

7:00 p.m. Call to Order.

Invocation.

Pledge of Allegiance.

Roll Call.

Proclamations:

1. Mental Health Awareness Month proclamation.
2. Lending Hands Recognition
3. National Police Week

A. Consent Agenda:

1. Approve the City Council Meeting Minutes of the:
 - a. Budget Review Session #1 of April 18, 2023.
 - b. Regular Meeting of April 18, 2023.
 - c. Budget Review Session #2 of April 25, 2023.
2. Approve the Accounts Payable Register of May 9, 2023 as presented.
3. Approve the following for the South Westnedge Avenue Relief Storm Sewer:
 - a. Settlement Agreement with Portage Crossings I, Portage Crossings II, and Home Depot in the amount of \$225,000;
 - b. Settlement Agreement with Target Corporation in the amount of \$16,500;
 - c. Temporary License Agreement with Target Corporation;

and authorize the City Manager to execute all documents on behalf of the city.

4. Award a contract to Savin Lake Services Inc., for the 2023-2027 Austin Lake Plant Harvesting Program for aquatic plant management at a cost not to exceed \$137,500 and authorize the City Manager to execute all documents related to this action on behalf of the city.
5. Approve an agreement with Consumers Energy for undergrounding overhead utility lines crossing the intersection of Forest Drive and Portage Road in the not-to-exceed amount of \$124,691 and authorize the City Manager to execute all documents related to the Consumers Energy agreement.
6. Approve a temporary agreement between the City of Portage and Life EMS, Inc. for designated 9-1-1 ambulance services and authorize the City Manager to execute all necessary documents on behalf of the city.
7. Approve Contract No. 23-5152 between the Michigan Department of Transportation and the City of Portage for improvements on South Westnedge Avenue from Melody Avenue to Centre Avenue and adopt a Resolution authorizing the City Manager to sign all documents related to the contract on behalf of the city.
8. Adopt:
 - a. the Resolution to Authorize the Issuance of Capital Improvement Bonds, Series 2023 Bond Resolution; and
 - b. the proposed Debt Management Policy.

9. Approve the Final Preliminary Plat (engineering plans) of The Oaks Phase 2, 7400 Montego Bay Street.
10. Approve the Final Preliminary Plat (engineering plans) of Oakland Farms No. 3, 9840 Oakland Drive.

11. Adopt the Resolution for Charitable Gaming License recognizing the Perry Harley Davidson Community Foundation as a nonprofit organization in the City of Portage.
12. Minutes of Boards & Commissions:
 - a. Planning Commission of April 6, 2023
13. Materials Transmitted of April 25, 2023.
14. Calendar of Meetings:
 - Environmental Board on Wednesday, May 10, 2023, at 7:00 p.m. in City Hall Conference Room #1.
 - Youth Advisory Committee on Monday, May 15, 2023, at 6:00 p.m. at City Hall Conference Room #1.
 - Zoning Board of Appeals on Monday, May 15, 2023, at 7:00 p.m. at City Hall Council Chambers.
 - Senior Citizens Advisory Board on Wednesday, May 17, 2023 at 2:30 p.m. at the Portage Zhang Senior Center.
 - Planning Commission on Thursday, May 18, 2023 at 7:00 p.m. at City Hall Council Chambers.

B. Petitions and Statements of Citizens:

C. Communications:

1. Communication from Greg Fici (9955 Mariner Street, Portage, MI).
 - a. City Administration Response to Mr. Fici.

D. Public Hearings:

1. Subsequent to the public hearing, adjourn the public hearing on Ordinance Amendment #22/23-9(A) to amend commercial marijuana development standards within Chapter 42, Land Development Regulations, Article 4 (Zoning) to resume May 23, 2023, at which time consider adoption.
2. Subsequent to the public hearing:
 - a. set final adoption of the Fiscal Year 2023-2024 Proposed City Budget and proposed 2023 tax levy for May 23, 2023; and,
 - b. adopt the Resolutions for the recommended water and sewer rates, base quarterly charges, franchise area fees and other service fees and charges, all effective July 1, 2023; and,
 - c. approve the revised General Fund Reserve Policy.

E. Regular Business Agenda:

1. Direct the City Administration to pursue a new Portage Farmers Market facility to be located at _____.

F. Unfinished Business:

1. Adopt Amendment #22/23-9(B) to amend Marihuana Businesses, of Chapter 14, Businesses, Article 12.

G. Council Committee Reports:

H. New Business:

I. Statements of Citizens:

J. Statements of City Council and City Manager.

Adjournment.



CITY OF PORTAGE PROCLAMATION

MENTAL HEALTH AWARENESS MONTH

WHEREAS, mental health refers to our emotional and social well-being and impacts how we think, feel, and behave; and

WHEREAS, mental health plays a role in connecting with others, making decisions, handling stress, and many other aspects of our daily lives; and

WHEREAS, while one in five U.S. adults experience mental illness each year, less than half of them receive treatment, which impacts both the person experiencing mental health challenges and those who care for and love the person facing such challenges; and

WHEREAS, stigma and fear of discrimination keep many who would benefit from mental health services from seeking help; and

WHEREAS, greater public awareness about mental illness can change negative attitudes and behaviors toward people with mental illness; and

WHEREAS, good mental health is critical to the well-being of our families, communities, schools, and businesses; and

WHEREAS, the 2023 Mental Health Awareness Month theme is *More Than Enough*, which the city promoted along with associated support systems via its social media platforms on May 3, 2023; and

WHEREAS, while living with a mental health condition or facing a mental health concern, it's common to feel alone – but you are not. Help is out there. Citizens can always call 211 to speak to someone or contact dedicated helplines such as the National Suicide Prevention Lifeline, Veterans Crisis Line, the Trevor Line, or the Mental Health Awareness Hotline, available at 211.org.

NOW, THEREFORE, BE IT RESOLVED THAT I, Patricia M. Randall, as Mayor of the City of Portage, do hereby dedicate and proclaim May as Mental Health Awareness Month for 2023.

Signed this 9th day of May, 2023.

Patricia M. Randall, Mayor



CITY OF PORTAGE PROCLAMATION

Lending Hands of Michigan

WHEREAS, Lending Hands Mission is to serve and support people during health transitions with assistive devices without barriers; and

WHEREAS, Lending Hands provides medical equipment for free for a period of seven months to residents in a six-county area, regardless of age, sex, creed, income, or disability; and

WHEREAS, Lending Hands formed as a Michigan non-profit corporation on April 6, 2005, as a durable medical equipment loan organization; and

WHEREAS, in its first year of service, Lending Hands served forty-two people with free medical equipment, and since then has served over 40,000 clients saving these clients over \$15 million in out-of-pocket expenses; and

WHEREAS, Lending Hands began by supplying Transport Wheelchairs to the Talons Out Honor Flight for World War II veterans (including Rosie the Riveters) and now for Vietnam veterans; and

WHEREAS, Lending Hands of Michigan served 1,980 clients in the first six months of 2022, from age 6 to 71+; and

WHEREAS, Lending Hands of Michigan has a total of thirty-four active volunteers that provided 3,645 volunteer hours in 2022 at a value of over \$90,000.

NOW, THEREFORE, BE IT RESOLVED THAT I, Patricia M. Randall, as Mayor of the City of Portage, do hereby proclaim May as LENDING HANDS OF MICHIGAN MONTH in Portage and urge our citizens, agencies, and organizations interested in meeting the need for free home medical equipment owing to a variety of factors to reach out to Lending Hands.

Signed this 9th day of May 2023.

Patricia M. Randall, Mayor



CITY OF PORTAGE PROCLAMATION

NATIONAL POLICE WEEK 2023

- WHEREAS,** May 14th marks the beginning of Police Week 2023, in honor of federal, state, and local officers killed or disabled in the line of duty; and
- WHEREAS,** Peace Officers Memorial Day is annually held on May 15th, with Police Week set to surround that date; and
- WHEREAS,** Police Week began in 1962 when President Kennedy signed a proclamation in honor of “the police officers of America have worked devotedly and selflessly on behalf of the people of this Nation, regardless of the peril or hazard to themselves”; and
- WHEREAS,** this year will pay tribute to 245 officers who died in the line of duty in 2022, to include six officers from the State of Michigan; Corporal Ernest Robinson, Captain Collin Birnie, Officer Freddie Wilson, Officer Loren Courts, Deputy Nicole Shuff, and Officer Lloyd Todd; and
- WHEREAS,** the year 2023 has already witnessed 33 officers perish in the line of duty; and
- WHEREAS,** the National Law Enforcement Officers Memorial in Washington DC has more than 26,200 names carved into its walls of officers killed in the line of duty throughout U.S. history since 1786; and
- WHEREAS,** the Kalamazoo region first lost, Benjamin Orcutt of the Kalamazoo County Sheriff's Office, on December 12, 1867, who was killed while attempting to stop a jail break and Officer Eric Zapata of the Kalamazoo Department of Public Safety, who was shot and killed after responding to a “shots fired” call in the City of Kalamazoo on April 18, 2011; and
- WHEREAS,** Most recently, Kalamazoo County lost Sgt. Ryan Proxmire of the Kalamazoo County Sheriff’s Department, who was shot and killed during a pursuit of an armed subject on August 15, 2021. Sgt. Proxmire was only 39 years old; and
- WHEREAS,** During police week, the Portage Department of Public Safety will illuminate its building in blue in recognition of those law enforcement officers who have lost their lives in the line of duty for the safety and protection of others.

NOW, THEREFORE, BE IT RESOLVED THAT I, Patricia M. Randall, as Mayor of the City of Portage, do hereby recognize May 14th through May 20th as National Police Week and honor all Public Safety Officers for their dedicated years of service and sacrifice to the Portage and Kalamazoo area communities.

Signed this 9th day of May, 2023.

Patricia M. Randall, Mayor

BUDGET REVIEW SESSION #1
APRIL 18, 2023

Mayor Patricia Randall called the Budget Review Session to order at 03:04 PM in Conference Room #1 at Portage City Hall.

ROLL CALL: Councilmembers Lisa Brayton, Chris Burns, Victor Ledbetter, Terry Urban, Mayor Pro Tem Jim Pearson, and Mayor Patricia Randall were present.

ABSENT: Councilmember Lori Knapp.

ALSO PRESENT: City Manager Pat McGinnis, Deputy City Manager Adam Herringa, Deputy Finance Director (Accounting & Budget) Aaron Coeur, and City Clerk Erica Eklov. Various department directors were present via video conferencing.

OVERVIEW OF PROPOSED FY 2023 - 2024 BUDGET: At the invitation of the Mayor, City Manager McGinnis provided a summary of the proposed budget. Mayor Randall requested a discussion regarding the Fund Balance during the session, including a discussion regarding the amount. City Manager McGinnis discussed the 24 percent balance, noting that the current amount would support the city for a period of six months in the event of a large-scale emergency, such as the COVID-19 pandemic. Mayor Pro Tem Pearson inquired about the current year-end balance. Councilmember Urban asked about the City Council Policy concerning the General Fund with regard to excess funds directed toward expenditures. Deputy City Manager Herringa reviewed the General Fund Policy as approved in 2014. Additional discussion regarding the fund percentage and the usage of excess funds followed. Members of Council asked Deputy Director Coeur about the city's asset situation and projection. City Manager McGinnis provided several options regarding the possible uses for the fund balance, including delayed Capital Improvement Program (CIP) projects. Councilmember Urban expressed concern about lowering the fund balance too low. Councilmember Burns provided the percentages for Government Finance Officers Association (GFOA) and Standard/Poor's bond ratings for fund balance percentages. Councilmember Urban suggested having the City Administration return to Council at a later date with several scenarios and options to review. City Manager McGinnis then moved to discussing the General Fund options.

CITY COUNCIL: At 3:32 pm, review of the City Council budget began, including an increase in training and memberships. Mayor Randall and Mayor Pro Tem Pearson inquired about the next Local Officers Compensation Commission meeting and suggested wage raises for all of Council. Deputy City Manager Herringa and City Clerk Eklov relayed the City Administration's current plan to schedule the LOCC.

FINANCE & PURCHASING: Deputy Director Coeur noted there were no major changes to the planned Finance & Purchasing budget. Deputy City Manager Herringa highlighted that the Finance Department reduced its expenditures for the upcoming fiscal year. Councilmember Urban inquired about the Debt Service amounts. Deputy Director Coeur noted the amounts had been moved to a different fund due to new regulations.

CITY ASSESSOR: City Manager McGinnis reviewed the Office of the City Assessor with the outsourcing to WCA. Mayor Randall inquired whether the outsourcing had provided the city with a cost-savings. Deputy City Manager Herringa confirmed an approximate \$20,000 to \$30,000 in savings. City Manager McGinnis noted a slight increase in expenditures with the plan to install a counter window.

PUBLIC INFORMATION: City Manager McGinnis discussed the Public Information Office, including the changing of full-time staff as a multi-department realignment, the loss of a part-time mail clerk, and

the inclusion of a full-time courier. Deputy City Manager Herringa noted the courier assists the City Clerk's Office as well.

HUMAN RESOURCES: City Manager McGinnis discussed the proposed five percent cost of living increase for staff. Mayor Randall inquired whether exit interviews are part of city procedures and if there were any concerns regarding wages. Human Resources Director Hertz responded, stating that some staffing changes are a result of wages, whereas others are due to career development.

TECHNOLOGY SERVICES & CABLE TV FUND: City Manager McGinnis stated the Technology Services Department projected stable numbers for the current year, and the Cable Television fund included a decrease in franchise and public service fee revenue offset by increased use of fund balance. Councilmember Urban inquired about a new rumored cable provider. Technology Services Director Devin Mackinder confirmed that MetroNet was launching in the city with hopes to spread citywide. City Manager McGinnis inquired about permitting and right-of-way work planned throughout the city. Director Mackinder confirmed that both he and Transportation & Utilities Director Kendra Gwin had been working with MetroNet on their installation efforts, including citizen outreach, and their plan to begin in July 2023. Councilmember Urban inquired about the project tenure. Director Mackinder responded that the expected timeline is 18 months. City Manager McGinnis asked Director Gwin to relay the citizen outreach measures. Director Gwin responded, noting the contractor had local representatives. Councilmember Urban asked whether the addition of MetroNet was positive. Director Gwin confirmed that another provider and additional competition was welcomed. Councilmember Ledbetter inquired where MetroNet is based. Director Mackinder relayed an office in Grand Rapids.

CITY ATTORNEY: City Manager McGinnis presented the proposed City Attorney contract budget, noting a slight increase in the amount for the upcoming fiscal year. Councilmember Urban asked the City Administration to consider the City Attorney's attendance at the bi-weekly city staff meeting and whether that expansion in time should be recognized in the contract. Deputy City Manager Herringa explained the rationale and City Manager McGinnis confirmed the matter would be reviewed with the City Attorney.

PARKS & RECREATION: City Manager McGinnis introduced the Parks & Recreation budget and asked Director Hoyle to discuss the changes in the new budget, including contracting the Softball League, relocating the offices to the former Senior Center, and the resulting increased programs such as: wellness classes, afterschool programs, and a business incubator course. Councilmember Ledbetter inquired about a former radio station parcel purchased on South Westnedge Avenue for a proposed archery field. City Manager McGinnis had Director Hoyle explain the proposed project timeline. Councilmember Urban asked how the proposal was being considered for \$1.5 million. Councilmember Brayton asked Director Hoyle regarding the background, including the collaboration with Portage Public Schools Middle School Physical Education Teacher and Archery Coach John Dunlop. Mayor Pro Tem Pearson asked about the liability to the city. Director Hoyle noted archery is permitted in the city ordinances and explained regulations for the types of bows to minimize distances, berms, security fences, and other measures. Councilmember Knapp asked about site security during closed hours in terms of liability. Director Hoyle responded with various measures and the ideal site situation to ensure security.

Mayor Randall asked about interest in disc golf. Director Hoyle responded with staff's review to date. Mayor Randall next inquired about the proposed security fencing for the proposed archery site. Director Hoyle responded that staff provided a 90-day notice to adjacent property owners regarding the pending fencing and understanding of correcting any encroachment issues. Councilmember Burns asked about liability coverage should a lawsuit or accident occur, and whether legal counsel has opined on such a city-owned weapons facility. Mayor Pro Tem Pearson noted an archery competition site in Rockford and asked staff to research whether other municipalities have undertaken such an endeavor. There was additional discussion regarding fencing for securing city

properties, additional outside financing options or collaborations, and liability issues. Councilmember Brayton asked whether liability concerns had been reviewed in 2019 when the property purchase was presented to the City Council. Director Hoyle responded that she had reviewed the ordinance for permitted use, discussing a shooting range in the Gourdneck area. Councilmember Urban confirmed adjacent residential property in the Gourdneck area had experienced issues and the shooting range had made prior permitted adjustments.

City Manager McGinnis responded that the City Administration would review the proposed site use, research statistics, and safety matters in order to provide a response.

****BREAK: 4:23 p.m. - 4:27 p.m.****

SENIOR CITIZEN SERVICES: City Manager McGinnis asked Director Phillips to elaborate on the expansion of the department's services. Director Phillips relayed the expanded building hours and significant membership growth acted as the catalysts for the requested four new part-time Building Coordinator positions and the new part-time Rental & Scheduling Coordinator.

Mayor Pro Tem Pearson asked about the percentage of non-resident members. Director Phillips responded that non-membership hovers at 40 percent and residents from neighboring counties are also joining, citing the trip offerings as a big draw. Mayor Pro Tem Pearson also asked about the contribution of the County Housing Millage.

Mayor Randall inquired about the proposed expanded operation hours. Director Phillips responded that the extended building operation hours allowed for increased fitness classes and gym access. Mayor Pro Tem Pearson inquired about the parking layout. Director Phillips responded, noting the new overflow parking lot was helping, as well as street parking on Brown Avenue, and maintaining a good relationship with the adjacent church to use their lot.

PUBLIC SAFETY: City Manager McGinnis began with the Police Division and highlighted a February 15, 2023, interoffice memo from Director Arnold provided to the Council at the beginning of the meeting explaining the background for the proposed six full-time position increases. Director Arnold further discussed the upward trending calls for service, as well as the Public Safety Department's desire to be proactive and prepared. He noted comparative studies performed by staff, including the City of Kentwood.

Mayor Pro Tem Pearson asked about the crime statistics comparison between Kentwood and Portage. Director Arnold responded that it is quite similar. Mayor Pro Tem Pearson also inquired about homicides in the city. Director Arnold responded that there are not many variations between prior years and current but those that had occurred were complicated. Mayor Pro Tem Pearson asked Director Arnold for the reasoning with the increase in service calls. Director Arnold responded that many are for speeding concerns. Councilmember Burns asked about a perceived uptick in retail fraud and lack of support from the business owners. Director Arnold confirmed the trend, citing a lack of willingness for retail owners to pursue retail crime prosecution and a lack of providing business security staff.

Mayor Pro Tem Pearson asked whether the Crossroads Mall was responsible for such retail calls. Director Arnold responded that calls from the mall have decreased. Mayor Randall asked about the lateral transfer incentive program. Mayor Pro Tem Pearson asked about state or federal funding options. Director Arnold responded, providing information for a pending federal grant application, noting only 75 percent for three years is funded, with the city required to provide the following year. Councilmember Urban asked about the requested funding increase compared to the staffing increase requested.

There was additional discussion regarding recruiting and staffing incentives, competition, and pay rates. Mayor Randall questioned a referral bonus. Director Arnold confirmed there was a referral bonus in place. There was additional discussion regarding the amounts. The Mayor then asked about the number of School Resource Officers. Director Arnold responded that there hadn't been a request

for additional officers. Councilmember Urban asked whether Portage Public Schools cost-sharing is a hurdle. Director Arnold confirmed. Mayor Pro Tem Pearson asked about the number of officers that live in the city. Director Arnold couldn't answer, but all of the Council asked to know the numbers citywide. Mayor Randall then asked about the ratio of female and minority officers. Director Arnold responded the desire to simply hire more people overall. Councilmember Ledbetter asked about the number of service calls for drug use and overdoses compared to the City of Kalamazoo. Director Arnold stated that the prior weekend had increased calls due to a contaminated batch of cocaine in the area, but Portage receives less than Kalamazoo overall. Additional discussion ensued regarding staffing levels, in light of grant funding and city funding, position planning, and service provision.

The discussion concluded with a review of the Fire Division, noting there are no changes planned. Mayor Pro Tem Pearson asked if the number of fires in Portage had changed. Staff responded that it was unchanged with 2 percent of calls for service.

CITY CLERK: Deputy Director Coeur next reviewed the Office of the City Clerk's budget, including increased election expenditures. He also highlighted a decrease in marijuana revenue, explaining the change was a result of new budgeting requirements to move non-departmental revenues to the overall General Fund. Additional discussion followed regarding the Clerk's budget and the effects of Proposal 22-2 which passed in the November 2022 General Election. Councilmember Burns inquired about the part-time position funding and correlating elections. City Clerk Eklov responded that the part-time position had begun part way into the prior fiscal year.

CITY MANAGER: City Manager McGinnis reviewed the City Manager's Office budget, noting the loss of the second Deputy City Manager, the upcoming addition of the Chief Development Officer, changes to the administrative support position, and an increase in professional memberships. Mr. McGinnis then highlighted the incoming hire of Peter Dame to the Chief Development Officer position.

PUBLIC WORKS & RELATED FUNDS: City Manager McGinnis and Deputy Director Coeur next reviewed the General Fund Non-Departmental accounts, including the City-Wide Services and Transfers Out.

****BREAK: 5:39 - 5:51 p.m.****

Deputy Director Coeur reviewed the various Public Works Department funds. Councilmember Burns inquired who performs the maintenance and whether it is outsourced, full-time staff, or seasonal hires. Public Works Director Rod Russell responded. Mayor Randall asked about the response to lowering the age levels. Director Russell confirmed the response was positive. Mayor Randall asked about age levels and oversight needs. Director Russell responded that oversight was minimal with the age being 16 and up.

Deputy Director Coeur next reviewed the Major Streets Funds, noting the \$92,000 increase in funding due to planned road resurfacing. Councilmember Burns inquired about increased costs. The Local Streets Fund was subsequently reviewed, citing recent citizen concerns with streets in the Balmoral neighborhood receiving chip seal in the prior year with larger-sized stones. There was discussion regarding chip seal versus mill and fill, surface quality, and the 5- to 10-year lifespan. Councilmember Burns inquired about sequencing the planned road projects and avoiding traffic congestion. Director Gwin responded that projects can be spaced throughout the construction season to alleviate congestion and the degree of the roadwork will dictate the scheduling as well. Councilmember Burns also inquired about the planned elementary school construction projects in tandem with the area road projects. Director Gwin confirmed that projects adjacent to the scheduled school renovations can be split to account for the construction.

Deputy Director Coeur next reviewed the Curbside Recycling Fund, noting no significant changes were planned, and the contract status with Best Way Disposal. Councilmember Burns asked about pairing the sole-source waste hauler option from the City Council Goal Session with the Best Way contract expiration. Deputy City Manager Herringa confirmed the staff are planning such

actions. Mayor Pro Tem Pearson asked about the status of the City Administration's review regarding sole-source waste hauling. City Manager McGinnis confirmed the review and research to date.

Deputy Director Coeur then presented the Leaf Pickup/Spring Cleanup Fund, with no changes planned. Councilmember Burns inquired about the millage rate in comparison to the General Fund.

TRANSPORTATION & UTILITY FUNDS: Deputy Director Coeur presented the budget of the Transportation & Utilities Department and its various funds including Major/Local Streets Reconstruction and Water & Sewer Utilities. Councilmember Burns expressed his displeasure regarding the 34 percent sewer utility rate increases from the City of Kalamazoo and the inability of the City of Portage to negotiate such rates. Discussion regarding the inclusion of Portage in the Kalamazoo Sewer System followed. City Manager McGinnis highlighted the addition of a Private Development Engineer position to the department.

Mayor Pro Tem Pearson asked about construction at the intersection of Portage Road and Centre Avenue. Director Gwin responded that the work was part of Consumers Energy's gas main work. Mayor Pro Tem Pearson spoke regarding the retention basin north of the McDonald's restaurant and gateway improvements to the Lake Center District.

Deputy Director Coeur then reviewed the Water Fund, including the five percent increase in rates. Councilmember Urban asked whether projects could be planned, budgeted, and supplied more than a year in advance. Director Gwin responded that certain aspects were possible but there were issues with adding a delay, such as supply degradation.

COMMUNITY DEVELOPMENT & RELATED FUNDS: Deputy Director Coeur next presented the Community Development Department changes, including relocation of staff positions to other departments and elimination of the Director position with the addition of the new Chief Development Officer. Councilmember Urban asked why the additional GIS/City Planner position had been dropped. City Manager McGinnis and Interim Community Development Director Jon Hallberg responded, noting the specific individual had resigned and relocated, but a new Housing Resource Specialist position had been added. Councilmember Urban cited prior concerns about the department's lack of staff. City Manager McGinnis responded that the staffing changes between the two departments had resulted in an overall organizational staffing status quo. Councilmember Urban asked about the inspector positions. Director Hallberg confirmed all positions were filled and doing well. Deputy Director Coeur closed his presentation of the department with an overview of the Community Development Block Grant Program and the new County Housing Millage program.

REVIEW OF PROPOSED CAPITAL IMPROVEMENT PROGRAM (CIP): City Manager McGinnis then briefly reviewed the Capital Improvement Program (CIP), summarizing the requests for the current fiscal year. As the timing between the Budget Review Session and the subsequent Regular City Council meeting was running out, there was discussion about using the second Budget Review Session the following week to complete review of the CIP and discuss any questions posed during the current meeting. Mayor Randall asked that the start of the next meeting begin at 4 p.m. instead of 3 p.m. and there was a consensus on the new time.

STATEMENTS OF CITIZENS: None.

ADJOURNMENT: Mayor Randall adjourned the meeting at 06:49 PM.

Erica L. Eklov, City Clerk

CITY COUNCIL MEETING MINUTES FROM APRIL 18, 2023

Mayor Patricia Randall called the Regular Meeting to order at 07:02 PM in the Council Chambers at Portage City Hall.

ROLL CALL: Councilmembers Lisa Brayton, Chris Burns, Lori Knapp, Victor Ledbetter, Terry Urban, Mayor Pro Tem Jim Pearson, and Mayor Patricia Randall were present.

ABSENT: None.

ALSO PRESENT: City Manager Pat McGinnis, Deputy City Manager Adam Herringa, Assistant City Attorney Roxanne Seeber, and City Clerk Erica Eklov.

At the request of Mayor Randall, the audience observed a moment of silence to reflect on the commitment of the City of Portage Public Safety Department. Following the moment of silence, the City Council recited the Pledge of Allegiance.

PROCLAMATIONS:

City of Portage Junior Ranger Swearing-In Ceremony: City Clerk Eklov swore in Addison Stamm, Ezra Stamm, Garrett Halverson, and Aaron Halverson to the City of Portage Junior Ranger program.

Resolution Honoring Public Safety Assistant Chief John Blue: Public Safety Director Nicholas Arnold read the Resolution. Councilmember Brayton, Mayor Pro Tem Pearson, Councilmember Ledbetter, and Councilmember Urban offered comments of thanks and congratulations to Assistant Chief Blue.

CONSENT AGENDA: Mayor Randall shared where the public can access the meeting agenda and asked if any Councilmember or anyone in the audience would like an item removed from the Consent Agenda. Councilmember Urban removed Items A.4 (Ordinance Amendment 22/23 A & B - Marijuana) and Item A.6 (Class C Liquor License Application). Motion by Knapp, seconded by Brayton, to approve the Consent Agenda as amended. Upon a roll call vote, motion carried 7 to 0.

Approval of Minutes: Motion by Knapp, seconded by Brayton, to approve the City Council Meeting Minutes of the Regular Meeting of April 4, 2023. Upon a roll call vote, motion carried 7 to 0.

Accounts Payable Register: Motion by Knapp, seconded by Brayton, to approve the Accounts Payable Register of April 18, 2023, as presented. Upon a roll call vote, motion carried 7 to 0.

2022-23 Utility Rate Financial Study: Motion by Knapp, seconded by Brayton, to establish a public hearing on May 9, 2023, for the Fiscal Year 2023-2024 Proposed City Budget and proposed 2023 tax levy; and recommended water and sewer rates, base quarterly charges, franchise area fees and other service fees and charges, all effective July 1, 2023. Upon a roll call vote, motion carried 7 to 0.

Resolution Accepting Gift: Motion by Knapp, seconded by Brayton, to adopt the Resolution Accepting Gift from the Judy Acker-Smith Family for an "Inspiration Garden" at Lakeview Park and authorize the City Manager to execute all documents related to this action. Upon a roll call vote, motion carried 7 to 0.

Final PD Site Plan at 8150 Creekside Drive.: Motion by Knapp, seconded by Brayton, to approve the Final Planned Development Site Plan for a senior housing facility at 8150 Creekside Drive. Upon a roll call vote, motion carried 7 to 0.

Streets Administrator Change: Motion by Knapp, seconded by Brayton, to adopt the Resolution Designating the Streets Administrator for the City of Portage. Upon a roll call vote, motion carried 7 to 0.

2023 City Council Committee Appointments: Motion by Knapp, seconded by Brayton, to accept the 2023 calendar year appointments to City Council committees. Upon a roll call vote, motion carried 7 to 0.

Minutes of Boards & Commissions: Motion by Knapp, seconded by Brayton, to receive the minutes of the Human Services Board of March 2, 2023; Planning Commission of March 16, 2023; Zoning Board of Appeals of March 13, 2023; and, Environmental Board of March 8, 2023. Upon a roll call vote, motion carried 7 to 0.

Materials Transmitted: Motion by Knapp, seconded by Brayton, to receive the Materials Transmitted of March 31, 2023. Upon a roll call vote, motion carried 7 to 0.

Calendar of Meetings: Motion by Knapp, seconded by Brayton, to receive the Calendar of Meetings as presented. Upon a roll call vote, motion carried 7 to 0.

PETITIONS AND STATEMENTS OF CITIZENS:

1. Nancy Acker (2396 Shade Oak Cove) spoke as the mother of Judy Acker-Smith regarding Item A5 for Accepting Gift from the Judy Acker-Smith Family.

COMMUNICATIONS:

Park Board Annual Update: Park Board Chair Tara Gish provided an update regarding the activities of the Park Board.

PUBLIC HEARINGS:

Tentative Plan and Rezoning Application (#22/23-7), from Commercial Planned Development (CPD) to Planned Development (PD) for a proposed mixed-use development at 412 W. Centre Avenue and 7860 Shaver Road: City Manager McGinnis introduced the item and asked Interim Community Development Director Jon Hallberg to review the background on the proposal. Director Hallberg provided a summary of the River Caddis project efforts to date. Councilmember Urban then spoke regarding his traffic study comments from the March 21 Regular Meeting, apologizing for misreading peak traffic statistics, but maintained concerns about traffic motion patterns in the absence of a signal in four lanes of traffic. He further expressed concerns regarding peak traffic levels and timing. Mayor Randall opened the public hearing at 7:42 p.m.

1. Christine Augustine (1734 Valleywood Court) spoke regarding concerns about the development's location, traffic study statistics, wetland location, and proposed density.

Seeing no other speakers, motion by Burns, seconded by Brayton, to close the public hearing. Upon a voice vote, motion carried 7 to 0.

At the Mayor's request, Leigh Burgess, Traffic Engineer for the developer, spoke via phone regarding the traffic pattern research and postulations. Councilmember Urban asked Ms. Burgess why the traffic study's peak hours failed to consider traffic for employees starting before 7 a.m. Councilmember Urban then inquired about the level of service and traffic operation delays at the

subject location compared to current levels. City Manager McGinnis responded, noting the property owner's desire to develop the lot was an aspect of property rights and a question of value.

Councilmember Burns noted the subject traffic study was available on the city's website and asked Ms. Burgess to cite the portion of the traffic study where she noted anticipated delays and changes to service levels. Councilmember Urban further discussed traffic volume and density concerns, stating that he did not agree that the current proposal was the best option for the subject location. Councilmember Burns asked Director Hallberg to respond to the environmental concerns and the steps required to construct within a wetland location. Director Hallberg responded that such reviews and applications were the purview of the Michigan Department of Environment, Great Lakes, and Energy.

Councilmember Urban made a motion to table the item until the city was able to commission its own traffic study at the noted location. There being no second, the motion failed.

Councilmember Knapp spoke regarding the proposal, expressing understanding of the concerns about large-scale changes and environmental considerations. She advocated for a mixed-use development.

Motion by Knapp, seconded by Burns, to approve the Tentative Plan and Rezoning Application No. 22/23-7 to rezone 412 West Centre Avenue and 7860 Shaver Road from Commercial Planned Development (CPD) to Planned Development (PD) for a proposed mixed-use development, subject to the condition to the Tentative Plan that the proposed live/work units shall be consistent with the requirement of Building Code Section 419 Live/Work Units and Zoning Code Sec. 42-137 Work/Live Accommodations.

Councilmember Urban asked Director Hallberg whether this item would return to the Council should a certain percentage of the proposed plan be changed. Director Hallberg deferred to Deputy Director of Planning, Biqi Zhao, who responded that the current proposal is a Planned Development and, as such, comes before the Council for final review at a later date. Upon a roll call vote, motion carried 6 to 1, with Councilmember Urban voting no.

Rezoning Application No. 22/23-8 - 7438 Lovers Lane: Mayor Randall introduced the item and opened the public hearing at 8:36 p.m.

1. Barbara Ashby (7416 Lovers Lane) spoke in opposition to the proposed rezoning, stating that she is a neighboring property owner. She relayed that she and her husband moved to the location for their retirement as a quiet community. Ms. Ashby states Portage has become overdeveloped.
2. Christine Augustine (1743 Valleywood Court) spoke in opposition to the proposed rezoning. She stressed maintaining a separation in character between the City of Kalamazoo and the City of Portage.
3. Mike Ashby (7416 Lovers Lane) also spoke in opposition to the proposed rezoning, questioning the lot split and proposed site density. He supported construction of a single-family home at the location instead. He noted parcels across the street from the proposed location that are filling in the former wetland celery fields. He expressed opposition to the development.

Motion by Burns, seconded by Knapp, to close the public hearing. Upon a voice vote, motion carried 7 to 0. Councilmember Urban asked Director Hallberg to speak regarding the site layout. At the invitation of Mayor Randall, the representative for the developer Allen Edwin, Mike West, spoke regarding the proposed project. Mr. West noted the zoning of the subject parcels, density classification, and provided clarification regarding the lot split.

Councilmember Urban asked whether the developer would be able to place additional units on

the noted parcels. Mr. West responded that the configuration of the lots prevented additional buildings. Councilmember Urban expressed concern about the potential for increased future density under the zoning code. Mayor Randall inquired about the property price, site interest, as well as marketing plans. Mr. West deferred the parcel sale question but responded that the property had received several inquiries during his tenure with the city and Allen Edwin would initially rent the units. Additional discussion regarding buffering, screening, and setback measurements ensued. Councilmember Burns asked whether any Council action would encompass both parcels, citing the Action Recommended only one address. Mr. West responded that the application was submitted when the parcel was a single lot and covers the entire legal description.

Motion by Knapp, seconded by Burns, to approve the Rezoning Application No. 22/23-8 to rezone 7438 Lovers Lane from R-1B One-Family Residential to R-1T Attached Residential for future duplex developments. Upon a roll call vote, motion carried 7 to 0.

George Gerth (7426 Lovers Lane) expressed concerns regarding power lines on the parcel and concerns about the prior lane diminishing of Lovers Lane.

REGULAR BUSINESS AGENDA:

Marijuana Business & Zoning Ordinance Amendments: Councilmember Urban discussed his concerns regarding the proposed ordinance revisions, noting his previously submitted questions and responses from the City Administration in the Pre-Council Questions packet. He expressed support for the proposed limitation on outdoor grow operations but stated opposition to drive-thrus and the potential for increased access of marijuana to minors. Councilmember Brayton also expressed opposition to the proposed revisions pertaining to drive-thru, increased access to youth, as well as increased checks and balances. Councilmember Urban expounded on Councilmember Brayton's statement, inquiring if the occupants of a car using a marijuana retail drive-thru must all be age-verified.

Owner of the marijuana retailer Lake Effect Jevin Weyenberg (5753 Swallow Avenue, Kalamazoo) responded, stating that only the person purchasing the product is required to be identified. He also elaborated on security camera requirements and safeguards in place to deter illicit purchases. City Clerk Eklov read the March 2022 state Cannabis Regulatory Agency ruling language. City Manager McGinnis discussed the potential to split the question and separate the zoning ordinance aspect from the licensing ordinance aspect. Mayor Pro Tem Pearson highlighted that concern for youth in the car of a drive-thru was no different from collecting a prescription via a pharmacy drive-thru.

Motion by Pearson, seconded by Knapp, to accept for first reading Ordinance Amendment #22/23-9(A) to amend commercial marijuana development standards within Chapter 42, Land Development Regulations, Article 4 (Zoning) and set a public hearing for May 9, 2023. Councilmember Burns requested clarification on the ordinance revisions between the two ordinance chapters. Additional discussion regarding the provisions and ramifications ensued. Upon a roll call vote, motion carried 7 to 0.

Motion by Pearson, seconded by Brayton, to accept for first reading Ordinance Amendment #22/23-9(B) to amend Marijuana Businesses, of Chapter 14, Businesses, Article 12, with final adoption on May 9, 2023. Upon a roll call vote, motion carried 6 to 1, with Councilmember Urban voting no.

****Councilmember Knapp exited the meeting at 8:56 p.m.****

New Class C Liquor License Application: Councilmember Urban explained his rationale for removing the item from the Consent Agenda and had the applicant, Mrs. Janey Chen, come

forward. Mrs. Chen explained her business concept planned for the proposed location. Councilmember Urban spoke regarding the difference at the state level between escrowed and new Class C liquor licenses and asked the applicant whether she had considered pursuing purchasing an escrowed license. Mrs. Chen responded that she was looking for a less expensive, longer-term license option. Councilmember Urban noted the rarity of the state quota Class C licenses and the City Council's responsibility in issuing them. Mayor Randall, Mayor Pro Tem Pearson, Councilmember Brayton expressed support for Ms. Chen's proposal.

Motion by Burns, seconded by Brayton, to adopt the Resolution of Local Government Support for JChen, LLC to obtain a new Class C Liquor License from the Michigan Liquor Control Commission for a location at 153 West Centre Avenue. Upon a roll call vote, motion carried 6 to 0 (Councilmember Knapp absent).

COUNCIL COMMITTEE REPORTS: None.

STATEMENTS OF CITIZENS: None.

STATEMENTS OF CITY COUNCIL AND CITY MANAGER: Councilmember Brayton spoke regarding another Police Division retirement (in addition to Assistant Chief John Blue). She recognized Officer John Zesiger and his contributions to the city.

Councilmember Burns spoke regarding liquor licensing and asked the City Administration to provide additional information on escrowed licenses.

Councilmember Ledbetter began by recognizing the twelve-year anniversary of the on-duty death of Kalamazoo Public Safety Officer Eric Zapata. Councilmember Ledbetter then expressed concern regarding gun violence after a recent shooting of a Black youth in Kansas City, Missouri when visiting the wrong address.

Councilmember Urban acknowledged April 18 as Yom HaShoah (Holocaust Remembrance Day), urging continued vigilance against antisemitism.

City Manager McGinnis began by thanking Councilmember Ledbetter for his invitation to the recent Advocates and Leaders for Police and Community Trust (ALPACT) Conference at Kalamazoo Valley Community College. Mr. McGinnis then acknowledged the recent retirement of Officer Zesiger and the recognition he received from Mothers Against Drunk Drivers for the number of drunk driving arrests during his tenure. City Manager McGinnis closed with a reminder of a tree-planting ceremony on April 28 in conjunction with Portage Public Schools, as well as a welcome event for the incoming city Chief Development Officer, Peter Dame.

Mayor Pro Tem Pearson encouraged the City Clerk's Office to monitor escrowed state liquor licenses for promotion to interested area businesses.

Mayor Randall also thanked Councilmember Ledbetter for his invitation to the ALPACT Conference. She then discussed collaborative programming between the Zhang Portage Community Senior Center and Kalamazoo Valley Community College. Mayor Randall closed by recognizing the earlier City Council Budget Review Session, featuring a comprehensive presentation from the City Administration.

ADJOURNMENT: Mayor Randall adjourned the meeting at 09:44 PM.

Erica L. Eklov, City Clerk

BUDGET REVIEW SESSION #2
APRIL 25, 2023

Mayor Patricia Randall called the Budget Review Session to order at 04:01 PM in Conference Room #1 at Portage City Hall.

ROLL CALL: Councilmembers Lisa Brayton, Chris Burns, Lori Knapp, Victor Ledbetter, Terry Urban, Mayor Pro Tem Jim Pearson, and Mayor Patricia Randall were present.

ABSENT: None.

ALSO PRESENT: City Manager Pat McGinnis, Chief Development Officer Peter Dame, Deputy Finance Director (Accounting & Budget) Aaron Coeur, Deputy Finance Director (Revenue & Treasury) Grant Taylor, and City Clerk Erica Eklov. Various department directors were present via video conferencing.

FUND BALANCE & DEBT UPDATE: City Manager McGinnis introduced the session and the topics slated for review. He then deferred to Deputy Director of Finance (Accounting & Budget) Aaron Coeur. Deputy Director Coeur began by reviewing the Fund Balance status, including the Audited Fund Balance of \$15,314,186 that includes unused American Rescue Plan Act (ARPA) funds, Budgeted Use of Fund Equity (BUFE), FY 21-22 PO rollover, etc. He then reviewed the current threshold amount of 24 percent and provided a comparison of different percentages, as well as highlighted the proposed FY 23/24 budget that contains no BUFE plans. Councilmember Knapp inquired about the percentages to which Deputy Director Coeur confirmed. City Manager McGinnis discussed his upcoming plans for the May 9th City Council meeting budget resolution proposal and what he would like to include.

Councilmember Knapp asked for clarification regarding the proposal to modify the Fund Balance threshold percentage, to which City Manager McGinnis responded. Mayor Randall asked Councilmember Burns to relay the guide he referenced during the prior meeting to maintain good governmental ratings.

Deputy Director Coeur then presented the current status of the city's debt. He relayed that \$6,938,072 in city debt had been paid off during the year, which would start the upcoming fiscal year at the lowered amount of \$54,394,127 with a proposed 10-year amortization. He additionally stated that the FY 2023-24 CIP included \$3,368,066 in bonding with the amount paid off to be \$6,330,673, with a further debt reduction of to \$51,431,430 for FY 2024-25. Mayor Pro Tem Pearson asked about comparison to other communities. Deputy Director Coeur next presented the comparison compiled by the City Administration and noted opinions provided by the city's Bond Counsel. He compared Birmingham, Bloomfield Charter Township, Farmington Hills, and Novi (with mention of Cascade Township), highlighting the per capita income of each, as well as their common locations surrounding Metro Detroit. Deputy Director Coeur noted that rating organizations, such as Standard and Poor, tend to be more favorable toward east Michigan communities than west Michigan communities. Councilmember Urban asked if the comparison included communities that mimicked Portage with its dedicated Capital Improvement Program (CIP) millage with the City Charter. Deputy Director Coeur responded that all had a dedicated CIP millage but he was uncertain whether they were Charter provisions.

Councilmember Burns spoke regarding the rationale behind the debt rating and its effects on the city's borrowing options and rate status. Deputy Director Coeur confirmed it would change rates by five percent. Councilmember Burns expressed his concern with the efforts required to increase the bond rating in exchange for resulting higher rates. Mayor Randall asked whether Councilmember

Burns was comfortable lowering the percentage for use and he confirmed he would prefer to use any excess fund balance to address debt. Councilmember Urban asked why the City Council was being asked to take a position on debt. City Manager McGinnis responded with his preference to gain direction from the elected officials regarding the preferred balance between eliminating debt versus funding expenditures. Councilmember Urban spoke about prior actions and positions by the Council and inquired about the City Administration's position on debt levels. Additional discussion followed.

Mayor Pro Tem Pearson asked when the city had improved its rating to AA+, noting the actions and city efforts leading up to the change. Councilmember Knapp stated that she did not believe a City Council statement was necessary but noted she was uncomfortable with \$65 million in city debt. Mayor Randall asked Councilmember Knapp as to what amount with which she would be comfortable. Councilmember Knapp responded with a preference of \$55-60 million and lowering it over time. Councilmember Urban explained his position. Councilmember Knapp asked the remainder of the City Council for their positions. Mayor Pro Tem Pearson preferred a 20 percent Fund Balance threshold. Mayor Randall relayed the statement she had read in the budget document from the Finance Department and her preference of 20 percent. Councilmember Burns explained his rationale for avoiding a formal statement. Councilmember Urban stated his hesitancy to lower the percentage as it pertained to emergency events and expressed concern about depending on federal or state funding assistance.

Councilmember Burns asked for clarification regarding the dollar amount entailed in the proposed change. There was discussion regarding smaller dollar amounts entailed between a 20 and 24 percent balance. City Manager McGinnis presented a State of Michigan graph of the city's population debt levels lowering per capita. City Manager McGinnis asked Deputy Director Coeur to explain how it might affect future borrowing.

CAPITAL IMPROVEMENT PROGRAM REVIEW: Deputy Director Coeur next presented the status of the Capital Improvement Program (CIP) with regard to expenses and revenues by type. Councilmember Urban asked about the CIP millage basis. Deputy Director Coeur responded that it was entailed in the Property Tax type. Deputy Director Coeur then provided an update regarding the status of the ARPA funds and the current timeline as it relates to the prior and current year CIPs. City Manager McGinnis provided additional details regarding recent federal discussions and potential federal claw backs for un-spent funds. He noted a range of positions amongst the Council regarding the allocation of ARPA funds for city infrastructure improvements. There was additional discussion regarding the timing of the presented projects. Mayor Randall asked about the investment of the ARPA funds in the interim. Deputy Director of Finance (Revenue & Treasury) Grant Taylor responded that the funds were making \$800 per day at five percent interest. City Manager McGinnis noted that the illustrated projects were missing the proposed Department of Public Works garage relocation for 10-20 acres at \$600,000. Mayor Randall inquired about former farmland, noting the city's compost site. Mayor Pro Tem Pearson asked about excess Pfizer land. Councilmember Burns inquired about the future use of the garage's current location. City Manager McGinnis explained that an income-producing, mixed-use property was desired. Mayor Pro Tem Pearson noted prior Planning Commission history desiring such a use and commended the plan.

Deputy Director Coeur then presented the fiscal year carry-over projects, including the ongoing Bishop's Bog Preserve trail improvements and the Lakeview Park renovation. Councilmember Knapp and Mayor Pro Tem Pearson noted the plan for an amphitheater remained in the CIP document. Mayor Pro Tem Pearson inquired about the plan for the former West Lake Drive-In property. Parks Director Kathleen Hoyle and Public Works Director Rod Russell responded. City Manager McGinnis asked the members of Council whether they desired to move up the project. There

was additional discussion regarding the details of the property improvements. Mayor Randall inquired whether the benches or swings proposed could be included as memorials. Mayor Pro Tem Pearson noted that the current plan was temporary, pending a permanent Lake Center Area use.

Discussion then moved to the proposed archery park on South Westnedge Avenue. City Manager McGinnis presented the CIP project proposal for the archery property. Parks & Recreation Director Hoyle summarized the project timeline. Mayor Pro Tem Pearson asked why the archery park received priority from other projects. Director Hoyle responded that staff hoped to increase tourism and revenue from the archery tournaments. Councilmember Urban urged that installation of a security fence was necessary at minimum to prevent off-road vehicles trespassing. Discussion regarding the type of fencing, appropriateness, and repurposing ensued. Mayor Randall asked how many adjacent residences had already installed property fencing. Director Hoyle responded less than fifty percent, approximately. There was additional discussion regarding fence continuity and property maintenance concerns. Mayor Pro Tem Pearson asked Director Hoyle to further explain the other CIP improvements delayed by the archery project, to which she responded. Mayor Randall asked whether the city had explored a land-swap with Portage Public Schools since they had expressed such a demand for an archery facility and cited school property on South Westnedge Avenue in which the city is interested.

Councilmember Knapp asked about the City Council's goal with the subject property and if it needed immediate answers. Mayor Pro Tem Pearson responded that the designated funds could be utilized for other projects. Councilmember Urban asked if the city planned to demolish the existing building at the subject property. Director Russell and Director Hoyle confirmed plans for demolition. City Manager McGinnis asked both directors to detail the amount of funds delegated for the demolition and security. Mayor Randall suggested using the demolition funds on that project and reallocating the remaining to improve the West Lake property.

STATEMENTS OF CITIZENS: Mayor Randall acknowledged the citizens present, noting their Portage Central High School apparel relating to the proposed city archery park.

Jeff Jewett, Assistant Coach at Portage Central High School, stated he had relocated to the area at the beginning of the pandemic from Nebraska from an existing program. He highlighted that the sport is considered a club sport and not a school sport, so kids must wait until school sports practices are over to start, creating late nights for the kids and adults involved. He highlighted that archery attracts non-mainstream kids as an outlet for activities and socializing. He elaborated on the adult interest in their program.

Kate Overhill, Portage Public School Teacher and Central High School Archery Coach, also introduced herself. Both Ms. Overhill and Mr. Jewett noted their archery program now has over 200 kids. Ms. Overhill further explained that archery can attract a wide range of citizen types, as well as attract a regional interest.

Councilmember Urban asked about the max shooting distance allowed. Mr. Jewett responded from 70 to 80 meters during Olympic level competitions. Councilmember Urban responded that distance was his main concern regarding safety.

Councilmember Brayton asked for the coaches to expound on archery safety measures and the number of incidents. The coaches responded with zero issues, noting they had handicap students participate with future interests in paralympic competitions.

Mayor Pro Tem Pearson asked about the October 2019 agenda memo noting 700 kids participate in archery. Ms. Overhill confirmed that all middle school students are required to complete archery as part of the physical education program. Mayor Pro Tem Pearson then asked whether Schrier Park had been considered for archery, citing concerns about a singularly-designated park use.

Councilmember Knapp thanked the coaches for attending and providing the skilled input regarding consideration of the park. Mayor Randall spoke regarding the responsibility of the city.

CAPITAL IMPROVEMENT PROGRAM REVIEW (CONT'D): Councilmember Knapp asked about the Farmer's Market project history and scope, noting mention of an indoor facility. Director Hoyle and City Manager McGinnis responded. Councilmember Knapp then asked about the priority of Lake Center District projects and the status of those improvements, such as Portage Road. Transportation & Utilities Director Kendra Gwin responded.

The CIP presentation then moved on to bikeways and trailways. Councilmember Urban expressed concerns about the Northwest Trail Extension project, including \$150,000 for a feasibility study for a bridge over the US 131 highway when he was aware from prior discussions that the Michigan Department of Transportation (MDOT) would not allow another bridge in that area. Director Hoyle responded that city staff had met with MDOT representatives who were in favor of the project. Councilmember Knapp expressed concern about better uses for the designated funds than a pedestrian bridge. Members of Council echoed her concerns. City Manager McGinnis offered to push the project out while the city focuses on the other Austin Lake Trail project in the interim. Mayor Randall expressed a preference for seeking interconnectedness with city neighborhoods currently without such provisions.

Deputy Director Coeur then presented the water and sewer system projects. Councilmember Urban asked for a brief explanation of the Storm Drainage Improvements Program. Director Gwin responded. Councilmember Urban asked which lift station was scheduled for replacement this year. Director Gwin responded.

Deputy Director Coeur then presented the Police and Fire Division projects, followed by the Building Improvement projects. Councilmember Burns asked about the cost to remove the City Hall fountain and other funds entailed in the project. Public Works Director Russell responded with an itemized cost explanation. Mayor Randall asked which portions of the project will be performed in-house as opposed to contracted. Director Russell responded.

Councilmember Urban asked whether additional electric vehicle charging stations are planned. Director Russell confirmed. Councilmember Urban stated that the charging station aspect needs additional City Council discussion, noting the existing chargers are not super-chargers and require long-duration visits.

Mayor Randall asked for an itemization on each item before the expenditures are made if they exceed the City Manager purchase threshold.

ADJOURNMENT: Mayor Randall adjourned the meeting at 06:08 PM.

Erica L. Eklov, City Clerk

TO: Honorable Mayor and City Council

FROM: Pat McGinnis, City Manager

SUBJECT: Accounts Payable Register

SUPPORTING PERSONNEL: Lauren VanderVeen, Finance Director

ACTION RECOMMENDED: Approve the Accounts Payable Register of May 9, 2023 as presented.

The City Council reviews and approves the bi-weekly Accounts Payable Register which includes automated clearing house payments, paper checks, auto-pay payments and electronic payments. The attached Accounts Payable Register covers the period April 9, 2023 through April 22, 2023 and notes \$427,667.80 in automated clearing house payments, \$160,150.92 in paper checks, \$143,872.48 in auto-pay payments and \$241,223.29 in electronic payments for a grand total of \$972,914.49.

FUNDING: Not Applicable

Attachments: 1. Accounts Payable Register of May 9, 2023

ACCOUNTS PAYABLE REGISTER
Check Dates From: 4/09/2023 to 4/22/2023

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Check Type: ACH Transaction

Check Date	Check	Vendor Name	Description	Amount
04/14/2023	19084(A)	A I S CONSTRUCTION EQUIP. CO.	CUTTING EDGE DOOSAN LOADER	806.74
04/14/2023	19085(A)	ABONMARCHE CONSULTANTS, INC	LAND STAKING SURVEY	1,400.00
04/14/2023	19086(A)	ALL CITY MANAGEMENT SERVICES, INC.	CROSSING GUARD CONTRACT	3,453.45
04/14/2023	19087(A)	ALRO STEEL CORPORATION	REPAIR AND MAINTENANCE	133.63
04/14/2023	19088(A)	AMAZON.COM SALES, INC.	BLDG/OFC SUP-FF; EXERCISE EQUIP/OFC SUP-PZSC	1,949.92
04/14/2023	19089(A)	AMERICAN SAFETY & FIRST AID	FIRST AID SUPPLIES	563.39
04/14/2023	19090(A)	ANIMAL REMOVAL SERVICE, LLC	ANIMAL REMOVAL SERVICES	419.00
04/14/2023	19091(A)	BAUCKHAM, SPARKS, THALL, SEEBER AND	ATTORNEY FEES APRIL 2023	19,750.20
04/14/2023	19092(A)	BCHS-HELPNET	EAP SERVICES	1,684.59
04/14/2023	19093(A)	BEST WAY DISPOSAL, INC.	CURBSIDE RECYCLING	65,232.67
04/14/2023	19094(A)	C C I SOUTH, INC.	INSTALL & MATERIALS FOR CAT6 LINE	866.43
04/14/2023	19095(A)	C D W GOVERNMENT, INC.	ARB ANTENNA & CABLES	305.16
04/14/2023	19096(A)	C M P DISTRIBUTORS, INC.	MISC POLICE SUPPLIES	2,410.00
04/14/2023	19097(A)	CARDINAL BUS, INC.	TRIP VENDOR PAYMENT 230406 GO POLISH	6,325.00
04/14/2023	19098(A)	CARLETON EQUIPMENT CO.	LOADER TRACKS, REPAIR & MAINT SUPS	5,220.28
04/14/2023	19099(A)	CIVICPLUS	WEBSITE HOSTING FEE, MUNICODE REVIEW	16,293.25
04/14/2023	19100(A)	CLARK, RONALD	REIMB EXP-EMU SCH OF POL STAFF & COMMAND	379.50
04/14/2023	19101(A)	DATA CONSTRUCTS LLC	MONTHLY WEBSITE HOSTING SERVICES	178.45
04/14/2023	19102(A)	DEPATIE FLUID POWER CO., INC.	HYDRAULIC REPAIRS	78.26
04/14/2023	19103(A)	EARLE, SHELIA L	FITNESS INSTRUCTION	1,061.25
04/14/2023	19104(A)	ED & TED'S EXCELLENT ADVENTURES	TRIP PAYMENT - BRANSON & SAVANNAH 2023	42,585.00
04/14/2023	19105(A)	ELECTIONS OPERATING LLC	ELECTION SUPPLIES	2,589.54
04/14/2023	19106(A)	ENGINEERED PROTECTION SYSTEMS, INC.	ALARM MONITORING, ALARM SYS UPGRADE	3,316.98
04/14/2023	19107(A)	ESCAPE FIRE & SAFETY SERVICES, INC.	FABRICATION AND SERVICES	2,506.27
04/14/2023	19108(A)	ETNA SUPPLY, INC.	BUILDING REPAIRS	72.61
04/14/2023	19109(A)	GORDON WATER SYSTEMS	WATER SERVICES	221.03
04/14/2023	19110(A)	GORNO FORD	POLICE & FLEET VEHICLES	154,794.00
04/14/2023	19111(A)	GRIFFIN PEST SOLUTIONS	PEST CONTROL SERVICES	181.00
04/14/2023	19112(A)	HALLBERG, JONATHON	REIMB - CCIM INSTITUTE TR CLASSES REG	1,710.00
04/14/2023	19113(A)	HARTFORD LIFE INSURANCE COMPANY	LIFE & LTD INSURANCE	10,516.66
04/14/2023	19114(A)	INDUSCO SUPPLY CO., INC.	JANITORIAL SUPPLIES	75.09
04/14/2023	19115(A)	INSIGHT PUBLIC SECTOR, INC.	VMWARE ORECK PHONE SYS UPGRADE, LAPTOPS	6,704.90

ACCOUNTS PAYABLE REGISTER
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Check Date	Check	Vendor Name	Description	Amount
04/14/2023	19116(A)	KAHN, WILMA	REMINISCENCE WRITING CLASS	348.00
04/14/2023	19117(A)	KENNEDY INDUSTRIES, INC.	BLOCK STATION MAINTENANCE - E OSTERHOUT	9,801.50
04/14/2023	19118(A)	KLOSE, REBECCA ANN	RETIREE PHOTO SESSION	350.00
04/14/2023	19119(A)	KUSHNER & COMPANY, INC.	COBRA AND FSA ADMINISTRATION	385.94
04/14/2023	19120(A)	LAWSON PRODUCTS, INC	REPAIR & MAINT SUPPLIES	555.95
04/14/2023	19121(A)	MARTIN SPRING & DRIVE, INC.	SHAFT REPAIR	660.00
04/14/2023	19122(A)	MCNALLY ELEVATOR CO.	ELEVATOR MAINTENANCE	154.73
04/14/2023	19123(A)	MEJEUR ELECTRIC LLC	MISC ELECTRICAL REPAIRS	824.00
04/14/2023	19124(A)	METRONET HOLDINGS LLC	TELEPHONE SVC, INTERNET/CABLE FIBER SVC	4,327.99
04/14/2023	19125(A)	MICROSYSTEMS, INC.	PAPERVISION RENEWAL	1,257.00
04/14/2023	19126(A)	NYE UNIFORMS	MISC UNIFORMS	203.99
04/14/2023	19127(A)	OFF THE CUFF CATERING	SOUTHWEST MI FIRST LUNCHEON	245.00
04/14/2023	19128(A)	ONSTAFF USA INC	TEMPORARY EMPLOYEE SVCS	16,233.68
04/14/2023	19129(A)	PLASKO, PATRICIA MARIE	FITNESS INSTRUCTION	390.00
04/14/2023	19130(A)	PRECISION PRINTER SERVICES INC	PRINTER SERVICES	627.41
04/14/2023	19131(A)	PRINTING SERVICES INC	MISC PRINTING SERVICES	648.00
04/14/2023	19132(A)	R W LAPINE INC.	HVAC ON-CALL SVCS-MULT LOCS	10,592.50
04/14/2023	19133(A)	RIDDERMAN & SONS OIL CO. INC.	DIESEL FUEL FOR GENERATORS	1,359.85
04/14/2023	19134(A)	RIDGE AUTO NAPA	REPAIR & MAINT SUPPLIES	6,087.89
04/14/2023	19135(A)	VOID		0.00
04/14/2023	19136(A)	ROBERT LAMSON, LLC	PRE-COE SCREENING	750.00
04/14/2023	19137(A)	SEVERANCE ELECTRIC COMPANY, INC	MISS DIG MARKINGS	691.08
04/14/2023	19138(A)	SIMPLIFILE LLC	DEED RECORDING	199.50
04/14/2023	19139(A)	SNELL, DEBRA	FITNESS INSTRUCTION	600.00
04/14/2023	19140(A)	SPC SPECIALTY PRODUCTS, LLC	AQUAPHALT PATCH	3,520.00
04/14/2023	19141(A)	STOUT, MELISSA JOY	FITNESS CLASS INSTRUCTION	350.00
04/14/2023	19142(A)	TECHNOLOGY SOLUTIONS	MISC TECH SERVICES	187.50
04/14/2023	19143(A)	WAYNE COUNTY APPRAISAL LLC	ASSESSING LEGAL SERVICES	1,182.47
04/14/2023	19144(A)	WEST MICHIGAN INT'L LLC	TRUCK REPAIRS	1,535.37
04/14/2023	19145(A)	WOLVERINE POWER SYSTEMS	HQ GENERATOR REPAIR	1,220.70
04/14/2023	19146(A)	WOLVERINE POWER SYSTEMS	BACKUP GENERATOR MAINT	375.00
04/14/2023	19147(A)	ZHAO, BIQI	REIMB EXPS-APA NATL PLANNING CONF	1,497.16
04/21/2023	19148(A)	ADP, INC.	ADP PAYROLL & ETIME SERVICES	5,591.80

ACCOUNTS PAYABLE REGISTER
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Check Date	Check	Vendor Name	Description	Amount
04/21/2023	19149(A)	CHARTER COMMUNICATIONS	CABLE TV	678.18
04/21/2023	19150(A)	EMPLOYEE ISSUED	REPLACEMENT FOR LOST PAYCHECK	451.36
Total ACH				427,667.80

Check Type: Paper

04/14/2023	323557	5TH DISTRICT COURT	OUT OF COUNTY BOND	300.00
04/14/2023	323558	7900 MOORSBRIDGE LLC	TEMPORARY PUMPING EASEMENT	2,700.00
04/14/2023	323559	ALKHAMIS FINANCIAL	RENTAL REFUND	100.00
04/14/2023	323560	ALLEGRA PRINT & IMAGING	PRINTING SERVICES	779.00
04/14/2023	323561	ALLEN EDWIN HOMES	REIMBURSEMENT FOR UPSIZING WATER MAIN	53,439.10
04/14/2023	323562	BALKEMA EXCAVATING, INC.	RELEASE RETAINAGE-UTILITY INSTALL PROJ	5,278.51
04/14/2023	323563	BAY AREA TOUCHLESS CARWASH LLC	CAR WASHES	320.00
04/14/2023	323564	BRINN, CHAUNCEY J.	PORTAGE CULINARY ACADEMY	250.00
04/14/2023	323565	C-COMM OF KALAMAZOO, INC.	KENWOOD RADIO REPROGRAMMING	316.20
04/14/2023	323566	CALHOUN COUNTY SHERIFF OFFICE	K9 DECOY/HIGH STRESS SCENARIO TRAINING	400.00
04/14/2023	323567	CAMPBELL AUTO SUPPLY	MISC AUTO SUPPLIES	45.35
04/14/2023	323568	CINTAS CORPORATION NO. 2	UNIFORM RENTAL FOR INSPECTORS	9.78
04/14/2023	323569	CITY OF KALAMAZOO TREASURER	WATER SERVICES	34.97
04/14/2023	323570	COCHRAN GLASS AND DOOR, LLC	GLASS REPAIR	254.00
04/14/2023	323571	COCM	CODE OFFICIAL CONFERENCE OF MI - REG	200.00
04/14/2023	323572	COSTAR REALTY INFORMATION, INC.	COSTAR SUBSCRIPTION	396.61
04/14/2023	323573	CUNNINGHAM, DANIEL R	INSTANT POT DEMO	251.34
04/14/2023	323574	DAN WOOD COMPANY	BD PAYMENT REFUND	62.00
04/14/2023	323575	DAVE'S CONCRETE PRODUCTS, INC.	CONCRETE - RAMONA & SCHRIER PARK	873.00
04/14/2023	323576	DAVID CARRIER LAW	RENTAL DEPOSIT RETURN	100.00
04/14/2023	323577	DRIESEN & ASSOCIATES INC	FIRE FACILITY MAINT	294.40
04/14/2023	323578	ELLIS, STEVEN RICHARD	PRESENTATION PAYMENT	100.00
04/14/2023	323579	EMERGENCY VEHICLE PRODUCTS	POLICE VEHICLE REPAIR/MAINTENANCE	549.06
04/14/2023	323580	FADER EQUIPMENT, INC.	CONCRETE VACUUM	927.02
04/14/2023	323581	FLORI, SUE	MOST WONDERFUL CRIME OF THE YEAR REFUND	95.00
04/14/2023	323582	GALE, ELSIE	REFUND FOR TRIP GO POLISH TODAY	120.00
04/14/2023	323583	GALL'S, LLC	FIRE UNIFORMS	262.63
04/14/2023	323584	GALL'S, LLC	MISC POLICE EQUIPMENT	110.79

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Check Date	Check	Vendor Name	Description	Amount
04/14/2023	323585	GEAR GRID LLC	FIRE HOSE SUPPLIES	1,303.00
04/14/2023	323586	GOLLIN, KENNEDY	HORSE AND CARRIAGE TRADHOL & FALL FEST	400.00
04/14/2023	323587	GORDON FOOD SERVICE	SPECIAL EVENT SUPPLIES, FIRE TR SUPPLIES	201.24
04/14/2023	323588	GRANGER III, GEORGE A	SITE PLAN REVIEW - VANDERBILT, THE OAKS	720.00
04/14/2023	323589	GREENSTONE REALTY GROUP, LLC	OVERPAYMENT ON UTILITY BILL, WINTER TAX	712.77
04/14/2023	323590	GUITAR CENTER #321	PODCAST EQUIPMENT	964.90
04/14/2023	323591	HAFFENDEN, JOAN	TRIP REFUND 230416 SAVANNAH	3,299.00
04/14/2023	323592	HENDERSON, JEANNIE	9303 PORTAGE RD - PROFESSIONAL CLEANING	1,059.00
04/14/2023	323593	HOLCOMB, JOSHUA	INSTRUCTOR PAYMENT	180.00
04/14/2023	323594	HOLCOMB, JOSHUA	BEGINNING UKULELE INSTRUCTION	540.00
04/14/2023	323595	HOME DEPOT	REPAIR/MAINTENANCE SUPPLIES	3,964.91
04/14/2023	323596	VOID		0.00
04/14/2023	323597	INT'L PUBLIC MGT ASSOC FOR HR	PRODUCT SALES - COGNITIVE SERIES	31.50
04/14/2023	323598	INTL ASSN FOR PROPERTY AND EVIDENCE	IAPE MEMBERSHIP RENEWAL	130.00
04/14/2023	323599	J & J LOCKSMITHS	PARK LOCK REPAIRS	497.00
04/14/2023	323600	JOHN BALL ZOO	JOHN BALL ZOO SCALIN UP EVENT	301.00
04/14/2023	323601	K2AVL INC	SOUND SYS FOR SUMMER CONCERTS	2,875.00
04/14/2023	323602	KALAMAZOO COUNTY CLERK	PROGRAMMING COSTS/NOTICES-ELECTION	2,468.67
04/14/2023	323603	KALAMAZOO COUNTY HEALTH & COMMUNITY	SOFTBALL CONCESSION PLAN REVIEW/LICENSE	810.00
04/14/2023	323604	KALAMAZOO FLAG COMPANY, LLC	FLAG POLE REPAIR	851.20
04/14/2023	323605	KALAMAZOO LANDSCAPE SUPPLIES	RESTORATION SUPPLIES FOR CEMETERIES	840.00
04/14/2023	323606	KALAMAZOO MECHANICAL INC.	BD PAYMENT REFUND	60.00
04/14/2023	323607	KALAMAZOO OIL COMPANY	FUEL PURCHASES	235.33
04/14/2023	323608	KARBOWSKI, ROBERT	OVERPAYMENT ON FINAL UTILITY BILLING	336.60
04/14/2023	323609	KENT COUNTY DPW	WASTE DISPOSAL RED MED/DRUG	90.00
04/14/2023	323610	KONICA MINOLTA BUSINESS SOLUTIONS	MAINTENANCE AGREEMENT	347.00
04/14/2023	323611	KSS ENTERPRISES	FITNESS CENTER DISINFECTANT	117.88
04/14/2023	323612	KZOO TIRE COMPANY	POLICE VEHICLE REPAIR/MAINTENANCE	143.00
04/14/2023	323613	LUJAN-ROBERTS, BETTY	REFUND MURDER MYSTERY EVENT	95.00
04/14/2023	323614	MCDONALD'S TOWING & RESCUE, INC.	POLICE TOWING SERVICES	429.00
04/14/2023	323615	METRO CONSULTING ASSOCIATES, LLC	ROW/LAND ACQUISITION SERVICES	1,265.00
04/14/2023	323616	MI ASSOC. OF CHIEFS OF POLICE	MI ACCRED CONTINUATION FEE	700.00
04/14/2023	323617	MICH MUNICIPAL POLICE & FIRE REPAIR	POLICE VEHICLE REPAIR & MAINT	5,447.55

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Check Date	Check	Vendor Name	Description	Amount
04/14/2023	323618	MILLER, CANFIELD, PADDOCK & STONE	AUSTIN LAKE TRAIL LEGAL SERVICES	9,059.00
04/14/2023	323619	MLIVE MEDIA GROUP	LEGAL NOTICES & AFFIDAVITS	723.42
04/14/2023	323620	MODERNISTIC CARPET CLEANING CO	9303 PORTAGE RD-CARPET CLEANING	357.00
04/14/2023	323621	NATIONWIDE POWER SOLUTIONS, INC.	ANNUAL SERVICE CONTRACT FOR UPS	3,050.14
04/14/2023	323622	OFFICE DEPOT, INC.	OFFICE SUPPLIES	616.94
04/14/2023	323623	PEDAL BICYCLES	RANGER BIKES ANNUAL MAINTENANCE	428.00
04/14/2023	323624	PETERSON, THAD VICTOR	BITESUITS	3,860.00
04/14/2023	323625	PETTY CASH-JANET GATES	REPLENISHMENT CHECK	344.53
04/14/2023	323626	PORTAGE CENTRAL WOMEN'S SOCCER	RENTAL DEPOSIT REFUND	150.00
04/14/2023	323627	RATHCO SAFETY SUPPLY, INC.	ECO COUNTER SIGNS/BARRICADES	693.50
04/14/2023	323628	RENEWED EARTH, INC.	COMPOST SITE MANAGEMENT	9,083.33
04/14/2023	323629	RHOMAR INDUSTRIES INC.	NEUTRO WASH	2,082.72
04/14/2023	323630	ROAD COMMISSION OF KALAMAZOO COUNTY	TRAFFIC SIGNAL-ENERGY & MAINTENANCE	257.66
04/14/2023	323631	ROBERTS, ART	MURDER MYSTERY REFUND	95.00
04/14/2023	323632	SACKETT'S FIREPLACE LLC	SERVICE OF MILLENNIUM FIRE PIT	1,034.00
04/14/2023	323633	SCHINDERLE, MARTHA	TRIP REFUND 230427 AMISH CULTURAL DAY	120.00
04/14/2023	323634	SEELYE FORD, INC.	VEHICLE REPAIRS	2,390.59
04/14/2023	323635	SHAMBAUGH & SON, LP	SPRINKLER SYSTEM RESET	522.80
04/14/2023	323636	SHERMAN TOOL / CORNWELL TOOLS	SHOP TOOLS - EQUIPMENT	785.03
04/14/2023	323637	SHI INTERNATIONAL CORP.	DOCKING STATIONS	552.63
04/14/2023	323638	SMITH, LARRY	CLASS SUPPLIES CALLIGRAPHY	62.81
04/14/2023	323639	ST JOE COUNTY COURT	OUT OF COUNTY BOND	300.00
04/14/2023	323640	STATE OF MICHIGAN	SOR REGISTRATION FEES	270.00
04/14/2023	323641	STATE SYSTEMS RADIO, INC	TOWER LEASE	2,307.42
04/14/2023	323642	STEENSMA LAWN & POWER EQUIPMENT	OPERATION SUPPLIES	32.73
04/14/2023	323643	STRYKER SALES CORPORATION	FIRE EMS SUPPLIES	468.00
04/14/2023	323644	SUPERIOR PRECAST PRODUCTS, INC.	EXTERIOR PRECAST SUPPLIES	3,859.25
04/14/2023	323645	TACTRON, INC.	FIRE OPS SUPPLIES	85.33
04/14/2023	323646	TELUS COMMUNICATIONS (U.S.) INC	SKYHAWK GPS ACCESS/SERVICE FEES	755.20
04/14/2023	323647	THAD REEDER AUTOMOTIVE LLC	VEHICLE REPAIRS/ALIGNMENTS	163.49
04/14/2023	323648	U S SIGNAL COMPANY, LLC	INTERNET FIBER SERVICES	900.00
04/14/2023	323649	UNITED PARCEL SERVICE	UPS WEEKLY	28.09
04/14/2023	323650	USIQ, INC.	LEUPOLD SPOTTING SCOPES	3,550.00

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Check Date	Check	Vendor Name	Description	Amount
04/14/2023	323651	VANGELAKOS, CONSTANTINE	OVERPAID FINAL UTILITY BILL	51.33
04/14/2023	323652	VANGUARD FIRE & SUPPLY CO., INC.	FIRE FACILITY MAINT	538.26
04/14/2023	323653	VERSALIFT MIDWEST, LLC	LIFT TRUCK INSPECTIONS	1,260.00
04/14/2023	323654	VITARO, JAMES T	HAWG TROUGH SCALIN UP	1,000.00
04/20/2023	323655	MILLER, ORLEY S	TRAVEL VENDOR PAYMENT-ALL THINGS AMISH	1,914.00
04/21/2023	323656	AT&T	ELECTRONIC COMMUNICATIONS	83.59
04/21/2023	323657	GRAHAM, WILLIAM	REIMB EXP-SPOTLIGHT PUB EDU NFPA CONF/EXPO	585.00
04/21/2023	323658	MML UNEMPLOYMENT FUND	UNEMPLOYMENT COMPENSATION 1ST QTR 2023	1,944.46
04/21/2023	323659	USPS	ADDTL MAY ELEC AV APPLICATION RET POSTAGE	750.00
04/21/2023	323660	VERIZON WIRELESS	CELL PHONE/WIRELESS CARD SERVICE	3,051.36
Total Paper Checks				160,150.92
Check Type: Auto-Pay Payments				
04/10/2023		CONSUMERS AUTOPAY	GAS-ELECTRIC	6,306.56
04/10/2023		MISSIONSQUARE	EMPLOYER RETIREMENT CONTRIBUTIONS	41,464.97
04/11/2023		CONSUMERS AUTOPAY	GAS-ELECTRIC	32,180.28
04/13/2023		CONSUMERS AUTOPAY	GAS-ELECTRIC	3,261.98
04/14/2023		CONSUMERS AUTOPAY	GAS-ELECTRIC	1,034.49
04/17/2023		CONSUMERS AUTOPAY	GAS-ELECTRIC	7,389.54
04/17/2023		MISSIONSQUARE	EMPLOYER RETIREMENT CONTRIBUTIONS	43,565.49
04/18/2023		CONSUMERS AUTOPAY	GAS-ELECTRIC	460.70
04/19/2023		CONSUMERS AUTOPAY	GAS-ELECTRIC	4,323.13
04/20/2023		CONSUMERS AUTOPAY	GAS-ELECTRIC	323.55
04/21/2023		MISSIONSQUARE	EMPLOYEE RETIREMENT WITHHOLDINGS	3,561.79
Total Auto-Pay Payments				143,872.48
Check Type: Electronic Payments				
04/05/2023		ASU GROUP	WORKERS COMP FUNDING	15,954.19
04/13/2023		COMERICA	INVESTMENT PURCHASE	123,899.14
04/14/2023		MULTIPLE	IAFF, PPCOA, PPOA, UAW PENSION PAYMENTS	101,369.96
Total Electronic Payments				241,223.29
Grand Total				972,914.49

TO: Honorable Mayor and City Council

FROM: Pat McGinnis, City Manager

SUBJECT: South Westnedge Avenue Relief Storm Sewer

SUPPORTING PERSONNEL: Kendra Gwin, Director of Transportation & Utilities

ACTION RECOMMENDED: Approve the following for the South Westnedge Avenue Relief Storm Sewer:

- a. Settlement Agreement with Portage Crossings I, Portage Crossings II and Home Depot in the amount of \$225,000;
- b. Settlement Agreement with Target Corporation in the amount of \$16,500;
- c. Temporary License Agreement with Target Corporation;

and authorize the City Manager to execute all documents on behalf of the city.

The Fiscal Year 2017-2018 Capital Improvement Program budget included a project for the installation of a relief storm sewer from the intersection of South Westnedge Avenue and J.L. Hudson Drive east to a city retention basin with an overflow to the wetlands mitigation area north of Romence Road Parkway. The South Westnedge Avenue commercial corridor, the heaviest traveled street in the city, experiences street flooding in the vicinity of J.L. Hudson Drive during periods of moderate rainfall. This situation has existed for many years, but with continued commercial development in the overall drainage area and changes in weather patterns, the situation has worsened in recent years. Flooding is significant enough to cause lane closures and occurs approximately four to five times per year, contributing to flooding and property damages in the Carillon Centre.

In 2006, City Council awarded a contract to Fishbeck, Thompson, Carr, and Huber, Incorporated (FTCH) for the preparation of a feasibility study for the South Westnedge Avenue Relief Storm Sewer. FTCH analyzed the drainage area and recommended a design solution to provide flooding relief on South Westnedge Avenue in this area, which would also have a beneficial effect on adjacent private parking areas that also experience ponding of water during moderate rainfalls. The study performed by FTCH determined that the best alternative was to separate the South Westnedge Avenue storm sewer system in the vicinity of J.L. Hudson Drive from the Consolidated Drain and provide a separate outlet to the east.

On September 26, 2017, City Council awarded an engineering services contract to Hurley & Stewart, LLC for the 2018 Storm Drainage Improvement Projects which included the South Westnedge Avenue Relief Storm Sewer. Hurley & Stewart, LLC completed the design for South Westnedge Avenue Relief Storm Sewer and prepared the necessary easement documents that traverse the Portage Crossings

Development. Hurley & Stewart, LLC contracted with Michiana Land Services to assist in easement acquisition. Meetings were held with the property owners of the Portage Crossings Development; Hurley & Stewart, LLC; Michiana Land Service, and city staff. The property owners were resistant to a stormwater easement on their property.

On September 25, 2018, City Council adopted a resolution approving the necessity to improve the storm drainage on South Westnedge Avenue at J.L. Hudson Drive and authorized the City Manager to obtain easements to accomplish this project. Appraisals for the required easements from Portage Crossings completed in 2018 totaled \$134,224. The appraisals were updated in 2020 and totaled \$168,653, which was put in escrow for the project. While the agreed settlement amount of \$225,000 is slightly higher than the 125% typically agreed upon in condemnation proceedings, the city foregoes the cost of updating the appraisals again. During construction, some traffic would be detoured across the Target Corporation parking lot. A lease agreement and just compensation in the amount of \$16,500 is warranted. If approved, construction is planned for the summer of 2024.

It is recommended that City Council approve a Settlement Agreement with Portage Crossings I, Portage Crossings II, and Home Depot in the amount of \$225,000; a Settlement Agreement with Target Corporation in the amount of \$16,500; a Temporary License Agreement with Target Corporation; and authorize the City Manager to sign all documents on behalf of the city.

FUNDING: Sufficient funding is available in the FY 2017-2018 Capital Improvement Program budget.

- Attachments:**
1. Settlement Agreement with Portage Crossings I, Portage Crossings II and Home Depot
 2. Settlement Agreement with Target Corporation
 3. Temporary License Agreement with Target Corporation

SETTLEMENT AGREEMENT

This SETTLEMENT AGREEMENT ("Agreement") is made and entered into as of the Effective Date, by and between the **City of Portage**, a Michigan municipal corporation of the State of Michigan (the "City") and **Portage Crossings I, LLC**, a Michigan limited liability company, **f/k/a Portage Crossings Limited Partnership**, a Michigan limited partnership ("Portage Crossings I"), **Portage Crossings II, LLC**, a Michigan limited liability company ("Portage Crossings II") and **Home Depot U.S.A., Inc.**, a Delaware corporation ("Home Depot"). The City and Portage Crossings I, Portage Crossings II and Home Depot are sometimes referred to herein individually as a "Party" and collectively as the "Parties."

Recitals

This Agreement is made with respect to the following facts:

A. The City filed a complaint for condemnation against Portage Crossings I, Portage Crossings II and Home Depot and other defendants in the Kalamazoo County Circuit Court – Case No. 20-0237-CC ("Lawsuit").

B. The Parties now wish to fully settle and resolve all issues, matters, claims, and disputes relating to Portage Crossings I, Portage Crossings II, Home Depot relating to the Lawsuit, subject to the terms and conditions set forth in this Agreement.

Agreement

NOW, THEREFORE, in consideration of the foregoing premises, and the promises and covenants set forth below and herein, the Parties hereby agree as follows:

1. **Payment.** The City shall pay Portage Crossings I, Portage Crossings II and Home Depot the sum of Two Hundred Twenty-Five Thousand and 00/100 Dollars (\$225,000.00) and settle all claims that Portage Crossings I, Portage Crossings II and Home Depot made or could have made in the Lawsuit within fourteen (14) days of the date of approval of this Settlement by the City. (This settlement is contingent upon the approval of the City.) The payment to Portage Crossings I, Portage Crossings II and Home Depot shall be made as follows:

From the escrowed funds held by the Court:

- \$50,000.00 made payable to "Home Depot U.S.A., Inc."
c/o Tyler D. Tennent, Esq.
Dawda, Mann, Mulcahy & Sadler, PLC
39533 Woodward Avenue, Suite 200
Bloomfield Hills, MI 48304

- \$112,452.00 made payable to "Portage Crossings I, LLC and Portage Crossings II, LLC"
c/o Scott R. Sikkenga, Esq.
Honigman LLP
650 Trade Centre Way, Suite 200
Kalamazoo, MI 49002-0402

From the City of Portage:

- \$62,548.00 made payable to "Portage Crossings I, LLC and Portage Crossings II, LLC"
c/o Scott R. Sikkenga, Esq.
Honigman LLP
650 Trade Centre Way, Suite 200
Kalamazoo, MI 49002-0402

2. Dismissal. Upon the Effective Date, the Parties shall stipulate to the dismissal of the Lawsuit, with prejudice, each party to bear its own attorneys' fees and costs. The Parties each hereby acknowledge that, upon receipt of the \$225,000.00 payment to Portage Crossings I, Portage Crossings II and Home Depot, the dismissal may be filed and all claims under the Lawsuit shall be deemed to be fully satisfied, discharged, and resolved in accordance with all applicable laws, codes, ordinances, and regulations, for all purposes and with respect to all actual or potential claims, known and unknown, arising under or relating to the Lawsuit. A copy of the proposed Dismissal and Default Judgment against the other remaining Defendants is attached as **Exhibit A**.

3. Acknowledgment of Storm Water Easement Agreement. The Parties acknowledge and agree to abide by the terms of the Storm Water Easement Agreement that was recorded on November 15, 2022 by the Kalamazoo County (MI) Register of Deeds as Instrument Number 2022-035600.

4. General Release by Parties. In consideration of the promises, covenants, and obligations set forth in this Agreement, upon execution, the Parties each release and discharge the other, and the predecessors, successors, or assigns of any of them, including any past or present departments, appointed or elected officials, officers, employees, members, representatives or agents of and from any and all present, known and unknown claims, demands, obligations, actions, and causes of action based on or relating to the Lawsuit.

5. No Admission of Liability. Nothing in this Agreement, including the fact that it was entered into, shall constitute or be construed as an admission on behalf of any party herein identified as to the validity of any of the claims, defenses or allegations made by either party, nor shall it be admissible in any court, administrative agency or tribunal for any party, with the exception of a proceeding to enforce or interpret the terms of this Agreement.

6. Release of Information. The Parties agree that the Agreement is subject to and may be released by the City pursuant to the requirements of the Michigan Freedom of Information Act, MCL 15.231, *et seq.*

7. Warranty of Authority. The Parties warrant that no other person has any interest in any of the claims alleged in this matter; that they have the sole right and exclusive authority to execute this Agreement and that they have not sold, assigned, transferred, conveyed or otherwise

disposed of any of the claims or damages or liability covered hereby. The signatories below warrant that they have authority to execute this Agreement on behalf of their respective entities.

8. Binding Effect. This Agreement shall be binding upon the Parties, including any past or present subsidiary, parent, or affiliate entity or cooperative, or the predecessors and their successors or assigns of Portage Crossings I, Portage Crossings II and Home Depot and any affiliated entities or the predecessors and any successors or assigns of the City.

9. Integration. This Agreement constitutes the entire agreement between the City and Portage Crossings I, Portage Crossings II and Home Depot concerning the matters set forth herein, and is a complete merger of all antecedent offers, counteroffers, negotiations and agreements.

10. Severability. In the event that any term or provision of this Agreement is declared to be illegal or invalid, for any reason whatsoever, by a court of competent jurisdiction, such illegality or invalidity shall not affect the remaining terms and provisions hereof, which terms and provisions shall remain binding and enforceable.

11. Governing Law and Venue. This Agreement and all provisions contained herein shall be construed pursuant to the laws of the State of Michigan, and any questions regarding the validity of any section and/or paragraph contained herein shall be determined pursuant to the laws of the State of Michigan. The Parties agree that any action to interpret, construe or enforce this Agreement shall be brought in the Circuit Court for the County of Kalamazoo, Michigan.

12. Attorney Fees. Each Party shall bear its own attorneys' fees and costs in connection with this Agreement. In any action to enforce the terms of this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party all reasonable attorneys' fees and costs incurred.

13. Notices. Any notice required or permitted under the terms of this Agreement shall be in writing, may be given by the Parties hereto or such Parties' respective legal counsel, and shall be deemed given and received (i) when hand delivered to the intended recipient, by whatever means; (ii) three (3) business days after the same is deposited in the United States mail, with adequate postage prepaid, and sent by registered or certified mail, with return receipt requested; or (iii) one (1) business day after the same is deposited with an overnight courier service of national or international reputation having a delivery area encompassing the address of the intended receipt, with the delivery charges prepaid. All notices shall be delivered or mailed, as the case may be, to the appropriate address set forth below:

If to City:

Kendra Gwin, Director of Transportation & Utilities
City of Portage
7719 S. Westnedge Avenue
Portage, MI 49002

With a copy to:

Andrew J. Gordon, Esq.
Bloom Sluggett, PC
161 Ottawa Avenue, N.W., Suite 400
Grand Rapids, MI 49503
andy@bloomsluggett.com

If to Portage Crossings I, LLC:

Portage Crossings I, LLC
Attn: John Garvey
c/o Dan Gavlas
Cole Gavlas PC
2401 W. Centre Avenue
Portage, MI 49024

Carolyn Norris
43591 Carla Drive
Paw Paw, MI 49079

With a copy to:

Scott R. Sikkenga, Esq.
Honigman LLP
650 Trade Centre Way, Suite 200
Kalamazoo, MI 49002-0402
ssikkenga@honigman.com

If to Portage Crossings II, LLC:

Portage Crossings II, LLC
Attn: John Garvey
c/o Dan Gavlas
Cole Gavlas PC
2401 W. Centre Avenue
Portage, MI 49024

Carolyn Norris
43591 Carla Drive
Paw Paw, MI 49079

With a copy to:

Scott R. Sikkenga, Esq.
Honigman LLP
650 Trade Centre Way, Suite 200
Kalamazoo, MI 49002-0402
ssikkenga@honigman.com

If to Home Depot U.S.A., Inc.:

John Chescavage
Sr. Corporate Counsel
The Home Depot
2455 Paces Ferry Road
Atlanta, GA 30339-4024
John_chescavage@homedepot.com

With a copy to:

Tyler D. Tennent, Esq.
Dawda, Mann, Mulcahy & Sadler, PLC
Dawda Mann Building
39533 Woodward Avenue, Suite 200
Bloomfield Hills, MI 48304
ttennent@dmms.com

14. Representation by Counsel. The Parties have been represented by counsel of their choice throughout the negotiations which preceded the execution of this Agreement, and in connection with the preparation and execution of this Agreement, the Parties have carefully and thoroughly reviewed this Agreement, in its entirety, with such counsel, and such counsel has approved it as to form.

15. Third-Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to create or confer and shall not be construed or operate to create or confer, any rights or remedies under or by reason of this Agreement, upon any person other than the Parties hereto, and their respective successors and permitted assigns.

16. Miscellaneous. The Parties agree that, in entering into this Agreement, they are relying upon their own judgment, belief and knowledge as to all phases of their claims and further acknowledge that no promise, inducement or agreement or any representations and warranties not expressed herein have been made to procure their agreement hereto. The Parties further acknowledge that this Agreement is contractual and not merely recitals, and that they have read, understand and fully agree to the terms of the Agreement.

17. Execution in Counterparts. This Agreement may be executed in one or more counterparts, each counterpart to be considered an original portion of this Agreement.

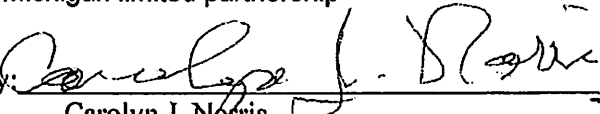
[REMAINDER OF PAGE BLANK — SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have executed this Agreement intending that it be valid and effective as of the date set forth below (the "Effective Date").

CITY OF PORTAGE

By: _____
Pat McGinnis, City Manager

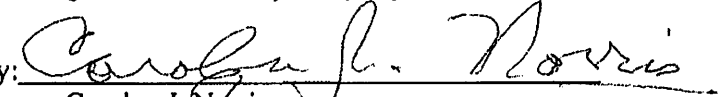
PORTAGE CROSSINGS I, LLC,
a Michigan limited liability company,
f/k/a Portage Crossings Limited Partnership,
a Michigan limited partnership

By: 
Carolyn J. Norris

By: _____
John K. Garvey

Its: Managers

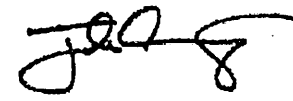
PORTAGE CROSSINGS II, LLC,
a Michigan limited liability company

By: 
Carolyn J. Norris

By: _____
John K. Garvey

Its: Managers

HOME DEPOT U.S.A., Inc.,
a Delaware corporation

By: 

Its: Senior Corporate Counsel

Effective Date: April 6, 2023

152503.032923.PortageCrossingsHomeDepotSettlementAgmt

IN WITNESS WHEREOF, the Parties have executed this Agreement intending that it be valid and effective as of the date set forth below (the "Effective Date").

CITY OF PORTAGE

By: _____
Pat McGinnis, City Manager

PORTAGE CROSSINGS I, LLC,
a Michigan limited liability company,
f/k/a Portage Crossings Limited Partnership,
a Michigan limited partnership

By: _____
Carolyn J. Norris

By: _____
John K. Garvey

Its: Managers
PORTAGE CROSSINGS II, LLC,
a Michigan limited liability company

By: _____
Carolyn J. Norris

By: _____
John K. Garvey

Its: Managers
HOME DEPOT U.S.A., Inc.,
a Delaware corporation

By: _____
[Signature]

Its: Senior Corporate Counsel

Effective Date: April 6, 2023

152503.032923.PortageCrossingsHomeDepotSettlementAgmt

SETTLEMENT AGREEMENT

This SETTLEMENT AGREEMENT ("Agreement") is made and entered into as of the Effective Date, by and between the **City of Portage**, a Michigan municipal corporation of the State of Michigan (the "City") and **Target Corporation, f/k/a Dayton Hudson Corporation**, a Minnesota corporation (referred to herein as "Target"). The City and Target are sometimes referred to herein individually as a "Party" and collectively as the "Parties."

Recitals

This Agreement is made with respect to the following facts:

A. The City filed a complaint for condemnation against Target and other Defendants in the Kalamazoo County Circuit Court – Case No. 20-0237-CC ("Lawsuit").

B. The parties now wish to fully settle and resolve all issues, matters, claims, and disputes relating to Target and the Lawsuit, subject to the terms and conditions set forth in this Agreement.

Agreement

NOW, THEREFORE, in consideration of the foregoing premises, and the promises and covenants set forth below and herein, the Parties hereby agree as follows:

1. **Payment.** The City shall pay Target the sum of Sixteen Thousand Five Hundred and 00/100 Dollars (\$16,500.00) and settle all claims that Target made or could have made in the Lawsuit within fourteen (14) days of the Effective Date.

2. **Dismissal.** Upon the Effective Date, the Parties shall stipulate to the dismissal of the Lawsuit, with prejudice, each party to bear its own attorneys' fees and costs. The Parties each hereby acknowledge that, upon receipt of the \$16,500.00 payment to Target, the dismissal may be filed and all claims under the Lawsuit shall be deemed to be fully satisfied, discharged, and resolved in accordance with all applicable laws, codes, ordinances, and regulations, for all purposes and with respect to all actual or potential claims, known and unknown, arising under or relating to the Lawsuit.

3. **Execution of Temporary Access License Agreement.** The Parties further agree to execute the Temporary Access License Agreement ("Temporary Access License") attached hereto as Exhibit A. The parties shall sign, execute, and exchange the Temporary Access License no later than fourteen (14) days after the payment of the settlement amount is made, in accordance with Paragraph 1.

4. **General Release by Parties.** In consideration of the promises, covenants, and obligations set forth in this Agreement, upon execution, the Parties each release and discharge the other, and the predecessors, successors, or assigns of any of them, including any past or present departments, appointed or elected officials, officers, employees, members, representatives or agents of and from any and all present, known and unknown claims, demands, obligations, actions, and causes of action based on or relating to the Lawsuit.

5. No Admission of Liability. Nothing in this Agreement, including the fact that it was entered into, shall constitute or be construed as an admission on behalf of any party herein identified as to the validity of any of the claims, defenses or allegations made by either party, nor shall it be admissible in any court, administrative agency or tribunal for any party, with the exception of a proceeding to enforce or interpret the terms of this Agreement.

6. Release of Information. The Parties agree that the Agreement is subject to and may be released by the City pursuant to the requirements of the Michigan Freedom of Information Act, MCL 15.231, *et seq.*

7. Warranty of Authority. The Parties warrant that no other person has any interest in any of the claims alleged in this matter; that they have the sole right and exclusive authority to execute this Agreement and that they have not sold, assigned, transferred, conveyed or otherwise disposed of any of the claims or damages or liability covered hereby. The signatories below warrant that they have authority to execute this Agreement on behalf of their respective entities.

8. Binding Effect. This Agreement shall be binding upon the Parties, including any past or present subsidiary, parent, or affiliate entity or cooperative, or the predecessors and their successors or assigns of Target and any affiliated entities or the predecessors and any successors or assigns of the City.

9. Integration. This Agreement constitutes the entire agreement between the City and Target concerning the matters set forth herein, and is a complete merger of all antecedent offers, counteroffers, negotiations and agreements.

10. Severability. In the event that any term or provision of this Agreement is declared to be illegal or invalid, for any reason whatsoever, by a court of competent jurisdiction, such illegality or invalidity shall not affect the remaining terms and provisions hereof, which terms and provisions shall remain binding and enforceable.

11. Governing Law and Venue. This Agreement and all provisions contained herein shall be construed pursuant to the laws of the State of Michigan, and any questions regarding the validity of any section and/or paragraph contained herein shall be determined pursuant to the laws of the State of Michigan. The Parties agree that any action to interpret, construe or enforce this Agreement shall be brought in the Circuit Court for the County of Kalamazoo, Michigan.

12. Attorney Fees. Each Party shall bear its own attorneys' fees and costs in connection with this Agreement. In any action to enforce the terms of this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party all reasonable attorneys' fees and costs incurred.

13. Notices. Any notice required or permitted under the terms of this Agreement shall be in writing, may be given by the Parties hereto or such Parties' respective legal counsel, and shall be deemed given and received (i) when hand delivered to the intended recipient, by whatever means; (ii) three (3) business days after the same is deposited in the United States mail, with adequate postage prepaid, and sent by registered or certified mail, with return receipt requested; or (iii) one (1) business day after the same is deposited with an overnight courier service of national or international reputation having a delivery area encompassing the address of the intended receipt, with the delivery charges prepaid. All notices shall be delivered or mailed, as the case may be, to the appropriate address set forth below:

If to City:

Kendra Gwin, Director of Transportation & Utilities
City of Portage
7719 S. Westnedge Avenue
Portage, MI 49002

With a copy to:

Andrew J. Gordon, Esq.
Bloom Sluggett, PC
161 Ottawa Avenue, N.W., Suite 400
Grand Rapids, MI 49503
andy@bloomsluggett.com

If to Target:

Target Corporation
Target Properties
Attn: Real Estate Portfolio Management (T-0604 Portage, MI)
1000 Nicollet Mall, TPN-12
Minneapolis, MN 55403

With a copy to:

Alan T. Ackerman, Esq.
Ackerman & Ackerman PC
988 S. Adams Road, Suite 207
Birmingham, MI 48009
alan@ackerman-ackerman.com

14. Representation by Counsel. The Parties have been represented by counsel of their choice throughout the negotiations which preceded the execution of this Agreement, and in connection with the preparation and execution of this Agreement, the Parties have carefully and thoroughly reviewed this Agreement, in its entirety, with such counsel, and such counsel has approved it as to form.

15. Third-Party Beneficiaries. Nothing in this Agreement, express or implied, is intended to create or confer and shall not be construed or operate to create or confer, any rights or remedies under or by reason of this Agreement, upon any person other than the Parties hereto, and their respective successors and permitted assigns.

16. Miscellaneous. The Parties agree that, in entering into this Agreement, they are relying upon their own judgment, belief and knowledge as to all phases of their claims and further acknowledge that no promise, inducement or agreement or any representations and warranties not expressed herein have been made to procure their agreement hereto. The Parties further acknowledge that this Agreement is contractual and not merely recitals, and that they have read, understand and fully agree to the terms of the Agreement.

17. Execution in Counterparts. This Agreement may be executed in one or more counterparts, each counterpart to be considered an original portion of this Agreement.

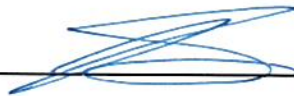
[REMAINDER OF PAGE BLANK — SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the Parties have executed this Agreement intending that it be valid and effective as of the date set forth below (the "Effective Date").

CITY OF PORTAGE

By: _____
Pat McGinnis, City Manager

TARGET CORPORATION,
a Minnesota corporation,
f/k/a Dayton Hudson Corporation

By:  _____
Its: Michael Seaman - Sr. Director Real Estate

Effective Date: _____, 2023

TEMPORARY ACCESS LICENSE

THIS TEMPORARY ACCESS LICENSE (this "**Agreement**") is made and entered into as of the ____ day of _____, 2023, by and between TARGET CORPORATION, a Minnesota corporation ("**Target**") and THE CITY OF PORTAGE ("**Licensee**").

RECITALS:

A. Target is the owner or ground lessee of certain property with a street address of 6839 South Westnedge Avenue, Portage, Michigan (the "**Target Tract**").

B. Licensee intends to perform certain construction work in connection with its storm water drainage relocation project (the "**Work**") on property located adjacent to the Target Tract, within the shopping center commonly known as Portage Crossing (the "**Shopping Center**"). In performing the Work on the adjacent land, Licensee anticipates that it will need to partially close the main entry drive (the "**Entry Drive**") to the Shopping Center from Westnedge Avenue between the hours of 9:30 p.m. and 6:00 a.m. in the location depicted on the site plan attached hereto as Exhibit A (the "**Site Plan**").

C. During performance of the Work that necessitates closure of the Entry Drive, Licensee has requested that Target grant to Licensee the right and license to direct traffic that is entering the Shopping Center onto certain limited areas of the Target Tract; specifically, passenger vehicles will be directed to use the area of the Target Tract identified on the Site Plan as the "**Temporary Drive**", and commercial/delivery vehicles will be directed to use the area of the Target Tract depicted on the Site Plan as the "**Temporary Service Drive**". The Temporary Drive and the Temporary Service Drive are sometimes collectively referred to herein as the "**Access Drives**".

D. Target is willing to permit such temporary access, subject to and in accordance with the terms and conditions set forth in this Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged by the parties, it is agreed as follows:

1. Grant of License. Target grants to Licensee a non-exclusive, irrevocable (except in the event of an uncured default as described in Section 4 below) license (the "**License**") during the Term (defined below) for Licensee to direct guests and invitees of the shopping center, including without limitation, Portage Crossings I, LLC, and Portage Crossings II, LLC, as owners of property located within the shopping center, and Home Depot U.S.A., Inc., as a lessee of a major retail space at the shopping center, and their respective employees, licensees, invitees, agents, suppliers, and guests, to enter upon and use the Temporary Drive and the Temporary Service Drive for ingress and egress purposes only, subject to the terms of this Agreement. The License entitles Licensee to direct passenger vehicles to use the Temporary Drive, and commercial/delivery vehicles to use Temporary Service Drive.

2. Term. The term of the License ("**Term**") commences the date that is fifteen (15) days following the date Target receives written notice from Licensee that it intends to begin Work within the Shopping Center (the "**Commencement Date**"), and expires on the earlier of (i) the date Licensee completes the Work such that full ingress and egress through the Entry Drive has been restored and provides notice of such completion and restoration of Entry Drive Access to Target, and (ii) 365 days following the Commencement Date (the "**Outside Expiration Date**"). If the Term has not commenced by January 15, 2027, then this License will automatically terminate and be of no further force and effect. Notwithstanding the foregoing, the Entry Drive must remain fully open such that traffic need not be re-directed onto the Target Tract from November 1 through the following January 15.

3. Use of License. The License is granted to Licensee only for the purposes stated herein, and Licensee must not use the Access Drives or any other portion of the Target Tract for any other purpose.

a Licensee is responsible for general traffic control related to the Work and closure of the Entry Drive and must supervise, regulate, control, sign, and maintain the safety of persons and property related to its use of the License. Licensee must ensure that all commercial/delivery truck traffic is directed to utilize the Temporary Service Drive, and is prohibited from utilizing the Temporary Drive. Licensee must provide appropriate traffic controls, including traffic cones, directional signage, and flaggers as necessary to comply with the traffic control plans attached hereto as Exhibit B (the "**Traffic Control Plans**"). No changes may be made to the Traffic Control Plans without Target's prior written approval. Licensee must ensure that it complies with all laws, ordinances, regulations, or requirements of any governmental entity, which may be applicable to use of the License.

b. Licensee must, at its sole cost and expense, keep the Target Tract free from all debris and trash relating to the Work or Licensee's use of the License.

c. Licensee must, at its sole cost and expense, clean and restore the Access Drives as nearly as reasonably possible to its prior condition, or better, promptly upon the end of the Term and prior to providing notice of completion of its Work. This obligation includes removing all items brought onto the Target Tract by or at Licensee's request, such as traffic cones or directional signage. Licensee must use its best efforts to prevent any damage to the Target Tract and minimize any interference with operations of Target's business conducted on the Target Tract and/or operations of other businesses in the Shopping Center.

d. Licensee must not permit liens or claims of any nature relating to the Work to be filed or charged against the Target Tract. Should any such lien be filed against the Target Tract, Licensee must, within 30 days after notice of the filing thereof, cause the same to be discharged of record by payment, deposit, bond, order of a court of competent jurisdiction, or otherwise

4. Default. If Licensee, or any of Licensee's employees, agents, guests, or invitees, at any time breaches one or more of the provisions of this Agreement, Target will notify Licensee of such breach in writing. If such breach is not cured within five (5) business days following receipt of such notice by Licensee, Target may (in addition to all other rights and

remedies at law or in equity) elect to reasonably cure such default at Licensee's sole cost and expense. If the breach is an emergency condition, Target may (in addition to all other rights and remedies at law or in equity) elect to reasonably cure such breach at Licensee's sole risk and expense upon such advance notice as is reasonably possible under the circumstances or, if necessary, without advance notice, so long as notice is given as soon as reasonably possible thereafter and/or immediately terminate this Agreement and the License granted herein. If Target elects to reasonably cure such breach, Licensee must reimburse Target for all costs and expenses incurred in connection with such curative action within thirty (30) days after receipt of demand therefor. If the breach is of a material nature, such that it interferes with Target's business, then in addition to the remedies set forth above, and all other rights and remedies at law or in equity, Target may also elect to terminate this Agreement upon thirty (30) days written notice to Licensee.

5. Assumption of Risk. Licensee assumes all risk of loss or damage to the property of Licensee and its employees, agents, guests, and invitees associated with the Work. Target will not be liable to Licensee, or those claiming through Licensee (including, but not limited to, the Licensee's employees, agents, guests, or invitees), for injury, death, or property damage occurring on or about the Target Tract. The terms and conditions of this Section will survive the expiration or termination of this Agreement.

6. Insurance; Indemnification. On or before the commencement of any use of the License, Licensee must provide Target evidence of the insurance described in Exhibit C attached hereto and made a part hereof. Licensee must defend, indemnify, and hold Target harmless from and against all claims, losses, damages, liabilities, judgments, liens, costs, and expenses (including, without limitation, attorneys' fees and court costs) arising out of or in connection with the Work or use of the License by Licensee or its employees, agents, guests, or invitees. If after such indemnity a court of law determines that such claim or demand was the result of negligence or the willful act or omission of Target, then Target will reimburse Licensee for all reasonable expenses and/or costs incurred by Licensee defending against such claim or demand to the extent of such fault. The terms and conditions of this Section will survive the expiration or termination of this Agreement.

7. Notices. All notices, terminations, demands, acceptances, requests and approvals required or permitted to be given under this Agreement (each of which is herein sometimes referred to as a "Notice") must be in writing and must be delivered personally, or by prepaid nationally recognized overnight or second day courier, or by deposit in the United States mail, prepaid and certified or registered mail, return receipt requested, addressed in each instance to Target or Licensee, as the case may be, at the following addresses:

If to Target:

Target Corporation
Property Development
Attn: Real Estate Portfolio Management (T-0604)
1000 Nicollet Mall, TPN-12H
Minneapolis, MN 55403

With copy to:

Target Corporation
Legal Department
1000 Nicollet Mall, TPS-3155
Minneapolis, MN 55403
Attn: Real Estate (T-0604)

If to Licensee:

City of Portage
City Clerk, City of Portage
7900 S. Westnedge Avenue
City of Portage, MI 49002
Email: cityclerk@portagemi.gov

Each such Notice will be deemed to have been given as of the date the same is personally delivered to the party to be notified or the date the same is delivered to the address designated hereunder for the party to be notified, as the case may be. Rejection or refusal to accept or the inability to deliver because of changed address of which no notice was given will be deemed to be receipt of the notice, demand, or request. Each party may from time to time and at any time upon at least five (5) days' written notice thereof, change its respective address, and each party may specify as its address any other address within the United States of America.

8. Attorneys' Fees; Governing Law. If a suit is brought to enforce the terms and provisions of this Agreement, or for damages as a result of a party's breach of any term, covenant, agreement, or other provision contained herein, the successful party will be entitled to an award against the other party for the successful party's reasonable attorneys' fees and court costs incurred in connection with any such suit. This Agreement is governed by and construed in accordance with the laws of the State of Michigan.

9. Binding Effect; No Assignment. This Agreement will inure to the benefit of and bind the respective successors, heirs, personal representatives and permitted assigns of the parties hereto. This Agreement may not be assigned by Licensee, voluntarily or involuntarily, by operation of law or otherwise. Any purported or attempted assignment in violation of this Agreement shall be null and void and of no effect.

10. Entire Agreement; Amendment. This instrument constitutes the entire agreement between the parties respecting the License. This Agreement cannot be amended except in writing executed by all of the parties hereto.

11. No Joint Venture, Easement, or Bailment. Nothing contained in this Agreement constitutes or creates a joint venture, an easement, or a bailment between the parties hereto, or their respective employees, agents, guests, or invitees.

12. Authority; Condition. Target and Licensee each represents and warrants to the other that it has the full capacity, right, power and authority to execute, deliver and perform under this Agreement and that all required actions, consents and approvals therefor have been

duly taken and obtained. Licensee agrees that it is accepting the License without any warranty or representation regarding the License or the Access Drives whatsoever, in their "AS-IS", "WHERE-IS", "WITH ALL FAULTS" condition, and subject to all valid and existing licenses, leases, grants, exceptions, encumbrances, title defects, matters of record, reservations, and conditions affecting the Target Tract and/or affecting access thereto.

13. Construction; Captions. This Agreement shall not be construed strictly for or against any party. The captions set forth herein are for convenience only and are not a part of this Agreement.

14. Survival. All of the covenants, agreements and indemnities of the parties made herein shall survive the expiration or earlier termination of the License.

15. Counterparts; Electronic Signatures. This Agreement may be executed and delivered in counterparts, each of which will be deemed an original, and all of which, taken together, will constitute one instrument. This Agreement may be executed using an electronic signature, which will be the equivalent of the signer's written signature. By using an electronic signature, the signing party is manifesting that party's assent and intends that electronic signature to bind the party.

[THIS SPACE INTENTIONALLY LEFT BLANK]

SIGNATURE PAGE
TO
TEMPORARY ACCESS LICENSE

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the date first above set forth.

TARGET:
TARGET CORPORATION,
a Minnesota corporation

By: 
Printed Name: Michael Seaman
Its: Sr. Director Real Estate

LICENSEE:
CITY OF PORTAGE

By: _____
Printed Name: _____
Its: _____

EXHIBIT A

Site Plan

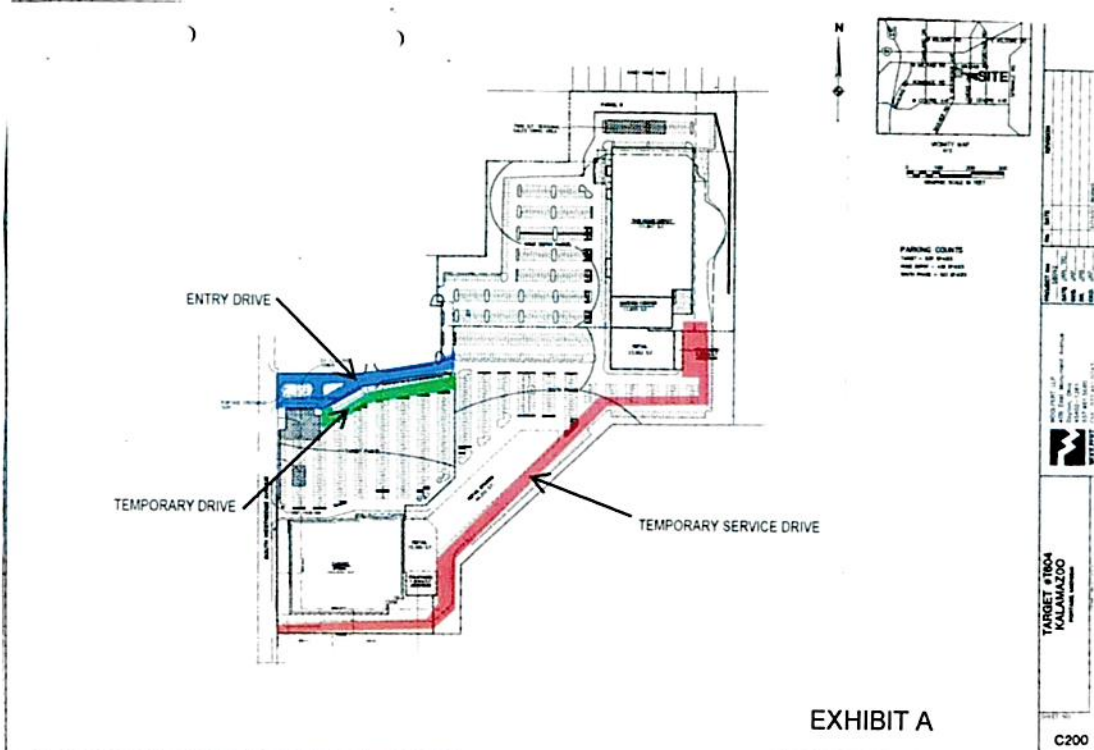


EXHIBIT A

EXHIBIT B

Traffic Control Plan

Stage 2: Traffic arrows indicated EB only, how will WB traffic exit the shopping area?

Stage 2 is for storm pipe installation in this section of the access road. Work hours for this work are from 9:30 PM to 6:00 AM. With work being performed at night minimal traffic entering or exiting the shopping center is anticipated. Traffic exiting the shopping center during the work hours for Stage 2 will be directed toward the Target drive in front of the Target store.

Stage 5: There are no traffic arrows but a similar configuration to Stage 2. How will WB traffic exit the shopping area?

Stage 5 is for restoring the pavement area disturbed during pipe installation in this section of the access road. Work hours for this work are from 9:30 PM to 6:00 AM. With work being performed at night minimal traffic entering or exiting the shopping center is anticipated. Traffic exiting the shopping center during the work hours for Stage 5 will be directed toward the Target drive in front of the Target store.

Stage 9A & 10A: Where is traffic being routed during this stage? Is there adequate spaces for two-way traffic?

Stage 9A & 10A are for milling and paving the top course of pavement on the north side of the project area. Work hours for this work are from 9:30 PM to 6:00 AM. With work being performed at night minimal traffic entering or exiting the shopping center is anticipated. Traffic will be maintained in all directions with the use of traffic regulators (flaggers) and/or previous phase barricading which would include those used for Stage 2 and Stage 5.

Stage 9B and 10B: Where is traffic being routed? How will guests access Target when entering from the signalized intersection?

Stage 9B & 10B are for milling and paving the top course of pavement on the south side of the project area. Work hours for this work are from 9:30 PM to 6:00 AM. With work being performed at night minimal traffic entering or exiting the shopping center is anticipated. Traffic will be maintained in all directions with the use of traffic regulators (flaggers) and/or previous phase barricading which would include those used for Stage 2 and Stage 5. Access to the Target site from the signalized intersection will be limited until paving operations from South Westnedge Avenue to the first drive east of South Westnedge Avenue to the Target site are complete. During this period access to the Target site will be through the Target drive in front of the Target store.

Alternate Access Route: Can they confirm Stage 7 will also use the purple route? Stages 9B & 10B do not work with the red route as there is no access to the Target parking lot.

Stage 7 is for storm pipe installation across the drive in front of Home Depot and Watson's and for restoring the pavement area disturbed during pipe installation in this section of the access road. Full access to and from the access road will be available from South Westnedge Avenue east to and including the drive on the Target east property line. See response to Stage 9B and 10B question.

EXHIBIT C

Insurance Requirements

Licensee must procure and maintain for the Term of this Agreement commercial general liability insurance providing occurrence basis liability insurance coverage, with a combined single limit of at least \$1,000,000.00, against claims for personal injury, death, or property damage.

Licensee must ensure that its contractors performing the Work procure and maintain during the Term of this Agreement: (i) commercial general liability insurance providing occurrence basis liability insurance coverage, with a combined single limit of at least \$3,000,000.00, against claims for personal injury, death, or property damage, (ii) workers compensation insurance as required by any applicable law or regulation, (iii) employer's liability insurance with limits of not less than \$1,000,000.00 each accident for bodily injury, \$1,000,000.00 each employee for bodily injury by disease, and \$1,000,000.00 policy limit for bodily injury by disease, and (iv) automobile liability insurance (bodily injury and property damage liability), including coverage for owned, hired, and non-owned vehicles with limits of liability of not less than \$1,000,000.00 combined single limit per occurrence.

All such policies must (a) name Target as an additional insured, (b) name the City as secondary to any other insurance unless the loss is the fault and responsibility of the City, and name contractors as primary and non-contributory to any other insurance available, (c) be obtained from (i) Michigan Municipal Risk Management Authority, or (ii) an insurance company or companies licensed to do business in the United States with an A.M. Best rating of A-:X or better, (d) cover claims brought in the United States (including its territories and possessions), Puerto Rico and Canada, and (e) remain in full force and effect throughout the Term of this Agreement. Prior to entering the Target Tract, Licensee must provide Target with a copy of a Certificate of Insurance evidencing the coverage required herein for itself and its contractors.

TO: Honorable Mayor and City Council

FROM: Pat McGinnis, City Manager

SUBJECT: Austin Lake Aquatic Plant Management - 2023-2027 Plant Harvesting

SUPPORTING PERSONNEL: Kendra Gwin, Director of Transportation & Utilities

ACTION RECOMMENDED: Award a contract to Savin Lake Services Inc., for the 2023-2027 Austin Lake Plant Harvesting Program for aquatic plant management at a cost not to exceed \$137,500 and authorize the City Manager to execute all documents related to this action on behalf of the city.

On March 22, 2022, City Council approved a contract with Progressive AE of Grand Rapids, Michigan for consulting services to develop and oversee the Austin Lake Aquatic Plant Management Program. At the request of the Austin Lake Riparians, the City Council initiated a special assessment district for the Austin Lake Aquatic Plant Management Program in January 2023. The district was approved by City Council on February 7, 2023, and a five-year special assessment was created on all properties abutting Austin Lake. Progressive AE estimated a budget of \$150,000 to cover the cost of plant harvesting to control the native aquatic plants over a five-year period, which is the cost used when setting the special assessment rates.

On February 23, 2023, two bids were received for the Austin Lake Plant Harvesting Program. The low bid was submitted by Savin Lake Services Inc. in the amount of \$242,500 for harvesting 80 acres per year, which was over the anticipated budgeted amount. Savin Lake Services Inc. has agreed to hold its price for harvesting a smaller quantity of 45 acres per year which, when compared to the second bid, presents excellent value. Additionally, any unused funds related to the chemical treatment program can potentially be utilized to bolster harvesting efforts beyond the 45 acres. Progressive AE has utilized the professional services of Savin Lake Services Inc. for plant harvesting in the past and their work was satisfactory.

It is recommended that City Council award a contract to Savin Lake Services Inc., for the 2023-2027 Austin Lake Plant Harvesting Program for native aquatic plant management at a cost not to exceed \$137,500 and authorize the City Manager to execute all documents related to this action on behalf of the city.

FUNDING: Funds will be available in the Austin Lake Aquatic Plant Management project account to cover the cost of the treatment services.

Attachments: 1. Bid Tabulation Austin Lake Plant Harvesting

**2023 RFB AUSTIN LAKE AQUATIC PLANT HARVESTING
BID TABULATION**

BID OPENING ON FEBRUARY 23, 2023 AT 3 PM

Savin Lake Services Inc.	\$	242,500.00
3088 Hottis Rd.		
Hale, MI 48739		

Dredgeit LLC	\$	1,206,160.00
6701 Mountain Ledge Dr		
Owens Crossroads, AL 35763		

Opened by:  _____
Victoria Barboza, Purchasing Manager

TO: Honorable Mayor and City Council

FROM: Pat McGinnis, City Manager

SUBJECT: Forest Drive/Portage Road Traffic Signal and Intersection Improvements: Consumers Energy Undergrounding Overhead Electric Lines

SUPPORTING PERSONNEL: Kendra Gwin, Director of Transportation & Utilities

ACTION RECOMMENDED: Approve an agreement with Consumers Energy for undergrounding overhead utility lines crossing the intersection of Forest Drive and Portage Road in the not-to-exceed amount of \$124,691 and authorize the City Manager to execute all documents related to the Consumers Energy agreement.

Design work for the traffic signal and intersection improvement project at the intersection of Forest Drive and Portage Road is 85% complete. The proposed improvements require the relocation of power poles and overhead electric lines to allow for the installation of traffic signal mast arms and poles. Undergrounding the electric lines near the intersection of Forest Drive will eliminate overhead wires crossing Portage Road and meets the goals of creating a more attractive Lake Center Corridor.

The undergrounding of Consumers Energy overhead electric lines must be completed by Consumers Energy personnel and/or the firm's contractor, closely coordinated with the city's construction work for the Forest traffic signal and site improvements. Consumers Energy has completed design work for the undergrounding of electric facilities for which the cost is expected not to exceed \$124,691.

It is recommended that City Council approve the agreement with Consumers Energy for undergrounding overhead utility lines crossing the intersection of Forest Drive and Portage Road and authorize the City Manager to execute all documents related to the agreement on behalf of the city.

FUNDING: Sufficient funding exists in the FY 2022-2023 Capital Improvements Program budget.

Attachments: 1. Consumers Energy Forest Drive Agreement



AGREEMENT FOR MODIFICATIONS OF
ELECTRIC FACILITIES (NONREFUNDABLE)

PART I

Effective Date: 4/11/2023 Notification Number: 1064942320
(Drawing Attached, Exhibit A)

Company:

CONSUMERS ENERGY COMPANY
a Michigan Corporation

Customer:

THE CITY OF PORTAGE
(Name)

530 W. Willow St

7900 S WESTNEDGE AVE
(Street and Number)

Lansing, MI 48909-7662
(Address)

PORTAGE, MICHIGAN 49002
(City, State and Zip Code)

Attention: KENDRA GWIN

Service Location: THDPY22 FOREST DR (OH)

Township KALAMAZOO

County KALAMAZOO

Town 53

Range 11

Section 23

Price: \$ 124,691.00

NOTE: ADDITIONAL CHARGES MAY BE OWED. SEE PART II, SECTION 2 and 5 FOR DETAILS.

The Price is good for sixty (60) days from the effective date above. Part II, CONSUMERS' FACILITIES AGREEMENT TERMS AND CONDITIONS is attached hereto and is a part of this Agreement. CUSTOMER ACKNOWLEDGES HAVING READ SAID TERMS AND CONDITIONS. CONSUMERS ENERGY COMPANY EXPRESSLY REJECTS ANY ADDITIONAL OR DIFFERENT TERMS AND CONDITIONS SET FORTH IN ANY PURCHASE ORDER ISSUED BY CUSTOMER OR IN ANY OTHER CONTRACT DOCUMENT ISSUED BY CUSTOMER.

CONSUMERS ENERGY COMPANY

THE CITY OF PORTAGE
(Customer)

By _____
(Signature)

By _____
(Signature)

(Print or Type Name)

(Print or Type Name)

(Date Signed)

(Date Signed)

Title _____

Title _____



**AGREEMENT FOR MODIFICATIONS OF
ELECTRIC FACILITIES (NONREFUNDABLE)**

**TERMS AND CONDITIONS
PART II**

1. For any new facilities being installed to accommodate new load to the Company's system, a non-refundable contribution pursuant to tariffs filed with the Michigan Public Service Commission (Rule C6) is included in the Price.

In consideration of Customer's request and agreement to pay all the costs of relocation/modification of Consumers' facilities, Consumers hereby agrees to relocate and/or modify its electric facilities. The facilities to be relocated or modified are shown on the drawing attached as Exhibit A. Pursuant to tariffs filed with the Michigan Public Service Commission (Rule C1), when relocation or modification of Consumers' facilities is requested or made necessary by a customer, all costs for the relocation or modification may be charged to the requesting party.

For the above mentioned activities, all costs are non-refundable and are due prior to the start of construction. The Customer shall pay the Price identified in Part I upon execution of this Agreement.

2. After all work is completed, Consumers will invoice the Customer for any additional amounts owed.

The Customer is solely responsible to contact the owner of any phone, cable TV or any other facility that may be attached to Consumers' poles and make arrangements for the removal and/or relocation of those facilities at the Customer's expense. The Price identified in Part I does not include any cost the owner of those facilities may charge for the removal and/or relocation.

The Customer shall also be responsible for additional extraordinary construction costs that result from, but are not limited to site conditions, environmental contamination, underground, or buried obstructions, permit fees or other governmental restrictions. If work is to be completed outside of Consumers' normal working hours at the Customer's request, incremental costs shall apply, and these costs will be the Customer's responsibility.

Any amounts to be paid pursuant to this Agreement are exclusive of federal, state, county, municipal, or local property, license, excise, sales use, gross receipt or similar tax with respect to the work covered hereunder and if Consumers is required by applicable law or regulation to pay or collect any such tax or if any such taxes are assessed against Consumers on account of performance of this Agreement, no matter when such assessment is made, then such tax or taxes shall be paid by the Customer to Consumers in addition to the amounts provided for herein.

3. Prior to the installation of the facilities, and as a condition precedent thereto, the Customer shall provide, at no expense to the Company, recordable easements, on a form provided by the Company, granting all necessary rights of way for installation and maintenance of said facilities. If said facilities are to serve a residential subdivision, said easements shall include, but not be limited to, rights of way for streetlighting in the subdivision by means of underground facilities, even though Consumers does not undertake to provide streetlighting facilities and service as a part of this Agreement. If said easements are not secured and delivered to Consumers within thirty (30) days after execution of this Agreement, Consumers may, at its option, refund all payments made to it hereunder by the Customer, without interest, after deducting reasonable expenses incurred by Consumers on account of this Agreement, and this Agreement shall thereupon terminate.

4. For any underground facilities included in the work to be performed hereunder, the Customer shall provide, at no expense to Consumers, rough grading (not more than three inches below finished grade) so that the underground facilities can be properly installed in relation to the finished grade level. The Customer shall maintain the average elevation within six feet of any cable, conduit wire, conductor or other underground facility thereafter at a level not to exceed twelve inches above or three inches below the grade level established at the time of installation of said underground facilities. Further, the Customer shall maintain the ground surface elevation in an area four feet wide around any transformer pad, subsurface transformer, junction vault or other support at an elevation of not less than three inches and not more than six inches below the base of any transformer mounted on a pad or other support and not more than six inches below the top of any subsurface transformer or junction vault; provided, however, that changes in the ground surface elevation in excess of the limits herein prescribed may be permitted upon written consent of Consumers. Consumers will backfill and place excavated earth over any area of construction; the Customer is responsible for the final restoration of the construction area.



**AGREEMENT FOR MODIFICATIONS OF
ELECTRIC FACILITIES (NONREFUNDABLE)**

TERMS AND CONDITIONS (CONT.)

5. If any underground facilities or any portion thereof are to be installed between December 15 and April 15, the Customer shall, prior to installation of said underground facilities or portion thereof, pay Consumers an additional nonrefundable contribution per trench foot as stated in the "Computation of Electric Distribution System Line Extension Deposit and Contribution" for the portion of said facilities installed during said period (Winter construction/practical difficulties charge). The Customer will receive a credit for any part of such winter charge paid by other utilities for joint use of the trench or paid by the Customer for installation, by Consumers, of gas pipe in the same trench. No portion of said facilities will be installed between December 15 and April 15, unless the Customer has paid such additional contribution.

In addition, a further nonrefundable contribution in addition to that provided for herein may be required where, in Consumers' judgment, practical difficulties not considered in determining the Customer's estimate such as water conditions or rock near the surface are encountered during construction. If the Customer does not make such additional contribution within fifteen (15) days after receiving written notice of the necessity for and amount of such additional contribution, Consumers may, at its option, refund all payments made to it hereunder by the Customer, without interest and deducting reasonable expenses incurred by Consumers, and this Agreement shall thereupon terminate.

6. Consumers shall not be in breach of contract as a result of any delay in performing its obligations if such delay is due to strikes or other labor troubles; inability to obtain labor, materials, components, supplies, for any reason, including default of suppliers or subcontractors; acts of God; fire; flood; storm; earthquake or other natural calamities; war; insurrections; riot; embargoes; curtailment; order; regulations or restriction imposed by governmental authorities; or any other cause which is beyond the reasonable control of Consumers, whether of a similar or dissimilar nature and whether or not existing or foreseeable on the scheduled date of commencement of the work. Consumers shall have no obligation to settle any strike or other labor difficulty in a manner not completely satisfactory to it. Should any such delay occur, the time for the performance of Consumers' obligations shall be extended by a time equal to the length of the delay plus such additional time as is reasonably necessary to enable Consumers to resume performance of its obligations.

7. Consumers warrants that any work performed under this Agreement shall be performed by properly skilled personnel in accordance with generally accepted standards for the work being performed. The sole liability of Consumers for defective work under this warranty or otherwise, shall be limited to reperforming any such work on the same conditions as the original work. The foregoing is the Customer's exclusive remedy and, EXCEPT AS EXPRESSLY STATED HEREIN, THERE ARE NO OTHER WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING THE WARRANTY OF MERCHANTABILITY OR FITNESS FOR ANY PURPOSE.

In no event shall Consumers be liable for any loss or damage whatsoever, by reason of its failure to discover, report or modify latent defect or defects inherent in the subject matter of the work. The aforementioned warranty is subject to the following conditions:

(a) Consumers shall not be responsible for repairs, replacements, or corrections made by others with respect to the work performed by Consumers.

(b) The Customer shall notify Consumers in writing of any breach or warranty with respect to the services performed by Consumers within ten (10) days after completion of the work.

8. THE TOTAL LIABILITY OF CONSUMERS, ITS AGENTS, EMPLOYEES, VENDORS AND CONTRACTORS WITH RESPECT TO ANY AND ALL CLAIMS ARISING OUT OF THIS CONTRACT INCLUDING THE PERFORMANCE OF OBLIGATIONS IN CONNECTION WITH THE WORK HEREUNDER, WHETHER BASED ON CONTRACT, WARRANTY, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHERWISE, SHALL NOT EXCEED IN AGGREGATE ONE THOUSAND DOLLARS (\$1,000.00) AND SHALL IN NO EVENT INCLUDE INCIDENTAL OR CONSEQUENTIAL DAMAGES OF ANY NATURE INCLUDING, BUT NOT LIMITED TO, LOSS OF REVENUE OR ITS USE; LOSS BY REASON OF PLANT OR EQUIPMENT SHUTDOWN OR INABILITY TO OPERATE AT RATED CAPACITY; INCREASED EXPENSE OR OPERATION OF PLANT OR EQUIPMENT; INCREASED COSTS OF PURCHASING OR PROVIDING EQUIPMENT, MATERIALS, SUPPLIES OR SERVICES OUTSIDE CONSUMERS' SCOPE OR SUPPLY; COSTS OR REPLACEMENT POWER OR CAPITAL; CLAIMS OF THE CUSTOMER'S CUSTOMERS; OR INVENTORY OR USE CHARGES, EVEN IF CONSUMERS HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.



**AGREEMENT FOR MODIFICATIONS OF
ELECTRIC FACILITIES (NONREFUNDABLE)**

TERMS AND CONDITIONS (CONT.)

This limitation of liability section shall prevail over any conflicting or inconsistent provisions contained herein or in any other applicable document and shall be in effect even if the remedy or remedies set forth herein fail in their essential purpose.

9. The Customer shall indemnify and hold Consumers, its agents, employees, vendors and contractor(s) harmless from and against, and shall at Consumers' option undertake the defense of, any and all claim, losses, liability and damage (including environmental harm) and including reasonable attorney's fees which Consumers might sustain or incur or which might be asserted by any third party against Consumers as a result of the services provided under this Agreement, whether based on warranty, contract, tort (including negligence), strict liability or otherwise, unless caused solely by the negligence of Consumers, its agents or employees.

10. Any assignment or any part thereof by the Customer without the previous written permission of Consumers shall be void and of no effect. Consumers may subcontract any services hereunder.

11. This agreement does not create an employer/employee relationship between the parties. Consumers will retain sole and absolute discretion over the manner and means of carrying out Consumers' responsibilities hereunder.

12. The terms of this Agreement shall not be changed superseded or supplemented, except in writing by an authorized representative of Consumers and by a duly authorized representative of Customer.

13. This Agreement shall be deemed a Michigan contract and shall be construed in accordance with and governed by the laws of the State of Michigan. With respect to the subject matter hereof, this Agreement supersedes all previous representations, understandings and negotiations, either written or oral, between the parties hereto or their representatives and constitutes the entire contract between the parties. This Agreement is intended for the benefit of the parties hereto and does not grant any rights to any third parties unless otherwise specifically stated herein. No part of any purchase order, request for proposal or other documents issued by Customer shall be binding upon Consumers or affect its rights or obligations hereunder unless signed by a duly authorized representative of Consumers.

14. This Agreement may be executed and delivered in counterparts, including by a facsimile or an electronic transmission thereof, each of which shall be deemed an original. Any document generated by the Parties with respect to this Agreement, including this Agreement, may be imaged and stored electronically and introduced as evidence in any proceeding as if original business records. Neither Party will object to the admissibility of such images as evidence in any proceeding on account of having been stored electronically.

15. Additional Items

6
INSTALL
50-2 POLE
SBFGDE
DE x2
FIGURE 23-150-1
SBFGDE
DE x3
FG INS
P=4' 0"
FIGURE 23-229-1
3P PRI RISER ASSY
LCP/FUSE SIZE LABEL
FIGURE 63-31-1
"ENERGIZED BELOW" SIGN
1/00X DE
D=11' 0"
1/0TX DE
FIGURE 23-302-1 DETAIL A
OPEN SECONDARY DE
FIGURE 23-303-1 DETAIL B
11K-FG-P-35'-RS (EAST)
FIGURE 22-101-13
11K-P-11'-RS (EAST)
FIGURE 22-405-1 DETAIL B
20K-FG-P-18'-STE (NORTH)
20K-P-18'
FIGURE 22-101-13
FIGURE 22-405-1 DETAIL A

REMOVE
DBS
DE x4
150A FUSE (XARM MT) x2
LCP/FUSE SIZE LABEL
1/00X DE
1/0TX DE
WR x3
DOWN GUY x3
TRANSFER
OH SERVICE x2
STLT (25' ABOVE GROUND)
FIGURE 42-103-1

NOTES
TOP EXISTING POLE 1' ABOVE COMM LINES: TO BE REMOVED @ LATER DATE
CHARTER TO TRANSFER TO NEW POLE

5
INSTALL
50-2 POLE
SBFGDE
DE x3
FIGURE 23-150-1
3P 25KVA XFMR ASSY
(35' ABOVE GROUND)
FIGURE 26-301-1
1/00X DE
D=13' 0"
1/0TX DE
FIGURE 23-302-1 DETAIL A
UG SECONDARY RISER
FIGURE 63-20-1
20K-FG-P-14'-STE
20K-P-14'
FIGURE 22-101-13
FIGURE 22-405-1 DETAIL A

REMOVE
1/00X DE
1/0TX DE
WR x6
DOWN GUY x2
TRANSFER
OH SERVICE

NOTES
TOP EXISTING POLE 1' ABOVE COMM LINES: TO BE REMOVED @ LATER DATE

CHARTER TO TRANSFER TO NEW POLE

UNDERGROUND LEGEND

3. Three-phase primary
5. Combination light and power secondary
8. Combination lighting and power service

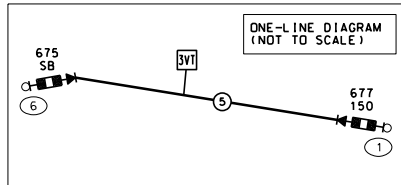
BR3 Bore3"Hole

BR6 Bore6"Hole

CABLE MATERIAL AND SIZE

- D. 350 kcmil AL cable, 175 mils, 15KV, or secondary.
VT. 350 kcmil AL cable, 260 mils tree-retardant INS, 25KV, Jacketed.

Joint Work Contacts	Company Name	Contact Name	Phone Number	Reference # (NUNJS, UT # verbal, Etc.)	with ? Y/N
CATV	CHARTER	BRYAN LONGCORE	2694598746	N/A	N
CATV					
Other					
Other					



MISS DIG System, Inc.
1-800-482-7171



VOLTAGE DROP AND FLICKER VALUES CALCULATED FOR 8842 PORTAGE RD (POWER)				
	VOLTAGE DROP	FLICKER	TRANSFORMER DEMAND LOAD (KVA)	MOTOR LOAD
3402 EXISTING	10.07	4.73	20.35	3 TON
3403 PROPOSED	2.21	1.93	32.81	3 TON

VOLTAGE DROP AND FLICKER VALUES CALCULATED FOR 8842 PORTAGE RD (LIGHTING)				
	VOLTAGE DROP	FLICKER	TRANSFORMER DEMAND LOAD (KVA)	MOTOR LOAD
3403 EXISTING	6.61	14.59	15.36	3 TON
3403 PROPOSED	2.75	3.53	32.81	3 TON

1
INSTALL
50-2 POLE
SBS
PTP
SP5 x2
FIGURE 23-140-1 DETAIL A
3P PRI RISER ASSY
LCP/FUSE SIZE LABEL
FIGURE 63-31-1
3P 350AL UG PRIMARY x240'
BORE x240'
1/00X BRKT
D=12' 0"
FIGURE 23-301-1
WR x5
FIGURE 23-303-1 DETAIL A

NOTES
SPECTRUM TO TRANSFER TO NEW POLE

2
REMOVE
SBS
DBS
PTP
SP5 x3
DE x3
FG INS
25 KVA XFMR ASSY
WR x14

TRANSFER
54W LED STLT
FIGURE 42-103-1

NOTES
MOVE STLT FROM LOC 2 TO LOC 3
TOP EXISTING POLE 1' ABOVE COMM LINES: TO BE REMOVED @ LATER DATE

SPECTRUM TO TRANSFER OFF POLE

3
INSTALL
50-2 POLE
SBS
PTP
SP5 x2
FIGURE 23-140-1 DETAIL A
50 KVA XFMR ASSY
(34' ABOVE GROUND)
FIGURE 26-101-1 DETAIL C
1/00X BRKT
D=11' 0"
FIGURE 23-301-1
WR x5
FIGURE 23-303-1 DETAIL A
TRANSFER
54W LED STLT (25' ABOVE GROUND)
FIGURE 42-103-1

NOTES
MOVE STLT FROM LOC 2 TO LOC 3
CHARTER TO TRANSFER TO NEW POLE

VOLTAGE DROP AND FLICKER VALUES CALCULATED FOR 8827 PORTAGE RD				
	VOLTAGE DROP	FLICKER	TRANSFORMER DEMAND LOAD (KVA)	MOTOR LOAD
3404 EXISTING	7.60	11.40	44.26	3 TON
3404 PROPOSED	6.59	11.50	44.26	3 TON

VOLTAGE DROP AND FLICKER VALUES CALCULATED FOR 8847 PORTAGE RD				
	VOLTAGE DROP	FLICKER	TRANSFORMER DEMAND LOAD (KVA)	MOTOR LOAD
3404 EXISTING	5.83	3.92	44.26	3 TON
3404 PROPOSED	3.35	2.25	44.26	3 TON

CONSTRUCTION NOTES:

1. MOVE LOC 2 POLE TO LOC 1 AND RELOCATE PRIMARY ACROSS PORTAGE RD TO UNDERGROUND.
2. MOVE XFMR 3404 FROM LOC 2 TO LOC 3 AND REPLACE WITH 50KVA XFMR TO FEED 8847 ADDRESS.
3. MOVE XFMR 3403 FROM LOC 4 TO LOC 5 AND REPLACE WITH 3-PHASE POWER BANK TO FEED ADDRESSES FROM LOC 4-6.
4. CHARTER AND CE TO COORDINATE TRANSFER OF COMM ATTACHMENTS TO NEW POLES.
5. CONTRACTOR TO SUPPLY RED HDPE SDR11 DUCT.
6. HLT NEEDED AT SUBSTATION.
7. OUTAGES REQUIRED - SCHEDULING TO NOTIFY
LOC 2-3: 8827 & 8847 PORTAGE RD
LOC 4-6: 8824 & 8910 PORTAGE RD AND 2206 FOREST DR
8. COMPLEXITY FACTORS: CONGESTION, FLAGGER, ROCK, UTILITIES.

4
INSTALL
4/C-350AL UG SECONDARY x145'
BORE x145'
8-TAP PEDESTAL
FIGURE 64-40-1

REMOVE
DBS
DE x5
SP5 x4
2P 50-10 KVA XFMR ASSY
WR x12
UG SERVICE RISER
BROKEN DOWN GUY

NOTES
TOP EXISTING POLE 1' ABOVE COMM LINES: TO BE REMOVED @ LATER DATE

SPECTRUM TO TRANSFER OFF POLE

SUBSTATION WD NO.
AUSTIN 0243

CIRCUIT CKT NO.
LONG LAKE 02

TLM NUMBER # OF RODS OHMS
51112334

CE STAKING REQ'D ☒ Yes ☐ No

FORESTRY REQ'D ☒ Yes ☐ No

THDPY22 FOREST DR (OH)
CM NO. 100007182785

ORDER TYPE MAT. TYPE NOTIFICATION NUMBER DESIGN NUMBER ORDER NUMBER

ECNC RLO 1064942320 11489137
ECNC RLU 1065167894 11489138
ECNC RSO 1066120182 11494373
ERET OHL 1065187002 11489212

METER ORDER NUMBER METER NUMBER READ METER LOCATION

JOB PURPOSE:
CITY OF PORTAGE IS INSTALLING NEW TRAFFIC LIGHTS AT FOREST DR AND PORTAGE RD. CONSUMERS TO RELOCATE POLES AND LINES TO ACCOMMODATE.

UPSTREAM SECTIONALIZING DEVICE: 932-DS

LOCATION: ACROSS FROM 8516 PORTAGE RD

CONSUMERS ENERGY CONTACTS

DEPARTMENT NAME NUMBER

COORDINATOR DESIGNER ANDRE TAYLOR MICHAEL BERTAPPELLE

KALAMAZOO CO PORTAGE TWP T 03S R 11W SEC. 23

TO: Honorable Mayor and City Council

FROM: Pat McGinnis, City Manager

SUBJECT: Temporary Ambulance Services Agreement – Life EMS, Inc.

SUPPORTING PERSONNEL: Nicholas Arnold, Director of Public Safety - Police / Fire Chief

ACTION RECOMMENDED: Approve a temporary agreement between the City of Portage and Life EMS, Inc. for designated 9-1-1 ambulance services and authorize the City Manager to execute all necessary documents on behalf of the city.

In October 2017, the City of Portage entered into a contract with Coloma Emergency Ambulance, Inc. dba Pride Care Ambulance for the purpose of providing ambulance services to the City of Portage. This initial contract was executed for a three-year (3) term, renewable for five (5) additional one-year (1) periods. After this agreement went into effect, the Charter Township of Texas, and the Charter Township of Comstock both became signatories on the agreement.

Throughout the more than five years that this contract was in place, the Portage Department of Public Safety, in cooperation with the Office of the City Manager and the City Attorney, worked closely with Pride Care Ambulance executives to ensure that both the City of Portage and Pride Care Ambulance were meeting the terms of the contract. Despite our efforts, major breaches of contract were identified, resulting in the Portage Department of Public Safety making notifications, verbally and in writing, to the Pride Care CEO outlining numerous breaches of contract related to call processing times and call turnover rates.

In both January and February 2023, major breaches to the contract continued on the part of Pride Care, with no resolution. As a result, on March 1, 2023, the City of Portage, the Charter Township of Texas, and the Charter Township of Comstock made a notification to Coloma Emergency Ambulance, Inc. dba Pride Care Ambulance that all three municipalities would terminate the agreement with Pride Care, effective March 1, 2023, at 11:59 p.m.

On March 2, 2023, at 12:00 a.m., Life EMS, Inc. began providing dedicated 9-1-1 ambulance services for the City of Portage, the Charter Township of Texas, and the Charter Township of Comstock to prevent any gaps in services. A temporary agreement has been created to formally maintain services provided by Life EMS, Inc. until such time as a long-term agreement can be reached.

Since transferring dedicated 9-1-1 ambulance services to Life EMS, Inc., the initial service data to the City of Portage has seen improved call processing times and a significant drop in call turnover. Turnover rates in December and January under the prior ambulance provider were 5.61% and 4.16%, as compared to the initial turnover data from Life EMS of .61% for March 2023. Through the partnership with Life EMS, it is anticipated that response numbers will continue to improve and will reflect compliance within the 90th percentile.

It is recommended that City Council Approve a temporary agreement between the City of Portage and Life EMS, Inc. for designated 9-1-1 ambulance services and authorize the City Manager to execute all necessary documents.

FUNDING: N/A

Attachments: 1. Life EMS Agreement - rev 4.3.2023

**AMBULANCE AGREEMENT
BY AND BETWEEN
THE CITY OF PORTAGE AND LIFE EMS AMBULANCE**

This Agreement is made this _____ day of April 2023, hereinafter referred to as the “Effective Date”, by and between the CITY OF PORTAGE, a municipality, hereinafter referred to as “the City,” and Life EMS, Inc., a Michigan corporation, hereinafter referred to as “Provider.”

WHEREAS, the citizens of the City require an ambulance service, and the City desires to exercise and discharge its non-proprietary governmental function and provide the continuation of advanced life support ambulance services to the citizens of the City, and Provider desires to provide these advanced life support ambulance services to the citizens as users of its services on an exclusive basis.

THEREFORE, it is mutually agreed that the following terms shall bind the parties in consideration for services to be rendered:

1. **TERM AND TERMINATION** - The parties shall be bound by this Agreement for a period of six (6) months from the Effective Date, during which time both parties will work to develop a long-term agreement. This Agreement shall automatically renew for additional six (6) month terms, unless replaced by the aforementioned long-term agreement or unless terminated by either party at the end of a term by giving sixty (60) days written notice prior to the terms conclusion.
2. **SERVICE** - Provider agrees to be the primary provider of emergency medical services at the Advanced Life Support Level (ALS) hereinafter referred to as “Services,” to the citizens of the geographical area described. The level of care described as “emergency medical service” shall be that as defined in Part 207 of the Michigan. Public Health Code, PA 368 of 1978, as amended PA 179 of 1990, et seq., and regulations promulgated thereunder. The Services shall be provided on an as-needed, twenty-four hour basis, seven days a week, during the term of this Agreement specified under Section 1.
3. **GEOGRAPHICAL AREA** - Provider shall provide these Services to individuals, hereinafter referred to as “users,” in the City of Portage, Comstock Charter Township and/or Texas Charter Township, State of Michigan.
4. **INDEMNIFICATION** - Provider shall indemnify and hold harmless City and City’s employees, agents, directors and officers against all liability arising out of, or resulting from any third party claim, suit, action or proceeding arising out of or resulting from (i) the failure of Provider or any of its agents, employees or contractors, to comply with the terms of this Agreement or any applicable law; or (ii) any injury, loss, claim or damages arising from the negligent or intentional actions or omissions of Provider or an agent, employee, director, officer or contractor of the Provider.

City shall indemnify and hold harmless provider and provider’s employees, agents, directors and officers against all liability arising out of, or resulting from any third party claim, suit, action or proceeding arising out of or resulting from (i) the failure of City or any of its agents, employees or contractors, to comply with the terms of this Agreement or any applicable law; or (ii) any injury, loss, claim or damages arising from the negligent or intentional actions or omissions of City or an agent, employee, director, officer or contractor of the City.

5. MISCELLANEOUS PROVISIONS. This Agreement may be executed in one or more counterparts, each of which shall be deemed to be an original and all of which together shall constitute one and the same instrument. Signatures of the parties hereto transmitted by facsimile or electronic shall be deemed to be their original signatures for all purposes. This Agreement shall be binding upon and inure to the benefit of the parties hereto. No party to this Agreement may assign its rights under this Agreement to any other person without obtaining the written permission of the other parties in advance. This Agreement constitutes the entire agreement among the parties to it and supersedes any prior understanding or agreement with respect to the transactions contemplated. Only a written instrument executed by all the parties to it may amend this Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first written above.

LIFE EMS AMBULANCE

E-SIGNED by Mark Meijer
on 2023-04-13 15:36:07 GMT

Mark Meijer, CEO

CITY OF PORTAGE

Patrick McGinnis, City Manager

**COMSTOCK TOWNSHIP
DEPARTMENT OF FIRE & RESCUE**

E-SIGNED by Scott Hess
on 2023-04-13 16:26:14 GMT

Scott Hess, Superintendent

**CHARTER TOWNSHIP OF
TEXAS FIRE DEPARTMENT**

E-SIGNED by Erik J. Wilson
on 2023-04-13 16:49:05 GMT

Erik J. Wilson, Superintendent

Approved as to Form:

E-SIGNED by Catherine Kaufman
on 2023-04-03 20:58:37 GMT

Catherine Kaufman, City of Portage Attorney

TO: Honorable Mayor and City Council

FROM: Pat McGinnis, City Manager

SUBJECT: MDOT Contract No. 23-5152 (South Westnedge Avenue, Melody Avenue to Centre Avenue)

SUPPORTING PERSONNEL: Kendra Gwin, Director of Transportation & Utilities

ACTION RECOMMENDED: Approve Contract No. 23-5152 between the Michigan Department of Transportation and the City of Portage for improvements on South Westnedge Avenue from Melody Avenue to Centre Avenue and adopt a Resolution authorizing the City Manager to sign all documents related to the contract on behalf of the city.

Major street reconstruction projects are selected based on pavement condition, average daily traffic, federal aid eligibility, as well as potential development activities. The proposed FY 2022–2023 Capital Improvement Program budget includes funding for the South Westnedge Avenue Project. The project consists of milling and resurfacing of the existing roadway and replacement of traffic signals at Centre Avenue, the replacement of a 4-foot wide sidewalk with a 5-foot wide sidewalk on the east side of South Westnedge Avenue, and the removal of a pedestrian island in front of the Portage Central campus. The installation of a pedestrian crossing will be added in a new location that will include flashing beacons. The existing non-motorized asphalt trail will be removed and replaced with a 10-foot-wide concrete trail along the west side of South Westnedge Avenue. Trail replacement and storm drainage improvements south of Portage Central Elementary, along with removal of the pedestrian island and replacement of the traffic signals will be completed in the 2023 construction season. Due to reconstruction of Portage Central Elementary, resurfacing of the roadway and remainder of the trail improvements will be completed after the new elementary school building is constructed.

On March 22, 2022, Abonmarche Consultants, Incorporated, was awarded an engineering service contract for design and construction engineering for this project. Because the project is partially funded by Federal Surface Transportation funding, the Michigan Department of Transportation (MDOT) is involved as a facilitator. The construction bid opening by MDOT was held on May 5, 2023. MDOT requires that an agreement with the local government agency be executed prior to construction award. The estimated total cost of the project is \$1,650,000 with \$500,000 in Federal Infrastructure Program Congressional Directed Spending funds and the remaining \$1,150,000 being financed through the Municipal Street Fund. The total cost of the first phase is \$896,500. Pending approval of the contract with MDOT, construction will commence in June 2023 with the first phase of construction being completed this fall.

It is recommended that City Council approve Contract #23-5152 between the Michigan Department of Transportation and the City of Portage for improvements of South Westnedge Avenue from Melody Avenue to Centre Avenue and adopt a Resolution authorizing the City Manager to sign all documents related to the contract on behalf of the city.

FUNDING: Sufficient funding is available in the FY 2022-2023 Capital Improvement Program budget.

Attachments: 1. Resolution 23-5152

CITY OF PORTAGE
RESOLUTION

At a regular meeting of the Council of the City of Portage, Kalamazoo County, Michigan,
held at the City Hall in said City on the _____ day of _____, 2023 at 7:00 p.m.,
local time.

PRESENT: _____

ABSENT: _____

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

RESOLVED, that the City Council for the City of Portage does hereby authorize the City
Manager, Patrick McGinnis, to sign all documents related to Contract No. 23-5152 between the
City of Portage and the Michigan Department of Transportation. This contract is for the
construction improvements on South Westnedge Avenue from Melody Avenue to Centre
Avenue.

ADOPTED: YEAS:

NAYS:

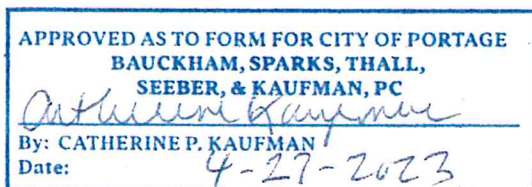
ABSENT:

Erica L. Eklov, City Clerk

CERTIFICATION

I hereby certify this _____ day of _____, 2023 that the foregoing is a
true and complete copy of the original on file in my office.

Erica L. Eklov, City Clerk



TO: Honorable Mayor and City Council

FROM: Pat McGinnis, City Manager

SUBJECT: Bond Issuance Authorization and Debt Management Policy

SUPPORTING PERSONNEL: Grant Taylor, Deputy Director of Treasury/Revenue

ACTION RECOMMENDED: Adopt:

- a. the Resolution to Authorize the Issuance of Capital Improvement Bonds, Series 2023 Bond Resolution; and
- b. the proposed Debt Management Policy.

The issuance of bonds in an amount of up to \$6,000,000 is proposed as a funding mechanism to pay for projects programmed in the 2022-2028 Capital Improvement Program (CIP). In Fiscal Year 2022-2023, \$6.938 million in debt principal will be retired. With the addition of the new debt, total debt will decrease by \$.938 million to an overall balance of \$55.394 million.

The City Administration does not anticipate final bonding to reach the maximum bonding of \$6,000,000 and expects to bond closer to \$5,000,000. In this case, the overall debt balance would be reduced by another \$1,000,000.

The attached bond resolution facilitates the legal process required to issue the bond for funding the Fiscal Year 2022-2023 CIP projects. The resolution was prepared by the city's Bond Counsel, Roger Swets.

In addition to the resolution is the proposed formalization of the City of Portage Debt Management Policy. As the name implies, this document establishes the policies and procedures for issuing and managing city debt. This policy has been utilized previously as an internal document and was crafted using Government Finance Officers Association best practices and industry standards. It is believed that formal City Council policy adoption may help improve S&P ratings and financial stability. One provision to point out is the inclusion of a maximum debt level of \$65 million. Should the need arise to exceed this maximum, the policy document can be revisited.

Therefore, it is recommended that City Council adopt the Resolution to Authorize the Issuance of Capital Improvement Bonds, Series 2023 Bond Resolution, and adopt the proposed Debt Management Policy.

FUNDING: N/A

Attachments:

1. Bond Issuance Resolution
2. Debt Management Policy FINAL

**CITY OF PORTAGE
(Kalamazoo County, Michigan)**

Resolution No. _____

**RESOLUTION TO AUTHORIZE ISSUANCE OF
CAPITAL IMPROVEMENT BONDS, SERIES 2023
(GENERAL OBLIGATION LIMITED TAX)**

Minutes of a regular meeting of the City Council of the City of Portage, Kalamazoo County, Michigan, held in the City Hall, 7900 South Westnedge Avenue, Portage, Michigan, on May 9, 2023, at 7:00 p.m., local time.

PRESENT: _____

ABSENT: _____

The following resolution was offered by Member _____ and supported by Member _____:

WHEREAS, pursuant to Act 34, Public Acts of Michigan, 2001, as amended (“Act 34”), the City of Portage (the “City”) has the authority to issue bonds to pay the costs of any capital improvement items; and

WHEREAS, the City desires to plan, design, acquire, and construct certain capital improvements, including without limitation, improvements to the City’s Street Systems, including, without limitation, right of way acquisition, base construction and reconstruction, paving and repaving, storm sewer and drainage improvements, including without limitation, curb and gutter, signage, restoration; improvements to the City’s sidewalk system including without limitation, constructing, reconstructing and repairing sidewalks; bikeway and trailway improvements, including without limitation constructing, reconstructing and repairing bikeways and trailways; public safety improvements and acquisitions, including without limitation, acquisition of a public safety server, acquisition of fire radio equipment and conversion, fire station facility improvements; public facilities, including without limitation, property acquisition, public works facilities improvements, parks and recreation improvements, including without limitation, park improvements and renovations, park trail improvements, pickleball facilities; and other capital improvements the City shall determine to make (the “Improvements”); and

WHEREAS, the Improvements will enable the City to provide more efficient and better quality public services to City residents; and

WHEREAS, to finance the cost of making the Improvements, the City Council deems it necessary to borrow the sum of not to exceed \$6,000,000 and to issue its Capital Improvement

Bonds, Series 2023 (General Obligation Limited Tax) therefor pursuant to the provisions of Act 34.

NOW, THEREFORE, BE IT HEREBY RESOLVED as follows:

1. NECESSITY. It is necessary for the public health, safety, and welfare of the City to make the Improvements and issue bonds of the City, pursuant to Act 34, to finance the Improvements.

2. ESTIMATED COST - PERIOD OF USEFULNESS. The cost of the Improvements to be financed, including the payment of engineer's fees, legal and financial expenses and other expenses incident to the financing of the Improvements, which is currently estimated not to exceed \$6,000,000 is hereby approved and confirmed, and the estimated period of usefulness of the Improvements is determined to be in excess of 10 years.

3. ISSUANCE OF BONDS. To defray a portion of the cost of the Improvements, including legal, engineering, financial, and other expenses, the City shall issue its bonds known as "Capital Improvement Bonds, Series 2023 (General Obligation Limited Tax)" (the "Bonds") in the aggregate principal sum of not to exceed \$6,000,000 as finally determined by the Authorized Officer (defined below) at the time of sale. The balance of the cost of the Improvements, if any, shall be paid by grants or funds appropriated by the City.

4. BOND TERMS. The Bonds shall be issued in fully registered form as to both principal and interest, in the denomination of \$5,000 each, or any whole multiple thereof. The Bonds shall be numbered consecutively in the order of their registration, shall be dated the date of delivery or such other date approved by the Authorized Officer, and shall be payable serially or as term bonds on July 1 as determined by the Authorized Officer at the time of sale. The Bonds shall bear interest as determined by the Authorized Officer, payable semiannually on the first (1st) day of January and July of each year, commencing January 1, 2024. The Authorized Officer may alter or determine the bond terms within the parameters of this resolution as hereafter provided.

5. PAYMENT OF PRINCIPAL AND INTEREST. Both principal of and interest on the Bonds shall be payable in lawful money of the United States of America to the person appearing on the Bond registration books as the registered owner thereof. Payment of principal on the Bonds shall be made at the principal office of the Paying Agent (defined below), upon surrender of the Bonds. Payment of interest on the Bonds shall be paid to the registered owner at

the address as it appears on the registration books as of the determination date. Initially, the determination date shall be the date as of the fifteenth (15th) day of the month prior to the payment date for each interest payment; however, the determination date may be changed by the City to conform to market practice.

6. PLEDGE OF FULL FAITH AND CREDIT, GENERAL OBLIGATION. The City hereby pledges its limited tax, full faith and credit, general obligation for the prompt payment of the principal of and interest on the Bonds as and when due. Each year, the City shall be obligated, as a first budget obligation, to advance money from its general funds to pay the principal of and interest on the Bonds as they become due. In the event there are insufficient moneys for the payment of principal of and interest on the Bonds, the City shall levy a tax on all taxable property in the City for the prompt payment of principal and interest on the Bonds, which tax shall be limited as to rate and amount by applicable constitutional, statutory, and charter limitations on the taxing power of the City.

7. PRIOR REDEMPTION.

(a) Mandatory Redemption. Principal designated as a term bond maturity shall be subject to mandatory redemption, in whole or in part, by lot, at par plus accrued interest, on the redemption dates and in the amounts determined by the Authorized Officer. When term bonds are purchased by the City and delivered to the Paying Agent for cancellation or are redeemed in a manner other than by mandatory redemption, the principal amount of the term bonds affected shall be reduced by the principal amount of the Bonds so redeemed in the order determined by the City.

(b) Optional Redemption. The Bonds shall be subject to optional redemption prior to maturity as determined by the Authorized Officer at the time of sale.

(c) Notice of Redemption. Notice of redemption of Bonds shall be given by mail to the Registered Owners of the Bonds to be redeemed not less than thirty (30) days prior to the date fixed for redemption, addressed to the Registered Owner at the registered address shown on the registration books of the City maintained by the Paying Agent. Bonds so called for redemption shall not bear interest after the date fixed for redemption, provided funds are on hand with the Paying Agent to redeem the same. So long as the book-entry-only system remains in effect, the Paying Agent will give notice to Cede & Co., as nominee of the Depository Trust

Company, New York, New York (“DTC”), and only Cede & Co. will be deemed to be a holder of the Bonds.

8. PAYING AGENT AND REGISTRATION.

(a) Appointment of Paying Agent. From time to time the Authorized Officer shall designate and appoint a paying agent, transfer agent and bond registrar (the “Paying Agent”) and is authorized to remove the Paying Agent and appoint a successor Paying Agent. The initial Paying Agent shall be appointed by the Authorized Officer. In the event of a change in the Paying Agent, notice shall be given in writing, by certified mail, to each Registered Owner not less than sixty (60) days prior to the next interest payment date. The Paying Agent shall keep the official books for the recordation of the Registered Owners of the Bonds.

(b) Book-Entry-Only. At the option of the original purchaser, the Bonds may be issued initially in book-entry-only form as one fully registered bond per maturity and will be registered in the name of Cede & Co., as bondholder and nominee for DTC. If this option is selected, DTC will act as securities depository for the Bonds, purchase of the Bonds will be made in book-entry-only form, in the denomination of \$5,000 or any integral multiple thereof, and purchasers will not receive certificates representing their interest in Bonds purchased. Payment of principal and interest will be made by the Paying Agent to DTC. While the Bonds are held in book-entry-only form, then the Bonds shall be transferred in accordance with the procedures established by DTC. So long as the Bonds are registered to DTC or another bond depository, the Paying Agent or bond registrar shall have no responsibility with respect to such transfers. The Authorized Officer shall have the authority from time to time to appoint a successor depository trustee to serve in the place of DTC. While the Bonds are issued in book-entry-only form the Paying Agent shall serve as paying agent only. The Authorized Officer is authorized to sign a Blanket Issuer Letter of Representations or any other related document on behalf of the City in such form approved by the Authorized Officer.

(c) Discontinuance of Book-Entry-Only. In the event the book-entry-only system is not chosen or is discontinued, the following provisions would apply to the Bonds. Registration of the Bonds shall be recorded in the registration books of the City kept by the Paying Agent. Bonds may be transferred only by submitting the same to the Paying Agent, together with a satisfactory instrument of transfer signed by the Registered Owner or his legal representative

duly authorized in writing, after which a new Bond or Bonds shall be issued by the Paying Agent to the transferee (new registered owner) in denominations of \$5,000 or any integral multiple thereof, in the same outstanding aggregate principal amount as the Bond submitted for transfer. No transfer of Bonds shall be valid unless and until recorded on the bond registration books in accordance with the foregoing. The person in whose name any bond is registered may for all purposes, notwithstanding any notice to the contrary, be deemed and treated by the City and the Paying Agent as the absolute owner thereof, and any payment of principal and interest on any Bond to the Registered Owner thereof shall constitute a valid discharge of the City's liability upon such Bond to the extent of such payment. No Bond shall be transferred less than fifteen (15) days prior to an interest payment date nor after the Bond has been called for redemption. So long as the Bonds are registered to DTC or another bond depository, the Paying Agent, acting as bond registrar, shall have no responsibility with respect to such transfers.

9. BOND FORM. The Bonds shall be substantially in the form attached hereto as Exhibit A, and incorporated herein, with such changes as are recommended by the City's Bond Counsel and approved by the officers of the City signing the Bonds, whose signature thereon shall be conclusive evidence of such approval.

10. EXECUTION OF BONDS. The Mayor or the Mayor Pro Tem and the Clerk or the Deputy Clerk of the City are hereby authorized and directed to sign the Bonds, either manually or by facsimile signature, on behalf of the City. Upon execution, the Bonds shall be delivered to the purchaser thereof upon receipt of the purchase price in accordance with the accepted bid therefor, plus the accrued interest, if any, to the date of delivery.

11. BONDS MUTILATED, LOST OR DESTROYED. If any Bond shall become mutilated, the City, at the expense of the holder of the Bond, shall execute, and the Paying Agent shall authenticate and deliver, a new Bond of like tenor in exchange and substitution for the mutilated Bond, upon surrender to the Paying Agent of the mutilated Bond. If any Bond issued under this Resolution shall be lost, destroyed or stolen, evidence of the loss, destruction or theft may be submitted to the Paying Agent and, if this evidence is satisfactory to both the City and the Paying Agent and indemnity satisfactory to the Paying Agent shall be given, the City, at the expense of the owner, shall execute, and the Paying Agent shall thereupon authenticate and deliver, a new Bond of like tenor, which shall bear the statement required by Act 354, Public Acts

of Michigan, 1972, as amended, or any applicable law hereafter enacted, in lieu of and in substitution for the Bond so lost, destroyed or stolen. If any such Bond shall have matured or shall be about to mature, instead of issuing a substitute Bond, the Paying Agent may pay the same without surrender thereof.

12. BOND PAYMENT FUND. For payment of principal of and interest on the Bonds, there shall be established and maintained a debt service fund for the Bonds (the “Bond Payment Fund”). The accrued interest, if any, and capitalized interest, if any, received at the time of delivery of the Bonds and such amount of any premium determined by the Authorized Officer shall be placed into the Bond Payment Fund. The City shall budget annually a sufficient amount to pay the annual principal of and interest on the Bonds and deposit such amount in the Bond Payment Fund as needed to make payments of principal and interest as they become due. Moneys in the Bond Payment Fund shall be expended solely for payment of principal and interest on the Bonds that first come due. Any monies remaining in the Bond Payment Fund after the annual payments of principal of and interest on the Bonds shall be transferred to the General Fund and shall no longer be pledged hereunder.

13. CONSTRUCTION FUND. Prior to delivery and sale of the Bonds, there shall be established a construction fund (the “Construction Fund”). After deducting the sums that are required to be deposited in the Bond Payment Fund, the balance of the proceeds of the Bonds shall be deposited into the Construction Fund. The moneys on deposit in the Construction Fund from time to time shall be used solely for the purpose for which the Bonds were issued. Any unexpended balance shall be used for such purposes as allowed by law. Any monies remaining in the Construction Fund after payment of all such costs shall be transferred to the Bond Payment Fund. After completion of the Improvements and disposition of any remaining Bond proceeds, pursuant to the provisions of this Section, the Construction Fund shall be closed.

14. INVESTMENT OF FUNDS. Moneys in the funds and accounts established herein may be invested by the City as allowed by law subject to the limitations imposed by arbitrage regulations and Section 148 of the Internal Revenue Code of 1986, as amended (the “Code”).

15. DEPOSITORY AND FUNDS ON HAND. Monies in the several funds and accounts maintained pursuant to this Resolution may be kept in one or more accounts at financial institutions designated by resolution of the City, and if kept in one account, the monies shall be

allocated on the books and records of the City in the manner and at the times provided in this Resolution.

16. ADDITIONAL BONDS. In accordance with the provisions of Act 34, the City reserves the right to issue additional bonds, which shall be of equal standing and priority with the Bonds.

17. SALE OF BONDS. The Bonds shall be sold at a public sale. The Authorized Officer shall set the date and time for sale of the Bonds, which date shall be at least seven (7) days after the publication of the official notice of sale. The Authorized Officer of the City shall cause notice of the sale of the Bonds to be published in *The Bond Buyer*, which notice shall be in substantially the form attached hereto as Exhibit B, with such changes as are approved by the Authorized Officer. Following the receipt of such bids, the Authorized Officer is authorized to award the Bonds to the successful bidder therefor or reject all bids and negotiate the sale of the Bonds with a selected Purchaser.

18. AUTHORIZED OFFICER. Notwithstanding any other provision of this Resolution, the Mayor, the City Manager and the Finance Director of the City, or any one of them acting alone or any number of them acting together (the “Authorized Officer”) are authorized within the limitations set forth below to determine the title of the Bonds, the interest rate or rates, maximum interest rate, amount of discount or premium, amount of maturities, principal amount, amount of good faith deposit, if any, denominations, dates of issuance, dates of maturities, interest payment dates, optional and mandatory redemption rights, and term bond options. The authority granted to the Authorized Officer by this Section, is subject to the following limitations:

- (a) The par amount of the Bonds shall not exceed \$6,000,000.
- (b) The Bonds shall not be sold at a price that would make the true interest cost of the Bonds exceed 6.00% per annum.
- (c) The final maturity date of the Bonds shall not be later than July 1, 2033.
- (d) The Bonds shall not be sold at a price that is less than 98% of the par value of the Bonds.

The Authorized Officer is hereby authorized for and on behalf of the City, without further City Council approval, to: (a) approve the circulation of a preliminary and a final Official Statement describing the Bonds; (b) award the bid for the sale of the Bonds; (c) purchase municipal

bond insurance, if considered necessary, as additional security for the bondholders; (d) apply to rating agencies for a rating on the Bonds; (e) make any elections or designations relating to the Bonds pursuant to the Code; and (f) do all other acts and take all other necessary procedures required to effectuate the sale, issuance and delivery of the Bonds.

Approval by the City of the matters delegated in this section or any other sections may be evidenced by execution or approval of such documents by the Authorized Officer. The Authorized Officer, together with the Clerk and Treasurer are authorized to execute any documents or certificates necessary to complete the transaction, including, but not limited to, any applications including applications to the Michigan Department of Treasury (including an Application for State Treasurer's Approval to Issue Long-Term Securities, applications for waivers, and the submission of any supporting or related documents), any certificates, receipts, orders, agreements, instruments, security reports, a blanket letter of representations, and any certificates relating to federal or state securities laws, rules or regulations, and to pay any fees required by the State of Michigan. The Authorized Officer shall have the power to approve such policies as deemed necessary to comply with federal securities and tax laws, which shall be binding on the City.

19. DEFEASANCE. 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 or mandatory redemption, the principal of, premium, if any, and interest on the bonds, shall be deposited in trust, this Resolution shall be defeased and the owners of the bonds shall have no further rights under this Resolution except to receive payment of the principal of, premium, if any, and interest on the bonds from the cash or securities deposited in trust and the interest and gains thereon and to transfer and exchange bonds as provided herein.

20. TAX COVENANT. The City covenants to comply with all requirements of the Code necessary to assure that the interest on the bonds will be and will remain excludable from gross income for federal income tax purposes. The Authorized Officer and other appropriate officials of the City are authorized to do all things necessary (including the making of such covenants of the City as shall be appropriate) to assure that the interest on the Bonds will be and will remain excludable from gross income for federal income tax purposes.

21. QUALIFIED TAX-EXEMPT OBLIGATION. The City reasonably anticipates that the amount of qualified tax-exempt obligations that will be issued by the City and all subordinate entities during the calendar year 2023 shall not exceed \$10,000,000. The City hereby designates the Bonds as “qualified tax-exempt obligations” for purposes of Code Section 265(b)(3)(B).

22. MUNICIPAL BOND INSURANCE. The Authorized Officer is hereby authorized to acquire municipal bond insurance to enhance the marketability of the Bonds. If the City acquires municipal bond insurance from a municipal bond insurer (the “Insurer”), the Authorized Officer, the Clerk, the Treasurer and the Finance Director or any one of them, are hereby authorized to take all actions, including the payment of membership fees of a mutual insurance company, and to execute any documents, certificates, orders, applications, agreements, conditions, covenants, or other instruments necessary to effectuate the issuance of the policy of bond insurance, including, but not limited to the execution of an order or agreement containing such provisions as the Insurer may require with respect to the insurance and the Insurer, which shall be binding on the City in the same manner as if contained herein.

23. CONTINUING DISCLOSURE. The City agrees 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) on or prior to the date determined by the Authorized Officer, commencing with the first fiscal year ending after the issuance of the Bonds, certain annual financial information and operating data, including audited financial statements for the preceding fiscal year (or if audited financial statements are not available, unaudited financial statements), generally consistent with certain information that was contained or cross-referenced in the Official Statement relating to the Bonds, (b) timely notice of the occurrence of certain material events with respect to the Bonds, and (c) timely notice of a failure by the City to provide the required annual financial information on or before the date specified in (a) above.

24. OFFICIAL STATEMENT. The Preliminary Official Statement relating to the Bonds is hereby authorized and approved with such changes, completions, and revisions as the Authorized Officer shall approve. The Authorized Officer, the Clerk, and the Treasurer of the City, or any of them, are hereby authorized and directed to approve, execute, and deliver the Official Statement on behalf of the City with such changes or modifications as they deem

necessary in order to assure that the statements therein are true, and that it does not contain any untrue statement or material fact and does not omit a material fact necessary in order to make the statements, in light of the circumstances under which they were made, not misleading.

25. BOND COUNSEL. The firm of Dickinson Wright PLLC is hereby approved as bond counsel to the City for the issuance of the Bonds and the Authorized Officer is authorized to sign an engagement letter with bond counsel with such fee as is provided in the financial report prepared for the Bonds. The City acknowledges that Dickinson Wright PLLC represents a number of financial institutions in public finance matters, including financial institutions that may potentially purchase the Bonds, and consents to Dickinson Wright PLLC's representation of the City as bond counsel and, and waives any conflict of interest arising from such representation of a financial institution or underwriter that may purchase the Bonds in other matters not involving the City.

26. MUNICIPAL ADVISOR. MFCI, LLC is appointed as registered municipal advisor for the issuance of the Bonds.

27. RESOLUTION SUBJECT TO MICHIGAN LAW. The provisions of this Resolution are subject to the laws of the State of Michigan.

28. SECTION HEADINGS. The section headings in this Resolution are furnished for convenience of reference only and shall not be considered to be a part of this Resolution.

29. SEVERABILITY. If any section, paragraph, clause or provision of this Resolution shall be held invalid, the invalidity of such section, paragraph, clause, or provision shall not affect any of the other provisions of this Resolution.

30. CONFLICT. Except as provided above, all resolutions or parts thereof, insofar as the same may be in conflict herewith, are hereby repealed; provided, that the foregoing shall not operate to repeal any provision thereof, the repeal of which would impair the obligation on the Bonds.

31. EFFECTIVE DATE OF RESOLUTION. This Resolution is determined by the City Council to be immediately necessary for the preservation of the peace, health, and safety of the City and shall be in full force and effect from and after its passage.

YEAS: _____

NAYS: _____

ABSTAIN: _____

RESOLUTION DECLARED ADOPTED.

Erica Eklov, Clerk
City of Portage

CERTIFICATION

I hereby certify that the foregoing is a true and complete copy of a Resolution adopted by the City Council of the City of Portage, Kalamazoo County, Michigan, at a meeting held on May 9, 2023, the original of which is on file in my office. The public notice of the meeting was given pursuant to and in compliance with Act 267, Public Acts of Michigan, 1976, as amended.

Dated: May 9, 2023

Erica Eklov, Clerk

Approved as to Form: By: _____
Roger A. Swets

EXHIBIT A

No. ____

**UNITED STATES OF AMERICA
STATE OF MICHIGAN
COUNTY OF KALAMAZOO**

**CITY OF PORTAGE
CAPITAL IMPROVEMENT BONDS, SERIES 2023
(GENERAL OBLIGATION LIMITED TAX)**

<u>Interest Rate</u>	<u>Date of Maturity</u>	<u>Date of Original Issue</u>	<u>CUSIP No.</u>
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July 1, ____

Registered Owner: Cede & Co.

Principal Amount:

The City of Portage, Kalamazoo County, Michigan (the “City”), acknowledges itself indebted and, for value received, hereby promises to pay to the Registered Owner specified above, or registered assigns, the Principal Amount specified above, in lawful money of the United States of America, on the Date of Maturity specified above, unless prepaid prior thereto as hereinafter provided, with interest thereon from the Date of Original Issue specified above or such later date to which interest has been paid, until paid, at the Interest Rate per annum specified above, payable on the first day of January and July of each year beginning January 1, 2024, except as the provisions hereinafter set forth with respect to redemption of this Bond prior to maturity may become applicable hereto.

This Bond is one of a total authorized issue of bonds of even date and like tenor except as to date of maturity, amount and rate of interest, numbered in order of registration, aggregating the principal sum of \$_____ issued in accordance with the provisions of Act 34 of the Public Acts of Michigan of 2001, as amended (“Act 34”) and a resolution adopted by the City Council on May 9, 2023, for the purpose of paying the cost of designing, acquiring, and constructing certain capital improvements, including but not limited to improvements to and for the City’s Street Systems, including, without limitation, right of way acquisition, base construction and reconstruction, paving and repaving, storm sewer and drainage improvements, including without limitation, curb and gutter, signage, restoration; improvements to the City’s sidewalk system including without limitation, constructing, reconstructing and repairing sidewalks; bikeway and trailway improvements, including without limitation constructing, reconstructing and repairing bikeways and trailways; public safety improvements and acquisitions, including without limitation, acquisition of a public safety server, acquisition of fire radio equipment and conversion, fire station facility improvements; public facilities, including without limitation, property acquisition, public works facilities improvements, parks and recreation improvements, including without limitation, park improvements and renovations, park trail improvements, pickleball facilities; and other capital improvements the City shall determine to make (the “Improvements”).

The City has pledged the limited tax, full faith, credit and resources of the City for the prompt payment of the principal of and interest on the Bonds, in which event the City may levy a tax on all taxable property in the City for the payment of principal and interest on the Bonds, which tax shall be limited as to rate and amount by applicable constitutional, statutory, and charter limitations on the taxing power of the City. The City reserves the right to issue additional bonds in accordance with the provisions of Act 34 that shall be of equal standing and priority with the Bonds.

Principal of this Bond is payable at the principal office of The Huntington National Bank, Grand Rapids, Michigan, or such other Paying Agent as the City may hereafter designate (the “Paying Agent”) by notice mailed to the Registered Owner not less than sixty (60) days prior to the next interest payment date. Interest on this Bond is payable to the Registered Owner of record as of the fifteenth (15th) day of the month preceding the payment date as shown on the registration books of the City maintained by the Paying Agent, by check or draft mailed to the Registered Owner at the registered address.

Bonds or portions of Bonds maturing on July 1, 20__ (the “Term Bonds”) are subject to mandatory redemption prior to maturity in part, by lot, on each July 1, commencing July 1, 20__, and will be redeemed at the par value thereof plus accrued interest to the redemption date on July 1 of each of the following years in the amounts as follows:

Redemption Date

Principal Amount

Term Bonds maturing on July 1, 20___, purchased by the City and delivered to the Paying Agent for cancellation or that are redeemed in a manner other than by mandatory redemption, shall reduce the principal amount of the Term Bonds subject to mandatory redemption by the amount of the Bonds so redeemed, in the order determined by the City.

Bonds maturing on or before July 1, 20___, shall not be subject to redemption prior to maturity. Bonds maturing on or after July 1, 20___, are subject to redemption prior to maturity as a whole or in part, at the option of the City, in such order as the City shall determine, on any dates, on or after July 1, 20___. Bonds called for redemption shall be redeemed at the par value thereof and accrued interest to the date of redemption, without a premium.

Notice of the call of any Bonds for redemption shall be given by first class mail not less than thirty (30) days prior to the date fixed for redemption, to the Registered Owner at the registered address. Bonds called for redemption shall not bear interest after the date fixed for redemption, provided funds are on hand with the Paying Agent to redeem such Bonds. Bonds shall be called for redemption in multiples of \$5,000, and Bonds of denominations of more than \$5,000 shall be treated as representing the number of bonds obtained by dividing the denomination of the Bond by \$5,000, and such Bonds may be redeemed in part. The notice of redemption of Bonds redeemed in part shall state that upon surrender of the Bond to be redeemed, a new Bond or Bonds in aggregate principal amount equal to the unredeemed portion of the Bond surrendered shall be issued to the Registered Owner thereof. So long as the book-entry-only system remains in effect, the Paying Agent will give notice to Cede & Co., as nominee of The Depository Trust Company, a New York corporation, only, and only Cede & Co. will be deemed to be a holder of the Bonds.

This Bond shall be registered in the name of the Registered Owner on the registration books kept by the Paying Agent and such registration noted hereon, and thereafter no transfer shall be valid unless made upon the registration books and likewise noted hereon. This Bond is exchangeable at the request of the Registered Owner hereof, in person or by his attorney duly authorized in writing, at the office of the Paying Agent, but only in the manner, subject to the limitations and at his sole expense, for other bonds of an equal aggregate amount, upon surrender of this Bond to the Paying Agent. Upon such transfer, a new registered bond or bonds of the same series and the same maturity of authorized denomination will be issued to the transferee in exchange therefor.

The City has designated the Bonds as “qualified tax-exempt obligations” for purposes of Section 265(b)(3)(B) of the Internal Revenue Code of 1986, as amended.

It is hereby certified and recited that all acts, conditions and things required by law, precedent to and in the issuance of this Bond, exist and have been done and performed in regular and due time and form as required by law and that the total indebtedness of the City including this Bond, does not exceed any constitutional, statutory or charter limitation.

IN WITNESS WHEREOF, the City of Portage, Kalamazoo County, Michigan, by its City Council, has caused this Bond to be signed, by the manual or facsimile signatures of its Manager and its Clerk, all as of the _____ day of _____, 2023.

Patricia M. Randall, Mayor

Erica Eklov, Clerk

CERTIFICATE OF REGISTRATION AND AUTHENTICATION

This Bond is one of the City of Portage \$_____ Capital Improvement Bonds, Series 2023 (General Obligation Limited Tax) and has been registered in the name of the Registered Owner designated on the face thereof in the bond register maintained for the City.

THE HUNTINGTON NATIONAL BANK

Authentication Date: _____

As Paying Agent/Bond Registrar/Transfer Agent

WRONGFUL USE OF CERTIFICATE

Unless this certificate is presented by an authorized representative of The Depository Trust Company, a New York corporation ("DTC"), to the City or its agent for registration of transfer, exchange, or payment, and any certificate issued is registered in the name of Cede & Co. or in such other name as is requested by an authorized representative of DTC (and any payment is made to Cede & Co. or to such other entity as is requested by an authorized representative of DTC), ANY TRANSFER, PLEDGE, OR OTHER USE HEREOF FOR VALUE OR OTHERWISE BY OR TO ANY PERSON IS WRONGFUL inasmuch as the registered owner hereof, Cede & Co., has an interest herein.

ASSIGNMENT

For value received, the undersigned hereby sells, assigns and transfers unto _____

(please print or type social security number or taxpayer identification number and name and address of transferee)

the within bond and all rights thereunder, and does hereby irrevocably constitute and appoint _____ attorney to transfer the within bond on the books kept for registration thereof, with full power of substitution in the premises.

Dated: _____, 20__

Notice: The signature to this assignment must correspond with the name as it appears upon the face of the within bond in every particular, without alteration or enlargement or any change whatever. When assignment is made by a guardian, trustee, executor or administrator, an officer of a corporation, or anyone in a representative capacity, proof of his/her capacity to act must accompany the bond.

In the presence of: _____

Signature(s) must be guaranteed by an eligible guarantor institution participating in a Securities Transfer Association recognized signature guaranty program.

Signature Guaranteed: _____

EXHIBIT B

OFFICIAL NOTICE OF SALE

\$4,535,000*

*(subject to adjustment as described below)

**CITY OF PORTAGE
COUNTY OF KALAMAZOO, STATE OF MICHIGAN
CAPITAL IMPROVEMENT BONDS, SERIES 2023
(GENERAL OBLIGATION LIMITED TAX)**

BIDS: for the purchase of the above bonds (the “Bonds”) will be received by an agent of the undersigned at the Municipal Advisory Council of Michigan (the “MAC”), on the ____ day of ____, 2023, until ____ o’clock, __.M., Eastern Daylight time, at which time said bids will be read. Bids may be submitted to the MAC by email only at munibids@macmi.com, but no bid will be received after the time for receiving bids specified above and the bidder bears all risks of transmission failure.

IN THE ALTERNATIVE: Bids may be submitted electronically via PARITY pursuant to this Notice on the same date and until the same time, but no bid will be received after the time for receiving bids specified above. To the extent any instructions or directions set forth in PARITY conflict with this Notice, the terms of this Notice shall control. For further information about PARITY, potential bidders may contact the Municipal Advisor (identified below) or PARITY at (212) 849-5021.

BOND DETAILS: The bonds will be fully registered bonds of the denomination of \$5,000 each or any integral multiple thereof not exceeding the aggregate principal amount for each maturity at the option of the purchaser thereof, dated the date of their delivery, and will bear interest from their date payable on January 1, 2024, and semiannually thereafter.

The bonds will mature on the first day of July as follows (provided, however, that the amounts set forth below may be adjusted as described under “ADJUSTMENT IN PRINCIPAL AMOUNT” herein):

YEAR	AMOUNT	YEAR	AMOUNT
2024		2029	
2025		2030	
2026		2031	
2027		2032	
2028		2033	

TERM BOND OPTION: Bidders shall have the option of designating bonds as serial bonds or term bonds, or both. The bid must designate whether each of the principal amounts shown above

represents a serial maturity or a mandatory redemption requirement for a term bond maturity. There may be more than one term bond designated. In any event, the principal amount scheduled for maturity in the years shown above shall be represented by either serial bond maturities or mandatory redemption requirements, or a combination of both. Any such designation must be made within (1) hour of sale.

PRIOR REDEMPTION:

A. **MANDATORY REDEMPTION.** Bonds designated as term bonds shall be subject to mandatory redemption at par and accrued interest on the dates and in the amounts corresponding to the annual principal maturities hereinbefore set forth. The bonds or portions of bonds to be redeemed shall be selected by lot.

B. **OPTIONAL REDEMPTION.** Bonds maturing on or before July 1, 20__, are not subject to redemption prior to maturity. Bonds maturing on and after July 1, 20__, are subject to redemption prior to maturity, at the option of the City of Portage (the “City”), in such order as determined by the City, in whole or in part at any time on and after July 1, 20__, in integral multiples of \$5,000 and by lot within a maturity, at par value of the bond or portion of the bond called to be redeemed, plus accrued interest to the redemption date, without a premium.

C. **NOTICE OF REDEMPTION.** Not less than thirty (30) days’ notice of redemption shall be given by first class mail to the registered owner at the registered address. Failure to receive notice of redemption shall not affect the validity of the proceedings for redemption. Bonds or portions of bonds called for redemption shall not bear interest after the redemption date; provided, funds are on hand with the bond registrar and paying agent to redeem the bonds called for redemption.

INTEREST RATE AND BIDDING DETAILS: The bonds shall bear interest at a rate or rates not exceeding 6% per annum, to be fixed by the bids therefor, expressed in multiples of 1/8 or 1/100 of 1%, or both. The interest rate borne by bonds maturing in any one year shall not be less than the interest rate borne by bonds maturing in the preceding year. The interest on any one bond shall be at one rate only and all bonds maturing in any one year must carry the same interest rate. No proposal for the purchase of less than all of the bonds or at a price less than 100% of their par value will be considered.

BOOK-ENTRY-ONLY: At the option of the purchaser, the bonds will be issued in book-entry-only form as one fully-registered bond per maturity and will be registered in the name of Cede & Co., as nominee for The Depository Trust Company (“DTC”), New York, New York. DTC will act as securities depository for the bonds. Purchase of the bonds 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 bonds purchased. The bonds will not be issued in book-entry form if the purchaser is willing to accept physical delivery of the bonds in denominations equal to the aggregate principal amount for each maturity and, if necessary, transfer the bonds only in such denominations. If requested by the purchaser of the bonds and determined by an authorized officer of the City, the bonds may be issued in the form of a single bond with an exhibit containing the principal maturity amounts and applicable interest rates and due dates. The book-entry-only system is described further in the preliminary official statement for the bonds.

BOND REGISTRAR AND PAYING AGENT: The bonds shall be payable as to principal in lawful money of the United States upon surrender thereof at the corporate trust office of The Huntington National Bank, Grand Rapids, Michigan, the bond registrar and paying agent. Interest shall be paid to the registered owner of each bond as shown on the registration books at the close of business on the 15th day of the calendar month preceding the month in which the interest payment is due. Interest shall be paid when due by check or draft drawn upon and mailed by the bond registrar and paying agent to the registered owner at the registered address. As long as DTC, or its nominee Cede & Co., is the registered owner of the bonds, payments will be made directly to such registered owner. Disbursement of such payments to DTC participants is the responsibility of DTC and disbursement of such payments to the beneficial owners of the bonds is the responsibility of DTC participants and indirect participants as described in the preliminary official statement for the bonds. The City from time to time as required may designate a successor bond registrar and paying agent. Alternatively, a City official may serve as bond registrar and paying agent for the bonds.

PURPOSE AND SECURITY: The bonds are to be issued pursuant to the provisions of Act 34, Public Acts of Michigan, 2001, as amended, to defray all or part of the cost of various capital improvements to the public facilities of the City. The full faith and credit of the City have been pledged to the prompt payment of the principal of and interest on the bonds. The principal of and interest on the bonds are payable as a first budget obligation of the City from its general funds. The ability of the City to raise such funds is subject to applicable constitutional, statutory, and charter limitations on the taxing power of the City.

ADJUSTMENT IN PRINCIPAL AMOUNT: Following receipt of bids and prior to final award, the City reserves the right to increase or decrease the principal amount of the bonds. Such adjustment, if necessary, will be made in increments of \$5,000, and may be made in one or more maturities. The purchase price will be adjusted proportionately to the adjustment in the principal amount of the bonds, but the interest rates specified by the successful bidder will not change. The successful bidder may not withdraw its bid as a result of any changes made as provided in this paragraph.

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 \$_____ and payable to the order of the City will be required of the successful bidder. If a check is used, it must accompany the bid. If a wire transfer is used, the successful bidder is required to wire its good faith deposit to the City not later than Noon, Eastern Standard Time, on the next business day following the sale using the wire instructions provided by the Municipal Advisor. The good faith deposit will be applied to the purchase price of the Bonds. 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 deposit, and checks of the unsuccessful bidders will be promptly returned to such bidder's representative or by registered mail. The good faith check of the successful bidder will be cashed and payment for the balance of the purchase price of the Bonds shall be made at the closing.

AWARD OF BONDS: The bonds will be awarded to the bidder whose bid produces the lowest true interest cost to the City. True interest cost shall be computed by determining the annual interest rate (compounded semiannually) necessary to discount the debt service payments on the bonds from the payment dates thereof to _____, 2023, and to the price bid.

LEGAL OPINION: Bids shall be conditioned upon the approving opinion of Dickinson Wright PLLC, attorneys of Grand Rapids, Michigan, the original of which will be furnished without expense to the purchaser at the delivery of the bonds. The fees of Dickinson Wright PLLC for services rendered in connection with such approving opinion are expected to be paid from bond proceeds. Except to the extent necessary to issue its approving opinion as to the validity of the above bonds, Dickinson Wright PLLC has made no inquiry as to any financial information, statements or material contained in any financial documents, statements, or materials that have been or may be furnished in connection with the authorization, issuance, or marketing of the bonds and, accordingly, will not express any opinion with respect to the accuracy or completeness of any such financial information, statements or materials. By submitting a bid, the bidder consents to the engagement of Dickinson Wright PLLC as bond counsel to the City notwithstanding any representation of the bidder by such firm in matters unrelated to the issuance of the Bonds.

TAX MATTERS: The approving opinion will include an opinion to the effect that under existing law, as enacted and construed on the date of the initial delivery of the bonds, the interest on the bonds is excluded from gross income for federal income tax purposes under Section 103 of the Internal Revenue Code of 1986, as amended (the “Code”). Interest on the Bonds is not an item of tax preference for purposes of the federal alternative minimum tax imposed on individuals; however, interest on the Bonds is included in the “adjusted financial statement income” of certain corporations that are subject to the federal corporate alternative minimum tax under Section 55 of the Code. The opinion set forth above will be subject to the condition that the City comply with all requirements of the Code, that must be satisfied subsequent to the issuance of the bonds in order that interest thereon be (or continue to be) excluded from gross income for federal income tax purposes. Failure to comply with certain of such requirements could cause the interest on the bonds to be included in gross income retroactive to the date of issuance of the bonds. The City has covenanted to comply with all such requirements. The opinion will express no opinion regarding other federal tax consequences arising with respect to the bonds.

The City has designated the bonds as “qualified tax-exempt obligations” for purposes of Section 265(b)(3) of the Code.

If the successful bidder will obtain a municipal bond insurance policy or other credit enhancement for the bonds in connection with their original issuance at its expense, the successful bidder will be required, as a condition of delivery of the bonds, to certify that the premium therefor will be less than the present value of the interest expected to be saved as a result of such insurance or other credit enhancement. The form of an acceptable certificate will be provided by bond counsel.

In addition, the approving opinion of bond counsel will include an opinion to the effect that under existing law, as enacted and construed on the date of the initial delivery of the bonds, the bonds and the interest thereon are exempt from all taxation by the State of Michigan or a political

subdivision thereof, except estate taxes and taxes on gains realized from the sale, payment, or other disposition thereof.

ISSUE PRICE: The winning bidder shall assist the City in establishing the issue price of the bonds and shall execute and deliver to the City at Closing an “issue price” or similar certificate setting forth the reasonably expected initial offering price to the public or the sales price or prices of the bonds, together with the supporting pricing wires or equivalent communications, substantially in the form provided by Bond Counsel, with such modifications as may be appropriate or necessary, in the reasonable judgment of the winning bidder, the City, and Bond Counsel. All actions to be taken by the City under this Notice of Sale to establish the issue price of the bonds may be taken on behalf of the City by the City’s Municipal Advisor and any notice or report to be provided to the City may be provided to the City’s Municipal Advisor.

The City intends that the provisions of Treasury Regulation Section 1.148-1(f)(3)(i) (defining “competitive sale” for purposes of establishing the issue price of the bonds) will apply to the initial sale of the bonds (the “competitive sale requirements”) because:

- (1) the City is disseminating this Notice of Sale to potential underwriters in a manner that is reasonably designed to reach potential underwriters;
- (2) all bidders shall have an equal opportunity to bid;
- (3) the City anticipates receiving bids from at least three underwriters of municipal bonds who have established industry reputations for underwriting new issuances of municipal bonds; and
- (4) the City anticipates awarding the sale of the bonds to the bidder who submits a firm offer to purchase the bonds at the lowest true interest cost, as set forth in this Notice of Sale.

Any bid submitted pursuant to this Notice of Sale shall be considered a firm offer for the purchase of the bonds, as specified in the bid.

In the event that competitive sale requirements are satisfied, the winning bidder shall be expected to certify as to the reasonably expected initial offering price of the bonds to the public.

In the event that the competitive sale requirements are not satisfied, the City shall so advise the winning bidder. The City shall treat (i) the first price at which 10% of a maturity of the bonds (the “10% test”) is sold to the public as of the sale date as the issue price of that maturity and (ii) the initial offering price to the public as of the sale date of any maturity of the bonds not satisfying the 10% test as of the sale date as the issue price of that maturity (the “hold-the-offering-price rule”), in each case applied on a maturity-by-maturity basis (and if different interest rates apply within a maturity, to each separate CUSIP number within that maturity). The winning bidder shall advise the City if any maturity of the bonds satisfies the 10% test as of the date and time of the award of the bonds. Any maturity of the bonds (and if different interest rates apply within a maturity, to each separate CUSIP number within that maturity) that does not satisfy the 10% test as of the date and time of the award of the bonds shall be subject to the hold-the-offering-price rule. Bids will not be subject to cancellation in the event that any maturity of the bonds is subject to the hold-the-offering-price rule. Bidders should prepare their bids on the assumption that some

or all of the maturities of the bonds will be subject to the hold-the-offering-price rule in order to establish the issue price of the bonds.

By submitting a bid, each bidder confirms that, except as otherwise provided in its bid, it has an established industry reputation for underwriting new issuances of municipal bonds, and, further, the winning bidder shall (i) confirm that the underwriters have offered or will offer the bonds to the public on or before the date of award at the offering price or prices (the “initial offering price”), or at the corresponding yield or yields, set forth in the bid submitted by the winning bidder and (ii) agree, on behalf of the underwriters participating in the purchase of the bonds, that the underwriters will neither offer nor sell unsold bonds of any maturity to which the hold-the-offering-price rule shall apply to any person at a price that is higher than the initial offering price to the public during the period starting on the sale date and ending on the earlier of the following:

- (1) the close of the fifth (5th) business day after the sale date; or
- (2) the date on which the underwriters have sold at least 10% of that maturity of the bonds to the public at a price that is no higher than the initial offering price to the public.

The winning bidder shall promptly advise the City when the underwriters have sold 10% of that maturity of the bonds to the public at a price that is no higher than the initial offering price to the public, if that occurs prior to the close of the fifth (5th) business day after the sale date.

The City acknowledges that, in making the representation set forth above, the winning bidder will rely on (i) the agreement of each underwriter to comply with the hold-the-offering-price rule, as set forth in an agreement among underwriters and the related pricing wires, (ii) in the event a selling group has been created in connection with the initial sale of the bonds to the public, the agreement of each dealer who is a member of the selling group to comply with the hold-the-offering-price rule, as set forth in a selling group agreement and the related pricing wires, and (iii) in the event that an underwriter is a party to a retail distribution agreement that was employed in connection with the initial sale of the bonds to the public, the agreement of each broker-dealer that is a party to such agreement to comply with the hold-the-offering-price rule, as set forth in the retail distribution agreement and the related pricing wires. The City further acknowledges that each underwriter shall be solely liable for its failure to comply with its agreement regarding the hold-the-offering-price rule and that no underwriter shall be liable for the failure of any other underwriter, or of any dealer who is a member of a selling group, or of any broker-dealer that is a party to a retail distribution agreement to comply with its corresponding agreement regarding the hold-the-offering-price rule as applicable to the bonds.

By submitting a bid, each bidder confirms that: (i) any agreement among underwriters, any selling group agreement and each retail distribution agreement (to which the bidder is a party) relating to the initial sale of the bonds to the public, together with the related pricing wires, contains or will contain language obligating each underwriter, each dealer who is a member of the selling group, and each broker-dealer that is a party to such retail distribution agreement, as applicable, to comply with the hold-the-offering-price rule if and for so long as directed by the winning bidder and as set forth in the related pricing wires, and (ii) any agreement among underwriters relating to the initial sale of the bonds to the public, together with the related pricing wires, contains or will contain language obligating each underwriter that is a party to a retail distribution agreement to be

employed in connection with the initial sale of the bonds to the public to require each broker-dealer that is a party to such retail distribution agreement to comply with the hold-the-offering-price rule if and for so long as directed by the winning bidder or such underwriter and as set forth in the related pricing wires.

Sales of any bonds to any person that is a related party to an underwriter shall not constitute sales to the public for purposes of this Notice of Sale. Further, for purposes of this Notice of Sale:

(i) “public” means any person other than an underwriter or a related party,

(ii) “underwriter” means (A) any person that agrees pursuant to a written contract with the City (or with the lead underwriter to form an underwriting syndicate) to participate in the initial sale of the bonds to the public and (B) any person that agrees pursuant to a written contract directly or indirectly with a person described in clause (A) to participate in the initial sale of the bonds to the public (including a member of a selling group or a party to a retail distribution agreement participating in the initial sale of the bonds to the public),

(iii) a purchaser of any of the bonds is a “related party” to an underwriter if the underwriter and the purchaser are subject, directly or indirectly, to (A) at least 50% common ownership of the voting power or the total value of their stock, if both entities are corporations (including direct ownership by one corporation of another), (B) more than 50% common ownership of their capital interests or profit interests, if both entities are partnerships (including direct ownership by one partnership of another), or (C) more than 50% common ownership of the value of the outstanding stock of the corporation or the capital interests or profit interests of the partnership, as applicable, if one entity is a corporation and the other entity is a partnership (including direct ownership of the applicable stock or interests by one entity of the other), and

(iv) “sale date” means the date that the bonds are awarded by the City to the winning bidder.

OFFICIAL STATEMENT: An electronic copy of the City’s preliminary official statement relating to the bonds may be obtained by contacting the Municipal Advisor at the address referred to below. The preliminary official statement is in a form deemed final by the City for purposes of paragraph (b)(1) of SEC Rule 15c2-12 (the “Rule”), but is subject to revision, amendment, and completion in a final official statement.

After the award of the bonds, the City will provide on a timely basis up to 100 copies of a final official statement, as that term is defined in paragraph (f)(3) of the Rule, at the City’s expense in sufficient quantity to enable the successful bidder or bidders to comply with paragraphs (b)(3) and (b)(4) of the Rule and the rules of the Municipal Securities Rulemaking Board. Requests for such additional copies of the final official statement shall be made to the Municipal Advisor at the address set forth below within 24 hours of the award of the bonds.

CONTINUING DISCLOSURE: In order to assist bidders in complying with paragraph (b)(5) of the Rule, the City will undertake, pursuant to a resolution adopted by its governing body and a continuing disclosure certificate, to provide annual reports and notices of certain events. A description of these undertakings is set forth in the preliminary official statement and will also be set forth in the final official statement.

CUSIP: It is anticipated that CUSIP numbers will be printed on the bonds, at the option of the purchaser, but neither the failure to print CUSIP numbers nor any improperly printed CUSIP numbers shall be cause for the purchaser to refuse to take delivery of and pay the purchase price for the bonds. The CUSIP Service Bureau's charge for the assignment of CUSIP identification numbers shall be paid by the purchaser.

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, Public Acts of Michigan, 2012; MCL 129.311 et seq.

DELIVERY OF BONDS: The City will furnish bonds ready for execution at its expense. Bonds will be delivered without expense to the purchaser through DTC in New York, New York, or such other place or by such other means as may be agreeable to the purchaser and the City. The usual closing documents, including a continuing disclosure certificate (to the extent that the purchaser is subject to the Rule) and a certificate that no litigation is pending affecting the issuance of the bonds, will be delivered at the time of the delivery of the bonds. If the bonds are not tendered for delivery by twelve o'clock noon, prevailing Eastern Time, on the 45th day following the date of sale, or the first business day thereafter if said 45th day is not a business day, the successful bidder on that day, or any time thereafter until delivery of the bonds, may withdraw its proposal by serving notice of cancellation, in writing, on the undersigned, in which event the City shall return the good faith deposit. Payment for the bonds shall be made in Federal Reserve Funds.

THE RIGHT IS RESERVED TO REJECT ANY OR ALL BIDS.

MUNICIPAL ADVISOR: Further information regarding the bonds may be obtained from MFCL, LLC, 435 Union Street, Milford, Michigan 48381. Telephone: (313) 782-3011.

Erica Eklov, Clerk
City of Portage

Purpose

The purpose of this Debt Management Policy for the City of Portage is to assist in the prudent administration of any debt required to support the City's capital improvement objectives. This policy provides for a common understanding between elected officials and staff regarding debt financing. Following a Debt Management Policy will be beneficial to the maintenance of the credit rating of the City of Portage. The Policy will help to facilitate sound Capital Budgeting and Capital Expenditure procedures.

Capital Financing

The City will consider the use of debt financing only for one-time capital improvement projects and only under the following circumstances:

- When the project's useful life will exceed the term of the financing.
- When project revenues or specific resources will sufficiently service the long-term debt.

Debt financing is inappropriate for recurring purposes, such as current operating and maintenance expenditures. Long-term debt will be issued to purchase or construct capital improvements or equipment with a five-year minimum expected life. The term of any bond issue will be at most the useful life of the capital project or equipment for which the borrowing is intended.

The City will prepare and update annually a five-year Capital Improvement Program (CIP) to be approved by City Council. The CIP will be developed with an analysis of the City's infrastructure and other capital needs and the financial impact of the debt service required to meet the recommended financing plan. The City will strive to fund CIP projects on a cash basis whenever possible. As part of the CIP, an analysis will be prepared for each long-term financing which analyzes the impact on current and future budgets for debt service.

The City shall assess all financial alternatives for funding capital improvements before issuing debt. Cash and fund balance reserves shall be used whenever possible. Post-closing analysis of the General Fund ending fund balance shall be done to ascertain the fiscal year-end amount of fund balance above the target established by City Council policy. If there is a reasonable excess of resources, the budget shall be amended as appropriate to allow excess funds to transfer to capital improvements.

The City will use the following criteria to evaluate pay-as-you-go versus long-term financing in funding capital improvements:

Factors Favoring Pay-As-You-Go Financing

- Current revenues and adequate fund balances are available or project phasing can be accomplished.
- Existing debt levels adversely affect the City's credit rating.
- Market conditions are unstable or present difficulties in marketing.

Factors Favoring Long-Term Financing

- Revenues available for debt service are deemed sufficient and reliable to market long-term financings with investment-grade credit ratings.
- The project securing the financing is of the type which will support an appropriate credit rating.
- Market conditions present favorable interest rates and demand for City financings.
- State or federal requirements mandate a project, and resources are insufficient or unavailable.
- The project is immediately required to meet or relieve capacity needs; current resources are insufficient or unavailable.
- The life of the project or asset to be financed is ten years or longer.

Debt Types

General Obligation Debt - There are two types of general obligation debt, limited tax general obligation debt, and unlimited tax general obligation debt. Limited tax general obligation debt pledges the full faith and credit of the taxing power of the City of Portage within the existing tax rate limits. Unlimited tax general obligation debt pledges the full faith and credit of the taxing power of the City of Portage beyond the existing tax rate limits provided the voters have given their approval.

Revenue Bonds - Revenue Bonds will be considered when a definable revenue source can be used to pay the debt. Revenue Bonds normally must meet certain bond covenants stipulated by the lender. Certain debt ratios, such as pledged revenues to debt service, may also be required to be reported.

Special Assessment Bonds – The Municipal Finance Act provides that the total debt in Special Assessment Bonds, which would require that the City pledge its full faith and credit, shall not exceed twelve percent of the assessed valuation of the taxable property of the City, not shall such bonds be issued over three percent in any calendar year unless voted. The Special Assessment Bonds percentage is in addition to the above-described ten percent limit provided in Act 279, Public Acts of Michigan of 1909, as amended.

Short-Term Borrowings – Short-term borrowings such as bonds or tax anticipation notes must normally be authorized by State Statute. These notes are limited to up to one year in duration.

Derivatives – The use of derivatives is not permitted.

Debt Management

The City will comply with all applicable U.S. Internal Revenue Service and U.S. Treasury arbitrage requirements for bonded indebtedness to preserve the tax-exempt status of such bonds. The Finance Director shall be responsible for reviewing non-arbitrage and tax compliance. They will ensure Bond Counsel examines any applicable restrictions at issuance and reexamines such restrictions if changes occur in the timing, scope, or use of the bond proceeds.

Bond issues should be planned to minimize the frequency of issuance, thereby ensuring the lowest possible issuance costs.

General obligation bonds will be amortized on a level principal basis to the extent practical, and revenue bonds will be amortized on a level debt service basis to the extent practical, considering the forecasted available pledged revenues.

The City's preferred method of sale of bonds is via competitive sale to underwriters. If deemed advantageous, the City may sell bonds via a negotiated sale, private placement, or other methods.

The City will follow a policy of full disclosure on every financial report and bond prospectus (Official Statement), and will strive to maintain positive ongoing communications with bond rating agencies about its financial condition.

Structuring practices for bonds issued will be as follows:

- The maximum term will be 20 years,
- The debt service pattern shall be as equal principal payments when possible. Payments will be adjusted when a debt issue funds the purchase of assets with a life shorter than 20 years so that an amount equal to the value of the short-lived assets matures within the expected life of those assets.
- Optional redemption (callability) for bonds with higher interest rates shall be sought.
- Interest on bonds issued in advance of construction of large projects may be capitalized and principal deferred to coincide with project completion.

Debt Issuance Practices - Bonds will be sold on a competitive basis unless it is in the best interest of the City of Portage to conduct a negotiated sale or private placement. Competitive sales will be the preferred method. Negotiated sales and private placements may occur when selling bonds for the defeasance of existing debt, for current or advanced debt refunding, to save on issuance costs of a minor debt issue, or for other appropriate reasons.

The City of Portage will engage a financial advisor and bond counsel to assist in debt issuance. The financial advisor and bond council will be selected through a competitive quality-based selection process for a period of 5 years.

The City of Portage will obtain a rating from at least one nationally recognized rating agency.

Capital Improvements should be developed in conjunction with the appropriate capital improvement budgeting process. The maximum term of the debt issued to fund capital projects shall be, at most, the anticipated useful life of the asset.

The City of Portage shall comply with all continuing disclosure requirements. The Finance Director shall ensure the Bond Counsel completes the continuing disclosure requirement within the required timeframe.

The City of Portage shall report to the Michigan Department of Treasury within 15 business days of completing the issuance of any security. The Finance Director shall ensure the Bond Counsel has completed the report, as required by Public Act 470 of 2002.

Refinancings

General Guidelines - Periodic reviews of all outstanding debt will be undertaken to determine refinancing opportunities. Refinancing will be considered (within federal tax law constraints) under the following conditions:

- There is a net economic benefit.
- It is needed to modernize covenants that are adversely affecting the City's financial position or operations.
- The City wants to reduce the principal outstanding in order to achieve future debt service savings, and it has available working capital to do so from other sources.

Standards for Economic Savings - In general, refinancing for economic savings will be undertaken whenever net present value savings of at least five percent (5%) of the refunded debt, or at least \$100,000, can be achieved.

- A refinancing that produces net present value savings of less than five percent will be considered on a case-by-case basis, provided that the present value savings are at least three percent (3%) of the refunded debt;
- A refinancing with savings of less than three percent (3%), or with negative savings will not be considered unless there is a compelling public policy objective.

Debt Limits

General Purpose Debt Capacity. The City will carefully monitor its debt levels issued to finance general-purpose (non-utility) projects. Because general-purpose debt capacity is limited, general-purpose debt financing should be restricted to high-priority projects for two key reasons:

- a. Funds borrowed for a project today are not available to fund other projects tomorrow.
- b. Funds committed for debt repayment today are not available to fund operations in the future.

Enterprise Fund Debt Capacity. The City will set enterprise fund rates at levels needed to fully cover debt service requirements and operations, maintenance, administration, and capital improvement costs. The ability to afford new debt for enterprise operations will be evaluated as an integral part of the City's rate review and setting process.

Act 279, Public Acts of Michigan of 1909, as amended, provides that the net indebtedness of the City shall not exceed ten percent of all assessed valuations as shown by the last preceding assessment roll of the City. In accordance with Act 279, the following bonds are excluded from the computation of net indebtedness:

- Special Assessment Bonds
- Mortgage Bonds
- Motor Vehicle Highway Fund Bonds
- Revenue Bonds
- Obligations incurred for water supply, drainage, sewerage, or refuse disposal projects necessary to protect public health by abating pollution.

The City of Portage shall limit total debt and debt service payments (principal and interest) as follows:

- Total debt service to be funded from non-utility funds shall not exceed 20 percent of total net operating revenues, defined as operating revenues from the General Fund, the special revenue funds, and the applicable debt service funds.
- The total combination of all debt held by the city shall not exceed sixty-five million (\$65,000,000) without prior approval from council.

TO: Honorable Mayor and City Council

FROM: Pat McGinnis, City Manager

SUBJECT: Final Preliminary Plat (engineering plans) of The Oaks Phase 2, 7400 Montego Bay Street

SUPPORTING PERSONNEL: Peter Dame, Chief Development Officer

ACTION RECOMMENDED: Approve the Final Preliminary Plat (engineering plans) of The Oaks Phase 2, 7400 Montego Bay Street.

The Final Preliminary Plat (engineering plans) of The Oaks Phase 2 single-family residential subdivision has been submitted by Westview Capital, LLC for review. The Oaks Phase 2 proposes the construction of 50 single-family residential lots (lots 21-70) on approximately 16.9 acres. Phase 2 represents the final phase of The Oaks development.

On May 11, 2021, the Preliminary Plat of The Oaks Phase 2 was approved by the City Council subject to conditions. The details of the conditions and approvals are as follows:

- The City Council approved a block length modification request, which is an approximately 2,000-foot-long block along the east side of Live Oak Trail and the north side of Bermuda Street, as measured from the southern boundary line of Phase 2 to the intersection of Jamaica Lane and Bermuda Street. [Section 42-806.1.a](#) of the Land Development Regulations limits the length of a block to no more than 1,400 feet. Please refer to May 11, 2021, City Council meeting minutes.
- The detailed engineering plans were submitted, reviewed, and approved by the City Development Review Team. Please refer to the attached The Oaks Phase 2 Final Preliminary Plat (engineering plans).
- Lots within The Oaks Phase 2 are included in the homeowner's association. Please refer to the attached Articles III & IV of the Declaration of Restrictions for the Oaks.

Public street extensions include Live Oak Trail from Phase 1 of the Oaks to Montego Bay Street located to the south and Pebble Lane east to Sessile Circle. Construction of new public streets includes Sessile Circle and Shumard Avenue.

As part of The Oaks Phase 1, a stormwater basin was constructed at the northeast corner of the plat, and stormwater from the Holiday Village East No. 3 retention basin located at 7260 Montego Bay Street was diverted to the new stormwater basin for The Oaks Phase 1. This allows the land from the previous Holiday Village East No. 3 retention basin to be developed into buildable lots in The Oaks Phase 2. On April 12, 2022, City Council approved the deeding of city property at 7260 Montego Bay Street (commonly known as Public Infiltration Basin - Tax ID No: 00013-002-R) to the developer of The Oaks (Westview Capital, LLC). Stormwater from The Oaks Phase 2 right-of-way will be directed to the existing public stormwater basin which was constructed with The Oaks Phase 1. Please refer to the attached Reference Exhibits for Stormwater Basins and Deed of the Stormwater Basin.

It is recommended that City Council approve the Final Preliminary Plat (engineering plans) of The Oaks Phase 2, 7400 Montego Bay Street.

FUNDING: Not Applicable

- Attachments:**
1. City Council Meeting Minutes dated May 11, 2021
 2. The Oaks Phase 2 Final Preliminary Plat (engineering plans) revised April 28, 2023
 3. The Declaration of Restrictions for The Oaks
 4. Reference Exhibit for Stormwater Basins
 5. Deed of the Stormwater Basin

CITY COUNCIL MEETING MINUTES FROM MAY 11, 2021

Mayor Patricia Randall called the Regular Meeting to order at 07:03 PM. The regular meeting was held virtually as permitted by PA 228, in accordance with December 2020 Kalamazoo County Emergency Declaration. Mayor Patricia M. Randall, Mayor Pro Tem Jim Pearson, and Councilmembers Chris Burns, Lori Knapp, Vic Ledbetter, Claudette Reid, and Terry Urban were present. All members participated virtually from Portage, Michigan. Also in attendance were City Manager Joe La Margo, City Attorney Catherine Kaufman, Deputy City Manager Adam Herringa, Deputy City Manager Mike Carroll, and City Clerk Erica Eklov.

At the request of Mayor Randall, the audience observed a moment of silence to reflect on the gratitude for emergency medical services, including the Portage Public Safety Department - Fire Division, as they are vital to the life and safety of Portage. Following the moment of silence, the City Council recited the Pledge of Allegiance.

PROCLAMATIONS: Mayor Pro Tem Pearson read the National Scleroderma Month 2021 proclamation. Councilmember Knapp read the National EMS Week 2021 proclamation. Councilmember Reid read the National Mental Health Awareness Month proclamation.

CONSENT AGENDA: Mayor Randall shared where the public can access the meeting agenda and asked if any Councilmember or anyone in the audience would like an item removed from the Consent Agenda. Councilmember Urban removed Item A.5. Motion by Reid, seconded by Burns, to approve the Consent Agenda as amended. Upon a roll call vote, motion carried 7 to 0.

Approval of Minutes: Motion by Reid, seconded by Burns, to approve the minutes of the Regular Meeting of April 27, 2021; Committee of the Whole Meeting of April 27, 2021, and Pre-Council Meeting of May 11, 2021, as presented. Upon a roll call vote, motion carried 7 to 0.

Accounts Payable Register: Motion by Reid, seconded by Burns, to approve the Accounts Payable Register of May 11, 2021, as presented. Upon a roll call vote, motion carried 7 to 0.

Adoption of Bond Resolution: Motion by Reid, seconded by Burns, to adopt the Bond Resolution authorizing the sale of Capital Improvement Bonds, Series 2021, in an amount up to \$15,000,000. Upon a roll call vote, motion carried 7 to 0.

Lakeview Drive Reconstruction Project - Bid Tabulation: Motion by Reid, seconded by Burns, to award a contract to perform engineering services for the reconstruction of Lakeview Drive from South Shore Drive to Lakeview Court to Abonmarche Consultants, Incorporated, of Portage, Michigan, in an amount not exceeding \$224,700 and authorize the City Manager to execute all documents related to the contract on behalf of the city. Upon a roll call vote, motion carried 7 to 0.

Genesis PharmOptima (6710 Quality Way) Tax Abatement Application: Motion by Reid, seconded by Burns, to accept the application for an industrial tax abatement from Genesis PharmOptima for property located at 6710 Quality Way, and adopt Resolution No. 1-20 establishing a public hearing to expand Industrial Development District No. 78, and set a hearing on the Industrial Facilities Exemption Certificate at 6710 Quality Way for June 8, 2021. Upon a roll call vote, motion carried 7 to 0.

Minutes of Boards & Commissions: Motion by Reid, seconded by Burns, to accept the minutes of the Human Services Board of April 1, 2021, and the Planning Commission of April 15, 2021. Upon a roll call vote, motion carried 7 to 0.

Materials Transmitted: Motion by Reid, seconded by Burns, to accept the Materials Transmitted of April 27, 2021. Upon a roll call vote, motion carried 7 to 0.

Calendar of Meetings: Motion by Reid, seconded by Burns, to receive the Calendar of Meetings as presented. Upon a roll call vote, motion carried 7 to 0.

PUBLIC HEARINGS:

Proposed Fiscal Year 2021-2022 Budget: Mayor Randall opened the public hearing and Finance Director Lauren VanderVeen summarized the Fiscal Year 2021-22 Proposed Budget. Director VanderVeen thanked department staff for their efforts in the creation and assembly of the Budget. There being no further comments, motion by Pearson, seconded by Reid, to close the public hearing. Upon roll call vote, motion carried 7 to 0.

Following the close of the public hearing, motion by Pearson, seconded by Burns, to consider adoption of the proposed Fiscal Year 2021-2022 Budget and tax rate at the Regular City Council Meeting on May 25, 2021. Upon a roll call vote, motion carried 7 to 0.

REGULAR BUSINESS AGENDA:

Preliminary Plat of The Oaks (Phase 2), 4800 Bishop Avenue: Councilmember Urban noted the earlier plat of The Oaks Phase 1 on which he voted no citing groundwater concerns at the time and stated he still maintains those same concerns with Phase 2. Mr. Urban expressed hesitancy to support the proposed development because the area still has issues with standing water and expressed his desire to avoid a repeat of the previous issues in the Sprinkle Woods and Black Forest Drive area with water table management and the funds needed to alleviate the issues. He further described concerns with The Oaks Phase 2 design of the storm sewer and infiltration basin system.

Deputy Director Chris Forth explained the background regarding the city engineer's review and approval of the design for Phase 2. Mr. Forth stated the city continually monitors the water table and wells within the subject area and relayed recent efforts by the Kalamazoo County Drain Commission to manage water levels in the area. Mr. Forth also noted the developer's offer to existing residents on Jamaica Lane to connect into the private storm sewer system if needed to allow standing water to flow to the new storm basin to the north and new Kalamazoo County culvert under Bishop Road. Mr. Forth stated the city will be getting soil borings with each lot and relayed the developer's plans to install ground drainage around each foundation, as well as make each foundation waterproof. Transportation and Utilities Director Kendra Gwin provided further background on the recent County Drain Commission efforts to address standing water levels in the area. Councilmember Urban then asked for clarification regarding the responsible party for the maintenance of the private storm drain. Deputy Director Forth responded that the homeowners association will be responsible and the city has previously used private basins in the Osterhout area.

Site Engineer Pat Flanagan provided a summary regarding the engineering efforts with groundwater management in the area and highlighted his firm's prior efforts to remediate the groundwater in the Sprinkle Woods neighborhood following the monumental rainfall in 2008. Councilmember Urban inquired about basement levels in Phase 2 of The Oaks, as well as the scope for the study of the area's water levels. Mr. Flanagan responded with the basement level measurements and stated his firm had reviewed the past eleven years of water levels. Councilmember Urban expressed concern that the water levels are not an annual cycle but instead a decade cycle.

Councilmember Reid inquired about the existing storm pipe in the area and the height of the roads in Phase 1 and Phase 2 of The Oaks as compared to the existing neighborhood. Mr. Flanagan responded that it is a solid, watertight pipe. He further stated that Phase 1 had fill dirt brought in to

provide adequate basement levels and believes the construction of The Oaks development has a positive impact on the Jamaica Lane neighborhood, assisting with standing water management and flow to the north. There was additional debate regarding responsible parties should flooding occur in the future. Councilmember Urban closed by stating his desire that the city utilizes longer time spans to review water level trends in future developments.

Motion by Pearson, seconded by Ledbetter, to approve the Preliminary Plat of The Oaks (Phase 2), 4800 Bishop Avenue, subject to the conditions outlined in the April 9, 2021 Department of Community Development staff report. Upon a roll call vote, motion carried 5 to 2 with Councilmembers Reid and Urban voting no.

COUNCIL COMMITTEE REPORTS:

Councilmember Knapp provided an update regarding the Portage Community Center Board of Directors. She noted the Community Center was in good financial shape, having already received 50 percent of its expected year-end contributions and building renovations completed \$30,000 under budget. She also noted the Center had been able to support the first round of water shut-offs in a year by supporting eight households with the assistance of the city's Treasury Office. Councilmember Knapp closed with an update of a recent successful golf tournament held to support the Center.

Councilmember Burns provided an update regarding the Central County Transportation Authority (CCTA) Board. He stated the CCTA Board had recently approved service contracts with the local colleges, highlighting Western Michigan University's move to exclusively utilize Kalamazoo Metro for transportation. He closed by noting the CCTA would be starting its update for the Comprehensive Operational Analysis in August, including public input opportunities, with a completion date of April 2022.

Mayor Pro Tem Pearson supplemented Councilmember Burns' CCTA update and encouraged the Community Development Department to gather current workforce data regarding the Portage Road and Sprinkle Road corridors as support for bolstering additional routes in Portage for the CCTA's Comprehensive Operational Analysis.

Mayor Randall provided an update for the City Council Neighborhood and Housing Sub-Committee. She noted the approved 2020 Kalamazoo County Housing millage of \$7.1 million would begin collecting funds in October and encouraged the city to assemble an affordable housing plan funding option in Portage for presentation to the Kalamazoo County Housing Department and Board of Commissioners.

STATEMENTS OF CITIZENS:

Michael Cartier (1127 Lakeview Avenue) noted he was a resident of Portage for the past 22 years and expressed concerns with the Lake Center District Feasibility Study and Steering Committee. He expressed additional concerns with conflict of interest with Mayor Pro Tem Pearson and Councilmember Knapp serving on the Steering Committee and requested the two Councilmembers recuse themselves when the Study comes to a vote before the City Council. Mr. Cartier also noted the Steering Committee Vice-Chair, Danielle Mason-Anderson, has a conflict of interest with the city funding a potential reroute of her driveway for \$100,000. He stated there are other conflicts of interest with the other Steering Committee members in real estate, as well as the owner of The Cove restaurant benefitting from the recommended actions in the Feasibility Study. Mr. Cartier expressed concerns that private homeowners and taxpayers had not been included in the Feasibility Study or Steering Committee. He closed by stressing resolution of the conflicts of interest before the City Council vote on the Lake Center District. Mayor Randall thanked him for his comments and invited Mr. Cartier to the Open House for the Lake Center District on May 15, 2021 at Lakeview Park.

Amy Moon (715 Lakeview Avenue) asked City Council to delay the vote on the Lake Center District proposal until such a meeting can be held in person and expressed a desire for public input before the discussion of the Council. She stated there were 238 Lake Center District "Notify Me" website subscribers that had not received ample notification of the April 27 Committee of the Whole meeting. She stated there had been no other citizen interaction regarding the Lake Center District area since February 2020 at which time discussion did not include widening of the channel or drain, as well as boardwalk modifications. Mayor Randall thanked Ms. Moon for her comments and invited her to the May 15 Open House as well.

Adam Bucher (2611 Woodbine) expressed his support for the city efforts to slow down traffic in the Lake Center District area, as well as strides towards Complete Street designs and the effort to address blight. However, Mr. Bucher stated he does not support the widening of the drain between the lakes and is concerned with the traffic that will be created in the surrounding area. He also expressed concern with the wetlands in the area and wishes that the wetland near Stanley and Woodbine streets be preserved. He also opposed any forceful takings of property and strongly opposed any changes to Lakeview Park.

Mary Beth Henry (2621 Bach) thanked the City Manager and his team, including Community Outreach Coordinator Bobby Boyd, on the Hate Condemnation Resolution and wanted to relay that May is Asian American Pacific Islander month and provided history on the development of that recognition.

Adam Edlefson (912 Forest Drive) clarified Mr. Bucher's location on the lakes for the City Council and noted conversations with city representatives from the Lake Center Committee of the whole has created confusing talking points, notably with the drain. He also expressed concerns about the costs for future generations. He stated he believes the road safety improvements will be surpassed by boat traffic safety issues and expressed disappointment answers from staff and City Council thus far. Mr. Edlefson stated he felt the community members had been left out of discussions to date. He further inquired why the Steering Committee appears to be presenting the Lake Center District Feasibility Study as an all-or-nothing proposal like the decision has already been made.

Pat Cavalier (7146 Oakland Drive) highlighted three prior workshops hosted by ISAAC (Interfaith Strategy for Advocacy & Action in the Community) on the topic of the Latinx community and thanked Public Safety Chief Arnold for his attendance at those events. She then invited City Council members to attend a subsequent upcoming workshop regarding the Latinx community matters.

Julie Cartier (1127 Lakeview Avenue) stated she wanted to clarify to Mayor Randall that the Lake Center District matter is not an emotional issue for lake residents but a taxpayer issue for the entire community. Ms. Cartier echoed the earlier concerns regarding the "Notify Me" contacts and expressed additional concerns with the members of the Lake Center District Steering Committee. She relayed recent difficulty in her efforts to get feedback from staff and asked why the public comment period on the Study has a deadline of May 17, only two days after the May 15 Open House. She closed by requesting City Council extend the deadline on public comment.

STATEMENTS OF CITY COUNCIL AND CITY MANAGER.

Councilmember Burns began by congratulating the City Clerk's Office on a successful May election. He then echoed the frustrations of those citizens calling to comment regarding the notifications of city meetings and expressed a desire to improve that feature with the city. He closed by stating the Lake Center District Feasibility Study was an exciting proposal that needs better public collaboration and he hopes to improve citizen input.

Councilmember Reid thanked Finance Director VanderVeen for her work on the proposed budget in light of the second City Council Budget Session having been completed earlier that

night. Ms. Reid highlighted the evening's comments regarding fair housing and public transit encouraging collaboration with the city's Human Services Board for those matters. She then highlighted the Governor's recent announcement regarding the 55 percent state COVID-19 vaccination rate, while expressing concern with the remaining 45 percent. Councilmember Reid stressed continued caution regarding COVID-19.

Councilmember Knapp thanked the Lake Center District citizens and issued a reminder regarding the May 15th Lake Center District Open House at Lakeview Park.

Councilmember Urban assured citizens with Lake Center District concerns that the steps in the Feasibility Study are not an "all or none" endeavor and will be decided on piece-by-piece including issues such as Portage Road safety. He stated that the City Council also needed to address how to make the Lake Center District business more viable and vibrant, similar to the South Westnedge Avenue corridor but with its own Lake Center area style. Councilmember Urban then relayed that his concerns with The Oaks development due to concerns that building on every area in the city as it ages is not a viable option and there are additional issues to address.

Mayor Pro Tem Pearson echoed Councilmember Knapp's comments regarding the Lake Center District and highlighted Councilmember Urban's comment regarding the 20-year Lake Center District plan that will occur in phases over several years and that the city is simply at the feasibility stage with future City Council's deciding the next steps.

Mayor Randall began by highlighting Governor Whitmer's May 11th visit to Portage. She then complimented the Parks Department for its Friday at the Flats events and invited everyone to the Mayors' Bike Ride the morning of May 15 as part of Kalamazoo Bike Week. Mayor Randall also thanked the City Council for their efforts with the recent long meetings and closed by discussing the citizen comments regarding Lake Center District.

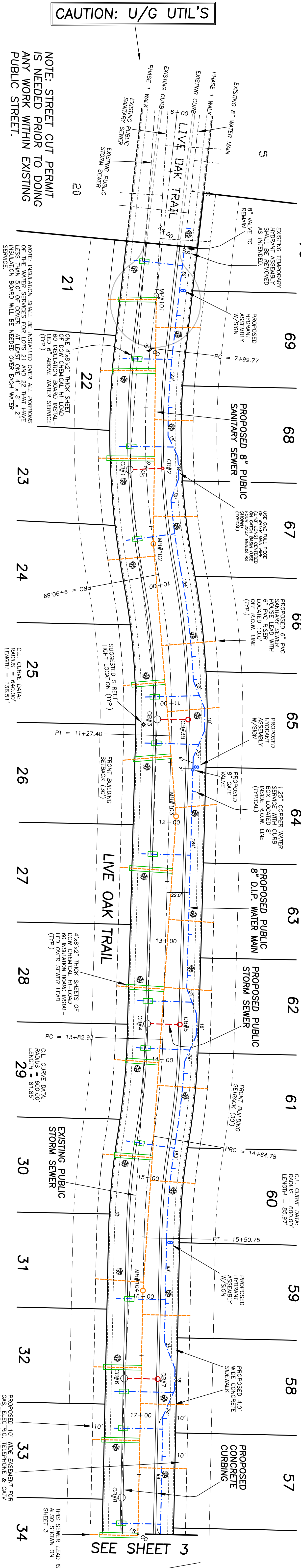
ADJOURNMENT.

Mayor Randall adjourned the meeting at 09:03 PM.

Erica L. Eklov, City Clerk

NOTE: ALL SHOWN WATER MAIN BENDS ARE 22.5° BENDS UNLESS NOTED OTHERWISE

MONUMENT ENGINEERING GROUP ASSOCIATES, INC.
CIVIL ENGINEERS-LAND SURVEYORS
1209 EAST WILKINSON AVENUE
PORTAGE, WISCONSIN 54902
269/344-6165



LEGEND

- EXISTING PUBLIC SANITARY SEWER
- PROPOSED 8" PUBLIC SANITARY SEWER
- EXISTING PUBLIC STORM SEWER
- PROPOSED PUBLIC STORM SEWER
- EXISTING PUBLIC WATER MAIN
- PROPOSED 8" PUBLIC WATER MAIN
- OR PRIVATE 1.25" COPPER WATER SERVICE
- PROPOSED 4.0" WIDE CONCRETE SIDEWALK
- PROPOSED 2.0' WIDE CONCRETE CURB
- PROPOSED LOT #
- BUILDING SETBACK LINE
- EDGE OF EASEMENT
- U/G INSULATION BOARD

GENERAL NOTES:

- 1) LIGHT POLES AND ANY UTILITY POLE/BOX SHALL BE LOCATED TO THE RIGHT OF THE PROPOSED SANITARY SEWER.
- 2) STREET MARK SIGNS SHALL BE AT LEAST 6" FROM TOP TO BOTTOM OF ACTUAL SIGN (& PLACED ATOP STOP SIGNS).
- 3) COMPLY WITH STANDARDS IN THE MUTCD (CURRENT EDITION)
- 4) U-CHANNEL POSTS REQUIRED FOR ALL SIGNS.
- 5) SIGN DESIGN & DIMENSIONS SHALL BE AS REQUIRED.
- 6) PORTAGE AS REQUIRED.
- 7) PERMITS SHALL BE OBTAINED FROM THE CITY OF PORTAGE.
- 8) TO THE COMMENCEMENT OF UTILITY INSTALLATION.
- 9) THE FIRE HYDRANT SHALL BE MAINTAINED AS REQUIRED.
- 10) FOR ON-SITE DWELLINGS, REQUIRED RADON VENTING SYSTEM TO ALSO BE A RADON SYSTEM DURING PERIODS OF HIGH GROUNDWATER. STREET LIGHTS SHALL COMPLY WITH CITY OF PORTAGE STANDARDS, AND CONSIDER ENERGY STANDARDS WITH REGARDS TO LOCATION AND LIGHT SPECIFICATION.
- 11) UNDERGROUND CABLE SHALL BE 2 FEET MIN. FROM THE PROPOSED SANITARY SEWER.
- 12) ALL NEW CONSTRUCTION PLANS SHALL BE SUBMITTED TO THE CITY UPON COMPLETION OF THE ROADWAY PROJECT.
- 13) THE STORM SEWER PIPE MUST BE CLEARED DIRECTLY TO THE STREET.
- 14) MEETING SHALL BE HELD AT CITY OF PORTAGE OFFICES.
- 15) 42-BUILD CONSTRUCTION PLANS SHALL BE SUBMITTED TO THE CITY UPON COMPLETION OF THE ROADWAY PROJECT.
- 16) THE STORM SEWER PIPE MUST BE CLEARED DIRECTLY TO THE STREET.
- 17) THE FIRE HYDRANT SHALL BE MAINTAINED AS REQUIRED.
- 18) CENTER OF THE FIRE HYDRANT IS USED TO PLACE A HYDRANT THE EXTENSION SHALL BE MAINTAINED AS REQUIRED.
- 19) THE HYDRANT PER CITY OF PORTAGE SPECIFICATIONS.

NOTE: ON LOTS WITH POOR SOILS, SOILS UNDER BASEMENT AND FOUNDATION MAY NEED REMOVAL AND REPLACEMENT WITH SANDY, GRANULAR MATERIAL. FINAL SITE GRADING SHALL BE DONE WITH CARE TO ADDRESS WATER RUNOFF IN ACCORDANCE WITH BUILDING & BLDG INSPECTOR REQUIREMENTS.

NOTE: NATURAL GAS, ELECTRIC, TELEPHONE, AND CABLE TV UNDERGROUND LINES SHALL BE 2 FEET MIN. FROM THE PROPOSED SANITARY SEWER.

NOTE: WATER MAIN FLUSHING SHALL PROVIDE A MINIMUM WATER VELOCITY OF 3.0 FEET PER SECOND IN ACCORDANCE WITH A.W.W.A. STANDARD C600.

NOTE: IT IS RECOMMENDED THAT HYDRANTS WITH 6" BURY DEPTH BE USED TO REDUCE LIKELIHOOD OF HYDRANT EXTENSIONS BEING REQUIRED.

NOTE: ALL STREET TREES SHALL BE INSTALLED AT LEAST 2.0' FROM WATER MAIN PIPE. STREET TREES SHALL COMPLY WITH SECTION 42-808.B OF THE ORDINANCE. TREE SPECIES SHALL COMPLY WITH SECTION 42-576E.2 OF THE ORDINANCE.

NOTE: WHERE WATER MAINS PASS NEAR A CATCH BASIN, THERE SHALL BE AT LEAST 10 FEET OF HORIZONTAL SEPARATION BETWEEN THE EXTERIOR OF THE STORM SEWER STRUCTURE AND THE EXTERIOR OF THE WATER MAIN PIPE.

NOTE: ALL WATER MAINS & THEIR APPURTENANCES SHALL BE INSTALLED IN ACCORDANCE WITH THE CITY OF PORTAGE SPECIFICATIONS AND A.W.W.A. STANDARD C600.

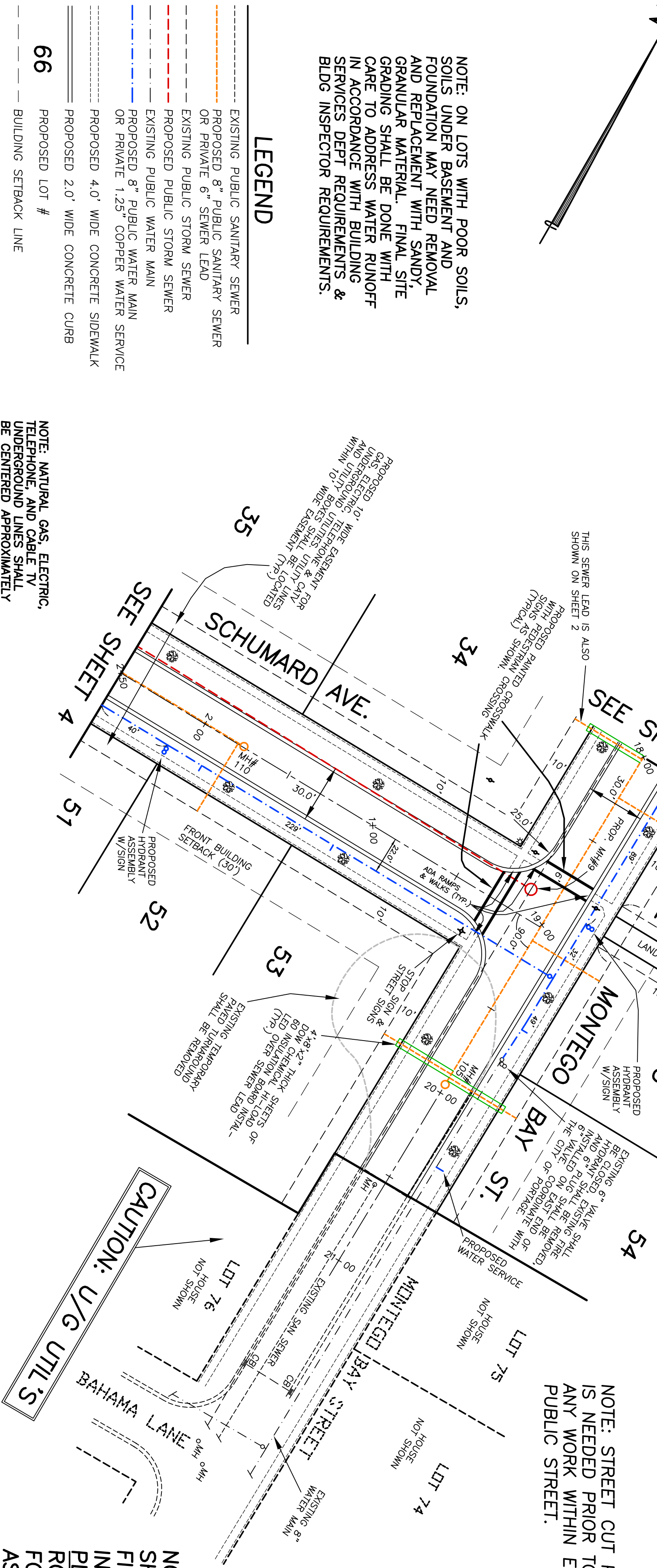
NOTE: PROPOSED WATER MAIN SHALL HAVE A MINIMUM OF 5.0' OF COVER AND A MAXIMUM OF 6.0' OF COVER AT INSTALLED LOCATION. WATER MAIN SHALL ALSO MAINTAIN 18" OF VERTICAL SEPARATION (MINIMUM) BETWEEN WATER MAIN AND STORM SEWER/SANITARY SEWER. WATER SERVICES SHALL ALSO MAINTAIN AT LEAST 12" OF VERTICAL SEPARATION AT SEWER CROSSINGS.

NOTE: DWELLINGS ON SITE MAY NOT BE ABLE TO OBTAIN GRAVITY BASEMENT SANITARY SEWER SERVICE. EJECTOR PUMP/PIT MAY BE NEEDED ON CERTAIN LOTS FOR ANY BASEMENT PLUMBING. IN PARTICULAR, LOTS 21 THRU 39 AND LOTS 46 THRU 59 MAY NOT BE ABLE TO OBTAIN GRAVITY BASEMENT SANITARY SEWER SERVICE.

NOTE: WATER MAINS AND THEIR APPURTENANCES SHALL BE WRAPPED IN POLYETHYLENE MATERIAL IN ACCORDANCE WITH A.W.W.A. STANDARD C600. POLYETHYLENE WRAP MAY BE OMITTED IF WATER MAIN BEDDING SOILS ARE TESTED AND EVALUATED IN ACCORDANCE WITH APPENDIX A OF A.W.W.A. C600. 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SCALES:
PLAN VIEW: 1" = 40'
PROFILE: 1" = 40' HORIZ.
1" = 4' VERTICAL

NOTE: DWELLINGS ON SITE MAY NOT BE ABLE TO OBTAIN GRAVITY BASE-MENT SANITARY SEWER SERVICE. EJECTOR PUMP/PIE MAY BE NEEDED ON CERTAIN LOTS FOR ANY BASEMENT PLUMBING. IN PARTICULAR, LOTS 21 THRU 39 AND LOTS 48 THRU 59 MAY NOT BE ABLE TO OBTAIN GRAVITY BASEMENT SANITARY SEWER SERVICE.



3+00 2+00 1+00 0+00

SCHUMARD AVENUE
STA 0+00 TO STA 2+50

NOTE: SANITARY SEWER LEADS FOR LOTS 52, 55 & 56 SHALL PASS UNDER WATER MAIN WITH AT LEAST 18" OF VERTICAL SEPARATION/CLEARANCE.

NOTE: SANITARY SEWER LEADS FOR LOTS 34 AND 53 SHALL PASS OVER EXISTING STORM SEWER PIPE WITH AT LEAST 12" OF VERTICAL SEPARATION/CLEARANCE.

NOTE: SANITARY SEWER LEAD FOR LOT 54 SHALL PASS OVER WATER MAIN WITH AT LEAST 18" OF VERTICAL SEPARATION/CLEARANCE.

850

850

850

850

870

870

870

870

18+00 19+00 20+00 21+00

LIVE OAK TRAIL
STA 18+00 TO STA 19+00

MONTIGO BAY STREET
STA 19+00 TO STA 20+54

NOTE: SANITARY SEWER LEADS FOR LOTS 52, 55 & 56 SHALL PASS UNDER WATER MAIN WITH AT LEAST 18" OF VERTICAL SEPARATION/CLEARANCE.

NOTE: SANITARY SEWER LEADS FOR LOTS 34 AND 53 SHALL PASS OVER EXISTING STORM SEWER PIPE WITH AT LEAST 12" OF VERTICAL SEPARATION/CLEARANCE.

NOTE: SANITARY SEWER LEAD FOR LOT 54 SHALL PASS OVER WATER MAIN WITH AT LEAST 18" OF VERTICAL SEPARATION/CLEARANCE.

850

850

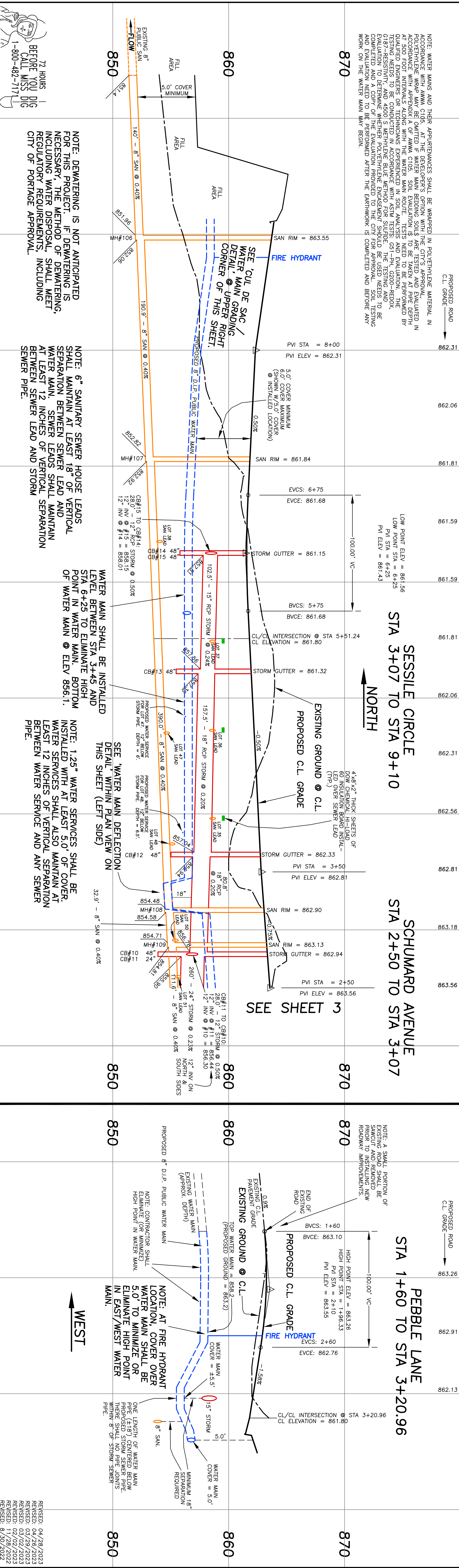
870

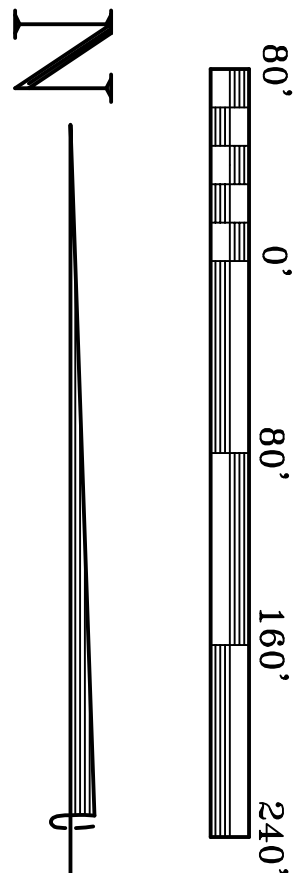
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REVISIONS
04/28/2023
04/26/2023
03/22/2023
02/02/2023
11/28/2022
8/29/2022

#21-375 SHEET 3 5/5/2022





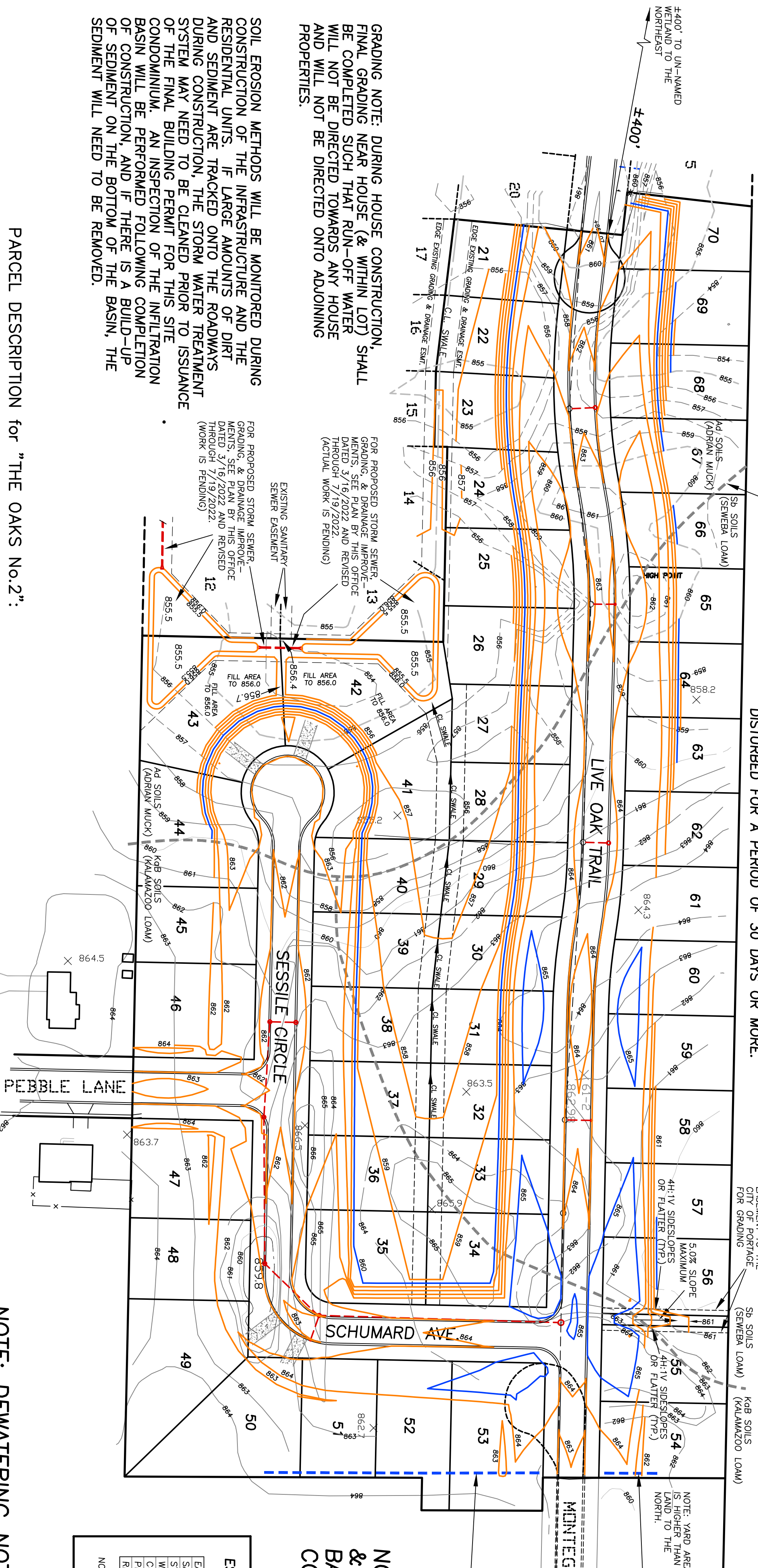
NOTE: THIS SESC PLAN IS ONLY FOR ROADWAY & UTILITY CONSTRUCTION. IT IS NOT FOR ANY FUTURE HOUSE CONSTRUCTION.

NOTE: SILT SACKS, OR OTHER MEASURE APPROVED BY THE CITY OF PORTAGE, SHALL BE USED AT EACH CATCH BASIN AND EACH DRAIN LOCATION.

NOTE: PROPOSED SILT FENCE LOCATIONS SUBJECT TO CITY OF PORTAGE REVIEW. ADDITIONAL SILT FENCE MAY BE REQUIRED ON-SITE.

SEE FINAL, CITY APPROVED CONSTRUCTION PLANS.

APPROXIMATE SOIL BOUNDARY PER USDA SOIL SURVEY OF KALAMAZOO COUNTY



NOTE: SOIL EROSION CONTROL PERMIT SHALL BE OBTAINED FROM THE CITY OF PORTAGE. TWO COPIES OF THESE PLANS, AN APPLICATION FORM, AND FEES SHALL BE SUBMITTED AS REQUIRED. PERMIT SHALL BE OBTAINED PRIOR TO ANY EARTHMOVING OPERATIONS.

NOTE: ON-SITE SOILS ARE SHOWN AS SSB (SPINKS SANDY LOAM) AND OSB (OSHTIMO SANDY LOAM) WITHIN THE USDA'S SOIL SURVEY OF KALAMAZOO COUNTY, MICHIGAN.

NOTE: SILT FENCE AND OTHER TEMPORARY SESC MEASURES MAY BE REMOVED FROM SITE ONLY AFTER SITE HAS BECOME STABILIZED WITH VEGETATION RELATED TO UTILITY & ROADWAY CONSTRUCTION.

NOTE: EROSION CONTROL BLANKETS SHALL BE PROPERLY INSTALLED ON ANY DISTURBED SLOPE THAT HAS A SLOPE OF 25% OR STEEPER (4:1 OR STEEPER).

NOTE: SPOILS PILE(S) SHALL BE SEEDED AND ENRICED WITH SILT FENCE. IF SPOIL PILE WILL NOT BE DISTURBED FOR A PERIOD OF 30 DAYS OR MORE.

GRADING NOTE: DURING HOUSE CONSTRUCTION, FINAL GRADING NEAR HOUSE (& WITHIN LOT) SHALL BE COMPLETED SUCH THAT RUN-OFF WATER WILL NOT BE DIRECTED TOWARDS ANY HOUSE AND WILL NOT BE DIRECTED ONTO ADJOINING PROPERTIES.

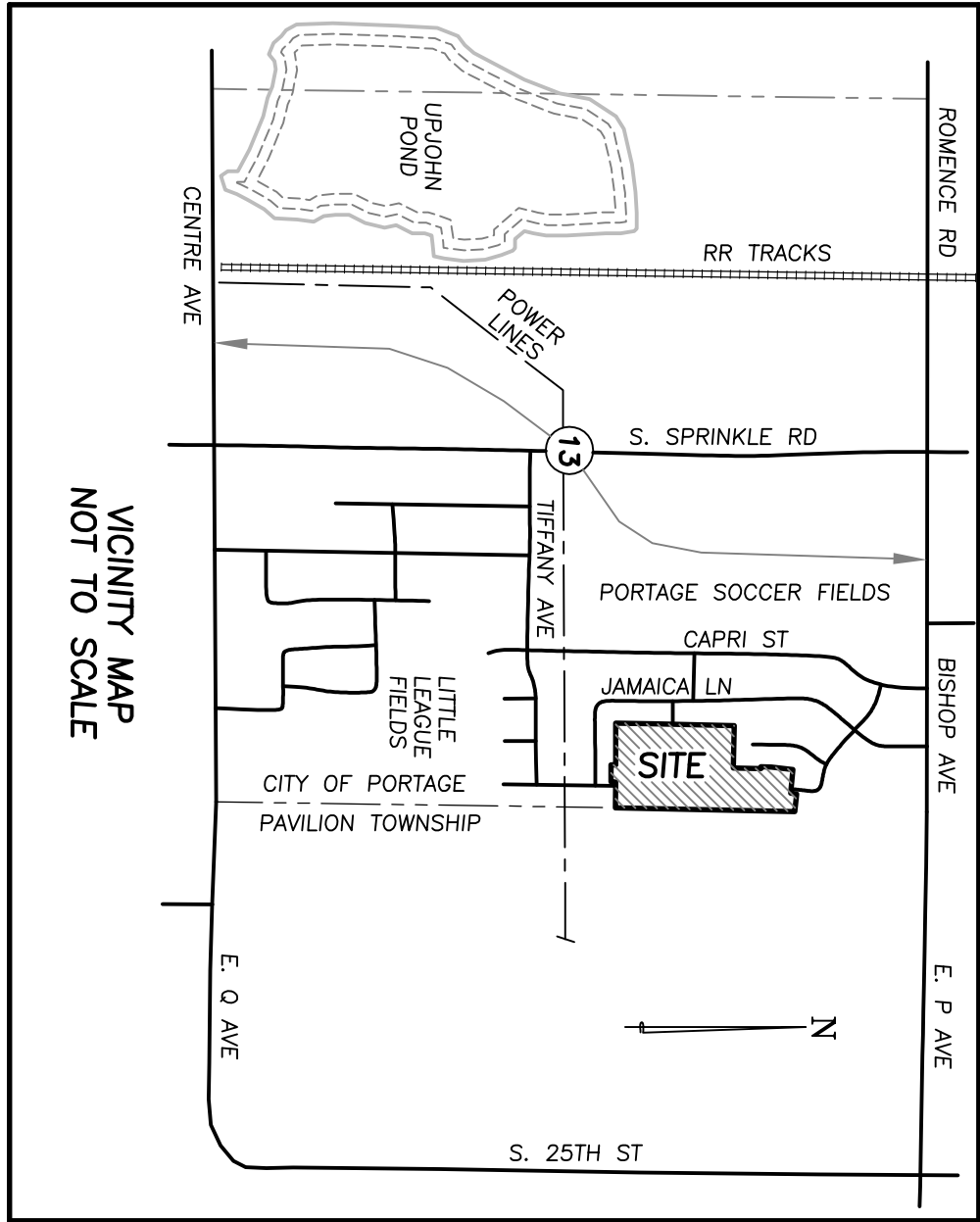
GRADING NOTE: DURING HOUSE CONSTRUCTION, FINAL GRADING NEAR HOUSE (& WITHIN LOT) SHALL BE COMPLETED SUCH THAT RUN-OFF WATER WILL NOT BE DIRECTED TOWARDS ANY HOUSE AND WILL NOT BE DIRECTED ONTO ADJOINING PROPERTIES.

NOTE: THE OWNER AND/OR CONDOMINIUM ASSOCIATION SHALL BE RESPONSIBLE FOR CONTINUED MAINTENANCE OF ALL ON-SITE PERMANENT EROSION CONTROL MEASURES. INSPECTIONS SHALL OCCUR AT LEAST ONCE PER YEAR. MAINTENANCE SHALL BE DONE BY COMPANY THAT HAS BEEN AUTHORIZED BY THE OWNER/CONDO ASSOCIATION.

NOTE: PROPOSED SILT FENCE LOCATIONS SUBJECT TO CITY OF PORTAGE REVIEW. ADDITIONAL SILT FENCE MAY BE REQUIRED ON-SITE.

NOTE: SILT SACKS, OR OTHER MEASURE APPROVED BY THE CITY OF PORTAGE, SHALL BE USED AT EACH CATCH BASIN LOCATION.

S.E.S.C. INSTALLATION NOTE: ALL PROPOSED EROSION CONTROL MEASURES SHALL BE INSTALLED IN ACCORDANCE WITH DETAILS AND SPECIFICATIONS CONTAINED IN THE MICHIGAN DEPARTMENT OF TRANSPORTATION'S SOIL EROSION AND SEDIMENTATION CONTROL MANUAL (MOST CURRENT EDITION). MANUAL IS AVAILABLE ON-LINE OR AT THIS OFFICE.



SEE M.D.O.T. EROSION CONTROL DETAILS ON SHEET 5B. ALL SESC MEASURES SHALL COMPLY WITH MDOT SESC DETAILS.

57' OF PROPOSED SILT FENCE WITH BOTTOM PORTION IMBEDDED 6 INCHES BELOW GROUND LEVEL.

296' OF PROPOSED SILT FENCE WITH BOTTOM PORTION IMBEDDED 6 INCHES BELOW GROUND LEVEL.

NOTE: PROPOSED SITE GRADING & CONTOURS MAY CHANGE BASED ON CITY REVIEWS OF CONSTRUCTION PLANS.

ESTIMATED CONSTRUCTION SCHEDULE:				
EARTHMOVING	02/23	03/23	04/23	05/23 06/23
SANITARY SEWER	—	—	—	—
STORM SEWER	—	—	—	—
WATER MAIN LAYING	—	—	—	—
PRIVATE UTILITIES	—	—	—	—
RESTORATION	—	—	—	—

NOTE: CONSTRUCTION SCHEDULE SUBJECT TO CHANGE BASED ON MARKET CONDITIONS, WEATHER, AND OTHER FACTORS.

NOTE: DEWATERING NOT ANTICIPATED FOR THIS PROJECT.

SOIL EROSION METHODS WILL BE MONITORED DURING CONSTRUCTION OF THE INFRASTRUCTURE AND THE RESIDENTIAL UNITS. IF LARGE AMOUNTS OF DIRT AND SEDIMENT ARE TRACKED ONTO THE ROADWAYS DURING CONSTRUCTION, THE STORM WATER TREATMENT SYSTEM MAY NEED TO BE CLEANED PRIOR TO ISSUANCE OF THE FINAL BUILDING PERMIT FOR THIS SITE CONDOMINIUM. AN INSPECTION FOLLOWING COMPLETION OF CONSTRUCTION, AND IF THERE IS A BUILD-UP OF SEDIMENT ON THE BOTTOM OF THE BASIN, THE SEDIMENT WILL NEED TO BE REMOVED.

PARCEL DESCRIPTION for "THE OAKS No.2":

A parcel of land situated in the Northeast quarter of Section 13, Town 3 South, Range 11 West, City of Portage, Kalamazoo County, Michigan being more particularly described as follows:

Commencing at the Northeast corner of Section 13, Town 3 South, City of Portage, Kalamazoo County, Michigan; thence S. 01°11'53" W. 523.70 feet along the East line of the Northeast quarter of said Section 13, thence N. 76°26'06" W. 463.60 feet to an Easterly corner of the "Holiday Village East" subdivision according to the plat thereof as recorded in Liber 36 of Plats, Page 1, Kalamazoo County Records; thence S. 40°25'37" W. 168.95 feet along an Easterly line of said "Holiday Village East" subdivision; thence S. 40°47'15" W. 66.00 feet along an Easterly line of said "Holiday Village East" subdivision; thence S. 48°58'22" E. 140.00 feet along an Easterly line of said "Holiday Village East" subdivision; thence S. 41°08'06" W. 235.89 feet along an Easterly line of said "Holiday Village East" subdivision; thence S. 01°12'51" W. 562.15 feet along an Easterly line of said "Holiday Village East" subdivision to the Place of Beginning; thence S. 81°48'07" E. 323.82 feet; thence N. 01°11'53" E. 209.75 feet; thence N. 88°48'07" W. 14.00 feet; thence N. 01°11'53" E. 81.00 feet; thence N. 06°55'34" E. 164.82 feet; thence S. 84°35'57" E. 181.67 feet; thence N. 06°28'48" E. 46.22 feet; thence S. 83°31'12" E. 134.69 feet to said East line of the Northeast quarter of Section 13 at a point S. 01°11'53" W. 963.77 feet from said Northeast corner; thence S. 01°11'53" W. 1367.74 feet along said East line to the Northeast corner of Lot 75 of the "Holiday Village East No.3" subdivision according to the plat thereof as recorded in Liber 42 of Plats, Page 34, Kalamazoo County Records; thence N. 89°45'30" W. 196.02 feet along a Northernly line of said "Holiday Village East No.3" subdivision; thence S. 01°11'53" W. 35.77 feet along a Northernly line of said "Holiday Village East No.3" subdivision; thence N. 89°45'30" W. 130.03 feet along a Northernly line of said "Holiday Village East No.3" subdivision; thence N. 01°11'53" E. 35.00 feet along a Northernly line of said "Holiday Village East No.3" subdivision; thence N. 89°45'30" W. 320.04 feet along a Northernly line of said "Holiday Village East No.3" subdivision; thence N. 01°11'53" E. 285.23 feet along an Easterly line of said "Holiday East" subdivision to the Place of Beginning, containing 16.89 acres.

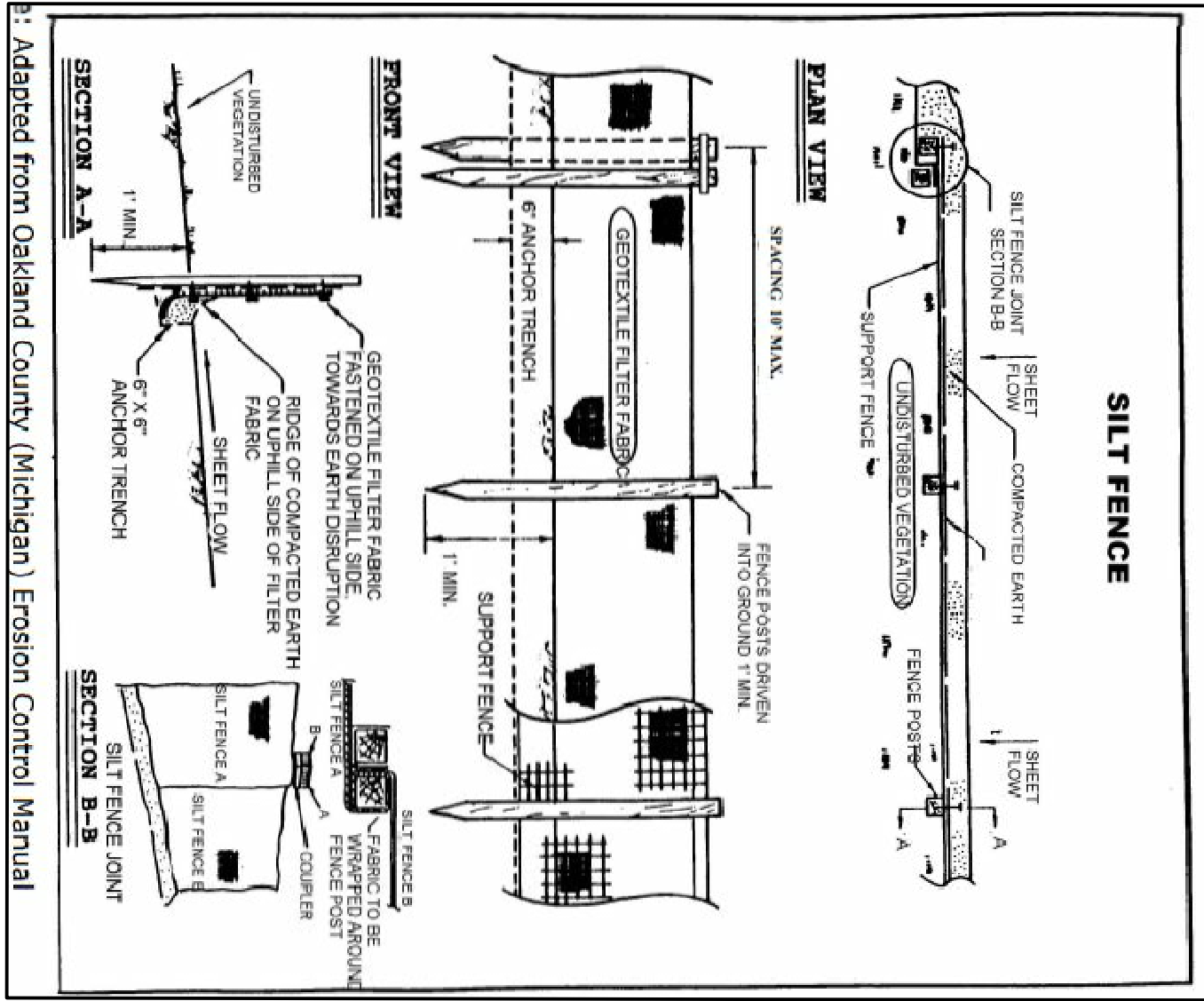
NOTE: DISTURBED AREAS SHALL RECEIVE 'KALAMAZOO LANDSCAPE SUPPLY' VALUE MIX GRASS SEED AT A RATE OF AT LEAST 5 POUNDS PER 1000 SQUARE FEET.

NOTE: All work must comply with the provisions of Part 91 of the Erosion and Sedimentation Control Act of the Natural Resources and Environmental Protection Act P.A. 451 of 1994, as amended, and as administered by the City of Portage.

APPLICANT:

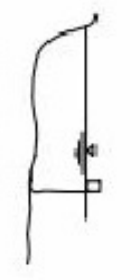
WESTVIEW CAPITAL, LLC
2186 EAST CENTRE STREET
PORTAGE, MI 49002
(269) 321-2610

EROSION CONTROL PLAN & GRADING PLAN	
PART OF THE NORTHEAST 1/4 OF SEC. 13, T3S, R11W, CITY OF PORTAGE, KALAMAZOO CNTY., MICH.	SHEET: 5A
MONTUMENT ENGINEERING GROUP ASSOC., INC. Formerly Ingersoll, Watson & McLauchlen, Inc.	JOB No.: 21-375
1209 East William Road, Suite B • Portage, Michigan 49002 • Phone 269 344-0165	



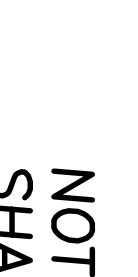
- SOIL EROSION CONTROL NOTES**
- 1) ALL CONSTRUCTION SHALL COMPLY WITH THE SOIL EROSION AND SEDIMENTATION CONTROL ACT OF 1994, AS AMENDED, AS ADMINISTERED BY THE CITY OF PORTAGE.
 - 2) EARTHWORK CONTRACTORS SHALL BE RESPONSIBLE FOR THE FOLLOWING:
 - A) WHERE EROSION COULD OCCUR.
 - B) PROTECTION OF ALL EXISTING AND NEWLY CONSTRUCTED STORM SEWER STRUCTURES, WHETHER ADJACENT TO, OR ON, THE SITE.
 - C) SWEEEPING & CLEANING OF ADJACENT STREETS AS NECESSARY.
 - D) PROPERTY OWNER SHALL OBTAIN SOIL EROSION & SEDIMENTATION CONTROL PERMIT.
 - 3) RESTORATION NOTES
 - 1) ALL DISTURBED AREAS SHALL BE RESTORED WITH MINIMUM 4" TOP-SOIL, TO THAT WHICH EXISTED PRIOR TO CONSTRUCTION.
 - 2) EXISTING STREETS SHALL BE RESTORED TO A CONDITION AT LEAST EQUAL TO THAT WHICH EXISTED PRIOR TO CONSTRUCTION.
 - 4) TEMPORARY SOIL EROSION CONTROL MEASURES
 - 1) EARTH GRADING AROUND ALL NEW SANITARY SEWER AND STORM SEWER MANHOLES/CATCH BASINS SHALL BE SUCH THAT RAIN WATER/EROSION RUN-OFF FROM THE SURFACE OF THE LOT SHALL BE DIRECTED AWAY FROM THE LOT. THE EARTH BERM SHALL ENCLOSE EACH MANHOLE/CATCH BASIN.
 - 2) ONCE GRAVE IS INSTALLED ON STORM SEWER SYSTEM, A SILT SACK, KEEP EROSION OUT OF THE STORM SEWER SYSTEM.
 - 3) ALL STREETS SHALL BE KEPT CLEAR OF SOIL AND MUD. CONTRACTOR SHALL BE RESPONSIBLE FOR REMOVAL OF EXCESSIVE SOIL AND MUD.
 - 4) ANY EVIDENCE OF SOIL EROSION SHALL BE EXAMINED AND ADDRESSED BY AN ENGINEER. INVOLVEMENT BY ENGINEER AND/OR CITY OF PORTAGE IS NECESSARY.
 - 5) ONTO NATURAL AREAS OUTSIDE OF PROPOSED CONSTRUCTION AREA.
 - 6) SILTATION REMOVAL SHALL BE PLACED AS SHOWN.
 - 5) PERMANENT SOIL EROSION CONTROL MEASURES
 - 1) ALL NEW ROADWAYS SHALL BE PAVED.
 - 2) ALL DISTURBED AREAS SHALL RECEIVE TOP-SOIL AND SEEDING PER THE PROJECT CONSTRUCTION PLANS.
 - 6) MAINTENANCE REQUIREMENTS (AFTER CONSTRUCTED):
 - 1) ALL PUBLIC STREETS AND ALL PUBLIC STORM SEWER SHALL BE MAINTAINED BY THE CONDOMINIUM ASSOCIATION.
 - 2) ALL PRIVATE STREETS AND ALL PRIVATE STORM SEWER SHALL BE MAINTAINED BY THE CONDOMINIUM ASSOCIATION.
 - 3) TEMPORARY EROSION CONTROL MEASURES SHALL BE REMOVED ONLY AFTER ENTIRE SITE HAS BEEN STABILIZED.



APPLICABLE SOIL EROSION AND SEDIMENTATION CONTROL MEASURES									
APPLICABLE SOIL EROSION AND SEDIMENTATION CONTROL MEASURES (THE SOIL EROSION & SEDIMENTATION CONTROL MANUAL) A = SLOPES B = STREAKS AND WATERWAYS C = SURFACE DRAINAGEWAYS D = ENCLOSED DRAINAGE (INLET & OUTFALL CONTROL) E = LARGE FLAT SURFACE AREAS F = BROWN AND STOCKPILE AREAS G = DUNE PERMIT MAY BE REQUIRED									
KEY	DETAIL	CHARACTERISTICS	A	B	C	D	E	F	G
1		A Turbidity Curtain is used when there is a necessary need to contain sediment in a confined area. It should be placed over a possible leak.		•					
2		Grubbing is a method of erosion control. It involves the use of heavy machinery to remove topsoil and create a new surface. It is used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
3		Permanent/Temporary Seeding is a method of erosion control. It involves the use of seed and mulch to establish a new surface. It is used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•	•	•	•	•
4		Dirt control can be accomplished by seeding, mulch, and other methods. It is used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
5		Rocking is a method of erosion control. It involves the use of rocks to create a new surface. It is used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
6		Vegetated Buffer Strips are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•

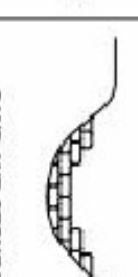
KEY	DETAIL	CHARACTERISTICS	A	B	C	D	E	F	G
7		Grass is a method of erosion control. It involves the use of grass to create a new surface. It is used to prevent erosion on steep slopes and in areas where other methods are not feasible.		•	•	•	•	•	•
8		Aggregate cover is a method of erosion control. It involves the use of aggregate to create a new surface. It is used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
9		Benchmarks are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
10		Diversion Ditches are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
11		Intercepting Ditches are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
12		Intercepting Ditches and Diversion Ditches are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
13		Gravel Filter Beds are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
14		Gravel Access Approaches are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•

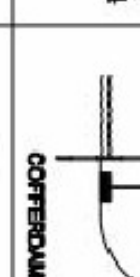
KEY	DETAIL	CHARACTERISTICS	A	B	C	D	E	F	G
15		Slope Drain Surfaces are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
16		Tree Straps and Perennials are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
17		PVC Drips are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
18		Dewatering with Filter Bags is used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
19		Energy Dissipators are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
20		Segment Types are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
21		Segment Basins are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
22		Vegetative Buffers at Watercourses are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•

KEY	DETAIL	CHARACTERISTICS	A	B	C	D	E	F	G
23		Stream Relocation is a method of erosion control. It involves the use of stream relocation to create a new surface. It is used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
24		Sand and Stone Mass is a method of erosion control. It involves the use of sand and stone to create a new surface. It is used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•	•	•	•	•
25		Sand Fences and Dune Stabilization are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
26		Belt Fences are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
27		Plastic Sheets on Geotextile Cover are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•	•	•	•	•
28		Mulching and Mulch Matting are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
29		Inlet Protection Plastic Drops are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
30		Inlet Protection Geotextile and Stone are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•

KEY	DETAIL	CHARACTERISTICS	A	B	C	D	E	F	G
31		Inlet Protection Segment Types are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
32		Slope Reinforcing and Stabilization are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
33		Mulch Blankets and High Velocity Mulch Blankets are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
34		Counterflows are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
35		Temporary Branch Channels are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
36		Construction Dams are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
37		Check Dams are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•

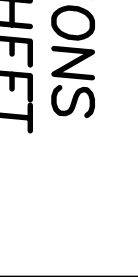
KEY	DETAIL	CHARACTERISTICS	A	B	C	D	E	F	G
38		Check Dams are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
39		Check Dams are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
40		Check Dams are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
41		Check Dams are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
42		Check Dams are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
43		Check Dams are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
44		Check Dams are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
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26		Belt Fences are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
27		Plastic Sheets on Geotextile Cover are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•	•	•	•	•
28		Mulching and Mulch Matting are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
29		Inlet Protection Plastic Drops are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
30		Inlet Protection Geotextile and Stone are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•

KEY	DETAIL	CHARACTERISTICS	A	B	C	D	E	F	G
31		Inlet Protection Segment Types are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
32		Slope Reinforcing and Stabilization are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
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37		Check Dams are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•

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46		Check Dams are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
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53		Check Dams are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•

KEY	DETAIL	CHARACTERISTICS	A	B	C	D	E	F	G
54		Check Dams are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
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56		Check Dams are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
57		Check Dams are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
58		Check Dams are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
59		Check Dams are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
60		Check Dams are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
61		Check Dams are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•

KEY	DETAIL	CHARACTERISTICS	A	B	C	D	E	F	G
62		Check Dams are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•
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69		Check Dams are used to prevent erosion on steep slopes and in areas where other methods are not feasible.			•				•

EROSION CONTROL DETAILS for
"THE OAKS No.2"
PART OF THE NORTHEAST 1/4 OF SEC. 13, T2S, R17W, CITY OF PORTAGE, KALAMAZOO CNTY., MICH.
MONUMENT ENGINEERING GROUP ASSOC., INC.
Formerly Ingersoll, Watson & McLochen, Inc.
1209 East William Road, Suite B • Portage, Michigan 49002 • Phone 269 344-0165

NOTE: ALL SECC MEASURES AND PROVISIONS
SHALL COMPLY WITH DETAILS ON THIS SHEET.



DECLARATION OF RESTRICTIONS FOR THE OAKS

This DECLARATION OF RESTRICTIONS is made on this 19th day of September, 2022, by Westview Capital, LLC, a Michigan limited liability company, whose address is 2186 E. Centre Ave., Portage, MI 49002 (the "Declarant" or "Developer") as follows:

WHEREAS, Declarant is the owner of certain real estate which it will or has developed as the subdivision The Oaks (the "Subdivision") consisting of Lots 1 through 70 (inclusive) located in the City of Portage, Kalamazoo County, Michigan, more particularly described as:

A parcel of land situated in the Northeast quarter of Section 13, Town 3 South, Range 11 West, City of Portage, Kalamazoo County, Michigan being more particularly described as follows:

Commencing at the Northeast corner of Section 13, Town 3 South, Range 11 West, City of Portage, Kalamazoo County, Michigan; thence S. 01°11'53" W. 523.70 feet along the East line of the Northeast quarter of said Section 13 to the Place of Beginning; thence N. 76°26'06" W. 463.60 feet to an Easterly corner of the "Holiday Village East" subdivision according to the plat thereof as recorded in Liber 36 of Plats, Page 1, Kalamazoo County Records; thence S. 40°25'37" W. 168.95 feet along an Easterly line of said "Holiday Village East" subdivision; thence S. 40°47'15" W. 66.00 feet along an Easterly line of said "Holiday Village East" subdivision; thence S. 48°58'22" E. 140.00 feet along an Easterly line of said "Holiday Village East" subdivision; thence S. 41°08'06" W. 235.89 feet along an Easterly line of said "Holiday Village East" subdivision; thence S. 01°12'51" W. 562.15 feet along an Easterly line of said "Holiday Village East" subdivision; thence S. 88°48'07" E. 323.82 feet; thence N. 01°11'53" E. 209.75 feet; thence N. 88°48'07" W. 14.00 feet; thence N. 01°11'53" E. 81.00 feet; thence N. 06°55'34" E. 164.82 feet; thence S. 84°35'57" E. 181.67 feet; thence N. 06°28'48" E. 46.22 feet; thence S. 83°31'12" E. 134.69 feet to said East line of the Northeast quarter of Section 13 at a point S. 01°11'53" W. 440.07 feet from said Place of Beginning; thence N. 01°11'53" E. 440.07 feet along said East line to the Place of Beginning, containing 10.05 acres.

Parcel is subject to easements, conditions and restrictions of record.

WHEREAS, these restrictions shall apply to the Plat of The Oaks (the "Subdivision") according to the Plat thereof recorded in Liber 42 of Plats, Page 56, Kalamazoo County Records. Developer desires to provide for the preservation and enhancement of the property values and amenities in the Subdivision, and to this end desires to subject the Subdivision to the covenants, restrictions, easements, charges and liens hereinafter set forth in this document, each and all of which is and are for the benefit of the Subdivision and each Owner of a Lot therein. The Subdivision was approved under the City of Portage Zoning Ordinance at a meeting held by the City of Portage City Council on 3/8/22. The Subdivision as well as any and all portions thereof, individual Lots, dwellings, structures and other uses and activities must fully comply with that Resolution and the City of Portage Zoning Ordinance; and

WHEREAS, the Lots will be incorporated into a homeowners association as a Michigan non-profit corporation for the efficient preservation of the values and amenities in the Subdivision, to maintain and administer the Subdivision, to collect and disburse assessments and charges, and to undertake efforts intended to promote the recreation, health, safety and welfare to the Owners and Occupants of the Lots.

NOW, THEREFORE, in consideration of the mutual benefits to be derived by the Developer, its successors and assigns, and present and future Owners of the Lots, the undersigned Developer for itself, its successors and assigns does hereby publish, declare and make known to all present and future purchasers and Owners of the Lots, that all of the Lots will and shall be used, held, and/or sold expressly subject to the following conditions, restrictions, covenants and agreements which, by acceptance of a deed, purchase agreement, land contract or option for a Lot, shall be deemed accepted by all present and future purchasers and Owners of the Lots and shall run with the land and be binding upon all purchasers of Lots and on their respective heirs, personal representatives, creditors, successors, transferees, assigns and grantees.

ARTICLE I

DEFINITIONS

A. "Association" or "Association of Owners" means The Oaks Portage Homeowners Association, a Michigan non-profit corporation, of which all Owners shall be members, which shall administer, operate, manage and maintain the Subdivision. The Owners shall keep the Association in existence and full operation at all times and permanently.

B. "Builder" means any person or entity designated by the Developer which is engaged in the business of constructing improvements not for their own use but for resale or pursuant to a contract with another person or entity.

C. "Declaration" means this Declaration of Restrictions, as amended from time to time, and as recorded in the office of the Kalamazoo County Register of Deeds, State of Michigan.

D. “Developer” or “Declarant” means, Westview Capital, LLC a Michigan limited liability company, and any successor by law or assignee so appointed by the recordation of an assignment of the status.

E. “Development and Sales Period” means the period continuing for as long as Developer or its successors and assigns continue to own and offer for sale any Lot in the Subdivision.

F. “Improvement” means any dwelling, garage, outbuilding, fence, walk, deck, pool, landscaping or other improvement constructed upon a Lot or change or alteration to any of the foregoing by any person or entity other than the Developer, except where explicitly stated.

G. “Lot” means any numbered Lot shown on the Plat (the Subdivision) or on any subsequent and contiguous additions to the Subdivision so declared by the Developer in an amendment to this Declaration.

H. “Occupant” means each person that is occupying a dwelling built upon a Lot, provided such occupancy is in compliance with the Declaration and the Zoning Ordinance of the City for the Subdivision.

I. “Owner” means the Fee Owner and the land contract purchaser of a Lot, whether one or more persons or entities, but excludes those having only a security interest in a Lot to secure the performance of an obligation or a lien upon a Lot arising pursuant to a statute or under another rule of law unless and until such time as such person becomes a Fee Owner, whether by foreclosure or the granting of a deed in lieu of foreclosure.

J. “City” means the City of Portage and its political subdivisions, officials, officers, commissions, boards, agents and employees.

K. “Park” means the area designated as “Open Space” and dedicated on the Plat (Subdivision) to The Oaks Portage Homeowners Association for the purposes of storm water management, and open space.

ARTICLE II

BUILDING AND USE RESTRICTIONS FOR THE SUBDIVISION

A. Design. Neighborhood design standards, when properly implemented, convey quality, value and stability to homeowners. The standards which follow are intended to promote consistency of architecture and landscape design. The implementation of these standards plays a direct role in developing a neighborhood and in preserving real estate values.

B. Review Committee. An Architectural Review Committee (the “Review Committee”) has been established by the Developer. The mission of such a Review Committee is to ensure that all plans submitted for review meet the criteria established in the design standards. The design standards for the Subdivision as implemented by the Review Committee will provide sufficient control to ensure compatibility with the overall neighborhood image.

C. Architectural Review (“ARC” or “Review Committee”). During the Development and Sales Period, no building, structure or other improvements shall be constructed within the perimeters of a Lot nor shall any exterior modification be made to any existing building, structure or improvement, unless plans and specifications containing such detail as the Developer may reasonably require have first been approved in writing by the Review Committee. After expiration of the Development and Sales Period, the Review Committee shall have the right to refuse to approve any plans or specifications, color and/or material applications, grading or landscaping plans, retaining walls and deck location and design, or building location plans which are not suitable or desirable in its opinion for aesthetic or other reasons; and in passing on such plans and specifications it shall have the right to take into consideration the suitability of the proposed structure, improvement or modification, the site on which it is proposed to be constructed, the proposed location of the improvement within the Lot, the location of structures within adjoining Lots and the degree of harmony with the Subdivision as a whole. Following the Development and Sales Period, the Association shall automatically be granted the authority of the ARC.

D. Approval of Contractor. All buildings and residential dwellings shall be constructed only by residential home builders licensed by the State of Michigan and approved in writing by the Review Committee. If building construction is intended to commence within three (3) months after the date of plan approval, the name of the proposed residential builder must be submitted at the same time as the plans and specifications. If construction is to be delayed beyond three (3) months, the name of the proposed residential builder must be submitted for approval at least sixty (60) days prior to the commencement of construction. In its approval process, the committee may take into consideration the qualifications of the proposed builder along with its reputation in the community before deciding whether or not such builder will be approved for participation in the Subdivision. Construction of all other improvements, including landscaping, must also be done by contractors approved in writing by the Review Committee.

E. Specific Requirements. All approvals required by this Article shall comply with the following requirements:

i. Exterior Surface of Dwellings. The visible exterior walls of all Improvements shall be made of wood, masonry (brick), vinyl or a combination of them or of comparable new materials approved by the Developer.

Roofs must be of shingle construction using cedar, fiberglass or asphalt shingles or other approved constructions and materials. Driveways may be of asphalt, brick or cement, and children’s play areas shall be constructed of wood or other approved material.

All exterior paints, stains and material colors must be shown as part of the plan submitted for approval, and samples shall be furnished to the Review Committee upon request.

ii. Landscaping and Lawn Maintenance. Each Lot owner is required to install and maintain a minimum level of landscaping, including lawn, gardens, and shrubs. Landscaping and lawn improvements shall be installed no later than 6 months following occupancy, unless weather delays installation, in such cases the improvements shall be

installed no later than 9 months following occupancy. Landscape additions, changes and modifications must be approved in writing by the Review Committee prior to installation. The Review Committee will adhere to the following standards, plus other requirements as the Review Committee may specify.

- a) Requests for approval must be accompanied by a written plan, showing location, sizes, colors and other details that may be helpful to the Review Committee.
- b) Retaining walls shall be constructed of materials, colors and textures that are natural in appearance. Decorative interlocking concrete block retaining walls are permitted.
- c) The Review Committee reserves the right to limit the location, size and quantity of ornamental structures and decorations. Examples of these items include windmills, bird baths, lawn statuary, plastic flamingos, flag poles, etc.
- d) Produce gardens may be permitted with Review Committee approval. Produce gardens will be limited to no more than 200 square feet, located in the rear yard, and must be at least 8 feet from the property line, or contained within a fenced area.
- e) No trees with a diameter greater than 4 inches may be removed without Review Committee approval, unless an urgent safety concern exists.

The following maintenance standards are required:

- f) Lawns will be mowed during the growing season before the turn reaches an average height of 5.5 inches.
- g) Dead or fallen trees will be removed from the Owner's property.
- h) Dead shrubs will be removed from the Owner's property.
- i) Most gardens and planting beds have reasonable quantities of weeds. However, if a garden or planting bed becomes overgrown and a nuisance, the Review Committee may require the weeds to be removed.

Regular lawn maintenance is required even if a home is not occupied or the Owner is currently not there. In the event a yard is not reasonably maintained, the Review Committee will attempt to notify the Owner. If the Review Committee cannot reasonably notify the Owner, or if the Owner does not correct the situation, the Review Committee is authorized to hire the work to be done. The Owner will be billed for the cost, plus a per occurrence fee equal to the greater of \$35 or 10% of the cost.

iii. Driveways. All Driveways shall be constructed of concrete or asphalt paving material from the garage to the street. Any driveway modifications shall be reviewed by the ARC. Three lane driveways shall not extend within the public right of way.

iv. Sheds and Other Accessory Buildings. Sheds and other free-standing accessory structures may be erected only with prior written approval of the Review Committee, in accordance with the following guidelines:

- a) the location is limited to the rear yard and no portion of the shed or other accessory structure may be erected within an easement, including but not limited to a drainage easement.
- b) The location and dimensions must be approved in writing by the Review Committee.
- c) Construction materials shall be wood or vinyl and be subject to prior written approval of the Review Committee. Colors shall be neutral or shall match the home. Roofs shall be asphalt shingle matching the home, or as otherwise approved by the Review Committee.
- d) The Lot Owner is also obligated to comply with any applicable local ordinances, including but not limited to setback requirements.

v. Fencing. Wood fences and galvanized chain link fences (except black vinyl-coated chain link) are prohibited. No fence may be installed in a front yard. For purpose of this subsection, corner Lots abutting two streets, including future planned streets, shall be considered to have 2 front yards. Each Lot Owner may enclose a portion of his backyard with a fence made of approved materials, but only after the Review Committee has approved in writing the composition and location of the fence. The enclosed area shall be landscaped or improved in a manner approved in writing by the Review Committee and maintained by the Lot Owner at a level acceptable to the Review Committee. Fencing shall also meet all applicable City requirements and standards.

vi. Pools. Above-ground pools are prohibited. In-ground pools are permitted only with prior written approval from the Review Committee. Approved pools must be located in the rear yard and properly fenced and maintained. Notwithstanding the foregoing, a children's play pool not more than 40 square feet with a capacity to hold less than 10 inches of water may be used provided that such pool is stored indoors when not in use.

F. General Conditions.

i. Drainage Easements/Soil Erosion Control Measures. There are drainage easements established throughout the Subdivision for the benefit of all Lot Owners. Those drainage easements are located on both common elements and within the boundaries of Lots. Lot Owners are prohibited from doing any of the following within any designated

drainage area: 1) altering the grade; 2) placing temporary or permanent structures, or other improvements; and 3) the destruction, impairment, or other alterations to any drainage structure.

At the time a Lot Owner takes occupancy of his Lot the lawn may not be completely established. The Lot Owner is responsible for soil erosion control of their Lot including maintaining and installing temporary and permanent erosion controls measures. Measures may be removed only when a lawn within the Lot is completely established and stabilized.

ii. Trash Containers and Pick Up. All trash shall be placed in containers approved by the Review Committee and, except for short periods of time reasonably necessary to permit collection, kept either inside the garage or appropriately screened so they cannot be seen from the road or from the neighboring property. All trash will be picked up by a common person or Company selected by the Developer or Association, at the expense of each Lot Owner.

iii. Debris. Any debris resulting from the destruction from fire, natural disaster, etc., in whole or in part of any improvement on any Lot shall be removed with all reasonable dispatch from the Lot to prevent unsightly condition.

iv. Antennae. No outside television antenna or other antenna or aerial saucer of similar device shall be placed, constructed, altered or maintained on any Lot or Improvement, except dishes of one (1) meter or smaller in diameter.

v. Pets and Animals. No animals, fowl, or livestock may be kept or maintained on any Lot except for dogs, cats, or other household pets without the prior written consent of the Association, which consent, if given, may be revoked at any time by the Association. No exotic, savage or dangerous animal shall be kept on a Lot and no animal may be kept or bred for commercial purposes.

Common household pets permitted under the provisions of this subsection shall be kept only in compliance with the rules and regulations promulgated by the Association from time to time, and must at all times be kept under such care and restraint as not to be obnoxious on account of noise, odor or unsanitary conditions. If a dog's barking can be heard on a frequent basis by any person on a nearby Lot, the offending dog may not be kept, even if permission was previously given to keep the pet. No animal shall be permitted to run loose in the Subdivision, nor upon any Lot except the Lot owned by the owner of such animal, and the owner of each pet shall be responsible for cleaning up after it.

The Association may charge a Lot Owner maintaining animals a reasonable supplemental assessment if the Association determines that such an assessment is necessary to defray additional maintenance costs to the Association of accommodating animals within the Subdivision. The Association may also, without liability to the owner of the pet, remove or cause any animal to be removed from the Subdivision which it determines to be in violation of the restrictions imposed by this section. Any person who causes or permits any animal to be brought to or kept in the Subdivision shall indemnify

and hold the Association harmless from any loss, damage or liability which the Association may sustain as a result of the presence of such animal in the Subdivision.

vi. Recreational Vehicles and Parking. Except as otherwise provided herein, no recreational vehicle, watercraft, snowmobile, camper, or trailer of any kind shall be parked or stored on any Lot unless such item is stored within the garage, with the garage door fully closed. Motor homes, campers, or trailers may be temporarily parked outside on the driveway for no longer than 72 consecutive hours and no longer than 30 cumulative days in any calendar year. No snowmobile, all-terrain vehicle or other off-road motorized recreational vehicle shall be operated in the Subdivision. No maintenance or repair shall be performed on any boat or recreational vehicle except within a garage or residence where totally isolated from public view.

vii. Vehicle Parking. Disabled or unlicensed vehicles may not be parked except on the Lot outside. Vehicles shall be parked in the driveway. No vehicles may be parked on Common Elements overnight, and the Association reserves the right to have such offending vehicles towed at the vehicle owner's expense.

viii. Conditions. It shall be the responsibility of each Owner and Occupant to prevent the development of any unclean, unsightly, or unkept condition of Improvements of grounds on each Owner's Lot. This responsibility shall also apply to Builders during the construction period of a dwelling on a Lot. No lawn ornaments, sculptures of statues shall be placed or permitted to remain on any Lot.

ix. Nuisances. No noxious, offensive or illegal activities shall be carried on upon any Lot, nor shall anything be done thereon tending to cause embarrassment, discomfort, annoyance or nuisance to the Owners or Occupants of the Subdivision.

x. Subdividing. No Lot shall be subdivided or its boundary lines changed except with the consent of the Developer and in conformance with the provisions of the Michigan Land Division Act and City ordinances.

xi. Reserved Rights. Developer hereby expressly reserves to itself the right to replat any two (2) or more Lots shown on the Plat to create a modified Lot or Lots and to take such other steps as are reasonably necessary to make such replatted Lots suitable and fit as a building site, including, but not to be limited to, the relocation of easements, walkways, and rights-of-way to conform to the new boundaries of the replatted Lots. Provided, however, any change, amendment or replat must be done only in conformance with the Land Division Act.

xii. Vehicles. No Owner or Occupant shall permit any motorized vehicle which is not in operating condition or not being used on a regular basis for transportation to be parked on its Lot unless such vehicle is completely enclosed in the attached garage.

xiii. Hunting. No Owner shall engage in or permit hunting in any form anywhere within the Subdivision.

xiv. Enforcing Authority. The provisions contained in Article II shall be interpreted and enforced by the Developer and the Homeowners Association, and may be enforced by the City where applicable.

xv. Compliance with Municipal Ordinances and Codes. Every use, activity, structure, improvement and building anywhere within the Subdivision (including, but not limited to, any individual lot, common area, private road, park, road or other area) shall comply fully with each and every applicable City ordinance, code and requirement.

ARTICLE III

THE OAKS PORTAGE HOMEOWNERS ASSOCIATION GENERAL PROVISIONS

A. An Association has been formed as a Michigan non-profit Corporation composed of the Owners of Lots 1 through 20 (inclusive) within the development and future Owners of Lots 21 through 70. Every owner of a Lot in the development, excluding the Developer, by acceptance of a deed or land contract thereof, shall automatically become a member of the Association. The Developer has dedicated the park areas as identified on the recorded The Oaks Plat, recorded at the Kalamazoo County Register of Deeds to the Association. The Association shall own fee simple title to the park areas within all phases of The Oaks. The Association will be responsible for managing, maintaining, administering, repairing and/or replacing such park areas and for assessing and collecting dues from the Lot owners to pay the Association's expenses and for such other matters as may be delegated to it by the Owners, by this Declaration, or by any other documents pertaining to the Association.

B. The Association has the right, among other things, to assess and collect assessments from all Owners, excluding the Developer, to pay the Association's expenses and to obtain and maintain insurance for the park areas as depicted on the plat for all phases of The Oaks.

C. When the provisions of this Declaration or the Association's By-Laws call for the vote of the Owners of Lots in the development, each owner of a Lot shall be entitled to cast one (1) vote for each. Each Lot within The Oaks shall be assigned an equal value of the park areas within the development.

D. Developer anticipates developing additional phases of The Oaks, which may contain park areas, which may be dedicated to the Association. The owners of such Lots within future phases of The Oaks shall also be members of the Association.

ARTICLE IV

THE OAKS PORTAGE HOMEOWNERS ASSOCIATION OPERATION AND MAINTENANCE RESPONSIBILITIES

A. Except as set forth herein, the responsibility for maintenance of any and all parks and common areas shall be the responsibility of the Association, unless the need for maintenance

is due to the act or neglect of an Owner or its agents, guests, or invitees, in which case such Owner shall be wholly responsible.

B. Notwithstanding anything in this document to the contrary, if the Association fails to maintain the common areas or parks, the City and Kalamazoo County Drain Commission shall have the right but not the obligation to properly maintain the same, and shall have the right to assess the Association and all Owners in the Subdivision on an equal basis, for reimbursement for any costs and expenses incurred by the City in maintaining the parks or common areas and appurtenances because of the Association's failure to do so. The City has the right to receive reimbursement from the Association for any sums expended for maintenance, and may, in addition to the assessment mechanism, enforce this Agreement by a lawsuit in an appropriate court.

C. Each Owner shall be obligated for the payment of all assessments levied upon his or her Lot during the time that he or she is the Owner of the Lot, and no Owner may exempt himself or herself from liability for his or her contribution toward the expenses of administration by the abandonment of his or her Lot.

D. In the event of a default by any Owner in paying the assessed common charges, the Association may declare all unpaid installments of the annual assessment for the pertinent fiscal year to be immediately due and payable. In addition, the Association may impose reasonable fines or charge interest at the legal rate on such assessments from and after the due date. Unpaid assessments shall constitute a lien on the Lot prior to all other liens except tax liens in favor of any public taxing authority and sums unpaid upon a first mortgage recorded prior to the recording of any notice of lien by the Association, and the Association may enforce the collection of all sums due by a lawsuit for a money judgment or by foreclosure of the lien(s) securing payment. In an action for foreclosure, a receiver may be appointed and reasonable rental for the Lot may be collected from the Owner or anyone claiming under him or her, and all expenses incurred in collection, including interest, costs and actual attorney's fees, and any advances for taxes or other liens paid by the Association to protect its lien, shall be chargeable to the Owner in default.

E. Upon the sale or conveyance of a Lot, all unpaid assessments against the Lot shall be paid out of the sale price by the purchaser in preference over any other assessment or charge. A purchaser or grantee may request a written statement from the Association as to the amount of unpaid assessments levied against the Lot being sold or conveyed and such purchaser or grantee shall not be liable for, nor shall the Lot sold or conveyed be subject to, a lien for any unpaid assessments in excess of the amount described in such written statement. Unless the purchaser or grantee requests a written statement from the Association at least 5 days before sale, the purchaser or grantee shall be liable for any unpaid assessments against the Lot together with interest, costs, and attorney fees incurred in collection of the assessments.

ARTICLE V

RESTRICTIONS PURSUANT TO THE CITY OF PORTAGE

The requirements and restriction contained in this Article V are required by the City of Portage. Some of these requirements and restrictions may duplicate other requirements contained herein. To the extent that any of the following requirements or restrictions contradict any other requirements or restrictions contained herein, the requirements and restrictions contained in this article shall control.

A. To protect future home sites from the adverse effects of storm water runoff, rear yard surface drainage has been performed to direct the rear yard runoff. Private easements for public drainage and City of Portage regulated floodway have been dedicated to the City of Portage as shown on the recorded plat of The Oaks. No construction to impair the flow of surface water can be performed within the limits of these easements. The City of Portage's ordinance regulates the use of these easements for purposes of insuring that the flow of surface and sub-surface water is unimpaired. No construction within the easements is to be undertaken without the permission of the City of Portage. This includes swimming pools, sheds, garages, patios, decks or any other permanent structure or landscaping feature that may interfere with surface drainage. Further, during the final Lot grading and landscaping the owner shall take care to ensure that the installation of fences, plantings, trees, and shrubs does not interfere with the surface drainage.

B. Critical drainage and overland floodway swales have been constructed through Lots 1 through 20. The floodway has been designed to carry storm water runoff overland in an emergency situation where the storm sewer fails or has exceeded its capacity. Critical elevations have been established with the floodway. Minimum building opening elevations have been placed one foot, or more, above the critical floodway elevations. Any alteration of the grade could cause a potential flooding hazard to the home. The elevations established in the design of these emergency overland drainage and floodway swales must be preserved. Any alteration of the grade shall be restored to its original condition and design elevations. The direction of surface water drainage and critical floodway elevations are shown on the grading plan, **Exhibit "A"** attached hereto.

The direction of flow for the surface drainage for all Lots is shown on the block grading plan, **Exhibit "A"** attached hereto. A more detailed plan is available at the City of Portage's Engineering Office. It is the Lot owner's responsibility to ensure that the final grading of the Lot is in accordance with the grading plan. During the final Lot grading and landscaping, the owner shall take care to ensure that the installation of fences, plantings, trees and shrubs do not interfere with the surface drainage from one Lot onto the next Lot.

C. Minimum basement floor (MBF) elevations have been established for all Lots as follows:

LOT NO.	MBF ELEVATION	LOT NO.	MBF ELEVATION
1	858.0	11	865.5
2	856.5	12	865.5
3	865.5	13	865.5
4	865.5	14	865.5
5	865.5	15	865.5
6	865.5	16	865.5
7	865.5	17	865.5
8	865.5	18	865.5
9	865.5	19	865.5
10	865.5	20	865.5

D. To eliminate the potential of structural damage due to flooding from rear yard surface drainage and the detention basins, the Lot owners shall keep the lowest door or window sill and/or basement floor above the minimum opening elevations listed above. The elevations are based on NGVD 29 Datum, and Benchmarks are described as follows:

BM #1 - The sanitary sewer manhole rim elevation within the intersection of Bermuda street and Hartwood court. Elevation of rim 861.1

BM#2- The sanitary sewer manhole rim elevation within the Cul-de-sac at the south end of Hartwood court. Elevation of rim 860.64

E. Each Lot owner waives his claim against the City of Portage, his employees and agents, the Engineer, and the Developer from any and all claims, damage and obligation arising from the existence or operation of the drainage system.

F. Restrictions pursuant to the requirements of the City of Portage and the Kalamazoo County Drain Commissioner are to be perpetual and shall run with the land. Drain restrictions may not be amended or modified without prior written approval of the City of Portage and properly recorded at the Kalamazoo County Register of Deeds. A waiver of building elevations may be granted by the City of Portage and the Kalamazoo County Drain Commissioner following receipt of a certification from a registered professional engineer demonstrating that the proposed elevation change does not pose a risk of flooding.

Disclaimer: The developer, their members, officers, directors, agents, employees, representatives, contractors and engineers, make no representation or warranty of any kind, express or implied, relative to flooding or backyard surface drainage of storm water on any Lot. Each individual Lot Owner shall be solely responsible for these items.

ARTICLE V

VIOLETIONS AND REMEDIES

A. Fine Policy. There is hereby established a system of fines for violations of the Declaration of Restrictions as follows:

i. First Violation. The Association may provide the defaulting Lot Owner with a warning notice for the first violation (or for the first day of a violation if such violation is continuing) specifying the violation and the corrective action required (the "First Notice").

ii. Second Violation. If the defaulting Lot Owner repeats the violation warned of in the First Notice, or if the default or violation continues without cure for a full 24 hours after delivery of the First Notice or another time-frame for remedy spelled out in the First Notice, then the Association may provide a second written notice to the defaulting Lot Owner, again specifying the violation and the corrective action required (the "Second Notice"). In addition to identifying the default, the Second Notice will also specify a hearing date, time and location at which time the defaulting Lot Owner will have the opportunity to meet with the Board for a hearing on the notice and violation. The hearing date will be no sooner than seven (7) days after the date of the Second Notice, unless otherwise agreed by the Board and the defaulting Lot Owner. After the hearing, the Board will take action on the Second Notice of default or violation, and a written decision (a "Decision") will be issued to the defaulting Lot Owner. The Decision will either confirm, modify, or withdraw the notice of default or violation stated in the Second Notice. If the notice of default or violation is confirmed, then the Board may assess a \$50.00 fine for the second violation.

iii. Third and Subsequent Violations. In the event that the defaulting Lot Owner repeats the violation warned of in the First Notice and Second Notice after the initial Decision, or if it is continuing, then the Association may provide an additional written notice to the defaulting Lot Owner and the parties shall proceed as described above for the Second Notice, except that: (i) subject to Subjection (c) of this Rule, the fine for a third violation shall be \$100.00, and the fine for the fourth and each subsequent violation shall be \$250.00; (ii) each 24-hour period that a violation continues shall be deemed a separate violation; and (iii) the Board may consider and assess fines for multiple violation at any one hearing.

iv. Payment of Fines; Lien. All fines assessed and stated in the initial or a subsequent Decision are due with thirty (30) calendar days of such Decision. All fines shall, if the same remain unpaid for thirty (30) calendar days from the date of a Decision, constitute a lien on the delinquent Lot Owner's Lot and may be collected in the same manner as assessments, as set forth in Article IV of this Declaration. Any amounts expended by the Association to abate a violation, including reasonable attorney's fees incurred by the Association in connection with the violation, shall also constitute a lien

upon the defaulting Lot Owner's Lot and shall also be subject to collection in the same manner as assessments, as set forth in Article IV of this Declaration.

v. Modification of Fine Amounts. Notwithstanding anything above to the contrary, the Board, in the exercise of its reasonable business judgment, may vary the amount of a fine for the second or any subsequent violation, as the circumstances warrant; provided, however, that the notice of violation shall state the Board's election to deviate from the general fine schedule outlined above.

B. Late Fees and Interest. Unless another due date is established by the Board, all monthly assessments are due and payable on the first day of each quarter. A late fee of \$20.00 shall be assessed on the thirtieth (30th) day of each month to any lot which is delinquent in payment of any assessments due in the present or any prior. Assessments more than 2 quarters delinquent will be subject to a lien against the lot, with any and all costs incurred to collect being the responsibility of the homeowner. Any dishonored checks will be treated as if no check was received and late fee(s) along with interest, if applicable, and any NSF charges incurred by the Association will be added to the Lot Owner's account.

C. Miscellaneous.

i. Reservation of Rights. Nothing herein limits the Association's ability to pursue, alternatively or in conjunction with fines as set forth herein, any other remedy available under this Declaration or Michigan law.

ii. Amendment; Subordination. The Association reserves the right to make amendments, modifications and additions to the Rules and Regulations heretofore set forth, and to make such additional Rules and Regulations, as in the Association's sole judgment may from time to time be needed for the safety, care, cleanliness and preservation of good order of the Project. Such changes will be in writing.

ARTICLE VI

GENERAL PROVISIONS

Changes or modifications of any provision contained herein to carry out the spirit or intent of these covenants shall be permitted solely by a written instrument executed by the Owners of two-thirds of the Lots in said plat. If said Owners, their successors or assigns, or any other person shall violate or attempt to violate any of these covenants herein contained, it shall be lawful for any other person or persons owning any real property situated in said plat to prosecute by law or in equity against the offender. Such actions are to prevent the violators from changing or modifying these restrictions or to recover damages for such violations. Invalidation of any of these covenants by judgment or court order shall in no way affect any of the provisions which shall remain in full force and effect. No amendment or change affecting the City of Portage or the Kalamazoo County

Drain Commissioner requirements shall be made without the prior written consent of the City of Portage or the Kalamazoo County Drain Commissioner.

A. Term. This Declaration shall be in full force and effect for an initial period of thirty (30) years from the date thereof, and thereafter for successive periods of twenty-five (25) years unless terminated by the affirmative vote of at least seventy-five percent (75%) of the Owners and the Owners of any expanded portion or phase of the Subdivision of The Oaks.

B. Run with the Land. The provisions of the Declaration shall run with and bind the land within the Subdivision, including the Lots, during the term of this Declaration. Developer, the Association, each Fee Owner of a Lot from time to time, and all of their successors and assigns, shall have the right, jointly and severally, to sue for and obtain a prohibitive and mandatory injunction to prevent the breach of, or to enforce the observance of, this Declaration and/or any of the restrictions contained herein, in addition to the right to bring a legal action for damages. Whenever there shall have been built, erected or constructed upon any Lot any Improvement which is and remains in violation of this Declaration for a period of thirty (30) days after receipt of written notice of such violation from Developer of the Association, or either of their successors or assigns, then the notifying party shall have, in addition to the foregoing rights, the right to enter upon the Lot where such violation exists and summarily abate or remove the same at the expense of the Owner whose Lot is in violation, and such entry and abatement or removal shall not be deemed as trespass. In no event shall the failure of any party entitled to enforce any provision of this Declaration as to a particular violation be deemed to be a waiver of the right to do so as to any subsequent violation, nor shall any such party assume any liability to any person or entity of whatsoever kind or nature for its or their failure to enforce any provisions of this Declaration.

C. Severability. Invalidation of any covenant, restriction, paragraph or section of this Declaration by judgment of court order shall in no way affect any other covenants, restriction, paragraph or section of this Declaration, which shall remain in full force and affect.

D. Amendments. This Declaration may only be amended during the first thirty (30) year period by an instrument signed by not less than ninety percent (90%) of the Owners and thereafter, by an instrument signed by not less than seventy-five percent (75%) of the Owners. Provided, however, the Developer reserves the right to amend this Declaration at any time without prior written approval for the purpose of correcting errors herein and/or for making other amendments that will not materially increase or decrease the benefits or obligations of the Subdivision. In no event, so long as Developer owns any Lot, may this Declaration be amended without the consent of Developer, which consent may be withheld in Developer's sole discretion. Any amendments must be recorded with the Kalamazoo County Register of Deeds. In addition, no amendment or change to this document that involves the City or any provision referencing the City shall occur without the City's prior written consent.

E. Assignment of Rights and Powers. Any or all of the rights and powers hereby reserved by or given to Developer may be assigned by it to another person or entity, including the Association, upon such terms and conditions as the Developer may deem appropriate. Any such assignment of transfer shall be made by appropriate written instrument in which the assigner shall

join for the purpose of evidencing its consent to the acceptance of such powers and rights, and the assigner shall thereupon have the same rights and powers and be subject to the same obligations and duties as herein reserved by or given to and assumed by Developer. Such instrument, when executed by the assigner shall without further act release Developer from the obligations and duties in connection therewith.

F. Address. Each Owner of a Lot shall provide his/her correct mailing address to the Association and shall notify the Association promptly in writing of any subsequent changes of address.

G. Scope. The terms and conditions of this Declaration shall only apply to the Subdivision and shall not apply to any land or premises adjacent thereto and owned by the Developer. However, the Developer reserves the right by amendment to this Declaration to include any expanded portion of the Subdivision under the terms of this Declaration.

H. Preserved Open Space as Private Park. Except for detention basins and utility easements, the areas depicted as parks on the recorded Plat shall be preserved in their existing natural state and shall be maintained by the Kalamazoo County Drain Commission as needed. Further dividing or subdividing shall be prohibited. Vegetation shall not be removed, except diseased or dead vegetation by the Drain Commission. Unless subsequently authorized by the City and the majority of Owners, no park or open space area shall be used for buildings, storage, operation of motorized recreational vehicles, hunting, or dumping of yard waste or refuse by lot owners or others.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the below signed has executed this Declaration of Restrictions on the day and year above described.

WESTVIEW CAPITAL, LLC

By: Green Holdings, LLC, its Sole Member

By: 

Thomas M. Larabel

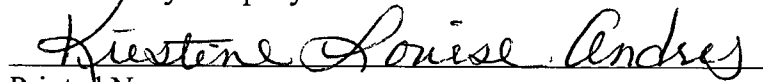
Its: Vice President

STATE OF MICHIGAN)

) ss.

COUNTY OF KENT)

The foregoing instrument was acknowledged before in Kent County this 19th day of September, 2022, by Thomas M. Larabel, Vice President of Green Holdings, LLC, a Michigan limited liability company, and Manager of Westview Capital, LLC, a Michigan limited liability company, on behalf of the limited liability company.



Printed Name: _____

Notary Public, State of _____ County of _____

My commission expires _____

Acting in the County of _____

KRISTINE LOUISE ANDRES

Notary Public, State of Michigan

County of Ottawa

My Commission Expires August 11, 2028

Acting in the County of Kent

Prepared by:

Eric Guerin

WESTVIEW CAPITAL, LLC

Vice President and General Counsel

2186 E Centre Ave

Portage, MI 49002

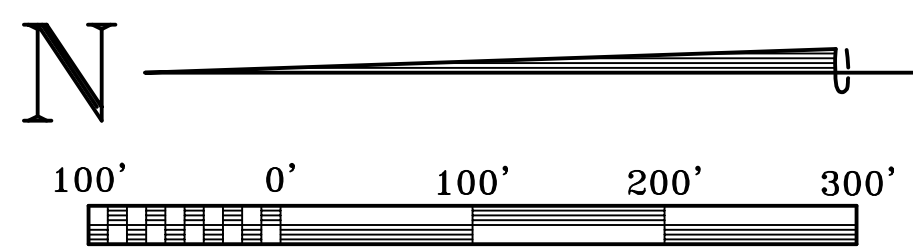
After Recording Return To:

Brian Wood

WESTVIEW CAPITAL, LLC

795 Clyde Court

Byron Center, MI 49315



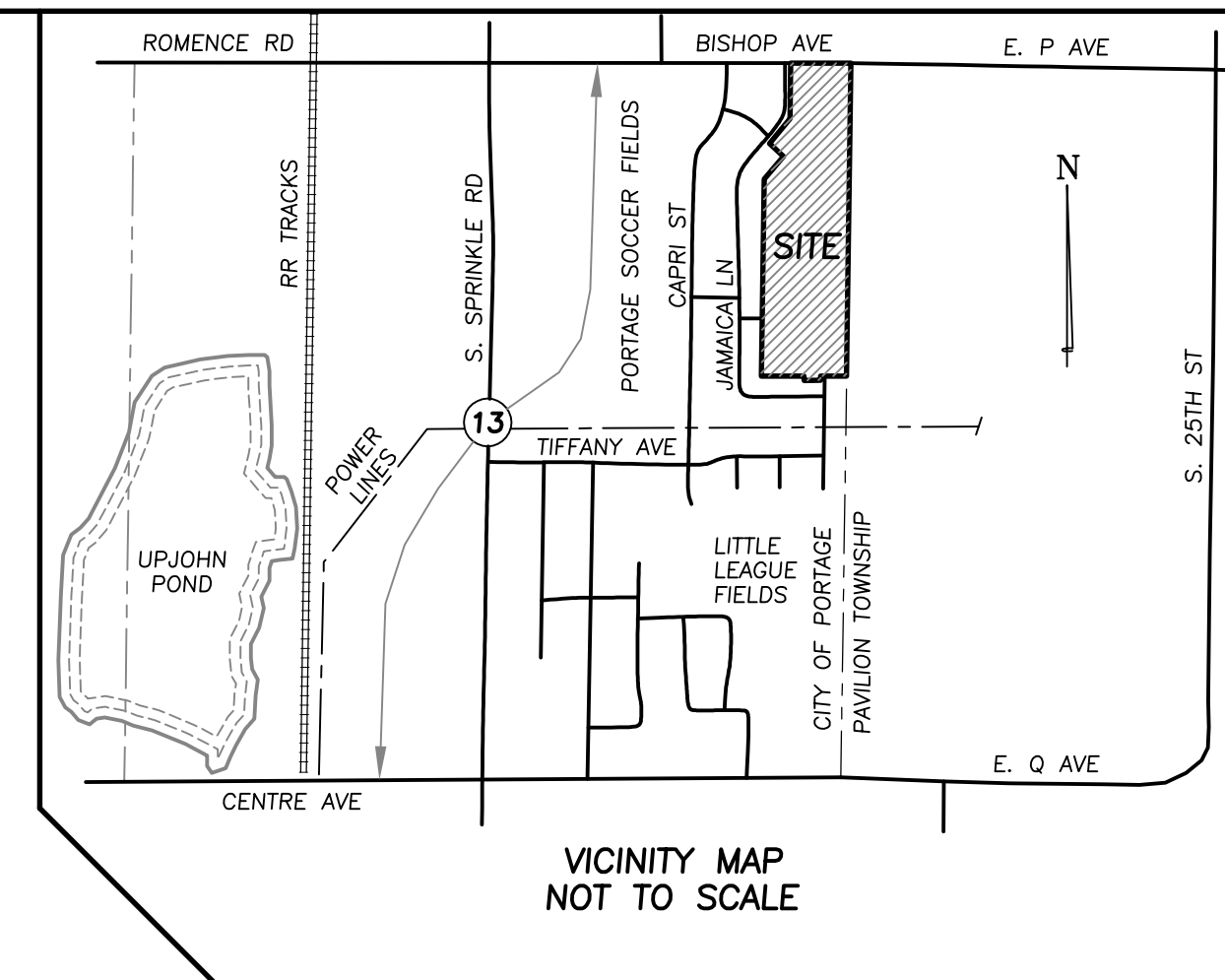
50' WIDE PARCEL TO BE DEEDED TO THE CITY OF PORTAGE FOR RIGHT-OF-WAY PURPOSES (DURING FINAL PLAT STAGE)

NOTE: NORTHERLY PARCEL NOT INCLUDED IN PROPOSED SUBDIVISION. PARCEL TO BE DEEDED TO THE OAKS HOME OWNERS ASSOCIATION. PARCEL SHALL BE FOR PASSIVE RECREATION.

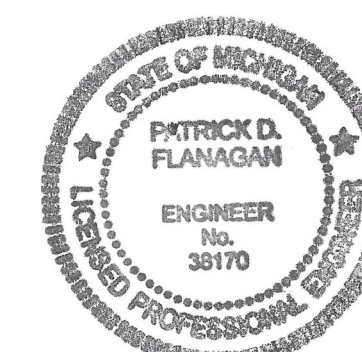
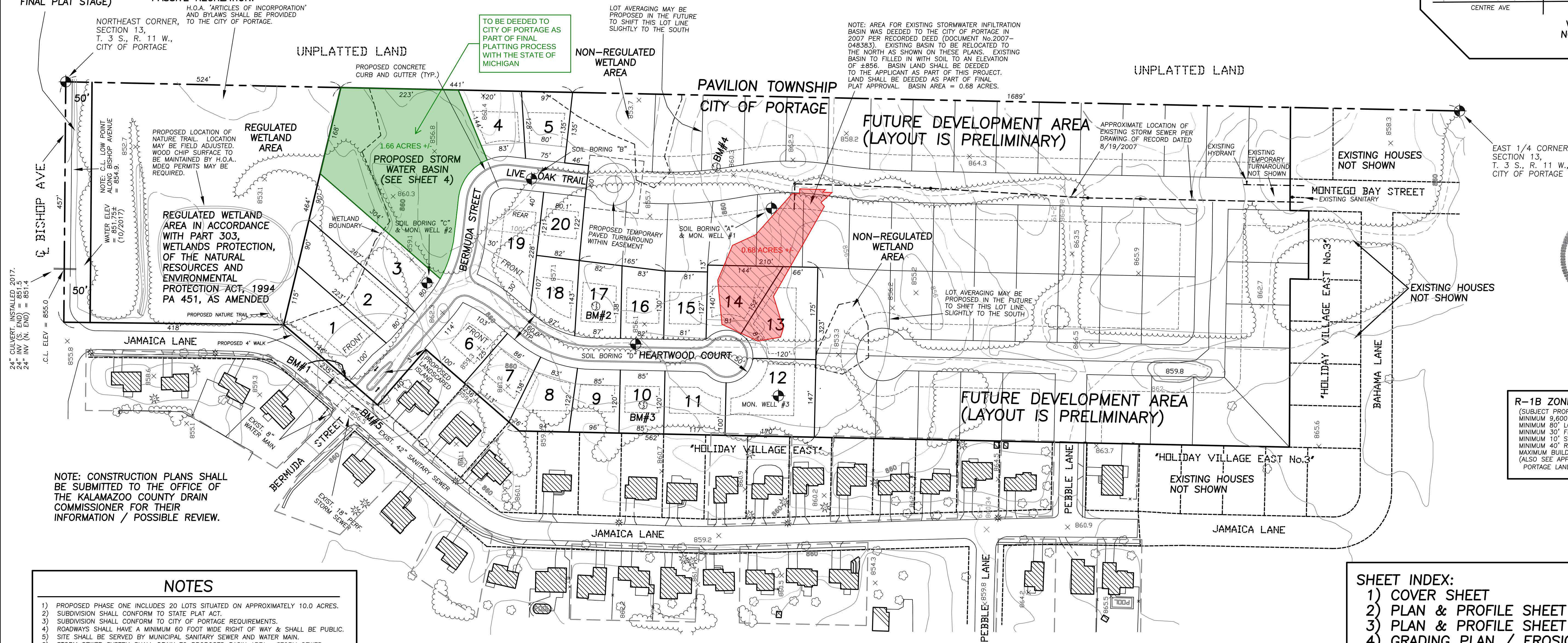
H.O.A. 'ARTICLES OF INCORPORATION' AND BYLAWS SHALL BE PROVIDED TO THE CITY OF PORTAGE.

CONSTRUCTION PLANS for PHASE ONE of 'THE OAKS'

(NOTE: THESE CONSTRUCTION PLANS ARE ALSO KNOWN AS THE 'FINAL PRELIMINARY PLAT')



VICINITY MAP
NOT TO SCALE



Pat Flanagan

R-1B ZONING INFORMATION:
(SUBJECT PROPERTY IS ZONED R-1B)
MINIMUM 9,600 SQ. FT. AREA WITH SEWER & WATER
MINIMUM 80' LOT WIDTH WITH SEWER & WATER
MINIMUM 30' FRONT YARD SETBACK
MINIMUM 10' SIDE YARD SETBACK
MINIMUM 40' REAR YARD SETBACK
MAXIMUM BUILDING COVERAGE OF LOT = 25%
(ALSO SEE APPLICABLE SECTIONS OF CITY OF PORTAGE LAND DEVELOPMENT REGULATIONS)

NOTES

- PROPOSED PHASE ONE INCLUDES 20 LOTS SITUATED ON APPROXIMATELY 10.0 ACRES.
- SUBDIVISION SHALL CONFORM TO STATE PLAT ACT.
- SUBDIVISION SHALL CONFORM TO CITY OF PORTAGE REQUIREMENTS.
- ROADWAYS SHALL HAVE A MINIMUM 60 FOOT WIDE RIGHT OF WAY & SHALL BE PUBLIC.
- SITE SHALL BE SERVED BY MUNICIPAL SANITARY SEWER AND WATER MAIN.
- STORM SEWER SYSTEM SHALL DRAIN TO PROPOSED BASIN AREA. STORM SEWER WITHIN PROPOSED PUBLIC STREETS SHALL BE UNDER CITY OF PORTAGE JURISDICTION. PROPOSED BASIN SHALL BE UNDER CITY OF PORTAGE JURISDICTION.
- SITE IS PRIMARILY TREE COVERED.
- ALL LOTS SHALL COMPLY WITH CITY OF PORTAGE ZONING REQUIREMENTS. ALL LOTS SHALL HAVE AN AREA OF AT LEAST 9600 SQUARE FEET AND A LOT WIDTH OF AT LEAST 80.00 FEET. SHOWN LOT DIMENSIONS SUBJECT TO FINAL ADJUSTMENT.
- SHOWN ELEVATIONS ARE BASED ON USGS DATUM. SHOWN TOPOGRAPHY & ELEVATION CONTOURS SHOWN ON SHEET 1 BASED ON 1992 & 2002 MAPS PREPARED BY OTHERS.
- SIDEWALKS WILL BE PROVIDED ON BOTH SIDES OF ALL STREETS AND AROUND THE BULB OF ANY PERMANENT CUL. DE SAC. PAVEMENT WIDTH SHALL BE A MINIMUM OF 26.0 FEET (30.0 FEET BETWEEN BACKS OF CURBS). ALL UTILITIES SHALL BE UNDERGROUND.
- SHOWN PROPOSED STREET NAMES MAY BE REVISED.
- A LAND DIVISION APPLICATION SHALL BE PREPARED AND SUBMITTED PRIOR TO FINAL PLAT APPROVAL FOR THE REMAINING LAND.
- PLAT RESTRICTIONS SHALL INCLUDE A NOTE ADVISING THE PURCHASER OF LOTS 1, 6, AND 19 OF THE ADDITIONAL SIDEWALK MAINTENANCE AND ADDITIONAL LAWN CARE DUE TO THE ADDITIONAL ROAD FRONTAGE.
- THE RETENTION BASIN SHALL BE FENCED PER CITY OF PORTAGE REQUIREMENTS.
- AS REQUIRED BY THE CITY, DOCUMENTS RELATED TO THE HOMEOWNER'S ASSOCIATION FOR 'THE OAKS' SHALL BE PREPARED AND FINALIZED PRIOR TO FINAL PLAT APPROVAL.
- AREA HAS HISTORY OF HIGH GROUNDWATER. BASEMENT ELEVATIONS SHALL BE SET APPROPRIATELY. SEE NOTES ON SHEETS 2, 3 AND 4.
- SHOWN TOPOGRAPHIC MAP ON COVER SHEET (SHEET 1) WAS PREPARED FROM AERIAL PHOTOGRAPHS AND IS FROM THE CITY OF PORTAGE. ELEVATION CONTOURS AND PHYSICAL FEATURES SHOWN ON SHEET 4 (GRADING PLAN) ARE BASED ON A 2017 FIELD TOPOGRAPHIC MAPPING BY INGERSOLL, WATSON & MCMACHEN, INC.
- A MAINTENANCE / INDEMNIFICATION AGREEMENT SHALL BE PROVIDED TO THE CITY AS REQUIRED (FOR ENTRY ISLAND AND FOR STORM BASIN).
- ALL REQUIRED EASEMENTS SHALL BE PROVIDED TO THE CITY AND SHALL BE SHOWN ON THE PENDING FINAL PLAT MAP.

ELEVATION BENCHMARKS:

- BM#1 = 857.51
(TOP OF LARGE HYDRANT OUTLET)
- BM#2 = 857.96
(60d NAIL ON NORTHWEST SIDE 15" CHERRY TREE)
- BM#3 = 858.93
(60d NAIL ON SOUTH SIDE 16" CHERRY TREE)
- BM#4 = 861.79
(60d NAIL ON WEST SIDE 12" TREE)
- BM#5 = 856.13
(TOP OF SANITARY SEWER MANHOLE LID)

SOIL BORING DATA:

SB "A": 0'-0.5': 0.5'-3.5': 3.5'-8.5':	TOPSOIL SANDY CLAY & CLAYEY SAND COARSE SAND (WATER @ ±8.5')
SB "B": 0'-0.5': 0.5'-3.5': 3.5'-7.5':	TOPSOIL SANDY CLAY & CLAYEY SAND COARSE SAND & GRAVEL (WATER @ ±6')
SB "C": 0'-0.5': 0.5'-5.5': 5.5'-10':	TOPSOIL SAND W/FINES COARSE SAND (WATER @ ±10')
SB "D": 0'-0.5': 0.5'-4.5': 4.5'-7.5':	TOPSOIL FINE SAND COARSE SAND (WATER @ ±5')

PARCEL DESCRIPTION: (INCLUDES PHASE ONE OF "THE OAKS", FUTURE PHASES, AND EXCEPTED LAND NORTH OF PHASE ONE OF "THE OAKS")

PART OF THE NORTHEAST QUARTER OF SECTION 13, TOWN 3 SOUTH, RANGE 11 WEST, CITY OF PORTAGE, KALAMAZOO COUNTY, MICHIGAN, DESCRIBED AS: COMMENCING AT THE EAST QUARTER POST OF SAID SECTION 13; THENCE NORTH 01 DEGREES 11' 53" EAST ON THE EAST LINE OF SAID SECTION 13 A DISTANCE OF 322.05 FEET TO THE POINT OF BEGINNING OF THE LAND HEREIN DESCRIBED; THENCE NORTH 89 DEGREES 45' 30" WEST 196.02 FEET; THENCE SOUTH 01 DEGREE 11' 53" WEST 35.77 FEET; THENCE NORTH 89 DEGREES 45' 30" WEST 130.03 FEET; THENCE NORTH 01 DEGREE 11' 53" EAST 38.00 FEET; THENCE NORTH 89 DEGREES 45' 30" WEST 320.04 FEET; THENCE NORTH 01 DEGREE 11' 53" EAST 285.23 FEET TO THE SOUTHEAST CORNER OF LOT 38, HOLIDAY VILLAGE EAST, ACCORDING TO THE PLAT THEREOF AS RECORDED IN LIBER 36 OF PLATS, PAGE 1, KALAMAZOO COUNTY RECORDS; THENCE NORTH 01 DEGREE 11' 53" EAST ON THE EAST LINE OF SAID HOLIDAY VILLAGE EAST 1,181.07 FEET; THENCE NORTH 41 DEGREES 08' 06" EAST ON SAID EAST LINE 235.83 FEET; THENCE NORTH 48 DEGREES 51' 54" WEST ON SAID EAST LINE 140.00 FEET; THENCE NORTH 40 DEGREES 47' 15" EAST ON SAID EAST LINE 66.00 FEET; THENCE NORTH 00 DEGREES 37' 28" EAST ON SAID EAST LINE 418.47 FEET TO THE NORTH LINE OF SAID SECTION 13; THENCE SOUTH 89 DEGREES 33' 00" EAST ON SAID NORTH LINE 457.34 FEET; THENCE SOUTH 01 DEGREE 11' 53" WEST ON THE EAST LINE OF SAID SECTION 13 A DISTANCE OF 2,331.65 FEET TO THE POINT OF BEGINNING, EXCEPT THE FOLLOWING FOR THE RETENSION BASIN: PART OF THE NORTHEAST 1/4 OF SECTION 13, TOWN 3 SOUTH, RANGE 11 WEST; COMMENCING AT THE EAST 1/4 POST OF SAID SECTION 13; THENCE NORTH 01 DEGREES 11' 53" EAST ON THE EAST LINE OF SAID SECTION 13 A DISTANCE OF 1190.74 FEET; THENCE NORTH 88 DEGREES 48' 07" WEST PERPENDICULAR TO SAID EAST SEC LINE 180 FEET TO THE POINT OF BEGINNING OF THE EASEMENT HEREIN DESCRIBED; THENCE NORTH 42 DEGREES 00' 02" WEST 28.77 FEET; THENCE SOUTH 47 DEGREES 59' 58" WEST 9.93 FEET; THENCE NORTH 60 DEGREES 26' 19" WEST 195.47 FEET; THENCE SOUTH 72 DEGREES 42' 23" WEST 63.18 FEET; THENCE NORTH 72 DEGREES 48' 40" WEST 18.13 FEET; THENCE NORTH 09 DEGREES 53' 33" WEST 43.82 FEET; THENCE NORTH 25 DEGREES 01' 44" EAST 75.51 FEET; THENCE NORTH 84 DEGREES 31' 20" EAST 84.18 FEET; THENCE SOUTH 66 DEGREES 57' 14" EAST 72.19 FEET; THENCE SOUTH 24 DEGREES 29' 08" EAST 48.36 FEET; THENCE SOUTH 48 DEGREES 26' 28" EAST 104.49 FEET; THENCE SOUTH 00 DEGREES 00' 00" EAST 14.01 FEET; THENCE SOUTH 88 DEGREES 00' 30" EAST 9.48 FEET; THENCE SOUTH 01 DEGREES 59' 30" WEST 49.32 FEET; THENCE NORTH 42 DEGREES 00' 02" WEST 7.57 FEET; THENCE SOUTH 01 DEGREES 11' 53" WEST 18.26 FEET TO THE POINT OF BEGINNING.

- SHEET INDEX:**
- COVER SHEET
 - PLAN & PROFILE SHEET (BERMUDA ST. & LIVE OAK TRAIL)
 - PLAN & PROFILE SHEET (HEARTWOOD COURT)
 - GRADING PLAN / EROSION CONTROL PLAN
 - CONSTRUCTION DETAILS & NOTES

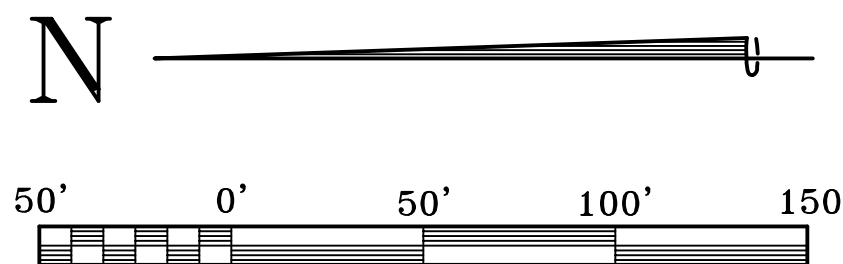
APPLICANT/OWNER:
LANDMARK DEVELOPMENT PARTNERS, LLC
4191 SQUIRE HEATH
PORTAGE, MI 49024
(269) 806-6823 (AARON HOVESTADT)

REVISED: 08/09/2020
REVISED: 07/29/2020
REVISED: 11/08/2017
REVISED: 10/24/2017
REVISED: 9/20/2017
REVISED: 9/06/2017
REVISED: 9/01/2017
REVISED: 8/22/2017

COVER SHEET
Phase One of 'THE OAKS'
PART OF THE NORTHEAST 1/4 OF SEC. 13, T3S, R11W, CITY OF PORTAGE, KALAMAZOO CNTY., MICH.
Ingersoll, Watson & McMachen, Inc.
CONSULTING CIVIL ENGINEERS AND LAND SURVEYORS
1133 East Milham Road • Kalamazoo, Michigan 49002 • Area 269 344-6185 • Fax 269 344-0555

DATE: 6/06/2017
SHEET: 1
JOB No.: 36417





NOTE: A MAINTENANCE AND INDEMNIFICATION AGREEMENT BASIN SHALL BE PROVIDED RELATIVE TO THE STORMWATER BASIN OUTLET TO THE PROPERTY TO THE NORTH OF "THE OAKS"

Perforated pipe shall be corrugated polyethylene pipe (CPE), shall be ADS N-12, Hancor, or equiv. (dual wall, smooth inside, corrugated outside, perforated, soil tight joints), and shall comply with AASHTO M 294 Type SP.

Filter fabric shall be a nonwoven geotextile with a minimum weight of 3.5 ounces per square yard, a minimum coefficient of permeability of 0.02 cm/sec, and apparent opening size ranging between 70 to 120 U.S. standard sieve size.

Stone in perforated pipe trench shall be MDOT 6A stone.

98" OF 12" DIAMETER PERFORATED H.D.P.E. PIPE IN 36" WIDE BY 24" STONE BED (CLEAN MDOT 6A STONE) WITH FILTER FABRIC ON BOTH SIDES AND ON TOP OF STONES. BOTTOM OF STONES SHALL BE 12" BELOW BOTTOM OF PIPE.

PROPOSED CB#5
24" DIAMETER
W/EJW #6517 FRAME & GRATE
RIM ELEV = 854.0
12" INV (SW) = 850.78

NATURE TRAIL TO BE ESTABLISHED WITHIN LAND NORTH OF PHASE ONE BY THE OWNER, APPLICANT. LOCATION AND ROUTE TO BE FIELD DETERMINED.

BERMUDA STREET

SEE NOTES & INFORMATION ON SHEET 2 REGARDING EXISTING CURB INLETS

LEGEND

--- 900 --- EXISTING ELEVATION CONTOUR
--- 900 --- PROPOSED ELEVATION CONTOUR

PROPOSED CB#9, 48" DIA
W/ EJW# 1020 FRAME &
TYPE M2 GRATE
RIM ELEV= 859.0± (1"±
BELOW EXISTING GRADE)
N 12" INVERT= 853.61
S 12" INVERT= 863.71

NOTE: ADDITIONAL SILT FENCE LOCATIONS ARE PENDING.

NOTE: STORM BASIN DESIGN SUBJECT TO CITY REVIEWS AND FINAL ADJUSTMENT.

NOTE: REMOVAL OF WATER, OR "DEWATERING", SHALL COMPLY WITH SECTION 202.0 OF THE CITY OF PORTAGE'S CONTRACT CONDITIONS AND SPECIFICATIONS WITH TWO EXCEPTIONS:
1) THE OWNER SHALL BE RESPONSIBLE FOR OBTAINING THE APPROPRIATE MDEO PERMITS.
2) RESTORATION OF DAMAGED STRUCTURES AND FOUNDATION SOILS RESULTING FROM DEWATERING SHALL BE PERFORMED BY THE CONTRACTOR AT NO ADDITIONAL EXPENSE TO THE OWNER.

NOTE: GRADING AND EARTH MOVING IN AREAS OUTSIDE OF PROPOSED ROADWAY AREAS SHALL BE DONE IN STAGES SO THAT AN AREA CAN BE STRIPPED, SHAPED, TOPSOILED, AND SEEDED IN A MINIMAL AMOUNT OF TIME. THE AMOUNT OF DISTURBED GROUND SHALL BE KEPT TO A MINIMUM DURING THE CONSTRUCTION PROJECT. DISTURBED AREAS SHALL BE RESTORED BY THE CONTRACTOR AS SOON AS CONVENIENTLY POSSIBLE.

SEE VICINITY MAP ON SHEET 1.

SEE PARCEL DESCRIPTION ON SHEET 1.

MICHIGAN UNIFIED KEYING SYSTEM

- Ⓢ SEEDING (ALL DISTURBED AREAS)
- Ⓡ RIP RAP
- Ⓟ PAVING
- Ⓢ CURB & GUTTER
- Ⓢ STORM SEWER
- Ⓢ CATCH BASIN
- Ⓢ GEOTEXTILE SILT FENCE
- Ⓢ M.U.K.S. DESIGNATION
- Ⓢ TEMPORARY/PERMANENT

ESTIMATED CONSTRUCTION SCHEDULE:

	12/17	01/18	02/18	03/18	04/18	05/18	06/18	07/18	08/18	09/18
CLEARING										
EARTHMOVING										
SANITARY SEWER										
STORM SEWER										
WATER MAIN										
CURBING & PAVING										
PRIVATE UTILITIES										
RESTORATION										

NOTE: CONSTRUCTION SCHEDULE SUBJECT TO CHANGE BASED ON MARKET CONDITIONS, WEATHER, AND OTHER FACTORS.

SOIL EROSION CONTROL NOTES

- ALL CONSTRUCTION SHALL COMPLY WITH THE SOIL EROSION AND SEDIMENTATION CONTROL ACT (P.A. 451 OF 1994, AS AMENDED) AS ADMINISTERED BY THE CITY OF PORTAGE.
- EARTHWORK CONTRACTORS SHALL BE RESPONSIBLE FOR THE FOLLOWING:
 - BERMING OR FILTERING OF PROPERTY LINES AT ALL LOCATIONS WHERE EROSION COULD OCCUR.
 - PROTECTION OF ALL EXISTING AND NEWLY CONSTRUCTED STORM SEWER STRUCTURES, WHETHER ADJACENT TO OR ON THE SITE.
 - MINIMIZATION OF TRACKING OF MATERIAL OFF-SITE.
 - SWEEPING & CLEANING OF ADJACENT STREETS AS NECESSARY.
- PROPERTY OWNER SHALL OBTAIN SOIL EROSION & SEDIMENTATION CONTROL PERMIT.

RESTORATION NOTES

- ALL DISTURBED AREAS SHALL BE RESTORED WITH MINIMUM 4" TOPSOIL, GRASS SEED, AND MULCH, OR OTHER REQUIRED LANDSCAPING.
- EXISTING STREETS SHALL BE RESTORED TO A CONDITION AT LEAST EQUAL TO THAT WHICH EXISTED PRIOR TO CONSTRUCTION.

TEMPORARY SOIL EROSION CONTROL MEASURES

- EARTH GRADING AROUND ALL NEW SANITARY SEWER AND STORM SEWER MANHOLES/CATCH BASINS SHALL BE SUCH THAT RAIN WATER/EROSION RUN-OFF CANNOT ENTER MANHOLE/CATCH BASIN. MINIMUM ONE FOOT TALL EARTH BERM SHALL ENIRCLE EACH MANHOLE/CATCH BASIN.
- ONCE GRATE IS INSTALLED ON STORM SEWER STRUCTURE, FILTER FABRIC SHALL BE PLACED ON GRATE TO PREVENT SOIL EROSION FROM ENTERING STORM SEWER SYSTEM.
- ALL STREETS SHALL BE KEPT CLEAR OF SOIL AND MUD. CONTRACTOR SHALL SWEEP/CLEAN NEARBY STREETS AS NECESSARY.
- ANY EVIDENCE OF SOIL EROSION SHALL BE EXAMINED AND ADDRESSED BY CONTRACTOR. INVOLVEMENT BY ENGINEER AND/OR CITY OF PORTAGE MAY BE NECESSARY.
- SOIL EROSION SHALL NOT BE ALLOWED ONTO ADJOINING PROPERTIES OR ONTO NATURAL AREAS OUTSIDE OF PROPOSED CONSTRUCTION AREA.
- SILTATION FENCING SHALL BE PLACED AS REQUIRED.

PERMANENT SOIL EROSION CONTROL MEASURES

- ALL NEW ROADWAYS SHALL BE PAVED.
- STORM SEWER SYSTEM SHALL CONVEY WATER RUN-OFF TO ON-SITE STORMWATER DETENTION BASIN.
- ALL DISTURBED AREAS SHALL RECEIVE TOPSOIL AND SEEDING PER THE PROJECT CONSTRUCTION PLANS.

MAINTENANCE REQUIREMENTS (AFTER CONSTRUCTED):

- ALL PAVED ROADWAYS AND ENTIRE STORM SEWER SYSTEM SHALL BE MAINTAINED BY THE CITY OF PORTAGE. ALL LAWNS SHALL BE MAINTAINED BY LOT OWNERS.
- TEMPORARY EROSION CONTROL MEASURES SHALL BE REMOVED ONLY AFTER ENTIRE SITE HAS BEEN STABILIZED.

APPLICANT:
LANDMARK DEVELOPMENT PARTNERS, LLC
5176 QUEEN VICTORIA LANE
KALAMAZOO, MI 49009
(269) 806-6823

REVISED: 07/29/2020
REVISED: 11/08/2017
REVISED: 11/01/2017
REVISED: 10/24/2017
REVISED: 10/9/2017
REVISED: 10/2/2017
REVISED: 9/20/2017
REVISED: 9/01/2017
REVISED: 8/22/2017

GRADING & EROSION CONTROL PLAN Phase One of "THE OAKS"		DATE: 6/06/2017
PART OF NE 1/4 OF SEC. 13, T3S, R11W, CITY OF PORTAGE, KALAMAZOO COUNTY, MICHIGAN		SHEET: 4
Ingersoll, Watson & McMachen, Inc.		JOB No.: 36417
CONSULTING CIVIL ENGINEERS AND LAND SURVEYORS		
1209 East Milham Road • Portage, Michigan 49002 • Phone 269 344-6165 • Fax 269 344-0555		



NOTE: WITHIN THE U.S.D.A SOIL SURVEY OF KALAMAZOO COUNTY, ON-SITE SOILS ARE SHOWN AS ADRIAN MUCK (Ad) WITHIN AND NEAR WETLAND AREAS, AND KALAMAZOO LOAM (KaC) & SEBEWA LOAM (Sb) WITHIN UPLAND AREAS.

NOTE: FOR LOTS 2 THROUGH 20, ALL BASEMENT FLOOR ELEVATIONS SHALL BE SET AT 856.5 OR HIGHER. THE HOUSE FOR LOT 1 SHALL BE BUILT ON A SLAB, WITH A SLAB ELEVATION OF 858.0 OR HIGHER.

HISTORIC HIGH GROUNDWATER ELEVATION NEAR THE SOUTH EDGE OF PHASE 1 OF "THE OAKS" IS 855.5. IN GENERAL, GROUNDWATER IS HIGHER TO THE SOUTH OF PHASE 1, AND GROUND WATER IS LOWER TO THE NORTH OF PHASE 1 OF "THE OAKS". EACH NEW HOUSE ON SITE WILL BE REQUIRED TO INCORPORATE A SUBBASEMENT DRAINAGE SYSTEM IN CONJUNCTION WITH THE REQUIRED RADON VENTING SYSTEM.

WARRANTY DEED

Westview Capital, LLC, a Michigan Limited Liability Company (Grantor), whose address is 2186 East Centre Street, Portage, Michigan 49002, conveys and warrants to the **City of Portage, a Municipal Corporation** organized under the laws of the State of Michigan, with offices at City Hall, 7900 South Westnedge Avenue, Portage, Michigan 49002 (Grantee), the following real property situated in the City of Portage, County of Kalamazoo, State of Michigan, and described as follows:

(See attached Exhibit "A")

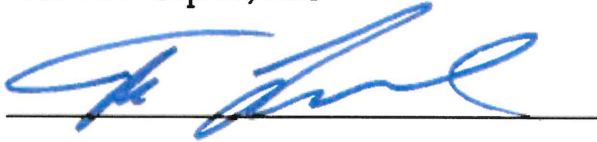
Subject to conditions, restrictions, easements, and limitations of record. The purpose of this conveyance is to convey the above referenced property to the Grantee for storm sewer, storm water detention, and storm water drainage purposes as shown on the "The Oaks" recorded plat.

This property may be located within the vicinity of farmland or a farm operation. Generally accepted agricultural and management practices which may generate noise, dust, odors, and other associated conditions may be used and are protected by the Michigan Rights to Farm Act.

For the sum of LESS THAN ONE HUNDRED DOLLARS (\$100.00). This deed is exempt from revenue stamps and transfer tax pursuant to MCLA 207.505 (a) and (h), and MCLA 207.526 (a) and (h).

Grantor:

Westview Capital, LLC

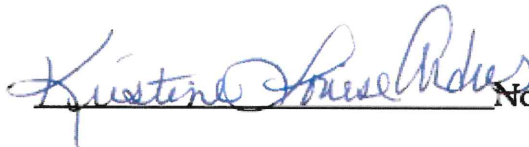


By: Thomas Larabel

Its: Vice President

STATE OF MICHIGAN)
) ss
COUNTY OF Kent)

One this 3rd day of May, 2023, before me personally appeared the above named Thomas Larabel, to me personally known, who being by me duly sworn, did and each for himself say that he is the Vice President of Westview Capital, LLC, a Michigan Limited Liability Company, and that said instrument was signed on behalf of said limited liability company by its authority, and said Thomas Larabel acknowledges said instrument to be the free act and deed of said limited liability company.



Notary Public

KRISTINE LOUISE ANDRES
Notary Public, State of Michigan
County of Ottawa

My Commission Expires August 11, 2028
Acting in the County of Kent

_____ County, Michigan

My Commission Expires: _____

Acting in _____ County, Michigan

WHEN RECORDED RETURN TO:

City of Portage Department of Community Development
7900 South Westnedge Avenue
Portage, MI 49002

THIS INSTRUMENT PREPARED BY:

Brian Wood
Westview Capital LLC.
2186 East Centre Avenue
Portage, MI 49002

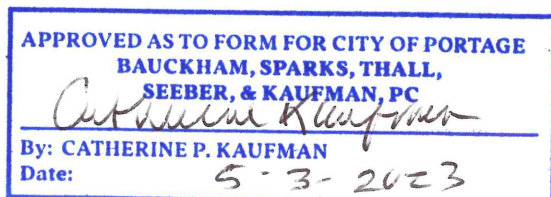


EXHIBIT "A"

PARCEL DESCRIPTION for THE "OAKS STORM WATER DISPOSAL AREA" WITHIN "THE OAKS" SUBDIVISION

May 2, 2023

A parcel of land situated in the Northeast quarter of Section 13, Town 3 South, Range 11 West, City of Portage, Kalamazoo County, Michigan being more particularly described as follows: **Commencing** at the Northeast corner of said Section 13; thence S.01°11'53"W. 523.70 feet along the East line of the Northeast quarter of said Section 13 to the Northeast corner of "The Oaks" subdivision according to the plat thereof as recorded in Document No. 2022-028583, Kalamazoo County records and the **Place of Beginning**; thence N.76°26'06"W. 168.64 feet along a Northerly line of said "The Oaks" subdivision to the Northeast corner of Lot 3 of said "The Oaks" subdivision; thence S.41°01'15"W. 303.30 feet along the East line of said Lot 3 to the Northerly line of Bermuda Street (public right-of-way); thence Southeasterly 87.28 feet along said Northerly line along the arc of a non-tangent curve to the left having a radius of 220.00 feet, a central angle of 22°43'46", and a chord of S.72°09'19"E. 86.70 feet; thence S.83°31'12"E., 70.13 feet along said Northerly line; thence Southeasterly 95.81 feet along said Northerly line along the arc of a curve to the right having a radius of 90.00 feet, a central angle of 60°59'45", and a chord of S.53°01'20"E. 91.35 feet to the Northwest corner of Lot 4 of said "The Oaks" subdivision; thence N.67°28'33"E. 144.12 feet along the North line of said Lot 4 to said East line of the Northeast quarter; thence N.01°11'53"E. 223.55 feet along said East line to the **Place of Beginning**, containing 1.66 acres of land.

EXHIBIT "A"
(PAGE 2)

NORTHEAST CORNER,
SECTION 13,
T. 3 S., R. 11 W.,
CITY OF PORTAGE



TO: Honorable Mayor and City Council

FROM: Pat McGinnis, City Manager

SUBJECT: Final Preliminary Plat (engineering plans) of Oakland Farms No. 3, 9840 Oakland Drive

SUPPORTING PERSONNEL: Peter Dame, Chief Development Officer

ACTION RECOMMENDED: Approve the Final Preliminary Plat (engineering plans) of Oakland Farms No. 3, 9840 Oakland Drive.

Hyland Associates, LLC has submitted a Final Preliminary Plat of Oakland Farms No. 3 residential subdivision located at 9840 Oakland Drive. The Oakland Farms Subdivision has been built in several phases:

- The first phase consisted of ‘Oakland Farms’ with the development of a new street off Oakland Drive called ‘Oakland Farms Trails’ with 19 new lots each developed in 2006/2007 with single-family detached homes.
- In 2014, a second phase was approved and later built, called Oakland Farms ‘North’. This phase is nearing completion and consists of a new street off Oakland Drive called ‘Ashford Trail’ with 19 new lots each with single-family detached homes.
- A third phase ‘Oakland Farms No. 2’ was approved in 2018 and allowed the development of 25 new lots, each with single-family detached homes along undeveloped portions of Oakland Farms Trail and Ashford Trail and along a new street ‘Honey Creek Trail’ which connects the aforementioned two streets.
- A total of 63 new lots (54 homes built) each with single-family detached homes and three new streets have been approved and are nearly fully developed, as of the date of this memorandum.

On October 4, 2022, the City Council approved the Preliminary Plat of Oakland Farms No. 3, 9840 Oakland Drive, which represents the fourth (final) phase of the single-family residential subdivision planned along the west side of Oakland Drive. Hyland Associates, LLC, is requesting that City Council approve the Final Preliminary Plat (engineering plans) for Oakland Farms No. 3 subdivision that involves the following planning and public improvements:

- Phase four, Oakland Farms No. 3, consists of 20 lots (units 45 - 64) on 8.5 acres and is expected to be developed with single-family detached homes.
- The density of this final phase is expected to be 2.35 units/acre.
- Most lot sizes are approximately 12,000 - 13,000 square feet, with cul-de-sac lots being larger.
- Extension of Ashford Trail and a new street ‘Windflower Lane’ (both have 60-foot-wide rights-of-way; both are public streets).
- New streets will be approximately 24 feet wide and have 4-foot-wide sidewalks along both sides.
- Sidewalks will be provided on both sides of all streets and around the bulb of any permanent cul-de-sac.

- All lots will be served by city water and sewer.
- Stormwater will be directed to an existing stormwater basin of the City of Portage.
- Fire hydrants will be provided throughout the phase per minimum spacing regulations.
- Each lot will have at least one street tree located within the ROW or private front yard per Sec 42-808.
- Each lot will meet R-1C zoning minimum lot size of 12,000 square feet; and the following yard setbacks: Front: 30', Sides: 12', and Rear: 40'. Other zoning development restrictions also apply.

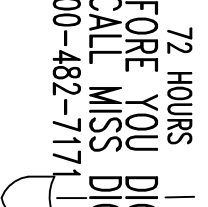
An existing City of Portage well and pump house is located immediately west of the subject area and is connected to an existing driveway used by the city which connects to Honey Creek Trail. Under this driveway is an existing 16" water main. An existing easement between the property owner (Hyland Associates, LLC, and the City of Portage) has been established over this water main and driveway. When the new street 'Windflower Lane' and its cul-de-sac are constructed for the proposed Phase 3, it will provide closer access to the pump house. Therefore, the city will no longer use the existing driveway to access the pump house and no longer maintain it. The 16" water main and access easement will remain in place, however.

It is recommended that City Council approve the Final Preliminary Plat (engineering plans) of Oakland Farms No. 3, 9840 Oakland Drive.

FUNDING: Not Applicable

Attachments: 1. Oakland Farms No. 3 Final Preliminary Plat (engineering plans) revised March 31, 2023

NOTE: "OAKLAND FARMS No.3" PROPERTY IS PARTIALLY WOODED WITH SOME MATURE TREES AND OTHER TREES THAT HAVE BEEN PLANTED ON-SITE OVER THE PAST 15 YEARS. TREE AND BRUSH WILL BE REMOVED AS NECESSARY TO FACILITATE UTILITIES, ROADWAYS, AND NECESSARY SITE GRADING.



- COVER SHEET / FINAL PRELIMINARY PLAN for
OAKLAND FARMS No. 3
 PART OF THE SW 1/4 OF SEC. 29, T. 3 S., R. 11 W., COT. OF FORMER, KALAMAZOO COUNTY
 SHEET: **1**
 DATE: **2/21/2023**
 JOB No.: **35067-3**
 Formerly Ingersoll, Watson & McMeekin, Inc.
 1200 East William Road, Suite B • Portage, Michigan 49601 • Phone 800 344-6165

HYLAND ASSOCIATES, LLC
7545 SOUTH 10th ST.
KALAMAZOO, MI 49009
207-2239 or 207-2920

FIRE DEPT. NOTES

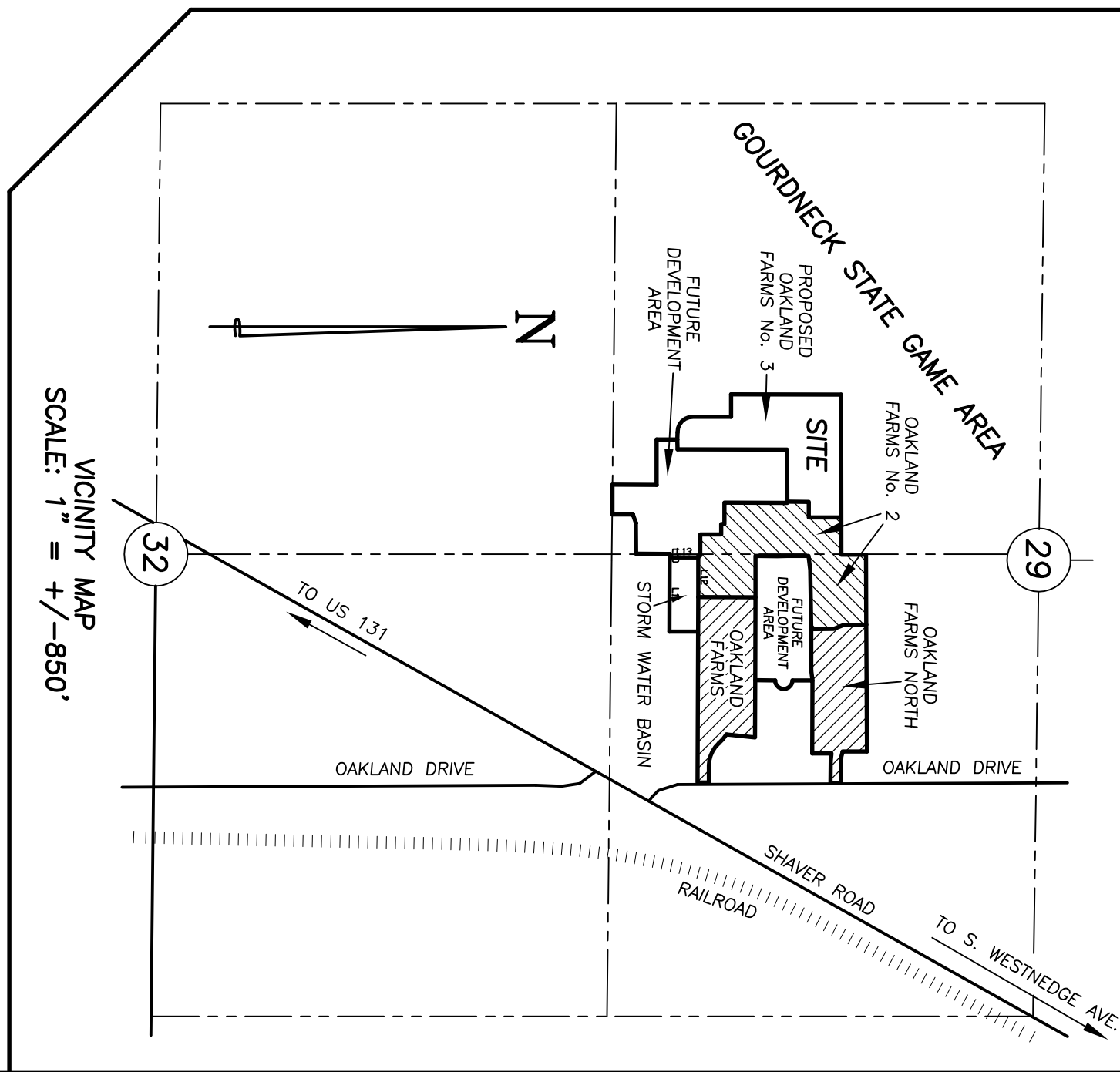
COMBUSTIBLE BUILDING CONSTRUCTION SHALL NOT COMMENCE UNTIL FIRE HYDRANTS ARE OPERABLE AND AT LEAST MINOR FLOOD SURFACE IS IN PLACE.

THE FLOOR FOR EACH BUILDING IS 1000 GPM FROM ONE HORIZONTAL MAIN OR BRANCHES OF MAINS OF ALL FLOORS INCLUDING BASEMENT FOR A BUILDING OF V-A CONSTRUCTION. SHOULD A BUILDING EXCEED 2800 SQ FT PER FLOOR, THE MINIMUM FLOW SHALL BE THE SIZE AND TYPE OF CONSTRUCTION FOR THAT BUILDING.

FIRE APPARATUS ACCESS ROADS TO 20' X 26' FEET WIDE SHALL BE POSTED ON BOTH SIDES AS A TIME LANE.

A PDF FORMAT FILE OF THE APPROVED SITE PLAN SHALL BE PROVIDED TO THE FIRE DEPARTMENT.

- 1) PROPOSED PHASE INCLUDES 20 LOTS SITUATED ON APPROXIMATELY 8.5 ACRES.
- 2) LOTS SHALL CONFORM TO CITY OF PORTAGE ZONING REQUIREMENTS.
- 3) SUBDIVISION SHALL CONFORM TO THE CITY OF PORTAGE REQUIREMENTS.
- 4) ALL ROADWAYS SHALL HAVE A 60 FOOT WIDE RIGHT OF WAY AND SHALL BE PUBLIC.
- 5) STORM SEWER SYSTEM SHALL BE DESIGNED TO EXISTING STORM WATER DRAIN (D/R TO THE LAND TO THE WEST) AND SHALL BE OPEN TO CITY OF PORTAGE JURISDICTION.
- 6) SITE IS PARTIALLY TREE COVERED.
- 7) ALL LOT DIMENSIONS ARE SUBJECT TO FINAL ADJUSTMENT. DIMENSIONS SHOWN ON SHOWN ELEVATIONS ARE BASED ON LISTS DATA, SHOWN TOPOGRAPHY & ELEVATION INFORMATION BASED ON A 1992 WALK PREPARED BY OTHERS.
- 8) SIDEWALKS WILL BE PROVIDED ON BOTH SIDES OF ALL STREETS AND AROUND THE BUILD OF ANY PERMANENT LOT USE. PAVEMENT WIDTH SHALL BE A MINIMUM OF 24 FEET. THERE SHALL BE A 10' WALK BETWEEN CURBS. ALL UTILITIES SHALL BE UNDERGROUND.
- 9) SHOWN STREET NAMES ARE PRELIMINARY.
- 10) TREE ADJUSTMENTS SHALL BE SLOPED NO MORE THAN 50% APART AND SITUATED SUCH THAT ALL PORTIONS OF SITES BE WITHIN 250' OF A TREE TRUNK.
- 11) SIDEWALKS AND STREET TREES WITHIN WORKLAND PARKS NO. 22 SHALL BE COMPLETED PER AGREEMENT(S) BETWEEN DEVELOPER AND THE CITY OF PORTAGE.



MULCH BLANKETS REQUIRED ON 3 ON 1
SLOPE WEST OF WINDFLOWER LANE.

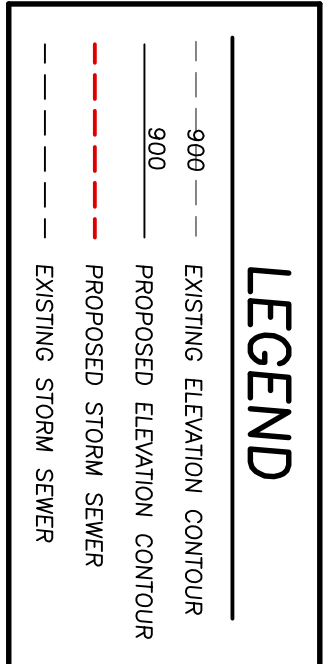
NOTE: ADDITIONAL SILT FENCE MAY BE REQUIRED.
NOTE: ADDITIONAL MULCH BLANKETS MAY BE REQUIRED

EDGE OF SITE GRADING
GRADING AREA = 3.4 ACRES

ESTIMATED CONSTRUCTION SCHEDULE:	
06/23	07/23
08/23	09/23
10/23	
EARTHMOVING	
SEWERY SEWER	
WATER MAIN PLACING	
PRIVATE UTILITIES	
RESTORATION	

NOTE: CONSTRUCTION SCHEDULE SUBJECT TO CHANGE BASED ON
MARKET CONDITIONS, WEATHER, AND OTHER FACTORS.

NOTE: GRADING AND EARTH MOVING IN AREAS OUTSIDE
OF PROPOSED ROADWAY AREAS SHALL BE DONE IN
STAGES SO THAT AN AREA CAN BE STRIPPED, SHAPED,
TOPPOLED, AND SEEDED IN A MINIMAL AMOUNT OF
TIME. THE AMOUNT OF DISTURBED GROUND SHALL
BE KEPT TO A MINIMUM DURING THE CONSTRUCTION
PROJECT. DISTURBED AREAS SHALL BE RESTORED BY
THE CONTRACTOR AS SOON AS CONVENIENTLY POSSIBLE.



NOTE: THIS SESC PLAN
IS ONLY FOR ROADWAY
& UTILITY CONSTRUCTION.
IT IS NOT FOR ANY
FUTURE HOUSE CONST-
RUCTION.

NOTE:
All work must comply with
the provisions of Part 91 of
the Michigan Department of
Transportation's Soil
Erosion and Sedimentation
Control Act of the Natural Resources
and Environment
Protection Act P.A. 451 of
1994, as amended, and as
administered by the City.

DAKLAND FARMS TRAIL

GRADING NOTE: DURING HOUSE CONSTRUCTION,
FINAL GRADING NEAR HOUSE (& WITHIN LOT)
WILL NOT BE DIRECTED TOWARDS ANY HOUSE
AND WILL NOT BE DIRECTED ONTO ADJOINING
PROPERTIES.

SOIL EROSION METHODS WILL BE MONITORED DURING
CONSTRUCTION. THE INCREASED AMOUNT OF
RESIDENTIAL LOTS AND THE
AND SEDIMENT ARE TRACKED ONTO THE ROADWAYS
DURING CONSTRUCTION, THE STORM WATER TREATMENT
SYSTEM MAY NEED TO BE CLEANED PRIOR TO ISSUANCE
OF THE FINAL BUILDING PERMIT FOR THIS SITE.

BASED ON THE INFORMATION PROVIDED FOLLOWING BUILDING
CONSTRUCTION, THE CITY OF PORTAGE, MICHIGAN, THE
SEDIMENT WILL NEED TO BE REMOVED.

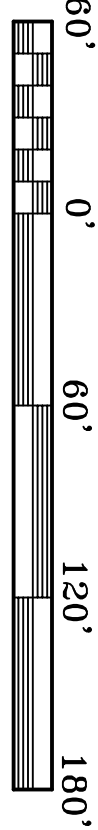
NOTE: DISTURBED AREAS SHALL RECEIVE "KALAMAZOO
OF AT LEAST 5 POUNDS PER 1000 SQUARE FEET.

SOILS ON SITE ARE SHOWN AS SPB
(SPINKS LOAMY SAND) IN THE USDA'S
SOIL SURVEY OF KALAMAZOO COUNTY.

SEE M.D.O.T. EROSION CONTROL
DETAILS ON SHEET 4. ALL
SESC MEASURES SHALL COMPLY
WITH MDOT SESC DETAILS.

EXISTING STORM WATER BASIN AREA
(CITY OF PORTAGE)

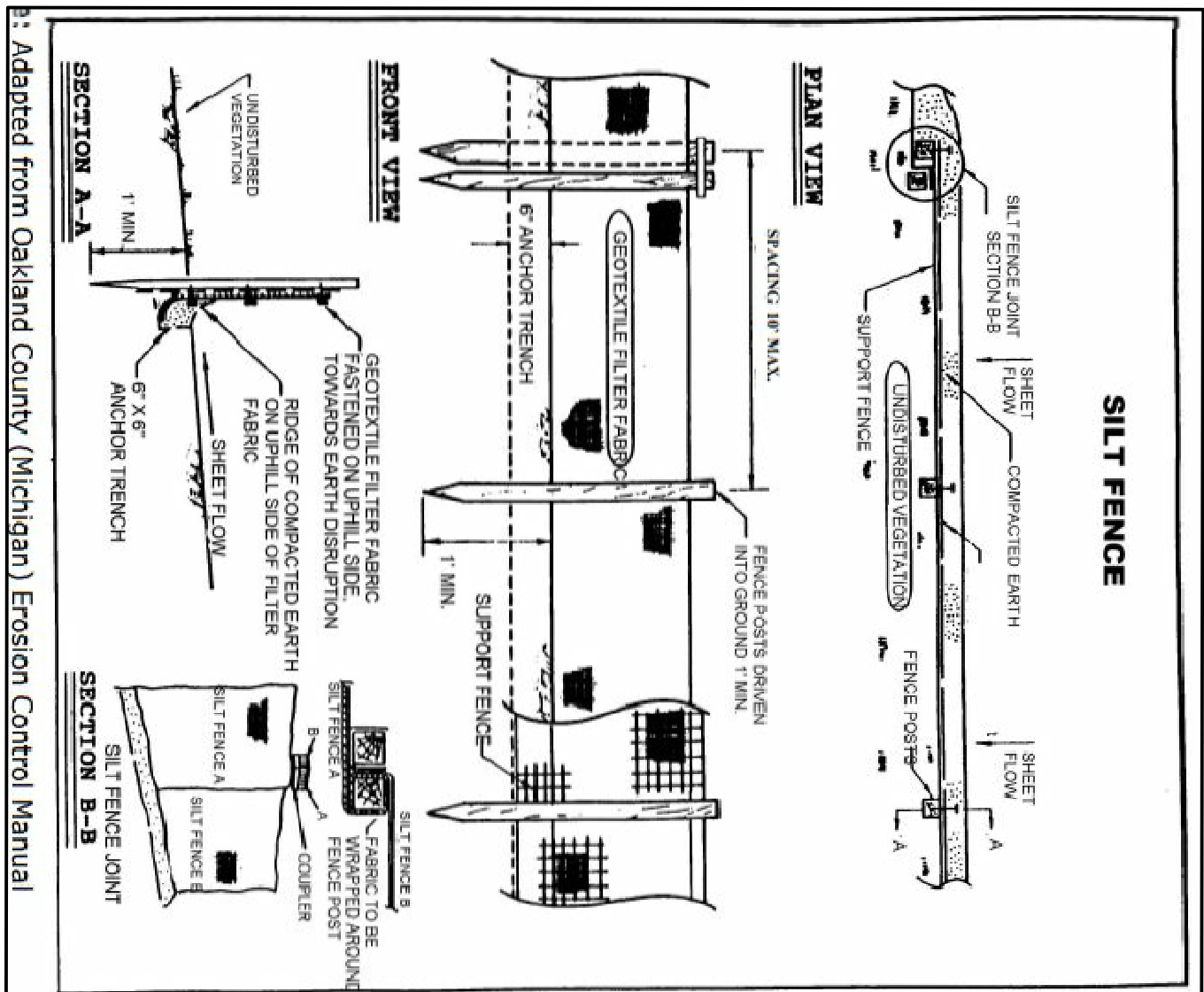
NOTE: CERTAIN BUILDING FOOTINGS AND/OR BASEMENT
FLOORS MAY SIT ON ENGINEERED FILL MATERIAL. FOR
THESE SITES, PLACEMENT OF FILL, INSPECTION, AND/OR
TESTING SHALL BE DONE IN ACCORDANCE WITH CITY
OF PORTAGE REQUIREMENTS. GEOTECHNICAL TESTING
COMPANY SHALL BE HIRED TO MONITOR AND/OR
TEST THOSE FILL AREAS. THIS SHALL BE COORDINATED
WITH THE CITY OF PORTAGE BUILDING SERVICES DEPT.
REMOVAL OF TOPSOIL AND PLACEMENT OF FILL SOIL
SHALL ALSO BE SUBJECT TO INSPECTION BY
ENGINEERING COMPANY.



ZONED I-1

POSSIBLE FUTURE
SCREENING NOT
SHOWN

SECTION A-A
SCALE: 1" = 10'
(SCALED BY FACTOR OF 6)



S.E.S.C. INSTALLATION NOTE:
ALL PROPOSED EROSION CONTROL
MEASURES SHALL BE INSTALLED
IN ACCORDANCE WITH DETAILS
AND SPECIFICATIONS CONTAINED
IN THE MICHIGAN DEPARTMENT
OF TRANSPORTATION'S SOIL
EROSION AND SEDIMENTATION
CONTROL MANUAL (CURRENT EDITION) MANUAL
IS AVAILABLE ON-LINE OR AT
THIS OFFICE.

NOTE: ON-SITE SOILS ARE SHOWN AS
SPB (SPINKS SANDY LOAM) AND OAB
(OAKLAND SANDY LOAM) WITHIN
THE DISTURBED AREAS OF THE
KALAMAZOO COUNTY, MICHIGAN.

NOTE: SILT FENCE AND OTHER
TEMPORARY SESC MEASURES
MAY BE REMOVED FROM SITE
ONLY AFTER SITE HAS BECOME
STABILIZED WITH VEGETATION
RELATED TO UTILITY & ROADWAY
CONSTRUCTION.

NOTE: EROSION CONTROL BLANKETS SHALL
BE PROTECTED AGAINST ANY DISTURBED
STEPPER (4:1 OR STEEPER).

GRADING NOTE: DURING HOUSE CONSTRUCTION,
FINAL GRADING NEAR HOUSE (& WITHIN LOT)
WILL NOT BE DIRECTED TOWARDS ANY HOUSE
AND WILL NOT BE DIRECTED ONTO ADJOINING
PROPERTIES.

NOTE: SPOILS PILES(S) SHALL BE SEEDED AND ENRICED
WITH SILT FENCE IF SPOIL PILE WILL NOT BE DISTURBED
FOR A PERIOD OF 30 DAYS OR MORE.

NOTE: SILT SACKS, OR OTHER MEASURE
APPROVED BY THE CITY OF PORTAGE,
SHALL BE USED AT EACH CATCH BASIN
AND EACH DRAIN LOCATION.

NOTE: PROPOSED SILT FENCE
LOCATIONS SUBJECT TO CITY OF
PORTAGE REVIEW. ADDITIONAL SILT
FENCE MAY BE REQUIRED ON-SITE.

OWNER/APPLICANT:
HYLAND ASSOCIATES, LLC
7545 SOUTH 10th ST.
KALAMAZOO, MI 49009
207-2239 or 207-2920



GRADING/EROSION CONTROL PLAN
"OAKLAND FARMS No.3"
PART OF THE SW 1/4 OF SEC. 28, T25, R17W, CITY OF PORTAGE, KALAMAZOO COUNTY, MI
MONUMENT ENGINEERING GROUP ASSOC., INC.
Formerly Ingersoll, Watson & Melachien, Inc.
1209 East William Road, Suite B • Portage, Michigan 49002 • Phone 269 344-0165

REVISION: 3/31/2023
DATE: 2/21/2023
SHEET: 3
JOB No.: 35067

NOTE: ALL SESC MEASURES AND PROVISIONS SHALL COMPLY WITH DETAILS ON THIS SHEET.

[illegible]

KEY	DETAIL	CHARACTERISTICS	A	B	C	D	E	F	G
7		Used where vegetation cannot be established. May assist in providing against high velocity flows. Should be placed on a gradient face.	•	•	•	•			•
8		Can be used in any area where a stable condition is needed for erosion protection, equipment storage or to bury refuse material. Reduces potential soil erosion and helps to stabilize per stream.	•						•
9		Intended to slow down the eroding process and stabilize. Provides access for reaching slopes.	•						•
10		Intends to the diversion of runoff to a stable outlet or sediment control device. Reduces stream flow velocities preventing filling and gullying. Works well on a diversion line (DET 10).	•						•
11		Intends to the diversion of runoff to a stable outlet or sediment control device. Reduces stream flow velocities preventing filling and gullying. Works well on a diversion line (DET 10).	•						•
12		Intends to the diversion of runoff to a stable outlet or sediment control device. Reduces stream flow velocities preventing filling and gullying.	•						•
13		Used in filtering flow prior to its entry into a lake, stream or waterway with sediment trap (DET 20) and temporary bypass channel (DET 20).	•						•
14		Provides a stable access to temporary retaining lights and structures of materials and loads across and upstream.	•						•

NATIONAL DEPARTMENT OF TRANSPORTATION Bureau of Highway Construction Research Unit (HCR)		
SOIL EROSION & SEDIMENTATION CONTROL MEASURES		
4-1-2010 SCALE: 3/8"=1'	R-96-E	SHEET 2 OF 6

[illegible]

KEY	DETAIL	CHARACTERISTICS	A	B	C	D	E	F
31		An Inlet Protection Sediment Trap is a temporary device that can be used in areas where erosion flows are anticipated. Effectively trapping silt and sediment prior to water entering the drainage system. Can be used in areas with no inlets and other devices.	•	•	•	•	•	•
32		A simple and economical way to reduce soil erosion by wind and water. Can be accomplished by: horizontal with rock, dead shrubs, or planting with a cover perpendicular to the slope.	•	•	•	•	•	•
33		Mulch blankets provide an immediate and effective cover over new unstable slopes affecting significant protection against rain and wind erosion. Mulches work well for stabilizing the location of erosion in wetlands.	•	•	•	•	•	•
34		Used to create a dry construction area and protect the stream bank from erosion areas. Can be accomplished by: horizontal with rock, dead shrubs, or planting with a cover perpendicular to the slope.	•	•	•	•	•	•
35		Used to create a dry construction area in wetland. Mulch blankets from new erosion areas matching erosion control measures are in place. Can be accomplished by: horizontal with rock, dead shrubs, or planting with a cover perpendicular to the slope.	•	•	•	•	•	•
36		Used to create a dry construction area and protect the stream bank from erosion while some matching erosion control measures are in place. Can be accomplished by: horizontal with rock, dead shrubs, or planting with a cover perpendicular to the slope.	•	•	•	•	•	•
37		Can be constructed across either or any part of concentrated flow. Can be accomplished by: horizontal with rock, dead shrubs, or planting with a cover perpendicular to the slope. A Creek Dam is intended to reduce water velocities and capture sediment. A Creek Dam is not a filtering device.	•	•	•	•	•	•

MICHIGAN DEPARTMENT OF TRANSPORTATION
Bureau of Highway Structures, Bridge and Dam Unit

SOIL EROSION & SEDIMENTATION
CONTROL MEASURES

1-15-20156-3-2010R-96-ESHEET

1-15-20151-15-20155 OF 5

[illegible][illegible]

TO: Honorable Mayor and City Council

FROM: Pat McGinnis, City Manager

SUBJECT: Charitable Gaming License - Perry Harley Davidson Community Foundation

SUPPORTING PERSONNEL: Erica Eklov, City Clerk

ACTION RECOMMENDED: Adopt the Resolution for Charitable Gaming License recognizing the Perry Harley Davidson Community Foundation as a nonprofit organization in the City of Portage.

Public Act 382 of 1972 requires that groups desirous of obtaining a gaming license from the State of Michigan secure a resolution from the local governing body recognizing the group as a nonprofit organization operating in the community. A gaming license permits a group to conduct raffles and raise funds in support of the organization for one year.

A request was received from Perry Harley Davidson Community Foundation to be recognized as a nonprofit organization operating in the community and be allowed to conduct a raffle in 2023. The attached Resolution has been provided by the State of Michigan to recognize Perry Harley Davidson Community Foundation as a nonprofit organization operating in the City of Portage. The main purpose of the Perry Harley Davidson Community Foundation is to organize motorcycle-related events to raise funds and donations to help local charities, including but not limited to cancer research.

The Perry Harley Davidson Community Foundation has provided the Raffle License Application, a copy of the Articles of Incorporation, the by-laws and by-law amendments, proof of a current bank account in the name of the organization, and recent bank statements. It is recommended that City Council adopt the Resolution for Charitable Gaming License recognizing Perry Harley Davidson Community Foundation as a nonprofit organization in the City of Portage.

FUNDING: N/A

Attachments: 1. Local Governing Body Resolution for Charitable Gaming Licenses



State of Michigan
Michigan Gaming Control Board
Millionaire Party Licensing
3062 W. Grand Blvd, Suite L-700
Detroit, MI 48202-6062
Phone: (313) 456-4940
Fax: (313) 456-3405
Email: Millionaireparty@michigan.gov
www.michigan.gov/mgcb

LOCAL GOVERNING BODY RESOLUTION FOR CHARITABLE GAMING LICENSES

(Required by MCL.432.103(k)(ii))

At a _____ meeting of the _____
REGULAR OR SPECIAL TOWNSHIP, CITY, OR VILLAGE COUNCIL/BOARD

called to order by _____ on _____
DATE

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

Moved by _____ and supported by _____

that the request from _____ of _____,
NAME OF ORGANIZATION CITY

county of _____, asking that they be recognized as a nonprofit
COUNTY

organization operating in the community, for the purpose of obtaining charitable gaming licenses, be

considered for _____
APPROVAL/DISAPPROVAL

<u>APPROVAL:</u>	Yeas: _____	<u>DISAPPROVAL:</u>	Yeas: _____
	Nays: _____		Nays: _____
	Absent: _____		Absent: _____

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

by the _____ at a _____
TOWNSHIP, CITY, OR VILLAGE COUNCIL/BOARD REGULAR OR SPECIAL

meeting held on _____
DATE

SIGNED: _____
TOWNSHIP, CITY, OR VILLAGE CLERK

PRINTED NAME AND TITLE

ADDRESS

Organization Information: _____
ORGANIZATION'S MAILING ADDRESS, STREET, CITY, ZIP

ORGANIZATION'S PRINCIPAL OFFICER NAME AND TITLE ()
PHONE NUMBER

Minutes of Boards & Commissions

CITY OF PORTAGE PLANNING COMMISSION

**Thursday, April 6, 2023
7:00 PM Portage
Portage City Hall Council Chambers**

The City of Portage Planning Commission meeting of April 6, 2023, was called to order by Chair Corradini at 7:00 p.m.

IN ATTENDANCE

- Eric Feldt, Senior City Planner
- Catherine Kaufman, City Attorney

ROLL CALL

Mr. Feldt called the roll: Chairman Corradini (yes); Vice Chair Joshi (yes); Fries (yes); Pezzoli (yes); Baldwin (no); Adams (yes); Youngs (yes); Kasper (no); and Freiman (yes).

Motion by Commissioner Fries, seconded by Commissioner Pezzoli to excuse Commissioners Baldwin and Kasper. Motion carried 7-0.

APPROVAL OF MINUTES

1. Minutes dated March 16, 2023.

Motion by Commissioner Youngs, seconded by Commissioner Pezzoli to approve the March 16, 2023, as submitted. Motion carried 7-0.

PUBLIC HEARINGS

1. Ordinance Amendment #22/23-9: An Ordinance to amend commercial marihuana development standards within Chapter 42 Article 4.

Eric Feldt presented the City-initiated ordinance amendment consisting of four proposed changes: adding drive-throughs, establishing drive-through standards, prohibiting outdoor commercial grow facilities, and changing the spelling of the term marihuana with marijuana. Mr. Feldt indicated that this amendment was to align with new State marihuana regulation changes, to increase land use development potential of Industrial-zoned property and to be more consistent with the City's Comprehensive Plan. He identified various sections of the zoning code and included a mark up version of the zoning ordinance. Mr. Feldt indicated that, as of the date of the Planning Commission April 6, 2023, meeting, there are ten marihuana retailer/ provisioning center sites and one indoor marihuana grower. He concluded his presentation with staff's recommendation to the Planning Commission: If no additional public comment is requested by the Commission, and the Commission is supportive of the proposed ordinance amendment, staff advises the Planning Commission to recommend Ordinance Amendment #22/23-9 to amend commercial marihuana development standards to City Council be approved.

Various Commissioners discussed marihuana tax monies received by the City of Portage, the number of interested marihuana companies wishing to add drive-through services, and whether the City has a cap on marihuana retailers/ provisioning centers.

Chair Corradini opened the public hearing. No public comments received. Chair Corradini asked for support to close public hearing; Commissioner Freiman supported. Chair Corradini took voice vote of the Commission to close public hearing; unanimous support (7-0) received.

Vice Chair Joshi stated opposition to the ordinance amendment due to not wanting to make marihuana more accessible.

Motion by Commissioner Pezzoli, seconded by Commissioner Freiman to recommend to City Council approval of Ordinance Amendment #22/23-9 to amend commercial marihuana development standard. Motion carried 6-1.

SITE/FINAL PLANS

1. A Final Planned Development Site Plan for a senior housing facility at 8150 Creekside Drive.

Mr. Feldt prefaced the project with a brief background of the approved Tentative Plan which was approved by the Planning Commission and City Council, which had allowed the development to proceed with the filing of the Final Site Plan. Mr. Feldt presented various comparison images between the approved Tentative Plan and Final Plan. He indicated that the developer is proposing four minor changes in the Final Plan: adding an on-site stormwater basin, relocating the deferred parking, minor change in the southern berm, and architectural items. Mr. Feldt explained that those changes are not substantial and are allowed by the zoning code as a project progresses from Tentative Plan to Final Plan design. He identified the various applicable zoning code sections for the overall Planned Development, as well as the Tentative and Final Plan subsections. He indicated that the City's Development Review Team, consisting of various department staff, did not have any pending items or recommended conditions. Mr. Feldt concluded with staff's recommendation that the Planning Commission recommend to City Council the approval of the Final PD Site Plan for StoryPoint South, a senior housing facility, at 8150 Creekside Drive.

Various Commissioners discussed the number of proposed care services, stormwater elements, maintenance of Creekside Drive, water and sanitary sewer utilities, whether there was any history of flood, and parking elements.

Brandon Visconti, applicant's representative with CommonSail, 7927 Nemco Way Brighton, MI 48116, discussed the need for the project and addressed the project's stormwater elements.

Jeff Miller, applicant's representative with Prein & Newhof, 3355 Evergreen NE Grand Rapids, MI 49525, discussed the stormwater elements in detail.

Chair Corradini asked about the parking requirement and how it is impacted by the proposed change in deferred parking. Mr. Feldt stated that the parking requirement approved under the Tentative Plan was 192 spaces, including 25 deferred spaces. The proposed Final Site Plan consists of only 21 deferred spaces, four fewer. Mr. Feldt stated that the new proposed total parking space count of 188 is within the allowable 10% change in the zoning code.

Commission Fries asked about further reducing the parking spaces due to other similar projects. The applicant's representative indicated that the proposed parking meets the needs of the project.

Motion by Commissioner Fries, seconded by Commissioner Adams, to recommend to City Council approval of the Final PD Site Plan for StoryPoint South, a senior housing facility, at 8150 Creekside Drive. Motion carried 7-0.

NEW BUSINESS

None.

OLD BUSINESS

None.

STATEMENT OF CITIZENS

None.

STATEMENT OF COMMISSIONERS/ STAFF

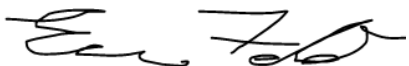
Mr. Feldt provided the following updates:

- The City of Portage Community Development Department Director position is to be combined with the vacant Deputy City Manager position and renamed as Chief Development Officer. The position will be filled by Peter Dame, former City Manager of the City of Grosse Pointe. Mr. Dame's first day with the City of Portage is expected to be April 24, 2023.
- For the Crossroads Mall subarea section of the new Master Plan process update, City staff will be meeting with various Crossroads Mall area stakeholders later in April to gain input on their future needs.
- The Community Development Department is drafting various housing-related zoning code changes recommended during the March Planning Commission workshop. These changes will be presented to the Commission during future meetings.

ADJOURNMENT

There being no further business to come before the Commission, Chair Corradini adjourned the meeting at 7:48 p.m.

Respectfully submitted,

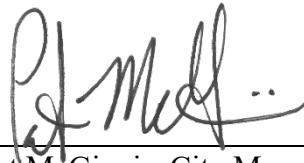


Eric Feldt, AICP, CFM
Senior City Planner

MATERIALS TRANSMITTED

Monday, April 24, 2023

1. Questions and Answers from Budget Review Session No. 1 of April 18, 2023.



Pat McGinnis, City Manager

cc: Adam Herringa, Chief Operating Officer
Aaron Couer , Deputy Director of Accounting and Budget
Grant Taylor, Deputy Director of Revenue and Treasury

April 18, 2023 Budget Review Session Questions & Answers

Fund Balance

What is our current fund balance?

Unrestricted fund Balance is \$346,415.79. Fund Balance as of 6/30/2022 was \$15,314,186. ARPA and Budgeted Use of Fund Equity is being used lowering by \$5,655,184 and \$1,620,560 respectively. We also had to roll over encumbrances to the new year in the amount of \$204,831.89. These three numbers out of the reported fund balances brings us down to \$7,833,610.11. Keeping our 24% threshold leaves us with an Unrestricted Fund Balance of \$346,415.79.

How do we typically use fund balance over the 24% threshold?

Generally fund balance is used to cover overages at the end of the year. Also, it has been budgeted to be used in the last few years to balance the budget. 2023- \$1.6 million used budgeted, 2022-\$1.4 million.

We have a policy of holding a 24% fund balance. Can this be revisited?

Yes. City Council sets the fund balance policy. However, a minimum of 20% is suggested.

What additional funding would be available if the fund balance were changed to 15%, 18%, 20%?

Fund Balance Examples		
	Threshold	Available UFB
15%	\$4,679,496.45	\$3,154,113.66
18%	\$5,615,395.74	\$2,218,214.37
20%	\$6,239,328.60	\$1,594,281.51
24%	\$7,487,194.32	\$346,415.79
32%	\$9,982,925.76	-\$2,149,315.65
	Amended Budget	\$31,196,643.00
	Fund Balance as of 6/30/22	\$15,314,186.00
	ARPA	\$5,655,184.00
	BUFE	\$1,620,560.00
	PO Roll	\$204,831.89
	Fund Balance	\$7,833,610.11
	Unrestricted Fund Balance	\$346,415.79

What are the advantages/disadvantages of a high fund balance? A low fund balance?

- a. *Advantages- Ability to fund emergencies expenditures. Conveys a healthy government. Ensures the ability to pay bills.*

- b. *Disadvantages- Increased spending, decreases cash. Decreasing liquidity could be harmful in the event of emergency.*

Please provide different scenarios as far as potential uses of excess fund balance.

The best use is to transfer over to CIP. This reduces bonding, which in turn decreases total debt amount. It presents a “win-win” situation.

Other uses are to cover overbudget amounts due to unforeseeable increases in prices. This is possible given the rise in inflation. We’ve seen this in some projects running over budget as well as just general maintenance.

How much are we looking to bond for in the upcoming issuance?

Approximately \$5 million

Presuming approval of the proposed CIP, how much would we bond for?

Approval would not impact the amount we seek to bond this year. Bonding this year is for projects from last year. This amount comes to roughly \$5 million.

Presuming approval of the FY23-24 CIP as proposed, the amount of bonding next year will be \$3.2M. We are projecting to pay off \$6.3M resulting in a debt reduction of approximately\$3.1M.

What is our current debt level? What will it be after the next bond issuance? What about if the proposed CIP is approved?

We started the current FY 22-23 at \$56,294,127 and will finish the year at \$54,394,127. We have paid off \$6.9M so far this year and are planning to bond approximately \$5M leaving us with a debt reduction of \$1.9M. Our exact current debt level since we are between paying off the \$6.9M and issuing the \$5M is \$49,394,127.

The Proposed CIP would not have any effect on what we’re going to bond for this year. Bonding for next year is estimated to be \$3.2M and we should be paying off roughly \$6.3M. The proposed CIP continues the trend of debt reduction and, should forecasts hold, will result in a debt level of just under \$52M at the end of the upcoming fiscal year.

Is there a project in the forecasted FY 24-25 CIP that, if funding is available, could be accomplished next FY?

Please see the response under the “Transportation and Utilities” section below. However, since we only have \$346,415.79 in Unrestricted Fund Balance, it is recommended to wait until after year-end before attempting to identify a use for these funds.

Archery

What impact would such an outdoor facility have on our liability?

Per our insurance agent: "Yes, you already have coverage for this and I'm glad to hear you have participants sign a waiver/hold harmless agreement. As you mention, it's always best to have a contractor provide riskier services, but the City does have coverage for these type of events" The contractor running our classes does have coverage as well.

Are there other municipalities that operate dedicated archery facilities similar to what is being proposed (a significant tournament-style facility)? If so, where are they located?

Yes, there are see below:

- *Marsh View Park Archery Range – Owned and operated by Oakland Township Parks and Recreation*
- *Livonia Archery Range - – Owned and operated by Livonia Parks and Recreation*
- *River Bends Archery/Trap Range - Owned and operated by Shelby Township Parks and Recreation*
- *Riley Archery Range - Owned and operated by Farmington Hills Parks and Recreation*
- *West Michigan Archery Center in Rockford is a non-profit, not owned by the municipality.*

When was this property purchase approved and discussed by City Council?

Purchase was approved by City Council on October 5, 2021. A copy of the item and related minutes are attached.

Human Resources

How many Public Safety Officers reside in Portage (number and percentage)

How many FTEs live in Portage (number and percentage)

- *18.96% of sworn officers (includes sworn Administration) live in Portage (11 employees)*
- *Overall 34.8% of employees live in Portage (87 employees)*
- *31.8% of full-time employees (65 employees)*
- *47.8% of part-time employees (22 employees)*

Water and Sewer

Are we part-owners of the Kalamazoo Water Treatment Facility? Is there a document that indicates ownership?

The short answer is that no document has been located indicating that the City of Portage has authority to determine rates established by the City of Kalamazoo. Former Deputy City Manager Brian Bowling was also asked and he does not recall any amount of Portage ownership in the Kalamazoo system.

There is a 1976 Facility Plan for the Kalamazoo Metropolitan Area document that has several (20) volumes. Transportation & Utilities have Volume 4, City of Portage, which details the 201 sewer project for Portage. This was used for the grant application. At that time Kalamazoo could not receive additional sewage flow as the effluent from the treatment plant did not meet standards. In the document there is a newspaper article dated Sept 4, 1975 that states a planning agreement had been made between the City of Kalamazoo and Portage (attached).

A copy of a 9/27/85 Letter from the City of Kalamazoo to City Manager Stampfer, a 7/1/98 Wastewater Consent Judgement, and 9/20/76 City of Kalamazoo Resolution regarding the Wastewater Planning Agreement are attached for reference.

Community Development Lake Center Signage

Councilmember(s) recall that Bronson was supposed to help pay for gateway signage to the Lake Center District at the location of Centre and Portage Road. Are there any development or other agreement records that indicate such?

The Centre Point Commons Brownfield Plan includes the following statement: "it is proposed that \$25,000 in public infrastructure expenses would be available for reimbursement to the City of Portage for a Lake Center business district entry feature at the northwest corner of 8015 Portage Road within an easement granted to the city by Treystar."

A copy of a September 17, 2019 Agenda regarding the Treystar development is attached.

The Centre Point Commons Brownfield Plan is available at:

<https://www.portagemi.gov/DocumentCenter/View/5293/Brownfield-Plan-for-8073-Portage-Road>

Liquor Licenses

What happens to liquor licenses that go unused? Is there a way for a municipality to access them?

There are restrictions if awarded a quota license (such as the one awarded to Ms. Chen). A quota license cannot be sold or transferred for a period of three years after issuance without a showing of undue hardship. This means that if the business closes within the first three years, special permission must be granted by the MLCC to sell the license.

For other Class C liquor licenses, if a license in escrow fails to renew, the license automatically terminates and is returned to the licensing quota from where it originated. For licenses that report no sales, there is no action as the code does not state that a licensee must make any purchases to maintain a license.

Transportation and Utilities

What can be done with the retention basin located adjacent to the McDonald's at the intersection of Centre and Portage?

The retention basin at 8050 Portage Road is a private storm water basin. If City Council was inclined staff could negotiate with the property owner to underground the facilities, without doing a complete engineering review of water table and other issues we do not know if it is feasible. Assuming it is feasible, the budgetary cost for this improvement is \$500,000. To improve the Portage Road Lake Center Corridor, the city will have to complete improvements on private properties. I would assume that we would have to divert public storm water from the street to the basin to make the project legitimate.

A copy of the site plan is attached.

What specific road projects are scheduled for FY 24-25 that you would, if funding is available, like to see started in FY 23-24.

- 1. Romence Road Parkway (South Westnedge Avenue to Lovers Lane) \$1,625,000 - Currently under design as it was proposed for FY 23-24 in the FY 22-23 CIP. Should be able to complete construction in 2024.*
- 2. Angling Road (Romence Road to W Milham Avenue) Paser 2-6 \$1,550,000 – Not under design yet. It was proposed for FY 23-24 in the FY 22-23 CIP. Does have a short section of sanitary sewer. Lead time for pipe should not be an issue.*

Public Facilities (City Hall)

Roughly \$1.4 million total is requested across the two projects for improvements at City Hall. Please explain what these funds will go toward.

The funding includes a maximum of \$400,000 for the installation of solar panels on the roof. A guaranteed grant of \$78,000 is pending from the federal Energy Efficiency Block Grant Program that will help defray this cost. At the recent City Council retreat there was discussion of using capital funds for façade improvement. These funds are not for this purpose. Rather, the remaining funds will be used to repair and rework the parking lot and sidewalks of City Hall.

More particularly, the existing parking lot surface is reaching the end of its useful life, and curbs and lighting are in need of repair. The landscape is overgrown in various areas (such as near the fountain) and the trees embedded in the sidewalk have damaged existing sidewalk thus making some areas a safety hazard.

Key improvements that will be in Phase 1 is removal and replacement of curbs and sidewalks. An ice melt system will be added to the sidewalk at the main entrance and exit door by Treasury. New landscaping and removal of the fountain will also occur. Phase 2 of the project will be drainage upgrades for some of the sunken and deteriorated catch basins, resurfacing of the

parking lot, improved parking lot lighting for safety, and updating the electrical infrastructure to support a move toward an electric vehicle fleet. A copy of the draft plan is attached.

Senior Citizen Services

How much is the PZSC receiving in funding from the Kalamazoo County Senior Millage?

*The current millage funding cycle runs **April 2023 thru December 2024 (21 months)**. Below is the information regarding what was requested, along with how that breaks down by fiscal year. We have not received a formal notice of award yet. However, based on what we are hearing, we are confident that we will receive full funding.*

We applied in two categories – Senior Center Support and Healthy Living Programs.

Senior Center Support: We requested \$225,940. This breaks down to \$129,000 in our FY 23-24.

These funds will support:

- *Supplies: (program supplies, instructor stipends, program, licensing fees, etc. - \$100,000. FY 24 impact = \$57,000*
- *Staffing: (includes the cost of employing a Program & Volunteer Coordinator, Health & Wellness Program Manager, and a Program Manager to oversee the programming) - \$92,000 plus \$9,200 in fringes. FY 24 impact = \$58,000*
- *Employee Travel & Training (\$5,000). FY 24 impact = \$2900*
- *Indirect Costs (\$19,740). FY 24 impact = \$11,000.*
- ***Our previous annual awards have been: \$100,000 (FY22), \$108,600 (FY21), \$70,400 (FY20)***

Healthy Living Programs: We requested \$96,800. This breaks down to \$55,000 in our FY 23-24.

These funds will support:

- *Staffing Salaries & Wages: \$44,000, FY 24 impact = \$25,000*
- *Licensing Fees - \$3,000, FY 24 impact = \$1700*
- *Program Supplies & Instruction - \$40,000 (This includes program supplies, printing and publishing, fitness instructors, and other misc. supplies), FY 24 impact = \$23,000*
- *Staff Training - \$1,000, FY 24 impact \$500*
- *Indirect Fees - \$8,800, FY 24 impact \$5,000*
- ***Our previous annual awards have been: \$57,200 (FY22), \$57,508 (FY21)***

Additionally, we anticipate approximately \$16,000 in salaries to be covered in FY 23-24 from the Transportation millage award from the Senior Millage.

Patricia Randall and the Portage City Council,

I am writing this letter to officially inform you that residents of the Austin View Neighborhood strongly oppose the proposed Housing Development Plan for the area east of Portage Rd between Woodbine Street and Stanley Street.

We are concerned it will greatly decrease our property values and cause an unwanted increase in traffic on both Woodbine and Stanley streets close to Portage Rd. This is the exit and entrance route used by all of the residents in the Austin View neighborhood and the residents on Woodbine Street.

The way we see it, you used our property tax money to purchase this land, you will continue to raise our property tax based on inflation, while this development will decrease our property value. Bad deal for us and we didn't move to Portage into our neighborhood to end up with this kind of losing deal.

Additionally, the comments that have been made to the media and the public regarding who the homes are "meant for" is total speculation and cannot be predicted. We honestly feel what has been said is far from what the reality would be.

I spoke with the Assistant City Manager Adam Herringa and he informed me that there are many steps still needed to be addressed before this project will be completely approved and started. However, we have already seen excavators on the property presumably surveying it.

We would like to request this topic be added to an agenda of the soonest possible City Council meeting it can fit into. We would also like to know what the next steps are that we would need to take to convince you to change course on these plans. We would be happy to start a petition in our neighborhood.

Lastly, we ask that we are informed of any Portage City Council meetings in which this subject will be on the agenda and up for discussion.

Best Regards,


Greg Fici
9955 Mariner St
gjfici@charter.net



From: [Pat McGinnis](#)
To: [REDACTED] [Terry Urban](#); [Jim Pearson](#); [Victor Ledbetter](#); [Lori Knapp](#); [Lisa Brayton](#); [Chris Burns](#)
Cc: [Patricia Randall](#); [Erica Eklov](#)
Subject: Letter
Date: Wednesday, May 3, 2023 3:53:33 PM
Attachments: [Letter to Portage City Council May 2023.docx](#)

I sent you my response to Mr. Fici Monday and did not send you the original letter – it arrived at City Hall today (see attached). I had received an advance email copy from the Mayor.

My reply is below.

Mr. Fici:

I received a copy of a letter you recently sent to the Mayor and City Council.

The City is working with local developer AVB (American Village Builders) to construct quality single family homes on a 13.4 acre parcel off Portage Road between Woodbine and Stanley. The plans are nearing completion and will be submitted to the Planning Commission when complete.

City Council authorized the hiring of Wightman to perform engineering services last December to prepare the lot for the construction of approximately 78 homes (mostly townhome style). Since that time we have refined the plans – current concept is for about 70 detached single family homes.

Homes will likely be priced in the \$175,000 - \$225,000 range, depending on final plans. These homes are aimed at families earning between 80% - 120% of median income in Portage (for a family of four, this would be between \$70,000 - \$104,000 per year based on 2022 data).

The plan should be presented to the Planning Commission this spring with an eventual presentation at City Council; likely this summer. You are always welcome to comment during public comments at the beginning and end of every City Council meeting.

Pat McGinnis, **City Manager**

City of Portage, Michigan

mcginnip@portagemi.gov

(616) 402-0815 – cell

(269) 329-4400 - office

TO: Honorable Mayor and City Council

FROM: Pat McGinnis, City Manager

SUBJECT: Ordinance Amendment #22/23-9: An Ordinance to amend commercial marijuana development standards within Chapter 42 Article 4.

SUPPORTING PERSONNEL: Erica Eklov, City Clerk
Jonathon Hallberg, Interim Director of Community Development
Nicholas Arnold, Director of Public Safety - Police / Fire Chief
Catherine Kaufman, City Attorney

ACTION RECOMMENDED: Subsequent to the public hearing, adjourn the public hearing on Ordinance Amendment #22/23-9(A) to amend commercial marijuana development standards within Chapter 42, Land Development Regulations, Article 4 (Zoning) to resume May 23, 2023, at which time consider adoption.

Presently, following approval by voters in 2018, the State of Michigan allows both the personal use of marijuana and commercial marijuana businesses. At the local level, cities/townships have the authority to establish local permitting processes, licensing, and zoning standards for commercial marijuana businesses; very few local authorities can regulate the personal use of marijuana. The City of Portage has established permitting processes for commercial marijuana businesses in Chapters 14 (Businesses) and 42 (Land Development Regulations) for these uses.

In the past few years, many businesses in Michigan have had to adjust operations due to COVID restrictions. This resulted in an increase in contactless ordering/delivering/acquiring of products and services and an increase in drive-through service demand. The state temporarily relaxed certain commercial marijuana regulations and allowed retailers, provisioning centers, and micro-businesses to provide contactless transactions and drive-through services. Given the pandemic, the city did not wish to stand in the way of the contactless option. The state has now permanently allowed these new operational services and, with the impact of the pandemic lessened, the city recently directed all dispensaries to cease any drive-through operations unless and until the following proposed ordinance revisions are enacted by the City Council. Presuming approval, those dispensaries wishing to have a drive-through window will have to comply with the same standards and application procedures as other businesses in the community.

Ultimately, the goal of the proposed ordinance is to better match our municipal ordinance with the State of Michigan legal framework. The city seeks ordinance amendments to modify several commercial marijuana development standards consistent with recent changes in the state's Cannabis Regulatory Agency (CRA) and to better position land for future development. The proposed modifications include the following:

1. Drive-through marijuana operations are currently prohibited in the City of Portage. Remove this prohibition as consistent with new CRA standards. This would allow only marijuana retailers (adult-use/recreation), provisioning centers (medical), and micro-businesses (grow, process, and sell in a single location) to have a drive-through service.
2. Establish new drive-through queuing standards for the above marijuana uses, as consistent with other city zoning drive-through businesses to best manage proper areas for queuing, general site circulation, and parking.
3. Commercial marijuana growing businesses are currently allowed in Portage within the Industrial districts (I-1 & I-2) only. Marijuana can be grown indoors or outdoors. The staff proposes prohibiting outdoor growing to better position those valuable industrial properties for higher development opportunities. There are no proposed changes to continued indoor marijuana growth.
4. Rename 'marihuana' to 'marijuana', consistent with the CRA.

The B-3 General Business zoning district allows commercial uses of retail, restaurants, offices, and others. Additionally, drive-through businesses such as restaurants, cafes, and others are permitted within this district. Marijuana businesses, including provisioning centers and retailers, are permitted only in the B-3 district, and within the industrial districts if co-located with a marijuana grower and processor. These businesses are not allowed drive-through service due to past prohibitions by the state and city (zoning code Sec 42-262(B)(16)(d)). The CRA prohibition has been overturned. Therefore, the city seeks to apply standards consistent with the state to allow drive-through service for retailers, provisioning centers, and those same uses that are co-located in industrial districts.

With regard to Drive-Through Standards, certain businesses within the city are allowed a drive-through service by a specific zoning district and shall meet specific standards, such as minimum queuing distance from the order window and pick-up window, minimum drive lane width, etc. To align with permitting drive-through services for provisioning centers and retailers, the city seeks to apply drive-through standards. Although there are no specific minimum spacing or car queuing standards for retail businesses, there are those for fast-food restaurants. This includes three stacking spaces (three car lengths) between the window and menu board and three stacking spaces before the menu board. This queuing standard is widely used across different restaurant companies and has been effective in accommodating drive-through needs. Some fast-food restaurants add two drive-through lanes to better accommodate high demand. Staff finds this proposed queuing drive-through standard to be effective for accommodating drive-through demands for marijuana provisioning centers and retailers. The attached map shows all existing marijuana provisioning centers and retailers in Portage. If items 1 and 2 above are approved, all existing provisioning centers and retailers that wish to add a drive-through service shall amend their Site Plan and seek city approval to ensure all parking and accessibility standards are met. As of the date of this report, there are ten provisioning centers and retail locations in Portage; some offer both forms of marijuana (recreation and medical).

For Outdoor Grow Operations in relation to industrial districts, the CRA allows commercial marijuana to be grown inside or outside of a building. Cities/townships may allow or prohibit where commercial marijuana may be grown. Currently, the City of Portage allows both outdoor and indoor commercial marijuana growing, where allowed, per Sec 42-280(B)(21)(a) within the following locational restrictions:

1. Limited to industrial districts (I-1 & I-2),

2. Not abutting or adjacent to a residential district, and
3. Not within 1,000 feet of a public/private school or college or university, a public library, child daycare center, a substance abuse treatment facility, park/playground, public/private youth center, public swimming pool, video arcade facility, recreation facility, religious institution, or housing facility owned by a public housing authority.

As of the date of this report, the city has approved only one commercial marijuana growing business, located at 4525 Quality Court. Per approved plans, this business grows marijuana only inside the subject building. Aside from that business, there are no other approved or pending marijuana-growing businesses. As of the date of this report, staff has mapped eligible sites (see attachment) meeting the above locational criteria for future marijuana commercial growing businesses. A list of the mapped sites is also provided (see attachment), consisting of 68 properties. In the list, five are owned by a government agency (the City of Portage and the City of Kalamazoo), two are owned by a utility company (Consumers Energy), five are undeveloped (vacant) sites, and the remaining (56) sites are privately owned and developed. The largest property owner by acreage on this list is Pharmacia & Upjohn Company (Pfizer). The City Administration proposes prohibiting the future outdoor growing of commercial marijuana for the following reasons:

- The CRA does not classify commercial growing of marijuana as agricultural use. Thus, it is not protected under the Generally Accepted Agricultural Management Practices (GAAMP).
- Outdoor growing of commercial marijuana would likely require large tracts of land. With a high demand for industrial land within Portage, the city can better attract future industrial growth and employment for those large tracts of land.
- Due to a lack of containment and high visibility, outdoor marijuana growing businesses could likely attract theft and criminal behavior. This could result in more demand for local emergency response services.
- Most of the industrially-zoned properties are served by city water and sewer utilities. These utilities increase development potential for more intense uses.
- Outdoor marijuana plants could result in unattractive odors for adjacent neighborhoods, which would be difficult to manage in an outdoor environment.
- As mentioned earlier, there are no approved, pending approval, nor built outdoor commercial marijuana growing businesses in Portage. Therefore, no existing outdoor marijuana growing businesses would be negatively affected by this proposed change.
- Lastly, this proposed change would not impact the approved, or future indoor commercial marijuana growing businesses.

The final revision to both the zoning (Chapter 42) and the business (Chapter 14) ordinances involves renaming 'marihuana' to 'marijuana', consistent with the CRA. This will be done throughout the code. This will not result in any locational impacts on commercial marijuana businesses.

Although the Comprehensive Plan does not specifically address marijuana uses, it does classify certain lands for general manufacturing/processing activities, various commercial uses, etc. As established by the CRA and allowed by the City of Portage, commercial marijuana businesses are permitted by certain zoning districts, as consistent with the intent of the Future Land Use Map of the Comprehensive Plan. The plan's two industrial land use classifications are 1) Shaver Road Business Corridor, and 2)

Industrial. Both classifications describe land use purposes generally consisting of a source of production of a variety of products/services that benefit a corridor, region, or beyond. Further, these classifications generally support land uses for industrial manufacturing operations, assembly, or other similar uses. Outdoor growing of marijuana or general crops would not be consistent with the intent or supported land uses within those industrial districts. Therefore, the staff's proposed prohibition of outdoor growing of commercial marijuana would be consistent with those two industrial land use classifications. The plan provides various business land use classifications, with the 'General Business' and 'Regional Business Centers' being most aligned with the B-3 General Business zoning district. As stated above, this zoning district permits a variety of drive-through businesses. Allowing drive-through service for marijuana retailers and provisioning centers would be consistent with the above business land use classifications.

The proposed amendments were introduced to the Planning Commission during the April 6, 2023, meeting. The required public notice for the Planning Commission meeting was published in the Kalamazoo Gazette on March 21, 2022. No citizen comments were received at the meeting. Following the public hearing, the Planning Commission voted 6-1 to waive the second public hearing and recommend to City Council that Ordinance Amendment #22/23-A, zoning for marijuana businesses, be approved. Lastly, following a question on April 18 regarding conflicting language in the licensing portion of the ordinance, Section 14-261(2) was updated to remove the notation that sales would take place indoors and outside of public view to be consistent with drive-through operations. Staff does not expect drive-through sales to be shielded from public view. As such, staff adjusted the language to make it more consistent.

Due to recent publication issues with the Kalamazoo Gazette to receive a timely posting and the legal requirement to publish a zoning ordinance amendment in the "local newspaper of general circulation", it is recommended that City Council open the public hearing, then adjourn the public hearing on Ordinance Amendment #22/23-9(A) to amend commercial marijuana development standards within Chapter 42, Land Development Regulations, Article 4 (Zoning) to resume May 23, 2023, at which time consider adoption.

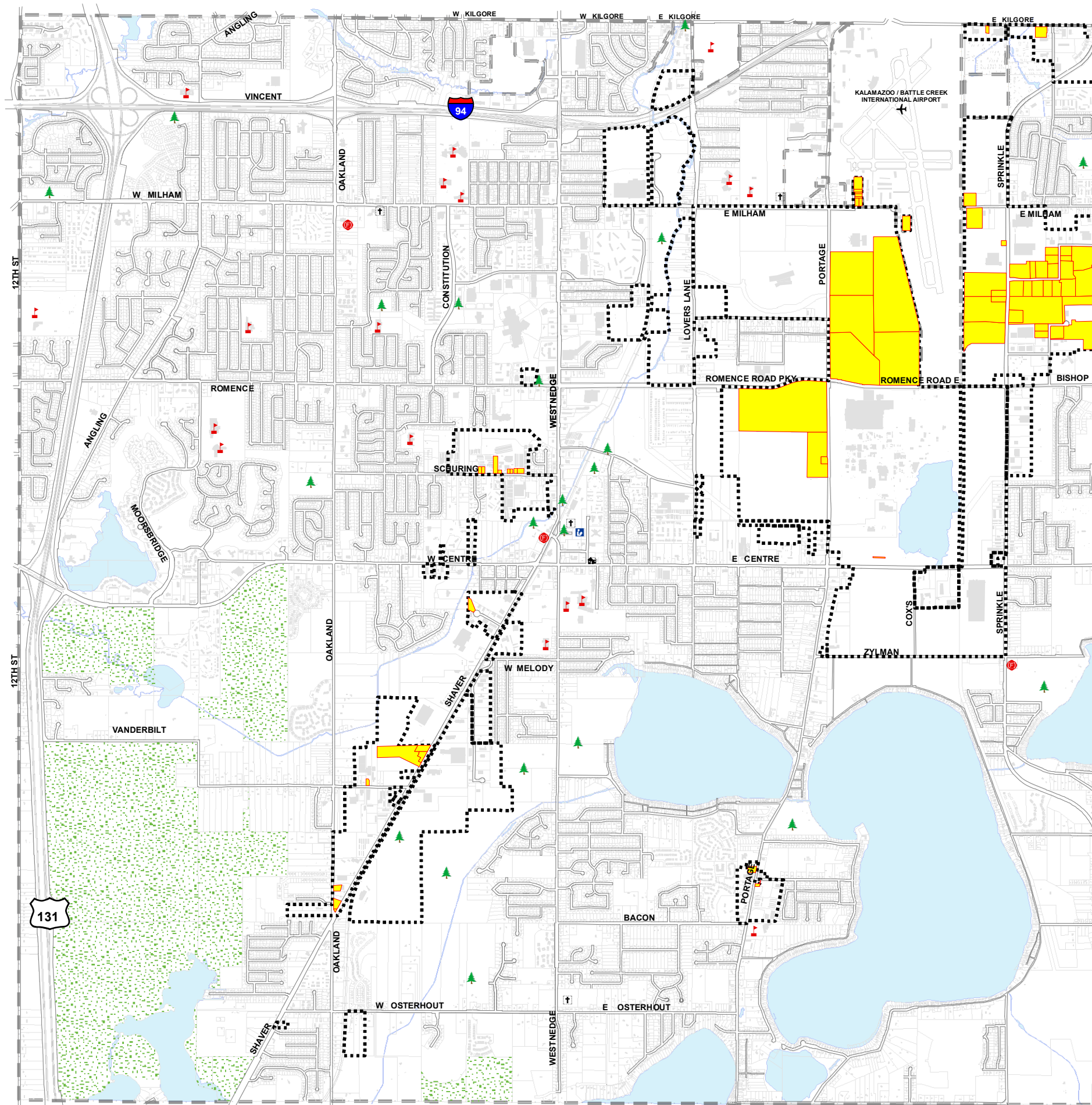
FUNDING: Not Applicable

Attachments:

1. Eligible Marijuana Growing, Processor Sites; City of Portage
2. Map of Existing Provisioning Centers, Retailers
3. Marijuana Eligible Industrial Site List
4. Chapter 42 Ordinance Amendment - redline version
5. Draft April 6, 2023 Planning Commission meeting minutes
6. Planning Commission Transmittal dated April 11, 2023



Map of Previously Approved and Potential Marihuana Business Locations: Grow Operations, Processors, Safety Compliance, Secure Transporters and Microbusinesses March 21, 2023



- Properties that may meet eligibility requirements regardless of current use
- I-1 or I-2 Zoning
- City Boundary

Refer to the marihuana business ordinance for location requirements. Potential locations must be I-1 or I-2 zoned, and not adjacent or abutting a residential zone and more than 1000' from uses as specified in the Code of Ordinances of the City of Portage, Sec. 42-280 B.

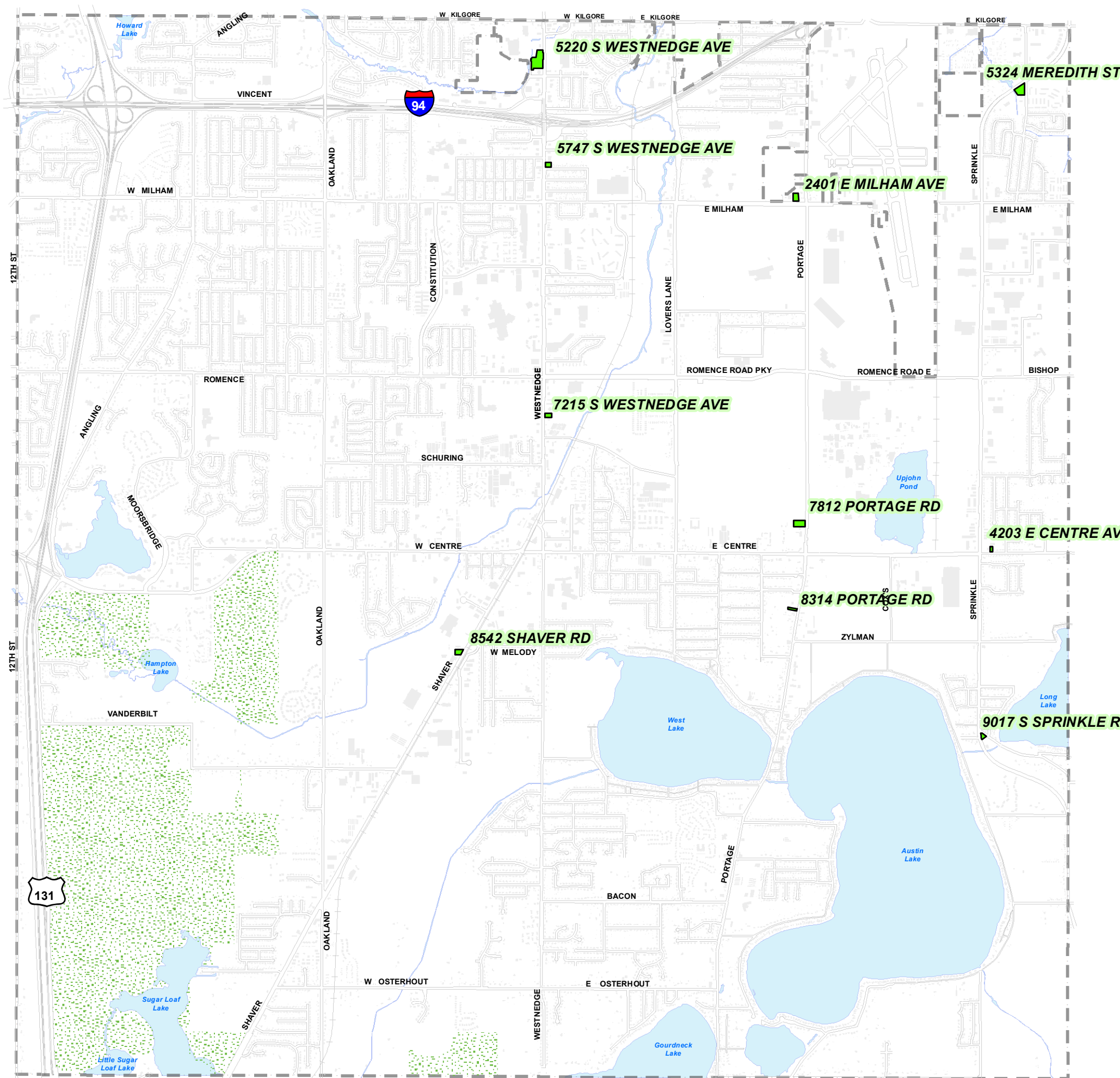
This listing is for information only and all potential properties must be individually evaluated to ensure compliance with ordinance.



1 inch = 3,200 feet

Map of Previously Approved and Potential Marihuana Business Locations: Provisioning Centers and Retailers

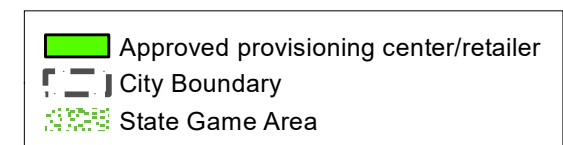
March 23, 2023



Refer to the marihuana business ordinance for location requirements.

Potential locations must be a permitted B-3 use, and not adjacent to a residential zone and more than 1000' from churches, schools, day cares, libraries, treatment facilities, parks and public and/or private recreation areas.

Provisioning centers and retailers must be at least 1000' from each other.



1 inch = 3,167 feet

No.	Size (sq ft)	Acres	Parcel No.	Owner Name	Existing Use	Site Address	State
1	39,930.00	0.92	067200100	PHARMACIA & UPJOHN COMPANY	Vacant	7400 PORTAGE RD	MI
2	753,144.00	17.29	067200010	PHARMACIA & UPJOHN COMPANY	Vacant	7230 PORTAGE RD	MI
3	1,971,385.00	45.3	00011010H	PHARMACIA & UPJOHN COMPANY	Vacant	3101 ROMENCE RD	MI
4	68,414.00	1.57	00012100C	TEMPROPERTIES - PORTAGE LLC	Vacant	6500 S SPRINKLE RD	MI
5	301,598.00	6.9	00012118D	DSL ENTERPRISES, INC	Vacant	4501 QUALITY CT	MI
6	5,764.00	0.13	00029445A	CENTRAL ADVERTISING CO	Billboards	9960 SHAVER RD	MI
7	45,893.00	1.05	00029441O	KALAMAZOO FLEET FUELING, INC.	Gas Station	9950 SHAVER RD	MI
8	11,413.00	0.26	00026165O	NICHOLS, ANDREW D	Single Family House	9741 PORTAGE RD	MI
9	43,790.00	1.01	00026065O	DEJAMS, LLC	Stainless Fabricating & Eng.	9702 PORTAGE RD	MI
10	19,391.00	0.45	00029005A	FEMA CORPORATION	FEMA Corporation	1728 VANDERBILT AVE	MI
11	480,623.00	11.03	00028120B	OSPREY STORAGE SHAVER LLC	Osprey Self Storage	9114 SHAVER RD	MI
12	69,022.00	1.58	00028135A	REALTY INCOME PROPERTIES 28 LLC	Gerber Collision (Under Construction)	9040 SHAVER RD	MI
13	57,807.00	1.33	00720004O	HI TECH HOLDINGS LLC	WMH Fluidpower	862 LENOX AVE	MI
14	10,896.00	0.25	00016130O	JOHN SCHURING JR CO	Schuring Greenhouses	608 SCHURING RD	MI
15	10,754.00	0.25	00016145O	JOHN SCHURING JR, COMPANY	Single Family House	510 SCHURING RD	MI
16	10,767.00	0.25	00016140O	CUBIC, MICHAEL	Single Family House	516 SCHURING RD	MI
17	30,053.00	0.69	00016165O	PARSONS, PATRICIA & PAUL	Single Family House	408 SCHURING RD	MI
18	14,846.00	0.34	00016160O	GENTNER, MELISSA	Single Family House	428 SCHURING RD	MI
19	19,997.00	0.46	00016115O	BRADLEY, TERRENCE F & CARLA S	Single Family House	726 SCHURING RD	MI
20	19,213.00	0.44	00016110O	TERRY, SANDRA	Single Family House	802 SCHURING RD	MI
21	68,578.00	1.57	00016125O	HOEKSEMA BROTHERS GREENHOUSES, LLC	Hoeksema Greenhouses	618 SCHURING RD	MI
22	3,560,252.00	81.73	00014005A	PHARMACIA & UPJOHN COMPANY	Temporary Parking Lot/ Construction Staging	7000 PORTAGE RD	MI
23	80,557.00	1.85	00012115X	PORTAGE MI HOLDINGS, LLC	Pharm Optima	6710 QUALITY WAY	MI
24	1,802,310.00	41.38	00011010G	NORMAN/PORTAGE, LLC	Office Building	6901 PORTAGE RD	MI
25	148,028.00	3.4	00012118A	STEPHENS PROPERTIES LLC	Quality Air Service	6701 QUALITY WAY	MI

26	83,874.00	1.9	00012115W	HUSKER HOLDINGS LLC	Kalamazoo Machine Tool	6700 QUALITY WAY	MI
27	782,400.00	18.0	00012101C	MANN+HUMMEL USA, INC	Mann+ Hummel	6700 S SPRINKLE RD	MI
28	628,307.00	14.4	00012118B	DSL ENTERPRISES, INC	D&L Industrial Services	4550 QUALITY CT	MI
29	155,314.00	3.6	00012116A	SPRINKLE ENGINEERING BUILDING, LLC	Summit Polymers	6615 S SPRINKLE RD	MI
30	1,123,221.00	25.79	00012117A	ERBSLOEH ALUMINUM SOLUTIONS, INC.	WKW Aluminum	6565 S SPRINKLE RD	MI
31	1,651,904.00	37.92	00011010L	ET KALAMAZOO FX, LLC	Fed Ex	6701 PORTAGE RD	MI
32	82,394.00	1.89	00012106O	BARNES HOLDINGS LLC	Superior Business Solutions- Commercial Printer	6490 S SPRINKLE RD	MI
33	120,585.00	2.77	06442009A	SAMCO LAND KALAMAZOO, LLC	SA Morman - Door Supplier	4510 COMMERCIAL AVE	MI
34	128,849.00	2.96	06442008O	RF HOLDING LLC	Acuren Inspection; Casium Technologies	4460 COMMERCIAL AVE	MI
35	154,172.00	3.54	06440006O	TODD UNIFORM INC	Aramak Uniform Services	4384 COMMERCIAL AVE	MI
36	119,370.00	2.74	06440007O	FIND-COUNT-DIVINE 897 LLC	Blu Technology, Perspective	4250 COMMERCIAL AVE	MI
37	186,101.00	4.27	06440001O	CC 10 LLC	Office Building	4176 COMMERCIAL AVE	MI
38	219,987.00	5.05	06442009B	4570 COMMERCIAL AVE, LLC	Lindenmeyr Munroe; Rollie Williams; Lending Hands	4570 COMMERCIAL AVE	MI
39	799,672.00	18.36	00012105O	MANN+HUMMEL USA, INC	Mann+ Hummel	6400 S SPRINKLE RD	MI
40	471,619.00	10.83	00012001C	COLONIAL ENGINEERING INC	Colonial Engineering - Plastic Fabrication	6400 CORPORATE AVE	MI
41	132,787.00	3.05	06442010A	BICKINGS, TIMOTHY P & D A	Custom Design Inc. - Industrial Equipment Supplier	4481 COMMERCIAL AVE	MI
42	177,291.00	4.07	06440005O	M R S REALTY CORP	Hub Group Trucking	4385 COMMERCIAL AVE	MI
43	82,717.00	1.90	06440004O	4311 COMMERCIAL AVE, LLC	B&L Bolt - Distribution Service	4311 COMMERCIAL AVE	MI
44	263,149.00	6.04	06440002O	COMMERCIAL PROPERTIES PARTNERS, LLC	Thermal Fisher Scientific- Biotech. Company	4169 COMMERCIAL AVE	MI
45	51,441.00	1.18	06443017O	EQUITY PARTNERS 1, LLC	Depatie Technology Center	6287 AMERICAN AVE	MI
46	91,961.00	2.11	06443011O	EQUITY PARTNERS 1, LLC	Building - vacant, unknown occupant	6292 AMERICAN AVE	MI
47	1,641,808.00	37.69	00011010J	STRYKER CORPORATION	Stryker Building	6501 PORTAGE RD	MI

48	89,265.00	2.05	064430120	EQUITY PARTNERS 1, LLC	Depatie Fluid Power - Hose Supplier	6256 AMERICAN AVE	MI
49	444,120.00	10.20	00012080S	SUMMIT POLYMERS PROPERTIES LTD	Summit Polymers - Plastic Fabrication	4750 EXECUTIVE DR	MI
50	97,038.00	2.23	064430160	CONFORMANCE FASTENERS INC	Conformance Fasteners - Fastener Supplier	6239 AMERICAN AVE	MI
51	278,372.00	6.39	00012090O	3700 MILHAM, LLC	Clark Logic - Logistics Service	3700 E MILHAM AVE	MI
52	22,119.00	0.51	09240036O	NUNNS CORP	Single Family House	2725 E MILHAM AVE	MI
53	29,337.00	0.67	09240034O	ISAACS, LAURA	Single Family House	2711 E MILHAM AVE	MI
54	9,797.00	0.22	09240033O	FRAZIER, HARLIE & GRIMM, CORA	Single Family House	5921 WILLOUGHBY DR	MI
55	136,588.00	3.14	00001086O	DOMESTIQUE REALTY, LLC	Foundation Building Material	3737 E MILHAM AVE	MI
56	19,598.00	0.45	09240031O	SHORT, ANGELA	Single Family House	5913 WILLOUGHBY DR	MI
57	9,834.00	0.23	09240030O	TELL LEASING CO	Storage Garage	5909 WILLOUGHBY DR	MI
58	87,729.00	2.01	09240020O	RAI AZO, LLC	RAI Jets Kalamazoo - Aviation Consultants	5825 WILLOUGHBY DR	MI
59	102,387.00	2.35	00001032A	THERKILDSSEN, DAVID & NANCY TRUST	Storage Garage	3512 E KILGORE RD	MI
60	21,512.00	0.49	00001083O	SUMMIT POLYMERS INC	Summit Polymers Trucking/Storage	3000 E KILGORE RD	MI
61	49,413.00	1.13	00028125B	CITY OF PORTAGE	N/A	9102 SHAVER RD	MI
62	22,219.00	0.51	00012110O	CONSUMERS ENERGY CO	N/A	6210 S SPRINKLE RD	MI
63	2,949,327.00	67.71	00011010K	COUNTY OF KALAMAZOO	N/A	6555 PORTAGE RD	MI
64	101,298.00	2.33	00011005O	COUNTY OF KALAMAZOO	N/A	3100 E MILHAM AVE	MI
65	211,244.00	4.85	00012080J	MDOT	N/A	6345 AMERICAN AVE	MI
66	856,950.00	19.67	00012100D	CITY OF PORTAGE	N/A	6600 S SPRINKLE RD	MI
67	13,295.00	0.31	00014166O	CONSUMERS ENERGY CO	N/A	2915 E CENTRE AVE	MI

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES
OF THE CITY OF PORTAGE, MICHIGAN
BY AMENDING ARTICLE 4 ZONING, DIVISION 4, ZONING DISTRICTS, SUBDIVISION 6,
BUSINESS DISTRICTS AND SUBDIVISION 7, INDUSTRIAL DISTRICTS, OF CHAPTER 42,
LAND DEVELOPMENT REGULATIONS**

THE CITY OF PORTAGE ORDAINS:

That Chapter 42 shall be amended as follows:

—ARTICLE 4. ZONING, DIVISION 4, ZONING DISTRICTS, SUBDIVISION 6, BUSINESS DISTRICTS, B-3

Sec. 42-262. B-3 general business district, subsection B (16) *shall be amended to read as follows:*

- B. Principal permitted uses: In a B-3 general business district, no building or land shall be used, and no building shall be erected, except for one or more of the following specified uses, unless otherwise provided in this article:
16. The following ~~marihuana~~marijuana businesses: Medical ~~marihuana~~marijuana provisioning center as defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. (Medical Facilities Act) and ~~marihuana~~marijuana retailer as defined by the Michigan Regulation and Taxation of Marihuana Act MCL 333.27951 et seq. (Adult-Use Act).
- a. A medical ~~marihuana~~marijuana provisioning center or ~~marihuana~~marijuana retailer shall not be located:
- i. Adjacent to or abutting a residential zoning district; and
 - ii. Within 1,000 feet from the real property, located either in the City of Portage or an adjacent municipality, comprising a public or private elementary, charter vocational or secondary school or a public or private college, junior college or university, a public library, child day care center, a substance abuse treatment facility, a park or a playground, public or private youth center, public swimming pool, video arcade facility, recreational facility, religious institution or housing facility owned by a public housing authority; and
 - iii. Except as provided in section 42-262(B)(16)(g), within 1,000 feet of any other medical ~~marihuana~~marijuana provisioning center or ~~marihuana~~marijuana retailer located within the city.
- b. Determination of whether a proposed medical ~~marihuana~~marijuana provisioning center or ~~marihuana~~marijuana retailer will be located consistent with the provisions of subsection a. above will be made as follows:
- i. Whether a proposed medical ~~marihuana~~marijuana provisioning center or ~~marihuana~~marijuana retailer will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be occupied by the medical ~~marihuana~~marijuana provisioning center or ~~marihuana~~marijuana retailer as those lines existed on December 31, 2017 as shown on the records of the City of Portage in existence on that date.
 - ii. Measurements for purposes of subsections 42-262(B)(16)(a)(ii) and (iii) above shall be made from the boundary of the zoning lot to be occupied by the medical ~~marihuana~~marijuana provisioning center or ~~marihuana~~marijuana retailer to the nearest point of the zoning lot occupied by any of the uses listed in subsection 42-262(B)(16)(a)(ii), or to the nearest point of the zoning lot occupied by another medical ~~marihuana~~marijuana provisioning center or

~~marihuana~~marijuana retailer using an uninterrupted straight line without regard to intervening structures or objects, and using the boundary lines of the zoning lots as they existed on December 31, 2017 as shown on the records of the city in existence on that date.

iii. "Zoning lot" is defined in section 42-112 of this Code of Ordinances.

- c. Buildings or structures for the distribution, and sale of ~~marihuana~~marijuana and ~~marihuana~~marijuana infused products by a medical ~~marihuana~~marijuana provisioning center or ~~marihuana~~marijuana retailer shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression. Medical ~~marihuana~~marijuana provisioning centers and ~~marihuana~~marijuana retailers shall not be located within greenhouses and similar buildings.
- d. All medical ~~marihuana~~marijuana provisioning centers and ~~marihuana~~marijuana retailers must be at a fixed location. Mobile medical ~~marihuana~~marijuana provisioning centers and ~~marihuana~~marijuana retailers, and drive-through operations for medical ~~marihuana~~marijuana provisioning centers and ~~marihuana~~marijuana retailers are prohibited. Sale or transfer of ~~marihuana~~marijuana products by internet or mail order, consignment, or at wholesale by a medical ~~marihuana~~marijuana provisioning center or ~~marihuana~~marijuana retailer is prohibited. This provision shall not be construed to prohibit sale or transfer of ~~marihuana~~marijuana products as otherwise expressly authorized by the Medical Facilities Act or the Adult-Use Act, nor to prohibit home delivery of ~~marihuana~~marijuana products as may be permitted by law. *Drive through windows and other contactless delivery methods may be authorized subject to all applicable zoning and building code regulations.*
- e. No ~~marihuana~~marijuana or ~~marihuana~~marijuana infused products may be used or consumed on the premises of a medical ~~marihuana~~marijuana provisioning center or ~~marihuana~~marijuana retailer.
- f. The activities and operations of a medical ~~marihuana~~marijuana provisioning center or ~~marihuana~~marijuana retailer shall be indoors within a building and out of public view.
- g. A medical ~~marihuana~~marijuana provisioning center and a ~~marihuana~~marijuana retailer may be located in a B-3 zone at the same location consistent with the Adult-Use Act and rules. The medical ~~marihuana~~marijuana provisioning center or ~~marihuana~~marijuana retailer located at the same location shall be partitioned from each other, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by each ~~marihuana~~marijuana business. If a medical ~~marihuana~~marijuana provisioning center or ~~marihuana~~marijuana retailer is located in a multi-tenant building with any other activity or business, the medical ~~marihuana~~marijuana provisioning center or ~~marihuana~~marijuana retailer shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the medical ~~marihuana~~marijuana provisioning center or ~~marihuana~~marijuana retailer.
- h. The business and operations of all medical ~~marihuana~~marijuana provisioning centers and ~~marihuana~~marijuana retailers shall comply at all times with applicable state law and regulations, and this Code of Ordinances.
- i. ~~This amendment to chapter 42 section 42-262(B)(16) of article 4, division 4, zoning districts and district regulations shall only take effect if chapter 14 is amended to allow marihuana establishments in the city pursuant to the Adult Use Act.~~

All other parts of Section 42-262 remain unchanged.

ARTICLE 4. ZONING, DIVISION 4, ZONING DISTRICTS, SUBDIVISION 7, INDUSTRIAL DISTRICTS I-1 LIGHT INDUSTRIAL AND I-2 HEAVY INDUSTRIAL

Sec. 42-280. I-1 light industrial district subsection B (21) *shall be amended to read as follows:*

B. Principal permitted uses: In an I-1 light industrial district, no building or land shall be used, and no building shall be erected, except for one or more of the following specified uses, unless otherwise provided in this article:

21. The following ~~marihuana~~marijuana businesses: Medical ~~marihuana~~marijuana class A, B, and C grow facilities, stacked class C grow facilities, and medical ~~marihuana~~marijuana processor facilities as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. (Medical Facilities Act), and ~~marihuana~~marijuana class A, B, and C grow establishments, *stacked class C grow facilities*, ~~marihuana~~marijuana processor establishments, and ~~marihuana~~marijuana microbusinesses as those establishments are defined by the Michigan Regulation and Taxation of Marihuana Act MCL 333.27951 et seq. (Adult-Use Act). A medical ~~marihuana~~marijuana provisioning center and ~~marihuana~~marijuana retailer may also be permitted in this district if combined with a medical ~~marihuana~~marijuana grow facility, ~~marihuana~~marijuana grow establishment, medical ~~marihuana~~marijuana processor facility, ~~marihuana~~marijuana processor establishment, or a combination thereof as provided in section 42-280 (B)(21)(g).

a. All ~~marihuana~~marijuana businesses permitted by this section shall not be located:

- i. Adjacent to or abutting a residential zoning district; and
- ii. Within 1,000 feet from the real property, located either in the city or an adjacent municipality, comprising a public or private elementary, vocational, charter, or secondary school or a public or private college, junior college or university, a public library, a child day care center, a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution or housing facility owned by a public housing authority; and
- iii. Except as provided in section 42-280(B)(21)(g), within 1,000 feet of any other ~~marihuana~~marijuana business permitted by this section or section 42-281(7).

b. Determination of whether a proposed ~~marihuana~~marijuana business permitted by this section will be located consistent with the provisions of subsection a. above will be made as follows:

- i. Whether a proposed ~~marihuana~~marijuana business permitted by this section will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be occupied by the ~~marihuana~~marijuana business as those lines existed on December 31, 2017 as shown on the records of the city in existence on that date.
- ii. Measurements for purposes of subsections 42-280 (B)(21)(a)(ii) and (iii) above shall be made from the boundary of the zoning lot to be occupied by a ~~marihuana~~marijuana business permitted by this section to the nearest point of the zoning lot occupied by any of the uses listed in 43-280 (B)(21)(a)(ii), or to the nearest point of the zoning lot occupied by another ~~marihuana~~marijuana business permitted by this section or section 42-281(7) using an uninterrupted straight line without regard to intervening structures or objects, and the boundary lines of the zoning lots as they existed on December 31, 2017 as shown on the records of the city in existence on that date.
- iii. "Zoning lot" is defined in section 42-112 of this Code of Ordinances.

c. Buildings or structures for the growing, production, processing, distribution or sale of ~~marihuana~~marijuana shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression.

d. All ~~marihuana~~marijuana businesses permitted by this section must be at a fixed location. Mobile facilities ~~and drive through operations~~ are prohibited. Sale or transfer of ~~marihuana~~marijuana

products by internet or mail order, consignment, or at wholesale is prohibited. This provision shall not be construed to prohibit sale or transfer of ~~marihuana~~marijuana products as otherwise expressly authorized by the Medical Facilities Act or the Adult-Use Act, nor to prohibit home delivery of ~~marihuana~~marijuana products as may be permitted by law. *Drive through windows and other contactless delivery methods may be authorized for a medical ~~marihuana~~marijuana provisioning center and ~~marihuana~~marijuana retailer, if such ~~marihuana~~marijuana business is permitted in this zoning district, subject to all applicable zoning and building code regulations.*

- e. No ~~marihuana~~marijuana or ~~marihuana~~marijuana infused products may be used or consumed on the premises of a ~~marihuana~~marijuana business permitted by this section.
- f. ~~Marihuana~~Marijuana businesses permitted by this section shall conduct the activities of the ~~marihuana~~marijuana business, including, without limitation, the cultivating, growing, processing, manufacturing, storage or sale and distribution of ~~marihuana~~marijuana and ~~marihuana~~marijuana infused products, and all materials used in connection with the cultivating, growing, processing, and distribution of ~~marihuana~~marijuana and ~~marihuana~~marijuana infused products indoors and out of public view. ~~except medical marihuana grow facilities and marihuana grow establishments may grow or cultivate marihuana outdoors consistent with the Medical Facilities Act and rules of the Adult Use Act and rules.~~
- g. Medical ~~marihuana~~marijuana grow facilities, ~~marihuana~~marijuana grow establishments, medical ~~marihuana~~marijuana processor facilities, ~~marihuana~~marijuana processor establishments, medical provisioning centers, and ~~marihuana~~marijuana retailers may be located as separate businesses at the same location in any combination, except that a medical ~~marihuana~~marijuana provisioning center and ~~marihuana~~marijuana retailer are only allowed in this district if combined with a medical ~~marihuana~~marijuana grow facility, ~~marihuana~~marijuana grow establishment, medical ~~marihuana~~marijuana processor facility, ~~marihuana~~marijuana processor establishment, or a combination thereof. Each ~~marihuana~~marijuana business that is located in the same location shall be partitioned from any other ~~marihuana~~marijuana business in that location, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the ~~marihuana~~marijuana business. No more than one ~~marihuana~~marijuana microbusiness shall be allowed on a single zoning lot or at the same location as another ~~marihuana~~marijuana business permitted by this section, and no more than one ~~marihuana~~marijuana business permitted by this section shall be allowed in a multi-tenant building with any other activity or business. If a ~~marihuana~~marijuana business permitted by this section is located in a multi-tenant building with any other activity or business, the medical ~~marihuana~~marijuana business shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the ~~marihuana~~marijuana business.
- h. The business and operations of all ~~marihuana~~marijuana businesses permitted by this section shall comply at all times with applicable state law and regulations, and this Code of Ordinances.
- i. ~~This amendment to section 42-280(B)(21) of chapter 42, article 4, division 4, zoning districts and district regulations shall only take effect if chapter 14, article 12, is amended to allow marihuana establishments under the Adult Use Act.~~

All other parts of Section 42-280 remain unchanged.

Sec. 42-281. I-2 heavy industrial district subsection B (7) *shall be amended to read as follows:*

- B. Principal permitted uses: In an I-2 heavy industrial district, no building or land shall be used, and no building shall be erected, except for one or more of the following specified uses, unless otherwise provided in this article:

-
7. The following ~~marihuana~~marijuana businesses: Medical ~~marihuana~~marijuana class A, B, and C grow facilities, medical ~~marihuana~~marijuana stacked class C grow facilities, and medical ~~marihuana~~marijuana processor facilities as those facilities are defined by the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. (Medical Facilities Act), and ~~marihuana~~marijuana class A, B, and C grow establishments, ~~marihuana~~marijuana processor establishments, and ~~marihuana~~marijuana microbusinesses, as those establishments are defined by the Michigan Regulation and Taxation of marihuana Act MCL 333.27951 et seq. (Adult-Use Act). A medical ~~marihuana~~marijuana provisioning center and ~~marihuana~~marijuana retailer may also be permitted in this district if combined with a medical ~~marihuana~~marijuana grow facility, ~~marihuana~~marijuana grow establishment, medical ~~marihuana~~marijuana processor facility, ~~marihuana~~marijuana processor establishment, or a combination thereof as provided in section 42-281 (B)(7)(g).
- a. All ~~marihuana~~marijuana businesses permitted by this section shall not be located:
- Adjacent to or abutting a residential zoning district; and
 - Within 1,000 feet from the real property, located either in the City of Portage or an adjacent municipality, comprising a public or private elementary, vocational. charter, or secondary school or a public or private college, junior college or university, a public library, a child day care center a substance abuse treatment facility, park or a playground, public or private youth center, public swimming pool, video arcade facility or recreation facility or religious institution or housing facility owned by a public housing authority; and
 - Except as provided in section 42-281(B)(7)(g), within 1,000 feet of any other medical ~~marihuana~~marijuana or ~~marihuana~~marijuana business permitted by this section or section 42-281(21).
- b. Determination of whether a proposed medical ~~marihuana~~marijuana or ~~marihuana~~marijuana business permitted by this section will be located consistent with the provisions of subsection a. above will be made as follows:
- Whether a proposed medical ~~marihuana~~marijuana or ~~marihuana~~marijuana business permitted by this section will be adjacent to or abutting a residential district will be determined by the location of the boundary lines for the zoning lot to be occupied by the medical ~~marihuana~~marijuana or ~~marihuana~~marijuana business as those lines existed on December 31, 2017 as shown on the records of the city in existence on that date.
 - Measurements for purposes of subsections 42-281(B)(7)(a)(ii) and (iii) above shall be made from the boundary of the zoning lot to be occupied by the medical ~~marihuana~~marijuana or ~~marihuana~~marijuana business permitted by this section to the nearest point of the zoning lot occupied by any of the uses listed in 42-281 (B)(7)(a)(ii), or to the nearest point of the zoning lot occupied by another medical ~~marihuana~~marijuana or ~~marihuana~~marijuana business permitted by this section or section 42-280(22) using an uninterrupted straight line without regard to intervening structures or objects, and the boundaries of the zoning lots as they existed on December 31, 2017 as shown on the records of the city in existence on that date.
 - "Zoning lot" is defined in section 42-112 of this Code of Ordinances.
- c. Buildings or structures for the growing, production, processing, distribution or sale of ~~marihuana~~marijuana shall comply with all State of Michigan Construction Codes (building, electrical, plumbing and mechanical) in regard to occupancy classification, building design, construction and fire suppression.
- d. All ~~marihuana~~marijuana businesses permitted by this section must be at a fixed location. Mobile facilities ~~and drive through operations~~ are prohibited. Sale or transfer of ~~marihuana~~marijuana products by internet or mail order, consignment, or at wholesale is prohibited. This provision shall not be construed to prohibit sale or transfer of ~~marihuana~~marijuana products as otherwise

expressly authorized by the Medical Facilities Act or the Adult-Use Act, nor to prohibit home delivery of ~~marihuana~~marijuana products as may be permitted by law. *Drive through windows and other contactless delivery methods may be authorized for a medical ~~marihuana~~marijuana provisioning center and ~~marihuana~~marijuana retailer, if such ~~marihuana~~marijuana business is permitted in this zoning district, subject to all applicable zoning and building code regulations.*

- e. No ~~marihuana~~marijuana or ~~marihuana~~marijuana infused products may be used or consumed on the premises of a ~~marihuana~~marijuana business permitted by this section.
- f. ~~Marihuana~~Marijuana businesses permitted by this section shall conduct the activities of the business, including, without limitation, the cultivating, growing, processing, manufacturing, storage, sale or distribution of ~~marihuana~~marijuana and ~~marihuana~~marijuana infused products, and all materials used in connection with the cultivating, growing, processing and sale or distribution of ~~marihuana~~marijuana and ~~marihuana~~marijuana infused products indoors and out of public view. ~~except medical marihuana grow facilities and marihuana grow establishments may grow or cultivate marihuana outdoors consistent with the Medical Facilities Act and rules or the Adult Use Act and rules.~~
- g. Medical ~~marihuana~~marijuana grow facilities, ~~marihuana~~marijuana grow establishments, medical ~~marihuana~~marijuana processor facilities, ~~marihuana~~marijuana processor establishments medical provisioning centers, and ~~marihuana~~marijuana retailers may be located as separate businesses at the same location in any combination, except that a medical ~~marihuana~~marijuana provisioning center and ~~marihuana~~marijuana retailer are only permitted in this district if combined with a medical ~~marihuana~~marijuana grow facility, ~~marihuana~~marijuana grow establishment, medical ~~marihuana~~marijuana processor facility, ~~marihuana~~marijuana processor establishment, or a combination thereof. Each ~~marihuana~~marijuana business that is located in the same location shall be partitioned from any other ~~marihuana~~marijuana business in that location, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the ~~marihuana~~marijuana business. No more than one medical ~~marihuana~~marijuana microbusiness shall be allowed on a single zoning lot or at the same location as another ~~marihuana~~marijuana business allowed by this section, and no more than one ~~marihuana~~marijuana business permitted by this section shall be allowed in a multi-tenant building with any other activity or business. If a ~~marihuana~~marijuana business permitted by this section is located in a multi-tenant building with any other activity or business, the ~~marihuana~~marijuana business shall be partitioned from any other activity or business, have a separate entrance, and have a separate HVAC system for the portion of the building occupied by the ~~marihuana~~marijuana business.
- h. The business and operations of all medical ~~marihuana~~marijuana businesses permitted by this section shall comply at all times with applicable state law and regulations, and this Code of Ordinances.
- i. ~~This amendment to section 42-281(B)(7) of chapter 42, article 4, division 4, zoning districts and district regulations, shall only take effect if chapter 14 article 12 is amended to allow marihuana establishments under the Adult Use Act.~~

All other parts of Section 42-281 remain unchanged.

Sec. 42-523. Schedule of off-street parking requirements *shall be amended to read as follows:*

SCHEDULE OF OFF-STREET PARKING REQUIREMENTS

	Use	Minimum # of Spaces	Remarks
Resid	One-family and two-family residences	2/dwelling unit	—
	Residential and multi-family residences	2/dwelling unit	—

	Housing for the elderly Senior adult housing Congregate care facility; Assisted living; and Convalescent/nursing home	1.5/dwelling unit 1/2 units plus 1/employee in the largest working shift	If units revert to general occupancy, then 2 spaces/unit shall be provided
	Manufactured Home Community	2/site plus 1/employee	—
Institutional	Religious institutions	1/3 seats or 6 ft. of pews in main unit of worship	—
	Health facilities Hospitals Immediate medical care clinic	2 spaces per bed 2/exam room plus 1/employee	—
	Private elementary and junior high schools	1/teacher, employee or administrator or requirements for auditorium, whichever is greater	—
	Private senior high schools	1/teacher, employee or administrator and 1/10 students, or requirements for auditorium, whichever is greater	—
	Private clubs and lodge halls	1/3 persons allowed within the maximum occupancy load	Maximum occupancy load established by local, county or state fire, building or health codes
	Swimming pool clubs, tennis clubs and other similar uses	1/2 member families or individuals	—
	Public and private golf courses, except miniature or par 3 course	6/hole plus 1/employee	—
	Fraternities and sororities	1/5 permitted active members, or 1/2 beds (whichever is greater)	—
	Stadiums, sports arenas or similar places or outdoor assembly	1/3 seats or 6 ft. of benches	—
	Theaters and auditoriums	1/3 seats plus 1/2 employees	—
Business and Commercial	Planned commercial shopping centers in a business district with a GLA greater than 100,000 sq. ft.	4/1000 sq. ft. of GLA	—
	Car washes (automatic)	1/employee plus stacking spaces equal to 5 times the maximum capacity of the car wash	Maximum capacity of the wash means the greatest number of vehicles possible undergoing some phase of washing at the same time. Determined by length of wash line (ft.)/20 ft.

	Carwashes (self-service and/or coin-operated)	2 plus 1 for each employee and 1 for each vacuum station or similar area	—
	Beauty parlors or barbershops	3/first 2 chairs, plus 1½ for each additional chair	—
	Day spa	1/150 sq. ft. of UFA	
	Bed and breakfasts	2 plus 1/guest room	—
	Bowling alleys	5/lane	—
	Dancehalls, pool or billiard parlors, roller or skating rinks, exhibition halls and assembly halls without fixed seats	1/3 persons allowed within the maximum occupancy load	Maximum occupancy load established by local, county or state fire, building or health codes
Business and Commercial	Restaurants that provide waiter/waitress service to the table but no drive-thru or in-car service.	1/60 sq. ft. of UFA	—
	Fast food restaurants that provide for table areas inside and drive-thru service but do not provide waiter/waitress service to the table or in-car service.	1/40 sq. ft. of UFA plus 3 stacking spaces between the window and menu board and 3 stacking before the menu board	—
	Fast food restaurants that provide take-out service (walk-up window or drive-thru service) with no or limited inside table area.	1/25 sq. ft. of UFA plus 3 stacking spaces between the window and menu board and 3 stacking spaces before the menu board.	
	Fast food restaurants that provide in-car service.	In addition to the parking space at each menu board, 1/each employee in the largest working shift.	—
	Furniture, appliance and household equipment repair shops; showrooms of plumbers, decorators, electricians or similar tradesmen; shoe repair; and other similar uses	1/800 sq. ft. of UFA; Floor area used in processing 1 additional/2 employees	—
	Auto repair facility	2/ stall, rack or pit plus 1/employee	—
	Vehicle fueling station	1/fuel nozzle plus 1/200 UFA of retail floor area	—
	Laundromats and coin-operated dry cleaners	1/2 machines	—
	Miniature and par 3 golf courses	3/hole plus 1/employee	—
	Mortuary establishments	1/50 sq. ft. of UFA	—
	Motels, hotels and other commercial lodging establishments	1/occupancy unit plus 1/employee	—
	Motor vehicle sales and service establishments	1/200 sq. ft. of UFA or sales room plus 1/auto service stall in service room.	—
	Retail stores, except as otherwise specified earlier	1/200 sq. ft. of UFA	—

	<u>Marijuana provisioning center, adult use retailer and/or microbusiness that provides drive-thru service</u>	<u>3 stacking spaces before the drive thru window</u>	
Offices	Banks	1/200 sq. ft. of UFA plus 1/employee and 3 stacking spaces per drive-thru facility	—
	Professional offices of doctors, dentists and similar professionals, clinics	1/150 sq. ft. of UFA	—
	Business and professional offices, except as indicated in the previous use	1/200 sq. ft. of UFA	—
Industrial Agricultural	Industrial and research establishments and related accessory offices	5 plus 1½ per employee in largest work shift	—
	Wholesale establishments and related accessory offices	5 plus 1/employee in largest work shift, or 1/1700 sq. ft. of UFA (whichever is greater)	—
	General or specialized agriculture	2 plus 1 per 1½ employees in largest work shift	Excludes seasonal workers
	Industrial agriculture	5 plus 1 per 1½ employees in largest work shift	Excludes seasonal workers

(Ord. No. 03-01 (Exh. A, § 42-613), 2-18-2003; Ord. No. 08-05, 7-22-2008; Ord. No. 16-11, 10-18-2016)

All other parts of Section 42-523 remain unchanged.

Dated: _____

Patricia M. Randall, Mayor

FIRST READING:

SECOND READING:

ORDINANCE #:

EFFECTIVE DATE:

CERTIFICATION

I, Erica Eklov, do hereby certify that I am the duly appointed City Clerk of the City of Portage and that the foregoing ordinance was adopted by the City of Portage on the _____ day of _____, 2023.

Erica Eklov, City Clerk

CITY OF PORTAGE PLANNING COMMISSION

**Thursday, April 6, 2023
7:00 PM Portage
Portage City Hall Council Chambers**

The City of Portage Planning Commission meeting of April 6, 2023, was called to order by Chair Corradini at 7:00 p.m.

IN ATTENDANCE

- Eric Feldt, Senior City Planner
- Catherine Kaufman, City Attorney

ROLL CALL

Mr. Feldt called the roll: Chairman Corradini (yes); Vice Chair Joshi (yes); Fries (yes); Pezzoli (yes); Baldwin (no); Adams (yes); Youngs (yes); Kasper (no); and Freiman (yes).

Motion by Commissioner Fries, seconded by Commissioner Pezzoli to excuse Commissioners Baldwin and Kasper. Motion carried 7-0.

APPROVAL OF MINUTES

1. Minutes dated March 16, 2023.

Motion by Commissioner Youngs, seconded by Commissioner Pezzoli to approve the March 16, 2023, as submitted. Motion carried 7-0.

PUBLIC HEARINGS

1. Ordinance Amendment #22/23-9: An Ordinance to amend commercial marihuana development standards within Chapter 42 Article 4.

Eric Feldt presented the City-initiated ordinance amendment consisting of four proposed changes: adding drive-throughs, establishing drive-through standards, prohibiting outdoor commercial grow facilities, and changing the spelling of the term marihuana with marijuana. Mr. Feldt indicated that this amendment was to align with new State marihuana regulation changes, to increase land use development potential of Industrial-zoned property and to be more consistent with the City's Comprehensive Plan. He identified various sections of the zoning code and included a mark up version of the zoning ordinance. Mr. Feldt indicated that, as of the date of the Planning Commission April 6, 2023, meeting, there are ten marihuana retailer/ provisioning center sites and one indoor marihuana grower. He concluded his presentation with staff's recommendation to the Planning Commission: If no additional public comment is requested by the Commission, and the Commission is supportive of the proposed ordinance amendment, staff advises the Planning Commission to recommend Ordinance Amendment #22/23-9 to amend commercial marihuana development standards to City Council be approved.

Various Commissioners discussed marihuana tax monies received by the City of Portage, the number of interested marihuana companies wishing to add drive-through services, and whether the City has a cap on marihuana retailers/ provisioning centers.

Chair Corradini opened the public hearing. No public comments received. Chair Corradini asked for support to close public hearing; Commissioner Freiman supported. Chair Corradini took voice vote of the Commission to close public hearing; unanimous support (7-0) received.

Vice Chair Joshi stated opposition to the ordinance amendment due to not wanting to make marihuana more accessible.

Motion by Commissioner Pezzoli, seconded by Commissioner Freiman to recommend to City Council approval of Ordinance Amendment #22/23-9 to amend commercial marihuana development standard. Motion carried 6-1.

SITE/FINAL PLANS

1. A Final Planned Development Site Plan for a senior housing facility at 8150 Creekside Drive.

Mr. Feldt prefaced the project with a brief background of the approved Tentative Plan which was approved by the Planning Commission and City Council, which had allowed the development to proceed with the filing of the Final Site Plan. Mr. Feldt presented various comparison images between the approved Tentative Plan and Final Plan. He indicated that the developer is proposing four minor changes in the Final Plan: adding an on-site stormwater basin, relocating the deferred parking, minor change in the southern berm, and architectural items. Mr. Feldt explained that those changes are not substantial and are allowed by the zoning code as a project progresses from Tentative Plan to Final Plan design. He identified the various applicable zoning code sections for the overall Planned Development, as well as the Tentative and Final Plan subsections. He indicated that the City's Development Review Team, consisting of various department staff, did not have any pending items or recommended conditions. Mr. Feldt concluded with staff's recommendation that the Planning Commission recommend to City Council the approval of the Final PD Site Plan for StoryPoint South, a senior housing facility, at 8150 Creekside Drive.

Various Commissioners discussed the number of proposed care services, stormwater elements, maintenance of Creekside Drive, water and sanitary sewer utilities, whether there was any history of flood, and parking elements.

Brandon Visconti, applicant's representative with CommonSail, 7927 Nemco Way Brighton, MI 48116, discussed the need for the project and addressed the project's stormwater elements.

Jeff Miller, applicant's representative with Prein & Newhof, 3355 Evergreen NE Grand Rapids, MI 49525, discussed the stormwater elements in detail.

Chair Corradini asked about the parking requirement and how it is impacted by the proposed change in deferred parking. Mr. Feldt stated that the parking requirement approved under the Tentative Plan was 192 spaces, including 25 deferred spaces. The proposed Final Site Plan consists of only 21 deferred spaces, four fewer. Mr. Feldt stated that the new proposed total parking space count of 188 is within the allowable 10% change in the zoning code.

Commission Fries asked about further reducing the parking spaces due to other similar projects. The applicant's representative indicated that the proposed parking meets the needs of the project.

Motion by Commissioner Fries, seconded by Commissioner Adams, to recommend to City Council approval of the Final PD Site Plan for StoryPoint South, a senior housing facility, at 8150 Creekside Drive. Motion carried 7-0.

NEW BUSINESS

None.

OLD BUSINESS

None.

STATEMENT OF CITIZENS

None.

STATEMENT OF COMMISSIONERS/ STAFF

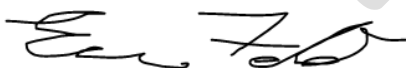
Mr. Feldt provided the following updates:

- The City of Portage Community Development Department Director position is to be combined with the vacant Deputy City Manager position and renamed as Chief Development Officer. The position will be filled by Peter Dame, former City Manager of the City of Grosse Pointe. Mr. Dame's first day with the City of Portage is expected to be April 24, 2023.
- For the Crossroads Mall subarea section of the new Master Plan process update, City staff will be meeting with various Crossroads Mall area stakeholders later in April to gain input on their future needs.
- The Community Development Department is drafting various housing-related zoning code changes recommended during the March Planning Commission workshop. These changes will be presented to the Commission during future meetings.

ADJOURNMENT

There being no further business to come before the Commission, Chair Corradini adjourned the meeting at 7:48 p.m.

Respectfully submitted,



Eric Feldt, AICP, CFM
Senior City Planner



Department of Community Development

TO: Honorable Mayor and City Council
FROM: City of Portage Planning Commission
DATE: April 11, 2023

SUBJECT: Ordinance Amendment #22/23-9: An ordinance to amend commercial marihuana development standards within Chapter 42 Article 4.

At the April 6, 2023 meeting, the Planning Commission reviewed and discussed an ordinance amendment to amend commercial marihuana development standards within Chapter 42 Article 4. The City seeks a proposed ordinance amendment that would modify several commercial marihuana development standards consistent with recent changes in the State's Cannabis Regulatory Agency (CRA) and to better position land for future development. The proposed modifications include the following:

1. Drive-through operations are currently prohibited in the City of Portage. Remove this prohibition as consistent with new CRA standards. This would allow only marihuana retailers (adult-use/ recreation), provisioning centers (medical), and microbusiness (grow, process, and sell in a single location) to have a drive-through service.
2. Establish new drive-through queuing standards for the above marihuana uses, as consistent with other City zoning drive-through businesses to best manage proper areas for queuing and general site circulation, parking.
3. Commercial marihuana growing businesses are currently allowed in Portage within the Industrial districts (I-1 & I-2) only. Marihuana can be grown indoors or outdoors. Staff proposes prohibiting outdoor growing in order to better position those valuable industrial properties for higher development opportunities. There are no proposed changes to continuing indoor marihuana growing.
4. Rename 'marihuana' to 'marijuana', consistent with the CRA.

Eric Feldt, Senior City Planner, was present to support the proposed application and explain the ordinance amendment details. There was no public comment on this item at the meeting.

The Planning Commission voted 6:1 to recommend to City Council the approval of the proposed amendment to the commercial marihuana development standards within Chapter 42 Article 4.

Sincerely,

CITY OF PORTAGE PLANNING COMMISSION

Dan Corradini
Chairman

Attachments: April 6, 2023 Planning Commission meeting minutes

TO: Honorable Mayor and City Council

FROM: Pat McGinnis, City Manager

SUBJECT: Public Hearing for 2023-24 Proposed Budget and Utility Rates

SUPPORTING PERSONNEL: Aaron Coeur, Deputy Director of Accounting & Budget
Kendra Gwin, Director of Transportation & Utilities

ACTION RECOMMENDED: Subsequent to the public hearing:

- a. set final adoption of the Fiscal Year 2023-2024 Proposed City Budget and proposed 2023 tax levy for May 23, 2023; and;
- b. adopt the Resolutions for the recommended water and sewer rates, base quarterly charges, franchise area fees and other service fees and charges, all effective July 1, 2023; and
- c. approve the City Council General Fund Reserve Policy.

To permit adoption of the Fiscal Year 2023-2024 Proposed Budget on May 23, 2023, as well as satisfy the requirements of the City Charter and Public Act 5 of 1982, known as the Truth in Taxation Act, a public hearing must be held at the regular City Council meeting of May 9, 2023.

Public Act 5 of 1982 requires that any millage rate above the “base tax rate” be identified separately in the Notice of Public Hearing on the proposed 2023 tax levy. The “base tax rate” as defined by Public Act 5 of 1982 is the prior year operating millage adjusted for the inflationary growth in the taxable value of property in the city. Adopting the millage rate through the budget hearing precludes the need for a Truth In Taxation hearing. The proposed millage rate for 2023 is 10.6400.

On April 4, 2023, City Council was presented with the proposed 2023-2024 Fiscal Year budget in accordance with Section 7.2 of the City Charter. City Council held two budget work sessions on April 18 and April 25, 2023. The next step is to conduct a public hearing.

The levied millage for Fiscal Year 2023-2024 is unchanged at a total of 10.6400 mills. Highlights of the proposed budget include:

- Maintenance of current levels of service;
- Continued emphasis on street maintenance and improvements;
- Approximate 5% and 8.5% increases in water and sewer rates, respectively, to offset inflationary cost pressures, anticipated capital improvement needs and sewer treatment charge increases from the City of Kalamazoo;

- Preservation of the City of Portage position in the lower twenty percent (20%) of all Michigan cities with populations between 30,000 and 70,000 in terms of millage level.

Subsequent to the Budget Review Sessions, the following revisions have been made to the proposed FY 23-24 Budget:

- Funding in the amount of \$54,000 for improvements at the site of the former West Lake Drive-In has been moved forward from FY 24-25 to FY 23-24;
- Funding in FY 23-24 for archery facilities has been reduced from \$75,000 to \$16,000 which will cover demolition costs and construction of a possible boundary fence;
- Funding for the construction of any archery facility has been moved to the final year of the proposed CIP;
- Possible funding for a feasibility study for a trail over US 131 has been moved to FY 26-27 and related construction expenses pushed back accordingly; and
- A resulting reduction of \$209,000 in CIP costs which will be used to reduce bonding needs and help lower debt in the upcoming fiscal year.

In addition to the above budgetary changes, members of the City Council expressed interest in modifying the General Fund Reserve Policy. Attached to this item is a Resolution to reduce the required fund balance from 24% down to a minimum of 20%. Additionally, the current policy stipulates that "available excess fund balance shall be used to pay cash for future non-utility Capital Improvement Program projects in an effort to reduce long-term debt." The City Administration pledges to continue the effort to reduce long-term debt. However, the revised policy eliminates this provision mandating that excess fund balance be used in a prescribed manner. Eliminating the provision affords greater flexibility to address situations and opportunities for which the use of excess fund balance would be appropriate.

The City Charter and state law require publication of the public hearing notice, and that a public hearing be held prior to the adoption of the proposed budget. The Notice of Public Hearing appeared in the April 30, 2022 edition of the Kalamazoo Gazette. Given that the proposed tax rate of 10.6400 mills for the Fiscal Year 2023-2024 budget does not exceed the 2022 base tax rate, a Truth in Taxation Hearing and Resolution for 2023 is not required. The tax levy for 2023 is the same as in 2022.

Final adoption of the proposed Fiscal Year 2023-2024 budget will be considered by the City Council at its regular meeting on May 23, 2023.

Furthermore, as part of the Fiscal Year 2023-2024 Proposed Budget, the City Council Water/Sewer (Utility) Rate Study Committee, comprised of Councilmembers Burns, Knapp, and Ledbetter, and residents Elma Pat Maye and Randy Orwig, has completed its review of the 2023 Utility Rate Financial Study prepared by the City Administration. The 2023 Utility Rate Study focused on ensuring the financial health and stability of the utility system. Following a thorough review and analysis of the 2023 Utility Rate Financial Study, the Committee voted 4 to 0 (one member was absent with excuse) to recommend to City Council the following increases to the water and sewer rates, as well as annual charges as a result of continued sewage treatment cost increases from the City of Kalamazoo and inflationary increases.

For water customers, the 2023 Utility Rate Finance Study recommends the commodity rate be increased per thousand gallons from \$3.30 to \$3.47 for Fiscal Year 2023-2024, to \$3.64 for Fiscal Year 2024-2025, and to \$3.82 for Fiscal Year 2025-2026. The water basic quarterly (meter) charge for the typical

residential customer is recommended to increase from \$21.62 to \$22.70 for Fiscal Year 2023-2024, to \$23.84 for Fiscal Year 2024-2025, and to \$25.03 for Fiscal Year 2025-2026. This represents a 4.93% to 5.11% increase annually for the typical residential water customer. The combination of having a mature water system with a low percentage of new customers connecting to the system and the necessity to construct needed and significant system improvements will require further adjustments to water rates in the future.

For sewer customers, the 2023 Utility Rate Financial Study recommends that the commodity rate be increased per thousand gallons from \$5.33 to \$5.87 for Fiscal Year 2023-2024, to \$6.45 for Fiscal Year 2024-2025, and to \$7.10 for Fiscal Year 2025-2026. The sewer base quarterly (meter) charge for the typical residential sewer customer is recommended to increase from \$31.20 to \$32.76 for Fiscal Year 2023-2024, to \$34.40 for Fiscal Year 2024-2025, and to \$36.12 for Fiscal Year 2025-2026. This represents an 8.56% to 8.75% increase annually for the typical residential sewer customer. The sewer fund was able to absorb the 9.2% increase in wastewater treatment charges from the City of Kalamazoo in Fiscal Year 2020-2021; and the 10% increase in Fiscal Year 2021-2022. However, the 34% increase in wastewater treatment charges from the City of Kalamazoo this fiscal year necessitates multiple-year increases in sewer rates to continue funding operations, capital improvements, and debt service.

In other Utility Fees and Charges, there is a slight inflationary increase in water meter charges and ready-to-serve charges for fire services. It is also recommended that the proposed rate changes become effective on July 1 of the fiscal year.

Attached please find the recommended 2023 Utility Rate Financial Study. Through conservative budgeting and forecasting methods, the financial condition of the Utility Funds as of June 30, 2022, is good with working capital balances of \$4,625,311 in the water fund and \$10,294,365 in the sewer fund.

It is therefore recommended that the City Council, subsequent to the public hearing, set final adoption of the Fiscal Year 2023-2024 Proposed City Budget and proposed 2023 tax levy for May 23, 2023; adopt the Resolutions for the recommended water and sewer rates, base quarterly charges, franchise area fees and other service fees and charges, all effective July 1, 2023; and adopt the revised General Fund Reserve Policy.

FUNDING: N/A

Attachments:

1. Utility Rate Resolutions
2. 2023 Utility Rate Study
3. Redline of GF Policy of 5.27.14
4. GF Reserve Policy Revised 5.9.23

CITY OF PORTAGE

RESOLUTION

SEWER RATES

At a regular meeting of the City Council of the City of Portage, Kalamazoo County, Michigan, held in Council Chambers in the Portage City Hall in said City on the _____ day of _____, 2023 at 7:00 p.m.

PRESENT:

ABSENT:

The following resolution was offered by Councilmember _____ and seconded by Councilmember _____:

WHEREAS, it is necessary for the Council to establish by resolution rates for sewer service in the City of Portage.

NOW, THEREFORE BE IT RESOLVED: That the following rates are hereby established for charges to be paid by users of wastewater service rendered by the wastewater system in the City of Portage, said rates to be in effect commencing with the first billing after June 30, 2023.

A. CUSTOMER CHARGES

The charges to be paid by users of wastewater service rendered by the sewer system shall consist of a basic quarterly charge plus commodity charges as follows:

<u>Meter Size</u>	<u>Basic Quarterly Charge</u>
5/8"	\$ 32.76
3/4"	\$ 49.14
1"	\$ 73.71
1-1/2"	\$ 131.04
2"	\$ 196.56
3"	\$ 327.60
4"	\$ 655.20
6"	\$1,146.60
8"	\$1,638.00

COMMODITY CHARGES

For all metered use, except as may be provided under Township Customer Charges, the following commodity rate per thousand gallons shall be applied:

Total Commodity Rate
Per 1000 Gallons
\$5.87

B. MINIMUM FOR NON-METERED (FLAT RATE) CUSTOMERS

The flat rate for non-metered customers shall be established based on water usage of 15,000 gallons per quarter.

	<u>Flat Charge</u>	<u>Basic Charge</u>	<u>Total Charge</u>
Per quarter based on commodity charge for 15,000 gallons	\$88.05	\$32.76	\$120.81

C. IRRIGATION ALLOWANCE

Residential customers shall be given a discount if the customer is eligible for an irrigation discount under City Ordinance as follows: 1) Charges for such customers shall be based on actual water consumption, except that there shall be no sewage charge for the water consumption exceeding 125 percent of the water consumption for the most recent quarter billing in which the month of January is included; 2) Residential customers who do not have a quarterly billing in which the month of January is included or who have a zero (0) water usage for the quarter which includes the month of January, shall have the sewer charge for the other three quarters established at the maximum rate volume of 15,000 gallons or actual usage, if less, per quarter until such time as quarterly billing information, in which the month of January is included, is available.

D. SURCHARGES AND CREDITS

Surcharges for pollutant loadings above standard domestic waste will be charged rates established by ordinance of the City of Kalamazoo. Industries which pretreat may qualify for credits for pollutant loading at a strength below standard domestic strength in accordance with rates established by ordinances of the City of Kalamazoo.

E. ADDITIONAL CHARGES

Additional charges shall be as follows:

- (1) Equal to the actual expense incurred by the City for removing prohibited material discharged or caused or allowed to be discharged by the user and/or for the handling and/or treating of material in the wastewater system; and
- (2) Equal to the actual expense incurred by the City for cleaning or repairing the wastewater system or any part thereof as required by a discharge by, or caused or allowed by, a user.

F. TOWNSHIP CUSTOMER CHARGES

The basic quarterly charge for Schoolcraft Township customers shall be the same as charged to city customers, as detailed in Section "A" above. Commodity charges for Schoolcraft Township customers shall be set at \$6.51 per thousand gallons of water used. Other charges and fees to township customers shall be the same as for City of Portage customers.

G. NON-SUFFICIENT FUNDS

A fee of \$30 per occurrence will be charged for any returned/unpaid check or other failed financial instrument which results in uncollected funds.

H. LATE FEE

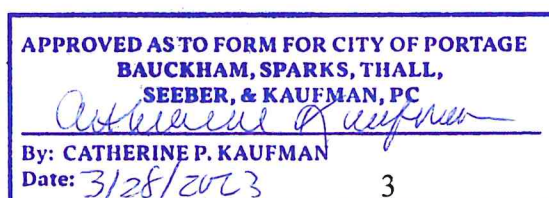
The utility billing late fee shall be waived by the Finance Director under the following conditions:

1. (a) The customer has paid all of the last 8 or more quarterly utility bills on time; and
(b) The customer requests that the late fee be waived; or
2. The customer requests participation in the city's automatic payment program and the amount due is taken from their bank account on the due date. However, if the customer discontinues participation in the automatic payment program, no further waivers shall be granted under subsections 1(a) and (b) or this subsection 2.

YEAS:

NAYS:

ERICA EKLOV, City Clerk



CERTIFICATION

STATE OF MICHIGAN)
)
COUNTY OF KALAMAZOO)

I, the undersigned, the duly qualified and acting City Clerk of the City of Portage, County of Kalamazoo, State of Michigan, do hereby certify that the foregoing is a true and complete copy of a resolution adopted at a regular meeting of the City Council of said city, held on the _____ day of _____ 2023, the original of which is on file in my office.

IN WITNESS THEREOF, I have hereto affixed my official signature the _____ day of _____, 2023.

ERICA EKLOV, City Clerk

CITY OF PORTAGE

RESOLUTION

WATER RATES

At a regular meeting of the City Council of the City of Portage, Kalamazoo County, Michigan, held in Council Chambers in the Portage City Hall in said City on the _____ day of _____, 2023 at 7:00 p.m.

PRESENT:

ABSENT:

The following resolution was offered by Councilmember _____ and seconded by Councilmember _____:

WHEREAS, it is necessary for the Council to establish by resolution rates for water service in the City of Portage.

NOW, THEREFORE BE IT RESOLVED: That the following rates are hereby established for charges to be paid by users of water service rendered by the water system in the City of Portage, said rates to be in effect commencing with the first billing after June 30, 2023.

A. CUSTOMER CHARGES

The charges to be paid by users of water service rendered by the water system shall consist of a basic quarterly charge plus commodity charges as follows:

<u>Meter Size</u>	<u>Basic Quarterly Charge</u>
5/8"	\$ 22.70
3/4"	\$ 34.05
1"	\$ 51.08
1-1/2"	\$ 90.80
2"	\$ 136.20
3"	\$ 227.00
4"	\$ 454.00
6"	\$ 794.50
8"	\$1135.00

COMMODITY CHARGES

For all use, except as may be provided under Hydrant Meter Charges, Fire Protection Service Charges and Township Customer Charges, the following commodity rate per thousand gallons shall be applied:

Total Commodity Rate
<u>Per 1000 Gallons</u>
\$3.47

B. TOWNSHIP CUSTOMER CHARGES

The basic quarterly charge for Pavilion Township and Schoolcraft Township customers shall be the same as charged to City customers, as detailed in section "A" above. Commodity charges for Pavilion Township and Schoolcraft Township customers shall be set at \$3.96 per thousand gallons of water used. Other charges and fees to township customers will be the same as for City of Portage customers.

C. FIRE PROTECTION SERVICE CHARGES

The charges to be paid by users of fire protection service rendered by the water system shall consist of a basic quarterly charge as follows:

Service Size	Basic Quarterly Charge
4"	\$ 25.00
6"	\$ 45.00
8"	\$ 80.00
10"	\$125.00
12"	\$180.00
16"	\$320.00

For all use metered on Fire Protection Services the following commodity rate per thousand gallons shall be applied:

Total Commodity Rate
<u>Per 1000 Gallons</u>
\$6.40

D. METER CHARGES

The charges to be paid for installing meters are as follows:

<u>Meter Size</u>	<u>Meter Charge</u>
5/8"	\$ 250
3/4"	\$ 300
1"	\$ 355
1 1/2" SR (Irrigation)	\$ 1,200
1 1/2" (Compound)	\$ 1,650
2" SR (Irrigation)	\$ 1,500
2" (Compound)	\$ 2,315
3" (Compound)	\$ 3,050
4" (Compound)	\$ 4,710
6" (Compound)	\$ 8,155

E. METER BOX CHARGE

The charges to be paid for Meter Boxes are as follows:

<u>Service Provided</u>	<u>Meter Box Charge</u>
Meter Box	\$1,250

F. HYDRANT METER CHARGES

The charges to be paid for installation of hydrant meters and use of hydrant water are as follows:

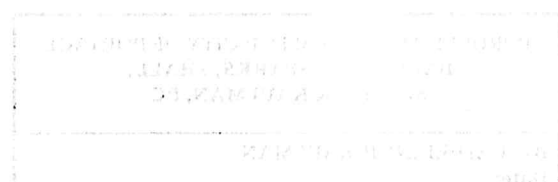
<u>Service Provided</u>	<u>Hydrant Meter Charge</u>
Meter installation	\$150*
Hydrant Use	\$6.40/thousand gallons

*Charge includes 15,000 gallons of water.

Furthermore, a deposit of \$250 will be required before installation of the hydrant meter. The deposit will be applied to the charges and water usage.

H. HYDRANT FLOW TEST

A charge of \$135 per occurrence will be charged for a fire hydrant flow test to determine the quantity of water available for fire fighting use.



I. PROCESSING FEE

The charge to be paid by users having water service turned on is as follows:

<u>Service Provided</u>	<u>Processing Fee</u>
Turning on water service	\$50 (except for first time customers and customer repairs)
	\$100 (turn on after normal working hours)

This fee also applies to services that are turned off for delinquency and is applied once a city work order has been issued.

J. NON-SUFFICIENT FUNDS

A fee of \$30 per occurrence will be charged for any returned/unpaid check or other failed financial instrument which results in uncollected funds.

K. WATER SHUT OFF DUE TO NON-PAYMENT

An amount past due of more than \$60.00 is established as the water shut-off level amount.

L. LATE FEE

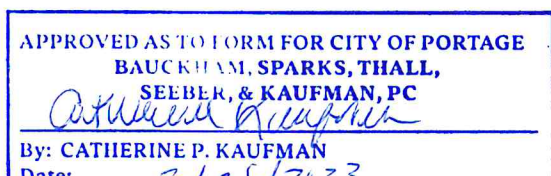
The utility billing late fee shall be waived by the Finance Director under the following conditions:

1. (a) The customer has paid all of the last 8 or more quarterly utility bills on time; and

(b) The customer requests that the late fee be waived; or
2. The customer requests participation in the city's automatic payment program and the amount due is taken from their bank account on the due date.
However, if the customer discontinues participation in the automatic payment program, no further waivers shall be granted under subsections 1(a) and (b) or this subsection 2.

YEAS:

NAYS:



ERICA EKLOV, City Clerk

CERTIFICATION

STATE OF MICHIGAN)
)
COUNTY OF KALAMAZOO)

I, the undersigned, the duly qualified and acting City Clerk of the City of Portage, County of Kalamazoo, State of Michigan, do hereby certify that the foregoing is a true and complete copy of a resolution adopted at a regular meeting of the City Council of said city, held on the _____ day of _____ 2023, the original of which is on file in my office.

IN WITNESS THEREOF, I have hereto affixed my official signature the _____ day of _____, 2023.

ERICA EKLOV, City Clerk



2023 Utility Rate Financial Study

2023 UTILITY RATE FINANCIAL STUDY

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2023 UTILITY RATE FINANCIAL STUDY

SECTION I - UTILITY RATES

INTRODUCTION

The City Administration has reviewed the utility rate structure for the purpose of considering necessary adjustments to utility rates, while addressing long-term needs of the city utility system. During the development of the 2023 Utility Rate Financial Study, a review of the previous study and the present rate structure was conducted.

As part of the ongoing effort to control costs and maintain the lowest possible utility rates for water and sewer customers, the City Administration reviewed the overall utility operation in light of the privatization of the operation and maintenance functions of the utility initiated in March 1997. Privatization has been extremely effective in cutting overall utility costs while still providing a high level of service to customers. The city's contractor performs all routine operation and maintenance activities for the water utility, including operation of the pumping and overhead storage facilities; meter installation, repair and reading; water service repair and maintenance; water main repair; fire hydrant flushing and repair; MISS DIG staking and other miscellaneous activities. Routine operation and maintenance activities performed for the sewer utility include cleaning and inspection of sanitary sewers; cleaning of storm sewer piping and manholes; daily inspection, maintenance and repair of sanitary sewage pumping facilities; repair and cleaning of sanitary sewer manholes; street sweeping and other miscellaneous activities. On March 21, 2023, the City Council extended the contract with Veolia through June 2028.

Background

The Governmental Accounting Standards Board (GASB) requires that Sewer and Water Funds be enterprise funds and be operated in a manner similar to private business, with costs recovered primarily through user charges.

In 1986, the first Water and Sanitary Sewer Rate Committee reviewed the financial status of the Sanitary Sewer and Water Funds. The Water and Sanitary Sewer Rate Committee has met every year since to review the rates and make recommendations to the City Council. Prior to 1986, utility rates were reviewed and adjusted on an as needed basis, which lead to unpredictable rates and charges.

In 2008, the city received a letter from the State of Michigan requiring a financial plan to rectify a water fund deficit. The city has followed the plan submitted to the State of Michigan and the water fund deficit has been eliminated. Water and sanitary sewer rate increases required to eliminate the deficit, meet the conditions in the financial plan submitted to the State of Michigan and reach a positive working capital balance for the utility funds as a whole were substantial. Over the past several years the utility funds have been able to pay cash for capital improvement projects and pay off all callable debt and significant rate increases were not required.

Rate adjustments since 2007 are as follows:

<u>Fiscal Year</u>	Combined Water & Sewer % Rate Change (<u>Typical Residential</u> <u>Customer</u>)
2007	14.89
2008	13.68
2009	12.22
2010	15.03
2011	10.85
2012	4.85
2013	2.73
2014	1.40
2015	0.94
2016	0.75
2017	0.62
2018	-3.91
2019	-3.56
2020	0.00
2021	5.47
2022	5.23

Rate adjustments typically result from inflationary pressure, material changes in governmental programs and operations, and other factors which cannot be controlled by the city, such as charges from the City of Kalamazoo for sewage treatment and Consumers Energy for gas and electricity.

CURRENT STATUS

A fundamental principle of utility fund financing is that user rates should be sufficient to fund the entire cost of utility system operations. This principle is accepted by all authoritative sources (Government Finance Officers Association, American Water Works Association, etc.) and is based on the enterprise fund status. Enterprise funds operate as a private business and all businesses must generate sufficient revenues to cover costs in order to be viable.

Utility System Rate Structure

For provision of sanitary sewer and water service, a two-part rate structure is in effect. For sanitary sewer and water customers, the rate consists of a fixed portion, referred to as the "basic quarterly charge" and a unit rate, referred to as the "commodity" rate.

For water and sewer activities of the utility, the basic quarterly charge is designed to cover the fixed costs of providing service. These costs, which are generally stable throughout the year despite the amount of water produced or sewage transported, include: Personnel salaries and fringes, the Veolia operation and maintenance contract, office supplies, mailing expenses,

telephone charges, environmental testing, water quality testing, printing and publishing and equipment repair and maintenance. The fixed costs are applied to the meter size using a formula which recognizes the capacity of the meter size and the impact on the water and sanitary sewer systems.

Commodity rates are designed to cover more variable costs, including sewage treatment costs, public utilities, sewer lead repair, equipment rental costs, equipment replacements, retention basin testing and administrative costs. Commodity rates are based on a dollar amount per thousand gallons of water metered for both water and sewer billings, with sewer billings capped for residences as described below. All classes of customers are billed quarterly with the basic quarterly rate applied in addition to the commodity charge.

Sanitary Sewer System

The City of Portage sanitary sewer system consists of 240 miles of sewer main and 56 sewage lift stations. The sanitary sewer system has a capacity of 10.8 million gallons per day, with an average daily flow of 4 million gallons. Future expansion projects are prioritized to address the areas with greatest potential for groundwater contamination. Citizen petitions are also given high priority. Priorities are reviewed annually by the City Administration to ensure consistency with Council goals and environmental concerns. Current and projected resources of the Sanitary Sewer Fund appear adequate to accommodate increased expansion of the sanitary sewer system. The recommended six-year 2023-2029 Capital Improvement Program (CIP) includes \$9.855 million in sanitary sewer system improvements and expansions. The proposed improvements would be funded through various financing methods. The projects are considered important in order to pursue placement of sanitary sewer throughout the city and to continue with the mandatory sewer hookup program emphasis. In addition to extension of sanitary sewer mains, operational improvements over the next six years include:

- Installation of sanitary sewer leads where not included in original construction.
- Installation of sanitary mains in existing developed plats.
- Rehabilitation of sanitary sewer lift stations and force mains

The proposed sanitary sewer rate structure was developed taking into account the capital expenditures necessary to meet these needs through various financing means.

Sanitary Sewer Billing Cap

Sewer bills are calculated based upon water usage with the assumption that water used within a residence is generally discharged to the sanitary sewer system as wastewater. A cap on sewer billing to residential customers limits the sewer bill to 125% of the customer's winter quarter water usage. The 125% cap was established based upon an analysis of residential accounts with separate water meters for irrigation. This analysis was undertaken to determine the quarterly water usage pattern of the "typical residential customer." Results of the analysis indicated that average summer water usage discharged to the sanitary sewer system, for a single-family residence, is approximately 125% of the winter water consumption when external irrigation is excluded. Winter usage is defined as that quarter in which January occurs. The sanitary sewer

billing cap ensures that residential customers are billed for flow to the sanitary sewer and not for outdoor water use.

Water System

The city water system consists of 20 production wells, one 750,000 gallon elevated storage tank, one 1,500,000 gallon elevated storage tank and 261 miles of water main. The Garden Lane Water Treatment Plant removes arsenic, iron and manganese that natural occur in the water. The water system currently has a capacity of 25 million gallons per day. The average day production is 4.5 million gallons. Fishbeck is currently updating the 2015 Wellhead Protection Program. Fishbeck has also completed the 2019 Water Reliability Study and 2021 Risk and Resilience Assessment. These studies, together with current management information and system use data, are the basis for planned future system improvements.

The recommended six-year 2023-2029 CIP includes \$37.62 million in water system improvements. Current and future anticipated demands placed on the system necessitate provision of numerous operational improvements over the next ten years, including:

- Replacement of deteriorating water main that has reached the end of its useful life.
- Installation of water main and service lines in developed plats.
- Improvement of the stormwater collection and recharge system.
- Additional treatment facility with iron removal capabilities.

The proposed water rate structure was developed taking in consideration of the capital expenditures necessary to meet the above noted needs through various types of financing.

On February 11, 2014, Portage City Council approved reinstatement of a 10% discount on water use charges for eligible senior citizens. Redistribution of the 10% discount to senior citizen customers to the remaining water customers was also taken into account in the development of the water rate structure. The subsidy for the Senior Citizen Discount in Calendar Year 2022 was \$78,637.63

Utility Customer Growth

The utility customer base has grown to 16,154 sanitary sewer customers and 15,744 water customers as of January 1, 2023. An increase in the number of customers has a general impact of stabilizing system-wide operation costs as cost of service can be spread over a larger number of users. Although the total number of water and sewer customers continues to increase, the rate of increase in utility customers has slowed in recent years. The utility system is a mature system with 96.7 % of developed properties served by municipal sewer and 87.5% served by municipal water. In the future, new customer growth will be most directly related to new development occurring in the city.

FINANCIAL REVIEW

Using current information on the status of the utility systems as background, the 2023 Utility Rate Financial Study was conducted to determine appropriate cost recovery rate levels. These rates provide for operation of the utility systems, funding of utility-related capital improvement needs and repayment of Limited Tax General Obligation (LTGO), city share debt and Utility Revenue bond debt related to infrastructure extensions and replacements.

The Annual Comprehensive Financial Reports for prior fiscal years provide the primary source for review of the past financial condition of the Utility Funds. Additional sources include the Municipal Budget for Fiscal Year 2022-2023, the 2022-2028 CIP, the recommended 2023-2029 CIP and prior utility rate studies. Reduction in sanitary sewer loadings and an increase in capital improvements to the Kalamazoo Regional Sewage Treatment Plant will result in an increase in sewage treatment charges. As a result of the increases in treatment charges and inflationary cost increases, an increase in City of Portage sanitary sewer and water rates are necessary.

As of June 30, 2022, the Sewer Fund had a working capital balance of \$12,916,309, which was 140% of operating expenses, or 131% of operating expenses plus debt service, and the Water Fund had a working capital balance of \$5,242,069, which was 120% of operating expenses, or 73% of operating expenses plus debt service. These balances have been maintained through conservative budgeting and forecasting methods.

Typical Residential Customer

The typical residential customer in Portage purchases approximately 19,000 gallons of water and is billed for 15,000 gallons of sewage flow per quarter. The typical residential customer has been defined based upon an analysis of all residential accounts and represents the baseline used for comparison since single-family residences represent about 90% of utility accounts. The table below demonstrates the typical average residential customer quarterly usage of water and billing of sewage flow.

TYPICAL RESIDENTIAL CUSTOMER

	Metered Water (x1000 gallons)	Billed Sewer (x1000 gallons)
Winter usage (quarter including January)	14	14
Spring usage	14	14
Summer usage	33	18
<u>Autumn usage</u>	<u>14</u>	<u>14</u>
Annual Total	75	60

The differential between the metered water and the billed sewer is a result of the 125% sewer cap. The cap impacts the summer sewage billing quarter by limiting it to 125% of the winter metered water.

RATE RECOMMENDATIONS

Tables 1, 2 & 3 summarize Sanitary Sewer Fund and Water Fund statements of estimated revenue and expenses for the fiscal years ending June 30, 2023 through 2028. Projected commodity rates, sales in millions of gallons and an analysis of capital/debt needs and funding are also presented. Factors that impact these projections include the cost of living increase, the number of utility customers, revised contaminate level standards promulgated by the USEPA, reduced flow from sewer customers and the sewage treatment costs by the City of Kalamazoo in the case of the Sewer Fund. Table 4 analyzes the recommendations as applied to the "typical residential customer." The following recommendations are presented regarding 2023 Utility Rate Financial Study.

Sanitary Sewer Fund

It is recommended that the sewer commodity rate per thousand gallons be increased from \$5.33 to \$5.87 for Fiscal Year 2023-2024, \$6.45 for Fiscal Year 2024-2025 and \$7.10 for Fiscal Year 2025-2026. The rate will: 1) provide for increased treatment charges billed by the City of Kalamazoo, 2) continue funding operations, capital improvement needs, repayment of outstanding sewer-related Limited Tax General Obligation (LTGO) bonds and 3) provide for future LTGO and revenue bond debt. Privatization of the utility operation has resulted in a significant savings in the sewer fund over the last twenty-six years, in spite of a lower billable flow growth compared to previous years.

It is recommended that the sewer basic quarterly charges be increased as shown below:

SANITARY SEWER BASIC QUARTERLY CHARGE CITY OF PORTAGE CUSTOMERS

<u>Meter Size</u>	<u>Current Quarterly Charge 2022-2023</u>	<u>Proposed Quarterly Charge 2023-2024</u>	<u>Proposed Quarterly Charge 2024-2025</u>	<u>Proposed Quarterly Charge 2025-2026</u>
5/8"	\$ 31.20	\$ 32.76	\$ 34.40	\$ 36.12
3/4"	\$ 46.80	\$ 49.14	\$ 51.60	\$ 54.18
1"	\$ 70.20	\$ 73.71	\$ 77.40	\$ 81.27
1-1/2"	\$ 124.80	\$ 131.04	\$ 137.60	\$ 144.48
2"	\$ 187.20	\$ 196.56	\$ 206.40	\$ 216.72
3"	\$ 312.00	\$ 327.60	\$ 344.00	\$ 361.20
4"	\$ 624.00	\$ 655.20	\$ 688.00	\$ 722.40
6"	\$ 1,092.00	\$ 1,146.60	\$ 1,204.00	\$ 1,264.20
8"	\$ 1,560.00	\$ 1,638.00	\$ 1,720.00	\$ 1,806.00

The basic quarterly charges are designed to cover the fixed costs related to the operation of the sanitary sewer system. With the continuation of the sanitary sewer bill cap of 125%, the recommended Fiscal Year 2023-2024 basic quarterly charges and increasing the commodity rate at \$5.87 per thousand gallons will result in an added monthly expense of \$3.17 for the typical residential customer.

In previous utility rate studies, emphasis has been placed on stabilizing retained earnings in the Sanitary Sewer Fund at a level of \$1,500,000 as recommended by the city's financial advisor. An adequate cash balance must be maintained for operation of the utility and to make debt service payments. Basic Quarterly Charges are recommended to ensure sufficient resources are available within the Sanitary Sewer Fund to meet obligations to avoid the need for subsidy by non-utility related funds.

For Fiscal Year 2022-2023 the estimated working capital (i.e. cash) at the end of the year is \$10,294,365. Based on the recommended basic quarterly charges and commodity rate for Fiscal Year 2023-2024, 2024-2025 and 2025-2026 an acceptable level of working capital balance can be maintained through Fiscal Year 2027-2028.

The recommended rate for Fiscal Year 2023-2024 is higher than the rate forecast in the 2022 Utility Financial Rate Study due to significant increases in wastewater treatment charges from the City of Kalamazoo. As shown in Table 1 (Utility Fund Statements of Revenues and Expenses – Sanitary Sewer Fund) rate increases are recommended in subsequent years.

Sanitary Sewer Rate - Schoolcraft Township

The service agreement with Schoolcraft Township establishes the rate charged to customers in Schoolcraft Township. The basic quarterly charge is the same as charged to the City of Portage customers. There is a 5% surcharge on the commodity rate and a \$0.35 charge per thousand gallons for capital costs. It is recommended that the Fiscal Year 2023-2024 sanitary sewer commodity rate to Schoolcraft Township customers be increased from \$5.95 to \$6.51 per thousand gallons.

Water Fund

Water Service Charges

It is recommended that the water commodity rate be increased per thousand gallons from \$3.30 to \$3.47 for Fiscal Year 2023-2024, \$3.64 for Fiscal Year 2024-2025 and \$3.82 for Fiscal Year 2025-2026. The basic quarterly costs are designed to cover fixed costs related to the operation of the water system. It is recommended that the water basic quarterly charges be increased as shown below:

WATER BASIC QUARTERLY CHARGE CITY OF PORTAGE CUSTOMERS

<u>Meter Size</u>	<u>Current Quarterly Charge 2022-2023</u>	<u>Proposed Quarterly Charge 2023-2024</u>	<u>Proposed Quarterly Charge 2024-2025</u>	<u>Proposed Quarterly Charge 2025-2026</u>
5/8"	\$ 21.62	\$ 22.70	\$ 23.84	\$ 25.03
3/4"	\$ 32.43	\$ 34.05	\$ 35.76	\$ 37.55
1"	\$ 48.65	\$ 51.08	\$ 53.64	\$ 56.32
1-1/2"	\$ 86.48	\$ 90.80	\$ 95.36	\$ 100.12
2"	\$ 129.72	\$ 136.20	\$ 143.04	\$ 150.18
3"	\$ 216.20	\$ 227.00	\$ 238.40	\$ 250.30
4"	\$ 432.40	\$ 454.00	\$ 476.80	\$ 500.60
6"	\$ 756.70	\$ 794.50	\$ 834.40	\$ 876.05
8"	\$ 1,081.00	\$ 1,135.00	\$1,192.00	\$1251.50

The proposed Fiscal Year 2023-2024 rates will result in \$1.42 change in the monthly expense for the typical residential water customers.

Private Fire Protection Service Charges.

Dedicated fire protection service is defined as a separate water service line that solely provides fire protection to a property. The Basic Quarterly Charge will ensure that the cost of providing a dedicated fire service that only benefits one property is borne by the benefiting customer and not the utility customers at large. In addition to the Basic Quarterly Charge a \$6.40 per 1,000-gallons charge for all water use recorded on the fire service bypass meter is assessed. It is recommended that the Basic Quarterly Charge for fire protection services be increased as shown in the table below.

Private Fire Protection - Basic Quarterly Charge

<u>Fire Protection Service Size</u>	<u>Current Basic Quarterly Charge</u>	<u>Proposed Basic Quarterly Charge</u>
4 – inch	\$15.00	\$25.00
6 – inch	\$35.00	\$45.00
8 – inch	\$60.00	\$80.00
10 – inch	\$95.00	\$125.00
12 – inch	\$135.00	\$180.00
16 – inch	\$240.00	\$320.00

As shown on Table 2 (Utility Fund Statements of Revenues and Expenses - Water Fund), rate increases are recommended in subsequent years. The water quarterly basic charges and commodity rate must be increased to continue funding operations, meet major capital improvement needs, keep up with inflationary increases in water production costs (pumping, disinfection, etc.), repay outstanding water-related Limited Tax General Obligation (LTGO) bonds and provide for future LTGO and revenue bond debt. In future years, costly major water projects such as additional water storage and iron removal facilities will be required as demands on the Portage water system increase. In addition, the Water Fund will finance needed storm drainage improvements throughout the city.

Emphasis has been placed on stabilizing retained earnings in the Water Fund at a level of \$2,500,000 as recommended by the city's financial advisor. An adequate cash balance needs to be maintained for operation of the utility and to make debt service payments. There are sufficient resources available within the Water Fund to meet obligation to avoid the need for subsidy by non-utility related funds with the recommended rate over the coming years. For Fiscal Year 2022-2023, the estimated working capital (i.e. cash) at the end of the year is \$3,688,318. Based on the recommended basic quarterly charges and commodity rate for Fiscal Year 2023-2024, 2024-2025 and 2025-2026 an acceptable level of working capital balance can be maintained through Fiscal Year 2027-2028.

It is important that the city continue to plan for the installation of new iron removal facilities at the Shuman well site (currently scheduled in Fiscal Year 2027 through 2029 in the recommended 2023-2029 CIP) to relieve pressure on the Kalamazoo/Portage groundwater aquifer and the Milham well field located north of Portage Northern High School. Exploration in southern Portage, Schoolcraft Township and Pavilion Township was not successful in locating any new suitable well sites with low iron content.

Water Rate — Pavilion Township and Schoolcraft Township

It is recommended that the basic quarterly charges for Pavilion Township and Schoolcraft Township residents be the same as charged to City of Portage customers. It is also recommended that the water commodity rate for Pavilion Township and Schoolcraft Township residents be increased from \$3.96 to \$4.16 per thousand gallons for Fiscal Year 2023-2024.

SUMMARY OF RECOMMENDATIONS

The effect of the combined recommendations on the typical City of Portage residential customer is projected through Fiscal Year 2027-2028 in Table 3. The Fiscal Year 2023-2024 combined rate increase for the typical residential customer is 7.08%. The typical residential customer having both municipal water and sewer service, the proposed rates will result in an added monthly expense of \$4.59 for Fiscal Year 2023-2024. With operations, capital improvements and debt service continuing to be funded, the utility systems have been self-supporting since July 1989. Self-supporting status is essential for these important enterprise funds so that the funds do not become a financial drain on either the General Fund or the Capital Improvement Fund.

It is recommended that the effective date for rate adjustments be July 1.

SECTION II – UTILITY

FEES AND CHARGES

INTRODUCTION

Although the establishment of appropriate commodity rates and basic quarterly charges for water and sewer service is the primary focus of the annual Utility Rate Financial Study, it is also prudent to give attention to matters which may be less significant in dollar amounts but are still important to the financial health of the utility system, i.e. utility fees and charges.

Background

The establishment of adequate fees and charges for services performed in addition to the delivery of water and sewer service is necessary to fairly and equitably recover costs for services provided. When fees and charges are inadequate, the utility rate payer must bear the cost for services provided to others. Examples include costs for service connections, meters, turn-on fees, etc. In each case, if the charges for these services are inadequate to recover costs, the rate payers subsidize the service provided to some extent.

CURRENT STATUS AND RECOMMENDATIONS

Meter Charges

The current meter installation charges are based on the cost of the meter plus the cost of labor and equipment to install the meter. The current meter and installation costs have been reviewed and it was determined that several water meter charges need to be increased to reflect the current cost of installation. It is recommended that water meter charges be adjusted as shown in the table below.

<u>Meter Size</u>	<u>Current Charges</u>	<u>Recommended Charges</u>
5/8"	\$230	\$250
3/4"	\$290	\$300
1"	\$355	\$355
1-1/2" SR (Irrigation)	\$1,090	\$1,200
1-1/2" Compound	\$1,645	\$1,650
2" SR (Irrigation)	\$1,400	\$1,500
2" Compound	\$2,315	\$2,315
3" Compound	\$3,050	\$3,050
4" Compound	\$4,710	\$4,710
6" Compound	\$8,155	\$8,155

Meter Box Charge

A meter box charge is based on the cost of materials to install the meter box. Meter boxes are used when a suitable location for meter installation is not available in the building or property being served. The charge has been reviewed and it was found that the cost has not increased. It is recommended that the meter box charge remain unchanged at \$1250.

Hydrant Meter Charges

The use of meters on fire hydrants is a service provided as a convenience to contractors or individuals who need to obtain large quantities of water in a short period of time. It is recommended that the minimum charge for use of a hydrant meter remain at \$150. The minimum charge for supplying and installing a meter on a fire hydrant includes the use of 15,000 gallons of water. It is also recommended that the commodity charge for use over 15,000 gallons of water remain at \$6.40 per 1,000 gallons. Furthermore, that the deposit required to ensure the return of all hydrant meter hoses and other items remain at \$250. This deposit eliminates the potential problem of collecting for the service provided.

Fire Hydrant Flow Test Charge

Fire hydrant flow tests are often requested by insurance companies and developers to determine the quantity of water available for fire protection at a property. The established charge for providing a flow test ensures that the cost is borne by the benefiting customer and not the utility customers at large. It is recommended that the charge for a hydrant flow test remain at \$135.

Reinstatement Processing Fee

A fee is charged for reinstating water service turned off due to delinquency or at the request of the customer. In the case of delinquency, three notices are sent to the customer with a shut-off date established on the third notice. Once a work order has been issued for water shut-off, the processing fee is automatically added to the customer's bill and payment of the delinquent bill plus the processing fee is required prior to reactivation of service. The current fee is \$50 and is recommended to be continued. When payment for the balance due has been made, including the \$50 fee, and a waiver has been completed, water service will be restored the same day up to 4PM; if paid after 4PM, service is restored the next business day. No fee is charged for a water turn-off and subsequent restoration of water service when requested by the customer or contractor due to an emergency, or scheduled maintenance activity. For home inspections, when service is requested to be turned on and off the same or next business day, the processing fee and charges for usage of less than 3,000 gallons are waived. For water service turn-on after normal working hours, the current processing fee of \$100 is recommended to be continued. The \$100 processing charge reflects the added hourly cost for the service technician associated with the provision of water service turn-on after normal working hours.

Other Charges and Policies

1. **Flat Rate:** Non-metered sewer customers are billed based on a water usage of 15,000 gallons per quarter (flat rate). It is recommended that this policy be continued.
2. **Irrigation Allowance:** Single family residences, residential condominiums and all other individually metered residential units may be given a discount for irrigation as follows:
 - a. Charges for such customers are based on actual water consumption, except that there is no sewage charge for water consumption exceeding 125% of the water consumption for the most recent quarter billing in which the month of January is included;
 - b. Residential customers who do not have a quarter billing in which the month of January is included or who have a zero (0) water usage for the quarter which includes the month of January have the sewer charge for the other three quarters established at the maximum rate volume of 15,000 gallons or actual usage, if less, per quarter until such time as quarter billing information, in which the month of January is included, is available. It is recommended that the irrigation allowance be continued.
3. **Senior Citizen Water Allowance:** City of Portage water customers 65 years of age and older who submit an application and provide proof of age are eligible for a 10% discount on water use charges for their primary residence account.
4. **Non-Sufficient Funds (NSF) Check Fee:** It is recommended to maintain the current fee of \$30 per occurrence to reflect current administrative cost for any returned/unpaid check or other failed financial instrument which results in uncollected funds.
5. **Outstanding Charges Limit:** The amount of past due/outstanding charges necessitating water shut-off is recommended to be maintained at \$60.
6. **Utility Late Fee Waivers:** It is recommended that the utility billing late fee be waived if the customer:
 - a. has paid all of the last 8 or more utility bills on time and the customer requests that the late fee be waived/removed or;
 - b. signs up for automatic payment where the amount due is taken from their bank account on the due date.

SUMMARY OF RECOMMENDATIONS

Summarizing recommendations for Fiscal Year 2023-2024 utility fees and charges, it is advised that:

1. Charges for meters be adjusted to reflect the current cost of installation.
3. Charges for installation of meter box remain the same.
4. The current charge of a \$250 deposit for the installation of a hydrant meter remains the same and the current minimum charge including the use of up to 15,000 gallons of water remains at \$150. Further, the current commodity charge of \$6.40 per thousand gallons for all water used over 15,000 gallons remains the same.
5. The \$50 processing fee associated with turn-on or shut-off of a water service is continued, except the initial turn-on for first-time customers will be at no charge. When the city dispatches a person to turn on water during non-business hours, the processing fee of \$100 will be continued.
6. The flat rate based on a consumption of 15,000 gallons per quarter for non-metered sewer customers continues in effect.
7. The sewer billing cap for residential customers having a zero water meter reading in the quarter that contains January remains at 15,000 gallons.
8. The current charge of \$30 per occurrence will be assessed for any returned/unpaid check or other failed financial instrument which results in uncollected funds.
9. The utility billing late fee will be waived:
 - a. if the customer has paid all of the last 8 or more utility bills on time and the customer requests that the late fee be waived/removed or;
 - b. if the customer signs up for automatic payment.
10. An amount past due of more than \$60 remain as the shut-off level amount.

Utility Fund Statement of Revenues and Expenses

SEWER FUND							Table 1
23/24, 24/25 & 25/26 Proposed Rates							
	2021-22 Audited	2022-23 Estimated	2023-24 Proposed	2024-25 Proposed	2025-26 Proposed	2026-27 Projected	2027-28 Projected
SALES (million gallons)	1,257	1,263	1,270	1,276	1,282	1,289	1,295
RATE (per 1000 gallons)	\$5.06	\$5.33	\$5.86	\$6.45	\$7.10	\$7.10	\$7.10
BASE CHARGE (per quarter)	\$29.60	\$31.20	\$32.76	\$34.40	\$36.12	\$36.12	\$36.12
User charges	9,175,648	9,767,240	11,137,000	12,113,000	13,184,000	13,433,000	13,479,000
Other revenue	166,924	290,488	293,393	296,327	299,290	302,283	305,306
TOTAL OPERATING REVENUE	9,342,572	10,057,729	11,430,393	12,409,327	13,483,290	13,735,283	13,784,306
Operations and maintenance	2,938,989	3,102,645	3,480,170	3,532,000	3,585,000	3,639,000	3,694,000
Sewer treatment charges	4,011,765	5,162,141	5,700,000	6,270,000	6,897,000	7,000,000	7,105,000
General and administrative	1,305,514	1,410,372	1,629,150	1,654,000	1,679,000	1,704,000	1,730,000
Depreciation	978,416	1,000,720	1,039,270	1,071,483	1,102,945	1,130,245	1,148,920
TOTAL OPERATING EXPENSE	9,234,684	10,675,879	11,848,590	12,527,483	13,263,945	13,473,245	13,677,920
OPERATING GAIN (LOSS)	107,888	(618,150)	(418,197)	(118,156)	219,345	262,038	106,386
Interest income	(204,216)	52,946	53,200	53,500	53,800	54,100	54,400
Interest on outstanding debt	(46,088)	(31,560)	(22,332)	(14,836)	(8,671)	(4,773)	(2,680)
Gain (loss) on sale of capital assets	0	0	0	0	0	0	0
NET NON-OPERATING REVENUE (EXPENSE)	(250,304)	21,386	30,868	38,664	45,129	49,327	51,720
NET GAIN (LOSS) BEFORE TRANSFERS	(142,416)	(596,764)	(387,329)	(79,492)	264,474	311,365	158,106
TRANSFERS IN (OUT)	(95,000)	(95,000)	(95,000)	(95,000)	(95,000)	(95,000)	(95,000)
CHANGE IN NET POSITION	(237,416)	(691,764)	(482,329)	(174,492)	169,474	216,365	63,106
CASH FLOW ANALYSIS							
Beginning Cash Balance	11,760,208	12,022,616	9,582,088	7,308,596	6,411,531	5,046,384	5,307,438
Net Cash from Operating Activities	1,567,473	382,570	621,073	953,327	1,322,290	1,392,283	1,255,306
Investing Activities	(204,216)	52,946	53,200	53,500	53,800	54,100	54,400
Proceeds of Bond Issuance	-	-	-	-	-	-	-
CASH AVAILABLE	13,123,465	12,458,133	10,256,361	8,315,423	7,787,621	6,492,767	6,617,145
Capital Improvement Needs	478,884	2,495,000	2,645,000	1,650,000	2,545,000	1,095,000	1,395,000
Principal & Interest on Long Term Debt	621,965	381,045	302,765	253,892	196,237	90,329	63,251
CASH OUTFLOW	1,100,849	2,876,045	2,947,765	1,903,892	2,741,237	1,185,329	1,458,251
ENDING CASH BALANCE	12,022,616	9,582,088	7,308,596	6,411,531	5,046,384	5,307,438	5,158,894
WORKING CAPITAL	12,916,309	10,294,365	7,851,875	6,888,128	5,421,504	5,701,963	5,542,376
Typical residential % change	10.00%	5.36%	8.56%	8.69%	8.75%	0.00%	0.00%

Utility Fund Statement of Revenues and Expenses

WATER FUND	Table 2						
23/24, 24/25 & 25/26 Proposed Rates							
	2021-22	2022-23	2023-24	2024-25	2025-26	2026-27	2027-28
	Audited	Estimated	Proposed	Proposed	Proposed	Projected	Projected
SALES (million gallons)	1,570	1,578	1,586	1,594	1,602	1,610	1,618
RATE (per 1000 gallons)	\$3.14	\$3.30	\$3.47	\$3.64	\$3.82	\$3.82	\$3.82
BASE CHARGE (per quarter)	\$20.59	\$21.62	\$22.70	\$23.84	\$25.03	\$25.03	\$25.03
User charges	6,803,903	7,058,499	7,914,000	8,215,000	8,535,000	8,567,000	8,599,000
Other revenue	266,027	113,722	119,408	120,602	121,808	123,026	124,256
TOTAL OPERATING REVENUE	7,069,930	7,172,221	8,033,408	8,335,602	8,656,808	8,690,026	8,723,256
Operations and maintenance	2,096,464	1,844,637	2,476,000	2,513,100	2,550,800	2,589,100	2,627,900
General and administrative	1,303,623	1,654,798	2,181,312	2,214,000	2,247,200	2,280,900	2,315,100
Depreciation	953,137	1,011,187	1,014,581	1,056,806	1,109,606	1,144,781	1,204,406
TOTAL OPERATING EXPENSE	4,353,224	4,510,622	5,671,893	5,783,906	5,907,606	6,014,781	6,147,406
OPERATING GAIN (LOSS)	2,716,706	2,661,599	2,361,515	2,551,696	2,749,202	2,675,245	2,575,850
Interest income	(109,248)	31,488	32,100	32,700	33,400	34,100	34,800
Interest on outstanding debt	(265,176)	(205,715)	(149,093)	(105,895)	(70,688)	(49,016)	(36,935)
Gain (loss) on sale of capital assets	0	0	0	0	0	0	0
NET NON-OPERATING REVENUE (EXPENSE)	(374,424)	(174,228)	(116,993)	(73,195)	(37,288)	(14,916)	(2,135)
NET GAIN (LOSS) BEFORE TRANSFERS	2,342,282	2,487,371	2,244,522	2,478,501	2,711,914	2,660,329	2,573,715
TRANSFERS IN (OUT)	(60,000)	140,000	(60,000)	(60,000)	(60,000)	(60,000)	(60,000)
CHANGE IN NET POSITION	2,282,282	2,627,371	2,184,522	2,418,501	2,651,914	2,600,329	2,513,715
CASH FLOW ANALYSIS							
Beginning Cash Balance	5,281,920	5,641,325	3,969,235	3,481,532	1,817,533	1,139,255	3,061,152
Net Cash from Operating Activities	3,895,517	3,498,558	3,259,103	3,535,307	3,821,520	3,805,110	3,778,121
Investing Activities	(109,248)	31,488	32,100	32,700	33,400	34,100	34,800
Proceeds of Bond Issuance	-	-	-	-	-	-	2,000,000
CASH AVAILABLE	9,068,189	9,171,371	7,260,437	7,049,539	5,672,453	4,978,465	8,874,073
Capital Improvement Needs	551,524	2,535,000	1,990,000	3,760,000	3,400,000	1,410,000	6,660,000
Principal & Interest on Long Term Debt	2,875,340	2,667,136	1,788,905	1,472,006	1,133,198	507,313	448,511
CASH OUTFLOW	3,426,864	5,202,136	3,778,905	5,232,006	4,533,198	1,917,313	7,108,511
ENDING CASH BALANCE	5,641,325	3,969,235	3,481,532	1,817,533	1,139,255	3,061,152	1,765,562
WORKING CAPITAL	5,242,069	3,688,318	3,235,132	1,688,900	1,058,626	2,844,504	1,640,607
Typical residential % change	0.00%	5.07%	5.11%	4.93%	4.96%	0.00%	0.00%

Utility Fund Statement of Revenues and Expenses

SEWER AND WATER FUNDS 23/24, 24/25 & 25/26 Proposed Rates	Table 3						
	2021-22 Audited	2022-23 Estimated	2023-24 Proposed	2024-25 Proposed	2025-26 Proposed	2026-27 Projected	2027-28 Projected
User charges	15,979,551	16,825,740	19,051,000	20,328,000	21,719,000	22,000,000	22,078,000
Other revenue	432,951	404,210	412,801	416,929	421,098	425,309	429,562
TOTAL OPERATING REVENUE	16,412,502	17,229,950	19,463,801	20,744,929	22,140,098	22,425,309	22,507,562
Operations and maintenance	5,035,453	4,947,283	5,956,170	6,045,100	6,135,800	6,228,100	6,321,900
Sewer treatment charges	4,011,765	5,162,141	5,700,000	6,270,000	6,897,000	7,000,000	7,105,000
General and administrative	2,609,137	3,065,170	3,810,462	3,868,000	3,926,200	3,984,900	4,045,100
Depreciation	1,931,553	2,011,907	2,053,851	2,128,288	2,212,551	2,275,026	2,353,326
TOTAL OPERATING EXPENSE	13,587,908	15,186,501	17,520,483	18,311,388	19,171,551	19,488,026	19,825,326
OPERATING GAIN (LOSS)	2,824,594	2,043,449	1,943,318	2,433,541	2,968,547	2,937,283	2,682,236
Interest income	(313,464)	84,434	85,300	86,200	87,200	88,200	89,200
Interest on outstanding debt	(311,264)	(237,275)	(171,425)	(120,731)	(79,359)	(53,789)	(39,615)
Gain (loss) on sale of capital assets	0	0	0	0	0	0	0
NET NON-OPERATING REVENUE (EXPENSE)	(624,728)	(152,841)	(86,125)	(34,531)	7,841	34,411	49,585
NET GAIN (LOSS) BEFORE TRANSFERS	2,199,866	1,890,608	1,857,193	2,399,010	2,976,388	2,971,694	2,731,821
TRANSFERS IN (OUT)	(155,000)	45,000	(155,000)	(155,000)	(155,000)	(155,000)	(155,000)
CHANGE IN NET POSITION	2,044,866	1,935,608	1,702,193	2,244,010	2,821,388	2,816,694	2,576,821
CASH FLOW ANALYSIS							
Beginning Cash Balance	17,042,128	17,663,941	13,551,322	10,790,128	8,229,064	6,185,639	8,368,590
Net Cash from Operating Activities	5,462,990	3,881,128	3,880,176	4,488,634	5,143,810	5,197,393	5,033,427
Investing Activities	(313,464)	84,434	85,300	86,200	87,200	88,200	89,200
Bond issue Proceeds	-	-	-	0	0	0	2,000,000
CASH AVAILABLE	22,191,654	21,629,503	17,516,798	15,364,962	13,460,074	11,471,232	15,491,218
Capital Improvement Needs	1,030,408	5,030,000	4,635,000	5,410,000	5,945,000	2,505,000	8,055,000
Principal & Interest on Long Term Debt	3,497,305	3,048,181	2,091,670	1,725,898	1,329,435	597,642	511,762
CASH OUTFLOW	4,527,713	8,078,181	6,726,670	7,135,898	7,274,435	3,102,642	8,566,762
ENDING CASH BALANCE	17,663,941	13,551,322	10,790,128	8,229,064	6,185,639	8,368,590	6,924,456
WORKING CAPITAL	18,158,378	13,982,684	11,087,008	8,577,028	6,480,130	8,546,467	7,182,984
Typical residential % change	5.47%	5.23%	7.08%	7.11%	7.18%	0.00%	0.00%

Table 4

	Fiscal 2022-2023 Current Rates			Fiscal 2023-2024 Proposed rates			Fiscal 2024-2025 Proposed rates			Fiscal 2025-2026 Proposed rates		
	Sewer Cap = 125%			Sewer Cap = 125%			Sewer Cap = 125%			Sewer Cap = 125%		
	Sewer (000 Gal.)	Water (000 Gal.)	Total	Sewer (000 Gal.)	Water (000 Gal.)	Total	Sewer (000 Gal.)	Water (000 Gal.)	Total	Sewer (000 Gal.)	Water (000 Gal.)	Total
Winter	14	14		14	14		14	14		14	14	
Spring	14	14		14	14		14	14		14	14	
Summer	18	33		18	33		18	33		18	33	
Fall	14	14		14	14		14	14		14	14	
Total	60	75		60	75		60	75		60	75	
Rate per 1000 gallons	\$5.33	\$3.30		\$5.86	\$3.47		\$6.45	\$3.64		\$7.10	\$3.82	
Usage charge	\$319.80	\$247.50	\$567.30	\$351.60	\$260.25	\$611.85	\$387.00	\$273.00	\$660.00	\$426.00	\$286.50	\$712.50
Annual basic rate	124.80	86.48	211.28	131.04	90.80	221.84	137.60	95.36	232.96	144.48	100.12	244.60
Total	\$444.60	\$333.98	\$778.58	\$482.64	\$351.05	\$833.69	\$524.60	\$368.36	\$892.96	\$570.48	\$386.62	\$957.10
% change				8.56%	5.11%	7.08%	8.69%	4.93%	7.11%	8.75%	4.96%	7.18%

Increased cost for the Typical Portage Residential Customer

	<u>for sewer</u>	<u>for water</u>	<u>for both</u>	<u>for sewer</u>	<u>for water</u>	<u>for both</u>	<u>for sewer</u>	<u>for water</u>	<u>for both</u>
per year	\$38.04	\$17.07	\$55.11	\$41.96	\$17.31	\$59.27	\$45.88	\$18.26	\$64.14
per quarter	\$9.51	\$4.27	\$13.78	\$10.49	\$4.33	\$14.82	\$11.47	\$4.57	\$16.04
per month	\$3.17	\$1.42	\$4.59	\$3.50	\$1.44	\$4.94	\$3.82	\$1.52	\$5.34
per week	\$0.73	\$0.33	\$1.06	\$0.81	\$0.33	\$1.14	\$0.88	\$0.35	\$1.23
per day	\$0.10	\$0.05	\$0.15	\$0.11	\$0.05	\$0.16	\$0.13	\$0.05	\$0.18

SEWER

Project Number	Dept.	Project Name	Budget	Forecast		Projection			Total
			2023-2024	2024-2025	2025-2026	2026-2027	2027-2028	2028-2029	
1	T&U	Trunk Sanitary Sewer Rehabilitation	1,000,000	-	-	-	-	-	1,000,000
2	T&U	Lift Station Renovations	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	1,000,000	6,000,000
3	T&U	Portage Road Sanitary Sewer Extension	450,000	-	-	-	-	-	450,000
4	T&U	South Westnedge Avenue Sanitary Sewer Lead Installation	100,000	-	-	-	-	-	100,000
5	T&U	Angling Road (Romence to W Milham) Sanitary Sewer	-	555,000	-	-	-	-	555,000
6	T&U	Zylman Avenue Sanitary Sewer (South Sprinkle Road to Deep Point Drive)	-	-	1,000,000	-	-	-	1,000,000
7	T&U	Weaver Drive Sanitary Sewer (Charles Street to north end)	-	-	450,000	-	-	-	450,000
8	T&U	Portage Road - Emily Street Lift Station Force Main Replacement	-	-	-	-	300,000	-	300,000
SEWER TOTAL EXPENDITURES			2,550,000	1,555,000	2,450,000	1,000,000	1,300,000	1,000,000	9,855,000

WATER

Project Number	Dept.	Project Name	Budget	Forecast		Projection			Total
			2023-2024	2024-2025	2025-2026	2026-2027	2027-2028	2028-2029	
1	T&U	South Westnedge Avenue (Velvet Avenue to South Shore Drive)	880,000	-	-	-	-	-	880,000
2	T&U	Portage Road Water Main Extension (Helen Avenue to Byrd Drive)	450,000	-	-	-	-	-	450,000
3	T&U	Local Street Water & Storm Improvements	300,000	300,000	300,000	300,000	300,000	300,000	1,800,000
4	T&U	Storm Drainage Improvements Program	300,000	300,000	300,000	300,000	300,000	300,000	1,800,000
5	T&U	Meredith Street (East Milham Avenue to South Sprinkle Road)	-	1,825,000	-	-	-	-	1,825,000
6	T&U	Portage Road Storm Drainage Improvements (Wetherbee Avenue to Lakeview Avenue)	-	1,150,000	-	-	-	-	1,150,000
7	T&U	Oakland Drive (Shaver Road to Katie Court)	-	125,000	-	-	-	-	125,000
8	T&U	Zylman Avenue Water Main (South Sprinkle Road to Deep Point Drive)	-	-	1,000,000	-	-	-	1,000,000
9	T&U	East Milham Watermain	-	-	500,000	-	-	-	500,000
10	T&U	Oakland Drive/Vincent Drive Intersection Storm Drainage Improvements	-	-	450,000	-	-	-	450,000
11	T&U	Cox's Drive Storm Drainage Improvements	-	-	430,000	-	-	-	430,000
12	T&U	Old Centre Avenue (Moorsbridge Road to West Centre Avenue)	-	-	360,000	-	-	-	360,000
13	T&U	Garden Lane Storm Water Drainage Improvements	-	-	-	350,000	-	-	350,000
14	T&U	Woodland Elementary School Water Main	-	-	-	300,000	-	-	300,000
15	T&U	Mall Drive Storm Water Drainage Improvements	-	-	-	100,000	-	-	100,000
16	T&U	Shuman Wellfield Iron Removal Facility	-	-	-	-	3,000,000	20,000,000	23,000,000
17	T&U	East Centre Ave Water Main Replacement (Shaver Rd to Lovers Lane)	-	-	-	-	1,500,000	-	1,500,000
18	T&U	Portage Road Water Main Replacement & Storm Drainage Improvements	-	-	-	-	1,500,000	-	1,500,000
19	T&U	Lovers Ln (Forest Drive to East Centre Avenue)	-	-	-	-	-	100,000	100,000
WATER TOTAL EXPENDITURES			1,930,000	3,700,000	3,340,000	1,350,000	6,600,000	20,700,000	37,620,000
TOTAL UTILITIES EXPENDITURES			4,480,000	5,255,000	5,790,000	2,350,000	7,900,000	21,700,000	47,475,000

RESOLUTION FOR THE GENERAL FUND RESERVE POLICY FOR THE CITY OF PORTAGE

At a regular meeting of Council of the City of Portage, Kalamazoo County, Michigan,
held at the City Hall in said City on the 27th day of May, 2014, at 7:30 p.m., local time.

PRESENT: Councilmembers Ford, Pearson, Randall, Reid, Strazdas, Urban

ABSENT: Councilmembers Ansari

The following resolution was offered by Councilmember Ford and
supported by Councilmember Randall.

WHEREAS, the City Council of the City of Portage has historically established a
standard level of fund balance at the end of a fiscal year, determining that it is both fiscally
prudent and in the best interest of the city to maintain reasonable financial reserves; and

WHEREAS, the City Council of the City of Portage is desirous of reducing long-term
debt; and

WHEREAS, the City Council of the City of Portage seeks to formally adopt a statement
of conformance with such standards;

NOW THEREFORE BE IT RESOLVED THAT the City of Portage City Council does
hereby establish the General Fund audited balance at the end of a fiscal year (Fund Balance) at
~~24 percent.~~

~~BE IT FURTHER RESOLVED THAT if the Fund Balance at the end of a fiscal year is
above 24 percent, the available excess fund balance shall be used to pay cash for future non-
utility Capital Improvement Program projects in an effort to reduce long-term debt.~~

YEAS: Ford, Pearson, Randall, Reid, Strazdas, Urban

NAYS: None.

ABSENT: Ansari

RESOLUTION DECLARED ADOPTED.



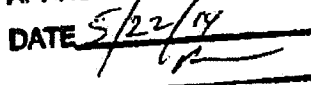
JAMES R. HUDSON, CITY CLERK

CERTIFICATION

I hereby certify this 28th day of May, 2014, that the foregoing is a true and complete copy of the original on file in my office.



JAMES R. HUDSON, CITY CLERK

APPROVED AS TO FORM
DATE 5/22/14

CITY ATTORNEY

RESOLUTION FOR THE GENERAL FUND RESERVE POLICY FOR THE CITY OF PORTAGE

At a regular meeting of the Council of the City of Portage, Kalamazoo County, Michigan, held at the City Hall in said City on the 9th day of May, 2023, at 7:30 p.m. local time.

PRESENT:

ABSENT:

The following resolution was offered by Councilmember _____ and supported by Councilmember _____.

WHEREAS, the City Council of the City of Portage has historically established a standard level of fund balance at the end of a fiscal year, determining that it is both fiscally prudent and in the best interest of the city to maintain reasonable financial reserves; and

WHEREAS, the City Council of the City of Portage is desirous of reducing long-term debt; and

WHEREAS, the City Council of the City of Portage seeks to adopt a statement of conformance with such standards formally;

NOW THEREFORE BE IT RESOLVED THAT the City of Portage City Council does hereby establish the General Fund audited balance at the end of a fiscal year (Fund Balance) to be **a minimum of 20 percent**.

YEAS:

NAYS:

ABSENT:

Resolution declared adopted.

Erica Eklov, City Clerk

Certification

State of Michigan
County of Kalamazoo

I, the undersigned, the duly qualified and acting City Clerk of the City of Portage, County of Kalamazoo, State of Michigan, do hereby certify that the foregoing is a true and complete copy of a resolution adopted at a regular meeting of the Portage City Council, held on the 9th day of May, 2023, the original of which is on file in my office.

In witness thereof, I have hereto affixed by official signature the 9th day of May, 2023.

Erica Eklov, City Clerk

TO: Honorable Mayor and City Council

FROM: Pat McGinnis, City Manager

SUBJECT: Future Portage Farmers Market Location

SUPPORTING PERSONNEL: Kathleen Hoyle, Director of Parks & Recreation

ACTION RECOMMENDED: Direct the City Administration to pursue a new Portage Farmers Market facility to be located at _____.

The Portage Farmers Market has experienced significant growth since its inception in 2016 with approximately 5,000 participants to more than 30,000 patrons anticipated in 2023. The vendor base has also grown from 12 vendors in 2016 to a current capacity of 30 businesses in the current City Hall parking lot. The market also implements five state and federal food assistance programs, including SNAP, Double Up Food Bucks, Eat Smart Live Strong, WIC, and Senior Project Fresh, and has a consistent entertainment base of musicians at each market. Due to this growth, Portage Parks & Recreation is seeking a permanent site for the market that will accommodate the increasing demand for vendor participation and offer a wider range of products. A new site could also accommodate other markets, including arts festivals, and craft fairs.

Four land parcels were evaluated that the City of Portage currently owns or could obtain an agreement as potential sites for the Portage Marketplace. Abonmarche was contracted to prepare a New Facility Preliminary Site Assessment for the four potential locations. The evaluation was based on the desire to house up to 50 market stalls, electrical capacity, expanded parking, an eating area, music space, restrooms, and storage space, as well as construction cost estimates for each site to meet these standards for a market. The four locations evaluated were:

- Portage Zhang Senior Center
- Shoppes at Romence Village
- Portage Road and Zylman Avenue
- Portage District Library/Veteran's Memorial Park area

Following debate and discussion by City Council, it is recommended that the City Council direct the City Administration to pursue a new Portage Farmer's Market facility to be located at _____.

FUNDING: Funding for the engineering design of the facility is proposed in the FY 2023-2024 Capital Improvement Program budget in the amount of \$70,000.

Attachments: 1. Portage Farmers Market Preliminary Site Assessment



PORTAGE
Farmers Market



Fresh. Rain or Shine.

New Facility Preliminary Site Assessment

Benefits & Background

Benefits of Farmers Markets

Local farmers markets are becoming more and more popular all throughout the United States. The number of available markets has grown considerably in recent years. According to the USDA Farmers Market Directory, the number of total markets grew from about 2,000 in 1994 to more than 8,600 today. Not to mention, that number continues to grow and the creation of these markets has accelerated over the last few years.

A farmers market is really just a gathering, community or assembly of local farmers and food sellers. Generally, they meet in public spaces like a park or parking lot at a scheduled date or time. The local markets may happen in a building, park, fairground, lot, or somewhere else entirely - like someone's home. There are few restrictions on where a farmers market can be held, only on who participates and how. While at their root, farmers markets bring together farmers and food vendors, but their value and impact are so much more than that. Farmers markets benefit communities in several ways, including:

- Reduces carbon footprint: Farmers markets can help to promote sustainable agriculture practices by reducing the distance that food travels from farm to table. This can help to reduce greenhouse gas emissions and promote biodiversity.
- Support for local farmers: Farmers markets provide a direct sales channel for local farmers, which can help them earn a fair price for their produce. This can help to support local agri-

culture and preserve farmland in the area.

- Economic benefits: Farmers markets can generate economic activity in the local community. They can attract visitors who spend money at local businesses, and they can create employment opportunities for farmers, vendors, and market staff.
- Community building: Farmers markets can help to build a sense of community by providing a gathering place for people to shop, socialize, and learn about local agriculture. They can also serve as a venue for community events, such as cooking demonstrations, live music, or children's activities.

Overall, farmers markets can benefit communities by providing access to fresh produce, supporting local farmers, generating economic activity. And one of those benefits not touched on above is the health benefits of farmers market. Farmers markets offer numerous community benefits, including:

- Access to fresh, locally-grown produce: Farmers markets provide access to fresh, locally-grown produce, which can be healthier and tastier than produce that has been shipped long distances. This can encourage people to eat more fruits and vegetables, which can have positive health impacts.
- Increased physical activity: Walking around a farmers market is a great way to get some exercise and increase physical activity.



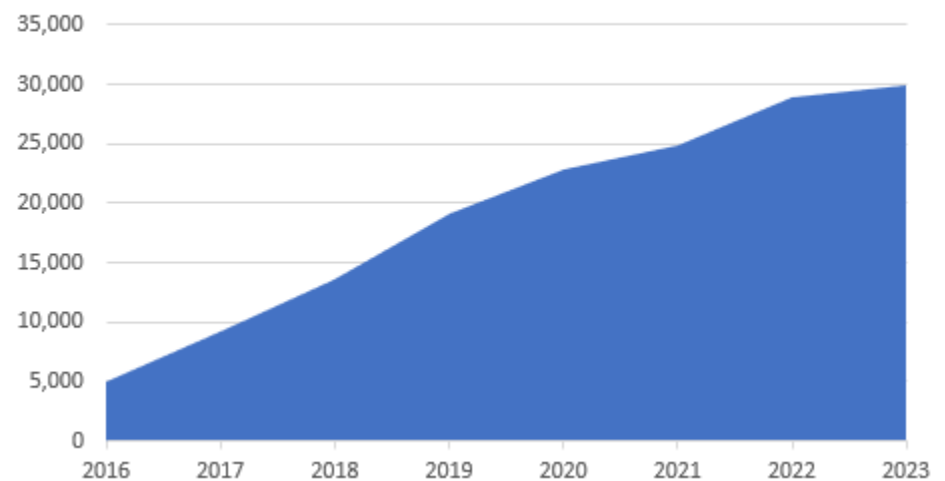
Benefits & Background

- Social connection: Farmers markets provide an opportunity for people to socialize and connect with their neighbors, creating a sense of community and belonging which helps with mental health.
- Access to Seasonal Produce: Farmers markets offer seasonal produce, which can provide a variety of nutrients that support a healthy diet. For example, summer fruits and vegetables are often high in antioxidants and vitamin C, while fall vegetables are often high in fiber and vitamin A.
- Education and awareness: Farmers markets often provide educational opportunities, such as cooking demonstrations and workshops on healthy eating, which can help to increase awareness of healthy eating habits and nutrition.
- Access to organic and pesticide-free produce: Many farmers markets offer organic and pesticide-free produce, which can be beneficial for individuals who are concerned about the health effects of pesticides and other chemicals in their food.

City of Portage Farmer's Market

The City of Portage has embraced the rise in the popularity of farmers markets and the community has seen the benefits. The Portage Farmer's Market began in May 2016 on the grounds of City Hall with approximately 5,000 attendees and has grown to over 30,000 attendees expected for the 2023 season. The Market implements five state and federal food assistance programs including SNAP, Double Up Food Bucks, Eat Smart Live Strong, WIC, and Senior Project Fresh which helps to ensure the market is a resource for all members of our community.

Portage Farmers Market Annual Attendance



Due to its growth, the Farmers Market is looking for a dedicated location to expand from the current 30 vendor stalls, with electrical capacity for vendors and food trucks, an eating area, music space, restrooms and expanded parking. Ideally, the new facility



Benefits & Background

would also accommodate craft fairs, art festivals, and other public events throughout the year as a true Portage marketplace for early start up business enterprises and a placemaking project for the community to socialize and meet new people. Recognizing the health and community-building benefits that come with a stable market presence, Councilwoman Lisa Brayton began to advocate for a permanent for a permanent market for Portage immediately following her oath of office in 2021.

Engagement

Given the growth and interest in developing a more permanent home for the community's farmers market, the City decided to evaluate if there were other locations in the community which might be viable for a new and improved community farmers market. In March of 2023, the City of Portage engaged Abonmarche Consultants to prepare preliminary site assessments with probable development cost ranges for the creation of a new farmers market facility on one of four sites within the City of Portage. The project team evaluated four (4) sites which included:

- Site One: Portage Zhang Senior Center
- Site Two: Shoppes at Romence Village
- Site Three: Portage Road And Zylman Avenue
- Site Four: Portage District Library

The following pages contain conceptual site development plans for each site as well as preliminary planning level details for each of the four sites assessed.



Site Locations

Site #1

Portage Zhang Senior Center

Site #2

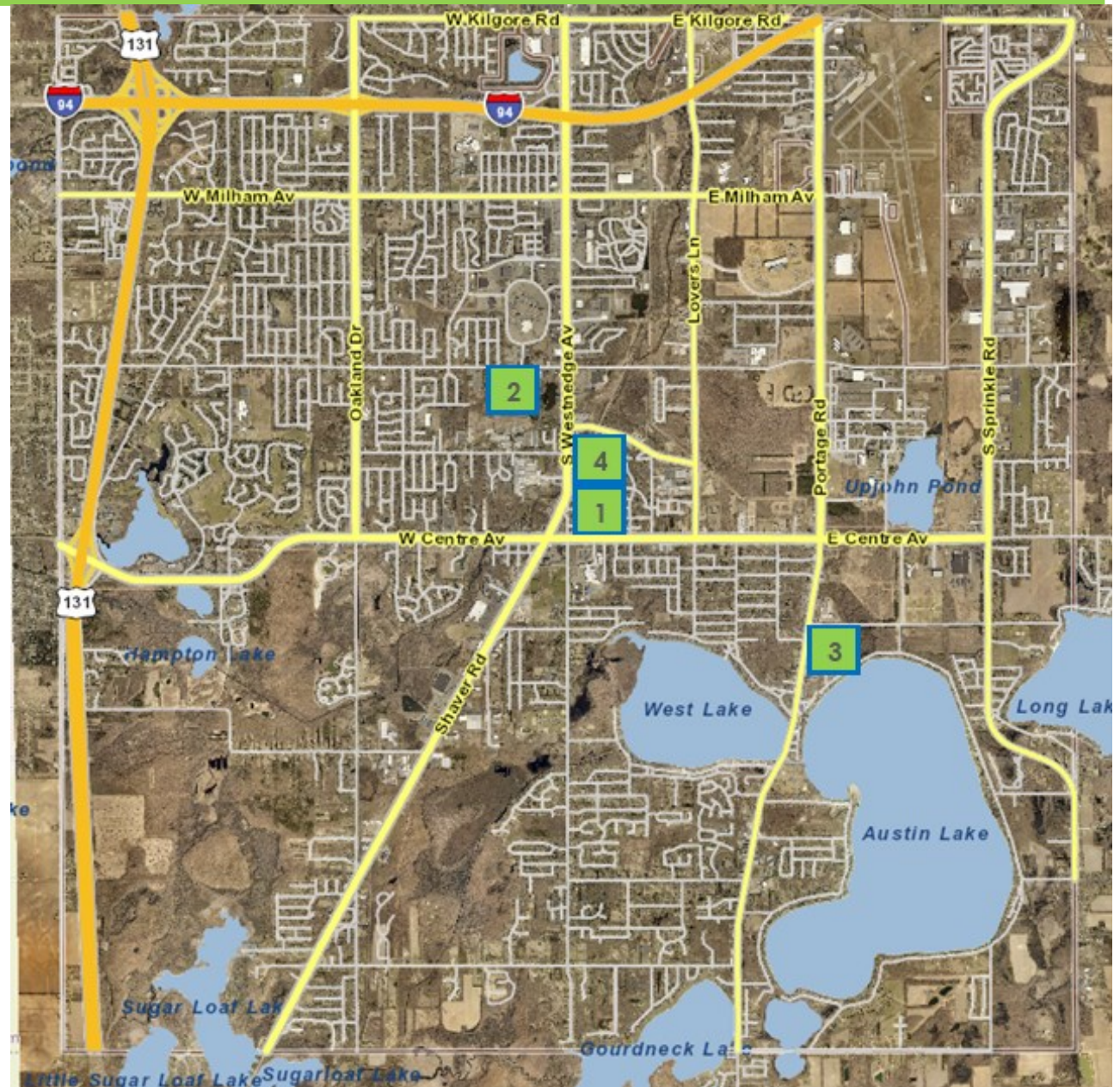
Shoppes at Romence Village

Site #3

Portage Road and Zylman Road

Site #4

Portage District Library



Site One:

Portage Zhang Senior Center

The first site assessed for the potential development of a new City of Portage Farmers Market was the undeveloped property at the northeast corner of the Portage Zhang Senior Center.

Located at 203 East Centre Avenue, the Portage Zhang Senior Center provides programs and opportunities that promote personal growth, health, friendship, and independence for adults aged 50 and over. The facility is a vital, busy facility, offering a variety of services and activities that change with the needs and desires of our members.

The facility is open six (6) days per week from Sunday through Friday. According to the Kalamazoo Areas Transportation Study, this portion of Centre Avenue has an average daily traffic count of just over 20,000 cars ensuring good visibility for a farmers market at this location.



Site Analysis

The subject site allows for the development of the following elements for a new farmers market:

- New 8,000 sq. ft. open structure that can house 22 vendors. The attached graphic shows how the vendors would layout under the structure.
- 19 vendor spaces available utilizing tents to set up on the north side of the building.
- Electrical connections at each vendors booth.
- New asphalt parking area for the vendors to access the building and serve as additional senior center parking when the market is not open.
- 85 existing parking spaces available on the site.
- Opportunities for food trucks to be present on site.

Conceptual Level Probability of Cost

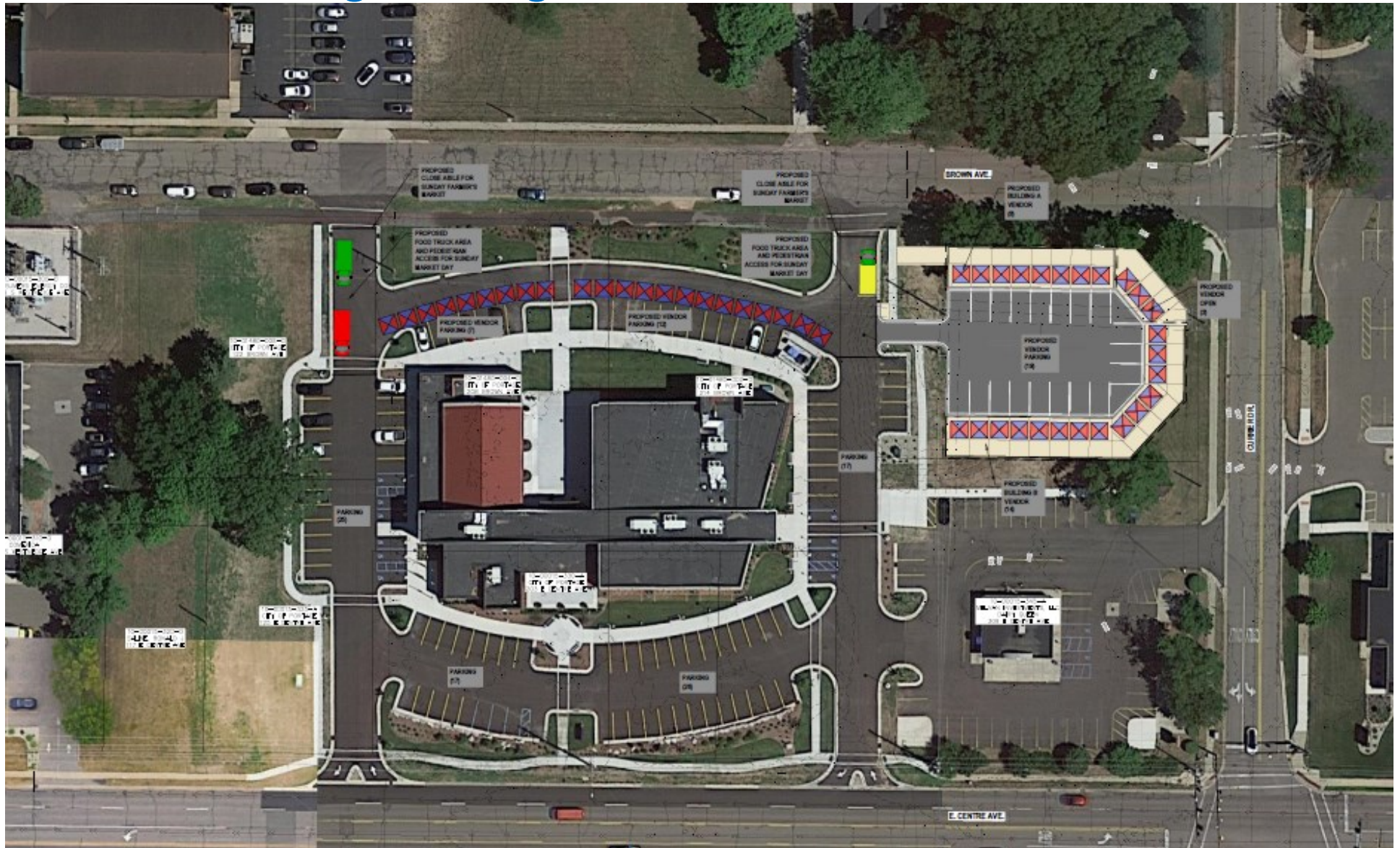
- The preliminary development cost of range for the subject site is between \$2,000,000 and \$2,400,000. Additional design work and due diligence activities will be necessary to further refine this estimate.

Site Challenges and Opportunities

- The Zhang Senior Center is open on Sundays which may create the opportunity for persons using the market to use the facilities amenities and services.
- The site is small limiting the amount of available parking which will likely necessitate negotiating parking agreements with neighboring properties.
- Site size does not allow for the development of additional amenities such as a performance stage.



Site One: Portage Zhang Senior Center



Site Two: Shoppes at Romence Village

Site two assessed for the potential development of a new City of Portage Farmers Market is the Shoppes at Romence Village. The property shares signal access with Crossroads Mall, and sits one-quarter mile from Westnedge Avenue.

The Shoppes at Romence Village contains approximately 168,000 sq. ft. of stores and offices including the Michigan Secretary of State and a mix of national and local tenants. The largest space in the development is the former D&W grocery store which currently sits empty. Smaller storefronts are vacant and available for lease as well.

The development has businesses which are open seven (7) days per week. This portion of Centre Avenue has an average daily traffic count of almost 14,000 cars ensuring good visibility for a farmers market at this location. Romence Road serves as a major connector between the community's main commercial area and residential neighborhoods creating easy access for many residents in the community. The site is served by a multi-use path for cyclists and pedestrians.



Site Analysis

The subject site allows for the development of the following elements for a new farmers market:

- New 9,000 sq. ft. open structure that can house 50 vendors. The attached graphic shows how the vendors would layout under the structure.
- Electrical connections at each vendors booth.
- New pedestrian area developed within the existing parking lot
- Opportunities for food trucks to be present on site
- Landscaping and signage
- Approximately 500 parking spaces would be available

Conceptual Level Probability of Cost

- The preliminary development cost of range for the subject site is between \$1,600,000 and \$1,900,000. Additional design work and due diligence activities will be necessary to further refine this estimate.

Site Challenges and Opportunities

- The linear layout does not lend itself to promoting community nor equitable distribution of vendors.
- The site is not owned by the City.
- The additional activity created by the farmers market on the site may assist with filling some of the empty storefronts supporting the creation and retention of jobs.
- Plenty of parking in the existing parking lot negating the need to build new parking and ensuring customers of the market have easy access.
- This site falls off pretty quickly as it transitions from the development's parking lot into the adjacent park resulting in the minimal needed circulation space on the customer side of the new structure.



Site Two: Shoppes at Romence Village



Site Three: Portage Road/Zylman Avenue

The third site assessed for the development of a new farmers market is the vacant property at the intersection of Portage Road and Zylman Avenue. The property is anchored at the corner of these two roads and extends behind the business it abuts along Portage Road.

According to the Kalamazoo Areas Transportation Study, this section of Portage Road has an average daily traffic count of just over 16,000 cars. The Zylman Avenue side of the property has an average daily traffic count of almost 5,000 cars. This number of vehicles coupled with the high visibility of the property ensures significant exposure for a farmers market built on the site.

The area is one of the community's older and more established commercial corridors. North of the site on Portage Road sits Pfizer's largest manufacturing site sitting on approximately 1,300 acres. Development plans have been created for the construction of a large scale residential development east of the site along Zylman Avenue.



Site Analysis

The subject site allows for the development of the following elements for a new farmers market:

- New 14,000 sq. ft. open structure that can house 46 vendors. The attached graphic shows how the vendors would layout under the structure.
- 15 vendor spaces utilizing tents to set up on the south end of the development.
- Electrical connections at each vendors booth.
- Phase II area for development of a new building with a demonstration kitchen, storage and restrooms as well as seven (7) additional vendor tents.
- Performance stage and pedestrian plaza.
- Opportunities for food trucks to be present on site.
- Landscaping and signage.
- 177 parking spaces.

Conceptual Level Probability of Cost

- Phase one: \$4,000,000 - \$4,500,000
- Phase two: \$1,500,000 - \$1,800,000

Site Challenges and Opportunities

- As vacant land and the largest site, it has the highest development cost.
- As an undeveloped site it presents a canvas with the most options to develop an anchor civic facility on this corner of the community likely encouraging additional private investment along the corridor.
- Electric lines bisect the property which may impact the development options for the site.



Site Three: Portage Road & Zylman Avenue



Site Four: Portage District Library

The access drive to the District Library has a nice park like setting which would enable for the development of a new farmers market on each side of Library Lane. The Library is open seven (7) days per week including from 1:00PM to 5:00PM on Sunday, the day the farmers market is held.

The site is in the heart of the community's government and civic center. This makes the development of a new farmers market a natural fit given the surrounding land uses.

In addition to being in the middle of the community's governmental and civic center, it is adjacent to Westnedge Avenue, one of the busiest commercial areas in west Michigan which ensures excellent visibility for the market. According to the Kalamazoo Areas Transportation Study, this section of Westnedge Avenue has an average daily traffic count of over 20,000 vehicles. Given that many of the buildings in the governmental and civic center are not open on Sundays, the increased traffic from the farmers market will not significantly impact adjoining properties.



Site Analysis

The subject site allows for the development of the following elements for a new farmers market:

- New 16,000 sq. ft. open structure that can house 40 vendors. The attached graphic shows how the vendors would layout under the structure.
- 10 vendor spaces utilizing tents to set up in the existing parking lot to the east of the proposed structure.
- Electrical connections at each vendors booth.
- Performance stage overlooking the park area
- Opportunities for food trucks to be present on site
- 160 existing onsite parking spaces

Conceptual Level Probability of Cost

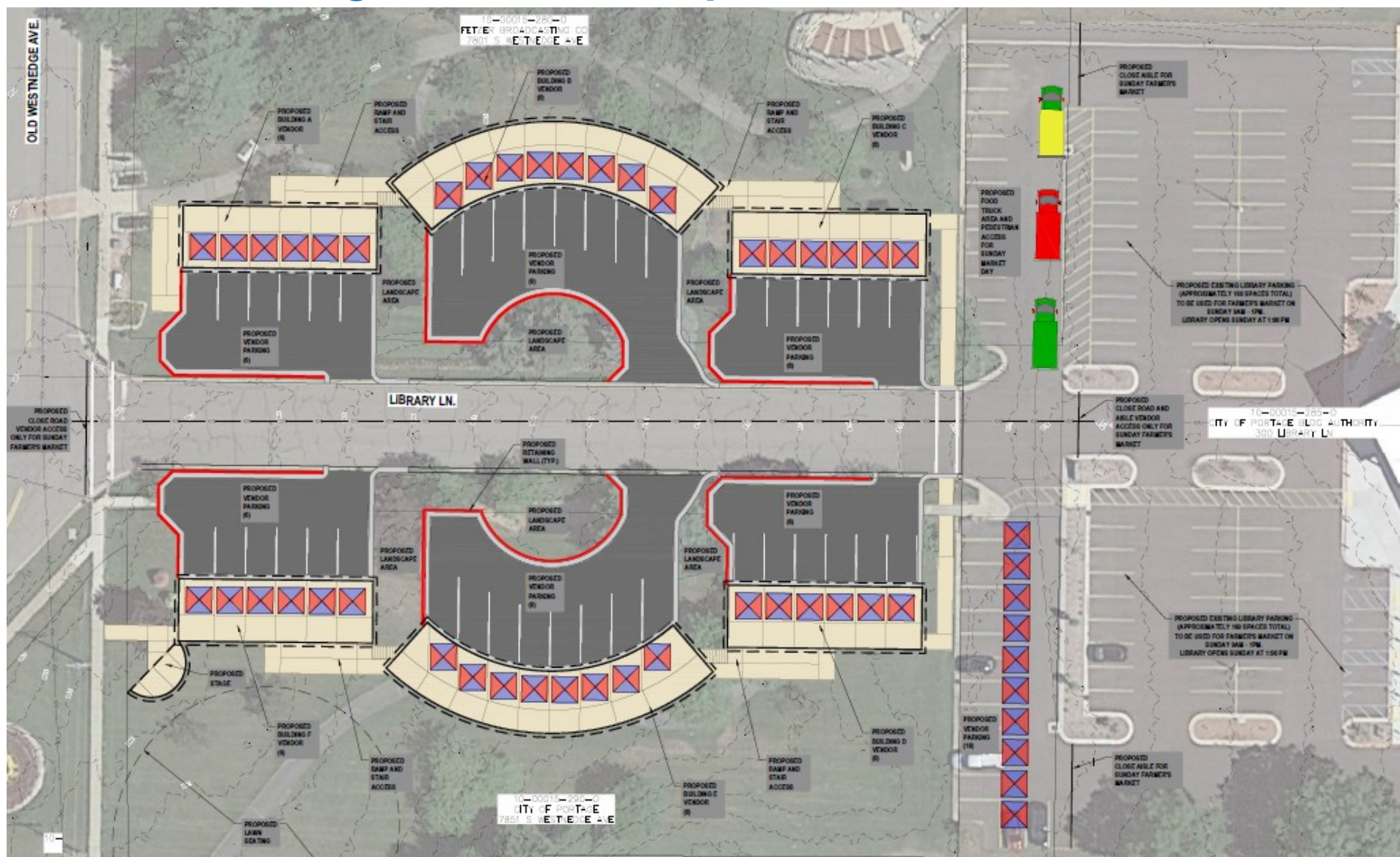
- The preliminary development cost of range for the subject site is between \$3,500,000 and \$3,800,000. Additional design work and due diligence activities will be necessary to further refine this estimate.

Site Challenges and Opportunities

- The main entry to the library would need to be closed on Sundays while the market is open but the farmers market would have very few pedestrian/car conflicts.
- The uneven site requires retaining walls and ramps increasing construction costs.
- The subject development concept is the most flexible of the options creating spaces that could be activated for uses other than the farmers market.
- Existing facilities and programming at the library and Parks Department Could support and partner with the farmers market.

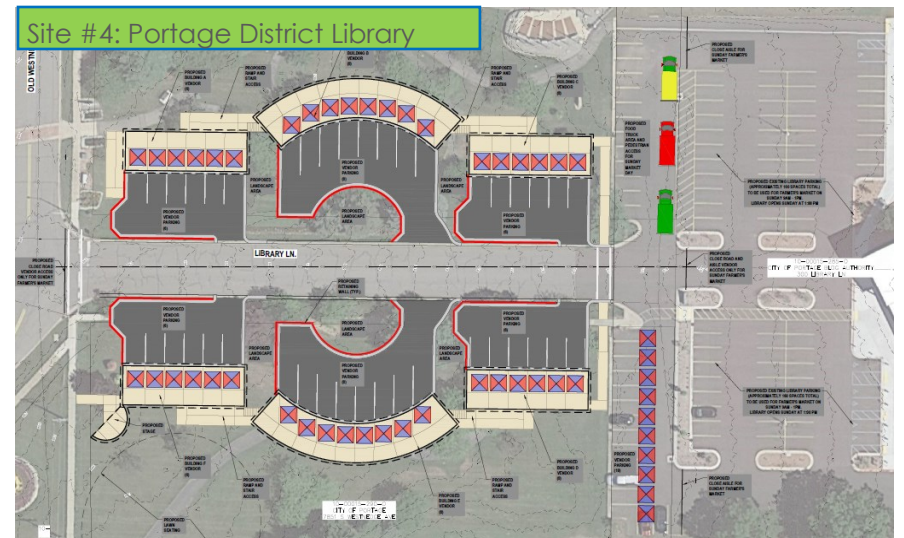
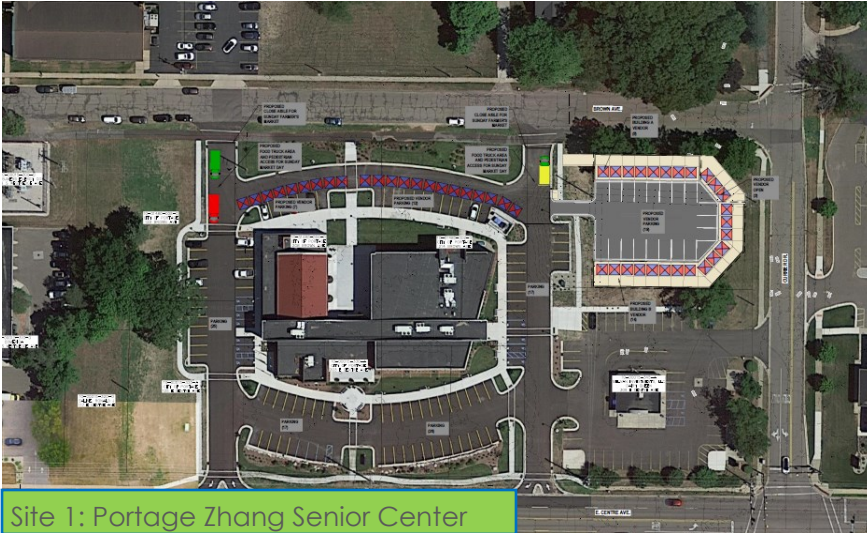


Site Four: Portage District Library



Next Steps

If the City Council feels there is merit in continuing the evaluation for the potential of creating a permanent farmers market within the community, it is recommended to select one or two of the subject sites for further due diligence including additional design development, cost estimating and the assessment of financing options.





PORTAGE
Farmers Market



Fresh. Rain or Shine.

Questions & Discussion

TO: Honorable Mayor and City Council

FROM: Pat McGinnis, City Manager

SUBJECT: Ordinance Amendment #22/23-9(B): An Ordinance to amend commercial marihuana development standards of Chapter 14, Businesses, Article 12.

SUPPORTING PERSONNEL: Erica Eklov, City Clerk
Jonathon Hallberg, Interim Director of Community Development
Nicholas Arnold, Director of Public Safety - Police / Fire Chief
Catherine Kaufman, City Attorney

ACTION RECOMMENDED: Adopt Amendment #22/23-9(B) to amend Marihuana Businesses, of Chapter 14, Businesses, Article 12.

Presently, following approval by voters in 2018, the State of Michigan allows both the personal use of marijuana and commercial marijuana businesses. At the local level, cities/townships have the authority to establish local permitting processes, licensing, and zoning standards for commercial marijuana businesses; very few local authorities can regulate the personal use of marijuana. The City of Portage has established permitting processes for commercial marijuana businesses in Chapters 14 (Businesses) and 42 (Land Development Regulations) for these uses.

In the past few years, many businesses in Michigan have had to adjust operations due to COVID restrictions. This resulted in an increase in contactless ordering/delivering/acquiring of products and services and an increase in drive-through service demand. The state temporarily relaxed certain commercial marijuana regulations and allowed retailers, provisioning centers, and micro-businesses to provide contactless transactions and drive-through services. Given the pandemic, the city did not wish to stand in the way of the contactless option. The state has now permanently allowed these new operational services and, with the impact of the pandemic lessened, the city recently directed all dispensaries to cease any drive-through operations unless and until the following proposed ordinance revisions are enacted by the City Council. Presuming approval, those dispensaries wishing to have a drive-through window will have to comply with the same standards and application procedures as other businesses in the community.

Ultimately, the goal of the proposed ordinance is to better match our municipal ordinance with the State of Michigan legal framework. The city seeks ordinance amendments to modify several commercial marijuana development standards consistent with recent changes in the state's Cannabis Regulatory Agency (CRA) and to better position land for future development. The proposed modifications include the following:

1. Drive-through marijuana operations are currently prohibited in the City of Portage. Remove this prohibition as consistent with new CRA standards. This would allow only marijuana retailers (adult-use/recreation), provisioning centers (medical), and micro-businesses (grow, process, and sell in a single location) to have a drive-through service.

2. Establish new drive-through queuing standards for the above marijuana uses, as consistent with other city zoning drive-through businesses to best manage proper areas for queuing, general site circulation, and parking.
3. Commercial marijuana growing businesses are currently allowed in Portage within the Industrial districts (I-1 & I-2) only. Marijuana can be grown indoors or outdoors. The staff proposes prohibiting outdoor growing to better position those valuable industrial properties for higher development opportunities. There are no proposed changes to continued indoor marijuana growth.
4. Rename 'marihuana' to 'marijuana', consistent with the CRA.

The B-3 General Business zoning district allows commercial uses of retail, restaurants, offices, and others. Additionally, drive-through businesses such as restaurants, cafes, and others are permitted within this district. Marijuana businesses, including provisioning centers and retailers, are permitted only in the B-3 district, and within the industrial districts if co-located with a marijuana grower and processor. These businesses are not allowed drive-through service due to past prohibitions by the state and city [zoning code Sec 42-262(B)(16)(d)]. The CRA prohibition has been overturned. Therefore, the city seeks to apply standards consistent with the state to allow drive-through service for retailers, provisioning centers, and those same uses that are co-located in industrial districts.

With regard to Drive-Through Standards, certain businesses within the city are allowed a drive-through service by a specific zoning district and shall meet specific standards, such as minimum queuing distance from the order window and pick-up window, minimum drive lane width, etc. To align with permitting drive-through services for provisioning centers and retailers, the city seeks to apply drive-through standards. Although there are no specific minimum spacing or car queuing standards for retail businesses, there are those for fast-food restaurants. This includes three stacking spaces (three car lengths) between the window and menu board and three stacking spaces before the menu board. This queuing standard is widely used across different restaurant companies and has been effective in accommodating drive-through needs. Some fast-food restaurants add two drive-through lanes to better accommodate high demand. Staff finds this proposed queuing drive-through standard to be effective for accommodating drive-through demands for marijuana provisioning centers and retailers. The attached map shows all existing marijuana provisioning centers and retailers in Portage. If items 1 and 2 above are approved, all existing provisioning centers and retailers that wish to add a drive-through service shall amend their Site Plan and seek city approval to ensure all parking and accessibility standards are met. As of the date of this report, there are ten provisioning centers and retail locations in Portage; some offer both forms of marijuana (recreation and medical).

For Outdoor Grow Operations in relation to industrial districts, the CRA allows commercial marijuana to be grown inside or outside of a building. Cities/townships may allow or prohibit where commercial marijuana may be grown. Currently, the City of Portage allows both outdoor and indoor commercial marijuana growing, where allowed, per Sec 42-280(B)(21)(a) within the following locational restrictions:

1. Limited to industrial districts (I-1 & I-2),
2. Not abutting or adjacent to a residential district, and
3. Not within 1,000 feet of a public/private school or college or university, a public library, child daycare center, a substance abuse treatment facility, park/playground, public/private youth center,

public swimming pool, video arcade facility, recreation facility, religious institution, or housing facility owned by a public housing authority.

As of the date of this report, the city has approved only one commercial marijuana growing business, located at 4525 Quality Court. Per approved plans, this business grows marijuana only inside the subject building. Aside from that business, there are no other approved or pending marijuana-growing businesses. As of the date of this report, staff has mapped eligible sites (see attachment) meeting the above locational criteria for future marijuana commercial growing businesses. A list of the mapped sites is also provided (see attachment), consisting of 68 properties. In the list, five are owned by a government agency (the City of Portage and the City of Kalamazoo), two are owned by a utility company (Consumers Energy), five are undeveloped (vacant) sites, and the remaining (56) sites are privately owned and developed. The largest property owner by acreage on this list is Pharmacia & Upjohn Company (Pfizer). The City Administration proposes prohibiting the future outdoor growing of commercial marijuana for the following reasons:

- The CRA does not classify commercial growing of marijuana as agricultural use. Thus, it is not protected under the Generally Accepted Agricultural Management Practices (GAAMP).
- Outdoor growing of commercial marijuana would likely require large tracts of land. With a high demand for industrial land within Portage, the city can better attract future industrial growth and employment for those large tracts of land.
- Due to a lack of containment and high visibility, outdoor marijuana growing businesses could likely attract theft and criminal behavior. This could result in more demand for local emergency response services.
- Most of the industrially-zoned properties are served by city water and sewer utilities. These utilities increase development potential for more intense uses.
- Outdoor marijuana plants could result in unattractive odors for adjacent neighborhoods, which would be difficult to manage in an outdoor environment.
- As mentioned earlier, there are no approved, pending approval, nor built outdoor commercial marijuana growing businesses in Portage. Therefore, no existing outdoor marijuana growing businesses would be negatively affected by this proposed change.
- Lastly, this proposed change would not impact the approved, or future indoor commercial marijuana growing businesses.

The final revision to both the zoning (Chapter 42) and the business (Chapter 14) ordinances involves renaming 'marihuana' to 'marijuana', consistent with the CRA. This will be done throughout the code. This will not result in any locational impacts on commercial marijuana businesses.

Although the Comprehensive Plan does not specifically address marijuana uses, it does classify certain lands for general manufacturing/processing activities, various commercial uses, etc. As established by the CRA and allowed by the City of Portage, commercial marijuana businesses are permitted by certain zoning districts, as consistent with the intent of the Future Land Use Map of the Comprehensive Plan. The plan's two industrial land use classifications are 1) Shaver Road Business Corridor, and 2) Industrial. Both classifications describe land use purposes generally consisting of a source of production of a variety of products/services that benefit a corridor, region, or beyond. Further, these classifications generally support land uses for industrial manufacturing operations, assembly, or other similar uses.

Outdoor growing of marijuana or general crops would not be consistent with the intent or supported land uses within those industrial districts. Therefore, the staff's proposed prohibition of outdoor growing of commercial marijuana would be consistent with those two industrial land use classifications. The plan provides various business land use classifications, with the 'General Business' and 'Regional Business Centers' being most aligned with the B-3 General Business zoning district. As stated above, this zoning district permits a variety of drive-through businesses. Allowing drive-through service for marijuana retailers and provisioning centers would be consistent with the above business land use classifications.

The proposed amendments were introduced to the Planning Commission during the April 6, 2023, meeting. The required public notice for the Planning Commission meeting was published in the Kalamazoo Gazette on March 21, 2022. No citizen comments were received at the meeting. Following the public hearing, the Planning Commission voted 6-1 to waive the second public hearing and recommend to City Council that Ordinance Amendment #22/23-A, zoning for marijuana businesses, be approved. Lastly, following a question on April 18 regarding conflicting language in the licensing portion of the ordinance, Section 14-261(2) was updated to remove the notation that sales would take place indoors and outside of public view to be consistent with drive-through operations. Staff does not expect drive-through sales to be shielded from public view. As such, staff adjusted the language to make it more consistent.

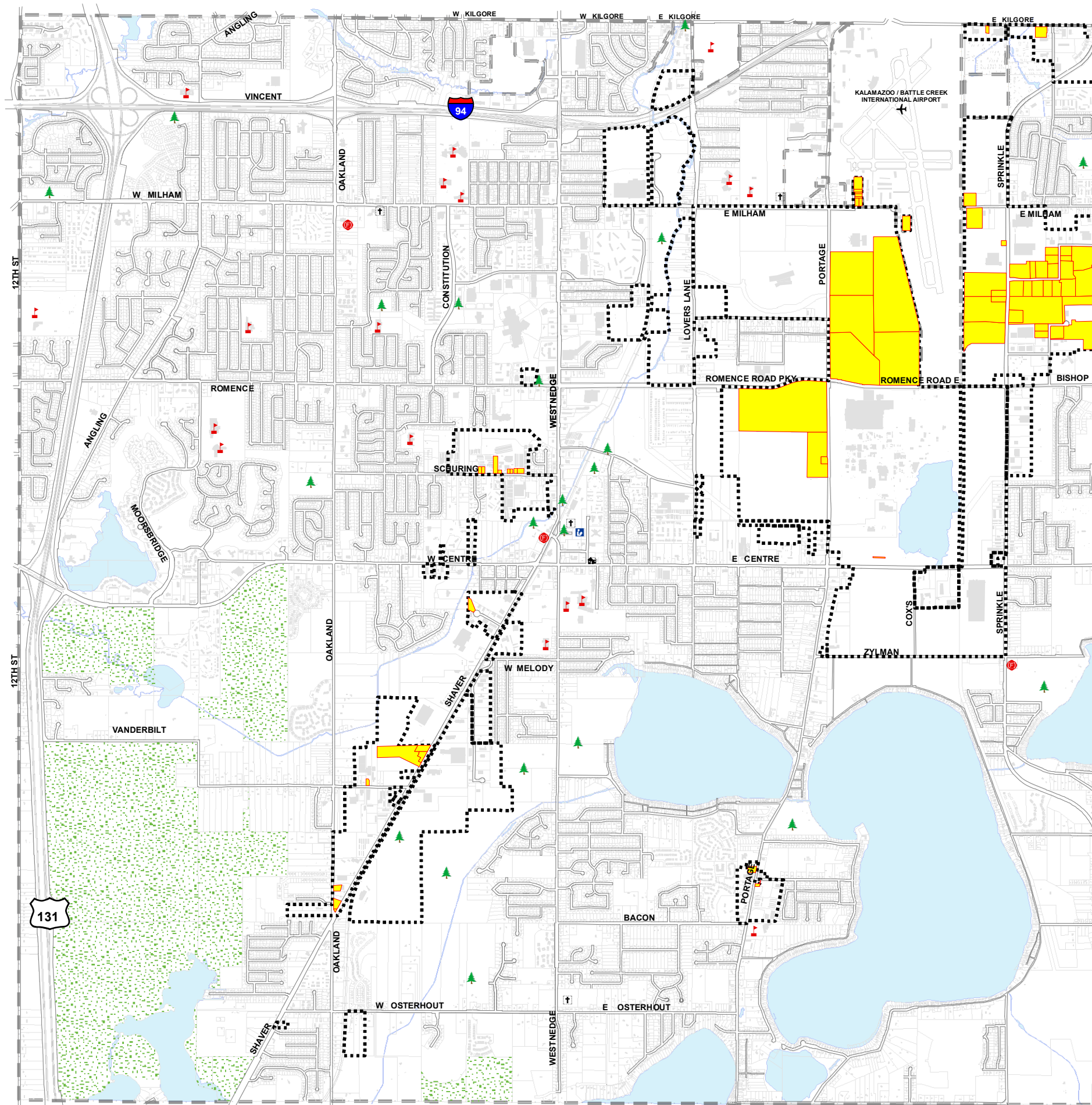
It is therefore recommended that City Council adopt Amendment #22/23-9(B) to amend Marihuana Businesses, of Chapter 14, Businesses, Article 12.

FUNDING: Not Applicable

- Attachments:**
1. Eligible Marihuana Growing, Processor Sites; City of Portage
 2. Map of Existing Provisioning Centers, Retailers
 3. Marihuana Eligible Industrial Site List
 4. Chapter 14 Ordinance Amendment - redline version (updated)
 5. Draft April 6, 2023 Planning Commission meeting minutes
 6. Planning Commission Transmittal dated April 11, 2023



Map of Previously Approved and
Potential Marihuana Business Locations:
Grow Operations, Processors, Safety Compliance,
Secure Transporters and Microbusinesses
March 21, 2023



- Properties that may meet eligibility requirements regardless of current use
- I-1 or I-2 Zoning
- City Boundary

Refer to the marihuana business ordinance for location requirements. Potential locations must be I-1 or I-2 zoned, and not adjacent or abutting a residential zone and more than 1000' from uses as specified in the Code of Ordinances of the City of Portage, Sec. 42-280 B.

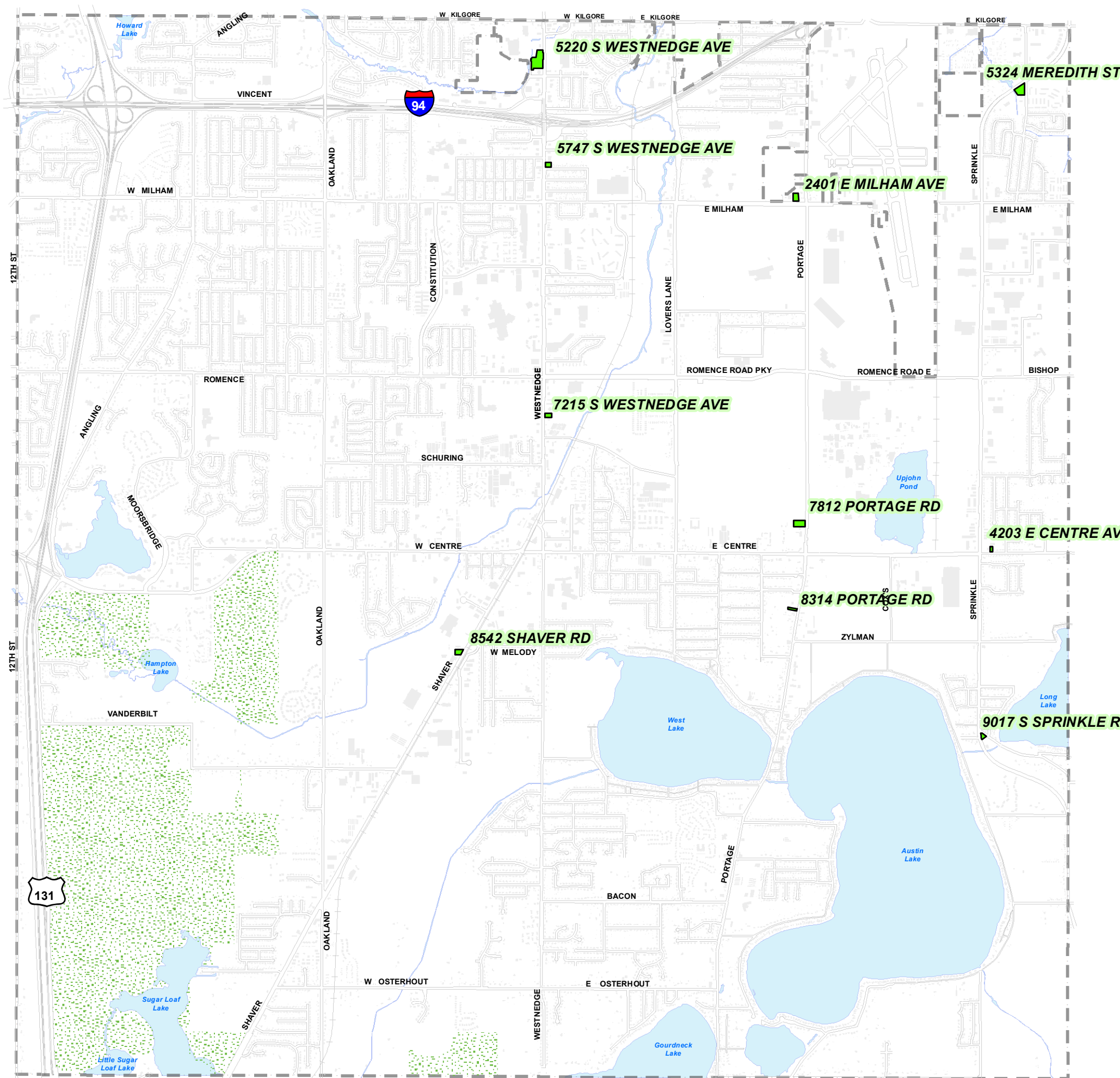
This listing is for information only and all potential properties must be individually evaluated to ensure compliance with ordinance.



1 inch = 3,200 feet

Map of Previously Approved and Potential Marihuana Business Locations: Provisioning Centers and Retailers

March 23, 2023



Refer to the marihuana business ordinance for location requirements.

Potential locations must be a permitted B-3 use, and not adjacent to a residential zone and more than 1000' from churches, schools, day cares, libraries, treatment facilities, parks and public and/or private recreation areas.

Provisioning centers and retailers must be at least 1000' from each other.

-  Approved provisioning center/retailer
-  City Boundary
-  State Game Area



1 inch = 3,167 feet

No.	Size (sq ft)	Acres	Parcel No.	Owner Name	Existing Use	Site Address	State
1	39,930.00	0.92	067200100	PHARMACIA & UPJOHN COMPANY	Vacant	7400 PORTAGE RD	MI
2	753,144.00	17.29	067200010	PHARMACIA & UPJOHN COMPANY	Vacant	7230 PORTAGE RD	MI
3	1,971,385.00	45.3	00011010H	PHARMACIA & UPJOHN COMPANY	Vacant	3101 ROMENCE RD	MI
4	68,414.00	1.57	00012100C	TEMPROPERTIES - PORTAGE LLC	Vacant	6500 S SPRINKLE RD	MI
5	301,598.00	6.9	00012118D	DSL ENTERPRISES, INC	Vacant	4501 QUALITY CT	MI
6	5,764.00	0.13	00029445A	CENTRAL ADVERTISING CO	Billboards	9960 SHAVER RD	MI
7	45,893.00	1.05	00029441O	KALAMAZOO FLEET FUELING, INC.	Gas Station	9950 SHAVER RD	MI
8	11,413.00	0.26	00026165O	NICHOLS, ANDREW D	Single Family House	9741 PORTAGE RD	MI
9	43,790.00	1.01	00026065O	DEJAMS, LLC	Stainless Fabricating & Eng.	9702 PORTAGE RD	MI
10	19,391.00	0.45	00029005A	FEMA CORPORATION	FEMA Corporation	1728 VANDERBILT AVE	MI
11	480,623.00	11.03	00028120B	OSPREY STORAGE SHAVER LLC	Osprey Self Storage	9114 SHAVER RD	MI
12	69,022.00	1.58	00028135A	REALTY INCOME PROPERTIES 28 LLC	Gerber Collision (Under Construction)	9040 SHAVER RD	MI
13	57,807.00	1.33	00720004O	HI TECH HOLDINGS LLC	WMH Fluidpower	862 LENOX AVE	MI
14	10,896.00	0.25	00016130O	JOHN SCHURING JR CO	Schuring Greenhouses	608 SCHURING RD	MI
15	10,754.00	0.25	00016145O	JOHN SCHURING JR, COMPANY	Single Family House	510 SCHURING RD	MI
16	10,767.00	0.25	00016140O	CUBIC, MICHAEL	Single Family House	516 SCHURING RD	MI
17	30,053.00	0.69	00016165O	PARSONS, PATRICIA & PAUL	Single Family House	408 SCHURING RD	MI
18	14,846.00	0.34	00016160O	GENTNER, MELISSA	Single Family House	428 SCHURING RD	MI
19	19,997.00	0.46	00016115O	BRADLEY, TERRENCE F & CARLA S	Single Family House	726 SCHURING RD	MI
20	19,213.00	0.44	00016110O	TERRY, SANDRA	Single Family House	802 SCHURING RD	MI
21	68,578.00	1.57	00016125O	HOEKSEMA BROTHERS GREENHOUSES, LLC	Hoeksema Greenhouses	618 SCHURING RD	MI
22	3,560,252.00	81.73	00014005A	PHARMACIA & UPJOHN COMPANY	Temporary Parking Lot/ Construction Staging	7000 PORTAGE RD	MI
23	80,557.00	1.85	00012115X	PORTAGE MI HOLDINGS, LLC	Pharm Optima	6710 QUALITY WAY	MI
24	1,802,310.00	41.38	00011010G	NORMAN/PORTAGE, LLC	Office Building	6901 PORTAGE RD	MI
25	148,028.00	3.4	00012118A	STEPHENS PROPERTIES LLC	Quality Air Service	6701 QUALITY WAY	MI

26	83,874.00	1.9	00012115W	HUSKER HOLDINGS LLC	Kalamazoo Machine Tool	6700 QUALITY WAY	MI
27	782,400.00	18.0	00012101C	MANN+HUMMEL USA, INC	Mann+ Hummel	6700 S SPRINKLE RD	MI
28	628,307.00	14.4	00012118B	DSL ENTERPRISES, INC	D&L Industrial Services	4550 QUALITY CT	MI
29	155,314.00	3.6	00012116A	SPRINKLE ENGINEERING BUILDING, LLC	Summit Polymers	6615 S SPRINKLE RD	MI
30	1,123,221.00	25.79	00012117A	ERBSLOEH ALUMINUM SOLUTIONS, INC.	WKW Aluminum	6565 S SPRINKLE RD	MI
31	1,651,904.00	37.92	00011010L	ET KALAMAZOO FX, LLC	Fed Ex	6701 PORTAGE RD	MI
32	82,394.00	1.89	00012106O	BARNES HOLDINGS LLC	Superior Business Solutions- Commercial Printer	6490 S SPRINKLE RD	MI
33	120,585.00	2.77	06442009A	SAMCO LAND KALAMAZOO, LLC	SA Morman - Door Supplier	4510 COMMERCIAL AVE	MI
34	128,849.00	2.96	06442008O	RF HOLDING LLC	Acuren Inspection; Casium Technologies	4460 COMMERCIAL AVE	MI
35	154,172.00	3.54	06440006O	TODD UNIFORM INC	Aramak Uniform Services	4384 COMMERCIAL AVE	MI
36	119,370.00	2.74	06440007O	FIND-COUNT-DIVINE 897 LLC	Blu Technology, Perspective	4250 COMMERCIAL AVE	MI
37	186,101.00	4.27	06440001O	CC 10 LLC	Office Building	4176 COMMERCIAL AVE	MI
38	219,987.00	5.05	06442009B	4570 COMMERCIAL AVE, LLC	Lindenmeyr Munroe; Rollie Williams; Lending Hands	4570 COMMERCIAL AVE	MI
39	799,672.00	18.36	00012105O	MANN+HUMMEL USA, INC	Mann+ Hummel	6400 S SPRINKLE RD	MI
40	471,619.00	10.83	00012001C	COLONIAL ENGINEERING INC	Colonial Engineering - Plastic Fabrication	6400 CORPORATE AVE	MI
41	132,787.00	3.05	06442010A	BICKINGS, TIMOTHY P & D A	Custom Design Inc. - Industrial Equipment Supplier	4481 COMMERCIAL AVE	MI
42	177,291.00	4.07	06440005O	M R S REALTY CORP	Hub Group Trucking	4385 COMMERCIAL AVE	MI
43	82,717.00	1.90	06440004O	4311 COMMERCIAL AVE, LLC	B&L Bolt - Distribution Service	4311 COMMERCIAL AVE	MI
44	263,149.00	6.04	06440002O	COMMERCIAL PROPERTIES PARTNERS, LLC	Thermal Fisher Scientific- Biotech. Company	4169 COMMERCIAL AVE	MI
45	51,441.00	1.18	06443017O	EQUITY PARTNERS 1, LLC	Depatie Technology Center	6287 AMERICAN AVE	MI
46	91,961.00	2.11	06443011O	EQUITY PARTNERS 1, LLC	Building - vacant, unknown occupant	6292 AMERICAN AVE	MI
47	1,641,808.00	37.69	00011010J	STRYKER CORPORATION	Stryker Building	6501 PORTAGE RD	MI

48	89,265.00	2.05	064430120	EQUITY PARTNERS 1, LLC	Depatie Fluid Power - Hose Supplier	6256 AMERICAN AVE	MI
49	444,120.00	10.20	00012080S	SUMMIT POLYMERS PROPERTIES LTD	Summit Polymers - Plastic Fabrication	4750 EXECUTIVE DR	MI
50	97,038.00	2.23	064430160	CONFORMANCE FASTENERS INC	Conformance Fasteners - Fastener Supplier	6239 AMERICAN AVE	MI
51	278,372.00	6.39	00012090O	3700 MILHAM, LLC	Clark Logic - Logistics Service	3700 E MILHAM AVE	MI
52	22,119.00	0.51	09240036O	NUNNS CORP	Single Family House	2725 E MILHAM AVE	MI
53	29,337.00	0.67	09240034O	ISAACS, LAURA	Single Family House	2711 E MILHAM AVE	MI
54	9,797.00	0.22	09240033O	FRAZIER, HARLIE & GRIMM, CORA	Single Family House	5921 WILLOUGHBY DR	MI
55	136,588.00	3.14	00001086O	DOMESTIQUE REALTY, LLC	Foundation Building Material	3737 E MILHAM AVE	MI
56	19,598.00	0.45	09240031O	SHORT, ANGELA	Single Family House	5913 WILLOUGHBY DR	MI
57	9,834.00	0.23	09240030O	TELL LEASING CO	Storage Garage	5909 WILLOUGHBY DR	MI
58	87,729.00	2.01	09240020O	RAI AZO, LLC	RAI Jets Kalamazoo - Aviation Consultants	5825 WILLOUGHBY DR	MI
59	102,387.00	2.35	00001032A	THERKILDSSEN, DAVID & NANCY TRUST	Storage Garage	3512 E KILGORE RD	MI
60	21,512.00	0.49	00001083O	SUMMIT POLYMERS INC	Summit Polymers Trucking/Storage	3000 E KILGORE RD	MI
61	49,413.00	1.13	00028125B	CITY OF PORTAGE	N/A	9102 SHAVER RD	MI
62	22,219.00	0.51	00012110O	CONSUMERS ENERGY CO	N/A	6210 S SPRINKLE RD	MI
63	2,949,327.00	67.71	00011010K	COUNTY OF KALAMAZOO	N/A	6555 PORTAGE RD	MI
64	101,298.00	2.33	00011005O	COUNTY OF KALAMAZOO	N/A	3100 E MILHAM AVE	MI
65	211,244.00	4.85	00012080J	MDOT	N/A	6345 AMERICAN AVE	MI
66	856,950.00	19.67	00012100D	CITY OF PORTAGE	N/A	6600 S SPRINKLE RD	MI
67	13,295.00	0.31	00014166O	CONSUMERS ENERGY CO	N/A	2915 E CENTRE AVE	MI

ARTICLE 12. ~~MARIHUANA~~MARIJUANA BUSINESSES¹

Sec. 14-245. Purpose.

- (a) The purpose of this article is, pursuant to the Medical Marihuana Facilities Licensing Act, MCL 333.27101 et seq. (Medical Facilities Act) and the Michigan Regulation and Taxation of Marihuana Act, MCL 333.27951 et seq., (Adult-Use Act) to: authorize the establishment of certain types of medical ~~marihuana~~marijuana facilities and adult-use ~~marihuana~~marijuana establishments (~~marihuana~~marijuana businesses) in the City of Portage; provide for standards and procedures for the review, issuance, renewal, or revocation of permits for such businesses; and establish fees for such permits.
- (b) Nothing in this article, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall they be construed as granting, immunity from criminal prosecution for the growing, sale, consumption, use, distribution or possession of ~~marihuana~~marijuana in any form or manner that is not in compliance with the Michigan Medical Marihuana Act, MCL 333.26421 et seq., (Medical Marihuana Act) the Medical Facilities Act, the Marihuana Tracking Act, MCL 333.27901 et seq., (Tracking Act) the Adult-Use Act and all other applicable rules promulgated by the State of Michigan.
- (c) Because federal law is not affected by state law or rules, nothing in this article, or in any companion regulatory provision adopted in any other provision of this Code, is intended to grant, nor shall any provision of this article or this Code, be construed as granting immunity from criminal prosecution under federal law. Neither the Medical Facilities Act nor the Adult-Use Act protects patients, users, care givers, licensees, or the owners or occupants of properties on which the medical or adult-use of ~~marihuana~~marijuana is occurring from federal prosecution, or from having their property seized by federal authorities under the Federal Controlled Substances Act.

(Ord. No. 19/20-06 , 5-26-2020)

Sec. 14-246. Definitions.

- (a) As used in this article, the following terms shall have the meanings indicated:

Applicant means the person who applied for and received prequalification for a license under either the Marihuana Facilities Act or the Adult-Use Act, and who then applied for a ~~marihuana~~marijuana business permit under this article or a ~~marihuana~~marijuana facilities permit under the previous version of this article.

CRA means the Cannabis Regulatory Agency of the State of Michigan.

Equivalent licenses means any of the following held by a single licensee:

- (1) A ~~marihuana~~marijuana grower license, of any class, issued under Adult-Use Act and a grower license, of any class, issued under the Medical Facilities Act.

¹Editor's note(s)—Ord. No. 19/20-06 , adopted May 26, 2020, amended art. 12 in its entirety, §§ 14-245—14-269, in effect repealing and reenacting said article, §§ 14-245—14-266, as set out herein. Formerly, art. 12 pertained to medical ~~marihuana~~marijuana facilities and derived from Ord. No. 18-01, adopted Feb. 27, 2018.

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- (2) A ~~marihuana~~marijuana processor license issued under Adult-Use Act and a processor license issued under the Medical Facilities Act.
 - (3) A ~~marihuana~~marijuana retailer license issued under MRTMA and a provisioning center license issued under the MMFLA.
 - (4) A ~~marihuana~~marijuana secure transporter license issued under Adult-Use Act and a secure transporter license issued under the Medical Facilities Act.
 - (5) A ~~marihuana~~marijuana safety compliance facility license issued under Adult-Use Act and a safety compliance facility license issued under the Medical Facilities Act.

Grower means a licensee and permittee that, under either the Medical Facilities Act and Rules or the Adult-Use Act and Rules, is a commercial entity located in this city that cultivates, dries, trims, or cures and packages ~~marihuana~~marijuana for sale to a processor, provisioning center, or ~~marihuana~~marijuana retailer.

License, ~~marihuana~~marijuana business license or business license means a state operating license issued under the Medical Facilities Act or the Adult-Use Act.

Licensee means a person holding a state operating license issued under the Medical Facilities Act or the Adult-Use Act.

~~Marihuana~~Marijuana means that term as defined in Section 7106 of the Public Health Code, 1978 PA 368, MCL 333.7106.

~~Marihuana~~Marijuana *business or business* means the licensed and permitted operation at a property location in the city as a grower, processor, provisioning center, safety compliance facility, or secure transporter, under the Medical Facilities Act and this article or the prior version of this article, or a grower, processor, retailer, safety compliance facility, secure transporter, microbusiness, or ~~marihuana~~marijuana event organizer under the Adult-Use Act and this article.

~~Marihuana~~Marijuana *business permit* means a permit issued under this article that allows a person to operate either a medical ~~marihuana~~marijuana facility permitted under the Medical Facilities Act and this article, or an adult-use establishment permitted under the Adult-Use Act and this article, in this city.

~~Marihuana~~Marijuana *facilities permit* means a permit issued under the previous version of this article for a medical ~~marihuana~~marijuana facility under the Medical Facilities Act and that article.

~~Marihuana~~Marijuana *microbusiness or microbusiness* means a licensee and permittee that is a commercial entity in this city that, consistent with the Adult-Use Act and Rules, cultivates not more than 150 ~~marihuana~~marijuana plants, processes and packages ~~marihuana~~marijuana, and sells or transfers ~~marihuana~~marijuana to individuals who are 21 years of age or older or to a ~~marihuana~~marijuana safety compliance facility, but not to other ~~marihuana~~marijuana establishments or to medical ~~marihuana~~marijuana facilities.

~~Marihuana~~Marijuana *plant* means any plant of the species Cannabis sativa L. ~~Marihuana~~Marijuana plant does not include industrial hemp as that term is defined in Section 7106 of the Public Health Code, 1978 PA 368, MCL 333.7106.

- (1) ~~Marihuana~~Marijuana *product* means ~~marihuana~~marijuana or ~~marihuana~~marijuana-infused product, or both, as those terms are defined in the in the Medical Facilities Act or the Adult-Use Act, unless otherwise provided for in the rules and this article.

~~Marihuana~~Marijuana *-infused product* means a topical formulation, tincture, beverage, edible substance, or similar product containing any usable ~~marihuana~~marijuana that is intended for human consumption in a manner other than smoke inhalation as defined in the Medical Facilities Act or the Adult-Use Act. ~~Marihuana~~Marijuana-infused product shall not be considered a food for purposes of the food law, 2000 PA 92, MCL 289.1101 et seq.

~~Marihuana~~Marijuana *retailer or retailer* means a licensee and permittee that is a commercial entity located in this city that, consistent with the Adult-Use Act and Rules purchases ~~marihuana~~marijuana products from an adult-use grower or adult-use processor and sells, supplies, or provides ~~marihuana~~marijuana to persons over 21 years of age or older. Retailer includes any commercial property where ~~marihuana~~marijuana products are sold at retail to registered persons over 21 years of age or older as provided in the Adult-Use Act and Rules. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the ~~MRA~~State of Michigan ~~marihuana~~marijuana registration process in accordance with the Medical Marihuana Act is not a ~~provisioning-center~~ provisioning center or a retailer for purposes of this article.

MRA means the Marijuana Regulatory Agency created by E.R.O. No. 2019-2, compiled at MCL 333.27001.
CRA means the Cannabis Regulatory Agency, which is the retitled agency created by ERO No. 2019-2, compiled at MLC 333.27001.

Paraphernalia means any equipment, product, or material of any kind that is designed for or used in growing, cultivating, producing, manufacturing, compounding, converting, storing, processing, preparing, transporting, injecting, smoking, ingesting, inhaling, or otherwise introducing into the human body, ~~marihuana~~marijuana.

Permittee means a person who has been issued a ~~marihuana~~marijuana business permit pursuant to this article or a medical facilities permit under the previous version of this article.

Person means an individual, corporation, limited liability company, partnership, limited partnership, limited liability partnership, limited liability limited partnership, trust, or other legal entity.

Proposed ~~marihuana~~marijuana *business* means a location in the city at which an applicant plans to operate a ~~marihuana~~marijuana business under the Medical Facilities Act and/or Adult-Use Act, rules, and this article if the applicant is issued a state license, and a permit under this article.

Provisional approval means a determination that an applicant has submitted an application that meets all of the requirements for a complete permit in section 14-250 of this article, and the requirements for acceptance of the application in section 14-252 of this article.

Provisioning center means a licensee and permittee that is a commercial entity located in this city that, consistent with the Medical Facilities Act and Rules, purchases ~~marihuana~~marijuana products from a medical facility grower or medical facility processor and sells, supplies, or provides ~~marihuana~~marijuana products to registered qualifying patients, directly or through the patients' registered primary caregivers. Provisioning center includes any commercial property where ~~marihuana~~marijuana products are sold at retail to registered qualifying patients or registered primary caregivers as provided in the Medical Facilities Act and Rules. A noncommercial location used by a primary caregiver to assist a qualifying patient connected to the caregiver through the ~~MRA~~CRA ~~marihuana~~marijuana registration process in accordance with the Medical Marihuana Act is not a provisioning center for purposes of this article.

Rules mean the emergency and general rules of ~~MRA~~CRA adopted pursuant to the Medical Facilities Act the Tracking Act and the Adult-Use Act as may be amended from time to time.

Safety compliance facility means a licensee and permittee that under either the Medical Facilities Act and Rules or Adult-Use Act and Rules is a commercial entity that receives ~~marihuana~~marijuana from a ~~marihuana~~marijuana business or registered primary caregiver, tests it for contaminants and for tetrahydrocannabinol and other cannabinoids, returns the test results, and may return the ~~marihuana~~marijuana to the ~~marihuana~~marijuana business.

Secure transporter means a licensee and permittee that under either the Medical Facilities Act and Rules or Adult-Use Act and Rules is a commercial entity located in this city that stores ~~marihuana~~marijuana and transports ~~marihuana~~marijuana between ~~marihuana~~marijuana facilities for a fee.

Stacked license means more than one state operating license issued to a single licensee to operate as a class C grower as specified in each license at a ~~marihuana~~marijuana business under either the Medical Facilities Act and Rules or the Adult-Use Act and Rules.

State operating license, business license, or license means a license that is issued under the Medical Facilities Act or Adult-Use Act that allows the licensee to operate as one of the following, specified in the license:

- (1) A grower.
- (2) A processor.
- (3) A secure transporter.
- (4) A provisioning center.
- (5) A safety compliance facility.
- (6) A microbusiness.
- (7) An excess ~~marihuana~~marijuana grower.
- (8) A marijuana event organizer.
- (9) A designated consumption establishment.
- (10) A temporary ~~marihuana~~marijuana event.
- (11) A ~~marihuana~~marijuana retailer

Statewide monitoring system or, unless the context requires a different meaning, "system" means an internet-based, statewide database established, implemented, and maintained by the department under the Marihuana Tracking Act, that is available to licensees, law enforcement agencies, and authorized state departments and agencies on a 24-hour basis for all of the following:

- (1) Tracking ~~marihuana~~marijuana transfer and transportation by licensees, including transferee, date, quantity, and price.
- (2) Verifying in commercially reasonable time that a transfer will not exceed the limit that the patient or caregiver is authorized to receive under Section 4 of the Michigan Medical Marihuana Act.
 - a. Unless the context requires a different meaning, any term used in this article that is defined by the Medical Marihuana Act shall have the definition given in that act.
 - b. Unless the context requires a different meaning, any term used in this article as it is defined by the Medical Facilities Act shall have the definition given in that act. Unless the context requires a different meaning, any term used in this article that is defined by the Tracking Act shall have the definition given in that act.
 - c. Unless the context requires a different meaning, any term used in this article that is defined by the Adult-Use Act shall have the definition given in that act.

(Ord. No. 19/20-06 , 5-26-2020)

Sec. 14-247. Adoption of state rules and regulations.

All activities related to ~~marihuana~~marijuana shall be in compliance with the Tracking Act, Medical Facilities Act, or the Adult-Use Act and all other applicable rules promulgated by the state of Michigan.

(Ord. No. 19/20-06 , 5-26-2020)

Sec. 14-248 ~~Marihuana~~Marijuana businesses allowed.

- (a) Pursuant to Section 205(1) of the Medical Facilities Act and Section 6(1) of the Adult-Use Act, the city authorizes the following types of ~~marihuana~~marijuana businesses to be permitted in the city, without limitation as to the number of businesses:
- (1) Under the Medical Facilities Act:
- Provisioning center;
 - Class A grower;
 - Class B grower;
 - Class C grower;
 - Stacked license Class C grower;
 - Processor;
 - Safety compliance facility;
 - Secure transporter.
- (2) Under the Adult-Use Act:
- Retailer;
 - Class A grower;
 - Class B grower;
 - Class C grower;
 - Stacked license Class C grower;
 - Processor;
 - Safety compliance facility;
 - Secure transporter;
 - Microbusiness.
- (b) ~~Marihuana~~Marijuana business permits are not authorized by this article for designated consumption establishments, excess ~~marihuana~~marijuana growers, ~~marihuana~~marijuana event organizers, and temporary ~~marihuana~~marijuana events under the Adult-Use Act, or other ~~marihuana~~marijuana related licenses that may be allowed by any State law or administrative rule in the future.
- (c) The council reserves the right to amend the number and types of ~~marihuana~~marijuana businesses allowed within the city, subject to the laws, rules, and other regulations promulgated by the State of Michigan, or the ~~MRA~~CRA.
- (Ord. No. 19/20-06 , 5-26-2020)

Sec. 14-249. Permit required.

No person shall own or operate a ~~marihuana~~marijuana business in the city without first applying for and receiving a license from ~~MRA~~CRA, and either a ~~marihuana~~marijuana facilities permit under the previous version of this article, or a ~~marihuana~~marijuana business permit under this article. No person who has received a city permit

and state license to operate a medical ~~marihuana~~marijuana class C grower facility shall grow more than 1,500 plants at the facility without first applying for and receiving a permit from the city manager for each additional medical ~~marihuana~~marijuana class C license the person desires to stack with its original state operating license, and a stacked medical ~~marihuana~~marijuana class C state operating license or licenses. Additionally, no person who has received a city permit and state license to operate an adult-use ~~marihuana~~marijuana class C grower establishment shall grow more than 2,000 plants at the establishment without first applying for and receiving a permit from the city manager for each additional adult-use ~~marihuana~~marijuana class C license the person desires to stack with its original state operating license, and a stacked adult-use ~~marihuana~~marijuana class C state operating license or licenses. ~~For two years from November 1, 2019, the date MRA began receiving license applications under the Adult Use Act, no person shall receive a permit for a marijuana retail business that has not first received a marihuana facilities permit from the city and a medical marihuana state operating license.~~

(Ord. No. 19/20-06 , 5-26-2020)

Sec. 14-250. Application for permit.

- (a) Any person desiring to secure a ~~marihuana~~marijuana business permit shall make application to the city clerk upon a form provided by the city clerk at a time established by the city manager pursuant to section 14-250(c). The city clerk will stamp the permit application with the date and time received and mark the application "received". The review of applications as provided by this article will be completed, and all applications will be either accepted or denied within 90 days of the date the application is marked "received" by the city clerk.
- (1) All permit applicants, except applicants regarding a medical facility or adult-use stacked class C grower license or licenses, before applying for a permit must be prequalified by ~~MRA~~CRA for a medical ~~marihuana~~marijuana facility license if they are applying for a permit to operate a medical ~~marihuana~~marijuana facility under the Medical Facilities Act, or ~~marihuana~~marijuana establishment license if they are applying for a permit to operate a ~~marihuana~~marijuana establishment under the Adult-Use Act.
 - (2) The applicant must be the same person who received prequalification from ~~MRA~~CRA.
 - (3) A copy of all applications received shall be distributed by the city clerk to the appropriate city departments for review. All applications will be reviewed in the order received by the city clerk to determine that the application contains all information and documentation required by section 14-250(d) and the location of the proposed facility complies with the zoning requirements in article 4 of chapter 42 of this Code. Applications that are not missing any required information or documentation and comply with the zoning requirements of article 4 of chapter 42 of this Code will be stamped by the city clerk with the date and time the application is deemed to be complete, and marked "complete". Applications that do not comply with the zoning requirements of article 4 of chapter 42 of this Code will be denied pursuant to section 14-252.
 - (4) If an application is incomplete or missing information the city clerk shall notify the applicant of the incomplete or missing information in writing by mail or electronic mail sent to the address provided for notification by the applicant. The applicant shall have five business days from the date of mailing by regular or electronic mail of the written notice to provide the incomplete or missing information to the city clerk. Failure to provide the missing or incomplete information within the time specified may result in denial of the application. Applications with incomplete or missing information shall not be reviewed by city staff or marked or stamped complete until all incomplete or missing information is received by the city clerk and that date will be used to determine the order of review of the application in relation to other applications.

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- (5) An application will be accepted at the date and time the application is stamped or marked complete pursuant to subsection 14-250(a)(3) or (4) of this section.
 - (6) If on the effective date of this article there is an application for a medical ~~marihuana~~marijuana facility that was submitted to the city clerk under the previous version of this article and a provisional permit has not yet been issued to the applicant, the application will be reviewed and processed before any application received under this article.
- (b) Permit applications for ~~marihuana~~marijuana businesses and applications for stacked class C grower licenses at an existing class C grower, shall be submitted to the city clerk at a time or within the time periods established by the city manager.
 - (c) The city manager shall be responsible for establishing the procedure for receiving, reviewing and processing permits.
 - (d) The application for a permit shall include at a minimum the information and documentation listed below under oath.
 - (1) The name, business address, business telephone number, and, if applicable, federal tax identification number of the applicant.
 - (2) A copy of the notice from ~~MRA~~CRA that the applicant has been prequalified for a license.
 - (3) Whether the applicant has previously violated this article or a substantially similar ordinance in another municipality preceding the date of the application.
 - (4) A description of the type of ~~marihuana~~marijuana business applied for.
 - (5) A security plan for the ~~marihuana~~marijuana business that addresses all required security measures of the Medical Facilities and Adult-use rules and addresses at a minimum the ability to meet the security measures of those rules.
 - (6) An HVAC plan for the ~~marihuana~~marijuana business describing in detail among other things the equipment or systems that will be used to preclude ~~marihuana~~marijuana odors from emanating from the premises in a detectable amount sufficient to interfere with the reasonable and comfortable use and enjoyment of adjacent property as determined by the objective standards of a reasonable person of normal sensitivity.
 - (7) A scaled conceptual site plan and floor plan, including any proposed contactless delivery method.
 - (8) The property address of the proposed ~~marihuana~~marijuana business to be operated by the applicant.
 - (9) Proof that the applicant has or will have lawful possession of the premises proposed for the ~~marihuana~~marijuana business for the period during which the permit will be issued, which proof may consist of: a deed, a lease, a real estate contract contingent upon successful licensing, or letter of intent by the owner of the premises indicating an intent to lease the premises to the applicant contingent upon the applicant successfully obtaining a state operating license and local permit.
 - (10) The mailing address and electronic address at which the applicant desires to receive notification under this article, and phone numbers at which the applicant desires to be contacted.
 - (11) Whether the applicant intends that a combination of ~~marihuana~~marijuana businesses will operate as separate businesses at the same location, and if so, a description of the types of ~~marihuana~~marijuana business intended to be located at the same location.
 - (12) Whether the applicant intends that equivalent licenses will operate as separate businesses at the same location and if so, a description of the equivalent ~~marihuana~~marijuana businesses intended to be located at the same location.

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- (13) A copy of the ~~marihuana~~marijuana facilities plan to be submitted in connection with a state license application under the Medical Facilities Act for the ~~marihuana~~marijuana business for which provisional approval was issued, or a copy of the ~~marihuana~~marijuana establishment plan to be submitted in connection with a state license application under the Adult-Use Act for the ~~marihuana~~marijuana business for which provisional approval was issued
 - (14) A statement that the applicant will not violate any of the laws of the state or the ordinances of the city in conducting the business in which the license will be used, and that a violation on the premises may be cause for nonrenewal of a permit issued under this article, or for revocation of the permit.
 - (15) A statement that the applicant understands that the issuance of a ~~marihuana~~marijuana business permit under this article is not intended to grant, nor shall be construed as granting, immunity from criminal prosecution for growing, sale, consumption, use, distribution, or possession of ~~marihuana~~marijuana in any form or manner that is not in compliance with the Marihuana Act, the Medical Facilities Act, the Tracking Act, the Adult-Use Act, and all other applicable rules promulgated by the ~~MRA~~CRA, or from criminal prosecution or the seizure of property by federal authorities under the Federal Controlled Substances Act.
 - (16) All ~~marihuana~~marijuana facilities licensed and permitted to operate in the city shall at all times maintain in full force and effect workers compensation insurance as required by state law, and general liability insurance with minimum limits of \$1,000,000.00 per occurrence and a \$2,000,000.00 aggregate limit issued by the company licensed to do business in Michigan having an A.M. Best rating of at least A-. Applicants shall provide evidence of such insurance in the form of a certificate of insurance evidencing the existence of a valid and effective policy, or evidence that the applicant is able to obtain such insurance and state the limits of each policy, the name of the insurer, the effective date and expiration date of each policy, policy number if known, and the names of additional insured which shall include the city, its officials, and employees.
 - (17) The city manager may from time to time establish other qualifications for the application and permit which shall be provided in writing to prospective applicants with the application form.
 - (18) The city manager may require the applicant to provide, within five business days of a written demand any document, report, graph or other information which applicant has supplied to ~~MRA~~CRA and that is not specifically required by this section.

(Ord. No. 19/20-06 , 5-26-2020)

Sec. 14-251. Fees.

A nonrefundable permit fee set by resolution of city council, but not to exceed \$5,000.00, shall be submitted with the application for a permit. This fee shall be in addition to, and not in lieu of, any other fees for licensing or permitting requirements including, but not limited to, site plan review, zoning, or building permits.

(Ord. No. 19/20-06 , 5-26-2020)

Sec. 14-252. Acceptance or denial of application.

- (a) Applications received may be denied by the city manager if the applicant fails to provide missing or incomplete information within the time specified in section 14-250(a)(4) of this article. The city manager shall deny an application for any of the following reasons:

- (1) The applicant has not been prequalified for a ~~marihuana~~marijuana business license by ~~MRA~~CRA.

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- (2) ~~During the period from November 1, 2019 to November 1, 2021 an applicant for a marihuana business under the Adult-Use Act, does not hold a valid and unexpired marihuana facilities permit issued by the city and a medical marihuana state operating license.~~
- (32) The applicant did not pay the required application fee at the time of submission of the application.
- (43) The applicant has not provided satisfactory proof that the applicant has or will have lawful possession of the premises proposed for the location of the ~~marihuana~~marijuana business for the period during which the permit will be issued.
- (54) The applicant's proposed ~~marihuana~~marijuana business does not comply with the zoning regulations in article 4 of chapter 42 of this Code.
- (65) The city manager determines that the applicant has not satisfactorily complied with all permit requirements in section 14-250 of this article.
- (76) The applicant was granted a commercial license or certificate issued by a licensing authority in Michigan or any other jurisdiction concerning medical ~~marihuana~~marijuana or ~~marihuana~~marijuana that was denied or not renewed, or is currently restricted suspended or revoked.
- (87) The city manager determines that the applicant submitted an application containing false, misleading, or fraudulent information, or who intentionally omitted pertinent information on the application for a ~~marihuana~~marijuana business permit.
- (98) The applicant is delinquent in the payment of any taxes, fees or other charges owed to or collected by the city.
- (b) Notice of denial of an application shall be sent to the applicant in writing by mail or electronic mail to the last known address of the applicant on file with the city. An applicant whose application is denied may appeal denial to the city council in writing stating the basis for the appeal within ten days of receipt of the notice of denial.

(Ord. No. 19/20-06 , 5-26-2020)

Sec. 14-253. Provisional approval.

- (a) Provisional approval will be issued by the city manager to applicants whose applications are accepted as provided in this section. The effective date of the provisional approval will be the date an application is accepted as provided in section 14-250(a)(5).
- (b) Provisional approval does not authorize the applicant to operate a ~~marihuana~~marijuana business without first obtaining a state operating license for the ~~marihuana~~marijuana business, and obtaining all other permits, inspections, and approvals required by this article and all other applicable provisions of this Code. Upon issuance of provisional approval, the city clerk will be authorized to execute an attestation of compliance with city ordinances to ~~MRA~~CRA to accompany an application for a license as required by the Medical Facilities Act or the Adult-Use Act.
- (c) Provisional approval will lapse and be void one year from the date it is issued or the expiration of the applicant's prequalification status for a license from ~~MRA~~CRA, whichever occurs first. The city manager or his or her designee shall notify ~~MRA~~CRA of all persons whose provisional approval has lapsed or become void. Provisional approval may be extended by the city manager upon a showing of good cause, such as a delay in obtaining a state license, or other good cause that is not the fault of the applicant, for an additional period not to exceed six months.
- (d) An applicant who has received provisional approval has a continuing duty to provide the city with the following:

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- (1) Up-to-date contact information and shall notify the city clerk in writing of any changes to its mailing address, phone numbers, electronic mail address or other contact information the applicant provides to the city.
 - (2) A copy of any amendments or changes to the ~~marihuana~~marijuana facilities plan under the Medical Facilities Act submitted in connection with the application for the ~~marihuana~~marijuana business permit for which provisional approval was issued, or a copy of the ~~marihuana~~marijuana establishment plan under the Adult-Use Act submitted in connection with the application for the ~~marihuana~~marijuana business for which provisional approval was issued.
- (e) Provisional approval is exclusive to the person who received the provisional approval or provisional permit. Provisional approval or a provisional permit is a revocable privilege granted by the city, is not a property right, and does not create or vest any right, title, franchise or other property interest. No provisional approval or provisional permit issued under the previous version of this article shall be transferred or assigned. Any attempted transfer or assignment shall be void.

(Ord. No. 19/20-06 , 5-26-2020)

Sec. 14-254. Termination, revocation, suspension, or restriction of provisional approval.

- (a) Provisional approval may be terminated, revoked, suspended or restricted by the city manager in writing for any of the following reasons:
- (1) The applicant is denied a state operating license by ~~MRACRA~~;
 - (2) The ~~marihuana~~marijuana business is substantially different from the, ~~marihuana~~marijuana facilities plan to be submitted in connection with a state license application under the Medical Facilities Act for the ~~marihuana~~marijuana business for which provisional approval was issued, or a copy of the ~~marihuana~~marijuana establishment plan to be submitted in connection with a state license application under the Adult-Use Act for the ~~marihuana~~marijuana business for which provisional approval was issued conceptual plan or other representations;
 - (3) Officers of the city are unable to access the proposed ~~marihuana~~marijuana business for permit inspections or are denied access by the applicant or those acting [on] behalf of the applicant;
 - (4) The applicant fails, refuses, or becomes unable to obtain site plan approval and an occupancy permit issued by the city;
 - (5) Any violation of the Medical Facilities Act and Rules, Adult-Use Act and Rules, an applicable city ordinance, or this article.
- (b) If provisional approval is terminated, revoked, suspended or restricted, the city manager or his or her designee will notify in writing by mail or electronic mail both the applicant, at the last known address on file with the city for notification of the applicant, and ~~MRACRA~~, of the termination, revocation, suspension, or restriction of the provisional approval and the reasons therefore in writing.
- (c) The applicant who has received provisional approval under this article that is terminated, revoked, suspended or restricted may appeal the termination, revocation, suspension or restriction to the city council in writing stating the basis for the appeal within ten days of receipt of the notice of the termination, revocation, suspension or restriction.

(Ord. No. 19/20-06 , 5-26-2020)

Sec. 14-255. ~~Marihuana~~Marijuana business permit.

- (a) ~~Marihuana~~Marijuana business permits will be issued by the city manager. In order to be issued a ~~marihuana~~marijuana business permit, an applicant who has received provisional approval and whose provisional approval has not been revoked as provided in section 14-254 shall:
- (1) Successfully complete the inspection required by subsection 14-255(b) of this section.
 - (2) Submit proof to the city manager of obtaining all permits and approvals required by all applicable ordinances of the city including, but not limited to, an approved site plan and occupancy permit.
 - (3) Submit proof of insurance required by this article in the form of a certificate of insurance evidencing the existence of a valid and effective policy, stating the limits of each policy, the name of the insurer, the effective date and expiration date of each policy, policy number, and the names of additional insureds which shall include the City of Portage, its officials, and employees.
 - (4) An applicant who holds a provisional permit for a secure transporter permit shall additionally show proof of auto insurance, vehicle registration and registration as a commercial motor vehicle as applicable for any transporting vehicles used to transport ~~marihuana~~marijuana product in order to be issued a ~~marihuana~~marijuana business permit by the city manager.
 - (5) The site plan required for issuance of a ~~marihuana~~marijuana business permit shall be consistent with the requirements of section 42-482 A. of this Code. The site plan will be reviewed administratively consistent with section 42-482 B. and in accordance with the standards of section 42-483, except that no review by the planning commission of the site plan will be made. The site plan will be approved consistent with the provisions of section 42-484 except that any appeal of a site plan approval shall be to the city manager who will have the discretion whether to reverse an order of the director.
- (b) Before issuance of a ~~marihuana~~marijuana business permit the city shall conduct an inspection of the proposed ~~marihuana~~marijuana business to verify that the ~~marihuana~~marijuana business is ready to open for business, the premises of the business are constructed and can be operated in accordance with the application submitted, the approved site plan, the requirements of this Code and any other applicable law, rule, or regulation. No ~~marihuana~~marijuana business permit may be issued and no ~~marihuana~~marijuana business may conduct any business or operations until the inspection is completed and it is determined that the ~~marihuana~~marijuana business is ready to open for business, the premises of the ~~marihuana~~marijuana business are constructed and can be operated in accordance with the application, ~~marihuana~~marijuana facilities plan, or the ~~marihuana~~marijuana establishment plan submitted with the application as well as the approved site plan, and the ~~marihuana~~marijuana business is in compliance with the requirements of this Code and any other applicable law, rule, or regulation.
- (c) The ~~marihuana~~marijuana business permit shall be issued only in the name of the applicant.
- (d) Each permit is exclusive to the person who is issued the permit and that person must apply for and receive approval of the city manager pursuant to section 14-258 of this article before a permit is transferred.
- (e) The ~~marihuana~~marijuana business permit and state operating license shall be displayed in a conspicuous public place inside the ~~marihuana~~marijuana business.
- (f) Acceptance of a ~~marihuana~~marijuana business permit under this article shall constitute permission to any officer of the city, within the authority granted him or her by this Code under which such permit was granted, to enter upon and inspect the premises of the ~~marihuana~~marijuana business at all reasonable times.
- (g) A permittee has a continuing duty to provide the city with up-to-date contact information and shall notify the city clerk in writing of any changes to its mailing address, phone numbers, electronic mail address or other contact information the permittee provides to the city.

Sec. 14-256. Renewal of permit.

- (a) A ~~marihuana~~marijuana business permit or ~~marihuana~~marijuana facilities permit issued under the previous version of this article shall be renewed annually unless revoked as provided by section 14-257.
- (b) Renewal of ~~marihuana~~marijuana business permit shall be made by application to the city clerk and payment of a nonrefundable permit renewal fee set by resolution of city council, but not to exceed \$5,000.00. The application for renewal must be filed before the permit expires at such time as is established by the city manager, but in no event less than 30 days before the due date for annual renewal of the permittee's license for the permittee's ~~marihuana~~marijuana business. The application for renewal shall be upon a form provided by the city clerk and shall contain an update of all information required in the applicant's permit application, be given under oath or affirmation, including an affirmation that all information in the renewal application is up to date and current, and shall be reviewed and approved in the same manner as the permit application. Renewal of permits issued in connection with class C grower stacked licenses will require only a single application form for the original class C grower permit and all stacked license permits issued to the applicant. The renewal application shall indicate that the application is for the renewal of permits issued in connection with class C grower stacked licenses and the permit or permits the applicant is seeking to renew.
- (c) The city clerk shall notify the permittee by mail or electronic mail at the last known address on file with the city for notification of the permittee, advising of the time, and procedure for renewing the permit. Failure of the permittee to receive notice under this subsection does not relieve the permittee of the responsibility for renewing the permit.
- (d) A permit renewal application may be denied by the city manager if the permit renewal application is not received by the city clerk on or before the due date for renewal of the permit established pursuant to section 14-256(b). The city manager shall deny a permit renewal application if any of the following occur:
 - (1) The permit to be renewed has been terminated or revoked.
 - (2) The permit is suspended or restricted.
 - (3) The applicant did not pay the required application fee at the time of submission of the renewal application.
 - (4) At the time of submission of the renewal application the applicant is delinquent in the payment of any taxes, fees or other charges owed to or collected by the city.
 - (5) The city manager determines that the applicant is not in compliance with all qualifications established by section 14-250 of this article, the Medical Facilities Act and rules, or the Adult-Use Act and rules.
 - (6) The applicant failed to correct any deficiencies in the renewal application.
 - (7) The city manager determines that applicant submitted a renewal application containing false, misleading, or fraudulent information, or intentionally omitted pertinent information on the renewal application.
The applicant fails to provide evidence of insurance as required by section 14-250(d)(17).
 - (8) An inspection conducted by the city reveals that the ~~marihuana~~marijuana business to which the renewal application pertains is not in compliance with this article, this Code of ordinances, the Medical Facilities Act and rules, or the Adult-Use Act and rules.
- (e) Notice of denial of a renewal application shall be sent to the applicant in writing by mail or electronic mail to the last known address of the applicant on file with the city for notification of the applicant. An applicant

whose renewal application is denied may appeal denial to the city council in writing stating the basis for the appeal within ten days of receipt of the notice of denial.

- (f) The city manager or his or her designee shall inform ~~MRA~~CRA in writing by mail or electronic mail of all permittees whose permit is renewed, if a permittee fails to renew a permit, or the permittee's renewal application is denied. The city clerk will file an affirmation of renewal with ~~MRA~~CRA for all permits that are renewed.
- (g) For the purposes of a renewal application, a ~~marihuana~~marijuana business shall not be in violation of the spacing requirements from certain protected uses as specified in article 4, chapter 42 of this Code in the event any of those protected uses was located less than the minimum spacing distance from the ~~marihuana~~marijuana business at any time after a permit under this article and a state license to operate the business were issued.
- (h) The city manager may grant relief to any renewal applicant from the provisions of this section upon a showing of good cause.

(Ord. No. 19/20-06 , 5-26-2020)

Sec. 14-257. Revocation, termination or suspension of permit.

- (a) Any ~~marihuana~~marijuana business permit issued under this article, or ~~marihuana~~marijuana facilities permit issued under the previous version of this article, shall automatically terminate and become void if the state license for the permitted use is revoked, terminates or becomes void.
- (b) Any ~~marihuana~~marijuana business permit issued under this article, or ~~marihuana~~marijuana facilities permit issued under the previous version of this article, may be revoked upon the occurrence of any of the following:
 - (1) Any violation of the provisions of this article or, this Code of ordinances. A ~~marihuana~~marijuana business shall not be in violation of the spacing requirements from certain protected uses as specified in article 4, chapter 42 of this Code in the event any of those protected uses was located less than the minimum spacing distance from the ~~marihuana~~marijuana business at any time after a permit under this article and a state license to operate the business were issued.
 - (2) The conduct of business in an unlawful manner or in such a way as to constitute a public nuisance or in a way that negatively impacts the health, safety, or general welfare of surrounding property or city residents.
- (c) A ~~marihuana~~marijuana business permit or ~~marihuana~~marijuana facilities permit will be suspended for the transfer or attempted transfer of the permit or any interest in such permit without first obtaining approval of the city manager to do so.
- (d) Any ~~marihuana~~marijuana business permit or ~~marihuana~~marijuana facilities permit shall automatically be suspended if the state operating license for the permitted use is suspended. The terms and conditions of suspension shall correspond to the suspension of the state operating license.
- (e) Any ~~marihuana~~marijuana business permit or ~~marihuana~~marijuana facilities permit shall automatically be restricted if the state license for the permitted use is restricted. The terms and conditions of the restriction shall correspond to the restriction of the state license.
- (f) If a ~~marihuana~~marijuana business permit, or ~~marihuana~~marijuana facilities permit issued under the previous version of this article, is terminated, revoked, suspended or restricted, the city manager will notify the permittee, at the permittee's last known address on file with the city for notification of the permittee, and ~~MRA~~CRA of the termination, revocation, suspension, or restriction of the permit and the reasons therefore.

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- (g) If a ~~marihuana~~marijuana business permit or ~~marihuana~~marijuana facilities permit is revoked under this subsection the permittee shall immediately cease operation of its ~~marihuana~~marijuana business.
 - (h) The holder of a ~~marihuana~~marijuana business permit or ~~marihuana~~marijuana facilities permit under this article that is terminated, revoked, suspended or restricted may appeal the termination, revocation, suspension or restriction to the city council within ten days of receipt of the notice of the termination, revocation, suspension or restriction.

(Ord. No. 19/20-06 , 5-26-2020)

Sec. 14-258. Transfer, sale or purchase of permits or licenses.

- (a) No ~~marihuana~~marijuana business permit, or ~~marihuana~~marijuana facilities permit issued under the previous version of this article, may be transferred without making application to, and obtaining approval of, the city manager. Applications for transfer of a permit shall be made on a form provided by the city clerk. The application shall contain the following information at a minimum:
 - (1) The name and address of the ~~marihuana~~marijuana business proposed to be transferred.
 - (2) The name, address, and other contact information for the owner of the ~~marihuana~~marijuana business proposed to be transferred.
 - (3) The name, address, and other contact information for the proposed transferee.
 - (4) A plan detailing any changes or modifications of the ~~marihuana~~marijuana business desired by the transferee, which must be approved by the city consistent with section 14-259(a). No certificate of occupancy will be issued to the transferee until all changes have been completed and approved by the city consistent with all applicable codes.
- (b) Any transferee of a permit issued pursuant to this article must meet all requirements and conditions for the issuance of a permit under this article for the type of ~~marihuana~~marijuana business for which the permit was issued prior to the approval of a transfer. The transfer will be conditioned upon the transferee obtaining a state license for the type of ~~marihuana~~marijuana business the permit was issued for within 90 days of the approval of the transfer.

(Ord. No. 19/20-06 , 5-26-2020)

Sec. 14-259. Changes to ~~marihuana~~marijuana businesses.

- (a) Any change or modification of a ~~marihuana~~marijuana business after it receives a state license, and a permit under this article is governed by the standards and procedures of the Medical Facilities Act and rules, and the Adult-Use Act and rules, and the standards, and standards and procedures of this Code including, but not limited to, standards and procedures relating to zoning, site plans, and, building, plumbing, electrical, mechanical, and fire safety codes. Changes or modifications to a ~~marihuana~~marijuana business may, however, be made at any time, but must be approved by ~~MRA~~CRA and the city before any changes or modifications are made. The permittee must obtain all required city permits before the change or modification is commenced and provide evidence to the city of the approval of ~~MRA~~CRA for any change or modification to a ~~marihuana~~marijuana business.
- (b) Change of location of a ~~marihuana~~marijuana business requires a permit application that includes the same information listed in section 14-250 of this article for a permit application and an application fee set by resolution of city council, but not to exceed \$5,000.00. The proposed new location of the ~~marihuana~~marijuana business, in addition to complying with the provisions of section 14-250, must also comply with the provisions of article 4, chapter 42 regarding zoning. The change of location permit will be

submitted and approved or denied in the same manner as an application for a ~~marihuana~~marijuana business permit and a permit for the change of location will be issued in the same manner as for a ~~marihuana~~marijuana business permit application. Applications for a change of location may be made at any time.

- (c) Failure to obtain prior approval of a change or modification of a ~~marihuana~~marijuana business from ~~MRACRA~~ and the city or to obtain all necessary permits for the change or modification, and failure to obtain approval of a change of location of a ~~marihuana~~marijuana business are violations of the provisions of this article for which a ~~marihuana~~marijuana business permit may be revoked or suspended pursuant to section 14-257 of this article.

(Ord. No. 19/20-06 , 5-26-2020)

Sec. 14-260. Disclosure of information.

Consistent with MCL 333.27205(4) and MCL 333.27959(7), and to the extent otherwise permitted by law, all information submitted in conjunction with an application for a ~~marihuana~~marijuana business permit, permit renewal required, change or modification, or change of location under this article is exempt from disclosure under the Michigan Freedom of Information Act, MCL 15.231 et seq.

Sec. 14-261. Minimum operational standards for all ~~marihuana~~marijuana businesses.

All ~~marihuana~~marijuana businesses shall at a minimum comply with the following operational standards:

- (1) ~~Marihuana~~Marijuana businesses shall be open for inspection upon request by the building official, the fire division, or law enforcement officials for determination of compliance with all applicable laws and rules, during the stated hours of operation/use and at such other times as anyone is present on the premises. Inspections may include inspection of the business premises, surveillance records, camera recordings, reports, records or other materials required as a condition of a permit under this article or a state operating license. Acceptance of a ~~marihuana~~marijuana business permit or leasing property to a ~~marihuana~~marijuana business constitutes consent to such inspections and the seizure of any surveillance records, camera recordings, reports record or other materials required as a condition of the permit under this article or a state operating license without a search warrant. The person issued a permit, or an employee or agent of the thereof shall not hinder or obstruct a law enforcement officer or employee of the city from conducting inspections pursuant to this section, and shall not refuse, fail, or neglect to cooperate with a law enforcement officer or city employee in the performance of his or her duties in enforcing this article, the Medical Facilities Act and Adult-Use Act, or applicable state administrative rules.
- (2) ~~Marihuana~~Marijuana businesses shall conduct the activities of the ~~marihuana~~marijuana business, including, ~~without limitation,~~ processing, displaying, manufacturing, selling ~~(with the exception of drive through sales),~~ storage of ~~marihuana~~marijuana and ~~marihuana~~marijuana-infused products, and storage of all materials used in connection with the cultivating, growing, processing, displaying, manufacturing, and selling of ~~marihuana~~marijuana and ~~marihuana~~marijuana-infused products indoors in a building and out of public view. ~~- Cultivating and growing marihuanamarijuana may take place outdoors consistent with the Medical Facilities Act, the Adult-Use Act or applicable state administrative rules.~~
- (3) ~~Marihuana~~Marijuana businesses shall install a fire alarm and a burglar alarm system. The fire alarm system shall meet the requirements of this Code for a newly installed system and be monitored by a listed central station. All burglar alarm systems shall be monitored by a company that is staffed 24-hours a day, seven days a week.

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- (4) ~~Marihuana~~Marijuana businesses shall have a video surveillance system that complies with the applicable administrative rules at a minimum, and that makes, retains, and stores surveillance recordings as provided in those rules.
 - (5) Surveillance recordings of ~~marihuana~~marijuana businesses shall be subject to inspection and review by the city upon request. All surveillance recordings shall be kept in a manner that allows the city to view and obtain copies of the recordings immediately upon request.
 - (6) ~~Marihuana~~Marijuana businesses shall utilize sufficient measures and means to prevent smoke, odor, debris, dust, fluids and other substances from exiting the premises of the business at any time. In the event that any smoke, odor, debris, dust, fluids or other substances exit the ~~marihuana~~marijuana business in a detectable amount sufficient to interfere with the reasonable and comfortable use and enjoyment of adjacent property, or that causes damage to property, the permittee for the ~~marihuana~~marijuana business and the owner of the premises shall be jointly and severally liable for such conditions and shall be responsible for immediate, full cleanup and correction of such condition. The permittee shall properly dispose of all such materials, items and other substances in a safe, sanitary, and secure manner in compliance with all federal and state laws and regulations, and this Code.
 - (7) ~~Marihuana~~Marijuana businesses shall install and maintain in operable condition a system to preclude ~~marihuana~~marijuana odors from emanating from the premises of the ~~marihuana~~marijuana business in a detectable amount sufficient to interfere with the reasonable and comfortable use and enjoyment of adjacent property as determined by the objective standards of a reasonable person of normal sensitivity.
 - (8) Access to the ~~marihuana~~marijuana business is restricted to the permittee, employees of the permittee, registered qualifying patients and registered primary caregivers with valid registry cards, if applicable, adults 21 years of age or older, if applicable, ~~MRA~~CRA through its investigators, agents, auditors or the state police, and local law and code enforcement officers.
 - (9) All ~~marihuana~~marijuana businesses must be at a fixed location. Mobile ~~marihuana~~marijuana businesses ~~and drive-through operations~~ are prohibited. Sale or transfer of ~~marihuana~~marijuana products by internet or mail order, consignment, or at wholesale is prohibited. This provision shall not be construed to prohibit sale or transfer of ~~marihuana~~marijuana products by ~~marihuana~~marijuana businesses as otherwise expressly authorized by the Medical Facilities Act or Adult-Use Act, nor to prohibit home delivery of ~~marihuana~~marijuana products as may be permitted by those acts or the rules corresponding to those acts.
 - (10) All ~~marihuana~~marijuana businesses shall comply with all provisions of this Code, state law and administrative rules regulating signs and advertising.
 - (11) The business, operations, marketing and advertising of all ~~marihuana~~marijuana businesses and ~~marihuana~~marijuana product shall comply at all times with applicable state law and regulations, and this Code.
 - (12) ~~Marihuana~~Marijuana businesses shall comply with the building and fire safety provisions of the rules as are applicable to the particular type of ~~marihuana~~marijuana business at all times.

(Ord. No. 19/20-06 , 5-26-2020)

Sec. 14-262. Conflicts, future laws and regulations.

In the event of any conflict between the provisions of this article and the provisions of the Medical Facilities Act and rules, Adult-Use Act and the rules, the conflicting provisions of this article will be preempted and the

provisions of the Medical Facilities Act and rules, or the Adult-Use Act and rules will control. Should the State of Michigan in the future adopt additional or stricter laws or regulations governing the production, processing, transporting, testing, sale and distribution of ~~marihuana~~~~marijuana~~, the additional or stricter laws and regulations shall control the establishment or operation of any ~~marihuana~~~~marijuana~~ business in the city, as well as the issuance, denial, suspension, or revocation of any permit under this article.

(Ord. No. 19/20-06 , 5-26-2020)

Sec. 14-263. Penalty and remedies.

- (a) Any violation of this article is a civil infraction subject to a fine of not more than \$500.00.
- (b) In addition to the penalties provided in this section, any condition caused or permitted to exist in violation of the provisions of this Code, or any ordinance, shall be deemed a new and separate offense for each day that such condition continues to exist.
- (c) In addition to the penalties in this section, any violation of this article, the Medical Facilities Act and rules or Adult-Use Act and rules may result in the denial of a permit, or the revocation, suspension, or non-renewal of a permit issued under this article.
- (d) Nothing in this article shall prevent the city from pursuing any other remedy provided by law and equity, including an injunction, in conjunction with or in lieu of prosecuting persons under this section for violation of this article.

(Ord. No. 19/20-06 , 5-26-2020)

Sec. 14-264. Severability.

The various parts, sections and clauses of this article are declared to be severable. If any part, sentence, paragraph, section or clause is adjudged unconstitutional or invalid by a court of competent jurisdiction, the remainder of the article shall not be affected.

(Ord. No. 19/20-06 , 5-26-2020)

Sec. 14-265. Repealer.

All ordinances, resolutions, or parts thereof, that are in conflict or inconsistent with any provisions of this article are repealed to the extent of such conflict, and the provisions of this article shall be and remain controlling as to the matters regulated herein.

(Ord. No. 19/20-06 , 5-26-2020)

Sec. 14-266. Effect tie-barred.

This amendment to chapter 14 "Businesses", article 12, " ~~Marihuana~~~~Marijuana~~ Businesses" shall only take effect if Chapter 42section 42-262(B)(16), section 42-280(B)(21), section 42-280(B)(22), section 42-281(B)(7), and section 42-821(B)(8) regarding zones where ~~marihuana~~~~marijuana~~ businesses are allowed are amended.

(Ord. No. 19/20-06 , 5-26-2020)

Sec. 14-267. Savings Clause

Any prosecution which is pending on the effective date of this Ordinance and which arose from a violation of any ordinance repealed by this Ordinance, or a prosecution which is started within one year after the effective date of this Ordinance arising from a violation of an ordinance repealed by this Ordinance and which was committed prior to the effective date of this Ordinance shall be tried and determined exactly as if the Ordinance had not been repealed.

CITY OF PORTAGE PLANNING COMMISSION

**Thursday, April 6, 2023
7:00 PM Portage
Portage City Hall Council Chambers**

The City of Portage Planning Commission meeting of April 6, 2023, was called to order by Chair Corradini at 7:00 p.m.

IN ATTENDANCE

- Eric Feldt, Senior City Planner
- Catherine Kaufman, City Attorney

ROLL CALL

Mr. Feldt called the roll: Chairman Corradini (yes); Vice Chair Joshi (yes); Fries (yes); Pezzoli (yes); Baldwin (no); Adams (yes); Youngs (yes); Kasper (no); and Freiman (yes).

Motion by Commissioner Fries, seconded by Commissioner Pezzoli to excuse Commissioners Baldwin and Kasper. Motion carried 7-0.

APPROVAL OF MINUTES

1. Minutes dated March 16, 2023.

Motion by Commissioner Youngs, seconded by Commissioner Pezzoli to approve the March 16, 2023, as submitted. Motion carried 7-0.

PUBLIC HEARINGS

1. Ordinance Amendment #22/23-9: An Ordinance to amend commercial marihuana development standards within Chapter 42 Article 4.

Eric Feldt presented the City-initiated ordinance amendment consisting of four proposed changes: adding drive-throughs, establishing drive-through standards, prohibiting outdoor commercial grow facilities, and changing the spelling of the term marihuana with marijuana. Mr. Feldt indicated that this amendment was to align with new State marihuana regulation changes, to increase land use development potential of Industrial-zoned property and to be more consistent with the City's Comprehensive Plan. He identified various sections of the zoning code and included a mark up version of the zoning ordinance. Mr. Feldt indicated that, as of the date of the Planning Commission April 6, 2023, meeting, there are ten marihuana retailer/ provisioning center sites and one indoor marihuana grower. He concluded his presentation with staff's recommendation to the Planning Commission: If no additional public comment is requested by the Commission, and the Commission is supportive of the proposed ordinance amendment, staff advises the Planning Commission to recommend Ordinance Amendment #22/23-9 to amend commercial marihuana development standards to City Council be approved.

Various Commissioners discussed marihuana tax monies received by the City of Portage, the number of interested marihuana companies wishing to add drive-through services, and whether the City has a cap on marihuana retailers/ provisioning centers.

Chair Corradini opened the public hearing. No public comments received. Chair Corradini asked for support to close public hearing; Commissioner Freiman supported. Chair Corradini took voice vote of the Commission to close public hearing; unanimous support (7-0) received.

Vice Chair Joshi stated opposition to the ordinance amendment due to not wanting to make marihuana more accessible.

Motion by Commissioner Pezzoli, seconded by Commissioner Freiman to recommend to City Council approval of Ordinance Amendment #22/23-9 to amend commercial marihuana development standard. Motion carried 6-1.

SITE/FINAL PLANS

1. A Final Planned Development Site Plan for a senior housing facility at 8150 Creekside Drive.

Mr. Feldt prefaced the project with a brief background of the approved Tentative Plan which was approved by the Planning Commission and City Council, which had allowed the development to proceed with the filing of the Final Site Plan. Mr. Feldt presented various comparison images between the approved Tentative Plan and Final Plan. He indicated that the developer is proposing four minor changes in the Final Plan: adding an on-site stormwater basin, relocating the deferred parking, minor change in the southern berm, and architectural items. Mr. Feldt explained that those changes are not substantial and are allowed by the zoning code as a project progresses from Tentative Plan to Final Plan design. He identified the various applicable zoning code sections for the overall Planned Development, as well as the Tentative and Final Plan subsections. He indicated that the City's Development Review Team, consisting of various department staff, did not have any pending items or recommended conditions. Mr. Feldt concluded with staff's recommendation that the Planning Commission recommend to City Council the approval of the Final PD Site Plan for StoryPoint South, a senior housing facility, at 8150 Creekside Drive.

Various Commissioners discussed the number of proposed care services, stormwater elements, maintenance of Creekside Drive, water and sanitary sewer utilities, whether there was any history of flood, and parking elements.

Brandon Visconti, applicant's representative with CommonSail, 7927 Nemco Way Brighton, MI 48116, discussed the need for the project and addressed the project's stormwater elements.

Jeff Miller, applicant's representative with Prein & Newhof, 3355 Evergreen NE Grand Rapids, MI 49525, discussed the stormwater elements in detail.

Chair Corradini asked about the parking requirement and how it is impacted by the proposed change in deferred parking. Mr. Feldt stated that the parking requirement approved under the Tentative Plan was 192 spaces, including 25 deferred spaces. The proposed Final Site Plan consists of only 21 deferred spaces, four fewer. Mr. Feldt stated that the new proposed total parking space count of 188 is within the allowable 10% change in the zoning code.

Commission Fries asked about further reducing the parking spaces due to other similar projects. The applicant's representative indicated that the proposed parking meets the needs of the project.

Motion by Commissioner Fries, seconded by Commissioner Adams, to recommend to City Council approval of the Final PD Site Plan for StoryPoint South, a senior housing facility, at 8150 Creekside Drive. Motion carried 7-0.

NEW BUSINESS

None.

OLD BUSINESS

None.

STATEMENT OF CITIZENS

None.

STATEMENT OF COMMISSIONERS/ STAFF

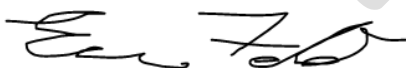
Mr. Feldt provided the following updates:

- The City of Portage Community Development Department Director position is to be combined with the vacant Deputy City Manager position and renamed as Chief Development Officer. The position will be filled by Peter Dame, former City Manager of the City of Grosse Pointe. Mr. Dame's first day with the City of Portage is expected to be April 24, 2023.
- For the Crossroads Mall subarea section of the new Master Plan process update, City staff will be meeting with various Crossroads Mall area stakeholders later in April to gain input on their future needs.
- The Community Development Department is drafting various housing-related zoning code changes recommended during the March Planning Commission workshop. These changes will be presented to the Commission during future meetings.

ADJOURNMENT

There being no further business to come before the Commission, Chair Corradini adjourned the meeting at 7:48 p.m.

Respectfully submitted,



Eric Feldt, AICP, CFM
Senior City Planner



Department of Community Development

TO: Honorable Mayor and City Council
FROM: City of Portage Planning Commission
DATE: April 11, 2023

SUBJECT: Ordinance Amendment #22/23-9: An ordinance to amend commercial marihuana development standards within Chapter 42 Article 4.

At the April 6, 2023 meeting, the Planning Commission reviewed and discussed an ordinance amendment to amend commercial marihuana development standards within Chapter 42 Article 4. The City seeks a proposed ordinance amendment that would modify several commercial marihuana development standards consistent with recent changes in the State's Cannabis Regulatory Agency (CRA) and to better position land for future development. The proposed modifications include the following:

1. Drive-through operations are currently prohibited in the City of Portage. Remove this prohibition as consistent with new CRA standards. This would allow only marihuana retailers (adult-use/ recreation), provisioning centers (medical), and microbusiness (grow, process, and sell in a single location) to have a drive-through service.
2. Establish new drive-through queuing standards for the above marihuana uses, as consistent with other City zoning drive-through businesses to best manage proper areas for queuing and general site circulation, parking.
3. Commercial marihuana growing businesses are currently allowed in Portage within the Industrial districts (I-1 & I-2) only. Marihuana can be grown indoors or outdoors. Staff proposes prohibiting outdoor growing in order to better position those valuable industrial properties for higher development opportunities. There are no proposed changes to continuing indoor marihuana growing.
4. Rename 'marihuana' to 'marijuana', consistent with the CRA.

Eric Feldt, Senior City Planner, was present to support the proposed application and explain the ordinance amendment details. There was no public comment on this item at the meeting.

The Planning Commission voted 6:1 to recommend to City Council the approval of the proposed amendment to the commercial marihuana development standards within Chapter 42 Article 4.

Sincerely,

CITY OF PORTAGE PLANNING COMMISSION

Dan Corradini
Chairman

Attachments: April 6, 2023 Planning Commission meeting minutes