



Agenda

Regular Meeting of the City Commission

City of Kalamazoo

Monday, December 7, 2015

7:00 PM

City Commission Chambers, 241 W. South Street

A. CALL TO ORDER/ROLL CALL

B. OPENING CEREMONY

1. Invocation: **Minister Doris Hope, Galilee Baptist Church**
2. Pledge of Allegiance
3. Introduction of Guests
4. Proclamations

C. ADOPTION OF FORMAL AGENDA

D. COMMUNICATIONS

1. Calendar of Upcoming Meetings

E. PUBLIC HEARINGS

F. CONSENT AGENDA

(Action: Motion to approve Items "1-17" and authorize the City Manager to sign all documents on behalf of the City

1. Approval of a contract to purchase Waterous fire hydrants from ETNA Supply Company for an amount not to exceed \$257,050.
2. Approval of the purchase of one fully equipped IBAK brand Sewer Inspection truck from Jack Doheny Companies in the amount of \$300,886.85.
3. Approval of a contract extension for the purchase of 200 dry tons of ferric chloride from PVS Technologies in the amount of \$121,800.
4. Approval of a one-year contract extension with Rieth-Riley Construction Company for the purchase of asphalt paving materials in the amount of \$322,900.
5. Approval of a one-year contract extension with Lakeland Asphalt Corporation for the purchase of 1,500 tons of asphalt patching material in the amount of \$134,250.
6. First reading of an ordinance to regulate quadricycles.

7. Adoption of a RESOLUTION setting a public hearing for December 21, 2015 to consider the Proposed Fiscal Year 2016 Budget for the City of Kalamazoo.
8. Adoption of a RESOLUTION approving an amendment to the City of Kalamazoo's Brownfield Plan [Amended and Restated Brownfield Plan (Amendment No. 27)] implemented and recommended for approval by the City of Kalamazoo Brownfield Redevelopment Authority following a public hearing before the Brownfield Redevelopment Authority.
9. Adoption of a RESOLUTION authorizing the issuance of Tax Anticipation Notes in the amount of \$3,000,000 for fiscal year 2016.
10. Adoption of a RESOLUTION approving the transfer of \$250,000 from the Economic Initiative Fund to the City of Kalamazoo Brownfield Redevelopment Authority to assist NoMI Developers, LLC in the redevelopment of an obsolete and underutilized brownfield property at 505 & 508 North Street.
11. Adoption of a RESOLUTION recognizing the Kalamazoo Dream Center as a non-profit organization operating in the community for the purpose of obtaining a charitable gaming license.
12. Adoption of a RESOLUTION recognizing the Bronson Health Foundation as a non-profit organization operating in the community for the purpose of obtaining a charitable gaming license.
13. Approval of an amendment to the sale and purchase agreement with Kalamazoo Charter Township for a strip of land at 1720 Riverview for public right-of-way purposes.
14. Approval of the First Amendment to Purchase Agreement with JTM Management Inc. regarding the sale and purchase of Eastern Hills Golf Course.
15. Acceptance of a Wellhead Protection Grant from the Michigan Department of Environmental Quality in the amount of \$60,000 and approval of the grant agreement.
16. Approval of a request from New Year's Fest of Kalamazoo to publicly display fireworks from the Epic Center Parking Structure on Thursday, December 31, 2015 at midnight as part of the annual New Year's Fest event.
17. Approval of the minutes from the City Commission meetings on November 16, 2015.

G. REGULAR AGENDA

1. First reading of an ordinance outlining a text amendment to Sections 12.3, 3.7, 4.1 and 8.3.D. of the Zoning Ordinance to add outdoor sports/recreation lighting and noise regulations. **(Action: Offer the ordinance for first reading and schedule a public hearing for December 21, 2015)**

H. REPORTS AND LEGISLATION

1. City Manager's Report

I. UNFINISHED BUSINESS

J. POLICY ITEMS

1. Adoption of a RESOLUTION supporting the United States Environmental Protection Agency's Proposed Plan (Alternative 2D) for Clean-Up of the former Allied Site Landfill officially known as Operable Unit #1 of the Kalamazoo River/Portage Creek Superfund Site. **(Action: Motion to adopt the resolution)**

K. NEW BUSINESS

L. CITIZEN COMMENTS

M. MISCELLANEOUS COMMENTS AND CONCERNS BY COMMISSIONERS

N. CLOSED SESSION

O. ADJOURNMENT

ADDITIONAL INFORMATION

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Questions regarding agenda items may be answered prior to the meeting by contacting the City Manager's Office at 269.337.8047.

Persons with disabilities who need accommodations to effectively participate in City Commission meetings should contact the City Clerk's Office at 337-8792 a week in advance to request mobility, visual, hearing or other assistance.

Agendas for the regular meetings of the Kalamazoo City Commission are available on the Internet at: www.kalamazoocity.org

The Kalamazoo City Commission meetings are held on the first and third Mondays at 7:00 p.m. and are shown live on the Public Media Network (channel 190 for Charter customers, channel 99 for U-Verse customers). The meetings are rebroadcast on Tuesdays at 8:00 a.m., Wednesdays, at 1:00 a.m., and Thursdays at 3:00 p.m.



Commission Agenda Report

City of Kalamazoo

TO: Mayor Hopewell, Vice Mayor Cooney, and City Commissioners

FROM: Scott A. Borling, City Clerk

PREPARED BY: Shelby Moss, Deputy City Clerk

DATE: 11/20/2015

SUBJECT: Calendar of Upcoming Meetings

INFORMATIONAL ITEMS

Attached is the calendar of upcoming board, commission, and committee meetings for the period December 8th - December 21st.

ATTACHMENTS:

	Type	Description
□	Meeting Schedule	20151207 Calendar of Meetings



Calendar of Upcoming Meetings

City of Kalamazoo

City Commission (next 30 days)

Regular Business Meetings – 7:00 p.m. in the City Commission Chambers

December 21st

Regular Neighborhood Meetings – 6:00 p.m. in the Community Room at City Hall

No December Neighborhood Meeting

Special Meeting

A special meeting of the Kalamazoo City Commission will be held on Monday, December 14, 2015 at 4:00 p.m. in the Community Room at City Hall. The purpose of the special meeting will be to review the City's Proposed FY2016 Budget.

Advisory Boards, Commissions and Committees (next two weeks)

The **Kalamazoo Historic Preservation Commission** will meet on Tuesday, December 8, 2015 at 7:00 p.m., in the Community Room at City Hall.

The **Friends of Recreation Board** will meet on Thursday, December 10, 2015 at 11:30 a.m., in the Parks and Recreation Community Room at Mayors' Riverfront Park, located at 251 Mills Street.

The **Traffic Board** will meet on Thursday, December 10, 2015 at 2:00 p.m., in the Public Services Conference Room, located at 415 Stockbridge Avenue.

The **Zoning Board of Appeals** will meet on Thursday, December 10, 2015 at 7:00 p.m., in the City Commission Chambers at City Hall.

The **Kalamazoo Historic District Commission** will meet on Tuesday, December 15, 2015 at 5:00 p.m., in the Community Room at City Hall.

The **Environmental Concerns Committee** will meet on Wednesday, December 16, 2015 at 4:30 p.m., in the Community Room at City Hall.

The **Economic Development Corporation** will meet on Thursday, December 17, 2015 at 7:30 a.m., in the Community Room at City Hall. The **Brownfield Redevelopment Authority** will meet immediately following.

The **Kalamazoo Municipal Golf Association** will meet on Thursday, December 17, 2015 at 5:30 p.m., in the clubhouse at Milham Park Golf Course, located at 4200 Lovers Lane.

The **Kalamazoo Transit Authority Board** will meet on Friday, December 18, 2015 at 8:15 a.m., in the Metro Transit Board Room, located at 530 N. Rose.

The **Downtown Development Authority** will meet on Monday, December 21, 2015 at 3:00 p.m., in the Community Room at City Hall.



Commission Agenda Report

City of Kalamazoo

TO: Mayor Hopewell, Vice Mayor Cooney, and City Commissioners

FROM: James K. Ritsema, ICMA-CM, City Manager

REVIEWED BY: Sue Foune, Public Services Managing Director

PREPARED BY: Robert McClenney, Field Services Manager

DATE: 11/20/2015

SUBJECT: Purchase of Fire Hydrants

RECOMMENDATION

It is recommended that the City Commission approve a contract award to purchase Waterous fire hydrants from ETNA Supply Company of Kalamazoo, MI for an amount not to exceed \$257,050.

BACKGROUND

City staff and neighboring townships have been installing Waterous hydrants throughout the City's water distribution system since 1980 and are pleased with their quality and performance. Additionally, tool and spare parts inventories, employee training and training sessions offered to local Fire Marshals are focused around the AFC Waterous hydrant.

COMMUNITY RESOURCES CONSULTED

This recommendation did not require advisory board consultation or additional public input.

FISCAL IMPACT

Funds are available in the 2016 and 2017 Water Capital Budgets for new and replacement hydrants. Hydrants will be purchased on an as needed basis. There are no staffing impacts associated with this purchase.

ALTERNATIVES

An alternative would be to allow the installation of different styles of hydrants into the water system. This would negatively impact repair and standardization, increasing annual maintenance costs. In addition to the maintenance and standardization concerns we would have to train firefighting personnel new hydrant procedures.



Commission Agenda Report

City of Kalamazoo

TO: Mayor Hopewell, Vice Mayor Cooney, and City Commissioners

FROM: James K. Ritsema, ICMA-CM, City Manager

REVIEWED BY: Sue Foune, Public Services Managing Director

PREPARED BY: Craig Norrod, City Fleet Director

DATE: 11/20/2015

SUBJECT: Purchase of Sewer Inspection Truck

RECOMMENDATION

It is recommended that the City Commission approve the purchase of one (1) fully equipped IBAK brand Sewer Inspection truck from Jack Doheny Companies for a total expenditure of \$300,886.85.

BACKGROUND

The City of Kalamazoo Public Services Department staff reviewed equipment and solicited quotes for the purchase of (1) Sewer inspection truck to be used for preventive maintenance inspection and asset condition documentation of our current sewer system.

Research has indicated that the best price for this type of purchase could be obtained by participation in a joint purchasing agreement through the National Intergovernmental Purchasing Alliance (NIPA) in which the City of Kalamazoo is a current member. This agreement is available to all municipalities and is offered in conjunction with our local dealer, Jack Doheny Companies.

This process meets purchasing requirements and equipment specifications while allowing the City to save additional time and cost of a formal bid process. The current truck is 26 years old and becoming difficult to update. Because of an increased need for televising and documentation, the older truck will stay in use as long as it can be kept in operation.

COMMUNITY RESOURCES CONSULTED

This recommendation did not require advisory board consultation or additional public input.

FISCAL IMPACT

Funds are available within the 2015 Wastewater Capital Improvement funds for this purchase.

ALTERNATIVES

We could choose to contract this work out or not purchase this equipment at this time. This option would not be recommended. There have been several incidents involving back up that have required an immediate response

to limit our risk and the new Wastewater National Pollution Discharge Elimination System permit will require detailed assessments of the Treatment Plant and Collection system.



Commission Agenda Report

City of Kalamazoo

TO: Mayor Hopewell, Vice Mayor Cooney, and City Commissioners

FROM: James K. Ritsema, ICMA-CM, City Manager

REVIEWED BY: Sue Foune, Public Services Managing Director

PREPARED BY: Jim Cornell, Wastewater Superintendent

DATE: 11/24/2015

SUBJECT: Ferric Chloride Contract – Bid Ref. #190-55-005.4/ME

RECOMMENDATION

City Commission approval is requested to purchase 200 Dry Tons of Ferric Chloride from PVS Technologies of Detroit, Michigan. PVS Technologies agreed to hold their pricing and extend their contract at the unit price of \$609 per Ton. The extended price for 12 months is \$121,800. This contract extension will begin January 1, 2016 and expire December 31, 2016.

BACKGROUND

Phosphorus is a nutrient received regularly from several industrial dischargers and must be chemically bound or biologically absorbed to remove it from the wastewater. To meet Michigan Department of Environmental Quality (MDEQ) regulatory requirements, the Water Reclamation Plant (KWRP) and other point source dischargers have agreed to a more stringent effluent quality standard for phosphorus discharge to the Kalamazoo River. Ferric Chloride is the chemical chosen by (KWRP) staff after extensive testing and empirical evidence of its treatment capabilities.

In 2011, the Secondary Treatment Process was retrofitted to incorporate Biological Nutrient Removal along with Fine Bubble Diffusers. Biological nutrient removal has reduced the usage of chemicals for phosphorus removal. While most of the phosphorus removal is done biologically there are certain times of the year when reduced organic loadings or warm temperatures reduce the biological removal of phosphorus. Chemical treatment is essential when the biological system is overwhelmed or conditions are not favorable for biological phosphorus removal especially during the lowest Phosphorus discharge months of July, August and September.

COMMUNITY RESOURCES CONSULTED

This recommendation did not require advisory board consultation or additional public input.

FISCAL IMPACT

Funds have been budgeted for this expenditure in the Public Services 2016 budget. Approval of a contract extension with PVS Technologies presents no increase above the current supply price.

ALTERNATIVES

No alternatives have been considered.



Commission Agenda Report

City of Kalamazoo

TO: Mayor Hopewell, Vice Mayor Cooney, and City Commissioners

FROM: James K. Ritsema, ICMA-CM, City Manager

REVIEWED BY: Sue Foune, Public Services Managing Director

PREPARED BY: Robert McClenney, Field Services Manager

DATE: 11/24/2015

SUBJECT: Purchase of Asphalt Paving Materials

RECOMMENDATION

It is recommended that the City Commission approve a one year contract extension with Rieth-Riley Construction Company for the purchase of asphalt paving materials in the amount of \$322,900.

BACKGROUND

On March 1, 2012 the Purchasing Division solicited bids for asphalt paving materials. This bid provided for a one year contract with four possible contract extensions. In October 2015, Rieth- Riley Construction was asked to provide pricing for 2016. They have agreed to provide this material in 2016, at a 1.36% increase in cost.

COMMUNITY RESOURCES CONSULTED

This recommendation did not require advisory board consultation or additional public input.

FISCAL IMPACT

Funds have been budgeted within the proposed 2016 major and local street construction and operating budgets as well as within utility repair budgets for this expenditure.

ALTERNATIVES

The City could purchase asphalt manufacturing equipment and supplies to produce their own paving materials. However, purchasing this type of equipment and training employees in the specific skills necessary to successfully manufacture this material would result in an initial investment of approximately \$2,832,500. Therefore, this alternative would not be recommended.



Commission Agenda Report

City of Kalamazoo

TO: Mayor Hopewell, Vice Mayor Cooney, and City Commissioners

FROM: James K. Ritsema, ICMA-CM, City Manager

REVIEWED BY: Sue Foune, Public Services Managing Director

PREPARED BY: Robert McClenney, Field Services Manager

DATE: 11/24/2015

SUBJECT: Purchase of Asphalt Patching Materials

RECOMMENDATION

It is recommended that the City Commission approve a one (1) year contract extension with Lakeland Asphalt Corporation for the purchase of 1,500 tons of asphalt patching material in the amount of \$134,250.

BACKGROUND

For the past several years, the Public Services Department has purchased a particular asphalt patching product from various vendors. This product has been known industry wide as the **premiere** product for patching potholes in terms of ease of application and longevity. This material is also used to repair utility cuts during the winter months when permanent material is not available. It has proven to be an effective material to maintain our roadways, particularly through the snow and ice season.

On November 20, 2012, the Purchasing Division solicited bids for the purchase of Asphalt Patching Materials. This bid provided for a one year contract with four possible contract extensions. This will represent our third contract extension. In October 2015, Lakeland Asphalt Corporation was asked to provide pricing for 2016. They have agreed to provide this material in 2016 at \$89.50 per ton which is a 2.88% increase compared to 2015 pricing of \$87.00 per ton.

COMMUNITY RESOURCES CONSULTED

This recommendation did not require advisory board consultation or additional public input.

FISCAL IMPACT

Funds were included within the various Major and Local Street repair budgets for this purchase.

ALTERNATIVES

The City could choose not to enter into this contract; rebid the contract; or experiment with another unproven material. However, once the snow and ice season has arrived, it will be imperative that reliable materials are available to repair roadways damaged throughout the freeze/thaw cycles experienced in our area as well as temporarily repairing utility cuts.



Commission Agenda Report

City of Kalamazoo

TO: Mayor Hopewell, Vice Mayor Cooney, and City Commissioners

FROM: Clyde J. Robinson, City Attorney

DATE: 11/25/2015

SUBJECT: Ordinance to regulate quadricycles.

RECOMMENDATION

It is recommended It is recommended that the City Commission adopt an ordinance to regulate quadricycles.

BACKGROUND

July of this year, the Legislature enacted two measures (PA 126 and PA127) amending the Michigan Vehicle Code, Public Act 300 of 1949 to permit the operation of "commercial quadricycles" on public streets and to permit local regulation of this form of vehicular transportation.

As defined, a "quadricycle" is a 4-wheeled vehicle that seats at least 6 people who provide power to move the vehicle by pedaling in a manner similar to that of a bicycle. This form of transportation has appeared in several other Michigan cities, Grand Rapids, Holland, and Traverse City to name but a few. They are sometimes referred to as pedicabs or peddle cabs. With the clarification in State law, at least 2 operators of proposed quadricycles have approached the City about operating these vehicles next summer in downtown Kalamazoo.

The proposed ordinance is patterned after those in Grand Rapids, Holland and Bay City, and has been drafted so as to comply with Public Acts 126 and 127 of 2015. The proposed ordinance modifies several definitions of Chapter 37, Vehicles for Hire, to include quadricycles and adds Article VI to Chapter 37 to set forth a system of permitting and set standards for operation of commercial quadricycles.

While State law permits the possession and use of alcoholic liquor by quadricycle passengers, it also permits its prohibition by local ordinance. The proposed ordinance prohibits the possession of open alcoholic beverages by quadricycle passengers.

COMMUNITY RESOURCES CONSULTED

Input has been received from DKI, Planning, Engineering and the City Clerk.

FISCAL IMPACT

The City will collect modest fees to cover the cost of the permitting process.

ALTERNATIVES

The City Commission could choose to reject the changes or defer action on the proposed changes. This is not

recommended as it would leave the area unregulated and at least proposed operator has indicated that she needs some lead time to order the vehicle she plans to use from overseas.

ATTACHMENTS:

Type	Description
Ordinances	Quadricycle Ordinance

CITY OF KALAMAZOO, MICHIGAN

ORDINANCE NO. _____

AN ORDINANCE TO REGULATE COMMERCIAL QUADRICYCLES

THE CITY OF KALAMAZOO ORDAINS:

Section 1. Chapter 37, "Vehicles for Hire" of the Kalamazoo City Code is amended, to add definitions to Section 37-1 and add Article VI, comprised of Sections 37-116 through 37-128 to provide for the regulation of commercial quadricycles as follows:

"Sec. 37-1 Definitions

OPERATING PERMIT-- A written permit issued by the City Clerk authorizing a person to operate a quadricycle on City streets.

OWNER-- Any person, firm, partnership, or corporation that either owns, is the lessee of, or is the purchaser under a contract, of a motor vehicle or quadricycle which is used as a vehicle for hire under the provisions of this chapter.

QUADRICYCLE-- A vehicle that has fully operative pedals for propulsion entirely by human power; has at least 4 wheels and is operated in a manner similar to a bicycle; has at least 6 seats for passengers; is designed to be occupied by a driver and powered either by passengers providing pedal power to the drive train of the vehicle or by a motor capable of propelling the vehicle in the absence of human power; is used for commercial purposes; and is driven by the owner of the vehicle or an employee of the owner of the vehicle.

QUADRICYCLE DRIVER-- A person who drives a quadricycle upon public streets and highways.

VEHICLE FOR HIRE-- Includes quadricycles and any motor driven vehicles used for the transportation for hire of passengers and shall include taxicabs and van service vehicles.

**ARTICLE VI
Commercial Quadricycles**

Sec. 37-116 Purpose

The transportation of persons by means of quadricycles is a matter affecting the public interest. The public interest requires that quadricycle drivers be properly qualified, that quadricycles be fit for their intended purpose, and that the safety and welfare of both quadricycle passengers and other persons and vehicles using public streets be protected.

Sec. 37-117 Operating Permit Required; Compliance

No person who owns or controls a quadricycle shall permit it to be driven or otherwise operated upon the streets and highways of the City without securing from the City Clerk an operating permit and City-issued decal for each quadricycle. Quadricycles shall be driven and operated in compliance with all of the requirements of this article.

Sec. 37-118 Operating Permit Application

A. The City Clerk is responsible for issuing operating permits and decals for quadricycles. Every owner of a quadricycle desiring to obtain an operating permit is required to make written application to the City Clerk, which shall be accompanied by the fee established by resolution of the City Commission. An applicant shall truthfully and fully provide the following information requested on the application:

- (1) The applicant's full name, business address, email address and phone number;
- (2) The name of the business entity under which the applicant will be operating;
- (3) The names and residence address of all shareholders, members, or partners of the entity applying for an operating permit;
- (4) A copy of the applicant's Michigan driver's license and number;
- (5) A certificate of insurance satisfying the requirements of MCL 257.518a, which shall name the City of Kalamazoo and its officers and officials as additional insureds;
- (6) A map of the City showing proposed routes, stands and pickup points;
- (7) A list of the applicant's authorized quadricycle drivers, including name, address, date of birth, driver's license number, and documentation that the driver has completed the required quadricycle drivers' training program established by this article and otherwise meets the requirements of this article;
- (8) A description of each quadricycle intended to be used by the applicant, including trade name, number of seats, serial number, if any, and body style; and
- (9) Such other information as the City Clerk may require.

B. If the applicant is a corporation, limited liability company, partnership, or other such business entity, the person who will be acting as principal in charge of the business to be licensed shall sign the application and all owners of the business entity shall meet all the requirements for individual applicants.

C. If after the issuance of an operating permit a quadricycle owner desires that a person drive a quadricycle and such person was not listed in the application described above, the owner shall submit such required driver information to the City Clerk before such person is permitted to drive a quadricycle upon the streets and highways of the City.

D. An owner shall not permit a driver to operate a quadricycle upon the streets and highways of the City who falls out of compliance with the requirements of this article.

Sec. 37-119 Review of Application

A. Upon filing of the application for an operating permit, the City Clerk shall review and evaluate the application. In determining whether an operating permit should be issued, the City Clerk shall evaluate whether the application is complete, and whether the applicant has violated 2 or more provisions of this article within the past year. Any driver with 3 or more points on their driving record or who is registered as a sex offender in this or another State shall be ineligible to operate a quadricycle. Any application that does not include all the information required by this article, is not supported by the materials required by this article, or if the application has 2 or more violations of this article in the past year, shall result in the denial of an operating permit.

B. Before the issuance of an operating permit by the City Clerk, the Department of Public Safety shall inspect each quadricycle proposed to be used by the applicant and notify the City Clerk whether it satisfies the requirements of this article.

C. If an operating permit is not approved, the applicant may file an appeal as provided in this article.

D. The City Clerk shall approve, deny or approve with conditions an application which is complete for an operating permit within 42 days of its being filed.

Sec. 37-120 Vehicle Regulations

A. Prior to their operation on a public street, each quadricycle shall be inspected by the Department of Public Safety. All quadricycles must be constructed for and have the structural integrity necessary to support its operation. Each quadricycle must be equipped with the following:

- (1) Front and rear turn signals;
- (2) A headlight capable of emitting a white light visible from a distance of at least 500 feet to the front;
- (3) A red reflector on the rear that shall be visible from all distances from 100 feet to 600 feet to the rear when directly in front of lawful lower beams of head lamps on a motor vehicle which may be supplemented by a taillight capable of emitting a red light visible from a distance of 500 to the rear;
- (4) Rearview mirror;
- (5) A bell or horn;
- (6) Seatbelts for passengers;
- (7) Reflectors placed on each wheel and at each corner of the body of the quadricycle;
- (8) A proper braking system that enables the driver to bring the quadricycle to a controlled stop; and
- (9) Any other equipment required to comply with all applicable federal and state laws.
- (10) A quadricycle must not have any cracks, broken or missing parts, or other visible damage. All wheels must be firmly attached to the hub of a vehicle and all springs, axles, and supporting structures of each quadricycle must be intact.

B. Prior to the operation of any quadricycle and at the beginning of each shift or each day of operation, the driver shall thoroughly inspect the quadricycle for safe operating conditions, and shall maintain records of such inspection, which shall be provided to the City upon request. For any condition found, then or at any other time that will prevent the safe operation of the quadricycle, or noncompliance with this article, the driver shall immediately remove the quadricycle from service and correct the condition before the quadricycle is returned to operating service.

C. Each quadricycle owner shall prepare a training program for its drivers, which shall cover, at a minimum, safe operation of quadricycles, customer service policies and requirements of this article. The owner shall make the training program materials available to the City at its request.

D. If a quadricycle is involved in an accident or collision, the driver shall immediately notify the quadricycle owner and the Department of Public Safety and remain at the scene until the police investigate the accident or collision.

Sec. 37-121 Decal Required

A. Before allowing a quadricycle to be operated for hire, the owner shall obtain a City-issued decal. Upon issuance of an operating permit, the City Clerk shall issue a decal to be affixed upon each quadricycle intended to be operated in the City by the applicant. The decal form shall be prescribed by the City and contain a unique nontransferable quadricycle registration number.

B. It is unlawful for any owner to lease, rent or allow a quadricycle to be operated for hire without first having obtained a decal issued by the City and affixing the decal to the quadricycle in a manner prescribed by the City.

Sec. 37-122 Validity of Operating Permit

A. Operating permits shall expire on January 31 of each year.

B. The holder of an operating permit shall be entitled to renewal of the operating permit, upon payment of the annual fee established by the City Commission and submission of any changes in information required under Section 37-118 and if there have been not more than one violation of this article in the past year.

C. Operating permits shall immediately become invalid if any of the information provided to obtain the permit is determined to be false when it was submitted, the City-issued decal is defaced, altered, forged or counterfeited, or the quadricycle does not comply with the regulations set forth at Section 37-120.

Sec. 37-123 Permit Fee

The City Clerk shall charge a nonrefundable fee to applicants to recover the cost of activities associated with the administration, regulation, and issuance of decals and

operating permits. The fee shall be determined from time to time by resolution of the City Commission.

Sec. 37-124 Operating Regulations

A. No person under the age of 18 shall operate a quadricycle.

B. No person shall drive a quadricycle unless the person has a currently valid driver's license and displays an identification badge provided by the owner. Each badge must contain the driver's name and a recent photograph of the driver.

C. No person shall operate, or cause to be driven, a quadricycle in an unsafe condition.

D. All quadricycle drivers are subject to and shall obey all applicable traffic safety laws, rules and regulations of the City of Kalamazoo and State of Michigan.

E. A quadricycle should not be driven at a speed of more than 25 miles per hour and shall not be driven on a highway or street with a speed limit of more than 45 miles per hour except for the purpose of crossing that highway or street.

F. A quadricycle shall not be driven on any street or highway under the jurisdiction of the State transportation department if so prohibited.

G. A quadricycle shall not be driven on sidewalks or on a trail intended for the use of pedestrians and non-motorized vehicles.

H. Quadricycles are not permitted to park on streets, highways or a thoroughfare, except as follows:

(1) Any portion of a street so designated for the parking as a "quadricycle stand" by the Traffic Engineer.

(2) In a legal parking space, provided that the fee for occupying said space is paid, if applicable.

(3) A single quadricycle may park temporarily at the curb only as long as necessary for passengers to board and exit the vehicle.

(4) In all cases, quadricycle shall be parked in a location that does not impede other pedestrian or vehicular traffic.

H. No person shall use or allow any quadricycle to be used, for any illegal purpose. No person shall use or permit or allow any quadricycle to be used in, or to aid or abet, any unlawful act.

I. No person shall operate or knowingly permit any other person to drive a quadricycle under the influence of intoxicating liquor or any controlled substance or intoxicating substance, or any combination of intoxicating liquor, controlled substance or intoxicating substance.

J. No person shall drive a quadricycle when the number of passengers exceeds the number of available seats. No person shall operate a quadricycle unless all passengers are seated in a seat designated for that purpose and using the seat belt provided. Infant car seats are not be permitted to be used on a quadricycle.

K. Each quadricycle owner shall adopt and operate a system for the collection, storage, and return of personal property left in a quadricycle.

L. No person shall consume, or possess in a container which is open, uncapped or upon which the seal was broken, any alcoholic beverage within or on a quadricycle.

M. All beverages consumed by quadricycle passengers shall be contained in metallic or plastic containers.

N. A quadricycle driver shall at all times keep each quadricycle clean and free of refuse and in safe operating condition.

Sec. 37-125 Preliminary Breath Test

A Public Safety Department officer who has reasonable cause to believe that a person is or was driving a quadricycle upon a public highway or other place open to the public or generally accessible to a quadricycle, including an area designated for the parking of vehicles, and that the person by the consumption of alcoholic liquor may have affected his or her ability to drive a quadricycle, they may require the person to submit to a preliminary chemical breath analysis. A quadricycle driver's refusal to take or failure to properly take a plenary chemical breath analysis as required by this section is a violation of this article and may result in the revocation or suspension of the owners' operating permit.

Sec. 37-126 Suspension or Revocation of Operating Permit

An operating permit may be denied, suspended or revoked by the City Clerk based upon any of the following grounds:

- (1) The owner or driver of a quadricycle fails or has failed to comply with any provision of this article.
- (2) The owner or driver of a quadricycle has been convicted of any felony involving force or violence; any reckless driving or driving under the influence offense; or any crime reasonably related to the qualifications, functions or duties of the past-due transport business or the ability of the quadricycle owner or driver to safely transport passengers; unless 5 years has elapsed from the successful completion of the sentence for any such conviction.
- (3) A quadricycle driver has been convicted of a crime that requires registration under the Michigan Penal Code as a sex offender.
- (4) A quadricycle driver or owner has knowingly made a false statement of material fact, or knowingly fail to state a material fact in the application process for the operating permit.
- (5) A quadricycle driver's ability to drive lawfully in Michigan or any other state is currently expired, suspended or revoked.

(6) A quadricycle driver has engaged in activity that, in the judgment of the City Clerk, constitutes a serious threat to the public health, safety or welfare. Such threat may be indicated by but is not limited to:

- (i) An arrest for driving under the influence of alcohol, a controlled substance or intoxicating substance while operating a quadricycle;
- (ii) An arrest for a crime that, if convicted, would require registration as a sex offender, and where a quadricycle was used in the planning of, perpetration of, or fleeing from the offense;
- (iii) A report from a law enforcement agency that a quadricycle driver was involved in an accident involving a quadricycle where the quadricycle passengers were injured.

Sec 37-127 Notification of Denial, Suspension or Revocation; Hearing.

A. An operating permit may be denied, suspended or revoked by the City Clerk for cause as defined by this article. Notice of the denial, suspension or revocation shall be served upon the operating permit holder by personal service or first class prepaid mail. The holder of an operating permit or a person who has been denied an operating permit may request a hearing within 10 days after service of the denial, suspension or revocation. Any hearing shall be scheduled to be held by the City Manager or the City Manager's designee. Depending upon the necessity for prompt action, the hearing shall be held in accordance with one of the following provisions:

(1) If there is no immediate threat to the public health, safety or welfare, the hearing shall be held to determine whether the operating permit should be denied, suspended or revoked. The holder or seeker of an operating permit shall be notified of the time, date and place of the hearing and shall be notified of the reason or reasons for the proposed denial, suspension or revocation. The operating permit holder, or seeker of an operating permit shall be entitled to be represented by counsel, to submit evidence, to cross-examine witnesses and to make arguments concerning the factual and legal issues.

(2) If there is an immediate threat to the public health, safety or welfare, the operating permit may be suspended prior to the hearing. If an operating permit is suspended prior to the hearing, the hearing shall be commenced as soon as practical but in no case more than 10 days after the request for hearing. The hearing shall be held to determine whether to terminate or extend the suspension, or whether the suspension should be converted into a revocation of the operating permit. The holder of the operating permit shall be notified of the time, date and place for hearing and shall be notified of the reason or reasons for the already imposed suspension and for any contemplated future action. The operating permit holder shall be entirely be represented by counsel, to submit evidence, to cross-examine witnesses and to make arguments on factual and legal issues.

B. In any hearing held pursuant to the provisions of this article, the rules of evidence shall be followed as far as practicable, but a hearing officer may admit and give probative effect to evidence of a type commonly relied upon a reasonably prudent

people in the conduct of their affairs. Irrelevant, immaterial, or unduly repetitious evidence may be excluded. Notice may be taken of facts within the general knowledge of the community. A record of the hearing shall be maintained by the hearing officer.

C. The hearing officer shall render a written decision stating the reasons for the decision. The decision of the hearing officer shall be final.

Sec. 37-128 Violation is a Civil Infraction

Any violation of this article is a municipal civil infraction punishable by a fine of up to \$200.”

Section 2. Repealer.

All former ordinances or parts of ordinances conflicting or inconsistent with the provisions of this ordinance are repealed.

Section 3. Severability.

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, said portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance.

Section 4. Effective Date.

Pursuant to Section 13(a) of the City Charter, this ordinance shall take effect from and after 10 days from the date of its passage.

CERTIFICATE

The foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Kalamazoo at a regular meeting held on December 7, 2015. Public notice was given and the meeting was conducted in full compliance with the Open Meetings Act, (PA 267,1976). Minutes of the meeting will be available as required by the Act, and the ordinance was duly recorded, posted and authenticated by the Mayor and City Clerk as required by the Charter of said City.

Bobby J. Hopewell, Mayor

Scott Borling, City Clerk



Commission Agenda Report

City of Kalamazoo

TO: Mayor Hopewell, Vice Mayor Cooney, and City Commissioners

FROM: James K. Ritsema, ICMA-CM, City Manager

PREPARED BY: Thomas C. Skrobola, Director of Management Service/Chief Financial Officer

DATE: 12/2/2015

SUBJECT: Setting a Public Hearing for the Proposed FY 2016 Budget

RECOMMENDATION

It is recommended that the City Commission adopt the attached resolution setting a public hearing to consider the Proposed Fiscal Year 2016 Budget for the City of Kalamazoo. This resolution provides notice of a public hearing to be held on December 21, 2015 regarding the proposed City of Kalamazoo FY 2016 Budget.

BACKGROUND

Each year a resolution must be adopted to provide notice of a public hearing to be held prior to adoption of the budget. The hearing must take place prior to adoption of the budget and publication of a notice of said hearing must be published at least six (6) days prior to the hearing.

The attached resolution regarding the budget hearing provides for the hearing to take place at or after 7 p.m., local time, on December 21, 2015. The final budget actions by the City Commission are also scheduled for January 19, 2016 and include the adoption of a General Appropriation Resolution for the Year of 2016 setting property tax millage rates, the final appropriations to be adopted by the City Commission for each fund and operation within the City, and other related actions such as resolutions regarding fee increases.

COMMUNITY RESOURCES CONSULTED

No community resources were consulted.

FISCAL IMPACT

There is no fiscal impact to this action.

ALTERNATIVES

There is no alternative to holding a public hearing as charter and state law requires this process. A notice to the public is required in order to hold the mandatory public hearing prior to the adoption of the FY 2016 Budget.

ATTACHMENTS:

Type	Description
□	Resolution Resolution to Set Public Hearing for the Proposed FY 2016 Budget

CITY OF KALAMAZOO, MICHIGAN

RESOLUTION NO. _____

**A RESOLUTION SETTING A PUBLIC HEARING TO CONSIDER THE PROPOSED
FISCAL YEAR 2014 BUDGET FOR THE CITY OF KALAMAZOO**

WHEREAS, Article 7, Section 32 of the 1963 Constitution of the State of Michigan requires the holding of a hearing on any budget of local units empowered to prepare budgets of estimated expenditures and revenues; and

WHEREAS, MCL 141.412 requires that a notice of such hearing be given by publication in a newspaper of general circulation at least six (6) days prior to such hearing; and

WHEREAS, Public Act #40 of 1995 provides that in order to avoid the necessity of holding a truth in taxation hearing, that a municipality must include a statement in its budget hearing notice that the property tax millage rate proposed to be levied to support the proposed budget will be a subject of this hearing; and

NOW, THEREFORE, BE IT HEREBY RESOLVED that a hearing will be held on the proposed 2016 Budget for the City of Kalamazoo by the City Commission in the City Commission Chambers, Second Floor of City Hall, 241 West South Street, Kalamazoo, Michigan, on or after 7 p.m., local time, on December 21, 2015, and notice of said hearing shall be published at least six (6) days prior to said hearing in the following form:

CITY OF KALAMAZOO, MICHIGAN
NOTICE OF BUDGET HEARING

Notice is hereby given that the City Commission of the City of Kalamazoo will conduct a public hearing on the proposed 2016 Budget of said city in the City Commission Chambers, Second Floor of City Hall, 241 West South Street, Kalamazoo, Michigan, on December 21, 2015 on or after 7 p.m., local time, and that a copy of the said budget is available for inspection at the office of the City Clerk and on the City of Kalamazoo's website, www.kalamazoocity.org. The property tax millage rate proposed to be levied to support the proposed budget will be a subject of this hearing.

The above resolution was offered by _____
and supported by _____.

AYES,

NAYS,

ABSTAIN,

RESOLUTION DECLARED ADOPTED.

CERTIFICATE

The forgoing is a true and complete copy of a resolution adopted by the City Commission of the City of Kalamazoo at a regular meeting held on . Public notice was given and the meeting was conducted in full compliant with the Michigan Open Meetings Act (PA 267,1976). Minutes of the meeting will be available as required by the Act.

Scott Borling, City Clerk



Commission Agenda Report

City of Kalamazoo

TO: Mayor Hopewell, Vice Mayor Cooney, and City Commissioners

FROM: James K. Ritsema, ICMA-CM, City Manager

REVIEWED BY: Jerome R. Kisscorni, Asst. City Manager/Economic Development Director

PREPARED BY: Jerome R. Kisscorni, Asst. City Manager/Economic Development Director

DATE: 11/26/2015

SUBJECT: Resolution Adopting and Approving the Amended and Restated Brownfield Plan (Amendment No. 27) Implemented by the City of Kalamazoo Brownfield Redevelopment Authority.

RECOMMENDATION

It is recommended that the City Commission adopt a resolution approving an amendment to the City of Kalamazoo's Brownfield Plan [Amended and Restated Brownfield Plan (Amendment No. 27)] implemented and recommended for approval by the City of Kalamazoo Brownfield Redevelopment Authority following a public hearing before the Brownfield Redevelopment Authority.

BACKGROUND

Periodically, the Brownfield Redevelopment Authority (BRA) requests that the City Commission adopt an amendment to the then current Brownfield Plan. The current version of the plan is Amended and Restated Brownfield Plan (Amendment No. 26). The Brownfield Redevelopment Authority is recommending the adoption of Amended and Restated Brownfield Plan (Amendment No. 27).

The particulars of Plan Amendment 27 consist of the addition of three chapters, amendment of one chapter, and Amendment of the City Administrative and Financial Services Information Table and are summarized in the attached Summary of Significant Changes. The added chapters reflect privately-owned property, owned by 216/220 WM, LLC (216 & 220 West Michigan Ave), Jim Gilmore, Jr. Foundation (162 East Michigan Ave) and 400 Bryant, LLC (400 Bryant St), respectively. The amended chapter (108 East Michigan Ave) reflects changes associated with an increase in the project investment from \$3 million to \$3.4 million, an increase in the cost of estimated eligible activities from \$440,000 to \$650,000 and changes associated with an increased estimated tax increment revenue capture amount from \$35,179 to \$54,301. The revision of the City Administrative and Financial Services Information Table corrects various addresses, parcel numbers and Industrial Facilities Tax (IFT) accounts that routinely change over time.

In order to comply with the requirements of Act 381, additions and revisions to the chapters for these properties as allowed in Plan Amendment 27 are necessary.

As required under Act 381, the BRA held a public hearing on Plan Amendment 27 on November 19, 2015. The resolution adopted by the BRA is attached.

COMMUNITY RESOURCES CONSULTED

Other than the public hearing process, no additional community resources were consulted.

FISCAL IMPACT

Tax increment revenues will reimburse the city, BRA or the owner of the property for eligible activities each incurred. City staff and the BRA continue to monitor the Plan and legislative amendments to maximize tax increment revenues so that eligible activities and applicable administrative fees are reimbursed to the extent possible, and the BRA collects the additional five years of such revenues as allowed under Act 381. These additional revenues will allow the BRA to leverage such funds for future redevelopments.

ALTERNATIVES

The City Commission may decline to adopt the resolution approving Plan Amendment 27. This action is not recommended because the proposed amendment is in keeping with the overall administration of the Brownfield Redevelopment Initiative.

ATTACHMENTS:

Type	Description
□	Resolution City Commission Resolution
□	Resolution BRA Resolution
□	Summary of Significant Changes
□	Summary of Changes

CITY OF KALAMAZOO, MICHIGAN

RESOLUTION NO. _____

**A RESOLUTION ADOPTING AND APPROVING THE CITY OF KALAMAZOO'S
AMENDED AND RESTATED BROWNFIELD PLAN (AMENDMENT NO. 27)**

Minutes of a regular meeting of the City Commission of the City held on December 7, 2015, at 7:00 p.m., local time, at the City Hall.

PRESENT:

ABSENT:

The following resolution was offered by Commissioner _____ and seconded by Commissioner _____.

RECITALS:

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

B. The Authority and the City have previously implemented, approved and amended the City of Kalamazoo Brownfield Plan (the "Plan") under Act 381; and

C. On November 19, 2015, the Authority held a public hearing as required under Act 381 and approved the implementation of the Amended and Restated Brownfield Plan (Amendment No. 27) ("Plan Amendment 27"), which adds three chapters, revises one chapter and revises the City Administrative and Financial Services Information Table; and

D. The City Commission finds that notice of the public hearing was given to all taxing authorities levying ad valorem or specific taxes against any property affected by Plan Amendment 27, and was also given by publication, in accordance with the requirements of Act 381; and

E. Following the public hearing, the Authority adopted a resolution recommending that the City Commission approve Plan Amendment 27; and

F. The City Commission has reviewed such resolution and Plan Amendment 27, and finds that such amendment constitutes a public purpose in that:

1. The three added chapters consists of privately-owned property owned by 216/220 WM, LLC, Jim Gilmore, Jr. Foundation and 400 Bryant, LLC, respectively. The amended chapter reflects changes associated with an increase in the project investment, an increase in the cost of estimated eligible activities and changes associated with an increased estimated tax increment revenue capture amount.

The revision of the City Administrative and Financial Services Information Table corrects various addresses, parcel numbers and Industrial Facilities Tax (IFT) accounts that routinely change over time.

2. In order to comply with the requirements of Act 381, the additions and revisions to the chapters for these properties as allowed in Plan Amendment 27 are necessary, and
3. Plan Amendment 27 otherwise meets all requirements of Section 13 of Act 381.

THEREFORE IT IS RESOLVED THAT:

The City of Kalamazoo's Amended and Restated Brownfield Plan (Amendment No. 27), as implemented by the City of Kalamazoo Brownfield Redevelopment Authority, is hereby adopted and approved.

AYES:

NAYS:

ABSTAIN:

RESOLUTION DECLARED ADOPTED.

CERTIFICATE

The foregoing is a true and complete copy of a resolution adopted by the City Commission of the City of Kalamazoo at a regular meeting held on December 7, 2015. 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.

Scott A. Borling
City Clerk

**CITY OF KALAMAZOO
BROWNFIELD REDEVELOPMENT AUTHORITY**

**A RESOLUTION APPROVING THE IMPLEMENTATION OF
CITY OF KALAMAZOO'S AMENDED AND RESTATED
BROWNFIELD PLAN (AMENDMENT NO. 27) AND
RECOMMENDING ADOPTION BY THE CITY COMMISSION**

Minutes of a regular meeting of the City of Kalamazoo Brownfield Redevelopment Authority held on November 19, 2015, at 7:30 a.m., local time, at the Community Room of City Hall, 241 West South Street, Kalamazoo, Michigan.

PRESENT: Nathan Bolton, Fritz Brown, Kevan Hess, Bob Miller, Patti Owens, Doug Phillips, Thomas Schlueter

ABSENT: James Escamilla, John MacKenzie, Nancy Troff

The following resolution was offered by Chair Thomas Schlueter.

RECITALS:

- A. The City has created the City of Kalamazoo Brownfield Redevelopment Authority (the "Authority"), pursuant to the provisions of Act 381, Public Acts of Michigan, 1996, as amended ("Act 381").
- B. The Authority and the City have previously implemented, approved and amended the City of Kalamazoo Brownfield Plan (the "Plan"), pursuant to the provisions of Act 381.
- C. The Authority has implemented the Amended and Restated Plan (Amendment No. 27) ("Plan Amendment 27"), which adds three chapters, revises one chapter and amends the City Administrative and Financial Services Information Table of the Plan, pursuant to the provisions of 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 Plan Amendment 27.
- E. A public hearing was held by the Authority on November 19, 2015, on Plan Amendment 27; notice of the public hearing was given to all taxing authorities levying ad valorem or specific taxes against any property affected by Plan Amendment 27, and was also given by publication, in accordance with the requirements of Act 381.
- F. Following the public hearing on Plan Amendment 27, 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 Plan Amendment 27 constitutes a public purpose in that:

- a. It meets all requirements of Section 13 of Act 381,
- b. The proposed method of financing the costs of eligible activities of Plan Amendment 27 is feasible, and the Authority has the ability to arrange the necessary financing,
- c. The costs of the eligible activities proposed by such amendment are reasonable and necessary to carry out the purposes of Act 381, and
- d. The amount of captured taxable value estimated to result from Plan Amendment 27 is reasonable.

THEREFORE IT IS RESOLVED THAT:

The City of Kalamazoo Brownfield Redevelopment Authority approves the implementation of the Amended and Restated Plan (Amendment No. 27) and recommends the City Commission adopt a resolution approving such amendment to the Plan.

AYES: All

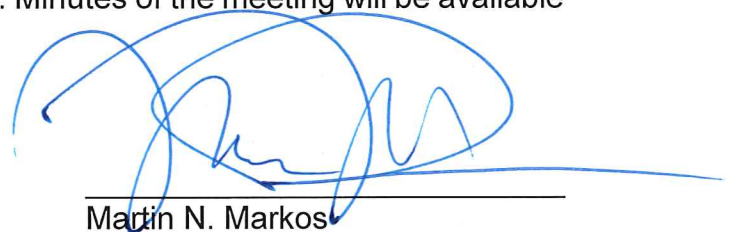
NAYS: None

ABSTAIN: N/A

RESOLUTION DECLARED ADOPTED.

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 November 19, 2015. 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.



Martin N. Markos
Recording Secretary

**Summary of Significant Changes
27th Amended and Restated Brownfield Plan
Fall 2015**

- 1) Add Chapter 60) 216 and 220 West Michigan Avenue**
 - Basis of Eligibility: Functional Obsolescence
 - Parcel Addresses: 216 and 220 West Michigan Avenue
 - Estimate of Eligible Activities: \$250,000
 - Estimate of Potential Redevelopment Investment: \$1.975 Million
 - Jobs Created: Approximately 5 Full Time Equivalents
 - Mixed-use Development Including Residential and Office Space

- 2) Add Chapter 61) 162 East Michigan Avenue**
 - Basis of Eligibility: Functional Obsolescence
 - Parcel Addresses: 162 East Michigan Avenue
 - Estimate of Eligible Activities: \$424,000
 - Estimate of Potential Redevelopment Investment: \$2.8 million
 - Jobs Created/Retained: Approximately 2/2 Full Time Equivalents
 - Mixed-use Development Including Retail and/or Office Space on the First Floor and Residential Units on the Upper Two Floors.

- 3) Add Chapter 62) 400 Bryant Street**
 - Basis of Eligibility: Facility Status
 - Parcel Addresses: 400 Bryant Street
 - Estimate of Eligible Activities: \$1,851,992
 - Estimate of Potential Redevelopment Investment: \$7.14 million
 - Jobs Created: Up to 160

- 4) Amend Chapter 58) 108 East Michigan Avenue**
 - Basis of Eligibility: Functional Obsolescence
 - Parcel Addresses: 108 East Michigan Avenue.
 - Estimate of Eligible Activities: Up to \$650,000
 - Estimate of Potential Redevelopment Investment: \$3.4 Million
 - Jobs Created: 50

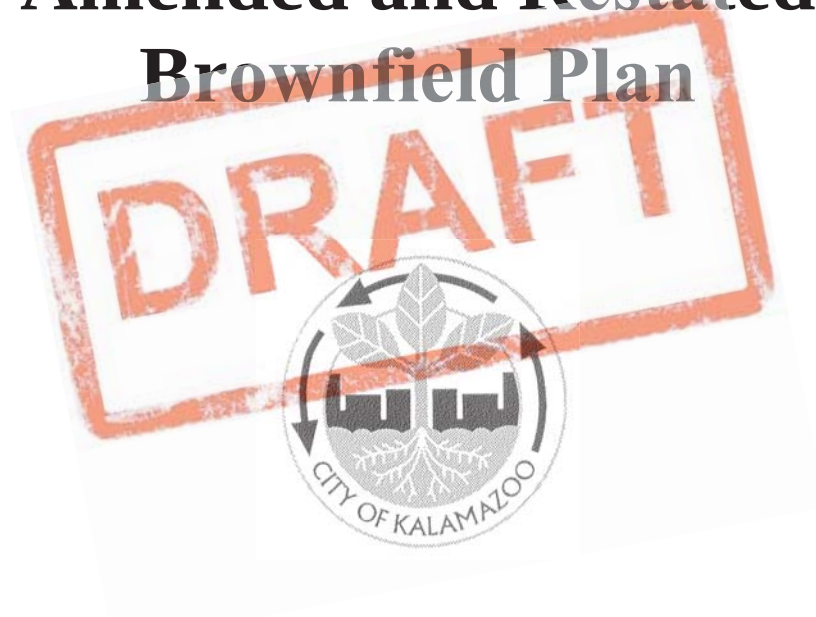
This amended chapter reflects an increase in the project investment from \$3 million to 3.4 million and an increase in the cost of estimated eligible activities from \$440,000 to up to \$650,000. In addition, the amendment reflects changes associated with an increased estimated tax increment revenue capture amount.

- 5) Amend the City Administrative and Financial Services Information Table**

This amended table corrects various addresses, parcel numbers and Industrial Facilities Tax (IFT) accounts that routinely change over time.



Amended and Restated Brownfield Plan



Twenty-Seventh Amendment

December 2015

Table of Contents

Brownfield Site Locations	1
Brownfield Plan Sites Near DDA District & Downtown Development Area	2
Introduction	3-6
Brownfield Sites:	
1) Speareflex Block	7-10
2) Alumilite	11-13
3) Willard/Walbridge Block	14-18
4) 701 East Michigan Avenue	19-22
5) Former SER Plating	23-25
6) Former Lakeside Refinery	26-29
7) NorthPoint Retail Park	30-33
8) Former Liberty Gasoline Station	34-36
9) Wellfield #13	37-40
10) Former Pioneer Paper Stock/Textile Systems, Inc.	41-43
11) Consumers/Covington Road LLC	44-46
12) CMI Riverside	47-50
13) CMI Creekside	51-53
14) South Town Commons – Kalamazoo Gazette	54-58
15) Northside Grocery Store Development Site	59-61
16) River East	62-64
17) Lovell and Rose	65-68
18) East Michigan Avenue Properties/Parking Lot #9	69-72
19) 4141 Manchester	73-76
20) 512-524 East North Street	77-80
21) 2220 Lane Blvd.	81-83
22) Public Safety Training Facility	84-87
23) Ramp #3	88-92
24) United Building	93-95
25) 507 North Park Street	96-98
26) City Yards	99-101
27) Stryker Headquarters	102-104
28) 341-357 South Pitcher Street	105-107
29) South & Rose	108-110
30) 167 East Kalamazoo Avenue	111-113
31) Former J.A. Richards Blocks	114-118
32) 3400 and 3406 Stadium Drive	119-123
33) Gull & North	124-126
34) Former Panelyte	127-130
35) Former Performance Paper	131-135
36) Former Superior Cleaners	136-138
37) Arcadia Creek West End District	139-142
38) 1919 East Kilgore Service Road	143-146
39) 610 South Burdick Street	147-149
40) 419 Harrison Street	150-152
41) 511 East Paterson Street	153-156
42) 1501 Blakeslee Street	157-159
43) 1101 Portage Street	160-163
44) 316 South Kalamazoo Mall	164-166

45) 154 South Kalamazoo Mall	167-170
46) 155 West Michigan Avenue	171-173
47) East Campus	174-177
48) 1807 North Pitcher Street	178-181
49) 500 Block East Ransom Street	182-185
50) 1104 South Westnedge Avenue	186-188
51) 2700 Block of West Michigan Avenue	189-192
52) 500-516 East Butler Court	193-195
53) 4620 Stadium Drive and 2075 South Drake Road	196-199
54) 600 East Michigan Avenue	200-203
55) 425 East Vine Street	204-206
56) 4124 Manchester Road	207-210
57) 508 East Frank Street	211-214
58) 108 East Michigan Avenue	215-217
59) 421 & 427 East Michigan Ave	218-221
60) 216 & 220 West Michigan Ave	222-225
61) 162 East Michigan Ave	226-229
62) 400 Bryant Street	230-233
Aggregate Table 1	234
Aggregate Table 2	235
Assumptions and Notes	235
Administrative and Financial Services Information	236-239



60) 216 and 220 West Michigan Avenue

Eligible Property

216 West Michigan Avenue, 06-15-354-132

220 West Michigan Avenue, 06-15-354-031

The existing masonry three story building located at 216 and 220 West Michigan Avenue was constructed in 1872 and includes approximately 11,851 square feet. The building contains multiple staircases, an antiquated service elevator, three Michigan Avenue entrances, two basements and an exterior add-on to the back of the parcel. The project is expected to be a mixed-use building, intended for retail, office and residential use. The project is also expected to remove the one-story addition (approximately 2,387 square feet) connected to the north side of the main building and open the private alleyway while providing additional parking. The final building size after demolition of the rear building is anticipated to be approximately 9,464 square feet.

Basis of Eligibility

The 216 and 220 West Michigan Avenue parcels are eligible for Plan inclusion based upon functional obsolescence. Obsolescence was confirmed by the City of Kalamazoo Assessor on July 15, 2015.

The Plan (pursuant to section 13(1), Act No. 381 of 1996)

- a. A description of the costs of the plan intended to be paid for with the tax increment revenues;**
b. A brief summary of the eligible activities that are proposed for each eligible property.

Tax increment revenues (TIRs) will be used to offset eligible expenses associated with any eligible activities that are allowed under Act 381, as amended. Specific potentially-expected activities include demolition, infrastructure improvement, lead and asbestos abatement and site preparation activities. The current cost estimate for eligible activities is up to \$250,000. In addition, TIRs will be collected to cover BRA administrative fees and will also be captured for up to five years after the time that capture is required for the purpose of reimbursement for eligible activity costs for deposit into the Local Site Remediation Revolving Fund (LSRRF).

- c. An estimate of the captured taxable value and tax increment revenues for each year of the Plan from each parcel of eligible property.**

Estimate of Captured Taxable Value: Assuming the property will be redeveloped as described, the anticipated future taxable value (TV) estimate is \$841,000. The estimated TV is reduced by \$81,500 (non-capturable initial taxable value), for a net TV of \$692,507 upon which capture can be based.

Estimate of Tax Increment Revenues: Using the overall school business millage rate of 65.3839 mills, maximum annual available real property tax increment revenues are estimated to be \$41,485 for years 1 – 5. The calculation assumes that redevelopment has occurred as described

above, with the approximate 11,851 square foot building renovated on the 216 and 220 West Michigan Avenue property.

It is the intent of the Authority to capture all available school and non-school tax increment revenue on real property generated by new development on the site.

f. Duration of the Brownfield Plan for eligible activities.

It is anticipated that the capture of tax increment revenues will start in 2017. However, the date for the beginning of capture of tax increment revenues is no later than December 7, 2020 and will continue for a period necessary to reimburse eligible activities plus five years of additional tax capture, but not longer than allowed by law.

g. Maximum Estimated Impact of Tax Increment Financing on Taxing Jurisdictions.

Taxing Unit	Business Millage Rate	Maximum Estimated Annual Taxes Captured by Authority
KVCC	2.8135	\$1,765
Metro Transit	0.7500	\$570
City Operating	19.2705	\$11,541
Solid Waste	1.5500	\$1,029
County	6.1362	\$3,908
KRESA	4.5416	\$3,202
County Transportation	0.4000	\$240
Kalamazoo Library	3.9583	\$2,463
State Education Tax	6.0000	\$3,897
School Operating	18.0000	\$11,694
DDA	1.9638	\$1,177
TOTAL	65.3839	\$41,485

Maximum annual increased taxable value = \$692,507

h. Legal description of each parcel of eligible property to which the Plan applies, a map showing the location and dimensions of each eligible property, and a statement of whether personal property is included as part of the eligible property.

216 West Michigan Avenue (Parcel Number 06-15-354-132): Original Plat of the Town (now City) of Kalamazoo, according to the Plat thereof as recorded in Liber 6 of Plats Page 8, Kalamazoo County Records; The East 22 feet of Lot 31. The East 22 feet of the South 1.5 feet of Lot 15.

220 West Michigan Avenue (Parcel Number 06-15-354-031): Original Plat of the Town (now City) of Kalamazoo, according to the Plat thereof as recorded in Liber 6 of Plats Page 8, Kalamazoo County Records; The West 1/2 of the East 44 feet of Lot 31. The West 22.7feet of

the East 44.7 feet of the South 1.5 feet of Lot 15, also described as the West 1/2 of the East 44 feet of Lot 15.

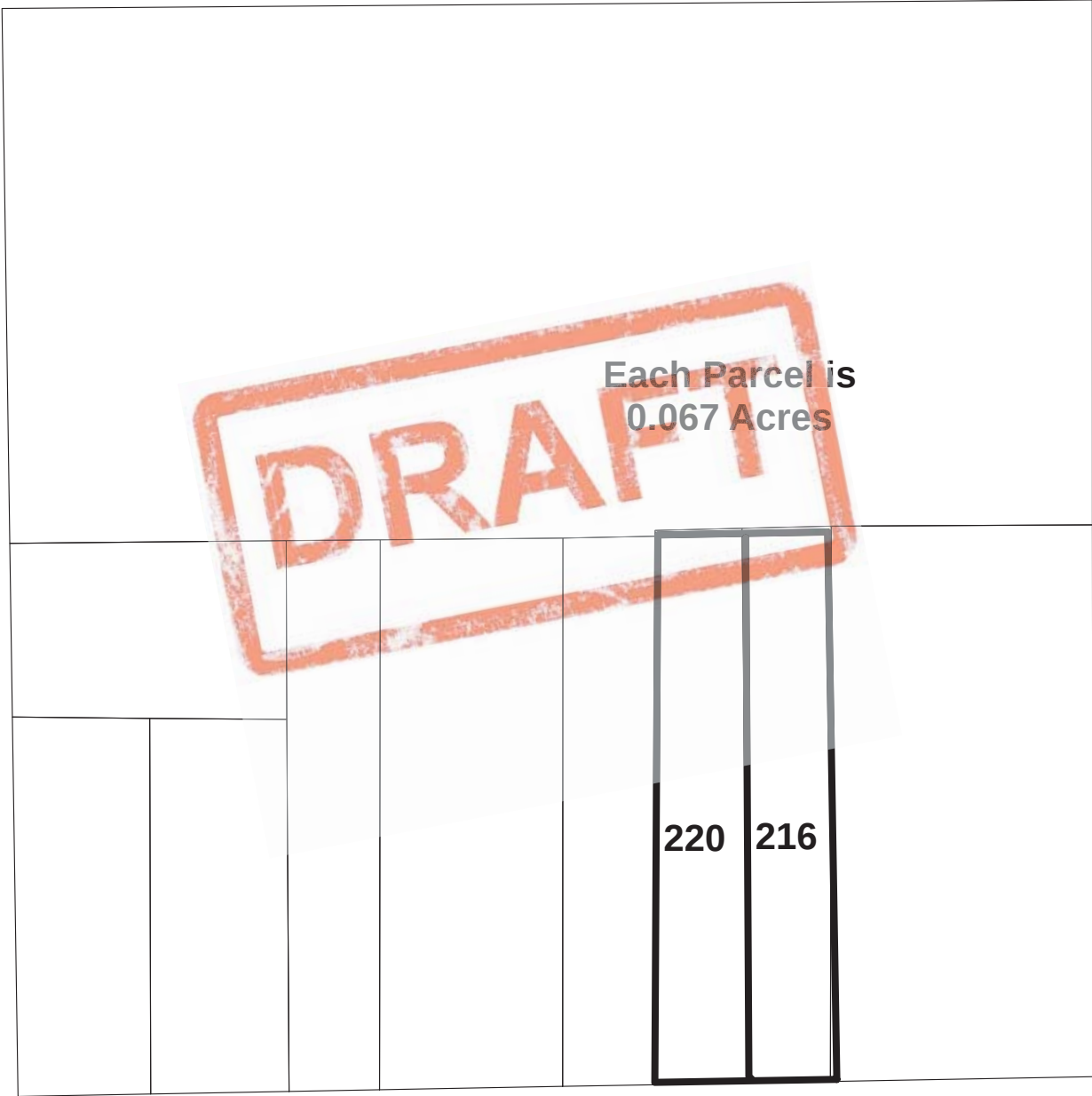
For location and dimension of property, see attached site diagram. Personal property will be included as part of the eligible property.



SITE LOCATION: 216 & 220 West Michigan Ave.

W WATER ST

N CHURCH ST



W MICHIGAN AVE

S CHURCH ST



61) 162 East Michigan Avenue

Eligible Property

162 East Michigan Avenue, 06-15-382-104

The three-story “Michigan Building” is located at 162 East Michigan Avenue, at the corner of Michigan Avenue and Portage Street in the downtown district of Kalamazoo. The building is composed of three separate and attached buildings, the oldest of which was constructed in approximately 1865 or earlier. Previous uses of the building included an opera house, retail and offices. The first floor of the approximate 38,184 square foot building is currently utilized for retail and office purposes and the upper two floors were formerly occupied by office space which has been vacant for over ten years. The project is expected to be a mixed-use building, with retail and/or office space on the first floor and residential apartments on the upper two floors. There are four one-bedroom and 22 studio apartments planned that will range in size from 436 to 722 square feet.

Basis of Eligibility

The 162 East Michigan Avenue parcel is eligible for Plan inclusion based upon functional obsolescence. Obsolescence was confirmed by the City of Kalamazoo Assessor on October 28, 2015.

The Plan (pursuant to section 13(1), Act No. 381 of 1996)

- a. A description of the costs of the plan intended to be paid for with the tax increment revenues;**
- b. A brief summary of the eligible activities that are proposed for each eligible property.**

Tax increment revenues (TIRs) will be used to offset eligible expenses associated with any eligible activities that are allowed under Act 381, as amended. Specific potentially-expected activities include lead and asbestos abatement and demolition activities. The current cost estimate for eligible activities is approximately \$424,000. In addition, TIRs will be collected to cover BRA administrative fees and will also be captured for up to five years after the time that capture is required for the purpose of reimbursement for eligible activity costs for deposit into the Local Site Remediation Revolving Fund (LSRRF).

- c. An estimate of the captured taxable value and tax increment revenues for each year of the Plan from each parcel of eligible property.**

Estimate of Captured Taxable Value: Assuming the property will be redeveloped as described, the anticipated future taxable value (TV) estimate is \$841,000. The estimated TV is reduced by \$379,800 (non-capturable initial taxable value), for a net TV of \$461,200 upon which capture can be based.

Estimate of Tax Increment Revenues: Using the overall school business millage rate of 65.3839 mills, maximum annual available real property tax increment revenues are estimated to be

\$23,890 a year for years 1 – 5. The calculation assumes that redevelopment has occurred as described above, with the approximate 38,184 square foot building renovated on the 162 East Michigan Avenue property.

It is the intent of the Authority to capture all available school and non-school tax increment revenue on real property generated by new development on the site.

f. Duration of the Brownfield Plan for eligible activities.

It is anticipated that the capture of tax increment revenues will start in 2017. However, the date for the beginning of capture of tax increment revenues is no later than December 7, 2020 and will continue for a period necessary to reimburse eligible activities plus five years of additional tax capture, but not longer than allowed by law.

g. Maximum Estimated Impact of Tax Increment Financing on Taxing Jurisdictions.

Taxing Unit	Business Millage Rate	Maximum Estimated Annual Taxes Captured by Authority
KVCC	2.8135	\$1,008
Metro Transit	0.7500	\$368
City Operating	19.2705	\$6,355
Solid Waste	1.5500	\$612
County	6.1362	\$2,257
KRESA	4.5416	\$1,981
County Transportation	0.4000	\$132
Kalamazoo Library	3.9583	\$1,398
State Education Tax	6.0000	\$2,282
School Operating	18.0000	\$6,850
DDA	1.9638	\$648
TOTAL	65.3839	\$23,890

Maximum annual increased taxable value = \$461,200

h. Legal description of each parcel of eligible property to which the Plan applies, a map showing the location and dimensions of each eligible property, and a statement of whether personal property is included as part of the eligible property.

162 East Michigan Avenue (Parcel Number 06-15-382-104): ORIGINAL PLAT OF THE TOWN (NOW CITY) OF KALAMAZOO, Liber 6 of Plats Page 8; Commencing at intersection of the southwesterly right-of-way line of Portage Street with east line of Lot 95, said intersection being South 44deg 48min 10sec East 165.1 feet from the south line of East Michigan Avenue & North 44deg 48min 10sec West 349.53 feet from the northwesterly line of East South Street; thence South 44deg 48min 10sec East 4.67 feet along the southwesterly line of Portage Street; thence South 44deg 54min 55sec East 16.42ft along the southwesterly line of Portage Street;

thence South 45deg 06min 05sec West 87.17 feet; thence along the exterior of said helix wall of the parking ramp 37.78 feet along the arc of a curve to the left (Radius = 52.83 feet, chord of North 65deg 36min 23sec West 39.98 feet); thence North 50deg 08min 30sec West 89.52 feet to the south line of Exchange Place, said point being North 89deg 58min 30sec East 18.42 feet from the east line of Farmers Alley; thence South 89deg 58min 30sec East 18.42 feet to the southeast corner of Farmers Alley & Exchange Place (note Farmers Alley is 45 feet wide south of the south line of Exchange Place and 20 feet wide north of the south line of Exchange Place); thence South 89deg 58min 30sec East 25 feet along the south line of Exchange Place (note Farmers Alley is 45 feet wide south of the south line of Exchange Place and 20 feet wide north of the south line of Exchange Place); thence North 120.38 feet more-or-less along the east line of Farmers Alley to the south line of East Michigan Avenue; thence East along the south line of Michigan Avenue to the intersection with the southwesterly line of Portage Street; thence Southeasterly along the southwesterly line of Portage Street to the point of beginning, excluding that portion of Exchange Place lying east of the east line of Farmers Alley. Also excluding beginning at the intersection of the east line of Farmers Alley with the south line of East Michigan Avenue; thence East 26.88 feet along the south line of East Michigan Avenue; thence Southerly 100.36 feet to the north line of Exchange Place; thence West 26.93 feet along the north line of Exchange Place to the east line of Farmers Alley; thence Northerly 100.38 feet along the east line of Farmers Alley to the point of beginning for this exclusion.

For location and dimension of property, see attached site diagram. Personal property will be included as part of the eligible property.

SITE LOCATION: 162 East Michigan Ave



61) 400 Bryant Street

Eligible Property

400 Bryant Street, 06-27-212-002

The currently vacant three-story former FM Envelope building (FM) is located at 400 Bryant Street, just to the north of Alcott Street, and is situated along the bank of Portage Creek. The building was constructed in 1904 for the Illinois Envelope Company and additions were completed in the 1940s and 1990s. The property is on the National Register of Historic Places due to its significance within the community. Previous uses of the building all included envelope production and paper supplies. The FM property is surrounded by three parcels (approximately 27 acres total) of property owned by the BRA that are currently being marketed for redevelopment. The redevelopment of the FM site is anticipated to be for future office use with the possibility of some retail in or adjacent to the site. The renovations are anticipated to reduce the size of the existing building from 61,000 square feet to approximately 48,525 square feet. The redeveloped site could potentially create workspace for 160 or more workers.

Basis of Eligibility

The subject property has been confirmed as a “facility” (per the Natural Resources and Environmental Protection Act, 1994 PA 451, as amended), due to the presence of selenium in groundwater and tetrachloroethene, arsenic, lead, mercury and selenium in soil.

The Plan (pursuant to section 13(1), Act No. 381 of 1996)

- a. A description of the costs of the plan intended to be paid for with the tax increment revenues;**
- b. A brief summary of the eligible activities that are proposed for each eligible property.**

Tax increment revenues (TIRs) will be used to offset eligible expenses associated with any eligible activities that are allowed under Act 381, as amended. Specific potentially-expected activities include Baseline Environmental Assessment, due care, additional response activities, demolition, lead and asbestos abatement, infrastructure improvements and site preparation activities. The current cost estimate for eligible activities is approximately \$1,851,992. In addition, TIRs will be collected to cover BRA administrative fees and will also be captured for up to five years after the time that capture is required for the purpose of reimbursement for eligible activity costs for deposit into the Local Site Remediation Revolving Fund (LSRRF).

- c. An estimate of the captured taxable value and tax increment revenues for each year of the Plan from each parcel of eligible property.**

Estimate of Captured Taxable Value: Assuming the property will be redeveloped as described, the anticipated future taxable value (TV) estimate is \$1,131,428. The estimated TV is reduced by \$180,000 (non-capturable initial taxable value), for a net TV of \$951,428 upon which capture can be based.

Estimate of Tax Increment Revenues: Using the overall school business millage rate of 63.4201 mills, maximum annual available real property tax increment revenues are estimated to be \$60,340 a year for years 1 – 5. The calculation assumes that redevelopment has occurred as described above, with the approximate 48,525 square foot building renovated on the 400 Bryant Street property.

It is the intent of the Authority to capture all available school and non-school tax increment revenue on real property generated by new development on the site.

f. Duration of the Brownfield Plan for eligible activities.

It is anticipated that the capture of tax increment revenues may start in 2017. However, the date for the beginning of capture of tax increment revenues is no later than December 7, 2020 and will continue for a period necessary to reimburse eligible activities plus five years of additional tax capture, but not longer than allowed by law.

g. Maximum Estimated Impact of Tax Increment Financing on Taxing Jurisdictions.

Taxing Unit	Business Millage Rate	Maximum Estimated Annual Taxes Captured by Authority
KVCC	2.8135	\$2,677
Metro Transit	0.7500	\$714
City Operating	19.2705	\$18,334
Solid Waste	1.5500	\$1,475
County	6.1362	\$5,838
KRESA	4.5416	\$4,321
County Transportation	0.4000	\$381
Kalamazoo Library	3.9583	\$3,766
State Education Tax	6.0000	\$5,709
School Operating	18.0000	\$17,126
TOTAL	63.4201	\$60,340

Maximum annual increased taxable value = \$951,428

h. Legal description of each parcel of eligible property to which the Plan applies, a map showing the location and dimensions of each eligible property, and a statement of whether personal property is included as part of the eligible property.

400 Bryant Street (Parcel Number 06-27-212-002): Section 27-2-11 Commencing on the westerly extension of the north line of Bryant Street 422.3ft West of the west end of Bryant Street; thence North 00deg 05min East 144.6ft; thence North 13deg 58min East 64.3ft; thence South 71deg 57min East 235.5ft; thence South 18deg 03min West 157.93ft to a point 16ft South of the westerly extension of the north line of Bryant Street; thence North 89deg 55min West 193.1ft; thence North 00deg 05min East 16ft to the point of beginning. Also commencing on the

north line of Bryant Street at the west end thereof; thence North 89deg 51min 08sec West 224.02ft; thence South 18deg 53min 59sec West 16.90ft; thence North 89deg 51min 08sec West 193.10ft to the point of beginning; thence North 89deg 51min 08sec West 150ft; thence North 12deg 25min 11sec East 116.65ft; thence North 22deg 10min 48sec East 147.96ft; thence South 71deg 53min 08sec East 89.16ft; thence South 11deg 26min 06sec West 64.30ft; thence South 01deg 02min 59sec West 160.60ft to the point of beginning. Excluding commencing at the southeast corner of Lot 21 of REED & MILHAM'S ADDITION, Liber 6 of Plats Page 4; thence North 89deg 51min 08sec West 298.18ft; thence North 20deg 33min 03sec East 11.83ft to the east side of the west wall and the point of beginning for this exclusion; thence North 10deg 56min 35sec West 6.04ft along the east side of the west wall; thence North 17deg 40min 43sec East 125.43ft along the east side of the west wall; thence South 71deg 53min 08sec East 5.26ft; thence South 11deg 23min 16sec West 26.10ft; thence South 20deg 33min 03sec West 104.89ft to the point of beginning of this exclusion.

For location and dimension of property, see attached site diagram. Personal property will be included as part of the eligible property.



SITE LOCATION: 400 Bryant Street



58) 108 East Michigan Avenue

Eligible Property

108 East Michigan Avenue, 06-15-381-015

The former PNC Bank building consists of four separate buildings which were purchased and combined over the past 137 years. The original building was built in 1868 and housed one of the first banks in Kalamazoo. The building was substantially renovated in 1907 and again the 1940's. Building number four was the Michigan Theatre which was purchased in 1965 and converted into office space. First National Bank and its successors have always occupied the space until the developer purchased it in 2014. The developer intends on converting approximately 7,000 square feet into indoor heated parking on the 1st floor. In addition, 13 to 17 residential apartments will be constructed and the atrium area will be preserved, consisting of approximately 7,000 to 10,000 square feet as open commercial or retail space.

Basis of Eligibility

The subject property is eligible for Plan inclusion based upon functional obsolescence. Obsolescence has been confirmed by the City of Kalamazoo City Assessor.

The Plan (pursuant to section 13(1), Act No. 381 of 1996)

- a. A description of the costs of the plan intended to be paid for with the tax increment revenues;**
- b. A brief summary of the eligible activities that are proposed for each eligible property.**

Tax increment revenues (TIRs) will be used to offset eligible expenses associated with any eligible activities that are allowed under Act 381, as amended. Specific potentially-expected activities include environmental assessment activities, demolition, and infrastructure improvement. The current cost estimate for eligible activities is up to \$650,000. In addition, TIRs will be collected to cover BRA administrative fees and will also be captured for up to five years after the time that capture is required for the purpose of reimbursement for eligible activity costs for deposit into the Local Site Remediation Revolving Fund (LSRRF).

- c. An estimate of the captured taxable value and tax increment revenues for each year of the Plan from each parcel of eligible property.**

Estimate of Captured Taxable Value: Assuming the property will be redeveloped as described, the anticipated future taxable value (TV) estimate is \$1,288,699. The estimated TV is reduced by \$456,300 (non-capturable initial taxable value), for a net TV of \$832,399 upon which capture can be based.

Estimate of Tax Increment Revenues: Using the overall school business millage rate of 65.2339 mills, maximum annual available real property tax increment revenues are estimated to be \$54,301 for years 1 – 5. The calculation assumes that redevelopment has occurred as described

above, with the approximate 36,960 square foot building renovated on the 108 East Michigan Avenue property.

It is the intent of the Authority to capture all available school and non-school tax increment revenue on real property generated by new development on the site.

f. Duration of the Brownfield Plan for eligible activities.

It is anticipated that the capture of tax increment revenues will start in 2016. However, the date for the beginning of capture of tax increment revenues is no later than July 6, 2020 and will continue for a period necessary to reimburse eligible activities plus five years of additional tax capture, but not longer than allowed by law.

g. Maximum Estimated Impact of Tax Increment Financing on Taxing Jurisdictions.

Taxing Unit	Business Millage Rate	Maximum Estimated Annual Taxes Captured by Authority
KVCC	2.8135	\$2,342
Metro Transit	0.6000	\$499
City Operating	19.2705	\$16,041
Solid Waste	1.5500	\$1,290
County	6.1362	\$5,108
KRESA	4.5416	\$3,781
County Transportation	0.4000	\$333
Kalamazoo Library	3.9583	\$3,295
State Education Tax	6.0000	\$4,994
School Operating	18.0000	\$14,983
DDA	1.9638	\$1,635
TOTAL	65.2339	\$54,301

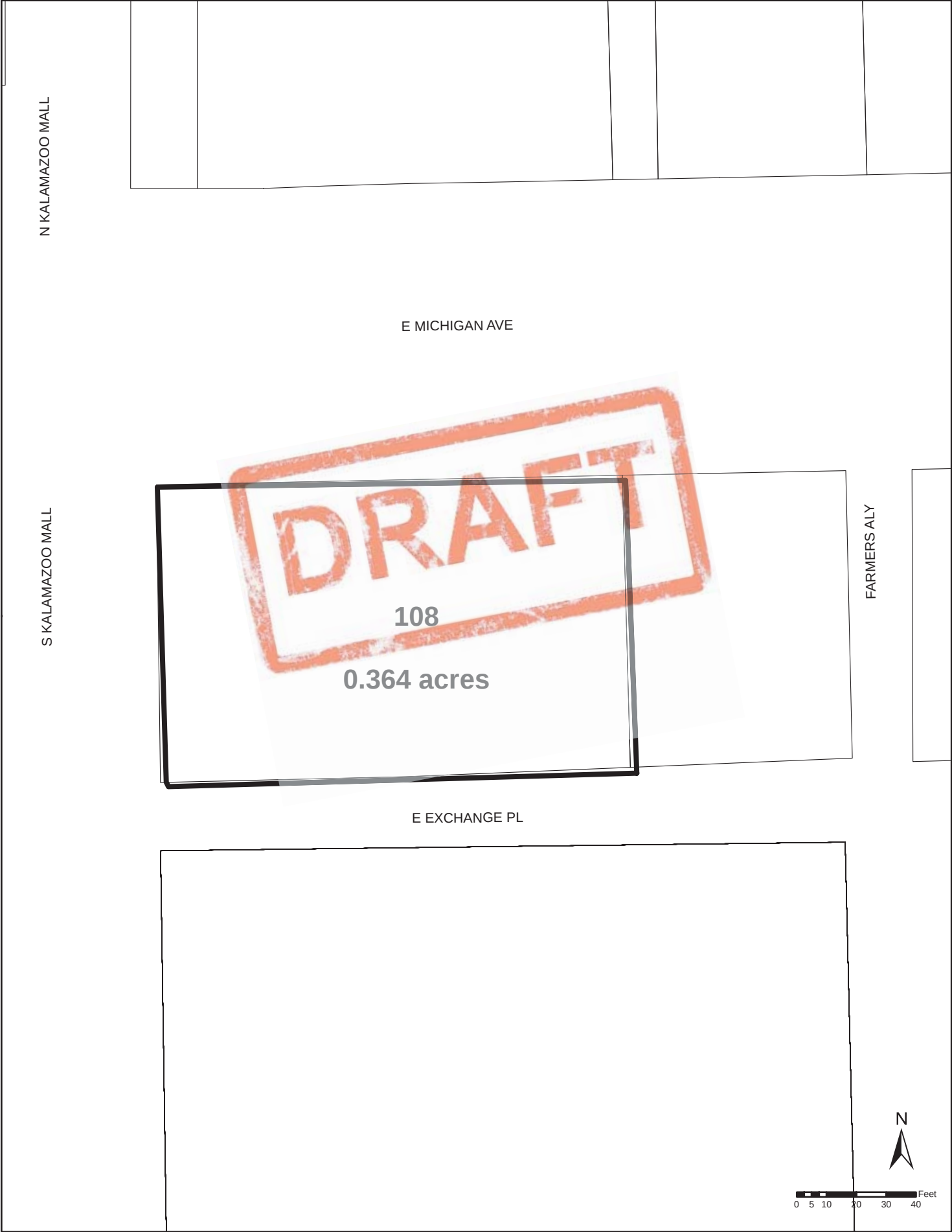
Maximum annual increased taxable value = \$832,399

h. Legal description of each parcel of eligible property to which the Plan applies, a map showing the location and dimensions of each eligible property, and a statement of whether personal property is included as part of the eligible property.

108 East Michigan Avenue (Parcel Number 06-15-381-015): The North 100 feet of Lot 89 and the North 100 feet of the West 75.9 feet of Lot 91, Plat of Town (now City) of Kalamazoo. Liber 6 of Plats Page 8.

For location and dimension of property, see attached site diagram. Personal property will be included as part of the eligible property.

SITE LOCATION: 108 East Michigan



Aggregate Table 1

Maximum Estimated Tax Increment Revenues Captured by Brownfield Redevelopment Authority for the 62 Aggregate Sites

Taxing Unit Impacted	Years 1-5 (Each Year)
Kalamazoo Valley Community College	\$401,311
Downtown Development Authority	\$65,121
Metro Transit	\$122,409
Kalamazoo Public Schools Operating	\$1,829,525
City Operating	\$2,740,663
Solid Waste	\$244,254
County	\$822,185
Kalamazoo Regional Educational Service Agency	\$458,997
State Education Tax	\$783,236
Kalamazoo Library	\$564,316
County Public Safety	\$58,671
County Transportation	\$22,267
Portage Public Schools	\$108,000
Comstock Public Schools	\$418,450
Totals	\$8,639,405

Note: These figures reflect maximum captured dollars per year based upon all projects beginning simultaneously and tax capture ending simultaneously. In reality, projects on various sites will begin in different years, with five-year tax capture on each site ending in different years. The figures reflected in this table are for illustrative purposes only. The true tax investments will be far less per year, but over a longer time frame than five years. This explanation also applies to the estimate of taxable value in Aggregate Table 2.

For sites within the Downtown Development Authority District, figures represent 20% or more of estimated taxable value for real property and 100% of estimated taxable value for personal property, due to existing

Above figures do not account for Renaissance Zone designation for 5 of the 62 brownfield sites, beginning January 1, 2001. Capturable tax figures will be less than estimated in charts.

Aggregate Table 2

Aggregate Estimates of Taxable Value for Each Year of Amended Plan

Maximum Estimated Taxable Value for the 62 Sites:

Taxing Unit	Years 1-5 (each year)
Kalamazoo Valley Community College	\$194,500,308
Downtown Development Authority	\$81,874,475
Metro Transit	\$194,500,308
Kalamazoo Public Schools Operating	\$138,146,590
City Operating	\$194,500,308
Solid Waste	\$194,500,308
County	\$194,500,308
Kalamazoo Regional Educational Service Agency	\$194,500,308
State Education Tax	\$170,944,270
Kalamazoo Library	\$194,500,308
County Public Safety	\$42,491,450
County Transportation	\$61,916,838
Portage Public Schools	\$6,000,000
Comstock Public Schools	\$37,424,080

Notes: See note for aggregate table 1

Above figures do not account for Renaissance Zone designation for 5 of the 62 Brownfield sites, beginning January 1, 2001. Taxable value figures will be less than estimated in this chart.

ASSUMPTIONS AND NOTES:

- 1) 2014 tax rates used for new chapters. Previous chapters used tax rates in effect at the time of their inclusion in the Plan.
- 2) No inflationary factor applied to projections.
- 3) Years 1-5 reflect cumulative estimates per year for all sites at their fully-developed, maximum taxable value. In reality, sites will be prepared and redeveloped at various and staggered times. The five-year maximum duration of tax capture will begin later in the life of the Brownfield Plan for some sites. Therefore, the tax capture for any given year, as reflected in this table, will be a lesser amount during the first five-year period. The total number of years subject to tax capture will be greater than five, but no more than 30, with the five-year statutory limitation on tax capture per site after the completion of eligible activities under the Plan

City Administrative & Financial Services Information

Site Name	Address	Parcel No.	Date Added to Plan	Act 381 Work Plan Details	Initial Taxable Value*
Speareflex Block	205 East Kalamazoo Avenue	06-15-333-001	15-Sep-97	MEDC approved \$35,523 8/14/01	\$0
	261 East Kalamazoo Avenue	06-15-334-001	15-Sep-97	DEQ approved \$15,000 1/17/01; MEDC approved \$293,710 8/14/01	\$0
Alumilite	315 East North Street	06-15-256-001	15-Sep-97	Approved 4/17/98 for \$48,759; Total spent: \$24,920	\$17,700
Willard/Walbridge	507 Harrison Street	06-15-274-004	15-Sep-97	n/a	\$4,420
	527 Harrison Street	06-15-274-001	15-Sep-97	Approved 4/20/98 for \$22,327; Total spent: \$19,380	\$6,100
	527 Harrison Street (second redevelopment at address)	06-15-274-001	15-Sep-97	n/a	\$141,489
	514 East Ransom Street	06-15-273-004	15-Sep-97	DEQ approved \$17,853 6/8/01; MEDC approved \$12,265 5/30/01	\$9,380
701 East Michigan Avenue	701 East Michigan Avenue	06-15-429-003	15-Sep-97	n/a	\$0
Former SER Plating	2152 Portage Street	06-27-283-005	September 15, 1997; March 6, 2000	n/a	\$0
Former Lakeside Refinery	2700 East Cork Street	06-36-130-001	15-Sep-97	n/a	\$42,500
	2700 East Cork Street	06-88-004-041	15-Sep-97	n/a	\$0
	2705 East Cork Street	06-25-364-001	15-Sep-97	n/a	\$102,300
	2805 East Cork Street	06-25-396-002	15-Sep-97	n/a	\$252,900
North Point Retail Park	700 North Westmedge Avenue	06-15-160-001	4-May-98	n/a	\$0
Former Liberty Gas	930 Portage Street	06-22-291-002	4-May-98	n/a	\$0
Wellfield #13	4175 Davis Creek Court	06-36-475-001	4-May-98	n/a	\$0
	4233 Davis Creek Court	06-36-480-001	4-May-98	n/a	
	3603 East Kilgore Road Rear	06-36-490-002	4-May-98	n/a	\$0
	3550 Covington Road	06-36-454-002	4-May-98	n/a	\$6,000
Former Pioneer Paper/TSI	817 Walbridge Street	06-15-222-001	4-May-98	n/a	\$19,300
Consumers/Covington Road	3600 Covington Road	06-36-440-001	6-Mar-00	n/a	\$10,400
	3610 Covington Road	06-36-441-002	6-Mar-00	n/a	\$9,200
	4141 Davis Creek Court	06-36-445-001	6-Mar-00	n/a	\$15,350
CMI Riverside	632 Gull Street	06-15-286-100	December 4, 2000 and June 2, 2003	n/a	\$16,450
	508 Harrison Street	06-15-295-100	December 4, 2000 and June 2, 2003	n/a	\$235,750
CMI Creekside	646 East Michigan Avenue	06-15-437-004	4-Dec-00	n/a	\$12,300
South Town Commons – Kalamazoo Gazette	423 South Burdick Street	06-22-127-002	2-Apr-01	n/a	\$161,200
	401 South Burdick Street	06-22-127-003	2-Apr-01	n/a	\$1,638,200
Northside Grocery Store Development Site	512 North Park Street	06-15-172-102	2-Jun-03	n/a	\$16,550
	612 North Park Street	06-15-167-108	2-Jun-03	n/a	\$5,900
River East	812 Gull Street	06-15-279-201	June 2, 2003 and April 21, 2008	n/a	\$22,900
	700 River Street	06-15-284-200	June 2, 2003 and June 7, 2004	n/a	\$3,938

Lovell and Rose	215 West Lovell Street	06-22-104-002	2-Jun-03	n/a	\$0
	418 South Rose Street	02-22-104-001	20-Apr-09	n/a	\$28,209
	424 South Rose Street	06-22-109-001	2-Jun-03	n/a	\$0
East Michigan Avenue Properties/Parking Lot #9	128 East Water Street	06-15-377-101	7-Jun-04	n/a	\$0
	162 East Water Street	06-15-347-247	7-Jun-04	n/a	\$0
	139 North Edwards Street	06-15-348-253	7-Jun-04	n/a	\$0
	105 East Michigan Avenue	06-15-376-010	7-Jun-04	n/a	\$578,145
	105 East Michigan Avenue - Rear	06-15-376-011	7-Jun-04	n/a	\$0
4141 Manchester	4141 Manchester	06-88-008-438	7-Jun-04	n/a	\$2,451,100
	4141 Manchester	06-36-339-001	7-Jun-04	n/a	\$252,000
512-524 East North Street	512 East North Street	06-15-264-402	7-Jun-04	n/a	\$9,484
	514 East North Street	06-15-264-404	7-Jun-04	n/a	\$3,365
	516 East North Street	06-15-264-406	7-Jun-04	n/a	\$3,901
	518 East North Street	06-15-264-401	7-Jun-04	n/a	\$23,347
	520 East North Street	06-15-264-407	7-Jun-04	n/a	\$22,581
	522 East North Street	06-15-264-405	7-Jun-04	n/a	\$3,901
	524 East North Street	06-15-264-403	7-Jun-04	n/a	\$3,728
2220 Lane Boulevard	2220 Lane Boulevard	06-26-243-001	7-Jun-04	n/a	\$0
Public Safety Training Facility	116 West Cedar Street	06-22-130-004	7-Jun-04	n/a	\$0
Ramp #3	173 East South Street	06-15-392-300	7-Jun-04	n/a	\$0
	231 East South Street	06-15-388-101	7-Jun-04	n/a	\$0
	149 Farmers Alley	06-15-387-301	7-Jun-04	n/a	\$0
	155 Farmers Alley	06-15-387-300	7-Jun-04	n/a	\$0
	140 Portage Street	06-15-389-200	7-Jun-04	n/a	\$0
	130 Portage Street	06-15-382-201	7-Jun-04	n/a	\$0
	180 Portage Street	06-15-388-100	7-Jun-04	n/a	\$0
United Building	202 East Kalamazoo Avenue	06-15-338-282	2-Aug-04	n/a	\$26,188
	242 East Kalamazoo Avenue	06-15-339-280	2-Aug-04	n/a	\$104,755
507 North Park Street	507 North Park Street	06-15-302-106	2-Aug-04	n/a	\$5,263
City Yards	822 Schuster	06-23-286-001	2-Aug-04	n/a	\$0
	911 Hatfield	06-23-290-002	2-Aug-04	n/a	\$0
Stryker Headquarters	2825 Airview Boulevard	06-88-005-401	2-May-05	n/a	\$0
	2825 Airview Boulevard	10-02-219-001	2-May-05	n/a	\$0
341-357 South Pitcher Street	341 South Pitcher Street	06-15-468-001	2-May-05	n/a	\$46,600
	357 South Pitcher Street	06-15-468-002	2-May-05	n/a	\$15,500
South & Rose	277 South Rose Street	06-15-390-300	5-Sep-06	n/a	\$494,626

167 East Kalamazoo Avenue	167 East Kalamazoo Avenue	06-15-332-011	6-Nov-06	n/a	\$91,078
Former J.A. Richards Blocks	314 Parsons Street	06-15-215-076	6-Nov-06	n/a	\$4,592
	322 Parsons Street	06-15-215-075	4-Apr-11	n/a	\$0
	809 Porter Street	06-15-251-133	4-Sep-12	n/a	\$227
	813 Porter Street	06-15-251-233	4-Sep-12	n/a	\$0
	817 Porter Street	06-15-221-003	4-Sep-12	n/a	\$344
	825 Porter Street	06-15-221-060	4-Apr-11	n/a	\$0
	901 Porter Street	06-15-216-200	4-Apr-11	n/a	\$0
	315 East Frank Street	06-15-250-150	4-Apr-11	n/a	\$0
	810 North Pitcher Street	06-15-250-031	4-Sep-12	n/a	\$15,200
3400 and 3406 Stadium Drive	3400 Stadium Drive	06-30-231-005	21-Apr-08	n/a	\$463,818
	3406 Stadium Drive	06-30-241-005	21-Apr-08	n/a	\$871,311
Gull & North (Now 655 Gull, 06-15-281-025)	627 East North Street	06-15-281-019	21-Apr-08	n/a	\$8,294
	631 East North Street	06-15-281-020	21-Apr-08	n/a	\$0
	651 Gull Street	06-15-281-021	21-Apr-08	n/a	\$0
Former Panelyte	2403 South Burdick Street	06-27-401-001	29-Jun-09	n/a	\$0
Former Performance Paper	315 East Alcott Street	06-27-221-001	29-Jun-09	n/a	\$0
	405 East Alcott Street	06-27-213-002	29-Jun-09	n/a	\$0
	505 East Alcott Street	06-27-224-001	29-Jun-09	n/a	\$0
	423 Reed Avenue	06-22-467-001	29-Jun-09	n/a	\$0
Former Superior Cleaners	3122 Oakland Drive	06-29-474-010	29-Jun-09	n/a	\$0
	3122 Oakland Drive	06-29-474-011	29-Jun-09	n/a	\$0
Arcadia Creek West End District	243 Cooley Street	06-15-315-501	29-Jun-09	n/a	\$0
	411 West Kalamazoo Avenue	06-15-311-002	29-Jun-09	n/a	\$0
	431 West Kalamazoo Avenue	06-15-310-103	29-Jun-09	n/a	\$0
	227 North Park Street	06-15-317-105	29-Jun-09	n/a	\$0
	416 West Water Street	06-15-321-209	29-Jun-09	n/a	\$0
	240 North Westmedge Avenue	06-15-315-503	29-Jun-09	n/a	\$0
1919 E. Kilgore Service Road	1919 E. Kilgore Service Road	06-35-469-001	29-Jun-09	n/a	\$370,600
610 South Burdick Street	610 South Burdick Street	06-22-141-060	29-Jun-09	n/a	\$107,600
419 Harrison Street	419 Harrison Street	06-15-404-007	4-Apr-11	n/a	\$0
511 East Paterson Street	511 East Paterson Street	06-10-495-001	4-Apr-11	n/a	\$0
1501 Blakeslee Street	1441 Blakeslee Street	06-16-159-002	4-Apr-11	n/a	\$0
	1501 Blakeslee Street	06-16-157-002	4-Apr-11	n/a	\$0
1101 Portage Street (now 06-22-434-008)	730 Lake Street	06-22-434-007	4-Apr-11	n/a	\$0
	1111 Portage Street	06-22-428-004	3-Sep-13	n/a	\$0
316 South Kalamazoo Mall	316 South Kalamazoo Mall	06-15-390-210	16-May-11	n/a	\$567,700
154 South Kalamazoo Mall	154 South Kalamazoo Mall	06-15-386-223	5-Jul-11	n/a	\$210,519
155 West Michigan Avenue	155 West Michigan Avenue	06-15-380-081	6-Sep-11	n/a	\$153,554
East Campus	601 Oakland Drive	06-21-217-001	4-Sep-12	n/a	\$0

1807 North Pitcher Street	1807 North Pitcher Street	06-10-405-001	4-Sep-12	n/a	\$0
500 Block East Ransom Street	525 East Ransom Street	06-15-269-351	4-Sep-12	TBD	\$0
	535 East Ransom Street	06-15-290-207	2-Feb-15	TBD	\$9,916
	617 Harrison Street	06-15-285-103	4-Sep-12	TBD	\$0
1104 South Westnedge Avenue	1104 South Westnedge Avenue	06-21-434-004	4-Sep-12	n/a	\$0
2700 Block of West Michigan Avenue	2701 West Michigan Avenue	06-20-330-100	3-Sep-13	TBD	\$423,600
500 – 516 East Butler Court	500 East Butler Court	06-15-268-202	4-Sep-12	TBD	\$501
	501 East Butler Court	06-15-263-207	4-Sep-12	TBD	\$0
	502 East Butler Court	06-15-268-203	4-Sep-12	TBD	\$501
	504 East Butler Court	06-15-268-204	4-Sep-12	TBD	\$395
	506 East Butler Court	06-15-268-205	4-Sep-12	TBD	\$467
	508 East Butler Court	06-15-268-206	4-Sep-12	TBD	\$573
	510 East Butler Court	06-15-268-201	4-Sep-12	TBD	\$5,862
	516 East Butler Court	06-15-268-208	4-Sep-12	TBD	\$6,515
4620 Stadium Drive and 2075 South Drake Road	4620 Stadium Drive	06-30-116-001	6-Jan-14	n/a	\$494,960
	2075 South Drake Road	06-30-120-001	6-Jan-14	n/a	\$63,190
600 East Michigan Avenue	600 East Michigan Avenue	06-15-435-010	2-Sep-14	TBD	\$265,280
	578 Rear East Michigan Ave	06-15-440-002	6-Jul-15	TBD	\$6,900
425 East Vine Street	425 East Vine Street	06-22-251-014	2-Sep-14	n/a	\$84,500
4124 Manchester Road	4124 Manchester Road	06-36-341-001	2-Sep-14	n/a	\$694,500
508 East Frank Street	508 East Frank Street	06-15-258-011	1-Feb-15	TBD	\$83,718
505 East North Street	505 East North Street	06-15-258-001	1-Feb-15	TBD	\$0
714 Walbridge Street	714 Walbridge Street	06-15-258-010	1-Feb-15	TBD	\$4,400
108 East Michigan Avenue	108 E. Michigan Avenue	06-15-381-015	6-Jul-15	TBD	\$456,300
421 & 427 East Michigan Avenue	421 E. Michigan Avenue	06-15-416-122	6-Jul-15	TBD	\$30,000
	427 E. Michigan Avenue	06-15-411-271	6-Jul-15	TBD	\$220,000
216 W. Michigan Avenue & 220 W. Michigan Avenue	216 W. Michigan Ave	06-15-354-132	7-Dec-15	TBD	\$0
	220 W. Michigan Ave	06-15-354-031	7-Dec-15	TBD	\$0
162 East Michigan Avenue	162 East Michigan Avenue	06-15-382-104	7-Dec-15	TBD	\$379,800
400 Bryant Street	400 Bryant Street	06-27-212-002	7-Dec-15	TBD	\$180,000

Initial taxable values for real property checked and verified June 24, 2005 for all properties added to the plan on or before May 2, 2005.



Commission Agenda Report

City of Kalamazoo

TO: Mayor Hopewell, Vice Mayor Cooney, and City Commissioners

FROM: James K. Ritsema, ICMA-CM, City Manager

REVIEWED BY: Thomas C. Skrobola, Management Services Director / CFO

PREPARED BY: Patricia Vargas, Management Services Administrative Support Coordinator

DATE: 11/25/2015

SUBJECT: Tax Anticipation Notes, Series 2016

RECOMMENDATION

It is recommended that the City Commission adopt the attached resolution authorizing the issuance of Tax Anticipation Notes (TANs) in the amount of \$3,000,000 for fiscal year 2016.

BACKGROUND

Each year, the City issues Tax Anticipation Notes to provide the General Fund with sufficient cash flow until property taxes are due July 1. The need for borrowing is due to the difference in timing of the City's fiscal year, which begins January 1, and the property tax year, which begins July 1.

Historical note: thanks to the change in the tax collection calendar enacted by Michigan Public Act 512 of 2009, the City has been able to reduce TANs borrowing from \$6 million to \$3 million per year, beginning with 2010. This law allows the City to require timely summer tax payments by December 31st of each year, and further for the City to access the County Treasurer's delinquent tax collection settlement process.

COMMUNITY RESOURCES CONSULTED

No community resources were consulted.

FISCAL IMPACT

There will be issuance and interest costs associated with this issue. The notes shall bear interest at the rate or rates determined on public sale, thereof, but not to exceed the maximum rate permitted by law. However, interest earnings on the note proceeds partially offset these costs. Associated expenses and interest earnings are included in the proposed FY 2016 General Fund budget.

ALTERNATIVES

If Tax Anticipation Notes are not issued, sufficient cash will not be available to meet ongoing operational expenditures and large purchases and transfers would have to be postponed to the second half of the year.

An alternative to TANs is to borrow from others funds within the City. Some inter-fund borrowing will occur during the first half of the fiscal year; however sufficient cash is not available in the other funds to meet all of the cash needs of the General Fund prior to property tax collections. Staff advises against this alternative.

Another alternative is to increase the General Fund cash reserves. This would require a significant reduction in services and/or capital projects in the FY 2016 budget, and staff advises against this alternative.

ATTACHMENTS:

Type	Description
	Resolution Tax Anticipation Notes, Series 2016

RESOLUTION _____

RESOLUTION AUTHORIZING ISSUANCE OF TAX ANTICIPATION NOTES, SERIES 2016

**CITY OF KALAMAZOO
COUNTY OF KALAMAZOO, MICHIGAN**

Minutes of a Regular Meeting of the City Commission of the City of Kalamazoo, County of Kalamazoo, Michigan (the "City"), held in the City Hall, on the 7th day of December, 2015, at 7:00 o'clock p.m., Eastern Standard Time.

PRESENT: Commissioners: _____

ABSENT: Commissioners _____

The following preamble and resolution were offered by Commissioner _____ and supported by Commissioner _____:

WHEREAS, it is hereby determined that it is necessary to borrow the sum of Three Million Dollars (\$3,000,000), in anticipation of the collection of the unpaid operating taxes for the fiscal year of the City beginning January 1, 2016 (the "Operating Taxes") which Operating Taxes are first due and payable on July 1, 2016 for the purpose of obtaining funds to meet operating expenses of the City; and

WHEREAS, Act No. 34 of the Public Acts of 2001, as amended, authorizes the borrowing of money in anticipation of the collection of the unpaid Operating Taxes for the current fiscal year in an amount not to exceed fifty percent (50%) of the operating tax levy for the preceding fiscal year when the Operating Taxes for the current fiscal year are not as yet due and payable; and

WHEREAS, the amount included for Operating Taxes in the budget for the fiscal year ending December 31, 2015 was \$27,504,764.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. Authorization of Notes. The City shall borrow for the above purpose the sum of Three Million Dollars (\$3,000,000) and shall issue its general obligation notes in anticipation of the collection of the Operating Taxes for the fiscal year beginning January 1, 2016.

2. Note Terms. Notes of the City designated "Tax Anticipation Notes, Series 2016 (Limited Tax General Obligation)" (the "Notes") are authorized to be issued and shall bear interest at the rate or rates determined on public sale thereof, but not to exceed the maximum rate permitted by law, be dated as of the date of delivery, and shall be due and payable December 1, 2016, which is the estimated time of collection of a sufficient amount of the Operating Taxes for the fiscal year beginning January 1, 2016, to pay the Notes in full. The Notes shall be payable at The Bank of New York Mellon Trust Company, N.A., Detroit, Michigan, who shall serve as paying and transfer agent for the Notes. The Notes shall be

in the denomination of \$5,000, or multiples thereof, as shall be designated by the original purchaser of the Notes. The Notes may be issued in book-entry-only form through The Depository Trust Company in New York, New York ("DTC"), and the City Manager, Director of Management Services and Chief Financial Officer, and City Clerk are each authorized to execute such custodial or other agreement with DTC as may be necessary to accomplish the issuance of the Notes in book-entry-only form and to make such changes in the Notes as may be required to accomplish the foregoing.

3. Set Aside of Tax Collections. From the first collections of the Operating Taxes for the fiscal year beginning January 1, 2016 there shall be set aside in a separate depository account (the "Note Repayment Fund" or the "Fund") a portion of each dollar which is not less than 125% of the percentage that the principal amount of the Notes bears to the amount of the Operating Taxes, to be used for the payment of the principal of and interest on the Notes and any other notes hereafter issued in anticipation of said taxes, and until the amount set aside shall be sufficient for such payments, collections of the Operating Taxes shall be used for no other purpose. On November 1, 2016 to the extent the amount in the Fund is not sufficient to pay the principal of and interest on the Notes and any notes of equal standing in full, then, commencing November 1, 2016, the first collections of Operating Taxes shall be set aside, in full, until the amount set aside in the Note Repayment Fund is sufficient to pay the principal and interest on the Notes and any notes of equal standing in full. The right is reserved to issue additional notes of equal standing as to the Operating Taxes pledged for payment of the Notes with the Notes authorized by this resolution, subject to the limitations fixed by law.

4. Limited Tax Pledge; Defeasance. The full faith and credit of the City is hereby irrevocably pledged for payment of principal of and interest on the Notes and in case of the insufficiency of the Operating Taxes pledged for the payment thereof, the City shall pay the Notes from any funds legally available therefor, and, if necessary, levy sufficient taxes on all taxable property in the City for the payment thereof within applicable constitutional, statutory and charter limitations.

In the event cash or direct obligations of the United States or obligations the principal of and interest on which are guaranteed by the United States, or a combination thereof, the principal of and interest on which, without reinvestment, come due at times and in amounts sufficient to pay at maturity or irrevocable call for earlier optional redemption, the principal of, premium, if any, and interest on the Notes, shall be deposited in trust, this resolution shall be defeased and the owners of the Notes shall have no further rights under this resolution except to receive payment of the principal of, premium, if any, and interest on the Notes from the cash or securities deposited in trust and the interest and gains thereon and to transfer and exchange Notes as provided herein.

5. Execution of Notes. The Mayor and City Clerk of the City shall execute the Notes on behalf of the City either by manual or facsimile signatures, and the City's seal or a facsimile thereof shall be imprinted or printed thereon, and the executed Notes shall be delivered to the Director of Management Services and Chief Financial Officer who shall be authorized to deliver the Notes to the purchaser thereof upon the receipt of the purchase price therefor. Printed Notes may be executed with facsimile signatures of the foregoing officers, in which case the Notes shall not be valid unless authenticated in a manner approved by the Director of Management Services and Chief Financial Officer or the City Manager. The foregoing officers are hereby authorized to execute and deliver a temporary note or notes and exchange, when available, final printed notes therefor at the request of the original purchaser.

6. Notice of Sale. The City Manager or Director of Management Services and Chief Financial Officer shall cause notice of sale thereof to be published in accordance with law in ***The Bond Buyer***, a publication printed in the English language and which carries, as a part of its regular service, notices of sale of municipal bonds and notes. Said notice of sale shall be in substantially the following form:

OFFICIAL NOTICE OF SALE
\$3,000,000
CITY OF KALAMAZOO
COUNTY OF KALAMAZOO
STATE OF MICHIGAN

TAX ANTICIPATION NOTES, SERIES 2016
(LIMITED TAX GENERAL OBLIGATION)

SEALED, FAXED OR ELECTRONIC BIDS: Bidders may submit bids for the purchase of the above Notes as follows:

SEALED BIDS will be received by the undersigned at the office of the City Clerk, located at 241 W. South Street, Kalamazoo, Michigan 49007-4796 on Wednesday, the 6th day of January, 2016 until 11:30 a.m., Eastern Standard Time at which time and place said bids will be publicly opened and read.

SEALED BIDS will also be received on the same date and until the same time at the office of the Municipal Advisory Council of Michigan (the "MAC"), Buhl Building, 535 Griswold, Suite 1850, Detroit, Michigan 48226, when simultaneously, the bids will be opened and read.

FAXED BIDS: Signed bids may be submitted by fax to the City at fax number (269) 337-8448, attention City Clerk, or to the MAC at (313) 963-0943; provided that faxed bids must arrive before the time of sale and the bidder bears all risks of transmission failure.

ELECTRONIC BIDS will also be received on the same date and until the same time by Bidcomp/Parity as agent of the undersigned. Further information about Bidcomp/Parity, including any fee charged, may be obtained from Bidcomp/Parity, Anthony Leyden or CLIENT SERVICES, 1359 Broadway, Second Floor, New York, New York 10010, (212) 849-5021. IF ANY PROVISION OF THIS NOTICE OF SALE SHALL CONFLICT WITH INFORMATION PROVIDED BY BIDCOMP/PARITY, AS THE APPROVED PROVIDER OF ELECTRONIC BIDDING SERVICES, THIS NOTICE SHALL CONTROL.

Bidders may choose any means or location to present bids but a bidder may not present a bid in more than one location or by more than one means.

NOTE DETAILS: The Notes will be dated as of the date of delivery, will mature December 1, 2016, and will bear interest from their issue date payable on December 1, 2016 at a rate not exceeding 6% per annum, fixed by the bids therefor, expressed in multiples of 1/8 or 1/20 of 1%. The Notes will be in denominations of \$5,000 or multiples or combinations thereof, designated by the original purchaser of the Notes. No proposal for the purchase of less than all of the Notes or at a price less than 99% of their par value will be considered.

Notes of this issue will not be subject to redemption prior to maturity.

PAYING AGENT: Both principal and interest shall be payable at the corporate trust office of The Bank of New York Mellon Trust Company, N.A., Detroit, Michigan. The Notes will be transferred only upon the registration books of the Issuer kept by the paying agent.

BOOK-ENTRY ONLY: The Notes will be issued in book-entry only form as one fully registered note and will be registered in the name of Cede & Co., as noteholder and nominee for The Depository Trust Company ("DTC"), New York, New York. DTC will act as securities depository for the Notes. Purchase of the Notes will be made in book-entry-only form, in the denomination of \$5,000 or any multiple thereof. Purchasers will not receive certificates representing their interest in Notes purchased. The book-entry-only system is described further in the preliminary Official Statement for the Notes.

PURPOSE AND SECURITY: The Notes are issued in anticipation of operating taxes due and payable on July 1, 2016. From the first collections of the operating taxes, the City is required to set aside in a separate depository account a portion of each dollar which is not less than 125% of the percentage that the principal amount of the Notes bears to the amount of the operating taxes until the amount so set aside is sufficient for payment of principal and interest on the Notes herein offered and any additional notes of equal standing hereafter issued in anticipation of said taxes. In case of the insufficiency of the taxes pledged for the payment thereof the City is required to pay the Notes from any funds legally available therefor including subsequent tax levies of the City. The City does not have the power to levy taxes for the payment of the Notes in excess of its constitutional, statutory and charter tax rate limitations. The rights or remedies of noteholders may be affected by bankruptcy laws or other creditor's rights legislation now existing or hereafter enacted.

ADDITIONAL NOTES: The City has reserved the right to issue additional notes of equal standing with the Notes offered herein, subject to the limitations provided by law.

GOOD FAITH: A good faith deposit in the form of a certified or cashier's check drawn upon an incorporated bank or trust company, or wire transfer, in the amount of \$60,000 payable to the order of the Treasurer of the City will be required of the successful bidder. The successful bidder is required to submit its good faith deposit to the City as instructed by the City not later than Noon, prevailing Eastern Time, on the next business day following the sale. The good faith deposit will be applied to the purchase price of the Notes. In the event the purchaser fails to honor its accepted bid, the good faith deposit will be retained by the City. No interest shall be allowed on the good faith check. The good faith check of the successful bidder will be cashed and payment for the balance of the purchase price of the Notes shall be made at the closing.

AWARD OF NOTES – TRUE INTEREST COST: The Notes will be awarded to the bidder whose bid produces the lowest true interest cost determined in the following manner: the lowest true interest cost will be the single interest rate (compounded on December 1, 2016) necessary to discount the debt service payments January 21, 2016 in an amount equal to the price bid, excluding accrued interest. Each bidder shall state in its bid the true interest cost to the City, computed in the manner specified above.

LEGAL OPINION: Bids shall be conditioned upon the approving opinion of Miller, Canfield, Paddock and Stone, P.L.C. attorneys of Detroit, Michigan ("Note Counsel"), which will be furnished without expense to the purchaser of the Notes at the delivery thereof. The fees of Note Counsel for services rendered in connection with such approving opinion are expected to be paid from note proceeds. Except to the extent necessary to issue their approving opinion as to the validity of the above Notes and the exemption of the Notes and the interest thereon from taxation, Note Counsel has made no inquiry of any City officials or other persons as to any financial information, documents, statements or

materials and has not independently verified any such financial information, documents, statements or materials that have been or may be furnished in connection with the authorization, issuance or marketing of the Notes, and accordingly will not express any opinion with respect to the accuracy or completeness of any such financial information, documents, statements or materials. In submitting a bid for the Notes, the bidder agrees to the representation of the City by Miller, Canfield, Paddock and Stone, P.L.C., as Note Counsel.

“NOT QUALIFIED TAX-EXEMPT OBLIGATIONS”: The City will not designate the Notes as “qualified tax-exempt obligations” for purposes of deduction of interest expense by financial institutions pursuant to the Internal Revenue Code of 1986, as amended.

TAX MATTERS: In the opinion of Miller, Canfield, Paddock and Stone, P.L.C., Note Counsel, under existing law, assuming compliance with certain covenants, interest on the Notes is excludable from gross income for federal income tax purposes as described in the opinion and the Notes and interest thereon are exempt from all taxation by the State of Michigan or by any taxing authority within the State of Michigan except inheritance and estate taxes and taxes on gains realized from the sale, payment or other disposition thereof. The successful bidder will be required to furnish, at delivery of the Notes, a certificate in a form acceptable to note counsel as to the “issue price” of the Notes within the meaning of Section 1273 of the Internal Revenue Code of 1986, as amended.

PRINTING AND DELIVERY OF NOTES: The City will furnish printed Notes with the legal opinion thereon at its expense. Notes will be delivered without expense to the purchaser through DTC in New York, New York. The City will furnish the purchaser with the usual closing documents including certificate that no litigation is pending affecting the right of the City to issue the Notes. Accrued interest to the date of delivery of the Notes shall be paid by the purchaser at the time of delivery. Payment for the Notes shall be made in immediately available funds.

FURTHER INFORMATION may be obtained from the City’s Financial Advisors, Robert W. Baird & Co, 1001 Bay Street, Traverse City, Michigan 49684. Telephone: (231) 993-8447, Fax: (231) 933-8448.

LIMITED CONTINUING DISCLOSURE: The City will agree in the awarding resolution to provide or cause to be provided, in accordance with the requirements of Rule 15c2-12 (the “Rule”) promulgated by the Securities and Exchange Commission a limited undertaking consisting only of timely notice of the occurrence of certain material events with respect to the Notes.

OFFICIAL STATEMENT: The City will provide the winning bidder with a reasonable number of final Official Statements within 7 business days from the date of sale so as to permit the underwriter to comply with the Rule. Additional copies of the official statement will be supplied by the City upon request and agreement to pay the cost of the additional copies. Requests for additional copies should be made to the City’s Financial Advisors listed above within 24 hours of the date and time of sale.

BIDDER CERTIFICATION: NOT “IRAN-LINKED BUSINESS” By submitting a bid, the bidder shall be deemed to have certified that it is not an “Iran-Linked Business” as defined in Act 517 Michigan Public Acts of 2012, being MCL 129.311 et. seq.

THE RIGHT IS RESERVED TO REJECT ANY OR ALL BIDS.

ENVELOPES: Containing the bids should be plainly marked "Proposal for Tax Anticipation Notes."

Scott A. Borling
City Clerk
City of Kalamazoo, Michigan

7. Tax Covenant. The City hereby covenants that it shall take all actions within its control necessary to maintain the exemption of the interest on the Notes from general federal income taxation (as opposed to alternative minimum or other indirect taxation) under the Internal Revenue Code of 1986, as amended (the "Code"), including but not limited to, actions relating to the rebate of arbitrage earnings and the expenditure and investment of note proceeds and moneys deemed to be Note proceeds.

8. Official Statement; Qualification for Insurance; Ratings. The City Manager and Director of Management Services and Chief Financial Officer are each authorized to cause the preparation and circulation of a preliminary and final Official Statement with respect to the Notes; to procure qualification of the Notes for a policy of municipal note insurance; and to obtain ratings on the Notes.

9. Continuing Disclosure. The City agrees to enter into a continuing disclosure undertaking for the benefit of the holders and beneficial owners of the Notes in accordance with the requirements of Rule 15c2-12 promulgated by the Securities and Exchange Commission, and the City Manager and Director of Management Services and Chief Financial Officer are each hereby authorized to execute such undertaking prior to delivery of the Notes.

10. Adjustment of Note Terms; Authorization of Other Actions. The City Manager and Director of Management Services and Chief Financial Officer are each hereby authorized to adjust the final Note details set forth herein to the extent necessary or convenient to complete the transaction authorized herein, and in pursuance of the foregoing are authorized to exercise the authority and make the determinations authorized pursuant to Section 315(1)(d) of Act 34, Public Acts of Michigan, 2001, as amended, including but not limited to, determinations regarding interest rates, prices, discounts, maturities, principal amounts, denominations, dates of issuance, interest payment dates, redemption rights, the place of delivery and payment, designation as qualified tax-exempt obligations and other matters within the parameters described in this resolution. The City Manager and Director of Management Services and Chief Financial Officer are each authorized and directed to take all other actions necessary or advisable, and to make such other filings with any parties, including the Michigan Department of Treasury, to enable the sale and delivery of the Notes as contemplated herein.

11. Award of Sale of Notes. The City Manager and Director of Management Services and Chief Financial Officer are each hereby authorized on behalf of the City to award the sale of the Notes to the bidder whose bid meets the requirements of law and which produces the lowest true interest cost to the City computed in accordance with the terms of the Official Notice of Sale as published.

12. Rescission. All resolutions and parts of resolutions insofar as they conflict with the provisions of this Resolution be and the same hereby are rescinded.

AYES: Commissioners: _____

NAYS: Commissioners: _____

RESOLUTION DECLARED ADOPTED.

Scott A. Borling, City Clerk

I hereby certify that the foregoing is a true and complete copy of a resolution adopted by the City Commission of the City of Kalamazoo, County of Kalamazoo, State of Michigan, at a regular meeting held on December 7, 2015, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been made available as required by said Act.

Scott A. Borling, City Clerk

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Commission Agenda Report

City of Kalamazoo

TO: Mayor Hopewell, Vice Mayor Cooney, and City Commissioners

FROM: James K. Ritsema, ICMA-CM, City Manager

REVIEWED BY: Prepared By: Jerome R. Kisscorni, Assistant City Manager/ED Director

PREPARED BY: Prepared By: Jerome R. Kisscorni, Assistant City Manager/ED Director

SUBJECT: Approval of a Transfer of \$250,000 from the Economic Initiative Fund (EIF) to the BRA for a Loan to NoMi Developer's, LLC.

RECOMMENDATION

It is recommended that the City Commission adopt a resolution approving the transfer of \$250,000 from the Economic Initiative Fund (EIF) to the City of Kalamazoo Brownfield Redevelopment Authority (BRA) to assist NoMI Developers, LLC in the redevelopment of an obsolete and underutilized brownfield property at 505 & 508 North Street.

BACKGROUND

NoMI Developers, LLC will acquire, substantially rehabilitate and adaptively repurpose a former warehouse and storage building, located at 508 Frank Street. The three story building is currently underutilized and houses a metal fabrication business and miscellaneous storage. The first floor of the building will be dedicated to 14 micro-apartments with approximately 315 square feet each. These apartments will have their own bathrooms and small kitchenette consisting of a sink, microwave oven, and refrigerator. There will be a common space kitchen, laundry and gathering areas for the residents of the micro units. The balance of the building will be made into approximately eleven studio apartments at 500 square feet, ten studios and single bedroom apartments at 700 square feet and four two-bedroom apartments at 1,000 square feet. The project will also include approximately 2,600 square feet of leasable commercial space for a proposed restaurant in addition to 600 square feet of patio area. Site improvements will include landscaping, sidewalks and streetscape improvements along the adjoining streets.

The project will increase residential density in the Rivers Edge, which is consistent with the BRA's goals of attracting residential development into the Riverfront area.

NoMI requested the assistance of BRA with gap financing through a \$250,000 loan to aid it in the completion of the project. The EDC/BRA loan committee reviewed NoMI's pro-forma for the project and concluded that such a loan was appropriate.

BRA EIF LOAN TERMS

Borrower: NoMI Developers, LLC
Amount: \$250,000
Rate: 3.25% Interest Rate
Term: 15 Years (180 Months w/1st Two Years Interest Only)

COLLATERAL AND GUARANTEES

- 2nd Position on Building
- 2nd Position on Rents & Leases
- Personal Guarantee from each partner

COMMUNITY RESOURCES CONSULTED

The EDC/BRA loan committee and BRA Board of Directors have reviewed and approved the NoMI loan request. The project meets a major principle of the “Kalamazoo Riverfront Redevelopment Plan”, developing an attractive mix-use riverfront neighborhood.

FISCAL IMPACT

The EDC has budgeted \$350,000 in EIF loans for 2015. The NoMI loan will leave a balance of \$100,000. The project will create 5 new jobs when fully completed. On a broader scale the project will become another “Tipping Point” project in the redevelopment of this area and assist in the continued marketing of properties in the Rivers Edge area.

ALTERNATIVES

The City Commission may choose not to approve the transfer of EIF funds to the BRA. By so doing it may result in delaying the project to find other gap financing or terminating the planned project.

Alternately, the City Commission may choose to ask the BRA to modify the loan terms and conditions.

The City Commission may approve the transfer of EIF funds to the BRA as recommended.

ATTACHMENTS:

Type	Description
☐	Agreement Redevelopment and Purchase Agreement
☐	Resolution Proposed Resolution
☐	Resolution BRA Resolution

BROWNFIELD PLAN REDEVELOPMENT AND PURCHASE AGREEMENT

This Agreement is entered into between NOMI DEVELOPERS, LLC, a Michigan domestic limited liability company, having an address at 518 E. North Street, Kalamazoo, Michigan 49007 ("**Developer**"), and CITY OF KALAMAZOO BROWNFIELD REDEVELOPMENT AUTHORITY, a Michigan public body corporate, whose address is 241 West South Street, Kalamazoo, Michigan 49007 ("**BRA**"), and

RECITALS:

A. BRA and the City of Kalamazoo ("**City**") have determined that brownfield redevelopment constitutes the performance of an essential public purpose.

B. In 2009 BRA acquired by quit claim deed a land-locked parcel of real property in the City located at 505 East North Street ("**BRA Parcel**"). Developer has an agreement to purchase the parcels at 508 East Frank Street and 714 Walbridge Street, which are adjacent to the BRA Parcel ("**Developer Parcel**"). The parcels qualify as brownfields under Act 381, as amended, and it is anticipated that the redevelopment of these parcels will promote the revitalization of an environmentally distressed area within the City. (collectively, "**Property**")

C. The City established the BRA and has adopted a Brownfield Plan; the current version is the Amended and Restated Brownfield Plan (Amendment No. 25) ("**Plan**"), pursuant to the provisions of PA, 1996, Act 381, being MCL 125.2651, et seq., ("**Act 381**"). The BRA and the City have designated certain properties, with conditions of environmental contamination, blight or functional obsolescence, as appropriate sites for redevelopment and inclusion into the Plan. Accordingly, the City has determined that the Property qualifies as "eligible property" under the terms of Act 381 and has included the Property within the Plan.

D. Following the purchase of the BRA Parcel and the Developer Parcel, Developer intends to redevelop and improve the Property by renovating and rehabilitating the existing three and a half-story building of approximately 32,000 square feet on the Developer Parcel and by certain site improvements to the BRA Parcel into a mixed use project for commercial and residential uses ("**Project**"). The capital investment for the purchases of the three parcels and Project is approximately \$4.3 million and will upon completion result in the creation of approximately 5-10 full time equivalent (FTE) jobs.

E. The Project will require Developer to incur Eligible Costs associated with certain Eligible Activities regarding demolition, site preparation, infrastructure improvements or environmental activities to satisfy Due Care obligations, all of which may require the services of various contractors, engineers, environmental consultants, attorneys and other professionals. The Eligible Costs shall not exceed \$620,000.

F. BRA believes that the sale of the BRA Parcel and the completion of this Project will continue to enhance the redevelopment of the surrounding area, known as Rivers Edge.

H. Developer and BRA desire to enter into this Brownfield Plan Redevelopment and Purchase Agreement ("**Agreement**") for the mutual benefit of both parties, subject to the following terms and conditions.

NOW, THEREFORE, 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. **DESCRIPTION OF BRA PARCEL:** The BRA Parcel is located at 505 East North Street in the City and County of Kalamazoo, State of Michigan, and is more fully described on Exhibit A attached and incorporated as part of this Agreement. For the purposes of this Agreement, the BRA Parcel shall include, if applicable, all improvements, fixtures, easements, division rights, hereditaments, and appurtenances associated with the real estate described on Exhibit A.
3. **CONSIDERATION:** Developer will purchase the BRA Parcel (approximately 0.234 acres) from BRA for One Dollar (\$1.00) ("**Purchase Price**") and other good and valuable consideration as set forth in this Agreement. Upon fulfillment of the terms and conditions of this Agreement BRA will convey the Property by covenant deed to Developer simultaneously upon receipt of the Purchase Price.
4. **TITLE INSURANCE:** At its expense BRA will provide to Developer a title commitment for the BRA Parcel issued by Chicago Title Insurance Company ("**Title Commitment**") for an owner's title insurance policy insuring Developer in the amount of the Purchase Price, with the standard printed exceptions and in the latest form approved by the American Land Title Association. In exercising reasonable discretion, Developer must be satisfied with the requirements set forth in the Title Commitment. BRA shall provide any surveys, affidavits and certificates required by Chicago Title if Developer elects to have the title policy without exceptions or with additional endorsements. Developer is responsible for paying the added premium charged for a policy without exceptions and any such additional endorsements.
5. **SURVEY:** BRA will provide Developer with any topographical and boundary surveys of the BRA Parcel that it may have. However, Developer has, at its expense, the option of obtaining its own survey of the BRA Parcel. (All surveys regarding the BRA Parcel are individually and collectively referred to as a "**Survey**").
6. **DEFECTS:** Developer shall notify BRA within thirty (30) days after Developer's receipt of the last dated version of the Title Commitment, legible copies of all documents listed in the Title Commitment as exceptions, and any Survey, if there are any unacceptable issues ("**Defects**") regarding the BRA Parcel for which City is responsible. Such Defects may include: (i) the Title Commitment discloses an exception not

permitted by this Agreement; (ii) the Survey shows any deviation from apparent boundaries, an encroachment, or another condition that in Developer's reasonable judgment, could interfere with Developer's inclusion of the BRA Parcel as part of the Project. BRA shall remove each Defect at its expense by the closing date. In addition, BRA shall satisfy the requirements set forth in the Title Commitment by the closing date. If BRA fails or refuses to remove any Defect, then Developer may: (i) proceed to closing, waiving the Defect at issue; or (ii) terminate this Agreement by a written notice to BRA, in which case neither BRA nor Developer shall have any further liability to the other under this Agreement.

At the closing, BRA shall deliver to Developer a standard form of Owner's affidavit executed by BRA and the policy of title insurance (with all required endorsements) for which the Title Commitment was issued. Any additional costs for a mortgage policy are Developer's responsibility.

BRA agrees not to take any action between the time of execution of this Agreement and the closing that will cause any lien or encumbrance to the BRA Parcel.

7. INSPECTION: Developer and its agents, consultants, and designees ("**Developer's Agents**") may from time to time inspect the BRA Parcel prior to the closing, and may enter the BRA Parcel to perform the inspections referenced in this Agreement. Upon execution of this Agreement by both parties, BRA shall provide to Developer, or make available for review by Developer or Developer's agents, copies of the following documents to the extent that they are in BRA's possession or control ("**BRA Documents**"): (i) all wetlands, and fill permits, zoning variances and approvals, and environmental reports with respect to the BRA Parcel; (ii) any prior title commitments or surveys of the BRA Parcel; (iii) any environmental reports or assessments undertaken by BRA in anticipation of entering into this Agreement; (iv) any notices with respect to the BRA Parcel received from a governmental agency within the five-year period preceding the date of this Agreement; and (v) all leases, licenses, maintenance and other contracts affecting the BRA Parcel.

8. BRA'S REPRESENTATIONS AND WARRANTIES: BRA, to the best of its knowledge, represents and warrants to Developer, as of the date of this Agreement and until the closing date, as follows:

- A. There are no pending or threatened condemnation proceedings against any part of the BRA Parcel;
- B. There are no claims, litigation, proceedings, inquiries, investigations, or disputes pending or threatened regarding the BRA Parcel;
- C. The BRA Parcel is free and clear of all violations of applicable federal, state and local laws, ordinances, orders, codes, rules, regulations, building and use restrictions, and other legal requirements (collectively, "**Applicable Laws**");

D. The person signing this Agreement on behalf of BRA has full power and authority to enter into this Agreement, and to perform, or through performance by City employees who assist BRA, all of BRA's obligations under this Agreement;

E. There are no Contracts, written or oral, which affect the BRA Parcel in any manner other than this Agreement;

F. There is no pending or proposed special assessment affecting or which may affect any part of the BRA Parcel; and

Without waiving any rights under governmental immunity, BRA shall hold Developer harmless from and against any loss, including, without limitation, reasonable attorney fees, incurred by reason of BRA's breach of any of the above representations and warranties.

9. CONTINGENCIES: The obligation of Developer to close the purchase of the BRA Parcel is contingent upon its reasonable satisfaction of the following:

A. The results of its investigation that the BRA Parcel complies with Applicable Laws.

B. The results of all inspections of the BRA Parcel that Developer had performed (e.g., soil tests, etc.).

C. All representations and warranties of BRA set forth in this Agreement remain true as of the closing date.

D. BRA has timely performed and complied with all its covenants, obligations, and responsibilities under this Agreement.

E. Its review of BRA Documents and the condition, permitted use and development prospects for the Property. Developer shall perform such review, at its expense, within thirty (30) days after the date that BRA delivers the last of the BRA Documents to Developer.

F. Developer acquired the Developer Parcel.

G. The approval by Michigan Economic Development Corporation and other state agencies on financial incentives needed by Developer for the Project.

If Developer reasonably determines that one or more of the contingencies has not been met - and Developer is not willing to waive such contingency - then its sole remedy is to terminate this Agreement by prompt written notice to BRA. Upon such termination neither BRA nor Developer shall have any further liability to the other under this Agreement.

10. DEVELOPER COMMITMENTS: In addition to the payment of the Purchase Price for the BRA Parcel, Developer agrees that, in consideration for BRA's commitments in the capture of tax increment revenues ("TIR") to assist the Developer in the Project on the Property, it will complete the following (collectively and individually "**Undertakings**"):

A. Redevelop the Property by investing a minimum of \$4.3 million in renovating and rehabilitating the existing three and a half-story building of approximately 32,000 square feet on the Developer Parcel and by certain site improvements to the BRA Parcel into a mixed use project for commercial and residential uses. More specifically, Developer shall complete the Project substantially following the proposal it presented to the BRA. Therefore, the conceptual breakdown of the proposed uses for the Project is as follows: (i) approximately 2,000 square feet for commercial uses on the first floor; (ii) approximately 30,000 square feet for residential apartments on the garden/lower level and the second and third stories; and (iii) on-site parking spaces. Subject to matters beyond the reasonable control of Developer (e.g., matters of force majeure, acts of God, failure to obtain governmental approvals, etc.), Developer shall commence construction of the Project within 6 months of the date of the closing, and shall substantially complete it - defined as date when Developer receives a temporary or final occupancy permit from the City, ("**Completion Date**") - within 18 months of the closing date.

B. 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 construction and site related work. In this regard the Project shall create 5-10 full time equivalent positions ("**FTE**") by the Completion Date.

C. Encourage local contracting of construction and related site work for the Project.

D. Provide any updated conceptual renderings, architectural or engineering drawings or plans for the Project (collectively "Project Plans") to the BRA within a reasonable time after any Project Plan is completed. Any substantial deviation in the Project or Project Plans requires the consent of the BRA, which shall not be unreasonably withheld, conditioned or delayed. Final Project Plans or 'As Built' plans shall be submitted to the BRA within 10 days of their completion.

E. Submit any documents or other information required by the City in order to obtain all necessary permits for the Project as required by city ordinance or state statute prior to commencement of any construction activities. Otherwise, redevelop and improve the Property, including landscaping and all other improvements required for the Project, in compliance with all applicable federal, state and local laws, rules and regulations, including, without limitation, building and zoning codes, site plan review, this Agreement and with any other agreement that relates to the Property or the Project

F. When requested by BRA provide progress reports (not more frequently than quarterly) on the Project until completion and to provide annual reports on job creation and retention, using a reasonable format provided by BRA, for at least two years following the Completion Date. Otherwise, assist and cooperate with BRA in providing information that BRA may require in providing necessary reports to other governmental agencies or for its own purposes.

G. Assume responsibility for the costs of all utility connections from the property line to the proposed building.

H. Place on the site during construction a development sign provided by BRA to promote the Project and the BRA's participation in it. Upon completion of the Project return the sign to BRA.

I. Permit BRA to cite or to use any renderings or photographs of the Project as an example of private/public partnership and brownfield site redevelopment.

11. ENVIRONMENTAL ASSESSMENT: Within 60 days after executing this Agreement, Developer may, at its option and own expense, conduct its environmental due diligence that may result in a Baseline Environmental Assessment ("BEA") within the meaning of Part 201 of the Natural Resources and Environmental Protection Act, Act 451 of 1994 as amended (Part 201). Developer's satisfaction with the results of the BEA shall be a contingency for closing. Within a reasonable period after the BEA, or in conjunction with the preparation of the BEA, Developer shall also, at its own expense, prepare a due care compliance analysis within the meaning of Part 201.

After receipt of the BEA and due care compliance analysis Developer shall have 10 days to give written notice to BRA whether or not it is satisfied with these environmental reports. If Developer fails to provide such timely notice to BRA, then Developer is considered to have waived this contingency for closing.

If the Developer notifies BRA that the BEA reveals unsatisfactory environmental conditions that will unreasonably impact the financial viability for the Project - and Developer and BRA are unable to agree on how to satisfactorily address such environmental conditions within 30 days after Developer's notification - this Agreement may be terminated by Developer.

12. PROJECT FINANCING: Developer shall, prior to closing, demonstrate its ability to finance the Project by providing BRA with evidence that it is capable of financing the Project. Such evidence may include a lender's financing commitment or personal financial statement. If Developer does not provide evidence of a financing commitment satisfactory to BRA, the BRA may terminate this Agreement.

13. BRA COMMITMENTS: BRA agrees to provide, complete or perform the following inducements or tasks to assist Developer towards completion of the Project, including the application of TIR as outlined in Paragraph 14 (collectively and individually "Incentives"):

A. Extend to Developer the benefits outlined in the Plan, subject to the provisions of Act 381 (Brownfield Redevelopment Financing Act as amended). Those benefits include reimbursement for "eligible activities" from captured TIR as more fully set forth in Paragraph 14. These activities include, without limitation, demolition, site preparation (soil removal, grading, filling, etc.), infrastructure improvements, environmental assessment, due care obligations, or environmental response activities; and the services of various contractors, engineers, environmental consultants, attorneys and other professionals retained regarding such activities ("**Eligible Activities**"). Before undertaking Eligible Activities, Developer should discuss those activities with appropriate City staff prior to incurring such costs. The Plan, as approved by the BRA and the City Commission of the City of Kalamazoo as it relates only to the Property - identified as Chapter 57 – 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.

B. If Developer deems it necessary for the financial viability of the Project it may seek the approval by and assistance from appropriate state agencies. BRA will cooperate and utilize its best efforts to assist in obtaining such approvals and assistance.

C. Provide the Developer with appropriate service agency/employment agency contacts for the identification of city residents as potential employees to interview for employment.

D. No official, board member, officer or employee of BRA or the City is personally liable to Developer or its successor in interest upon a breach or default by BRA for any amount payable to Developer or its successor or any obligation under this Agreement.

14. Term of Agreement: Pursuant to the Plan the BRA shall capture and reimburse Developer that amount of TIR generated from local real and personal property taxes, including school taxes approved by the State of Michigan, allowed by law on the Property, beginning on December 31 in the year Developer has completed the Project and continuing until the earlier of:

A. full reimbursement of the Developer's Eligible Costs for those Eligible Activities set forth above, which shall not exceed \$620,000; or

B. 10 years worth of actual TIR reimbursement.

In addition to the above, Developer understands that the BRA is entitled by Act 381 to capture and retain TIR generated by this Project for the following purposes: (i) payment for certain administrative operating expenses BRA incurred; and (ii) to fund the Local Site Remediation Revolving Fund relating to this Project for an additional term not to exceed 5 years following the above reimbursement to Developer – subject to any

adjustments under Paragraph 17.

15. Reimbursement Source: During the term of this Agreement and except as set forth in Paragraph 17A below, the BRA shall reimburse the Developer for its Eligible Costs, as limited under this Agreement, from all applicable TIR collected from the real and personal property taxes on the Property.

16. Reimbursement Process:

A. *Cost Reimbursement Request.* Before July 31 of the year after Developer has completed the Project (and in no event more than 2 years following completion of the Project) the Developer will submit to the BRA the Eligible Costs Reimbursement Form, attached as Exhibit C, that identifies the costs of each of the Eligible Activities as described in Paragraph 13A. When submitting Exhibit C, the Developer will also provide sufficient documentation of the Eligible Costs incurred including the dates, complete description of the work, proof of payment (accompanied by signed lien waivers from the applicable contractors or subcontractors) and detailed invoices for the costs involved for each Eligible Activity. Exhibit C and the above additional documentation comprise the "Completed Request".

B. *BRA Review.* The BRA shall review the Completed Request within 30 days after receiving it. If the BRA determines that the documentation submitted by the Developer is not a Completed Request, then Developer shall cooperate in the BRA's review by providing any additional documentation of the Eligible Costs as deemed reasonable and necessary by the BRA in order to complete its review.

C. *Reimbursement.* Before December 31 of the year after Developer completed the Project (and as property taxes are received each subsequent year) after both the summer and winter taxes are captured on the Property, the BRA shall pay approved Eligible Costs to the Developer from such available TIR following the Plan and this Paragraph 16. If there are insufficient TIR available in any given year to reimburse all of the Developer's Eligible Costs, as described in Paragraph 13A, then the BRA shall reimburse the Developer only from available TIR. The BRA 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. Reimbursement of Eligible Costs is subject to Developer paying the Developer's taxes levied against the Property and the personal property used in the business or operations conducted from the Property.

D. *Method of Reimbursement.* The BRA will reimburse the Developer for Eligible Costs as follows:

Checks shall be payable to:
Delivered to the following address:
(By certified mail or personally)

NoMi Developers, LLC
c/o Herbert R. Ayres, III
518 East North St.
Kalamazoo, Michigan 49007

17. Adjustments: The parties acknowledge that adjustments regarding the amount of TIR paid to Developer may occur under any of the following circumstances:

A. *Audit or Court Ruling.* If either 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 under Act 381, the Developer shall pay back to the BRA that portion of the payments made to the Developer within 30 days of such determination. However, the Developer shall have the right, before any such repayment is made, to appeal on its or the BRA's behalf any such determination made by a state agency or court, and the BRA agrees to cooperate with Developer in any such appeal. If the Developer is unsuccessful in that appeal, the Developer shall repay the portion of payments found to be unlawful to the BRA within thirty (30) days of the date when the final determination is made on the appeal.

B. *Reduction in Property Assessments.* If during the term of this Agreement Developer successfully petitions the Michigan Tax Tribunal (Tribunal) to lower the assessments levied by the City of Kalamazoo against the Property for tax purposes, the provisions under Paragraph 14 will require a redetermination regarding the amount of TIR that would be captured over the 10-year reimbursement term of this Agreement as a result of such lower assessments. If such amount is less than the actual amount of TIR that BRA has already paid to the Developer, Developer shall reimburse BRA the difference between the total amount of adjusted TIR captured over the 10-year period and the amount actually paid to Developer. Otherwise, any refund due Developer as a result of the lower assessments is limited only to the amount such refund exceeds the amount of TIR paid to Developer for those years covered by the Tribunal's order.

18. DEFAULT BY DEVELOPER - REMEDIES: Developer's failure to timely commence or complete the Project, including the continuous compliance with the Undertakings and this Agreement, is considered a default. If Developer is in default of the Undertakings of this Agreement, BRA shall give Developer written notice of the nature of the default and Developer shall have 30 days to cure such default, unless, because of the nature of the default, BRA gives Developer a longer period within which to reasonably cure such default. If Developer does not timely cure the default, BRA has the right to pursue all remedies available to it at law or equity. In addition, BRA has the specific right to pursue the following:

A. The immediate rebate of the amount of any funds BRA paid to Developer to the date of default for any Incentive as set forth in the Reimbursement Agreement, if executed; AND

B. Demand reconveyance of the BRA Parcel, subject to existing mortgages and other financing instruments, by warranty deed upon the payment to Developer of (i) the Purchase Price, plus (ii) one-half (50%) of all sums reasonably expended by Developer to develop the BRA Parcel, less the amount of any existing mortgages or liens filed against the BRA Parcel. Sums expended to develop the BRA Parcel would include costs such as those related to

engineering, demolition, excavation and removal of soil or debris, design, environmental testing or cleanup, but not for such items as insurance, architect fees, attorney fees, administration, promotion/marketing, advertising, relocation, taxes, and maintenance costs. This option to demand reconveyance is superior to the right of all others to purchase the BRA Parcel, and Developer agrees that it will not sell the BRA Parcel to another party as long as the option remains in effect without the express written approval of BRA. Developer agrees to execute a memorandum, in recordable form, of such option at the request of BRA. This remedy shall not be available to the BRA if the default results from causes outside the control of Developer. This remedy shall expire after issuance of the final occupancy permit for the Project.

C. Regardless of which of the above options BRA elects to pursue, reimburse BRA for its costs or expenses for reasonable attorney fees, court costs, expert witness fees, and all other reasonable litigation expenses directly related to such default.

D. To secure any amount owed by Developer to BRA under this Paragraph 18, BRA has the right to place a lien against the Property in the same manner as delinquent taxes, including accruing interest, penalties and administrative expenses until the lien is fully satisfied.

19. CLOSING: The closing of the sale shall take place within 90 days of the date this Agreement is executed by both parties and at the office of Chicago Title located at 941 West Milham Avenue, Portage, Michigan 49024, unless the parties agree upon another more convenient location. However, either party shall have the right to extend the closing date for an additional 30 days to complete necessary due diligence, to cure any Defect, or to satisfy any contingency.

BRA shall prepare the covenant deed conveying the BRA Parcel to Developer. Each party shall pay the routine closing costs normally charged, respectively, against a seller (BRA) and a buyer (Developer), except each party will equally share the fee charged by the title company for conducting the closing.

20. POSSESSION: Developer is entitled to sole and exclusive possession upon payment of the Purchase Price and receipt of the covenant deed to the BRA Parcel.

21. TAXES: The BRA Parcel is currently exempt from property tax; this status will change on December 31 following the closing date. Developer shall pay all real and personal property taxes that are due after the date of the closing. BRA shall pay any assessments levied against the BRA Parcel to the date of closing, and Developer will pay when due any assessment, or annual installment, that is levied or due against the BRA Parcel after the date of closing.

22. ENVIRONMENTAL CONCERNS: Developer, having the opportunity to inspect and test the BRA Parcel, accepts the BRA Parcel in "as is/where is" condition. BRA makes no representations regarding environmental hazards or liabilities on or relating to

the BRA Parcel. Developer acknowledges that BRA may not be under an obligation to perform any cleanup or other remedial action. Subject to the Paragraph 11 BRA will provide available environmental information to Developer for assistance in any independent environmental assessments and reports it elects to undertake.

23. TIME IS OF THE ESSENCE: The parties agree that in all matters relating to this Agreement, time is of the essence.

24. NOTICES: Any notice or other communication required under this Agreement shall be in writing, signed by an authorized representative, and delivered either (i) in person or (ii) by certified or registered mail, with return receipt requested, or (iii) by a recognized overnight or daytime courier or (iv) first class mail, with proper postage or charges fully prepaid, and properly addressed to the following:

Developer:

NoMi Developers, LLC
c/o Herbert R. Ayres, III
518 East North St.
Kalamazoo, MI. 49007

w/ copies to:

Jared T. Belka
Warner, Norcross & Judd, LLP.
900 Fifth Third Center
111 Lyon Street NW
Grand Rapids, MI 49503-2487

BRA:

City of Kalamazoo
Brownfield Redevelopment Authority
c/o Executive Director of EDC
241 West South St.
Kalamazoo, MI 49007

w/copies to:

The Office of the City Attorney
241 West South St.
Kalamazoo, MI 49007

Notice is considered to have been given on the date of delivery, if delivered personally; on the date of mailing, if sent with all postage prepaid by first-class mail, certified or registered mail with return receipt requested, or over-night mail; or on date of delivery to a recognized overnight or daytime courier. And each party shall notify the other of any changes in the person or the address for the receipt of notices or other communication.

25. CONDEMNATION, FIRE, OR OTHER CASUALTY: BRA shall promptly notify Developer of any impending or actual condemnation proceedings against the whole or any part of the BRA Parcel of which BRA has actual notice or any fire or other casualty to the BRA Parcel. If any condemnation proceedings are initiated or threatened against the BRA Parcel, or if the BRA Parcel is damaged as a result of fire or other casualty prior to the closing (to the extent Developer is unable to complete the Project as contemplated under this Agreement), Developer shall have the right:

A. To terminate this Agreement by a written notice to BRA within 10 days after receipt of notice of such proceedings or damage, in which case neither BRA nor Developer shall have any further liability to the other under this Agreement;
or

B. To proceed to closing as provided in this Agreement, agreeing to take the BRA Parcel in its then-current condition, in which case Developer is entitled to receive all of the condemnation or insurance proceeds payable as a result of such condemnation or such damage. BRA shall assign its rights to such proceeds to Developer at closing.

26. GOVERNING LAW: This Agreement is governed by Michigan law.

27. 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. The parties do not intend to confer any benefits on any person, firm, corporation, or other entity which is not party to this Agreement.

28. WAIVER: No failure of either party to complain of any act or omission on the part of the other party, regardless how long such failure continued, is considered as a waiver by that party to assert any of its rights under this Agreement. And 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.

29. AUTHORIZATION: Each party 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.

30. ENTIRE AGREEMENT: This Agreement and the exhibits to this Agreement contain all of the representations and statements by BRA and Developer to one another, and express the entire understanding between them regarding this transaction. All prior and contemporaneous communications concerning this transaction are merged in and replaced by this Agreement.

31. MISCELLANEOUS:

A. The representations, warranties, and provisions that require performance subsequent to closing set forth in this Agreement shall survive the closing.

B. This Agreement may be signed in counterparts, which together shall comprise a single agreement. However, the Agreement is not effective until both parties have signed it in compliance with Paragraph 29.

C. Developer understands that any, including electronically transmitted, document or communication submitted by Developer to BRA may meet the definition of a public record and therefore subject to release to the public under the Freedom of Information Act, Act ("FOIA") (MCL 15.231 et. seq.). Consequently, unless specifically allowed under FOIA, Developer will not raise a claim of trade secrets or other privilege or exception under FOIA as it relates to this Agreement or such documents or communications.

D. If Developer, or any affiliate or subsidiary, shall cease to use the Property for the purposes contemplated by the Project – without acceptable alternative uses reasonably approved by the BRA – Developer agrees to continue to maintain the Property in an attractive manner. Furthermore, Developer agrees to comply with applicable law with respect to environmental releases for which it is responsible.

E. Headings in this Agreement are for convenience only and shall not be used to interpret or construe its provisions. Words used throughout this Agreement shall have their common meaning, except any word or term that is specifically defined in Act 381 shall follow that definition or meaning.

Dated: February 19TH, 2015

**CITY OF KALAMAZOO BROWNFIELD
REDEVELOPMENT AUTHORITY**

By: Thomas Schlueter
Thomas Schlueter
Its: Chair

Dated: February 12, 2015

NOMI DEVELOPERS, LLC

By: Herbert R. Ayres, III
Herbert R. Ayres, III
Its: Member

Dated: February __, 2015

By: Jon Durham
Jon Durham
Its: Member

Dated: February __, 2015

By: Mac Waldorf
Mac Waldorf
Its: Member

K:\Attydocs\John\BRA\508E.Frank-NoMi(DEV.AGMT)
02/12/15

CITY OF KALAMAZOO

RESOLUTION NO. 12-_____

**Resolution Approving Transfer of \$250,000 from Economic Initiative Fund
to the Brownfield Redevelopment Authority for Purposes of a Loan to
NoMi Developers, LLC towards Redevelopment of 508 E. Frank St.**

Minutes of a regular meeting of the City Commission held on December 7, 2015,
at 7:00 p.m., local time, at the Kalamazoo City Hall.

PRESENT, Commissioners:

ABSENT, Commissioners:

RECITALS:

A. On February 19, 2015, the City of Kalamazoo Brownfield Redevelopment Authority (BRA) entered into a Redevelopment and Purchase Agreement (Purchase Agreement) with NoMi Developers, LLC (NoMI) for the sale and redevelopment of vacant land owned by BRA and located at 505 East North Street and property controlled by NoMi located at 508 East Frank St.

B. The Property is located within the Kalamazoo Riverfront Redevelopment Plan (Riverfront Plan); projects which enhance that area were encouraged and endorsed in City Commission Resolution No. 03-22.

C. Under the Purchase Agreement, NoMi will redevelop a 32,000 square-foot underutilized and obsolete warehouse into a mixed use concept including residential and commercial uses.

D. The estimated costs and investment in the Project total approximately \$4.3 million.

E. On November 19, 2015, following review by BRA's loan committee, the BRA Board of Directors adopted a resolution recommending to the City Commission that it approve a \$250,000 "gap financing" loan from Economic Initiative Fund (EIF) for this Project.

F. As more fully set forth in such resolution, BRA determined that the Project enhances the City's Brownfield Initiative and the proposed \$250,000 loan to NoMi satisfies the EIF guidelines.

G. The City Commission concurs with the determination of BRA; and further finds that Project meets the objectives of the Riverfront Plan and therefore the transfer of \$250,000 from EIF serves a vital public interest in furthering such Plan.

THEREFORE, IT IS RESOLVED THAT:

The City Commission approves and authorizes the transfer of \$250,000 from EIF to BRA for the purposes and uses as set forth in the Purchase Agreement and the loan documents with NoMi.

The above resolution was offered by Commissioner _____ and supported by Commissioner _____.

AYES, Commissioners:

NAYS, Commissioners:

ABSTAIN, Commissioners:

RESOLUTION DECLARED ADOPTED.

CERTIFICATE

The foregoing is a true and complete copy of a resolution adopted by the City Commission of the City of Kalamazoo at a regular meeting held on December 7, 2015. 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.

Scott A. Borling, City Clerk

**RESOLUTION
RECOMMENDING APPROVAL OF EIF LOAN
TO NoMi Developers, LLC OF KALAMAZOO**

Minutes of a regular meeting of the Board of Directors of the Brownfield Redevelopment Authority of the City of Kalamazoo (the "BRA"), held on November 19, 2015, at 7:30 a.m., local time, at the Kalamazoo City Hall.

Present, Directors: Nathan Bolton; Fritz Brown; Kevan Hess; Barb Miller; Bob Miller; Patti Owens; Doug Phillips; Tom Schlueter

Absent, Directors: Jim Escamilla; John MacKenzie; Nancy Troff

The following preamble and resolution were offered by Patti Owens and supported by Fritz Brown.

RECITALS:

- A. There exists in the City of Kalamazoo (City) the need for certain programs to alleviate and prevent conditions of unemployment, to revitalize the City's economy, to assist and retain local industrial and commercial enterprises and to encourage the location and expansion of industrial and commercial enterprises to provide needed services and facilities to the City and its residents; and to retain and expand employment opportunities in the City.
- B. The City Commission established a business loan program known as the Economic Initiative Fund (EIF) to help alleviate the above conditions.
- C. City staff and BRA, in conformity with Act No. 381, Public Acts of Michigan, 1996, as amended, (MCL 125.2651 - 125.2672) have worked diligently with NoMi Developers, LLC to negotiate a Redevelopment and Purchase Agreement, dated February 19, 2015 (agreement) for the purposes of 1) purchase of the building located at 508 E. Frank Street and 2) rehab the building (33,500 square feet) for a mixed use development that includes residential units and commercial/retail units.
- D. For the financial viability of the Project, NoMi Developers, LLC has submitted an application for an EIF loan in the amount of \$250,000.
- E. BRA Loan Committee has reviewed the application and finds that the requested loan meets the guidelines under the EIF loan policy, including specifically that the property is included within the current version of the City's Brownfield Plan.

THEREFORE IT IS RESOLVED THAT:

1. The EIF loan request, as submitted, and the Project to which it relates, serve to strengthen and revitalize the City's economy and to assist local enterprises, and therefore, constitute a vital and necessary public purpose.
2. The persons who will be active in the management of the business operations for NoMi Developers, LLC, including oversight of the proposed EIF loan, for not less than one year after approval of the EIF loan, have sufficient ability and experience to manage the Project properly.
3. BRA has determined that the proposed methods of financing the project are feasible and it has the ability to arrange, or cause to be arranged, a portion of the total financing.
4. The Project, as more fully described in the Agreement, satisfies the purposes of Act No. 381 and will, upon completion, create approximately 5 total jobs.
5. BRA Board recommends that the Kalamazoo City Commission approve the transfer of \$250,000 from the EIF to the BRA budget and authorize the use of those funds by NoMi Developers, LLC to finance a portion of the costs of the Project under the terms of the Agreement and in accordance with all loan documents between it and BRA.

AYES, Directors: All

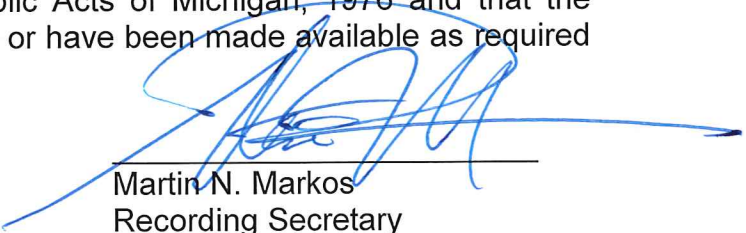
NAYS, Directors: None

ABSTAIN, Directors: None

RESOLUTION DECLARED ADOPTED.

CERTIFICATION

I certify that the foregoing is a true and complete copy of a resolution adopted by the Board of Directors of the Brownfield Redevelopment Authority of the City of Kalamazoo at a regular meeting held on November 19, 2015, and that said meeting was conducted and public notice of said meeting was given to and in full compliance with the Michigan Open Meetings Act, being Act No. 267, Public Acts of Michigan, 1976 and that the minutes of said meeting were kept and will be or have been made available as required by the Act.



Martin N. Markos
Recording Secretary



Commission Agenda Report

City of Kalamazoo

TO: Mayor Hopewell, Vice Mayor Cooney, and City Commissioners

FROM: Scott A. Borling, City Clerk

DATE: 11/20/2015

SUBJECT: Resolution of Non-Profit Status for Charitable Gaming License

RECOMMENDATION

It is recommended that the City Commission adopt a RESOLUTION recognizing the Kalamazoo Dream Center as a non-profit organization operating in the community for the purpose of obtaining a charitable gaming license.

BACKGROUND

The Kalamazoo Dream Center is a non-profit organization based in the Edison Neighborhood that actively engages individuals and families in need in Southwest Michigan. The vision of the Dream Center is, "To provide enrichment to the most challenged in the community by lifting up the struggling and renewing those who are broken and forgotten." To support this vision The Dream Center would like to be able to incorporate 50/50 raffles with their fundraising events. In order to conduct a fund-raising raffle, a non-profit organization must obtain a charitable gaming license through the Michigan Lottery Bureau. As part of the licensing process, the State requires the local unit of government to establish and verify the applicant's non-profit status through the adoption of a *Local Governing Body Resolution for Charitable Gaming Licenses*. The City Clerk has received a copy of a letter of determination from the Internal Revenue Service confirming the 501(c)(3) tax-exempt status of the organization and has verified with the Michigan Department of Licensing and Regulatory Affairs (LARA) that Kalamazoo Dream Center is registered as a domestic non-profit corporation.

COMMUNITY RESOURCES CONSULTED

None

FISCAL IMPACT

There is no fiscal impact.

ALTERNATIVES

The City Commission could deny the request. However, the Kalamazoo Dream Center has submitted sufficient documentation to demonstrate its non-profit status.

ATTACHMENTS:

Type	Description
------	-------------

▣ Resolution Charitable Gaming License Resolution for the Dream Center



Charitable Gaming Division
Box 30023, Lansing, MI 48909
OVERNIGHT DELIVERY:
101 E. Hillsdale, Lansing MI 48933
(517) 335-5780
www.michigan.gov/cg

RESOLUTION 15-

LOCAL GOVERNING BODY RESOLUTION FOR CHARITABLE GAMING LICENSES

(Required by MCL 432.103(9))

At a Regular meeting of the Kalamazoo City Commission
REGULAR OR SPECIAL TOWNSHIP, CITY, OR VILLAGE COUNCIL/BOARD

called to order by Mayor Hopewell on 12/7/2015
DATE

at 7:00 p.m. a.m./p.m. the following resolution was offered:
TIME

Moved by _____ and supported by _____

that the request from Kalamazoo Dream Center of Kalamazoo,
NAME OF ORGANIZATION CITY

county of Kalamazoo, asking that they be recognized as a
COUNTY NAME

nonprofit organization operating in the community for the purpose of obtaining a charitable

gaming license, be considered for Approval.
APPROVAL/DISAPPROVAL

APPROVAL

Yeas: _____

Nays: _____

Absent: _____

DISAPPROVAL

Yeas: _____

Nays: _____

Absent: _____

I hereby certify that the foregoing is a true and complete copy of a resolution offered and

adopted by the Kalamazoo City Commission at a Regular
TOWNSHIP, CITY, OR VILLAGE COUNCIL/BOARD REGULAR OR SPECIAL

meeting held on December 7, 2015.
DATE

SIGNED: _____
TOWNSHIP, CITY, OR VILLAGE CLERK

Scott A. Borling, City Clerk

PRINTED NAME AND TITLE

241 W. South Street, Kalamazoo, MI 49007

ADDRESS

COMPLETION: Required.
PENALTY: Possible denial of application.

BSL-CG-1153(R7/02)



Commission Agenda Report

City of Kalamazoo

TO: Mayor Hopewell, Vice Mayor Cooney, and City Commissioners

FROM: Scott A. Borling, City Clerk

DATE: 11/20/2015

SUBJECT: Resolution of Non-Profit Status for Charitable Gaming License

RECOMMENDATION

It is recommended that the City Commission adopt a RESOLUTION recognizing the Bronson Health Foundation as a non-profit organization operating in the community for the purpose of obtaining a charitable gaming license.

BACKGROUND

Bronson Health Foundation is a non-profit organization that was established in 1983 as a means to connect the generosity and kindness of the community with Bronson Healthcare and its mission of healing. Funds raised by the Foundation are used to provide special services to patients and families. To enhance the impact of its fundraising efforts, Bronson Health Foundation would like to engage in activities that require a charitable gaming license through the Michigan Lottery Bureau. As part of the licensing process, the State requires the local unit of government to establish and verify the applicant's non-profit status through the adoption of a *Local Governing Body Resolution for Charitable Gaming Licenses*. The City Clerk has received a copy of a letter of determination from the Internal Revenue Service confirming the 501(c)(3) tax-exempt status of the organization and has verified with the Michigan Department of Licensing and Regulatory Affairs (LARA) that Bronson Health Foundation is registered as a domestic non-profit corporation.

COMMUNITY RESOURCES CONSULTED

None

FISCAL IMPACT

There is no fiscal impact.

ALTERNATIVES

The City Commission could deny the request. However, Bronson Health Foundation has submitted sufficient documentation to demonstrate its non-profit status.

ATTACHMENTS:

Type	Description
□	Resolution Gaming License Resolution for Bronson Health Foundation



Charitable Gaming Division
Box 30023, Lansing, MI 48909
OVERNIGHT DELIVERY:
101 E. Hillsdale, Lansing MI 48933
(517) 335-5780
www.michigan.gov/cg

RESOLUTION 15-

LOCAL GOVERNING BODY RESOLUTION FOR CHARITABLE GAMING LICENSES

(Required by MCL 432.103(9))

At a Regular meeting of the Kalamazoo City Commission
REGULAR OR SPECIAL TOWNSHIP, CITY, OR VILLAGE COUNCIL/BOARD

called to order by Mayor Hopewell on 12/7/2015
DATE

at 7:00 p.m. a.m./p.m. the following resolution was offered:
TIME

Moved by _____ and supported by _____

that the request from Bronson Health Foundation of Kalamazoo,
NAME OF ORGANIZATION CITY

county of Kalamazoo, asking that they be recognized as a
COUNTY NAME

nonprofit organization operating in the community for the purpose of obtaining a charitable

gaming license, be considered for Approval.
APPROVAL/DISAPPROVAL

APPROVAL

Yeas: _____

Nays: _____

Absent: _____

DISAPPROVAL

Yeas: _____

Nays: _____

Absent: _____

I hereby certify that the foregoing is a true and complete copy of a resolution offered and

adopted by the Kalamazoo City Commission at a Regular
TOWNSHIP, CITY, OR VILLAGE COUNCIL/BOARD REGULAR OR SPECIAL

meeting held on December 7, 2015.
DATE

SIGNED: _____
TOWNSHIP, CITY, OR VILLAGE CLERK

Scott A. Borling, City Clerk

PRINTED NAME AND TITLE

241 W. South Street, Kalamazoo, MI 49007

ADDRESS

COMPLETION: Required.
PENALTY: Possible denial of application.

BSL-CG-1153(R7/02)



Commission Agenda Report

City of Kalamazoo

TO: Mayor Hopewell, Vice Mayor Cooney, and City Commissioners

FROM: James K. Ritsema, ICMA-CM, City Manager

REVIEWED BY: Sue Foune, Public Services Managing Director

PREPARED BY: Debbie Jung, Assistant City Engineer

DATE: 11/13/2015

SUBJECT: Amendment to Purchase Agreement for 1720 Riverview Drive

RECOMMENDATION

It is recommended that the City Commission approve an amendment to the sale and purchase agreement with Kalamazoo Charter Township for a strip of land at 1720 Riverview for public right-of-way purposes and authorize the City Manager to sign all documents.

BACKGROUND

The City of Kalamazoo has an approved sale and purchase agreement with Kalamazoo Township for this property as part of the Riverview resurfacing project. The City purchased this property so Mt. Olivet could be reconstructed to intersect Riverview at a right angle, effectively increasing sight distance for turning traffic and improving safety at the intersection. The original agreement called for the removal of two driveways and the installation of a new driveway along the Riverview side of their property. Upon further investigation, the Township decided that they only wanted their south driveway removed and wanted to keep the north drive in its current location. The proposed agreement also addresses the removal of the south drive to address site distance and installation of a sidewalk along their property to address pedestrian safety.

COMMUNITY RESOURCES CONSULTED

Engineering staff met with representatives from Kalamazoo Charter Township to discuss what modifications could be made to the agreement. It was agreed that the area around the drive would be graded to match the existing slope to the north and south which would help to improve site distance from Mt. Olivet and from their north driveway. It was agreed to construct a sidewalk along the Mt. Olivet side of their property.

FISCAL IMPACT

The cost difference for the change is minimal considering the amount of work involved for either scenario. The unknown soils at the proposed driveway location could have had a significant impact on cost. This work not only benefits the Township property, it also benefits the community by improving site distance at Mt. Olivet and increasing pedestrian safety with the addition of a sidewalk at a busy intersection.

ALTERNATIVES

None

ATTACHMENTS:

Type	Description
☐	Agreement Amendment to Sale and Purchase Agreement
☐	Aerial Photo Exhibit D

AMENDMENT TO SALE AND PURCHASE AGREEMENT

Kalamazoo Charter Township, whose address is 1720 Riverview Drive ("Seller"), and the City of Kalamazoo, a Michigan municipal corporation, whose address is 241 West South Street, Kalamazoo, Michigan 49007 ("Purchaser"), amend the Sale and Purchase Agreement ("Agreement") dated February 25, 2015 as follows:

1. Paragraph 2 – Consideration is replaced and will now read:
 - a. Purchaser shall remove the southern driveway and grade the area to blend with the existing grade to the north and south of the drive as described in attached Exhibit D. Exhibit D replaces previous Exhibit B.
 - b. Purchaser shall construct a five (5) foot wide concrete sidewalk along the Mt. Olivet side of 1720 Riverview from the west driveway to Riverview as described in Exhibit D.
2. Integration Clause. Except for the above amendment to Paragraph 2, the Agreement shall remain in full force and effect.

Dated: September 14, 2015

SELLER – Kalamazoo Charter Township

By: Ronald E. Reid

Ronald E. Reid

Its: Supervisor

Dated: September ____, 2015

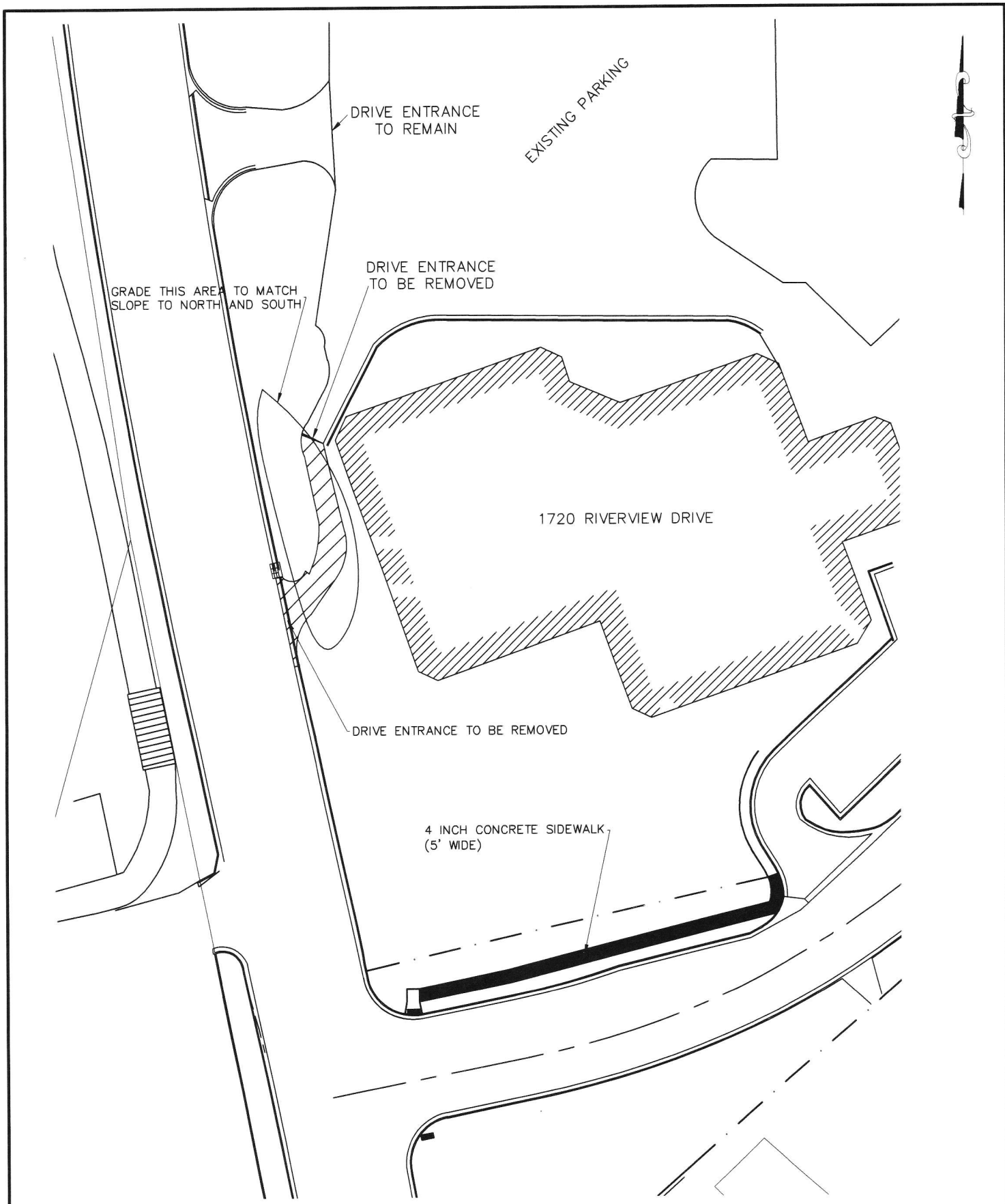
PURCHASER - City of Kalamazoo

By: _____

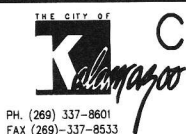
James K. Ritsema

Its: City Manager

Prepared by:
Office of City Attorney
241 W. South Street
Kalamazoo, MI 49007-4707
(269) 337-8185



SCALE:
1" = 40'



CITY OF KALAMAZOO

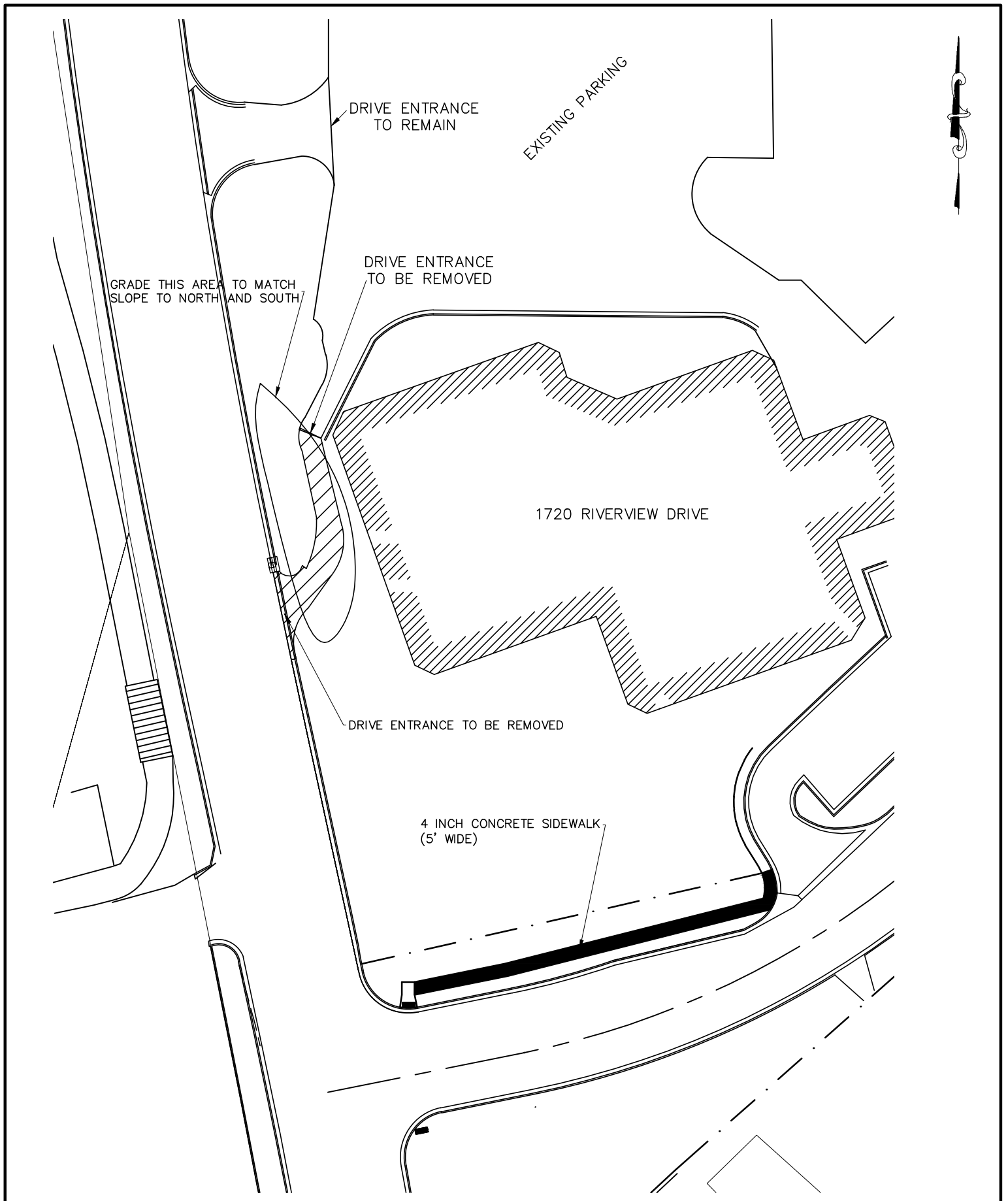
Department Of Public Services

Engineering Division 415 STOCKBRIDGE AVE.
KALAMAZOO, MICHIGAN 49001

1720 RIVERVIEW DRIVE
EXHIBIT D

DATE: 07/08/15

DRAWN BY: WEE



SCALE:
1" = 40'



CITY OF KALAMAZOO

Department Of Public Services

Engineering Division

415 STOCKBRIDGE AVE.
KALAMAZOO, MICHIGAN 49001

1720 RIVERVIEW DRIVE
EXHIBIT D

DATE: 07/08/15

DRAWN BY: WEE



Commission Agenda Report

City of Kalamazoo

TO: Mayor Hopewell, Vice Mayor Cooney, and City Commissioners

FROM: James K. Ritsema, ICMA-CM, City Manager

REVIEWED BY: Jerome R. Kisscorni, Assistant City Manager/ED Director

PREPARED BY: John W. Kneas, Assistant City Attorney

DATE: 11/30/2015

SUBJECT: First Amendment to Purchase Agreement – Eastern Hills

RECOMMENDATION

It is recommended that the City Commission approve and authorize the City Manager to sign the First Amendment to Purchase Agreement with JTM Management Inc. regarding the sale and purchase of Eastern Hills Golf Course.

BACKGROUND

The City and JTM Management (Purchaser) signed a Purchase Agreement effective June 15, 2015 regarding the sale and purchase of Eastern Hills (Agreement). The closing on the sale and purchase was to occur within 30 days following the allowed 90-day Inspection Period under Paragraph 5 for 'Due Diligent Activities', with an agreed upon 60-day extension to address any Due Diligent Activities or other contingencies to closing. When all those dates were reviewed the closing date was to occur by December 14, 2015. Purchaser promptly advised City Administration that recent circumstances arose that jeopardized its ability to close by December 14th. Those circumstances include: (i) it was unable to reach agreeable terms with the original bank to finance the purchase; (ii) the subsequent lender providing the loan towards the purchase of Eastern Hills is requiring additional environmental investigations and reports; and (iii) the Michigan Liquor Control Commission will not be able to approve the transfer of the liquor license (included under the Agreement) by the closing deadline.

To ensure adequate time to address the added contingencies (and considering Eastern Hills will be closed for the winter), city staff is recommending the 90-day extension of the Agreement for the closing to occur. Nonetheless, Purchaser believes closing can occur earlier. And for added security for the City Purchaser will deposit (or by date of this meeting has deposited) with the City an additional non-refundable \$100,000 Earnest Deposit, and will provide the City with the bank's commitment letter towards the purchase.

COMMUNITY RESOURCES CONSULTED

Kalamazoo Municipal Golf Association was apprised of the delay in the closing and the recommended amendment to the Agreement to effectuate the sale to Purchaser. KMGA concurs with the recommended action. No other community resources were consulted.

FISCAL IMPACT

There is no fiscal impact to the City. Should the closing not occur within the 90-extension Purchaser forfeits the added \$100,000 earnest money.

ALTERNATIVES

The City Commission could decline to approve the amendment to the Agreement, but this action is not recommended.

ATTACHMENTS:

Type	Description
□	Agreement First Amendment to Purchase Agreement

FIRST AMENDMENT TO PURCHASE AGREEMENT

THIS FIRST AMENDMENT (Amendment), is effective as of December ___, 2015 between the CITY OF KALAMAZOO, a Michigan municipal corporation, whose address is 241 West South Street, Kalamazoo, Michigan 49007 (City), and JTM MANAGEMENT INC., a Michigan corporation, whose address is 7105 Hidden Cove Place, Kalamazoo, Michigan, 49009 (Purchaser).

Recitals:

A. The City and Purchaser signed a Purchase Agreement effective June 15, 2015 regarding the sale and purchase of Eastern Hills Golf Course (Agreement).

B. The closing on the sale and purchase of Eastern Hills is covered under Paragraph 11 of the Agreement which provided that the closing was to occur within 30 days following the allowed 90-day Inspection Period under Paragraph 5 for 'Due Diligent Activities', with an agreed upon 60-day extension to address any Due Diligent Activities or other contingencies to closing.

C. Subsequent to the signing of the Agreement, events beyond the control of the City and Purchaser have occurred such that the closing will not occur within the allowed time period under Paragraph 11. Purchaser promptly advised City Administration of those circumstances, which include: (i) it was unable to reach agreeable terms with the original lender; (ii) the subsequent lender providing the loan towards the purchase of Eastern Hills is requiring additional environmental investigations and reports; and (iii) the Michigan Liquor Control Commission will not be able to approve the transfer of the liquor license (included under Paragraph 2 among the assets to be sold) by the closing deadline.

D. As additional consideration for the 90-day extension of the Agreement from the date of this Amendment, Purchaser has deposited with the City an additional non-refundable \$100,000 Earnest Deposit and agreed to provide the City with the bank's commitment letter towards the purchase.

THEREFORE, considering the above circumstances, the parties have agreed to amend the Agreement as follows:

5. **INSPECTION.** Purchaser is granted an additional 30 days to complete any additional environmental investigations and reports as its lender may require. Purchaser will within 5 days notify the City if those investigations or reports reveal unacceptable conditions (Defects) directly relating to the Property. Within 10 days after the City receives the Defect Notice from Purchaser, it will notify Purchaser whether it agrees to cure or is unable (or unwillingly given the circumstances of the Defect) to cure any of the Defects contained in the Defect Notice. Within 10 days of receipt of the City Response, Purchaser will notify the City that it has elected one of the following options: (i) waive the Defects and proceed to closing; or (ii) terminate the Agreement. If Purchaser elects to terminate the Agreement, the parties shall, subject to the City's right to retain the additional \$100,000

Earnest Deposit, have no further rights or obligations under the Agreement. If Purchaser, however, fails to give the City timely notice following receipt of the City Response, it waives the right to terminate this Agreement under this amended Paragraph 5.

10. EARNEST DEPOSIT. As evidence of extension granted under this Admendment and Purchaser's good faith in closing on this transaction it has deposited with the City an additional \$100,000 as earnest money. If following this Amendment the Agreement is terminated through no fault of either party, the City, nonetheless, is entitled to retain \$100,000 of the total \$120,000 earnest money, and will promptly refund of the remaining \$20,000 earnest money to Purchaser. If Purchaser defaults, the City may retain all of the earnest money as liquidated damages; or it may retain the earnest money as part payment of the Purchase Price and pursue any legal and equitable remedies against Purchaser. Otherwise, at closing the earnest deposit shall be credited against the Purchase Price.

11. CLOSING. The closing shall occur within 90 days after this Amendment is approved by the City Commission at the office of the company issuing the Title Commitment, unless the parties agree upon another more convenient location.

22. Miscellaneous. Added subparagraphs H and I to read as follows:

H. On or before this Amendment is approved by the City Commission Purchaser shall provide the City with a commitment letter from the lender that indicates that Purchaser has the available financing to close on the purchase of Eastern Hills.

I. The terms as capitalized in the Agreement shall retain the same meaning under this Amendment.

Except for this Amendment, all other paragraphs and provisions of the Agreement shall remain in full force and effect, and include the meaning of any term capitalized under the Agreement.

Dated: December ___, 2015

JTM Management, Inc.

By: _____
Richard E. Feaster
Its: President

Dated: December ___, 2015

City of Kalamazoo

By: _____
James K. Ritsema
Its: City Manager



Commission Agenda Report

City of Kalamazoo

TO: Mayor Hopewell, Vice Mayor Cooney, and City Commissioners

FROM: James K. Ritsema, ICMA-CM, City Manager

REVIEWED BY: Sue Founé, Public Services Managing Director

PREPARED BY: John P. Paquin, Environmental Programs Manager

DATE: 10/12/2015

SUBJECT: Wellhead Protection Program Grant Assistance Contract with the Michigan Department of Environmental Quality

RECOMMENDATION

It is recommended that the City Commission authorize the City Manager to sign both original contract documents prepared by the Michigan Department of Environmental Quality (MDEQ) associated with the Wellhead Protection Grant Program.

BACKGROUND

The City of Kalamazoo Wellhead Protection Grant Proposal Application was approved and awarded the requested amount of \$60,000 by MDEQ for the period of October 1, 2015 through September 30, 2016. The contract agreement is in the amount of \$120,000, reflecting the City match of \$60,000 from previous wellhead protection work. This is the 15th year that the City has been awarded funds from the MDEQ Wellhead Protection Grant Program. Designated activities include: the five-year update to the Contaminant Source Inventory and associated Risk Assessment; continuation of the chemical storage/inventory project, a project that supports both the Wellhead Protection Program and the Public Safety Fire Fighters' Right-to-Know Program; and the continuation of the public education and outreach program, including movie theater ads, radio ads, Metro Bus Ad campaign, and enhancements to the www.protectyourwater.net website.

COMMUNITY RESOURCES CONSULTED

The City of Kalamazoo Wellhead Protection Committee assisted in the selection of grant eligible activities for the proposal. Committee members represent the areas of municipal government, local health department, City Fire Marshal, business and industry, agriculture, education, environmental organizations, and the general public.

FISCAL IMPACT

Funds to temporarily cover project costs during the interim period prior to reimbursement from MDEQ are available in the 2015 Water O & M Budget and are proposed for the 2016 Water O & M Budget.

ALTERNATIVES

An alternative would be to not accept the \$60,000 funding from MDEQ and implement wellhead protection activities on a total city cost basis with no reimbursement from the MDEQ. Staff does not recommend this alternative.

ATTACHMENTS:

Type	Description
▣ Correspondence	Cover Letter
▣ Contract	Wellhead Protection Program Grant Contract between the Michigan Department of Environmental Quality and City of Kalamazoo



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF ENVIRONMENTAL QUALITY
LANSING



DAN WYANT
DIRECTOR

September 25, 2015

Mr. John Paquin
City of Kalamazoo
1415 North Harrison
Kalamazoo, Michigan 49007

Dear Mr. Paquin,

Your grant application for a Wellhead Protection project under Fiscal Year 2015/2016 (FY16) Wellhead Protection Grant Program has been recommended for funding. Your FY16 Wellhead Protection Program (WHPP) grant agreement (Agreement) has been awarded for \$60,000.00.

Enclosed for your review is an original Agreement of the Office of Drinking Water and Municipal Assistance (ODWMA), Department of Environmental Quality (DEQ) – WHPP. To accept the award, you must sign two originals of the Agreement and return both originals to the DEQ.

Please verify your federal identification number, address and DUNS number listed on page one of the grant agreement. Return two signed originals to the following address:

DEQ, ODWMA
Administration Section
P.O. Box 30241
Lansing, MI 48909-7741

When the Agreements have been signed by both parties, an original will be returned to you.

If you have any questions pertaining to the program, please contact Jason Berndt by phone at (989) 705-6181. For general questions relating to overall contract administration, please contact me by phone or e-mail.

Sincerely,

Christina Campbell
Administration Section
Office of Drinking Water and Municipal
Assistance
517-284-6501/campbellc@michigan.gov

Enclosure



**WELLHEAD PROTECTION PROGRAM GRANT AGREEMENT
BETWEEN THE
MICHIGAN DEPARTMENT OF ENVIRONMENTAL QUALITY
AND CITY OF KALAMAZOO**

This Grant Agreement ("Agreement") is made between the Michigan Department of Environmental Quality, (DEQ), Office of Drinking Water and Municipal Assistance ("State"), and City of Kalamazoo ("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 Michigan Safe Drinking Water Act, 1976 PA 399, as amended, Legislative appropriation of Funds for grant assistance is set forth in Public Act 84 of 2015. This Agreement is subject to the terms and conditions specified herein.

Project Name: Wellhead Protection

Amount of grant: \$60,000.00

Amount of match: \$60,000.00 = 50%

Start Date (date executed by DEQ): October 1, 2015

Match from Previous Expenditures: \$60,000.00

% of grant state 0 / % of grant federal 100

Project Total: \$120,000.00 (grant plus match – includes previous expenditures)

End Date: September 30, 2016

GRANTEE CONTACT:

JohnPaquin

Name/Title

City of Kalamazoo

Organization

1415 North Harrison

Address

Kalamazoo, Michigan 49007-2565

Address

(269) 337-8737

Telephone number

Fax number

paquinj@kalamazoocity.org

E-mail address

Federal ID number

Grantee DUNS number

STATE'S CONTACT:

Jason Berndt, Environmental Quality Analyst

Name/Title

Community Drinking Water Unit

Division/Bureau/Office

2100 West M-32

Address

Gaylord, Michigan 49735-9282

Address

(989) 705-3420

Telephone number

(989) 731-6181

Fax number

Berndtj1@michigan.gov

E-mail address

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

Date

Name/Title

FOR THE STATE:

Signature

Date

Name/Title

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 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 financial and/or 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 (invoices, proof of payment, etc.) for expenses must be included with the report.

(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 two 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 Wellhead Protection Program, DEQ, 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.

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 OMB Circular A-21, A-87, or A-122, 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.

(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 Contract & Payment Express Web Site (<http://www.cpexpress.state.mi.us>).

(F) The Grantee is committed to the match percentage on page 1 of the Agreement, in accordance with Appendix A. The Grantee shall expend all local match committed to the project by the End Date on page 1 of the Agreement.

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.

PROGRAM SPECIFIC SECTION

XXIII. FEDERAL FUNDING REQUIREMENTS

A maximum of 100 % of total disbursements is funded with Federal Funding. The Catalog of Federal Domestic Assistance (CFDA) title is Capitalization Grants for Safe Drinking Water State Revolving Fund and the CFDA number is 66.468. The federal grant number is FS975487-14, and this grant is funded with Federal funds from the U.S. Environmental Protection Agency. By accepting this Agreement, the Grantee shall comply with all applicable Federal statutes and regulations in effect with respect to the period during which it receives grant funding. These regulations include, but are not limited to, the following:

(A) The Grantee agrees to fulfill conditions that the Federal Government has imposed on the State as a condition of Federal funding as indicated herein and in all appendices.

(B) The Grantee will comply with the **Hatch Political Activity Act**, as amended, 5 USC §§ 1501-1508, and the Intergovernmental Personnel Act of 1970 as amended by Title (6) of the Civil Service Reform Act, 42 USC § 4728, which states that employees working in programs financed with federal grants may not be a candidate for elective public office in a partisan election, use official authority or influence to affect the result of an election, or influence a state or local officer to provide financial support for a political purpose.

(C) **Payment to Consultants.** EPA participation in the salary rate (excluding overhead) paid to individual consultants by recipients or by a recipient's contractors or subcontractors shall be limited to the maximum daily rate for a Level IV of the Executive Schedule, to be adjusted annually. This limit applies to consultation services of designated individuals with specialized skills who are paid at a daily or hourly rate. As of January 1, 2015, the limit is \$610.40 per day and \$76.40 per hour. This rate does not include transportation and subsistence costs for travel performed. (The recipient will pay these in accordance with their normal travel reimbursement practices).

Subrecipients with firms for services that are awarded using the procurement requirements in Subpart D of 2 CFR 200, are not affected by this limitation unless the terms of the Agreement provided the recipient with responsibility for the selection, direction, and control of the individuals who will be providing services under the Agreement at an hourly or daily rate of compensation. See 2 CFR 1500.9

(D) **Subawards.**

The grantee agrees to:

- (1) Establish all subaward agreements in writing;
- (2) Ensure that any subawards comply with the standards in 2 CFR 200 Subpart D and are not used to acquire commercial goods or services for the recipient;
- (3) Ensure that any subawards are awarded to eligible subrecipients and that proposed subaward costs are necessary, reasonable, and allocable;
- (4) Ensure that any subawards to 501(c)(4) organizations do not involve lobbying activities;
- (5) Monitor the performance of their recipients and ensure that they comply with all applicable regulations, statutes, and terms and conditions which flow down in the subaward;
- (6) Obtain DEQ's consent before making a subaward to a foreign or international organization, or a subaward to be performed in a foreign country; and
- (7) Obtain approval from DEQ for any new subaward work that is not outlined in the approved work plan.
- (8) Be responsible for selecting its subrecipients and, if applicable, for conducting subaward competitions.

(E) **Single Audit.** Grantees spending \$750,000 or more in federal funds in their fiscal year shall have a single audit performed in compliance with 2 CFR 200.501(a). This audit must be performed and copies provided to the appropriate agencies within nine months from the end of the grantee's fiscal year, or 30 days after receiving the report from the auditors. The Grantee must submit a copy of the Audit Report to the Michigan Department of Environmental Quality at the following address:

Michigan Department of Environmental Quality
Administration Division
Constitution Hall, 6th floor
525 West Allegan
Lansing, MI 48909

Or the grantee may also submit the single audit report electronically to the Michigan Department of Treasury website (http://www.michigan.gov/treasury/0,1607,7-121-1751_31038--00.html).

It is the responsibility of the Grantee to report the expenditures related to this grant on the Grantee's annual Schedule of Expenditures of Federal Awards.

(F) **Copyrighted Material.** In accordance with 2 CFR 200.315, the EPA has the right to reproduce, publish, use, and authorize others to reproduce, publish, and use copyrighted works or other data developed under this assistance agreement for Federal purposes.

Examples of Federal purpose include but are not limited to: (1) Use by the EPA and other Federal employees for official Government purposes; (2) Use by Federal contractors performing specific tasks for the Government; (3) Publication in EPA documents provided the document do not disclose trade secrets (e.g. software codes) and the work is properly attributed to the recipient through citation or otherwise; (4) Reproduction of documents for inclusion in Federal depositories; (5) Use by State, tribal and local governments that carry out delegated Federal environmental programs as "co-regulators" or act as official partners with the EPA to carry out a national environmental program within their jurisdiction; and (6) Limited use by other grantees to carry out Federal grants provided the use is consistent with the terms of the EPA's authorization to the grantee to use the copyrighted works or other data.

Under Item 6, the grantee acknowledges that EPA may authorize another grantee(s) to use the copyrighted works or other data developed under this grant as a result of:

- a. the selection of another grantee by EPA to perform a project that will involve the use of the copyrighted works or other data or;
- b. termination or expiration of this agreement.

In addition, EPA may authorize another grantee to use copyrighted works or other data developed with Agency funds provided under this grant to perform another grant when such use promotes efficient and effective use of Federal grant funds.

(G) **Electronic and Information Technology Accessibility.** Grantees developing electronic and information technology products, which includes but is not limited to information kiosks and World Wide Websites, must meet accommodation standards in Section 508 of the Rehabilitation Act, 36 CFR Part 1194, unless such causes undue hardship to the entity involved.

(H) **Drug-Free Workplace.** The recipient organization of this EPA assistance agreement must make an ongoing, good faith effort to maintain a drug-free workplace pursuant to the specific requirements set forth in Title 2 CFR Part 1536 Subpart B. Additionally, in accordance with these regulations, the recipient organization must identify all known workplaces under its federal awards, and keep this information on file during the performance of the award.

Those recipients who are individuals must comply with the drug-free provision set forth in Title 2 CFR 1536 Subpart C.

The consequences for violating this condition are detailed under Title 2 CFR Part 1536 Subpart E, which recipients can access at <http://ecfr.gpoaccess.gov/>

(I) **Hotel-Motel Fire Safety.** Pursuant to 15 USC 2225a the recipient agrees to ensure that all space for conferences, meetings, conventions or training seminars funded in whole or in part with federal funds complies with the protection and control guidelines of the Hotel and Motel Fire Safety Act (PL 101-391, as amended). Recipients may search the Hotel-Motel National Master List at <http://www.usfa.dhs.gov/applications/hotel> to see if a property is in compliance.

(J) **Recycled Paper.** When directed to provide paper documents, the recipient agrees to use recycled paper and double sided printing for all reports which are prepared as a part of this agreement and delivered to the USEPA. This requirement does not apply to reports prepared on forms supplied by the EPA.

(K) **Recycled Products.** Consistent with goals of section 6002 of RCRA (42 U.S.C. 6962), State and local institutions of higher education, hospitals, and non-profit organization recipients agree to give preference in procurement programs to the purchase of specific products containing recycled materials, as identified in 40 CFR Part 247.

Consistent with section 6002 of RCRA (42 U.S.C. 6962) and 2 CFR 200.322, State agencies or agencies of a political subdivision of a State and its contractors are required to purchase certain items made from recycled materials, as identified in 40 CFR Part 247, when the purchase price exceeds \$10,000 during the course of a fiscal year or where the quantity of such items acquired in the course of the preceding fiscal year was \$10,000 or more. Pursuant to 40 CFR 247.2 (d), the recipient may decide not to procure such items if they are not reasonably available in a reasonable period of time; fail to meet reasonable performance standards; or are only available at an unreasonable price.

(L) **Trafficking.** Grantees, contractors, and subcontractors may not engage in severe forms of trafficking in persons, procure a commercial sex act, or use forced labor in the performance of the grant or subcontracts.

XXIV. QUALITY ASSURANCE/QUALITY CONTROL

A project-specific Quality Assurance Project Plan (QAPP) must be submitted to the State in accordance with guidance provided by the DEQ project administrator. Monitoring conducted prior to final DEQ approval of the QAPP will not be reimbursed.

PROJECT-SPECIFIC REQUIREMENTS – APPENDIX A

Responsibilities – Grantee

The Grantee, in accordance with the general purposes and objectives of this agreement, will:

- A. Provide for oversight of the project.
- B. Meet with the Wellhead Protection (WHP) Team quarterly as a minimum team requirement.
- C. Submit a signed copy of the Quarterly Grant Team Progress Report after each quarterly WHP team meeting. Quarterly reports shall be sent to the MDEQ, Resource Management Group, Drinking Water and Environmental Health Section, Community Drinking Water Unit, Gaylord Field Office, 2100 W. M-32, Gaylord, MI 49735-9282. The contact person is the Wellhead Protection Program Coordinator, Jason Berndt, who can be reached at (989) 705-3420 or by e-mail at berndtj1@michigan.gov. If a Financial Status Report form is not submitted, the quarterly report shall include a statement that the request for payment is not being made as part of the Quarterly Grant Team Progress Report.
- D. Utilize all report forms and reporting formats required by the State.
- E. Complete for State approval the items listed in “Table 2: Grant Tabulation 2016.”



Project Specific Requirements – Appendix A Continued

Michigan Department of Environmental Quality
Office of Drinking Water and Municipal Assistance
Drinking Water and Environmental Health Section
Community Drinking Water Unit

WELLHEAD PROTECTION GRANT PROGRAM PROGRAM BUDGET – COST DETAIL SCHEDULE

Program	Budget Period		Date Prepared
Wellhead Protection Grant Assistance	October 1, 2015 to September 30, 2016		9/25/2015
Local Agency City of Kalamazoo			
Description	Grant Assistance	Local Funds	Previous Expenditures
See attached “Table 2: Grant Tabulation 2016” for City of Kalamazoo	<u>\$60,000.00</u>	<u>\$ 0.00</u>	<u>\$60,000.00</u>

Completion is a Condition of Funding
Authority: 1976 PA 399



Project Specific Requirements – Appendix A Continued

Michigan Department of Environmental Quality
Office of Drinking Water and Municipal Assistance
Drinking Water and Environmental Health Section
Community Drinking Water Unit

**WELLHEAD PROTECTION GRANT PROGRAM
PROGRAM BUDGET SUMMARY**

Program	Budget Period			Date Prepared
Wellhead Protection Grant Assistance	October 1, 2015 to September 30, 2016			9/25/2015
Local Agency City of Kalamazoo				
Address	City	State	Zip Code	Federal Identification No.
1415 North Harrison	Kalamazoo	Michigan	49007-2565	
	SOURCE OF FUNDS		TOTAL BUDGET	
1.	State Agreement		<u>\$60,000.00</u>	
2.	Local Match		<u>\$ 0.00</u>	
3.	Local Previous Expenditures		<u>\$60,000.00</u>	
4.	TOTAL FUNDING		<u>\$120,000.00</u>	

Completion is a Condition of Funding
Authority: 1976 PA 399

*The Department, under the terms of this agreement, will provide funding not to exceed **\$60,000.00**.*

Expenditures must be grant eligible in accordance with Rules 325.12812 through 325.12820, Part 28 of the Michigan Safe Drinking Water Act, 1976 PA 399, as amended

TABLE 2: Grant Assistance Tabulation 2016

Contract Period October 1, 2015 to September 30, 2016

City of Kalamazoo

Water Supply Name

DEQ USE ONLY

Previous Expenditures: \$79,290.91

Previous Expenditures to be used this contract period: \$60,000.00

Remaining Previous Expenditures for use as future local match: \$19,290.91

(A) Grant Eligible Activities	(B) Deliverable	(C) Activity Cost	(D) Requested Grant Assistance	(E) Local Match	
				Local Funds	Previous Expend.
Previous Expenditures To Be Used This Contract Period	DEQ Approved Previous Expenditures	\$60,000.00	\$0	\$0	\$60,000.00
5-Year update of Contaminant Source Inventory (CSI) and Associated Risk Assessment.	Written summary report	\$12,000.00	\$12,000.00	\$0.00	\$0
Continuing of Chemical Storage Inventory/WHP Zoning Overlay Ordinance Conformance Project, including facility contacts, reports, and inspections.	Written summary report	\$6,000.00	\$6,000.00	\$0.00	\$0
www.protectyourwater.net Website Enhancement Project: Phase II (graphic technology update and integration), O & M.	Written summary report and website enhancements and technology updates	\$14,000.00	\$14,000.00	\$0.00	\$0
Continuation of movie theater ads and Celebration Cinema and Kalamazoo 10 Theaters (1 different ad at both locations in all theaters).	Documentation of existence, including images and videos on website	\$14,000.00	\$14,000.00	\$0.00	\$0
Continuation of collaborative radio ad campaign with the City of Battle Creek (Safe and Reliable Water – Consumable Goods).	Written summary/copy of ads	\$7,000.00	\$7,000.00	\$0.00	\$0
Continuation of Metro Bus placard ad campaign on 6 buses (2 different messages on 3 buses each).	Documentation of existence, including images	\$7,000.00	\$7,000.00	\$0.00	\$0
Total		\$120,000.00	\$60,000.00	\$0.00	\$60,000.00

Attention: Amendments to this table must be requested in writing at least 2 months prior to contract expiration and cannot increase the total contract amount.



Commission Agenda Report

City of Kalamazoo

TO: Mayor Hopewell, Vice Mayor Cooney, and City Commissioners

FROM: Scott A. Borling, City Clerk

DATE: 11/20/2015

SUBJECT: New Year's Fest Fireworks Permit

RECOMMENDATION

It is recommended that the City Commission approve a request from New Year's Fest of Kalamazoo to publicly display fireworks from the Epic Center Parking Structure on Thursday, December 31, 2015 at midnight as part of the annual New Year's Fest event.

BACKGROUND

Pursuant to state law, the New Year's Fest of Kalamazoo has applied for a permit to publicly display fireworks at the Epic Center Parking Structure. The Department of Public Safety has reviewed the request, and Fire Marshal Jim Williams has endorsed the application. In addition, on December 1st the City's Building Authority approved the use of the parking structure. New Year's Fest of Kalamazoo has provided the required proof of insurance from the pyrotechnic operator.

COMMUNITY RESOURCES CONSULTED

Outside community input was not required. Public Safety reports previous events at this location have not generated complaints.

FISCAL IMPACT

There is no budgetary impact.

ALTERNATIVES

The City Commission could deny the request based upon the location, size of display, or previous complaints concerning excessive noise. However, location and excessive noise have not been problems at this event in the past.



Commission Agenda Report

City of Kalamazoo

TO: Mayor Hopewell, Vice Mayor Cooney, and City Commissioners

FROM: Scott A. Borling, City Clerk

DATE: 11/20/2015

SUBJECT: Approval of City Commission Minutes

RECOMMENDATION

It is recommended that the City Commission approve the minutes from its meetings on November 16, 2015.

ATTACHMENTS:

Type	Description
------	-------------

- | | |
|--------------------------|--|
| ☐ | Minutes November 16, 2015 City Commission Minutes - Neighborhood Meeting |
| ☐ | Minutes November 16, 2015 City Commission Minutes - Business Meeting |

Roll Call

A neighborhood meeting of the Kalamazoo City Commission was held on Monday, November 16, 2015 at 6:00 p.m. in the Community Room at City Hall, 241 W. South Street.

COMMISSIONERS PRESENT:

Mayor Bobby J. Hopewell
Vice Mayor Don Cooney
Erin Knott
Shannon Sykes

COMMISSIONERS ABSENT:

David Anderson*
Matt Milcarek
Jack Urban*

Also present were Deputy City Manager Patsy Moore and City Clerk Scott Borling.

Commissioner Cooney, seconded by Commissioner Sykes, moved to excuse the absences of Commissioners Anderson, Milcarek, and Urban. With a voice vote the motion passed.

Miscellaneous Communications

An opportunity was given for miscellaneous communications, but no communications were offered.

Neighborhood Communications

Representatives from the following neighborhood associations and community groups were present and addressed the City Commission:

Oakwood Neighborhood Association

Lizzie Stuart, President
Cheryl Lord, Executive Director

Stuart Area Restoration Association

Max Tibbetts, Board Chair
Sarah Hoisington, Executive Director

Oakwood Neighborhood Association

The Oakwood Neighborhood Association representatives:

- distributed copies of a brochure on the Oakwood Neighborhood Association and the November 2015 edition of the *Oakwood Times* newsletter. Copies of these documents were filed with the papers for this meeting.
- reported on recent and upcoming Association activities, including a volunteer recognition program on October 25th, a holiday party for on December 6th, and the Bell, Book and Canto holiday concert on December 18th.
- announced the Association was conducting a food drive during the month of November.

*Commissioners Anderson and Urban arrived at 6:05 p.m.

- thanked the Parks and Recreation Department for working with the Association to increase funding for the after school program in 2016.

- reported the Parks and Recreation Department was working with the Friends of Woods Lake group on the Woods Lake Beach Park improvement project.
- thanked the City Clerk for working with the Association to find a better polling facility for Precinct 12, as Oakwood Bible Church was not working out.
- thanked the Public Services Department for replacing yield signs with STOP signs and for quickly addressing weed violations.
- stated the Public Safety Department's Knock and Talk initiative had been well received by residents.
- reported 5,273 contacts through the Neighborhood Center, including 1,307 youth contacts.
- indicated the Association had benefitted from 4,170 volunteer hours through October, which was valued at \$96,409.

Oakwood
Neighborhood
Association (cont'd)

Vice Mayor Cooney encouraged Ms. Lord to give feedback to Public Safety Chief Jeff Hadley regarding the Knock and Talk program. How is after school program going?

In response to a question from Commissioner Cooney, Ms. Lord stated the After School Program was licensed to do one activity, and the Association had chosen tutoring. Ms. Lord described the After School Program, including the daily routine, activities, and incentives offered to students. Ms. Lord also related some of the Program's success stories.

The Stuart Area Restoration Association representatives:

- reported the Association was working on the properties at 530 Douglas Avenue 613 Stuart Avenue.
- stated volunteers were working to remove the corner flower beds on Kalamazoo Avenue due to liability concerns.
- indicated there was a lot of work being done at the old fire station and indicated the renovations were scheduled to be completed in the Spring.
- thanked City staff for their work on the Jay Rhodes Building to get it demolished.
- stated the housing market in Stuart was hot, and the majority of sales were for owner occupied houses.
- indicated new people were interested in serving on the Association's Board of Directors.
- reported there were 25 major housing violations over the summer, and after the Association reached out to these property owners only four violations remained outstanding for the City to address.

Stuart Area
Restoration
Association

Stuart Area
Restoration
Association (cont'd)

- offered remarks on “authentic communication” and stated the City needed to understand the differences between “stakeholders” and “citizens” and the engagement strategies that would work with each group.
- indicated the timeline for the 2016 neighborhood funding application process had created difficulties for the Association.
- distributed invitations to the Association’s annual holiday party on December 16th and the November 2015 edition of *Stuart Neighborhood News*. Copies of these documents were filed with the papers for this meeting.
- described upcoming informational sessions on window rehabilitation and home security.
- stated residents were seeing a rise in crimes against pets.

Citizen Comments

Next, an opportunity was given for citizen comments.

George Magas, City resident, reported the Downtown Development Authority (DDA) had sent the 5-Year Parking Plan back to the Parking Committee and stated the primary area of concern was the elimination of the 90-minute parking spaces. Mr. Magas discussed the need for additional signage for the Arcadia Ramp and offered remarks about condemned properties on Burdick and Portage Streets.

Commissioner
Comments

Finally, an opportunity was given for miscellaneous comments by City Commissioners.

Mayor Hopewell noted the Commission didn’t direct staff, and it was often more effective to direct comments and concerns to the Department Directors or the City Manager. Mayor Hopewell clarified the DDA had not “voted down” the 5-Year Parking Plan but remanded it to the Parking Committee for further review.

Adjournment

The meeting adjourned at 6:36 p.m.

Respectfully submitted,

Scott A. Borling
City Clerk

For City Commission approval on December 7, 2015

Approved by: _____

Bobby J. Hopewell, Mayor
Dated: December 7, 2015

*This page was left
blank intentionally.*

Roll Call

A business meeting of the Kalamazoo City Commission was held on Monday, November 16, 2015 at 7:00 p.m. in the City Commission Chambers at City Hall, 241 W. South Street.

COMMISSIONERS PRESENT:

Mayor Bobby Hopewell
Vice Mayor Don Cooney
David Anderson
Erin Knott
Matt Milcarek
Shannon Sykes
Jack Urban

COMMISSIONERS ABSENT:

None

Also present were City Manager Jim Ritsema, City Attorney Clyde Robinson, and City Clerk Scott Borling.

Invocation/Pledge

The invocation, given by Pastor Kim Sandelin, Love INC, was followed by the Pledge of Allegiance.

Adoption of the Agenda

By unanimous consent the City Commission adopted its meeting agenda with the following change:

A citizen requested that Item F5, extension of a contract for gas and diesel fuel, be moved to the Regular Agenda.

Communications

City Manager Ritsema announced there would be a public visioning session on November 18th in the Community Room at Mayors' Riverfront Park to obtain community feedback regarding federally funded transportation programs.

Consent Agenda

Consent Agenda items were presented as follows with a recommendation to approve the items and authorize for the City Manager to sign on behalf of the City:

- approval of a one-year contract extension with Gillig, LLC for the purchase of bus parts in the amount of \$145,000.
- approval of a contract with Hoffman Bros. Inc. for the South Westnedge Drain Rehabilitation Project in the amount of \$125,000.
- approval of a contract with Michels Corporation for pipe rehabilitation work related to the South Westnedge Drain Rehabilitation Project in the amount of \$158,334.
- approval of a contract with Hoekstra Transportation, Inc. for the purchase of two Ford Diesel Class 1 lift-equipped medium duty coaches in the amount of \$201,816.
- approval of an Ingress and Egress Easement Agreement with JGM Properties, LLC.

- approval of the sale of 1217 John Street to Alfredo and Linda Zuniga for \$120.00.
- approval of the minutes from the City Commission meeting on November 9, 2015.

Commissioner Knott, seconded by Commissioner Sykes, moved to approve the consent agenda requests and authorize the City Manager to sign all documents on behalf of the City.

With a roll call vote this motion passed unanimously.

AYES: Commissioners Anderson, Knott, Milcarek*, Sykes, Urban,
Vice Mayor Cooney, Mayor Hopewell

NAYS: None

*At the time of the vote, Commissioner Milcarek abstained from voting on Item F6, approval of an Ingress and Egress Easement Agreement with JGM Properties, LLC, due a conflict of interest.

Regular Agenda items were considered next.

When an opportunity was given for citizens to comment on a term contract extension with Knapp Energy, Inc. for the purchase of gasoline and diesel fuel for an amount not to exceed \$925,000, the following people addressed the City Commission:

Kris Mbah, City resident, asked the City Commission to reconsider the definition of "local" in its Local Preference Purchasing Policy and change it to mean "City residents." Mr. Mbah stated it was important to recirculate City dollars within the community.

Commissioner Anderson, seconded by Commissioner Urban, moved to approve a term contract extension with Knapp Energy, Inc. for the purchase of gasoline and diesel fuel for an amount not to exceed \$925,000.

With a roll call vote this motion passed unanimously.

AYES: Commissioners Anderson, Knott, Milcarek, Sykes, Urban,
Vice Mayor Cooney, Mayor Hopewell

NAYS: None

City Manager Ritsema provided the following reports and updates:

- Departmental Reports and Project Updates
- *Inside the City* Newsletter, November 2015 Edition
- EEO/Employment Activity Report, 3rd Quarter 2015
- October 2015 Purchases

Consent Agenda
(cont'd)

Regular Agenda

Contract Extension
for Gas and Diesel
Fuel

City Manager's Report

Citizen Comments

Next, an opportunity was given for general citizen comments.

Frank Warren, City resident, spoke about the Veterans' Day services at Fort Custer National Cemetery and Riverview Cemetery. Mr. Warren spoke about the German soldiers who were buried at Fort Custer. Mr. Warren stated the City needed to give kids things to do in the summertime to keep them out of trouble.

Kris Mbah, City resident, stated the City could do a better job of contracting with local businesses. Mr. Mbah spoke about the disenfranchisement of minority- and women-owned businesses in the City's procurement process, and he asked for an updated report on this topic. Mr. Mbah spoke about his proposed citizen comment form and authentic engagement. Spoke about authentic engagement. Mr. Mbah asked the City Commission to revise its priorities to reinstate the phrase "authentic engagement."

Commissioner Comments

Finally, an opportunity was given for miscellaneous comments and concerns of City Commissioners.

Commissioner Milcarek thanked everyone attended the meeting and addressed the Commission.

Commissioner Urban thanked everyone who voted for him.

Commissioner Knott thanked the City Manager, City Attorney, Mayor and Commissioner Anderson for meeting with her to provide an orientation to the City organization and City Commission.

Commissioner Sykes thanked people for attending the meeting and speaking. Commissioner Sykes thanked City staff for being patient with her as she became acclimated to being a City Commissioner.

Vice Mayor Cooney offered remarks about a recent conference on the Kalamazoo Promise and the selection of Michael Rice as "Superintendent of the Year." Vice Mayor Cooney stated the Kalamazoo Promise had been a success, but despite that success there were children who were still not making it. Vice Mayor Cooney stated the community needed to build on its existing resources to help these children.

Closed Session

Commissioner Urban, seconded by Commissioner Anderson, moved that the City Commission go into closed session to discuss pending litigation.

Prior to a vote on the motion, Mayor Hopewell indicated the City Commission would be returning to open session following the closed session.

With a roll call vote this motion passed unanimously.

AYES: Commissioners Anderson, Knott, Milcarek, Sykes, Urban, Vice Mayor Cooney, Mayor Hopewell

NAYS: None

At 7:23 p.m. the City Commission went into closed session.

At 7:39 p.m. the City Commission returned to open session.

Vice Mayor Cooney, seconded by Commissioner Urban, moved to authorize the City Attorney and legal counsel representing the defendant to undertake all necessary actions to give judicial approval and effect to the facilitated settlement reached by the parties on November 10, 2015 in the matter of Estate of Grassley v Gordon, case #14-CV-1271, currently pending in the Western District of Michigan federal court.

Approval of a
Settlement in the
Case Estate of
Grassley v Gordon

With a roll call vote this motion passed unanimously.

AYES: Commissioners Anderson, Knott, Milcarek, Sykes, Urban,
Vice Mayor Cooney, Mayor Hopewell

NAYS: None

The meeting adjourned at 7:40 p.m.

Adjournment

Respectfully submitted,

Scott A. Borling
City Clerk

For City Commission approval on December 7, 2015

Approved by: _____
Bobby J. Hopewell, Mayor
Dated: December 7, 2015



Commission Agenda Report

City of Kalamazoo

TO: Mayor Hopewell, Vice Mayor Cooney, and City Commissioners

FROM: James K. Ritsema, ICMA-CM, City Manager

REVIEWED BY: Laura Lam, Director

PREPARED BY: Rob Bauckham, Senior Development Planner

DATE: 11/13/2015

SUBJECT: Text amendment to Sections 12.3, 3.7, 4.1 and 8.3D. of the Zoning Ordinance to add outdoor sports/recreation lighting and noise regulations.

RECOMMENDATION

It is recommended that the City Commission offer for first reading an ordinance outlining a text amendment to Sections 12.3, 3.7, 4.1 and 8.3.D. of the Zoning Ordinance to add outdoor sports/recreation lighting and noise regulations, and schedule a public hearing on the request for December 21, 2015.

BACKGROUND

Prior to 2012, the entire campus for Kalamazoo College was residentially-zoned. College/school facilities and uses are not permitted by right in residential zoning districts, meaning that Kalamazoo College had to seek a variance through the Zoning Board of Appeals (ZBA) before constructing a new building or expanding a facility. Similarly, the property for Kalamazoo Christian High School is also residentially-zoned and the school administration applied for a variance in 2009 to request to add lights to the football field. The ZBA denied the variance because the board felt adding lights would be detrimental to nearby neighborhood because of the proximity to the field.

In 2012, Kalamazoo College applied to have the campus rezoned to the Institutional Campus (IC) zone. As required by the rezoning process, the school updated their campus master plan to extend it to 2022. The rezoning was in the form of a contract, which included conditions for the lighting of the soccer field and the football field. A copy of the contract ordinance (#1896) is attached. One condition specified that the soccer field could be lighted up to 60 nights per year with the lights being turned off by 10:30 p.m. each night. Additionally, Planning staff was charged with drafting a new ordinance to be adopted by the end of 2015 to regulate the lighting of outdoor sports and recreational fields/stadiums citywide. Ordinance 1896 indicates that if the new ordinance is not in place by December 31, 2015, Kalamazoo College would be able to begin lighting the football field in 2016 for up to 20 nights per year with the lights being turned off by 8:30 p.m. each night. The City Attorney opined the new ordinance would only apply to the lighting of the football field and its use at night, and it would not apply to the use of the soccer field or the tennis facility.

The current lighting regulations in the Zoning Ordinance only address outdoor lights that are a maximum of 25 feet tall. There are no existing regulations for outdoor stadium, sports field, or recreational facility-type lights that exceed that height. As a citywide ordinance, the new regulations would apply to any existing or new sports/recreation venue in the city where new lighting systems over 25 feet tall are being planned.

Research and drafting of the ordinance:

The Planning staff, working with a citizen workgroup formed in May 2015, conducted research to identify and evaluate examples of existing outdoor lighting regulations from other communities. The research focused on 35 communities located throughout the country that have lighting regulations in their zoning ordinances. Many of these communities treat new outdoor lighting systems for sports and recreation venues as special uses requiring a special use permit from the Planning Commission. All of them include standards for lighting levels, light pole heights and locations, and timing for use of the lights. Many of the communities also issue various penalties for regulation violations. From this research, staff utilized the most clear, concise, and commonly represented lighting regulation examples to formulate an initial draft ordinance for Kalamazoo, which was presented to the citizen workgroup and neighborhoods for review.

Revisions to the draft ordinance:

Many meetings and conversations pertaining to the draft ordinance took place with the citizen workgroup and with the public. In response to several of the suggestions and comments provided during the review process, staff made a number of revisions to the original draft of the ordinance to strengthen and clarify the regulations. Each revision was presented to the workgroup and to citizens for review. The most notable changes in the language from the original draft to the final draft were as follows:

- Added more restrictive provisions to the allowed timing and use of the outdoor lights for venues;
- Included an overtime/weather delay provision for use of the outdoor lights;
- Clarified and strengthened the provisions for the rental and third-party use of the lighting systems;
- Added the requirement for the owner/operator to provide proposed and actual use schedules for the lights;
- Strengthened noise level restrictions by prohibiting the use of public address systems and amplified music during practices;
- Added a provision that the city could require sound studies be performed in response to noise complaints;
- Enhanced the process for addressing violations and drafted an administrative policy for enforcement;
- Added regulations for the repair and maintenance of lighting and public address systems;
- Added the testing of new lighting and public address systems and reporting of the results prior to use; and
- Separated the use table by zoning districts with venues in commercial, manufacturing, and non-educational IC zones treated differently than venues in the educational IC and public zones. Use of outdoor lighting systems is more restrictive in the former zones than the latter zones.

Components of the final draft ordinance:

The final draft ordinance includes the following definition, which is proposed to be added to Chapter 12.3 of the zoning ordinance:

OUTDOOR SPORTS/RECREATION VENUE – All sports fields, stadiums, recreational sports venues, and related facilities utilizing outdoor lighting for nighttime use of the facilities, where proposed light poles or light support structures exceed twenty-five feet in height.

Any existing or planned venue where outdoor lighting is proposed to be taller than twenty-five feet would not be allowed in the residential zoning districts. Such outdoor lighting uses are only allowed in the CN-1, CN-2, CC, CCBD, CMU, M-1, M-2, IC, and P zones with a special use permit from the Planning Commission. The general use table in Chapter 4.1 of the zoning ordinance and table 3.7-1 of the Riverfront Overlay Zoning District are proposed to be adjusted to reflect the need for a special use permit for the outdoor lighting.

Chapter 8.3 D. of the zoning ordinance specifies the current requirements for obtaining all types of special use permits. Subsection 11 is proposed to be added to the chapter, which provides regulations for special use permits for outdoor sports/recreation venues containing outdoor lighting. A summary of these regulations is as

follows:

- a. Illumination levels from outdoor lighting systems cannot exceed 0.05 foot candles as measured at the property boundaries. Flashing lights and search lights are not allowed.
- b. The lighting fixtures must be shielded and angled downward to minimize light spill.
- c. Light poles must be located such that if they fall, they will remain within the boundaries of the property.
- d. Pole height and lighting levels must meet the standards of the Illuminating Engineering Society of North America.
- e. For educational uses (colleges, universities, other schools) in the IC zone, lighting for practices must be turned off by 8:30 p.m. every day, lighting for events held on Sunday through Thursday must be turned off by 8:30 p.m., and lighting for events held on Friday or Saturday must be turned off by 10:30 p.m. For non-educational uses in the IC zone and for all other allowed zones, the lights for all uses must be turned off by 10:30 p.m. every day of the week. All such outdoor lighting cannot be turned on prior to 3:00 p.m. All lighting systems must be recordable for usage. For overtime situations and weather delays during events, the use of the lighting may extend by 60 minutes past the time required.
- f. Night time rentals of outdoor sporting or recreational facilities are allowed for educational uses in the IC zoning district, but only for affiliates of the property owner. For all other allowed zones and uses, night time rental uses are only allowed for the originally intended use of the venue and must be listed in the application for the special use permit.
- g. On a quarterly basis, the owners/operators of outdoor sport/recreation venue lights must provide to the city a proposed use schedule for the lights, and a report on the use of the lights.
- h. Public address systems for outdoor sports/recreation venues must be directed away from residential areas and cannot be used during practices. Sound may be played over public address systems during events. Additional systems for amplified sound are not allowed during practices or events. Non-ambient sound levels must meet current city noise regulations.
- i. Initial violations of the conditions of the ordinance shall be addressed by the City Planner and shall follow the established procedures of Chapter 10 of the zoning ordinance, which allows the issuance of fines and suspensions to the owner/operator of the venue. In response to noise complaints from operation of a venue, the city may require a noise study be conducted during a practice or event. After a third violation of the ordinance, the issue shall be brought before the Planning Commission, which may suspend or revoke the special use permit.
- j. Normal repair and maintenance of lighting and public address systems is allowed. The replacement of non-conforming systems for an existing lighted facility may occur, but the new system must not increase the non-conformity.
- k. Applications for special use permits for outdoor lighting systems must include information on the proposed use of the venues, photometric plans, light shielding, designs of public address systems, and other information to demonstrate compliance with the ordinance. All such proposed lighting systems shall be reviewed by the Site Plan Review Committee. Following installation, lighting and public address systems shall be tested for compliance with the ordinance.
- l. Table 8.3.2 specifies the number of allowed uses of the lighting systems by proximity to the nearest residential property and by zoning district. As shown in the upper portion of the table, proposed lighting systems that are 700 feet or less from the nearest residential property would not be allowed in the commercial and manufacturing zones, and for non-educational uses in the IC zone. As shown in the lower portion of the table, proposed lighting systems that are 200 feet or less from the nearest residential property would not be allowed for educational uses in the IC zone or the P zone.

Rationale for the final draft ordinance:

Over the last eight months, the Planning staff has listened to the comments, suggestions and concerns expressed by the workgroup and the citizens on the proposed ordinance. The comments encompassed a wide range of opinion from having no outdoor lighting systems for these venues to allowing unlimited use of them. Staff has attempted to provide a balanced and reasonable approach to the treatment of outdoor lighting and public address systems in this ordinance, which includes a variety of provisions that will provide protection for the quality of life of the affected property owners. Such protection includes requirements for minimal light spillage from the

property, shielded and angled light fixtures, specific timing for use of the lights, minimal third party use, controls on noise levels, reporting for use of the lights, and consequences for violating the provisions of the ordinance.

Educational uses are less intense, for a generally fixed period of time in the year, and are separated out into practices and contests. Practices are not allowed to use public address systems. The number of allowed uses is weighted toward practices and a minimum number of higher impact night contests are allowed. Those venues used primarily for commercial use have been set back a greater distance from residential property lines as they could be year around venues and greater use of the facilities would be needed for the business to operate..

Under the proposed ordinance, lighting systems will be prohibited at the current athletic fields for Kalamazoo Christian High School. The Kalamazoo College football field would be allowed to have up to 20 practices using the lights with the opportunity to use two of the practice allowances for games/events.

The night time operation of outdoor sport and recreational facilities unavoidably produces a certain amount of noise and light. This ordinance attempts to reduce the effects of such impacts on the surrounding properties. It is significantly challenging to reach complete consensus on this issue, which includes attempting to meet the diverse needs and desires of a large group of individuals. Although complete consensus on all of the sections of the proposed ordinance was not reached, substantial agreement was obtained on most of the provisions.

POLICY CONSIDERATIONS

The Planning Commission held a public hearing on the proposed text amendment for the lighting ordinance on November 5, 2015. Sixteen individuals commented during the hearing; eight spoke favorably about the text amendment and eight expressed opposition. A summary of the key issues raised at the meeting is included below with responses from staff in bold. Additional information is included in the Consolidated Notes attachment.

- Residents need more of a buffer from stadium lights. The proposed ordinance meets the needs of Kalamazoo College but not those of the neighbors. **Residents indicated that games / contests were the most impactful. Staff recommended limiting games to two at 201 - 500 feet, with the remaining uses as practices without impacts such as public address systems, traffic, or crowd noise.**
- Noise from lighted venues is a concern and more “teeth” is needed in the noise restrictions section of the ordinance. **Several levels of protection are provided in the ordinance regarding noise impact including prohibiting the use of public address systems or amplified music during practices, directing speakers away from residential uses, required testing of sound systems prior to use, and requiring sound studies to be conducted if noise complaints are received. The current citywide noise ordinance will be amended in the future, and staff will consider specific regulations for sports fields during the amendment process.**
- Parking and trash that occurs during the events is problematic. **As part of the special use permit and site plan review requirements for new outdoor lighting systems, applicants must demonstrate adequate on-site parking. Venue operators will be required to pick up the trash following events, and the city will pursue enforcement if venues are not adequately maintained.**
- Residents questioned how the number of allowed uses in the regulating table for the lights increased over the course of the ordinance drafting process despite concerns voiced about quality of life impacts. **There are a number of factors that led to adjustments to the use table. The draft ordinance underwent multiple revisions in an effort to decrease impacts to nearby residences, including limiting the number of high impact uses (games) from five to two while reducing impacts of practices by prohibiting public address systems and amplified noise. Although the total number of uses increased, a 200 foot buffer was created in which lighted uses would be reduced to 0. This includes the current athletic fields for Kalamazoo Christian High School. Additionally, the uses in the table were split into commercial/industrial zones and non-educational uses in the IC zone in one section, and educational uses in the IC zone and the P zone in a different section to separate the more intensive uses in the first section to have a greater buffer requirement, and the less intensive uses in the second section were split into total uses and maximum number of event uses.**

- The ordinance is not intended to be city-wide and only addresses Kalamazoo College's needs. **All areas of the city were considered when devising the regulations of the proposed ordinance.**
- Concern with the allowance of rentals of the venues. **The City Attorney's office opined that venue rentals could not be prohibited but could be restricted as proposed in the ordinance.**
- The violations section is not sufficient. **The violations section follows a specific process for addressing non-compliance with the ordinance and is supported by administrative procedures.**
- Concern that unlimited practices, rentals, or events can occur at a venue during the day without lights. **The proposed ordinance strictly addresses night time use of the venues using lights. It is not intended to place any day time restrictions on venue use.**
- Many of the issues should be mediated in an agreement between the neighborhood and Kalamazoo College, not in an ordinance like this. **The ordinance is needed to place reasonable limitations on the use of the venues with outdoor lights. The city is able to enforce such limitations as part of an ordinance but cannot enforce limitations that are part of a private agreement between neighborhoods and school institutions.**
- More and more homes in the West Main Hill neighborhood are becoming rental, and there is a concern over the impact of stadium lights on the adjacent homes. **The studies that have been conducted for, and previous to, this ordinance suggest no clear link between rental conversion and the presence and use of outdoor sports/recreation lighting. Staff conversations with area realtors suggest there was more concern over the impact on property values and rental rates from the pre 2012 Kalamazoo College athletic facilities than post 2012 when the athletic complex was renovated with lights.**

Following the public hearing, several Planning Commissioners expressed concern that the ordinance was too restrictive for the number of allowed night time uses for fields between 201 - 500 feet of the nearest residential property line, including the Kalamazoo College football field. **A motion was made to recommend approval of the text amendment for the new ordinance, with a change in the maximum number of events in the 201 – 500 feet category in the use table for the IC and P zoning districts from two to four. The motion was approved by a vote of five in favor and four against.**

COMMUNITY RESOURCES CONSULTED

The level of public outreach for the draft ordinance has been extensive. The process was kicked off on March 18, 2015, at a meeting held with the Oakland Drive/Winchell Neighborhood Association (ODWNA). Planning staff introduced the outdoor lighting topic and discussed the need to create the new ordinance. A copy of the public outreach meeting schedule and work plan for the project is attached that lists the numerous community meetings that have been held. In summary, staff attended six neighborhood association meetings including: three at the ODWNA, two at West Main Hill Neighborhood Association (WMHNA), and one at the Stuart Area Restoration Association (SARA) on the proposed lighting ordinance, and hosted three community-wide meetings. During the meetings, staff summarized the research that was conducted and presented other project information, including the draft of the ordinance. The feedback that was obtained from the citizens during the meetings was documented.

A citizen workgroup met on eight occasions during the course of the project. The workgroup was made up of two members from ODWNA, two members from WMHNA, one member from SARA, two representatives of Kalamazoo College, the athletic director for Kalamazoo Christian Schools, and three Planning staff members. The City Attorney also attended two of the meetings. An outline of the proposed ordinance was formulated by staff and presented to the workgroup in June. A summary of the citizen comments and concerns generated during each of the eighteen meetings for the project is attached.

FISCAL IMPACT

It is not anticipated that the proposed text amendment will have a negative fiscal impact on the city. It is also not anticipated that the addition of outdoor lighting systems and use of sports/recreation facility venues at night will negatively impact the value of property located adjacent to the venues.

ALTERNATIVES

The City Commission has the option of not adopting the proposed text amendment. If the text amendment is not approved by December 31, 2015, the conditions of Ordinance 1896 will go into effect allowing Kalamazoo College to install an outdoor lighting system for its football field and to begin using the field with the lights on up to 20 times per year with no restrictions on noise levels. For the benefit of the citizens of Kalamazoo, it is recommended that the proposed text amendment be approved.

ATTACHMENTS:

Type	Description
▣ Ordinances	OutdoorSportsLightingOrdinance
▣ Ordinances	Ordinance 1896
▣ Minutes	November 5 Meeting Minutes
▣ Report	OrdinanceWorkplan
▣ Report	Community Input Summary

CITY OF KALAMAZOO, MICHIGAN

ORDINANCE NO. _____

AN ORDINANCE AMENDING APPENDIX A –ZONING ORDINANCE SECTION 3.7 – RIVERFRONT OVERLAY, TABLE 3.7-1; SECTION 4.1 - USE TABLE; SECTION 8.3D – SPECIAL USE PERMIT; AND SECTION 12.3 - DEFINITIONS AND USE CATEGORIES; AND ADDING TABLE 8.3-1a – USE OF OUTDOOR SPORTS/RECREATION LIGHTING TO THE KALAMAZOO CITY CODE OF ORDINANCES

THE CITY OF KALAMAZOO ORDAINS:

Section 1. This ordinance may be commonly referred to as the Outdoor Sports/Recreational Lighting and Noise Ordinance.

Section 2. Zoning Ordinance Section 12.3. –**Definitions and Use Categories**--is amended by adding the definition for OUTDOOR SPORTS/RECREATION VENUE to read as follows:

“OUTDOOR SPORTS/RECREATION VENUE – All sports venues, stadiums, recreational sports venues, and related facilities utilizing outdoor lighting for nighttime use of the facilities, where proposed light poles or light support structures exceed twenty-five feet in height.”

Section 3. Zoning Ordinance Section 3.7. – **RF-O, Riverfront Overlay** – is amended by adding a note in Table 3.7-1 for the “Entertainment and Sports, Spectator – Limited” category indicating that an outdoor sports/recreation venue requires a special use permit.

Section 4. Zoning Ordinance Section 4.1. – **Use Table** – is amended by adding a note in the Use Table for the “Entertainment and Sports, Spectator” and “Sports and Recreation, Participant – Outdoor” categories indicating that an outdoor sports/recreation venue requires a special use permit.

Section 5. Zoning Ordinance Section 8.3D. – **Special Use Permit** – is amended by adding subsection 11 to read as follows:

“11. Regulations for Outdoor Sports/Recreation Venues

- a) Illumination levels. The light levels from an outdoor sports/ recreation venue lighting source shall not exceed 0.05 foot candles as measured at a height of five feet above the ground surface level at all property lines. Ambient light from sources other than the outdoor sports/recreation venue lighting shall be excluded in determining the foot candle levels at all property lines. No flashing lights or search lights shall be permitted at any time.

- b) Shielding and glare. All outdoor sports/recreation lighting shall include opaque hood shielding (louvers, shields, or similar devices) to direct the illumination downward at no greater than a forty-five degree angle from the pole or other light support structure, and must be aimed so that their beams are directed toward and fall within the playing venue. The shielding design shall incorporate the current lighting standards for controlling light spill and direction at the time of installation and for any replacement or upgrading of the lighting system as defined in subsection j, as established by the Illuminating Engineering Society of North America (IESNA) found in publication "RP-6-15 Sports Lighting: Recommended Practice for Sports and Recreational Area Lighting," as amended.
- c) Pole location. All light poles or light support structures shall be located a distance from the property lines of the outdoor sports/recreation venue equal to no less than the total height and length of the pole/structure and light fixture.
- d) Pole height and illumination intensity. Outdoor sports/recreation venue light pole heights and lighting levels shall be consistent with the most current standards established by the Illuminating Engineering Society of North America (IESNA) as found in publication "RP-6-15 Sports Lighting: Recommended Practice for Sports and Recreational Area Lighting," as amended at the time of installation.
- e) Timing for use of lights. The timing and use of outdoor sports/recreation venue lights shall be limited to the times specified in Table 8.3.1a. All outdoor sports/recreation venue lighting systems must incorporate a recordable system that can be used to verify when the lights have been turned on and off. Use of the lighting systems for a venue for a sporting/recreational practice shall not extend past the normal required turn off time. The use of the venue lighting systems for a venue for a sporting/recreational event may extend beyond the normal required turn off time for the lights for overtime game or contest situations or weather delays, however the use of the venue lighting systems for such purposes shall not extend more than 60 minutes beyond the required venue lighting shut off time. When an extension of the use of the venue lighting system is necessary, the owner/operator shall immediately notify the Public Safety Department, and shall notify the Community Planning and Development Department the day after the event with a written explanation of the reason for the extended use.
- f) Rental and third party use of outdoor sports and recreation venues.
 - 1) Nighttime rentals or third party use requiring the use of venue lighting of outdoor sports or recreation venues owned by a college, university, or secondary school educational institution in an IC zoning district is prohibited except for an affiliate of the property owner. As used herein, an "affiliate"

means another educational institution member in the same athletic league, conference or regulatory body, such as the NCAA or MHSAA, as the property owner.

- 2) In all other zoning districts, including other non-educational institution uses in the IC zone, nighttime rentals or use of outdoor sports or recreation venues shall only be for the originally intended purpose of the venue as listed in the special use permit application. The total number of uses of the lighting system for a venue for a given year, whether by the owner/operator or other group/individual, may not exceed what is permitted for the site in Table 8.3.1a, and must meet all conditions of this ordinance.
- g) Use schedule for lights and reporting. On a quarterly basis, prior to the use of lighting, the proposed use schedule for the outdoor sports/recreation lighting shall be placed on the publicly accessible website of the property owner/operator, be provided to the City of Kalamazoo by the property owner/operator, and distributed by the property owner/operator to all neighborhood associations located within a one-half-mile radius of the venue. On a quarterly basis, the property owner/operator shall provide a written report of the use of the lights to the City of Kalamazoo for the previous quarter, including the level of lighting (high/low) and times the lights were turned on and off for each use.
- h) Noise levels for illuminated outdoor sports/recreation venues. Public address systems shall utilize the best existing sound industry technology available for controlling sound volume, positioning and acoustics, and shall be set to minimize the noise impact on surrounding residences. Any permanently-installed speakers for public address systems for outdoor sports/recreation venues shall be positioned and directed away from adjacent residential areas. For sports/recreation practices, use of the public address systems and amplified music is not allowed. For sports/recreation games and contests, use of the public address system and non-amplified sound is allowed. All non-ambient noise emanating from any other source on the property during sports/recreation events and practices shall not exceed the noise decibel limitations set forth in the Kalamazoo Code of Ordinances. Portable or auxiliary sound systems and/or additional amplified sound shall not be used at any time.
- i) Violations. If any of the above standards are violated at any time and such violation is verified, the City Planner shall issue a written warning to the owner/operator of the venue in accordance with the Community Planning and Development Administrative Enforcement Policy – Enforcement of outdoor Sports/Recreation Lighting and Noise Regulations. In response to noise complaints received from the use of an outdoor sports/recreational venue, the City of Kalamazoo is authorized

to require a noise study be conducted during an event/practice/use of the venue by a qualified firm or individual at the expense of the owner/operator. If a second violation of the standards occurs within 12 months of the first violation and is verified, the City Planner shall issue a second written warning to the owner/operator of the venue and shall follow the procedures set forth in Chapter 10 of the Zoning Ordinance pertaining to violations, penalties and enforcement. Penalties shall be commensurate with the severity of the violations. If a third violation occurs within 12 months of the second violation and is verified, the matter shall be brought before the Planning Commission for review. The Planning Commission shall take action to suspend the use of the outdoor lighting and/or public address system for up to 6 months. If additional violations occur and are verified, the Planning Commission shall take action to suspend the use of the outdoor lighting and/or public address system for up to 12 months, or may revoke the special use permit and terminate use of the lights or public address system.

- j) Repair and maintenance. Normal repair and maintenance of outdoor lighting and public address systems for outdoor sports/recreation venues, such as light bulb or wiring replacement, minor repairs of damage from storms or other events, or minor repairs from normal equipment deterioration, shall be allowed. The replacement or upgrade of an outdoor sports/recreation venue lighting system (poles, light fixtures, or other lighting structure) or to a public address system must comply with the sections (a), (b), (d) and (h) of this ordinance. Such lighting and public address system replacement or upgrade shall not be used until such testing reveals it is in compliance with this ordinance.
- k) Application requirements. In making application for a special use permit under this section, the applicant shall provide written evidence including: a list of the activities that will take place at the lighted venue, photometric plans for the lighting systems, methods used to reduce glare and light spill, design plans for public address and other sound systems, graphic representations, and other support documentation to demonstrate that all of the above conditions will be met. Plans for all such lighting and/or public address systems shall be submitted to the City of Kalamazoo for formal site plan review. After obtaining all necessary city approvals and installing the lighting/public address systems, the owner/operator of the venue shall be required to have the systems tested for compliance with the conditions of this ordinance prior to use. A written report of the results of the tests shall be provided to the City of Kalamazoo. The outdoor sports/recreation venue lighting and public address systems shall not be used until such testing reveals they are in compliance with this ordinance.”

Section 6. Zoning Ordinance Section 8.3D. is amended by adding Table 8.3-1a– **Use of Outdoor Sports/Recreation Lighting** – to read as follows:

Table 8.3-1a Use of Outdoor Sports/Recreation Lighting

Distance from sports/recreation light pole to nearest residential property line:	Zones: CN-1, CN2, CC, CCBD, CMU, M-1, M-2, IC*
	Total Number of Uses Per Year
700 feet or less	None
Between 701 and 1,000 feet	65
Between 1,001 and 1,250 feet	70
1,251 or more feet	Unlimited
Timing for use of lights: (Not Allowed on Before 3PM (All Days)	Lights Off 10:30PM(All Days)

*IC –non-educational uses.

Distance from sports/recreation light pole to nearest residential property line:	Zones: IC** /P	
	Maximum Number of Events***	Total Number of Uses Per Year
	Game/Contest	Practices
200 feet or less	None	None
Between 201 and 500 feet	4	20
Between 501 and 700 feet	10	60
Between 701 and 1,000 feet	20	65
Between 1,001 and 1,250 feet	30	70
1,251 or more feet	Unlimited	
Timing for use of lights: (Not Allowed on Before 3PM (All Days)	Lights Off 8:30PM (Thurs-Sun) 10:30PM (Fri-Sat)	Lights Off 8:30PM (All Days)

** IC = Educational uses i.e. colleges, university, and secondary school uses

***Number of Games/ Contests are included in the total number of uses and are not counted as additional uses, provided however, in case of conflict between this Table and Ordinance 1896, the latter shall control.

Section 7. Repealer.

Except as otherwise provided herein regarding portions of Ordinance 1896, all former ordinances or parts of ordinances conflicting or inconsistent with the provisions of this ordinance are repealed.

Section 8. Severability.

If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, said portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this ordinance.

Section 9. Effective Date.

Pursuant to Section 13(a) of the City Charter, this ordinance shall take effect from and after 10 days from the date of its passage.

CERTIFICATE

The foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Kalamazoo at a regular meeting held on December 21, 2015. Public notice was given and the meeting was conducted in full compliance with the Open Meetings Act, (PA 267, 1976). Minutes of the meeting will be available as required by the Act, and the ordinance was duly recorded, posted and authenticated by the Mayor and City Clerk as required by the City Charter.

Bobby J. Hopewell, Mayor

Scott Borling, City Clerk

CITY OF KALAMAZOO, MICHIGAN

ORDINANCE NO. 1896

AN ORDINANCE TO AMEND SECTION 1.8.A., ZONE DISTRICT MAP, OF THE ZONING ORDINANCE, BEING APPENDIX A OF THE CODE OF THE CITY OF KALAMAZOO AND TO APPROVE THE INSTITUTIONAL MASTER PLAN

THE CITY OF KALAMAZOO ORDAINS:

Section 1. Under Section 1.8.E. the Zone District Map described in Section 1.8.A. is amended as follows:

The land area covered under this ordinance is rezoned from RS-5 (Residential, Single Family), RM-15C (Residential, Multi-Family, Campus Area), RM-36 (Residential, Multi-Family, High Density) and CCBD (Commercial, Central Business District) to IC (Institutional Campus)

That area of land, including the individual parcels, is located in Section 16 of the City of Kalamazoo, County of Kalamazoo, State of Michigan, is commonly identified as the campus for Kalamazoo College, including the college's sports facilities at Angell Field, and is more fully described in the attached Exhibit A. A map identifying the land area is also attached as Exhibit B.

Section 2. The Institutional Master Plan as amended and submitted by Kalamazoo College in support of its request to rezone the above land is approved, subject to the conditions set forth below.

Section 3. Under the provisions of MCL 125.3405 and the requirements set forth at Section 2.5B. *IC, Institutional Campus District*, the following conditions apply to three of the rezoned parcels which comprise the Angell Field Complex. Those parcels are identified in attached Exhibit C.

- A. The lights on the soccer field and football field will be shielded with visors;
- B. During the initial ten (10) year term of the Applicant's Master Plan, the Applicant will not rent either the soccer field or the football field for lighted use to third parties who are not affiliated with or a part of Kalamazoo College; following the expiration of the initial Master Plan, any intention to offer night-time use of the Applicant's soccer or football fields to parties not affiliated with the College shall be submitted to the City in a new or revised Master Plan and be subject to any limitations on night-time use of the soccer and football fields as set forth in this ordinance.
- C. The lights on the football field will not be used before July 1, 2016. There will be no above ground infrastructure for the lights on the football field installed before the reasonable time period for when those improvements are installed to allow for the use of the lights in July of 2016.

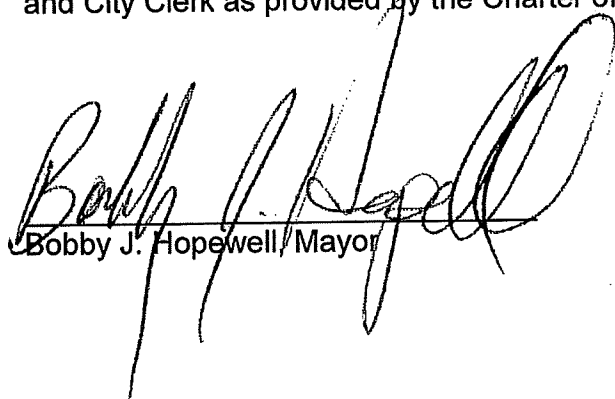
- D. Stadium lights on the football field may only be installed and operated in compliance with a stadium lighting ordinance yet to be adopted by the City of Kalamazoo. If, however, the City of Kalamazoo has not adopted a stadium lighting ordinance by January 1, 2016, Kalamazoo College may erect stadium lights on the football field, provided they meet standards as published by the Illuminating Engineering Society, and illumination at adjacent residential property lines is 0.05 foot candles or less.
- E. Stadium lighting on the soccer field may not exceed 60 nights per calendar year, and must be turned off by 10:30 P.M.
- F. Stadium lighting on the football field may not exceed 20 nights per calendar year, and must be turned off by 8:30 P.M.
- G. The number of foot candles at the shared property line of the athletic field and adjacent residential uses must not exceed 0.05 foot candles after the installation of stadium lighting (at both the soccer and football fields)
- H. Any future improvements to the campus area as detailed in the Master Plan, which, if done separately, would require approval by the City or one of its commissions or boards, shall continue to require that approval. Such approvals include, by way of example, but without limitation, street vacations, changes to public parking, permits for the renovation or construction of buildings, and site plans.
- I. All new buildings with a direct site line to adjacent residential uses will screen rooftop mechanicals to minimize impact.
- J. Outdoor storage of the college's visual equipment will be screened with fencing. Following construction of a proposed new storage building at the northeast side of the athletic fields no outdoor storage of athletic equipment or accessories, and power equipment or related tools or other equipment used by the College for maintenance, repair and other similar activities on the Angell Field athletic complex is permitted unless those items are in use.

Section 4. Repealer. All former ordinances or parts of ordinances conflicting or inconsistent with the provisions of this ordinance are hereby repealed.

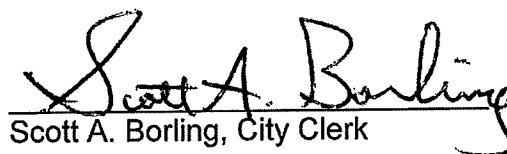
Section 5. Severability. If any section, subsection, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any Court of competent jurisdiction, said portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions of this Ordinance.

CERTIFICATE

The foregoing is a true and complete copy of an ordinance adopted by the City Commission of the City of Kalamazoo at a regular meeting held on June 18, 2012, and that said meeting was conducted and public notice of said meeting was given pursuant to and in full compliance with the Open Meetings Act, being Act 267, Public Acts of Michigan, 1976, and that the minutes of said meeting were kept and will be or have been available as required by said Act, and furthermore, said ordinance was duly recorded, posted, and authenticated by the Mayor and City Clerk as provided by the Charter of said City.



Bobby J. Hopewell, Mayor



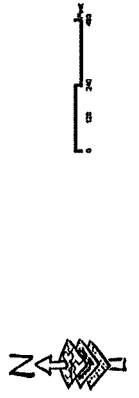
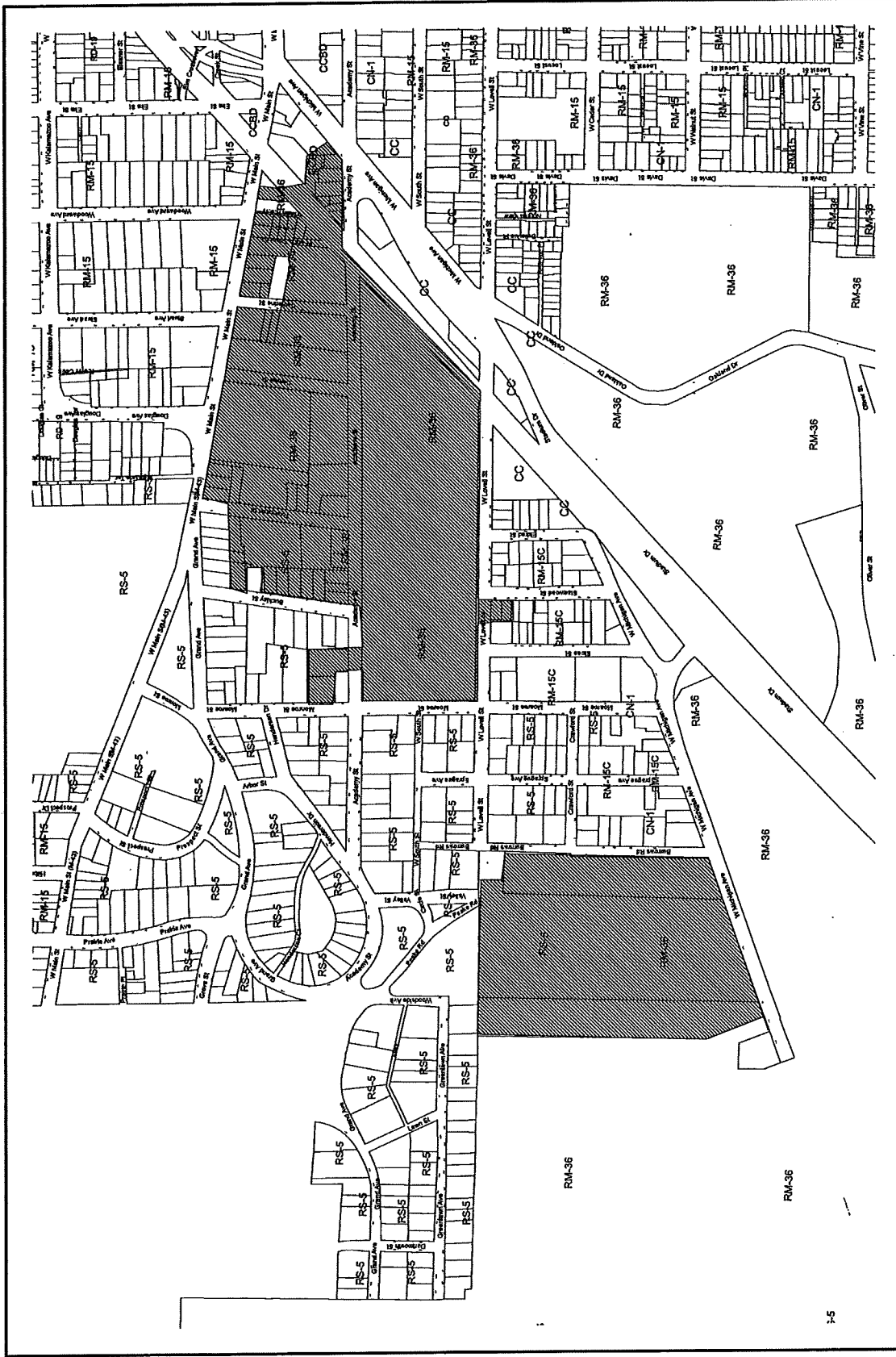
Scott A. Borling, City Clerk

Exhibit A

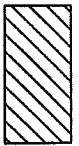
Central Campus	Parcel Number
1201 Academy	06-16-393-001
143 Bulkley	06-16-387-005
149 Bulkley	06-16-387-004
157 Bulkley	06-16-386-300
1224 Academy	06-16-387-002
1220 Academy	06-16-387-001
1214 Academy	06-16-387-019
154 Thompson	06-16-387-018
150 Thompson	06-16-387-020
136 Thompson	15-06-382-001
116 Thompson	06-16-378-021
103 Thompson	06-16-378-018
1141 West Main	06-16-378-017
1135 West Main	06-16-379-016
1105 West Main	06-16-384-010
113 Thompson	06-16-378-004
129 Thompson	06-16-383-004
139 Thompson	06-16-383-009
143 Thompson	06-16-383-010
151 Thompson	06-16-383-018
1132 Academy	06-16-388-019
140 Acker (Carmel)	06-16-389-001
123 Acker (Carmel)	06-16-455-001
1003 West Main	06-16-451-001
114 Catherine	06-16-456-011
116 Catherine	06-16-456-012
124 Catherine	06-16-456-013
131 Catherine	06-16-462-001
111 Catherine	06-16-453-003
929 West Main	06-16-451-003
923 West Main	06-16-457-004
915 West Main	06-16-457-005
909 West Main	06-16-457-006
905 West Main	06-16-457-007
843 West Main	06-16-458-008
110 West Main Court	06-16-457-008
114 West Main Court	06-16-457-009
116 West Main Court	06-16-457-010
109 West Main Court	06-16-458-014
113 West Main Court	06-16-458-013
115 West Main Court	06-16-458-012
117 West Main Court	06-16-457-002

Rental Property/Vacant	Parcel Number
123 West Main Court	16-16-457-001
831 West Main	06-16-458-010
826 Academy	06-16-463-001
824 Academy	06-16-463-002
820 Academy	06-16-463-003 and 06-16-463-003
818 Academy	06-16-463-005
812 Academy	06-16-463-006
778 West Michigan	06-16-464-010 and 06-16-458-015
115 Bulkley	06-16-377-020
129 Bulkley	06-16-382-008
133 Bulkley	06-16-382-007
139 Bulkley	06-16-382-006
1324 Academy	06-16-385-027
143 Monroe	06-16-385-001
402 Stanwood	06-21-126-001
408 Stanwood	06-21-126-002
Athletic Fields	Parcel Number
1708 West Michigan	06-20-239-001
1600 West Michigan	06-21-110-001
500 Burrows	06-21-107-001

Exhibit B



AREA PROPOSED FOR REZONING



[illegible]

City of Kalamazoo
PLANNING COMMISSION
Minutes
November 5, 2015
DRAFT

Second Floor, City Hall
City Commission Chambers
241W. South Street, Kalamazoo, MI 49007

Members Present: Rachel Hughes-Nilsson, Chair; Charley Coss, Vice-Chair; Joshua Cook, Geoffrey Cripe, Emily Greenman Wright, Tracy Hall, Susan McBain, Rico White, Derek Wissner

City Staff: Rebekah Kik, City Planner; Rob Bauckham, Senior Development Planner; John Kneas, Assistant City Attorney; Wendee Mayes, Recording Secretary

Guests: None

A. CALL TO ORDER

Commissioner Hughes-Nilsson called the meeting to order at 7:02 p.m.

B. ROLL CALL

Planner Kik proceeded with roll call and determined that the aforementioned members were present.

C. ADOPTION OF FORMAL AGENDA

Commissioner Wissner supported by Commissioner Greenman White, moved approval of the November 5, 2015 Planning Commission agenda as presented. With a voice vote, the motion carried unanimously.

D. APPROVAL OF MINUTES

Commissioner Coss, supported by Commissioner Cook, moved approval of the October 1, 2015 Planning Commission minutes as presented. With a voice vote, the motion carried unanimously.

E. COMMUNICATIONS AND ANNOUNCEMENTS

Planner Kik noted that the December meeting is the same night as Run Through the Lights in downtown Kalamazoo. Because of the timing this can cause an issue with parking and suggested moving the meeting start time from 7:00pm to 7:30pm. Commissioners agreed to do so. Attorney Kneas reminded staff to post notices and send out reminders.

F. PUBLIC HEARINGS

P.C. #2015.04: Consideration of a request from the Community Planning and Development Department for a text amendment to Chapters 3.7, 4.1, 8.3.D., and 12.3 of the Zoning Ordinance pertaining to proposed Outdoor Sports/Recreation Lighting and Noise Regulations. [Recommendation: motion to recommend approval of the text amendment to the City Commission.]

Planner Bauckham presented the staff report. This included a background on why the ordinance is being proposed, a summary of the public participation, research that has been conducted and reviewing the final draft.

Background reasons for this draft were:

- Current zoning ordinance for lighting standards only includes outdoor lights on pole up to 25 feet. Anything taller than 25 feet isn't currently regulated. A proposal to install lights over 25 feet currently needs a variance from the Zoning Board of Appeals. This would include lights on sports fields.
- In 2012, Kalamazoo College requested to rezone all their properties to IC (Institutional Campus) zone. This was treated as a contract rezoning with conditions. One of the conditions was that Kalamazoo College could begin to use the soccer field at night, with lights up to 60 times a year with lights going off at 10:30pm. Another condition was a charge to the City to come up with a new ordinance for outdoor lighting for sports and recreation by the end of 2015.

Summary of public participation:

- The process began in March 2015 when city staff met with directors of the neighborhood associations, to apprise them of this topic and invite their participation.
- A citizen work committee was formed with representatives from the Stuart, West Main Hill, and Oakland/Winchell neighborhoods; Kalamazoo College and Kalamazoo Christian High School. Purpose of this group was research and guidance drafting the ordinance.
- Six neighborhood meetings were held during the process; these were held in the Winchell neighborhood, West Main Hill neighborhood, and Stuart neighborhood. There were also 3 community wide meetings, inviting the entire City of Kalamazoo public to attend.

Research conducted:

- Included ordinances of other communities throughout Michigan to see what types of regulations are currently in place. The first outline of the ordinance was based on the types of definitions and information that was most appropriate for Kalamazoo.

Major components of the ordinance:

- Proposes a new definition for outdoor sports and recreation venues.
- These facilities would not be allowed in the residential zoning districts of the city. Commercial, manufacturing, institutional campus, and public zones would allow the lighting with a special use permit. This would require review and approval from the Planning Commission.
- The ordinance is proposing the addition of conditions to the special use permit ordinance to cover stadium/sports/recreation type lights.
- If the ordinance is not put into place by the end of this year the conditions of the 2012 contract with Kalamazoo College will allow them to use the football field for up to 20 times a year until 8:30pm without the special use permit conditions.
- Ordinance regulations include:
 - Illumination levels

- Flashing and/or search lights are not allowed
- Shielding and glare standards; have to meet national standards which is the Illuminating Engineering Society of North America
- Pole location, height, illumination, and intensity
- Timing for use of lights, including a recording system to verify timing of lights
- Rental and third party use of the facilities
- Use schedule and reporting to the City
- Noise levels
- Violations of conditions and consequences
- Repair and maintenance of systems vs. replacement and upgrades
- Application requirements for special use permit
- Table with breakdown of number of uses per year
 - Kalamazoo Christian High School nor Hackett High School would be able to have lighting on their sports fields based on this table.
 - Kalamazoo College would be allowed 20 uses of their lights, with a maximum of 2 nights to 10:30 for a game/contest.

City staff has worked to balance what the city residents requested with the needs of the venues in the area. City staff is also planning on addressing the noise concerns with an amendment to be made to the current city noise ordinance rather than include it in this lighting ordinance.

Planner Bauckham extended a thank you to the participants of the citizen committee as well as the residents who have come out to the meetings and participated in developing this ordinance.

Open floor for public comment.

Mr. Tom Lucking spoke to concerns how restrictive he feels the ordinance is for Kalamazoo College. He feels that this will limit its ability to recruit students compared to the unlimited nature of other division 3 colleges. Upon deciding to live in the West Main Hill neighborhood the residents agreed to live within the proximity of a football field, which could always have included stadium lights.

Mr. Bruce Martin provided a letter which he read into record. Letter included in these minutes. He asked that staff leave the negotiation of K-College's stadium lighting details to the neighborhood, stating that the City's most basic responsibility is to insure that neighbor's quality of life not be interrupted and provide the basic necessities of buffering, uses, and enforcement.

Mr. Darin Meyer is in agreement with Mr. Martin. Mr. Meyer added that the noise concerns are the neighborhoods biggest fear. Using Western Michigan University as an example, Mr. Meyer stated that the noise cannot be buffered by pulling down the shades. He feels this ordinance needs to address the noise more thoroughly. He is appreciative of the light shielding that is in the ordinance.

Mr. Randy Walker asked the Planning Commission to take into consideration that the actual amount of times per year that the field is used is for six or seven months not the entire twelve months. The majority of the games are played during nice weather. Games bring noise, lights, parking, and trash in the resident's yard. All of this becomes an issue for those who want to enjoy their properties. The residents love the sports and the energy they bring, however Mr. Walker would like the amount of time the fields are used to be taken into consideration.

Mrs. Christina Anderson talked about the ordinance being an acceptable balance for the neighborhood. She recognized that she moved next door to a field that could be lighted. The noise is her biggest concern. She encouraged the city to study the noise on the field for a year before putting in a decibel level for the noise.

Ms. Kate Worster, associate vice president for Communications and Marketing, spoke on behalf of Kalamazoo College. Ms. Worster spoke of the contribution that Kalamazoo College brings to the City of Kalamazoo. She explained that they are an enrollment driven institution and more than a quarter of the students are athletes. One of the issues the college faces is the students needing time for study, practice, and play. If they cannot find time to practice and play then they will find somewhere else to study. The 20 nights that lights will be allowed are necessary for these practices. She opined that they will still be at a disadvantage to the other Division Three colleges, who have already have lights and very few restrictions for night games. This proposal meets the bare minimum that Kalamazoo College finds necessary for lighting the football field. Kalamazoo College supports this ordinance and are confident that this is a realistic ordinance that serves both Kalamazoo College and the entire city.

Mrs. Valarie Bader appreciates that Kalamazoo College said they support the ordinance. She is concerned about the restrictions that it gives the colleges as well as other schools. Meeting a bare minimum does not allow for growth. 20 nights in one season is not unreasonable, if it had been 20 nights within one month she could understand that outrage. The City needs to broaden its horizons and look at the bigger picture. It would be in Kalamazoo College's better interest if this did not pass and they could then use the 2012 ordinance agreement which would give them more nights of being able to use the lights.

Ms. Dana Underwood echoes her neighbor's comments. Ms. Underwood sees her neighborhood as one of cooperation. To work with each other in consideration of the different noises and levels at all hours of the day and night, the different schedules, the non-traditional neighbors, the students in rentals, etc. She would like to see the city grow and believes this ordinance with these restrictions is not the way to go.

Mr. Mark Sloan sees Kalamazoo College as a stakeholder within the city and believes the citizens should have more clout. He was grateful that the City reached out to the citizens in drafting this ordinance. However he feels that by September the process had stalled and that the final draft does not address the citizen concerns. He is not sure why the Table highlighting nights changed so drastically and doesn't feel he can support it. Mr. Sloan wants to see the process followed to the end.

Ms. Diana Morton-Thompson spoke first as the treasure of the Oakland Drive/Winchell Neighborhood Association. She highlighted the letter that was provided to the commission. Letter included in these minutes.

Ms. Diana Morton-Thompson also spoke as a concerned citizen. She is concerned with the comments tonight being about Kalamazoo College and their neighbors. This is to be a citywide ordinance. Her focus is on the Table. 201 feet is too close to a residential neighborhood. She questions if this is good land use planning, if this is an equitable foundation for Kalamazoo 2025 Master Plan. Should the City sacrifice the greater good of the city in order to cater to the immediate needs of the elite few. This Table can damage neighborhoods, lives, and lives of children. Ms. Morton-Thompson believes the problems between Kalamazoo College and its neighbors are what are drafting this ordinance and that instead there should be neighborhood specific usages and standards.

Mr. Max Tibbitts spoke as the chair of Stuart Neighborhood Association. Mr. Tibbitts did some research of his own. Calling to other colleges that Kalamazoo College plays against. The other colleges have little to no restrictions and some of them have homes less than 100 feet from their football fields. Mr. Tibbitts says it is about balance; somewhere between no limits and the minimum 20 nights that Kalamazoo College says they are fine with. He feels that 20 nights is too limiting, however if Kalamazoo College says they are willing to live with it, he can accept it. Addressing the neighborhood, Mr. Tibbitts pointed out that 8:30pm is early. Those who live near the Arcadia Festival site have music until 2:00am. The City is a dysfunctional family and we need to find a balance. The Stuart Neighborhood Association is in support of this ordinance.

Mr. Max Tibbitts then spoke as a city resident. Mr. Tibbitts is not happy with the process the planning division is approaching every task recently. In the past, they would do research, create an ordinance, take it to the public, do one revision and that would be the final draft. Having meetings and changing the ordinance with every meeting is not the way he feels it should be done. Mr. Tibbitts supports this ordinance. He asks City Staff to look at their organizational skills instead of using reactionary skills.

Mr. Paul Daniels emphasized the fact that this is a citywide ordinance not a Kalamazoo College ordinance. He believes some aspects of the ordinance should be solved at the neighborhood level not the city level. Allowing it to be solved at a neighborhood level would lend to more flexibility for better support of the ordinance. The ordinance needs more work.

Mr. Derek Meyer was a member of the workgroup. He wanted to point out that the 20 practices were for lighted practices. The ordinance does not address unlighted practices.

Mr. Brock Rucinski is a junior football player at Kalamazoo College. The current problem the football practices faces is being cut short due to daylight savings time. Having lights will enhance the players experience for the last three months of the season. Two night games will be great, bringing back some of the high school experience and the energy that comes with them. Currently recruiting is a challenge because high school students cannot come to daytime games. This gives them a chance to watch games being played.

Mr. Greg Diment served on the workgroup. Mr. Diment is happy with the reasonable balance that the ordinance presents. He stated that it was a long and difficult process to bring about this balance. City staff addressed the ordinance as a citywide ordinance with campuses needing to be rezoned as IC. Later in the season it starts to get darker earlier and this cuts practices short. Having the lighting later in the season will help with that.

Mrs. Maureen Lockman-Cartmill stated that the lights are going to affect the neighborhood regardless of trees. She considers the West Main Neighborhood as a fragile neighborhood with more and more rentals coming into the neighborhood. The intensity of the lights will not be able to be shut out regardless of the availability of shades, shutters or blinds. Wants to see Kalamazoo College succeed but sees the intensity of the lights as an issue.

No further public comments, public portion of the hearing was closed.

Commissioner White asked for clarification of the commissioner's job as it pertains to this ordinance. Attorney Kneas answered that any ordinance has to apply to whatever zoning district has to be uniform. Different neighborhoods cannot have different standards in the ordinance.

Commissioner White asked how the ordinance will affect the “health and safety” of the community as expressed in the letter from the Oakland Drive/Winchell Neighborhood Association. Planner Kik responded that this ordinance will be going through as a special use permit. Every special use permit has ten impacts that they need to go through and meet; this ordinance will add an eleventh step to the process. This is a highly protective process for the community and will include further community input.

Commissioner Coss asked what the venue would be able to do if there was an exceptional event (i.e. they wanted to host a National Event not planned for). Planner Kik responded that the information should be included in the special use permit application. If an event came about after the special use permit was approved, the venue would have to come back in front of the Zoning Board of Appeals to seek a variance to add the event.

Commissioner Wissner asked about the amount of games that are currently being held. Kalamazoo College responded that they currently have ten games in a season. Ideally they would have 5 away games and 5 home games. Not every game would be a night game, there would be some played during the weekday or on a Saturday. They added that the ability to have a couple of night games would build some excitement for the student body, especially at the beginning of the season. Planner Kik indicated that high schools typically have approximately fifteen night games a year.

Commissioner Coss reminded everyone that this is a citywide ordinance not just about Kalamazoo College. He stated this ordinance was very well written. The City does not even have any indication what will happen with other schools in the next three to four years. Maybe the ordinance needs to be broader and looser. This ordinance seems to be way more restrictive than other communities. There needs to be a balance between the neighborhoods and the schools. Commissioner Wissner agreed. He feels it is highly favored toward the residents. Commissioner Hughes-Nilsson asked if it is possible to add to the table to allow an entity to have further conversation with the neighborhood to come to an agreement and be added to a special use permit if there was room for growth. Attorney Kneas would not recommend it because it then becomes focused on a small area.

Commissioner Cook asked about the rationale behind the drastic changes to the footage in the Tables throughout this process. Planner Kik responded that this came from splitting the tables. Throughout the process we were asked to make an ordinance specific for Kalamazoo College or to work within the parameters provided by the 2012 contract zoning ordinance. The answer was no, the City cannot create an ordinance specifically for one entity and the 2012 zoning was already done and could not be changed. The football field could be affected by changes in the new ordinance because that was not finalized by the 2012 ordinance the way the soccer field was. The goal was to look at which zones would have the most intense use of lighting and split the table accordingly to place the least impact on the residential neighborhoods.

Commissioner Coss commented that having no lights on the Kalamazoo College football field has caused student athletes to be pulled from classes in order to practice. This is not a good selling point for the college when they are recruiting students. This ordinance is trying to strike a balance between the college and the property owners. If Kalamazoo College is not successful then that will negatively affect property values as well.

Commissioner Cripe asked if the ordinance fails to pass what will happen with Kalamazoo College. Planner Kik responded that if this ordinance does not pass and the January 1, 2016 deadline passes, the 1896 contract zoning ordinance will give Kalamazoo College 20 uses a year until 8:30. Kalamazoo College would not have to apply for a special use permit. The 20 uses do not distinguish between

practices and games. And if an ordinance were to later pass, Kalamazoo College would be grandfathered in to continue to use the 1896 ordinance the same way the soccer field is.

Commissioner Cripe stated that in 2012 Kalamazoo College and the neighborhood worked together to create an agreement. Kalamazoo College has accepted this ordinance as written, despite the fact that there is support for having more than two night games per year. This is a good compromise between the school and the residential neighborhood it is next to. Everyone will benefit to having the standards in place over not passing the ordinance. The broad participation that has happened is awesome and resulted in multiple perspectives. Zoning ordinance is a living document, getting standards on the books. Every comment has been thoughtful and emotional which lead to a good ordinance. The Table trends toward an equal compromise. However, it would be helpful to have a periodic review of the technology and industry standards.

Attorney Kneas stated that if the City Commission enacts the ordinance standards are already incorporated into the ordinance as drafted. Commissioner Cripe responded that is currently in the ordinance would hold them to the current standard at the time of application; however Commissioner Cripe is looking for a requirement to update to the most current standard periodically. Attorney Kneas answered that it could be too costly to continually upgrade and would not be enforceable. Planner Kik did note that the ordinance is written that if they want to upgrade they would still have to use the most recent technology. They can always move forward to conform to the most recent technology and cannot go backwards.

Commissioner Cook asked about the researching of the ordinances and if there was any precedent on decibel levels. Planner Bauckham stated that 25 ordinances had been looked at and they saw a fairly wide range anywhere from 50 – 85 decibels. Planner Kik added that those were noise ordinances and were not tied to the lighting ordinances. The City is setting precedent by including noise restrictions in our lighting ordinance.

Commissioner Cook inquired to the research that led to the IC/P zoning to be based on 200 feet. Planner Bauckham said the standard that was found was 100 feet, however it was felt that 100 feet was too close for residents.

Commissioner Cripe noted that the only IC zone right now is Kalamazoo College. The compromise for the Table and the IC zone was a compromise for Kalamazoo College and the neighborhoods around the college. He believes that not passing the ordinance would be more of a detriment to the city.

Commissioner Coss asked everyone to remember that this is a citywide ordinance and not just Kalamazoo College.

Commissioner Cook again expressed concern on the limitation of uses the Table set. Commissioner McBain reminded everyone that the restriction is on night time uses not total uses of the field.

Commissioner Hall commented that this seems to be a balance with the neighborhood requests. Kalamazoo College has gone on record to agree with the ordinance. City staff has done an excellent job over the last several months to draft this ordinance.

Commissioner Wissner pointed out that Kalamazoo College represents 2,000+ people. The institution has been around for a very long time and deserves respect. Commissioner Hall stated that they bring about 47 million dollars to the community and they are respected. However, Commissioner Hall does not feel that

the citizen's voices are being heard. At the same time, she understands the importance of having the field lit and the need to strike a balance between the two. Commissioner Coss disagreed and believes that their voices are being heard. Kalamazoo College has backed itself into a corner by stating that their minimum requirement is two night games and is being very agreeable. Commissioner Hughes-Nilsson asked if other schools were looked at in regards to this ordinance. Planner Bauckham stated that public schools are exempt from the ordinance, and that Kalamazoo Christian and Hackett Catholic High School were looked at. Planner Kik added that this will affect charter schools that come in the future. They will have to get their zoning changed to and IC zone and then apply for and receive a special use permit. This will not be easy for them.

Commissioner Greenman Wright addressed everyone to say that the entire commission is really weighing all the comments, fears and suggestions that have been presented tonight. The commission is concerned with quality of life. She agrees with Commissioner Hall that there is room for more compromise and more games (maybe 3 or 4) but does not want to see it swing into the opposite direction either. Commissioner Cook praised City staff for their work on this ordinance and the citizen engagement.

Commissioner Cook made a motion to increase the number of games for the IC/P Table 8.3.2 in the 201 to 500 foot area from 2 to 4.

Commissioner Hall stated that she will support Commissioner Cook's motion to increase the games from 2 to 4. She thanked everyone who came out and told them that they were heard; however she does not want January 1, 2016 to not have an ordinance in place. Commissioner Coss agreed with Commissioner Hall that all citizens' views were appreciated as well as the work from City staff.

Commissioner Cripe asked if the motion failed, would it fall back to the original motion. Commissioner Coss answered that it would fall back to the original motion unless someone else put forward another motion. Commissioner White stated that this process tonight is to send a recommendation to City Commission. Attorney Kneas replied that is correct, Planning Commission sends the recommendation to City Commission. It is up to the City Commission to enact or not.

Commissioner Cook, supported by Commissioner Coss, moved to recommend P.C. #2015.04 to City Commission: Request from the Community Planning and Development Department for a text amendment to Chapters 3.7, 4.1, 8.3.D., and 12.3 of the Zoning Ordinance pertaining to proposed Outdoor Sports/Recreation Lighting and Noise Regulations, with the amendment of Table 8.3.2 to increase the IC/P chart for the Maximum Number of Events Between 201 and 500 feet from 2 games to 4 games. With a roll call vote the motion carried with a majority vote. Commissioners Cripe, Greenman Wright, Hughes-Nilsson and White voted no.

G. CITIZENS' COMMENTS (Regarding non-agenda items)

Mr. Craig Platt came to talk to the commissioners regarding the zoning to store a trailer on private property. Currently the ordinance states that if it does not have an engine it can be parked/stored wherever a resident would like on their property and if it has an engine it needs to be on concrete. This no longer seems appropriate in our city neighborhoods as trailers can be quite large and unsightly. Mr. Platt currently has that problem with a neighbor parking a 20-25 foot trailer without an engine in such a spot as to be unsightly from Mr. Platt's property. He is requesting that commissioners review the ordinance and consider making changes.

Mr. Darin Meyer stayed to talk to commissioners regarding the current parking enforcement. He has noticed an uptake of parking next to fire hydrants, across sidewalks (blocking pedestrian's walkway) and parking in no parking zones since the current parking enforcement has taken over. He calls in illegal parking problems but does not see any resolution. He would like to see the parking enforcement to go back to whoever was doing it before.

H. UNFINISHED BUSINESS

Planner Kik gave an update to the Master Plan. The kickoff was on October 29, 2015 and was very successful. City staff is working on setting up the next meeting. A report on the first meeting will be out soon and she is getting a calendar for 2016 together.

I. NEW BUSINESS

None

J. CITIZENS' COMMENTS

None

K. CITY PLANNER'S REPORT

Planner Bauckham reported that this over goal for the year.

- Michigan Ave
- Depot building next to the craft brow building is being redone with a new addition. Likely will have a new restaurant and offices
- Kalamazoo College has broken ground on the new fitness center
- CVS pharmacy on Howard and West Michigan is about to break ground
- Milwood Elementary School has the old building basically down and some construction will start this year
- Harold Zeigler Auto front building addition is coming along
- New hanger project out at airport, south of the Air Zoo
- Sawall Health Foods is coming along and hope to be done by the end of the year

L. MISCELLANEOUS COMMENTS BY PLANNING COMMISSIONERS

Commissioner Greenman Wright comments that the trailer problem is a very tricky issue. She agrees that Mr. Platt has a valid point.

Commissioner Cook felt that the public hearing went very well tonight. Commissioner Hughes-Nilsson appreciated everyone's discussion. Commissioner Hall inquired as to what City Commissioners can do with the recommendation from tonight. Attorney Kneas stated that City Commission can take the recommendation at four games or adjust it as they see fit.

M. ADJOURNMENT

Planning Commission

November 5, 2015

Page **10** of **10**

The meeting adjourned at 9:35 p.m.

Sports Field Lighting Ordinance

2015 Work plan

Introduce Sports Field lighting ordinance topic to neighborhoods and Planning Commission

- Meet with ODWNA March 18
- Meet with W. Main Hill N.A. March 31
- Meet with K College staff April 1
- 2nd meet with W. Main Hill N.A. April 14
- Measure K soccer field light levels April 15

March - April

Introduce lighting ordinance topic
 Introduce lighting ordinance topic
 Introduce lighting ordinance topic
 Discuss planned ord.
 Summary report

Research of model lighting ordinances for standards from other communities

- Begin research on lighting regulations May 4
- 1st meet. of research workgroup May 19
- 2nd meet. of research workgroup June 9
- W.E Upjohn study on economic impacts June 16
- 3rd meeting of research workgroup July 9

May - July

Research regulations from other communities
 Discuss research process and initial results
 Research presented
 Initial rpt. of results
 Present draft of ord. outline

Present outline of the ordinance based on the research of ordinances and feedback sessions

- 4th research workgroup meeting August 18
- First community meeting August 26

August

Draft ordinance presented
 Draft ordinance presented

Provide a draft of the ordinance to go out to the neighborhoods

- 5th research workgroup meeting September 8
- Meet with ODWNA September 16
- 6th research workgroup meeting September 21
- 2nd community meeting September 23
- 3rd meeting with W. Main Hill N.A. September 29

August –September

Provide a revised draft of the ordinance for citizen review

October - November

- | | |
|----------------------------------|------------|
| • 7th research workgroup meeting | October 6 |
| • Meet with Stuart Neighborhood | October 13 |
| • 3rd community meeting | October 22 |
| • 8th research workgroup meeting | October 27 |

Final Ordinance goes to the Planning Commission and City Commission – Public hearings

November- December

- | | |
|-------------------------------|-----------------|
| • Planning Commission hearing | November 5 |
| • City Commission | December 7 & 21 |

Outdoor Sports Field/ Recreation Lighting Community Meeting Report

Updated October 28, 2015

This report is compiled by staff and the appointed workgroup members to reflect questions, comments, and discussions held during several public meetings including: Community Meeting on August 26 at City Hall, the Winchell Neighborhood Association meeting on September 16, and the September 23 meeting at Mayor's Riverfront Park (MRP), West Main Hill Neighborhood Association meeting on September 29, Stuart Neighborhood Association meeting on October 13, and the Community Meeting on October 22 at MRP.

Staff comments are in bold.

Community members' comments and questions are underlined.

General Community Comments on Draft Ordinance:

Lacks technical specificity; lacks meaningful ordinance enforcement and the associated penalties are inadequate and fails to address many of the key issues that cannot be disassociated from the sports and entertainment venue style lights (e.g. noise, impact on wild life, impact on residential property values, traffic etc.)

Entertainment venues were completely removed from the ordinance. Staff have reworked the first draft to address many key issues including noise, traffic, and types of events.

A resident commended the city staff for working with all parties and appreciated the process and remarked that noise was as important as light.

Many changes have been incorporated into the ordinance to address types of play, noise allowed and how public address systems are incorporated, tested, and used in these venues.

A resident stressed that this was a city wide ordinance, not just for one institution or field.

This sentiment was stressed many times regarding how this draft ordinance would apply to K-College's or Kalamazoo Christian's fields.

A resident asked will this lighting in question be similar to WMU's football field lighting?

No, not similar. In fact, staff have added conditions to mitigate impacts expressed about WMU's fields.

A resident commented the city has in the past not respected home owners...it allowed a residential property to be rezoned and become a fraternity. This ruined his parent's lives and property values. This homeowner stated that he will NOT buy a property near Angell Field because of the lights..."whatever your property value studies tell you, they do not account for the owners who refuse to purchase in the neighborhood near those lights." The applicants should be making payments to the homeowners for the loss of peaceful use of their homes.

A resident commented the city has shown no concern for the homeowners. The destruction in Knollwood is coming to Winchell at this rate. The planning commission has disrespected the citizens. These rezoning ideas are poison.

A resident commented residential is residential. No variances for lights should be allowed.

This underlines the importance for an ordinance that the Zoning Board of Appeals can go to. Either with or in the absence of an ordinance there are strict criteria that must all be met for a variance. In the absence of an ordinance the ZBA has an ability to enforce an ordinance that is in place.

A resident stated that rentals and events bring traffic and general degradation of the neighborhood. Night lights will drive longtime residents out of the neighborhood...if we don't want the city to lose its foundation as a livable community, limitations on these types of venues are essential. If any of these fields are allowed to rent the community suffers.

Rentals are only allowed to those directly affiliated with the college in the IC zone under the lights. Affiliated is defined directly in the ordinance. At the present time K-College cannot rent the fields at night until 2022 (For 10 years). The new ordinance will apply after that timeframe expires for their rentals.

A resident commented that he supports the college, there are positives and negative. College is part of the life blood of the City.

A resident inquired as to what happens if the City does not come up with an ordinance by year end?

Kalamazoo College will get to install lights and use them 20 times a year until 8:30 PM, and the rest of the city will not have an ordinance in place.

A resident stated it appears that it is a benefit to the City residents to get an ordinance passed. This draft seems very restrictive and to delay this may result in no restrictions. Kalamazoo College has come a long way in addressing the concerns of the neighborhood.

A resident stated living next to a school with an athletic program, you have to take into account the school may grow and make improvements...this could include lights.

A resident responded to the above statement commenting this would be a taking.

A resident stated the neighborhood is very sensitive to nuisances due to activities at WMU. So the ordinance created needs to be sensitive to this solid residential neighborhood.

A resident stated he lives in the Winchell Neighborhood, but works at Kalamazoo College. The College has a lit field at the base of the hill until a land swap occurred with the City. The current field was also lighted in 1946, but those lights were removed, so there were lights at this location in the past.

Did the City look at Federal / State regulations when crafting this ordinance?

The city researched both state and federal regulations. The State regulation is that public schools and public higher education institutions are exempted from city zoning regulations. Staff also checked with the DEQ to be sure there isn't anything above and

beyond what we are asking for in the special use permit and there was not anything for lighting in their regulations.

Repair and Maintenance:

A resident stated he appreciates the fact that there are changes incorporated into the draft ordinance since the Stuart Neighborhood Meeting. How does “demonstrable” come into play in the repair and maintenance section. Should there be a reference to the ordinance sections here?

The language was added because of citizen comment. Since this draft the language that was used to “demonstrably lessen” impacts in the repair and maintenance section has been changed to “minimize impacts to the neighborhood”.

Property Line Measurements:

How is the line to the property measured?

Currently, it is measured from the light poles to the nearest residential property line, on the ground.

Where would Kalamazoo Christian’s fields fall on this chart?

They fall within the 200 foot buffer and would not be allowed to have lighting on their fields. The closest residence is approximately 160’-0”.

What if the property line is not straight?

Staff will measure from the closest pole location to the closest point of the residential property line. The measurements would be taken on the ground, not from GIS or digital maps.

Violations & Verification

What is a violation and how are they verified?

An example of a violation would be having the lights on past the required shut off time or exceeding the number of nights allowed. Violations would be verified by the Public Safety Department or the Zoning Inspector.

Dialogue ensued about the viability of expecting Kalamazoo Public Safety and/or zoning inspectors to prioritize and respond to requests to verify ordinance violations in a timely fashion.

Lighting requirements were changed to include a recordable system.

Sound systems must be tested prior to being fully permitted and a design and plan submitted for how to minimize audio impact to the surrounding neighborhood.

Under violations section “MAY” should be changed to “SHALL” for: shall “*reduce the number of approved uses by one.*”

May has been changed to shall in all applicable violation sections.

Refine the language in the enforcement and violation sections of the ordinance to provide a clear and understood process.

Staff has worked to refine the language to be clear and consistent in all sections of the ordinance in order to provide a solid foundation for any violations or verifications.

Who will verify; who will pay for this; violation structure is very poor and has no obvious enforcement with meaning (e.g. shutdown light and sound system for 12 months after 2nd violation) if there is ever a 3rd violation then lights should be removed.

When city staff is requested to verify/ enforcement there is a cost recovery fee associated with that visit. Verification is being sought through the request of recordable lighting systems to be installed.

Owner/ operator should post bond.

This is not a legal practice for Special Use Permits

Does the city have the authority to enforce violations?

Yes; additionally, we have created an Administrative Policy for the enforcement of minor and major violations. This allows the city staff to have a consistent policy that follows Chapter 10 for enforcement, while specifically handling issues that arise from the use of lighted venues.

Should the ordinance state that if a violation occurs during a rental use, the applicant should lose permission to rent or could punishment be ramped up if a rental?

All violators are treated the same. The owner/ operators are responsible for the renter to be in compliance with the ordinance.

What is the appeal process for K College?

If ticket was involved, they can appeal to the court magistrate or the Zoning Board of Appeals to appeal a determination of a violation.

Who would be making the enforcement decisions in the absence of the City Planner, if the City was without a City Planner for a period of time?

It would be Assistant City Planner or other planning staff who would take on this responsibility as delegated. The zoning ordinance references the City Planner in many decision making areas.

Is there an appeal process for the ordinance?

It is covered in the existing language of zoning ordinance. Appeals would be handled by the Zoning Board of Appeals.

How is the “latest technology” determined/ defined/ designed?

Refine this definition to exclude the type of technology. Instead, address the design, intent, and results of the design which can be proven through site plan documents and testing.

Definition was changed to “current standards”. This allows the city to define the standard and not have to change the text every time a new amendment to the standard is released.

How will the city address periodic upgrades to meet “most current technology” standards? Is there any allowance for required upgrades in the future, say at 5 years or 10 years?

See the maintenance section (j) We do not currently hold any of the other SUP applicants to a periodic review.

Rentals/ Third Party Uses

Will they be addressed in the table?

Rentals are not addressed in the table for IC zones. They will fall under the same time restrictions as any other nighttime use. The table, however, does reflect venues that are specifically developed for night time rentals and does not allow them within 700 feet of residential zones.

The current noise provisions in 8.3D (i) would sufficiently bar any event that cannot meet the standards set forth.

This comment was specifically regarding entertainment style rentals (bands etc.) These are not covered in this ordinance and not allowed at this type of venue.

3rd party use should be prohibited for facilities in residential areas

It is not legal for the city to prohibit rental of facilities. However, rental is restricted in IC districts only to affiliated parties.

Institutions are under pressure to generate revenues and will rent facilities as often as possible. Neighbors should be attentive to this issue during this process.

It is not legal for the city to prohibit rental of facilities. However, rental is restricted in IC districts only to affiliated parties.

Are rentals in IC district are at all permitted by city ordinance? Would like to see rental allowance built into table also.

It is not legal for the city to prohibit rental of facilities. However, rental is restricted in IC districts only to affiliated parties.

The table now reflects venues that are specifically developed for rentals and does not allow them within 700 feet of residential zones.

Citizens in this room making these comments are the people who pay the taxes that fund this city. With 55% of Kalamazoo tax exempt, if we drive the residents out of the city we lose the tax base.

We should not be commercializing every space to generate revenue.

The City Attorney has advised that we do not have the right to restrict rentals completely, but can put some restrictions on.

If the purposes/uses are for the applicant, why would the ordinance permit rentals at all? The neighbors do not want rentals if lighted fields are permitted.

It is not legal for the city to prohibit rental of facilities. However, rental is restricted in IC districts only to affiliated parties.

What is meant by "affiliation" or "contracted" in this clause? This sounds like third party usage.

A community member stated the rental section does appear to be in conflict.

One sentence is limiting night rentals while the other is identifying the users of the field must be associated with the institution.

This language has been changed to remove contracted from the ordinance and restrict types of rentals on the IC/P zoned venues to affiliated parties. The term "affiliated parties" has been further defined in section (e).

If Kalamazoo College wanted to rent the field for a conference championship; would that be ok because it would be a game affiliated with the conference?

Yes, that would be allowed under this draft ordinance.

Property Values

Will there be a periodic review of property values?

Not at this time. We are conducting a survey of realtors to weigh in on property sales and values.

If it is shown that there is a negative influence, what would be done?

Will applicants be required to provide evidence that proposed uses do not impact property values?

The ordinance is written to address impacts on many fronts. The applicant must show information for photometric plans, sound diagrams, traffic impacts, use, environmental impacts, and go through a public hearing. All of these measures are used to address impact on property values.

Facility owner should have to demonstrate to city that operation does not negatively affect area property values. If not demonstrated, at perhaps 3, 7, and 10 year increments; operation prohibited. (Fear: soccer experience base data does not predict impact of lighted football field.)

Two studies (First in 2012 and second in 2015) have been completed. Neither study was able to isolate stadium lights to be any determinant to property value change.

Why was SEV used in the WE Upjohn Institute study?

The State Equalized Value response from WE Upjohn Institute: As to the criticism of using SEV, we agree, but SEV is the only valuation measure available when the city asked us to do this analysis. And SEV remains the only valuation until there are enough transactions for a representative sample. To reiterate, there is not enough data to identify an effect one way or the other.

A survey of realtors should be done to better represent the property sales and values.

Staff is currently putting together questions for a realtor survey.

Illumination Questions

Where did the foot candle increase come from? If it has been shown that .05 foot candles is adequate, why would we raise it?

The 0.10 measurement presented in the initial draft was a common number in the 35 lighting ordinances that were reviewed by staff. It was agreed to reduce the level to 0.05 foot candles

Is a 0.05 foot candle was an achievable measure for applicants?

Staff reviewed the process of having measured K's soccer field back in April and the preliminary plans from K for football lighting. All indications suggested that K College could install lights at Angell Field to meet this standard of .05 foot candles.

How tall do the light poles need to be to illuminate the field?

Staff responded about 80 feet is the standard height that they have seen in other ordinances.

Who determines the most current standard for lighting technologies? It appears that IESNA would be the appropriate and applicable body for these standards.

Yes, IESNA are the light standards we are consulting.

Is there an alternative method for measuring distance of the actual lights to the property line (rather than the light pole position)? How are you going to avoid abuse of pole placement standards?

Comment, This came up at the Winchell Neighborhood Meeting too. Could create measurement from property line to light fixture versus pole.

Changed to include the entire height of the pole and light fixture.

Noise Questions

Would the public address system be able to be used during day practices? Or does this only address practices under the lights?

The PA system would not be allowed to be used during daytime practices.

Sports and entertainment events should not be exempt from the Noise Ordinance

Staff will be reviewing the current noise ordinance to identify potential changes in fall 2016.

Noise also directed away from hospitals, daycare and nursing homes and offices.
Speakers must be positioned away from impacting surrounding uses.

What is the distinction between sports activities and other events such as concerts? What about amplified music affiliated with the sports events?

Amplified music is not permitted.

Concerts are not allowed as part of the Special Use Permit, the fields must be used as originally intended when illuminated.

Will sound requirements in this ordinance supersede Ordinance 1896?

The noise language in the draft distinguishes between practices and events and will apply to all facilities, including the soccer and football fields at K College.

Will there be clauses in the new ordinance that will regulate day time rental use?

No this ordinance for illuminated evening sporting events.

Change draft language to state that additional amplified system shall not be employed at any time.

Language has been changed to shall

How will sound violations be recorded and/or verified?

Public Safety or city staff would need to verify.

[Comment: This method of verification does not appear to be an effective or practical system.](#)

Should there be difference noise levels built into the table?

The noise levels are now addressed in the table as practices and games/contests. Practices may not use the public address system.

How are the noise regulations handled during the day

The restriction on noise in the ordinance would only apply when lights were in use

COMMENTS

For baseball and softball at K-College no amplified music is played during games or practices.

The rental uses at Angell Field are more intrusive than his personal experiences with K College events. Rocket football tournament was mentioned and noise making devices brought in by fans.

Traffic and noise negatively impact the neighborhood.

Inquired about the noise level regulations. In regard to the use of the P.A. and non-amplified music, does this mean no marching bands?

Marching bands are ok; this section is referring to the use of separate amplified speaker systems outside the normal P.A. System.

Clarify what this Ordinance covers...night versus day.

This is a night time lighting ordinance. Day time noise would be regulated by the existing Noise Ordinance.

What level of noise would be allowed during the games?

The noise level would vary. If we put a limit in the ordinance for game noise it is going to be higher. For example 74 dbL matches a level that is in the current noise ordinance. That level for clarification is taken at the source. We'd like to explore a way to have a reasonable level set for the decibel limit at the residential property line.

Is there was going to be a noise level placed in the draft ordinance and is that now being worked on?

That is what this discussion is about. How should we proceed and what can reasonably be put forward. Most likely staff will need to amend the noise ordinance and keep the sports field lighting ordinance general.

Where the 74 dbL came from?

It is from the current Noise Ordinance, the highest limit of noise allowed that matches a level that is in the current noise ordinance. That level for clarification is taken at the source. We'd like to explore a way to have a reasonable level set for the decibel limit at the residential property line. Most likely staff will need to amend the noise ordinance.

Residents inquired as to how you measure the dbL.

We use a measuring device, but you can download an app for this too.

Inquired as to how loud 74 dbL.

As an example the Stihl line of leaf blowers range from 65 dbL to 80 dbL.

Can music can be played two hours before the game over the P.A. system?

Yes.

The existing Noise Ordinance is woefully inadequate and only one primary entity has been listened to in crafting this ordinance.

There would be no noise regulations in this ordinance if we were not listening to all the feedback received.

Does this ordinance address noise during the day.

That is correct

Ordinance does not cover the noise issues so this is still not adequately covered even though it was brought up at the Zoning Board of Appeals hearing in 2009.

Other venues in the city

How does the ordinance impact Stowe stadium?

Stowe stadium was not included in the 2012 agreement. It is an existing use, and use of the outdoor lights is grandfathered.

Are the lights at Stowe Stadium grandfathered?

They can remain “as is” unless the facility is renovated over 50%.

A resident asked if WMU is affected by the proposed regulations.

Staff responded that WMU is exempt from local zoning laws.

A resident asked if the city’s softball fields on the north side of town would be included in this ordinance.

If the current lighting systems were replaced, or if lights were added to fields that do not have them now, the ordinance would apply.

Is WMU being exempt from this new ordinance

Staff responded that was the case and stated that Kalamazoo Public Schools, including Loy Norrix and Kalamazoo Central, were also exempt.

Will the Versluis Dickinson fields would be subject to this ordinance?

City staff said that city property would be upgraded to the ordinance if the lights system was replaced.

A question was asked if a recreational complex with lights could be open year round.

The answer to the question was yes it could be year round.

Table 8.3.2

Distances in the table should be reconsidered

Distances have been changed in the course of the draft

Staff posed the question of adding uses of the lights in Table 8.3.2. for sports practices.

No discussion took place on this topic (8/26)

Staff posed the possibly consider no less than 300' as a measurement?

Possibly revise table to assure no sports lighting within 1200' of any residential property?

This is certainly a consideration for commercial, all rental facilities

Possibly ban sports lighting near any residential property.

The property owner would need to go through several steps to achieve sports field lighting. Including a Special Use Permit. First, if they are an academic institution they must go for a rezoning for Institutional Campus. If they are a commercial venture being located in one of the commercial zones or in the manufacturing zones, The distances begin at 700 feet from the nearest residential property line. The distances considered in the table were done so with considerable thought regarding the uses by an academic facility vs. those with more commercial nature. The uses within academics have been broken down by practices and contests. The practices have considerable restrictions.

Could the table be broken out by zoning districts; Institutional Campus, Commercial, Industrial. Or Educational vs. Recreational?

The table has been revised to break out these distinctions.

Yes, but don't add to the table.

The additions to the table at this time were after the distinctions between practices and contests were created.

A question was asked about changing or adding recreational uses to the use table.

The table has been separated to commercial and academic uses.

Should Table 8.3.2 include more specific guidelines about hours of use?

Hours of use have been added to the table.

Can rental be included in Table 8.3.2?

Rentals have not been included in the table.

Can you talk about the numbers at the low end of Table 8.3.2 (as 5 seems low)?

Staff looked at many ordinances and they did not have distance tables. The first table drafted by staff started at 5 uses for 100' or less. A later draft moved to 250' or less.

Will the city commission or the planning commission change the table?

The commissions can do this.

The residual impacts are more important than the lights themselves. The ordinance appears to address those impacts. 5 nights seems too low.

With the amount of light projected close to homes, maybe 5 is too many or perhaps just right.

Other schools he checked with have homes just as close as we do to the field and no limit on the use of the lights. He feels by not providing K College with at least 20 uses of the lights it is almost punitive as it was understood to be the minimum number they could get by with back in 2012.

A lot of different ordinances had been researched and the draft ordinance reflects a balance between what the institutions would like and what the residence desire.

Next website questions: How did the City come up with the Table?

We have looked at over 35 different lighting ordinances and this was our first blush at crafting something that fit Kazoo. Rob: We have received other iterations of the table and are still considering alternatives.

COMMENTS: Restrictions on noise and types of events that could meet the special use permit requirements will be reviewed to provide sufficient evidence that the impact would not require further distances from residential.

A resident inquired if intramural events would be allowed 20 times per year.

Yes.

The table is confusing. Looks like IC allows 65 uses in the upper table.

We will work to clarify that, no the upper table would not apply in this situation we are talking about academic uses in the IC district. Only one IC Zoned campus in the City at this time and that is Kalamazoo College. You must apply to be zoned IC. It does not exist by right anywhere in the city.

Are games are not only allowed on Friday and Saturday nights per the draft ordinance new table?.

No, they are allowed. However, during the week only until 8:30 PM. We took this out looking at the fact that football not be place during the, but we will put the events back in at 8:30.

A resident asked to know how the table has changed. It appears that table has only moved in one direction.

The first draft of the table placed the “5” in the first use Table thinking Kalamazoo College would be allowed the 20 nights indicated in the rezoning conditions. After the City Attorney opinion on this matter we realized we needed to make this number more doable for Kalamazoo College, yet at the same time we added all the safeguards on noise, light spill and rentals.

We have also heard it would be best to take Kalamazoo College out of the table and we cannot do that as we cannot make regulation for a one specific entity. However, we did create a separate table to cover just IC academic uses.

Distances from Residential

A resident commented on the size of stadium with lights that K-Christian proposed in 2009 and that this proposal even included cutting into the hillside.

Because this is a city-wide ordinance, we need to think about future owners of properties that may have differing motives from current owners. We cannot focus on our current neighbors and potential applicants; we must focus on a bigger picture than any current neighbor.

A resident suggested that 1,320 feet is the closest distance that should be considered between existing residential uses and lighted fields/stadiums.

Lights on any sports/recreational facilities need to be at least .25 miles from residential properties.

Installation and use of 25ft+ lights in this ordinance in outdoor sports/ recreation/ entertainment lighting and noise regulations is incompatible within 1320 feet of property lines of single-family residential dwellings. Set back might need to be further if “venue” is located upwind. This would eliminate so much discussion regarding the number of times the events are held, how late the lights are on, etc. However, a grandfather clause could be specifically and ONLY applied to facilities in existence July 1, 2015 (ie. lights already installed and in use.)

Where is nearest residence to K College field?

The nearest residence is at Crawford Street and Burrows Street.

How the measurements are taken to the property line for the Table.

It is a straight line distance from the base of the light pole to the property line.

You can't rely on the GIS property lines, they are not accurate.

A resident commented that the GIS measurements have taken Kalamazoo Christian school out of the running. She stated you might be surprised at the fact that it would not take more than a minor change to set up a field (at Kalamazoo Christian High School) that could be lighted.

Staff has worked with the City Assessor to determine the accuracy of the GIS property lines. We later worked with the parcel lines and created a buffer of 200 feet. In no configuration could the football field or soccer field be reconfigured on the property

without interfering with the existing Portage Creek. Also, GIS data was consulted for accuracy. A typical deviation is between 3 and 6 feet. For our purposes we believe that our GIS system is not detrimental to this exercise.

Lighting Schedules and Uses

Provide language that would give flexibility to the schedule presented each season that would give residents predictability on events and practices taking place on all fields.

The use schedule has tried to meet both predictability in when the lights will be on as well as reasonable accommodations for reporting.

Refine the language so that inclement weather and/or minor changes of dates on the schedule would not be a violation of the ordinance. The owner/operator would need to provide an updated schedule to the city to reflect changes from weather conditions or other circumstances.

Overtime provisions have been added to the text under timing for the use of lights.

Provide the schedule by sports season.

A resident commented that under section g), it does not seem clear that it is the owner/operator who is to post the schedule on their website as it is used in same sentence as the word "neighborhood".

Text has been changed to reflect this comment and clarify who's website the schedule shall be placed on. Staff clarified that it is the owner/operator's responsibility.

Would the weather delay provision applied just games or practices too.

This provision only applies to events not practices.

It was commented that the Planning Commission should be responsible for determining the number of allowed uses for the lights with consideration for the distance to the closest residential uses.

A response was provided that the Planning Commissioners are all volunteers with typically little or no experience with these issues. It is customary for staff to provide them with some technical and regulatory guidance to help them in making their decisions.

Special Use Permit procedure

Consider a SUP renewal period at which time a new technology review would transpire and updated technologies might possibly be required? Should a 5-year or 10-year "renewal" for purposes of technology review be considered?

Special Use Permits are attached to the land use and are not required to have a renewal period.

Who this ordinance would apply to?

Private schools such as: K Christian; Hackett; K College, and recreational venues; private businesses; etc.

A resident inquired as to the perimeters again to qualify for the lighting a field

Staff responded that first the facility would need to be in the correct zone district, if they are not, they would need to rezone, and then the owner would have to follow the Special Use Permit process.

A resident pointed out changes in section e), “shall” versus “may” should be used in rentals. Further, did not see verification for the violations. There is a way to automate a verification process through the website? Does the S.U.P. process address impacts on wildlife?

We are asking the owner/ operator of the venue to place documents on their website. Additionally, the S.U.P. includes ten other conditions which have to be met which covers wildlife too.

Kalamazoo College Specific Question/Comments

How are the current uses of Kalamazoo College’s soccer and football fields affected by the ordinance?

Discussion took place about possibly grandfathering the soccer field uses from the 2012 city commission action, and modifying the uses of the football field. Specific discussion ensued about the possibility of treating the Kalamazoo College soccer field differently than the Kalamazoo College football field and any other new lighting venue. Options might exist along a continuum from (i) wholly grandfathering the usage conditions described in 2012 by the city commission to (ii) fully applying any/all conditions described in any new, approved city ordinance.

K-College added that the restrictive time schedule would be difficult for the student athletes. 25% of the students at K are athletes and the evening practices allow for students to attend all of their classes. The schedule proposed in the ordinance would mean practice needs to start earlier and cut into student class time for practices.

K-College will be adding Men’s Lacrosse to their athletic schedule. They need the additional practice times and football field to be available at night with lights.

K-College expressed their need for 20 nights on the football field to expand their athletic offerings.

Kate Worster of K gave a statement describing K’s commitment to working with neighbors, the need for a minimum of 20 nights of lights on the football field to support its athletic programs, and the importance of athletics, and the tuition from all students, to K’s survival. (She gave staff a copy of her statement after the meeting).

A resident “urged the city to stay with what the City did in 2012”. No rentals, 20 nights on football until 8:30. “It was a reasonable judgement now, and then”. Describing the noise from a rocket football tournament played on K’s field. The resident stated they “haven’t had any problems with 10:30 on the soccer field”.

The 20 nights per year at the football field in 1896 Ordinance was K College’s request and not an agreement with neighbors or permission granted by the city that assures 20 nights of light.

A resident was offended by K describing it’s “needs” and was concerned that K was devoting too much attention to athletics.

An athlete at K, described being a student athlete and his experience. He balanced strong academics and participation in athletics.

K, clarified why K needed 20 nights of practice on the football field, as there are two new teams (men’s & women’s lacrosse) that need practice in addition to the football team, particularly in the later fall when the soccer field is busy with men’s & women’s soccer and the daylight dwindles.

K described the importance of practice time, offering lacrosse to attract student athletes, and athletic team competitiveness to campus climate. A statement in writing was given to staff.

Comments were read from neighborhood residents: Both were in support of upholding the petition that stated lights at soccer field with no lights at the football (Angell Field) was fair.

A resident commented that maybe an early shut off times can mitigate impact of lights? It is not just the lights, but everything that goes with them!

The time for practices has been reduced to 8:30pm, 2 nights have been reserved for game nights on the weekend.

Representatives from K-College expressed reservations about the draft ordinance with comments offered within three areas:

the numbers of uses permitted in Table 8.3.2 is insufficient to meet the group’s needs;

the proposed 9:00 PM shutoff time is too early to meet the group’s usage needs; and

the proposed annual schedule of uses would be a difficult if not impossible to project a year in advance.

How many teams use the fields at K-College?

K-College staff answered that: currently 5 teams use the playing fields.

The lights on the field help K-College keep a competitive advantage in their division.

The time for the lights should be reduced to match the proximity to residential.

The need for residents to have a dark, quiet neighborhood was posed to K-College’s need for nighttime sporting events.

It was commented by K-College that they do not receive many complaints about the lights on the soccer field.

A resident of the area commented: Lights may not get a lot of complaints, but noise and music get a lot of complaints.

How late are practices typically?

Two practices are held, an early and a late. They begin at 4:30pm and typically last until 9:30.

From the Vice-President of Communications for Kalamazoo College:

Kalamazoo College wants to be a good neighbor.

Over \$32 million is provided by the college to the local economy each year.

About one-quarter of the college's students are athletes. Reducing the athletic program will result in fewer students, which will impact the viability of the school.

It was suggested that the conditions of ordinance 1896 should remain for Kalamazoo College. The neighborhood doesn't want the fields to be rented. A recent rocket football tournament held on the football field went all day and was very noisy. Don't turn the fields into a business. Shut-off time for the football field lights should be 8:30 p.m., not 10:30 p.m.

A representative from the college indicated there are no plans to have night rentals of the fields.

A resident suggested that the noise emanating from the college fields is too much currently.

A resident stated that most complaints about the current use of the fields are about noise levels, not about the lights.

The need for any lights for the fields was questioned. The adjacent neighborhood needs a dark environment at night time.

A Kalamazoo College athlete indicated that because of the daytime academic class schedule, practices on the fields at night are important for the athletic program. Fewer practices will mean the teams will be less competitive and less successful. This will impact overall morale on campus and the ability to attract new students.

It was suggested that class schedules should be altered to allow more daytime practices.

A question was asked about how many other schools in the conference have lighted fields?

It was indicated that most of them do have lighted fields.

The meeting attendees were reminded that this is a city-wide ordinance. It is not just meant for Kalamazoo College.

In response to a question, it was indicated that no lacrosse games would be played on the football field because it is too small in size.

Are the positions/locations of the lights already established?

Planning Staff responded yes, I believe K College has lighting bases placed on their field already, but I would ask K to respond to that question.

A resident commented that the college teams lose a lot of their games, and they should not be allowed to have lights on the fields. A response was made that the teams are improving and winning more games lately.

It was mentioned that Kalamazoo College is located within a neighborhood, and this should impact the decision on whether or not they should be able to light their fields.

A resident commented that given all the considerations, maybe 5 nights is just right. WMHNA neighbors signed a petition asking for no lights at the football field if soccer lights were installed. This is a further compromise.

Why is there a difference between the number of soccer nights and the number of nights requested for the football field?

Presumably, it is because this is the number of practices that K-College felt they could have to support their programs. At the time the soccer field was the only field with lights and needed to have 60 to support all of the teams on one field. Rebekah deferred to K-College representatives in the room for other comment.

A resident asked for an explanation for the group thought of what K-College has been allowed for the soccer field and Ordinance 1896 applies to football field versus the draft ordinance impact on those fields.

A resident responded by talking about the City Attorney's review of the conditions tied to the rezoning in Ordinance 1896. If no Stadium Lighting Ordinance adopted by the City, then what will be allowed are 20 uses with lights off at 8:30 PM.

Question: How long is the football season?

K responded it runs from mid-August to early November.

does lack of lights impact the recruiting?

Yes, it does come up during recruiting

A K athlete responded it is a disadvantage especially after day light saving occurs. They have to use what little time they can get on the soccer field.

A resident stated that the request in 2012 was for light usage by the lacrosse program.

Comment: K representative stated that the request in 2012 was for 20 uses as the lacrosse program was starting up and then they would have five teams practicing on these two lighted fields.

A resident stated - why we can't support our school. What is wrong with using black-out shades?

It is not just the light, but the noise.

A resident stated that they hear the activities of K College and WMU. We need to respect the culture of the K College...mind, body, spirit.

A resident expressed his concern for the appeal process for K College to keep the process fair.

Staff explained that the zoning ordinance has a procedure for all appeals processes. Any appeals concerning the land uses would be handled by the Zoning Board of Appeals.

A resident inquired to K about other schools in K's MIAA conference, and how many had lights on the football field.

K explained that all schools in the MIAA that have football teams have lights on their football field, and many are in residential neighborhoods. (Calvin doesn't have football, and St. Mary's is all women, no football).

More discussion took place on the Kalamazoo College soccer field lights.

One comment was made that these lights are a problem. A college representative indicated that three neighbors have mentioned they do not have a problem with these lights.

Comment: A resident stated that they had contacted other schools in K College's conference to see how they handled night games. Two of the communities have an ordinance that allow for overtime situations. In these instances, the school contacts public safety to report they are extending the use of the lights due to the circumstances.

Staff requested the information from the resident and did further research into the other MIAA schools we could not find any of the information on their planning websites or otherwise. Some of these provisions may be administratively handled.

A resident stated that other schools they checked with have homes just as close as we do to the field and no limit on the use of the lights. He feels by not providing K College with at least 20 uses of the lights it is almost punitive as it was understood to be the minimum number they could get by with back in 2012

Staff stated that a lot of different ordinances had been researched and the draft ordinance reflects a balance between what the institutions would like and what the residence desire.

Question: Jim Hopfensperger asked whether members of the Stuart Neighborhood Association believed the Kalamazoo City Commission's approval of Ordinance 1896 in 2012 granted an appropriate amount of night light usage at the Angell Field athletic complex.

Answer: Max T. responded for himself and called upon each of the 7 other association members present (5 board members and 2 business owners?), one at a time, for their personal responses. All 8 respondents uniformly and unequivocally endorsed having the new city ordinance be supportive of K's goals in athletics and felt the current draft (10/12) was too restrictive with respect to number of nights permitted."

Comment: Sara Hoisington comment that she agrees this is very limiting and the schools like Hope College have no restrictions on their field.

Comment: A resident stated at this point in every public meeting it seems to come down to an 'us' versus 'them' with Kalamazoo College and the neighborhoods. Kalamazoo College should have a separate ordinance. That an exception should be made to let the ordinance pass with the conditions for K and then let the ordinance sunset and have a table for the rest of the city.

Creating a separate ordinance is what we have done in the most legal way possible. We do not want to create an ordinance that will create a non-conforming use in a few months.

Planning Staff reviewed this concept with the city attorney. His opinion was also that the ordinance would be weakened by created a non-conforming use on purpose.

A resident stated they lives in the West Main Hill Neighborhood on Burrows Street. Their family moved in knowing this was coming to a head. They stated that they were ok with the typical field use. They believe what is in the draft ordinance is comprehensive and is comfortable with the numbers in the Table and regulations covering light spill and noise limitations for practices.

Another comment that identified they were also a West Main Hill Neighborhood resident. They also work for Kalamazoo College. They commented that athletic programs do play into the admissions levels for students. They are the only school in the MIAA conference with such restrictions on a playing field. This proposal is the bare minimum that Kalamazoo College needs.

A resident commented the Kalamazoo College athletic fields were in awful condition until the upgrades occurred. They hate to see the neighborhood divided. They would really like to see Kalamazoo College succeed as they are a part of the neighborhood. We can't punish Kalamazoo College for the noise problems at WMU games.

A resident stated this document allows us to keep working together. The process three years ago was painful. I am a neighbor who lives in near the field and I can live with this ordinance.

A sophomore at Kalamazoo College, commented that they play lacrosse at the school and understands the lighting concerns. However, it is really hard to fit the practices in during the evenings at this point. They had the opportunity to go to U of M, but because they could play lacrosse at K and chose to go there.

A resident stated this is disingenuous to craft an ordinance for Kalamazoo College that applies to the entire City. Why not give Kalamazoo College a special status.

We are trying to create a city wide ordinance and have separated out academic uses.

Question: A resident inquired if this issue wouldn't just come up again in down the road when Kalamazoo College grows.

We monitor trends and changes. Ordinances are not set in stone and in some cases are amended over time, but this does go through the public process each time.

K inquired as to section a) applies to the right-of-way.

The measurement is taken at the property line of the facility. Further, the City does get complaint about light glare in the right-of-way so measurements from the street are important too.

Kalamazoo Christian

A resident, who lives next to K Christian soccer field, expressed strong opposition to any lighting at K Christian school... "when the sun goes down the sports activities should stop." Noise and light would be unacceptable. Neighborhood is nice and quiet and should stay that way.

A resident stated that he lives within 300' of K Christian soccer field but more than 300' from football field and stated he was thankful lighting at K Christian was defeated via variance process in 2009. Shared that football field in Hastings suffers from a sea of cars for sports parking at night events; it also suffers from noise and bad behaviors that linger after games. Why can't we say that fields within 700' or 1000' residential properties should not be able to have lights?

Has Kalamazoo Christian been involved in the discussions of this ordinance?

Yes, since August 18th according to his notes.

Property Values

Consideration should be given for conducting a survey of area realtors to determine their opinion on the potential impact of these lighting systems on Kalamazoo neighborhoods.

Staff is drafting the survey now with citizen input.

It was asked if the shut-off time for the lights should be determined by the proximity of the fields to residential uses.

Staff responded that the current draft ordinance indicates the number of uses of the lights is determined by the proximity to residential uses, and the shut-off time is earlier during the week than on the weekend for all categories.

A resident read website questions received: Are there studies from other communities that show impact of stadium lighting on property values?

We are open to reviewing any studies other people have located; however, it is difficult to find comparable communities.

A resident commented on the study he found for Houseman field in G.R. and one for Arlington, Virginia that was done.

A resident state they are concerned about the property values. He sees this as a condition of health for the neighborhood. If the College does not thrive neither will the neighborhood. There have been no measurable reductions in property values since the field was renovated. They feel this is a rock bottom minimum of 20 and may hamper the College. What about student athlete interests? He thinks the number should be increased to 40 or 60 times were year.

A resident stated he would like to have a copy of this property study referred to.

The resident stated that he did not conduct a study, just looked at recent property sales



Commission Agenda Report

City of Kalamazoo

TO: Mayor Hopewell, Vice Mayor Cooney, and City Commissioners

FROM: James K. Ritsema, ICMA-CM, City Manager

REVIEWED BY: Reviewed by: Jerome R. Kisscorni, Assistant City Manager/ED Director

PREPARED BY: Prepared by: Marc J. Hatton, Development Manager

SUBJECT: Resolution Supporting United States Environmental Protection Agency's (U.S. EPA's) Proposed Plan (Alternative 2D) for Clean-Up of the former Allied Site Landfill officially known as Operable Unit #1 of the Kalamazoo River/Portage Creek Superfund Site

RECOMMENDATION

It is recommended that the City Commission approve the attached resolution supporting U.S. EPA's Proposed Plan (Alternative 2D) for Clean-Up of the former Allied Site Landfill officially known as Operable Unit #1 of the Kalamazoo River/Portage Creek Superfund Site.

BACKGROUND

There has been a long history of paper making operations within the City of Kalamazoo over last century that has contributed much to the local economy but also created significant negative environmental impacts. The former Allied Site Landfill, officially known as Operable Unit #1 of the Kalamazoo River/Portage Creek Superfund Site, was placed on the National Priorities List of Superfund sites in 1990 by the United States Environmental Protection Agency due to extensive contamination by polychlorinated biphenyls (PCBs) and has been the subject of numerous studies and reports.

The Kalamazoo City Commission has encouraged staff to work closely with the State of Michigan Department of Environmental Quality over the last 18 months to find viable cleanup alternatives for the Allied Site Landfill.

City staff and elected officials, working in conjunction with various citizen groups including the Kalamazoo River Cleanup Coalition, conducted extensive discussions with the United States Environmental Protection Agency, state and federal elected officials and various private sector cleanup experts to determine possible options for the cleanup of the PCB contamination at the Allied Site Landfill.

United States Senators Carl Levin, Debbie Stabenow, and Gary Peters as well as United States Representative Fred Upton worked diligently and cooperatively to support efforts by the City of Kalamazoo and its citizens to encourage continued dialogue with the United States Environmental Protection Agency and the State of Michigan Department of Environmental Quality.

ATTACHMENTS:

	Type	Description
▣	Resolution	EPA Resolution

CITY OF KALAMAZOO, MICHIGAN

RESOLUTION NO. _____

A Resolution Supporting United States Environmental Protection Agency's (U.S. EPA's) Proposed Plan (Alternative 2D) for Clean-Up of the former Allied Site Landfill officially known as Operable Unit #1 of the Kalamazoo River/Portage Creek Superfund Site

Minutes of a regular meeting of the City Commission of the City held on December 7, 2015, at 7:00 p.m., local time, at the City Hall.

PRESENT:

ABSENT:

The following resolution was offered by Commissioner _____ and seconded by Commissioner _____.

RECITALS:

- A. There has been a long history of paper making operations within the City of Kalamazoo over last century that has contributed much to the local economy but also created significant negative environmental impacts; and
- B. These environmental impacts created legacy concerns for several local governments within the Kalamazoo area including the City of Kalamazoo especially related to the former Allied Paper Company site located between Reed Street and Cork Street along Portage Creek; and
- C. The former Allied Site Landfill, officially known as Operable Unit #1 of the Kalamazoo River/Portage Creek Superfund Site, was placed on the National Priorities List of Superfund sites in 1990 by the United States Environmental Protection Agency due to extensive contamination by polychlorinated biphenyls (PCBs) and has been the subject of numerous studies and reports; and
- D. Various time-critical removal actions have been conducted by the United States Environmental Protection Agency adjacent to the Allied Site Landfill as well as downstream along Portage Creek to remove large amounts of PCB-contaminated sediments; and
- E. In 2007, when Responsible Parties associated with the cleanup of the Kalamazoo River near Plainwell in Allegan County proposed to bring PCB-contaminated sediments to be disposed of the Allied Landfill Site, considerable local citizen involvement and concerns raised by local, State and Federal elected officials regarding this proposal caused the Responsible Parties and the United States Environmental Agency to change this proposal and send the PCB-contaminated waste to approved landfills; and

F. The City of Kalamazoo, working in conjunction with various citizen groups including the Kalamazoo River Cleanup Coalition, conducted extensive discussions with the United States Environmental Protection Agency, state and federal elected officials and various private sector cleanup experts to determine possible options for the cleanup of the PCB contamination at the Allied Site Landfill; and

G. United States Senators Carl Levin, Debbie Stabenow, and Gary Peters as well as United States Representative Fred Upton worked diligently and cooperatively to support efforts by the City of Kalamazoo and its citizens to encourage continued dialogue with the United States Environmental Protection Agency and the State of Michigan Department of Environmental Quality; and

H. The Kalamazoo City Commission has encouraged staff to work closely with the United States Environmental Protection Agency and State of Michigan Department of Environmental Quality over the last 18 months to find viable cleanup alternatives for the Allied Site Landfill; and

I. The United States Environmental Protection Agency has recently prepared and issued a Proposed Plan for the Allied Landfill Site and the Kalamazoo City Commission, while preferring a total removal option for all PCB-contaminated materials at the Site, has determined that Alternative 2D in the Proposed Plan is an acceptable and viable alternative option.

THEREFORE IT IS RESOLVED THAT:

The 51st Kalamazoo City Commission supports the recently published Proposed Plan by the United States Environmental Protection Agency and specifically Alternative 2D clean up option for the Allied Landfill Site. The 51st Kalamazoo City Commission also wants to thank Senators Levin, Stabenow, and Peters and Representative Upton for all their support for these cleanup efforts, as well as, the United States Environmental Protection Agency and the State of Michigan Department of Environmental Quality for their roles in the facilitation and creation of the Alternative 2D clean up option. The efforts of all involved citizens as well as the input and involvement of the Edison, Milwood, and Homecrest Circle Neighborhood Associations and the Kalamazoo River Cleanup Coalition is very much appreciated.

AYES:

NAYS:

ABSTAIN:

RESOLUTION DECLARED ADOPTED.

CERTIFICATE

The foregoing is a true and complete copy of a resolution adopted by the City Commission of the City of Kalamazoo at a regular meeting held on December 7, 2015. 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.

Scott A. Borling
City Clerk