms. McCarthy said they will have discussions with staff, Assessing, and the City Commission, but the BRA Board can set their own policies.

UNFINISHED BUSINESS

None.

COMMUNICATIONS AND ANNOUNCEMENTS

None.

STAFF REPORTS AND UPDATES

Ms. McCarthy invited the Board to visit the Gibson guitar factory/future Hard Rock site the next Wednesday at 11:00am. She said it was a very interesting old building. They plan to walk by the three parcels they would like to use for parking. Ms. McCarthy said they were also extending the invitation to the Historic Preservation Commission and the Historic District Commission.

Ms. McCarthy said those interested in attending the National Brownfields Conference had been registered and their hotels booked. She indicated they would get more information about how to track receipts for reimbursement.

ADJOURNMENT: 9:12 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: August 17, 2023

SUBJECT: Adoption of a Resolution Approving an EGLE Brownfield Grant Agreement and Authorizing the Chair to Sign

SUMMARY:

The attached EGLE Brownfield Grant Agreement provides up to $350,000 for brownfield-related costs for the 530 Rose Senior Apartments in Kalamazoo. The following grant activities are anticipated within the 2-year grant period:

Due Care at the site will include pre-excavation investigation, sampling, use of ground penetrating radar, preparation of a Due Care plan, transportation and disposal of contaminated soils, verification sampling, and characterization of backfill soils.

Demolition will include removal of existing pavement and site features.

Reporting and Administration will be reimbursed to the BRA for monthly and quarterly costs to administer the grant and to the developer/consultant for the close-out report.

The state will provide quarterly reimbursement payments based on actual expenses incurred. The grant budget includes the following costs:

- $275,500 - Due Care Activities
- $10,000 - Demolition
- $5,000 - Grant Close Out Report
- $500 - EGLE Sign
- $10,500 - Grant Administration (paid to BRA)
- $48,500 - Contingency

BACKGROUND:

Earlier this year, the BRA applied to EGLE on behalf of the developer at 530 S Rose Street for a Brownfield Grant. The grant will assist with brownfield-related costs for development, primarily to remove and dispose of contaminated soils on the property. The project had a significant financing gap due to cost increases and site challenges. The project is a mixed-income senior housing development located on vacant and under-utilized lots in the Vine Neighborhood. The project includes 64 much needed apartment units supported by Low Income Housing Tax Credits, allowing rents to be reduced to 30% - 80% AMI, as well as 13 units at market rates.

FISCAL IMPACT:

Direct costs to BRA include staff time for administration of the grant. These costs are included in the grant in an amount up to $10,500.

RECOMMENDATION:

It is recommended the BRA adopt the resolution to approve an EGLE Brownfield Grant Agreement between the Michigan Department of Environment, Great Lakes, and Energy (EGLE) and the City of Kalamazoo's Brownfield Redevelopment Authority (BRA) and authorize the BRA Chair to sign.

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

CITY OF KALAMAZOO
BROWNFIELD REDEVELOPMENT AUTHORITY

A RESOLUTION APPROVING A GRANT AGREEMENT BETWEEN MICHIGAN DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY AND THE BROWNFIELD REDEVELOPMENT AUTHORITY FOR A PROJECT AT 530 S ROSE STREET, KALAMAZOO, MICHIGAN

Minutes of a regular meeting of the Board of Directors of the City of Kalamazoo Brownfield Redevelopment Authority, held on August 17, 2023, at 7:45 a.m., local time at 245 N. Rose Street, Ste. 100 in Kalamazoo, Michigan.

PRESENT: ____

ABSENT: ____

The following resolution was offered by Member ____________ and supported by Member __________________.

RECITALS:

A. The City of Kalamazoo Brownfield Redevelopment Authority ("AUTHORITY") was awarded a Brownfield Redevelopment Grant ("Grant") from the Michigan Department of Environment, Great Lakes, and Energy ("EGLE") to support 530 S ROSE LDHA LP (Developer) in the development of a new affordable senior housing project. The vacant 0.5 acre parcel is identified as Parcel No. 06-22-114-030.

B. The Authority anticipates the award of a Grant from EGLE in the amount up to $350,000, including an administration cost of $10,500, to facilitate due care planning and contaminated fill removal and disposal and to address other environmental conditions associated with the redevelopment of a former residential property located at 530 S. Rose St., Kalamazoo, MI 49007, within the Vine Neighborhood (the "Property").

C. The Authority will, in turn, award up to $339,500 of the EGLE Grant proceeds (the "Grant Proceeds") to Developer for reimbursement of eligible costs in order to further the redevelopment the Property, which is currently a surface parking lot, into a five-story affordable senior housing project, all as further detailed in the Project Proposal and Budget Table (the "Project"). The administration cost is payable to the Authority, which will act as Grant Administrator, as permitted by the EGLE Grant Agreement.

D. The Grant is consistent with the goals and objectives of BRA, under the powers granted to it under Act 381, in redeveloping contaminated sites.

THEREFORE, IT IS RESOLVED:

1. The BRA Board of Directors authorizes its Chairperson to sign and submit Grant Agreement to EGLE as part of the Brownfield Redevelopment Grant application and its supporting documentation. This authorization includes, without limitation, the ability to negotiate and execute the EGLE Agreements relating to the acceptance and use of the Grant; and to negotiate and execute any contracts or other documents necessary to implement the provisions and intent of this resolution on behalf of the BRA.

2. If the Grant is awarded and accepted by EGLE, BRA staff is directed to administer and oversee the work undertaken for the Due Care Activities - subject to the provisions of the Agreement and EGLE Agreement and in compliance with EGLE rules and regulations – to ensure such Grant funds are properly allocated for the purposes set forth in the EGLE Grant application.

3. The use of the Grant funds are consistent with the obligations of the parties who have signed the Agreement and the Project is further consistent with current zoning designations and with the Master Plan for the City of Kalamazoo.

AYES, Directors ____

NAYS, Directors ____

RESOLUTION DECLARED ADOPTED.

<u>CERTIFICATION</u>

I certify that (i) the above is a true and complete copy of a resolution adopted by the Board of Directors of the City of Kalamazoo Brownfield Redevelopment Authority at a regular meeting held on August 17, 2023; the meeting was conducted and public notice of it was given to and in full compliance with the Michigan Open Meetings Act (Act No. 267, Public Acts of Michigan, 1976); and minutes of the meeting were kept will be available as required by the Act.

____
Elizabeth Cheeseman
Recording Secretary

BROWNFIELD GRANT AGREEMENT

BETWEEN THE

MICHIGAN DEPARTMENT OF ENVIRONMENT, GREAT LAKES, AND ENERGY

AND THE CITY OF KALAMAZOO BROWNFIELD REDEVELOPMENT AUTHORITY

This Grant Agreement (“Agreement”) is made between the Michigan Department of Environment, Great Lakes, and Energy (EGLE), Remediation and Redevelopment Division (“State"), and City of Kalamazoo Brownfield Redevelopment Authority ("Grantee").

The purpose of this Agreement is to provide funding in exchange for work to be performed for the project named below. The State is authorized to provide grant assistance pursuant to Clean Michigan Initiative Implementation, Public Act 196, of Act 451 of 1994 as amended. This Agreement is subject to the terms and conditions specified herein.

PROJECT INFORMATION:

Project Name: 530 Rose Senior Housing	Location Code: 6K32
Amount of grant: $350,000	Tracking Code: 2023-2527
Start Date: **Date executed by the State**	End Date: **Two Years after Start Date**

GRANTEE CONTACT INFORMATION:

Name/Title: Jamie McCarthy, Sustainable Development Coordinator

Organization: City of Kalamazoo

Address: 245 North Rose Street, Suite 100

City, State, ZIP: Kalamazoo, Michigan 49007

Phone Number: 269-337-8789

E-Mail Address: mccarthyja@kalamazoocity.org

Federal ID Number: 38-6004627

Grantee DUNs: 079283214; UEI: X441PAK5LL66

SIGMA Vendor Number: CV0047780

STATE’S CONTACT INFORMATION:

Name/Title: Doug Koop, Brownfield Coordinator

Division/Bureau/Office: Remediation and Redevelopment Division

Address: 525 West Allegan Street

City, State, ZIP: Lansing, Michigan 48933

Phone Number: 517-245-5054

E-Mail Address: KoopD@Michigan.gov

The individuals signing below certify by their signatures that they are authorized to sign this Agreement on behalf of their agencies and that the parties will fulfill the terms of this Agreement, including any attached appendices, as set forth herein.

FOR THE GRANTEE:

Signature	Name/Title	Date
	Kevan Hess, BRA Board Chair	

FOR THE STATE:

Signature	Name/Title	Date
	Mike Neller, Director	

I. PROJECT SCOPE

This Agreement and its appendices constitute the entire Agreement between the State and the Grantee and may be modified only by written agreement between the State and the Grantee.

(A) The scope of this project is limited to the activities specified in Appendix A and such activities as are authorized by the State under this Agreement. Any change in project scope requires prior written approval in accordance with Section III, Changes, in this Agreement.

(B) By acceptance of this Agreement, the Grantee commits to complete the project identified in Appendix A within the time period allowed for in this Agreement and in accordance with the terms and conditions of this Agreement.

II. AGREEMENT PERIOD

Upon signature by the State, the Agreement shall be effective from the Start Date until the End Date on page 1. The State shall have no responsibility to provide funding to the Grantee for project work performed except between the Start Date and the End Date specified on page 1. Expenditures made by the Grantee prior to the Start Date or after the End Date of this Agreement are not eligible for payment under this Agreement.

III. CHANGES

Any changes to this Agreement other than budget line item revisions 20 percent or less of the total Agreement amount shall be requested by the Grantee or the State in writing and implemented only upon approval in writing by the State. The State reserves the right to deny requests for changes to the Agreement or to the appendices. No changes can be implemented without approval by the State.

IV. GRANTEE DELIVERABLES AND REPORTING REQUIREMENTS

The Grantee shall submit deliverables and follow reporting requirements specified in Appendix A of this Agreement.

(A) The Grantee must complete and submit quarterly progress reports according to a form and format prescribed by the State and must include supporting documentation of eligible project expenses. These reports shall be due according to the following*:*

Reporting Period	Due Date
January 1 – March 31	April 30
April 1 – June 30	July 31
July 1 – September 30	Before October 15*
October 1 – December 31	January 31

*Due to the State's year-end closing procedures, there will be an accelerated due date for the report covering July 1 – September 30. Advance notification regarding the due date for the quarter ending

September 30 will be sent to the Grantee. If the Grantee is unable to submit a report in early October for the quarter ending September 30, an estimate of expenditures through September 30 must be submitted to allow the State to complete its accounting for that fiscal year.

The forms provided by the State shall be submitted to the State's contact at the address on page 1. All required supporting documentation for expenses must be included with the report as outlined in Appendix A.

(B) The Grantee shall provide a final project report in a format prescribed by the State. The Grantee shall submit the final status report, including all supporting documentation for expenses, along with the final project report and any other outstanding products within 30 days from the End Date of the Agreement.

(C) The Grantee must provide electronic copies of all products and deliverables in accordance with Appendix A.

(D) All products shall acknowledge that the project was supported in whole or in part by EGLE, per the guidelines provided by the program.

(E) If 15 percent (15%) or more of the grant amount is expended in a single quarter, payment requests may be submitted once monthly during that quarter.

V. GRANTEE RESPONSIBILITIES

(A) The Grantee agrees to abide by all applicable local, state, and federal laws, rules, ordinances, and regulations in the performance of this grant.

(B) All local, state, and federal permits, if required, are the responsibility of the Grantee. Award of this grant is not a guarantee of permit approval by the State.

(C) The Grantee shall be solely responsible to pay all applicable taxes and fees, if any, that arise from the Grantee's receipt or execution of this grant.

(D) The Grantee is responsible for the professional quality, technical accuracy, timely completion, and coordination of all designs, drawings, specifications, reports, and other services submitted to the State under this Agreement. The Grantee shall, without additional compensation, correct or revise any errors, omissions, or other deficiencies in drawings, designs, specifications, reports, or other services.

(E) The State's approval of drawings, designs, specifications, reports, and incidental work or materials furnished hereunder shall not in any way relieve the Grantee of responsibility for the technical adequacy of the work. The State's review, approval, acceptance, or payment for any of the services shall not be construed as a waiver of any rights under this Agreement or of any cause of action arising out of the performance of this Agreement.

(F) The Grantee acknowledges that it is a crime to knowingly and willingly file false information with the State for the purpose of obtaining this Agreement or any payment under the Agreement, and that any such filing may subject the Grantee, its agents, and/or employees to criminal and civil prosecution and/or termination of the grant.

VI. USE OF MATERIAL

Unless otherwise specified in this Agreement, the Grantee may release information or material developed under this Agreement, provided it is acknowledged that the State funded all or a portion of its development.

The State, and federal awarding agency, if applicable, retains a royalty-free, nonexclusive and irrevocable right to reproduce, publish, and use in whole or in part, and authorize others to do so, any copyrightable material or research data submitted under this grant whether or not the material is copyrighted by the Grantee or another person. The Grantee will only submit materials that the State can use in accordance with this paragraph.

VII. ASSIGNABILITY

The Grantee shall not assign this Agreement or assign or delegate any of its duties or obligations under this Agreement to any other party without the prior written consent of the State. The State does not assume responsibility regarding the contractual relationships between the Grantee and any subcontractor.

VIII. SUBCONTRACTS

The State reserves the right to deny the use of any consultant, contractor, associate, or other personnel to perform any portion of the project. The Grantee is solely responsible for all contractual activities performed under this Agreement. Further, the State will consider the Grantee to be the sole point of contact with regard to contractual matters, including payment of any and all charges resulting from the anticipated Grant. All subcontractors used by the Grantee in performing the project shall be subject to the provisions of this Agreement and shall be qualified to perform the duties required.

IX. NON-DISCRIMINATION

The Grantee shall comply with the Elliott Larsen Civil Rights Act, 1976 PA 453, as amended, MCL 37.2101 *et seq.*, the Persons with Disabilities Civil Rights Act, 1976 PA 220, as amended, MCL 37.1101 *et seq.*, and all other federal, state, and local fair employment practices and equal opportunity laws and covenants that it shall not discriminate against any employee or applicant for employment, to be employed in the performance of this Agreement, with respect to his or her hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment, because of his or her race, religion, color, national origin, age, sex, height, weight, marital status, or physical or mental disability that is unrelated to the individual's ability to perform the duties of a particular job or position. The Grantee agrees to include in every subcontract entered into for the performance of this Agreement this covenant not to discriminate in employment. A breach of this covenant is a material breach of this Agreement.

X. UNFAIR LABOR PRACTICES

The Grantee shall comply with the Employers Engaging in Unfair Labor Practices Act, 1980 PA 278, as amended, MCL 423.321 *et seq*.

XI. LIABILITY

(A) The Grantee, not the State, is responsible for all liabilities as a result of claims, judgments, or costs arising out of activities to be carried out by the Grantee under this Agreement, if the liability is caused by the Grantee, or any employee or agent of the Grantee acting within the scope of their employment or agency.

(B) Nothing in this Agreement should be construed as a waiver of any governmental immunity by the Grantee, the State, its agencies, or their employees as provided by statute or court decisions.

XII. CONFLICT OF INTEREST

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 any part of this Agreement.

XIII. ANTI-LOBBYING

If all or a portion of this Agreement is funded with federal funds, then in accordance with 2 CFR 200, as appropriate, the Grantee shall comply with the Anti-Lobbying Act, which prohibits the use of all project funds regardless of source, to engage in lobbying the state or federal government or in litigation against the State. Further, the Grantee shall require that the language of this assurance be included in the award documents of all subawards at all tiers.

If all or a portion of this Agreement is funded with state funds, then the Grantee shall not use any of the grant funds awarded in this Agreement for the purpose of lobbying as defined in the State of Michigan's lobbying statute, MCL 4.415(2). "'Lobbying' means communicating directly with an official of the executive branch of state government or an official in the legislative branch of state government for the purpose of influencing legislative or administrative action." The Grantee shall not use any of the grant funds awarded in this Agreement for the purpose of litigation against the State. Further, the Grantee shall require that language of this assurance be included in the award documents of all subawards at all tiers.

XIV. DEBARMENT AND SUSPENSION

By signing this Agreement, the Grantee certifies that it has checked the federal debarment/suspension list at www.SAM.gov to verify that its agents, and its subcontractors:

(1) Are not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any federal department or the state.

(2) Have not within a three-year period preceding this Agreement been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (federal, state, or local) transaction or contract under a public transaction, as defined in 45 CFR 1185; violation of federal or state antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.

(3) Are not presently indicted or otherwise criminally or civilly charged by a government entity (federal, state, or local) with commission of any of the offenses enumerated in subsection (2).

(4) Have not within a three-year period preceding this Agreement had one or more public transactions (federal, state, or local) terminated for cause or default.

(5) Will comply with all applicable requirements of all other state or federal laws, executive orders, regulations, and policies governing this program.

XV. AUDIT AND ACCESS TO RECORDS

The State reserves the right to conduct a programmatic and financial audit of the project, and the State may withhold payment until the audit is satisfactorily completed. The Grantee will be required to maintain all pertinent records and evidence pertaining to this Agreement, including grant and any required matching funds, in accordance with generally accepted accounting principles and other procedures specified by the State. The State or any of its duly authorized representatives must have access, upon reasonable notice, to such books, records, documents, and other evidence for the purpose of inspection, audit, and copying. The Grantee will provide proper facilities for such access and inspection. All records must be maintained for a minimum of five years after the final payment has been issued to the Grantee by the State.

XVI. INSURANCE

(A) The Grantee must maintain insurance or self-insurance that will protect it from claims that may arise from the Grantee’s actions under this Agreement.

(B) The Grantee must comply with applicable workers’ compensation laws while engaging in activities authorized under this Agreement.

XVII. OTHER SOURCES OF FUNDING

The Grantee guarantees that any claims for reimbursement made to the State under this Agreement must not be financed by any source other than the State under the terms of this Agreement. If funding is received through any other source, the Grantee agrees to delete from Grantee's billings, or to immediately refund to the State, the total amount representing such duplication of funding.

XVIII. COMPENSATION

(A) A breakdown of costs allowed under this Agreement is identified in Appendix A. The State will pay the Grantee a total amount not to exceed the amount on page 1 of this Agreement, in accordance with Appendix A, and only for expenses incurred and paid. All other costs necessary to complete the project are the sole responsibility of the Grantee.

(B) Expenses incurred by the Grantee prior to the Start Date or after the End Date of this Agreement are not allowed under the Agreement, unless otherwise specified in Appendix A.

(C) The State will approve payment requests after approval of reports and related documentation as required under this Agreement.

(D) The State reserves the right to request additional information necessary to substantiate payment requests.

(E) Payments under this Agreement may be processed by Electronic Funds Transfer (EFT). The Grantee may register to receive payments by EFT at the SIGMA Vendor Self Service web site (https://sigma.michigan.gov/webapp/PRDVSS2X1/AltSelfService).

(F) An amount equal to ten percent (10%) of the grant award will be withheld by the State until the project is completed in accordance with Section XIX, Closeout, and Appendix A.

XIX. CLOSEOUT

(A) A determination of project completion, which may include a site inspection and an audit, shall be made by the State after the Grantee has met any match obligations, satisfactorily completed the activities, and provided products and deliverables described in Appendix A.

(B) Upon issuance of final payment from the State, the Grantee releases the State of all claims against the State arising under this Agreement. Unless otherwise provided in this Agreement or by State law, final payment under this Agreement shall not constitute a waiver of the State's claims against the Grantee.

(C) The Grantee shall immediately refund to the State any payments in excess of the costs allowed by this Agreement.

XX. CANCELLATION

This Agreement may be canceled by the State, upon 30 days written notice, due to Executive Order, budgetary reduction, other lack of funding, upon request by the Grantee, or upon mutual agreement by the State and Grantee. The State may honor requests for just and equitable compensation to the Grantee for all satisfactory and eligible work completed under this Agreement up until 30 days after written notice, upon which time all outstanding reports and documents are due to the State and the State will no longer be liable to pay the grantee for any further charges to the grant.

XXI. TERMINATION

(A) This Agreement may be terminated by the State as follows.

(1) Upon 30 days written notice to the Grantee:

a. If the Grantee fails to comply with the terms and conditions of the Agreement, or with the requirements of the authorizing legislation cited on page 1, or the rules promulgated thereunder, or other applicable law or rules.
b. If the Grantee knowingly and willingly presents false information to the State for the purpose of obtaining this Agreement or any payment under this Agreement.

c. If the State finds that the Grantee, or any of the Grantee’s agents or representatives, offered or gave gratuities, favors, or gifts of monetary value to any official, employee, or agent of the State in an attempt to secure a subcontract or favorable treatment in awarding, amending, or making any determinations related to the performance of this Agreement.
d. If the Grantee or any subcontractor, manufacturer, or supplier of the Grantee appears in the register of persons engaging in unfair labor practices that is compiled by the Michigan Department of Licensing and Regulatory Affairs or its successor.
e. During the 30-day written notice period, the State shall withhold payment for any findings under subparagraphs a through d above, and the Grantee will immediately cease charging to the grant and stop earning match for the project (if applicable).

(2) Immediately and without further liability to the State if the Grantee, or any agent of the Grantee, or any agent of any subcontract is:

a. Convicted of a criminal offense incident to the application for or performance of a State, public, or private contract or subcontract;
b. Convicted of a criminal offense, including but not limited to any of the following: embezzlement, theft, forgery, bribery, falsification or destruction of records, receiving stolen property, or attempting to influence a public employee to breach the ethical conduct standards for State of Michigan employees;
c. Convicted under State or federal antitrust statutes; or
d. Convicted of any other criminal offense that, in the sole discretion of the State, reflects on the Grantee’s business integrity.
e. Added to the federal or state Suspension and Debarment list.

(B) If a grant is terminated, the State reserves the right to require the Grantee to repay all or a portion of funds received under this Agreement.

XXII. IRAN SANCTIONS ACT

By signing this Agreement, the Grantee is certifying that it is not an Iran linked business, and that its contractors are not Iran linked businesses, as defined in MCL 129.312.

XXIII. ACCESS AGREEMENTS

A voluntary access agreement or court-ordered access must be secured by the Grantee prior to performance of the scope of work described in Appendix A for any portion of the project area or property where grant activities will be undertaken and that is not owned by the Grantee. Evidence of access must be provided to the State at its request.

XXIV. GRANT ADMINISTRATION

Grant Administration costs are eligible for reimbursement in accordance with Appendix A. Grant administration costs will be limited to three percent (3%) of the total award amount.

XXV. INELIGIBLE EXPENSES

Although the following costs may be related to the scope of work described in Appendix A, the following are ineligible for reimbursement under the grant:

Office equipment; software; insurance; taxes, except sales taxes; replacement or purchase of equipment; drinking water supply replacement, defined as but is not limited to, providing bottled water, constructing a new well, and extending or constructing a water supply system; operation and maintenance of long term response and due care activities; restoration of property or infrastructure, unless included in Appendix A; fees for attorneys or legal advice except for administrative or management costs directly related to implementing the grant; grant recipient staff time for application submittal; costs for eligible activities reimbursed under the Brownfield Redevelopment Financing Act, 1996 Public Act 381, as amended (Act 381); costs incurred for activities outside a State-approved work plan; labor overtime rates; and training.

Travel costs for either vehicle use or vehicle mileage will be reimbursed, but not both. Vehicle mileage will be reimbursed at a maximum of the federal rate allowed by the Internal Revenue Service at the time the costs are incurred.

Fees, such as those incurred for state or local permits; underground storage tank registration; late fees; or other fees may be eligible at the State’s discretion. Other expenses may be determined ineligible in the course of invoice reviews.

XXVI. BIDS, CONTRACTORS

(A) For contracts for work performed under this agreement that totals $20,000 or more, the Grantee shall provide, or cause to be provided, the qualifications of the selected contractor(s) to the State. The State reserves the right to object to the selected contractor(s) or their qualifications. If the State has objections, it will inform the Grantee in writing within 30 days of receipt of the selected contractor’s qualifications.

(B) For any contract for work performed under this agreement that totals $20,000 or more, except professional services, the Grantee shall solicit, or cause to be solicited, bids from at least three qualified contractors. The way in which bids or requests for quotes (RFQs) are solicited must be done in a manner acceptable to the Grantee. The Grantee shall provide the State copies of the bid specifications, proof of bid solicitation to at least three qualified contractors, copies of all bids received, a bid tabulation, and a written contractor recommendation. If the contractor that submitted the lowest bid is not the contractor selected, the Grantee must submit written justification for the selection.

(C) Any contractor(s) retained for corrective action on regulated underground storage tanks shall be a qualified underground storage tank consultant that meets the requirements of Section 21325 of Part 213, Leaking Underground Storage Tanks of the NREPA.

(D) Any contractor(s) and professionals retained with state funds must possess appropriate qualifications, experience, licensing, and insurance for the work including but not limited to, surveying; engineering; asbestos, lead, mold, and hazardous material abatement; and transport, storage, and disposal of hazardous and non-hazardous waste.

(E) All subsurface work on contaminated properties including penetrating or disturbing the existing surfaces, work with subsurface infrastructure, monitoring wells or sewers, handling of existing soil, sediments or groundwater, or any other site activity with the reasonable potential for exposure must be conducted by personnel currently certified under HAZWOPER, MIOSHA-STD-1216 and 29 CFR 1910.120.

(F) Contractor markup on subcontractors and equipment is limited to a maximum of ten percent (10%) of the original cost, and subject to approval by the State.

XXVII. WORK PLANS AND PROJECT IMPLEMENTATION

(A) Prior to conducting any activities under the Agreement, the Grantee or its contractor shall submit a detailed work plan to the State for its approval. Work plans must include a description of the proposed activities, a budget, and a schedule for conducting the activities under Appendix A. A supplementary work plan, budget, and schedule are required for each subsequent phase of work. The Grantee and its contractor shall not proceed with grant- funded activities until the State approves the work plan, budget, and schedule in writing. The State may approve, modify and approve, or require amendments to the work plan.

(B) The Grantee or its contractor shall implement the work plan upon the State's written approval and according to the schedules contained therein. Changes or additions to the work plan may be submitted in writing and are subject to approval by the State. Changes to work plans without prior approval from the State, or performance of activities that are not part of an approved work plan or an amendment to a work plan, may result in the Grantee being responsible for payment of unapproved activities.

XXVIII. ECONOMIC DEVELOPMENT

(A) The Grant Recipient acknowledges by its signature of this Agreement that there have been no material changes in the economic development proposal, property ownership, or other conditions of the property or project since the date the grant funds were awarded.

(B) In the event the proposed development changes or is not implemented, the Grantee shall immediately notify the State in writing and shall try to secure a new development project for the property. The Grantee shall then notify the State in writing of the proposed development. The alternate development project is also subject to approval by the State.

XXIX. OTHER TERMS AND CONDITIONS

(A) The State may withhold the grant until the State determines that the Grantee is able to proceed with the project scope described in Appendix A, pursuant to Part 196, Section 19612(3), of the NREPA.

(B) Following completion of the project, the State may conduct compliance inspections to determine whether the project is being maintained for the use specified in this Agreement.

(C) The Grantee acknowledges, by signature of this Agreement, that the State is not obligated to provide additional funding beyond the Agreement amount should additional environmental costs be necessary to complete the project.

(D) If necessary to allow for completion of the project, the Grantee and State may mutually agree to extend the term of the Agreement. Agreement extensions should be requested by the Grantee or the State in writing, prior to the Agreement end date. This Agreement may only be extended by a signed agreement between both parties.

APPENDIX A

APPENDIX A

for BROWNFIELD REDEVELOPMENT GRANT / LOAN AGREEMENT

Project Details			
Project Name and Address	530 Rose Senior Housing 530 South Rose Street Kalamazoo, Michigan	**Grantee / Borrower**	City of Kalamazoo Brownfield Redevelopment Authority
Tracking Code	2023-2527	**Location Code**	6K32
Capital Investment	$20,000,000	**Jobs Created**	1.5 full time equivalent
Total Grant Funding	$350,000	**Total Loan Funding**	$0

PROJECT DESCRIPTION: The grant will be used to facilitate the redevelopment of a surface parking lot into a 5-story, 64-unit senior housing facility near downtown Kalamazoo.

Known environmental contamination includes arsenic, lead, and mercury within the top 3 feet of urban fill that was placed onsite following the demolition of prior residential structures on the property. Environmental activities needed to reuse the site include assessment to verify the extent of impacts, the demolition of the parking lot, and the transport and disposal of impacted fill material to a licensed landfill.

ANTICIPATED SCOPE OF WORK / BUDGET: The scope of work will take place within the project boundaries identified in Figure 1 and includes the following activities to facilitate the safe reuse of the property:

1. Due care including, but not limited to pre-excavation investigation, sampling, and use of ground penetrating radar; preparation of a due care compliance documentation; the transportation and disposal of contaminated soils; verification sampling; and characterization of soils being brought on site for backfill.

2. Demolition including, but not limited to demolition and removal of the existing pavement and site features.

3. To request closeout of the grant, the Grantee must provide a comprehensive grant closeout report in the format provided by EGLE. The report will include a summary of each activity completed under the grant, relevant documentation, and any outstanding deliverables.

4. During the time of the grant funded activities, the Grantee is required to install a full color, 48” by 96” grommeted vinyl sign, or equivalent, on the property displaying the Department of Environment, Great Lakes, and Energy (EGLE) logo. An image file with the sign design will be provided to the Grantee by the brownfield coordinator.

5. Grant administration including, but not limited to grant management, tracking, and reporting activities by Grantee.

6. Contingency for unanticipated conditions that may be encountered during the performance of eligible activities. Contingency will not be utilized without authorization from EGLE.

PROJECT BUDGET	
Task	**Grant**
1. Due Care	$275,500
2. Demolition*	$10,000
3. EGLE Grant Closeout Report	$5,000
4. EGLE Sign	$500
5. Grant Administration	$10,500
6. Contingency	$48,500
Total	**$350,000**

* Demolition costs (Task 3) cannot exceed the total combined cost of environmental activities (Task 2) funded by EGLE and other sources. If demolition occurs before the environmental activities, demolition reimbursement will be deferred until the environmental activity costs incurred equal or exceed the costs incurred for demolition.

In addition to the broad budget items above, the grant may be used for work plan and budget development, bid solicitation, technical specifications, oversight, project management, reporting and other task related activities approved by the EGLE brownfield coordinator. All grant-eligible work, including tasks not listed above, must be approved in advance. Work completed without an approved work plan may not be eligible for grant reimbursement.

The grant administration, and EGLE sign budgets are approved upon signature of this agreement. Prior to the start of any other grant-eligible work, a work plan must be submitted to EGLE for review and approval.

A pre-approved budget amount for work plan development is provided that includes up to $1,000 per work plan for site assessment work and up to $2,500 per work plan for all other activities. If development of a work plan is expected to cost more than the pre-approved budgets, the anticipated cost to develop the work plan must be approved by the brownfield coordinator in advance, or the excess cost will not be eligible for reimbursement. Work plan development will be paid for under the appropriate budget items listed above.

Progress reports must be submitted quarterly even if no expenses were incurred during the quarter. Progress reports must include invoices for expenses incurred during the quarter.

Project deliverables for activities paid for by the grant must be provided to EGLE throughout the course of the grant. Deliverables may include, but are not limited to, bid documentation as required by the agreement, invoices and appropriate backup documentation for reimbursement, technical reports, and summaries of activities completed under the grant (including dates, quantities, transport and/or disposal documentation, monitoring summaries, photos, logs, figures/as built drawings/site plans, data/analytical results, or other relevant documentation.) A copy of EGLE's Brownfield Grant and Loan Deliverable Guidance will be provided during the Kick-Off Meeting or can be requested at any time.

Ten percent of the grant award or amount spent will be retained by EGLE until the project is complete, including receipt of all deliverables and closeout reporting.

SCHEDULE: The grant administration and third-party environmental oversight professional tasks will be conducted during the entire length of the agreement. Work under the contingency task will be completed as necessary. Following the start of the agreement, the remaining tasks are anticipated to be conducted in the timeframes described below.

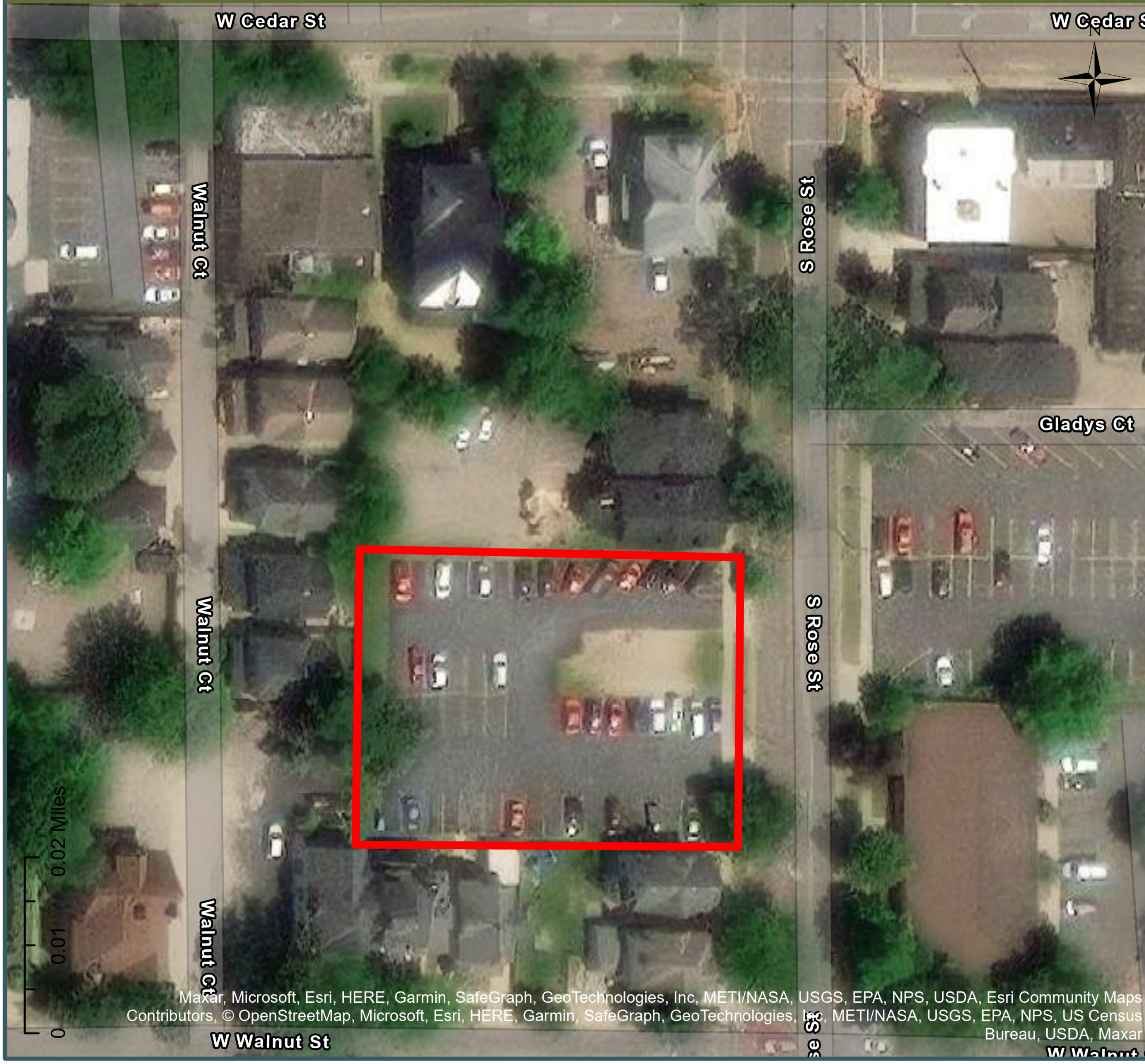
Task #	Task	Schedule (Months following signed agreement)
1	Due Care	Months 2-24
2	Demolition	Months 1-2
3	EGLE Grant Closeout Report	Month 20-24

A more detailed schedule for above tasks shall be provided by the Grantee within the project work plans.

EGLE

FIGURE 1

530 Rose Senior Housing



MICHIGAN BROWNFIELD REDEVELOPMENT PROGRAM

530 South Rose Street
Kalamazoo, Michigan 49007

Project Boundary

EGLE Remediation and Redevelopment Division, 7/5/2023