

6:00 p.m. Call to Order.

Moment of Silence.

Pledge of Allegiance.

Roll Call.

Proclamations:

1. 75th Anniversary of Dianetics

Petitions and Statements of Citizens (3 mins. per speaker).

A. Consent Agenda:

1. Approve the City Council Meeting Minutes of the:
 - a. Regular Meeting of February 25, 2025.
2. Approve the Accounts Payable Register of March 11, 2025, as presented.
3. Adopt the Notice of Intent Resolution to fund construction of Fiscal Year 2024-2025 capital improvement projects, in the amount not to exceed \$3,700,000.
4. Approve a one-year agreement for comprehensive liability, property and auto fleet insurance through the Michigan Municipal Risk Management Authority (MMRMA) at a total cost not to exceed \$608,865 for the period March 1, 2025, to March 1, 2026, and authorize the Authorized Member Representative (City Manager) to execute all documents related to this action on behalf of the city.
5. Approve the three-year pricing agreement with ADP, LLC, for electronic payroll processing, time and attendance and benefits software, and hosting for \$103,015 per year for the first two years and \$105,075 for the third year and authorize the City Manager to execute all documents related to the contract on behalf of the city.
6. Approve the purchase of computing devices from CDW Government LLC for the amount of \$257,340.89, rescind the prior Council approval of purchasing the computing devices from BITS, Inc., and authorize the City Manager to execute all documents related to this action on behalf of the city.
7. Approve payment to Veolia Water Contract Operations USA, Incorporated, in the amount of \$111,736 for the South Westnedge Avenue water leak investigation and repair and authorize the City Manager to approve payment.
8. Approve the purchase of 6510 Lovers Lane in the amount of \$1.00 and authorize the City Manager to execute all documents related to this purchase on behalf of the city.
9. Accept the City of Portage Brownfield Redevelopment Plan Application, with Brownfield Redevelopment Plan Amendment No. 13, Green Development Ventures, LLC, 9581 Oakland Drive and 8150 Creekside Drive, and set a Public Hearing for March 25, 2025.
10. Authorize the City Manager to execute the Infrastructure Construction Management Agreement and approve the Master Home Building Agreement, and incorporate these documents as Exhibits B and C to the May 22, 2024 development agreement with AVB, LLC for the Stanwood Crossings project.
11. Appoint Public Safety Director Nicholas Arnold as the second City of Portage liaison to the Kalamazoo County Central Dispatch Authority (KCCDA) Board of Directors to replace Councilmember Ledbetter.
12. Establish April 29, 2025, from 2:00 to 5:30 p.m. and May 13, 2025, from 2:00 to 5:30 p.m. (if needed) for review of the proposed Fiscal Year 2025-2026 Budget.
13. Set a Special Meeting for Tuesday, May 27, 2025, at 4:00 p.m. to review Board and Commission applicants.
14. Minutes of Boards & Commissions:
 - a. Brownfield Redevelopment Corporation of October 25, 2024

15. Materials Transmitted.

16. Calendar of Meetings:

- Environmental Board: Wednesday, March 12 at 7:00 p.m. in Conference Room 1.
- Senior Citizens Advisory Board: Wednesday, March 19 at 2:30 p.m. at the Portage Zhang Senior Center.
- Planning Commission: Thursday, March 20 at 7:00 p.m. in the City Council Chambers.

B. Communications:

1. Presentation by Jane Ghosh, CEO of Discover Kalamazoo, regarding an update on tourism promotion in Portage.
2. Receive a communication from Kalamazoo County Clerk Meredith Place regarding a Resolution passed by the County Board of Commissioners amending the boundaries of the Central County Transportation Authority (CCTA), adding Comstock Township, Precinct 1 - Information Only.

C. Public Hearings:

1. Subsequent to the public hearing, consider adopting Resolution No. 3, for the West Lake Management Program Special District No. 025-Q.

D. Regular Business Agenda:

E. Unfinished Business:

1. Adopt the proposed ordinance to amend the Code of Ordinances, Chapter 1, Article 7, Section 2-252 - Attendance at meetings; and, authorize the City Administration the update the City Council policy accordingly.
2. Take final action on the appeal of the denial of a Solicitor's Permit by Ms. Rishelle Hartman of Weed Man Lawncare.

F. Council Committee Reports:

G. New Business:

H. Statements of City Council and City Manager.

Adjournment.



CITY OF PORTAGE PROCLAMATION

75th Anniversary *Dianetics: The Modern Science of Mental Health*

WHEREAS, in May 1950, American author and humanitarian L. Ron Hubbard published *Dianetics: The Modern Science of Mental Health*, about a technology to alleviate unhappiness, and psychosomatic illnesses, and create personal freedom; and

WHEREAS, this landmark work continues to relieve mental and spiritual suffering, overcome physical hardships, help individuals gain greater personal independence, and restore honesty and trust to relationships; and

WHEREAS, L. Ron Hubbard wrote: "I like to help others and count it as my greatest pleasure in life to see a person free himself of the shadows which darken his day;" and

WHEREAS, the world today is in great need of ideas and solutions.

NOW, THEREFORE, BE IT RESOLVED THAT I, Patricia M. Randall, as Mayor of the City of Portage, do hereby recognize March 13, 2025, as the 75th anniversary of the publication of this work.

Signed this 11th day of March 2025.

Patricia M. Randall, Mayor

CITY COUNCIL MEETING MINUTES FROM FEBRUARY 25, 2025

Mayor Pro Tem Jim Pearson called the Regular Meeting to order at 06:00 PM in the Council Chambers at Portage City Hall.

ROLL CALL: Councilmembers Chris Burns, Victor Ledbetter, Nicole Miller, Jihan Young, and Mayor Pro Tem Jim Pearson were present.

ABSENT: Mayor Patricia Randall and Councilmember Terry Urban.

ALSO PRESENT: City Manager Pat McGinnis, Chief Operating Officer Adam Herringa, Chief Development Officer Peter Dame, City Attorney Catherine Kaufman, and City Clerk Erica Eklov.

At the request of Mayor Pro Tem Pearson following his recent visit to the area, the audience observed a moment of silence to reflect on the Los Angeles area wildfires and subsequent destruction. Following the moment of silence, the City Council recited the Pledge of Allegiance.

PROCLAMATIONS: None.

PETITIONS AND STATEMENTS OF CITIZENS:

1. Lauren Tompkins (675 South Shore Drive) spoke as the chair of the Environmental Board to introduce a new plastic bag recycling program in partnership with the Youth Advisory Committee. She noted the bins, sponsored by NexTrex Recycling, would be available for one year at Portage City Hall, as well as both Portage Public High Schools.
2. Alan Hopkins (10510 Sudan Street) relayed comments about the Portage Road Corridor "Project 360" community input sessions and the Osterhout intersection.

CONSENT AGENDA: Mayor Pro Tem Pearson shared where the public can access the meeting agenda and asked if any would like an item removed from the Consent Agenda. Seeing no comments, motion by Young, seconded by Miller, to approve the Consent Agenda as presented. Upon a roll call vote, motion carried 5 to 0.

Approval of Minutes: Motion by Young, seconded by Miller, to approve the minutes of the Regular Meeting of February 11, 2025. Upon a roll call vote, motion carried 5 to 0.

Accounts Payable Register: Motion by Young, seconded by Miller, to approve the Accounts Payable Register of February 25, 2025, as presented. Upon a roll call vote, motion carried 5 to 0.

Computer Replacements: Motion by Young, seconded by Miller, to approve the purchase of computing devices from BITS Inc. in the amount of \$257,289.03 and authorize the City Manager to execute all documents related to this action on behalf of the city. Upon a roll call vote, motion carried 5 to 0.

Purchase of Public Works Vehicles: Motion by Young, seconded by Miller, to approve the purchase of five vehicles at a total cost of \$237,765 from Gorno Ford using the State of Michigan MiDEAL Extended Purchasing Program and authorize the City Manager to execute all documents related to these purchases on behalf of the city. Upon a roll call vote, motion carried 5 to 0.

Angling Road Microsurfacing Project - Bid Tabulation: Motion by Young, seconded by Miller, to award a construction contract for the Angling Road Microsurfacing project to Pavement Maintenance Systems, LLC, Imlay City, Michigan for an amount not to exceed \$128,695.75 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 5 to 0.

West Lake Weed Management – 2025 to 2029 Application Program: Motion by Young, seconded by Miller, to adopt Resolution No. 2, for the West Lake Management Program Special District No. 025-Q, setting a public hearing of necessity on March 11, 2025. Upon a roll call vote, motion carried 5 to 0.

Final PD Plan for 8150 Creekside Drive: Motion by Young, seconded by Miller, to approve the Creekside Final Planned Development Plan, 8150 Creekside Dr, with the condition that the applicant shall have the required stormwater agreement recorded. Upon a roll call vote, motion carried 5 to 0.

Stanwood Crossings Final PD Plan, 9617 Portage Road: Motion by Young, seconded by Miller, to approve the Stanwood Crossings Final Planned Development Plan, 9617 Portage Road. Upon a roll call vote, motion carried 5 to 0.

Closed Session Regarding Property Acquisition: Motion by Young, seconded by Miller, to meet in Closed Session immediately following "Statements of City Council and City Manager" of the regularly scheduled City Council Meeting of Tuesday, February 25, 2025, pursuant to MCL 15.268 Sec. 8(d). Upon a roll call vote, motion carried 5 to 0.

Minutes of Boards & Commissions: Motion by Young, seconded by Miller, to receive the minutes of the Environmental Board of December 11, 2024. Upon a roll call vote, motion carried 5 to 0.

Materials Transmitted: Motion by Young, seconded by Miller, to receive the Materials Transmitted of February 6, 2025. Upon a roll call vote, motion carried 5 to 0.

Calendar of Meetings: Motion by Young, seconded by Miller, to receive the Calendar of Meetings as presented. Upon a roll call vote, motion carried 5 to 0.

PUBLIC HEARINGS:

Solicitor Permit Denial Appeal: Mayor Pro Tem Pearson introduced the matter and invited Ms. Rishelle Hartman to speak regarding her appeal. She provided brief comments and handed the Council a letter she had penned regarding her appeal. Mayor Pro Tem Pearson inquired how long it had been since her program completion. Ms. Hartman responded that it would be one year on March 5, 2025. He then asked when she received the denial of her Solicitor's Permit application. She responded regarding her two application attempts. While Councilmembers continued to review her letter, Ms. Hartman introduced a friend to comment on her behalf.

Ms. Alecia Door (8451 Greenspire) relayed Ms. Hartman's efforts in recent years following prior criminal issues and spoke in favor of her character. The City Manager asked Alicia about working for the Red Cross, noting a prior familiarity with the city's tornado support.

Mayor Pro Tem Pearson then asked the City Manager to summarize new information and documents recently provided by Ms. Hartman demonstrating the coursework she's done. The Mayor Pro Tem also relayed his desire to provide the City Attorney more time to review the matter and inform the Council of potential options.

Councilmember Ledbetter highlighted his public safety background and noted he was impressed by Ms. Hartman's efforts and commended her for following the appropriate procedures and her efforts to improve her life. He relayed that he understood her challenges and that his prior police academy teachings included spokespeople conveying their life situations like Ms. Hartman's to new recruits.

Ms. Hartman stated her efforts in writing and helping others in similar life situations. She noted

her recidivism, which Councilmember Ledbetter defined for the audience.

Councilmember Young thanked Ms. Hartman for her attendance and her humility. She recommended, based on the Public Safety Director's input and the need to have the City Attorney review the new information, that the Council table a final decision for the next meeting in March. Councilmember Young expressed a desire to ensure due diligence, avoiding personal opinions for transparency.

Councilmember Burns asked about the procedure regarding the public hearing and tabling a decision. City Manager McGinnis confirmed a desire to presently close the hearing and table the decision on the appeal. Councilmember Burns expressed displeasure with the current framework of the ordinance and his desire to revise the procedure going forward. He apologized to Ms. Hartman for the appeal process.

Motion by Burns, seconded by Young, to close the public hearing. Upon a voice vote, motion carried 5 to 0. Motion by Young, seconded by Burns, to table the decision regarding Ms. Hartman's Solicitor Permit denial appeal to the regular meeting of March 11, 2025. Upon a roll call vote, motion carried 5 to 0.

COUNCIL COMMITTEE REPORTS: Councilmember Miller relayed information about the Discover Kalamazoo update with the indoor sports court facility proposed for Kalamazoo County. Councilmember Young provided an update regarding the Small Business Committee "Small Business Town Hall" event in collaboration with Southwest Michigan First.

Motion by Burns, seconded by Miller, to receive the Council Committee Reports as presented. Upon a voice vote, motion carried 5 to 0.

STATEMENTS OF CITY COUNCIL AND CITY MANAGER: Councilmember Ledbetter highlighted the 1960 student sit-in at a Woolworth's lunch counter regarding segregation, noting his parents participated. He relayed pride regarding the event, both historically and personally.

Councilmember Miller thanked the Environmental Board and Youth Advisory Committee for introducing the new plastic bag recycling program, commending the inclusion of a competition between the high schools. She then thanked Justin Williams for garnering 30 total businesses for the city's Pocket Pay gift card program.

Councilmember Young thanked the citizens who attended the Portage 360 input session for the Portage Road corridor project. She also thanked those who came to the Small Business Town Hall event. Councilmember Young relayed her attendance at Western Michigan University's "Dinner with Delegates" event that connected college students with local and state elected officials. She closed by recommending that anyone interested in government check the resources available at Kalamazoo Valley Community College and WMU.

Councilmember Burns issued a reminder about the annual Utility Rate Study Committee meeting scheduled for Monday, March 24th to discuss water and sewer rates.

City Manager McGinnis noted Assistant to the City Manager, Justin Williams' efforts with the Portage Pocket Pay program and Kara-Mo-Kee event. He then acknowledged the Department of Public Works for their snow removal efforts, as well as the Public Safety - Fire Division for addressing multiple fires the prior weekend. City Manager McGinnis highlighted several upcoming events, including a Portage Public Schools community input session for the new superintendent search, the Kalamazoo Area Transportation Study (KATS) open house for the next 6-year plan, and the ongoing Kalamazoo Restaurant Week. He closed with kudos to CDO Dame and Deputy Director of Economic Development Jonathon Halberg for hosting the Small Business Town Hall with good attendance.

Mayor Pro Tem Pearson noted three things approved under the Consent Agenda, specifically

the final plans for Stanwood Crossings and Creekside Planned Development, plus the West Lake Special Assessment renewal. He thanked the Department of Public Works staff for their recent 24-hour snow operations. Mayor Pro Tem Pearson closed with condolences to Councilmember Urban regarding the passing of his nephew.

Follow-up Action from Closed Session: Motion by Young, seconded by Miller, to authorize the City Manager to execute an agreement to purchase the property at 7716 South Westnedge Avenue as discussed in the closed session. Upon a roll call vote, motion passed 5 to 0.

ADJOURNMENT: Mayor Pro Tem Pearson adjourned the meeting at 7:12 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 March 11, 2025, 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 February 16, 2025, through March 1, 2025, and notes \$704,870.72 in automated clearing house payments, \$301,870.21 in paper checks, \$132,339.20 in auto-pay payments, and \$5,061,982.11 in electronic payments for a grand total of \$6,201,062.24.

FUNDING: Not Applicable

Attachments: 1. Accounts Payable Register of March 11, 2025

ACCOUNTS PAYABLE REGISTER
Check Dates From: 2/16/2025 to 3/01/2025

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Check Date	Check	Vendor Name	Description	Amount
Check Type: ACH Transaction				
02/21/2025	23504(A)	RANDALL, PATRICIA	REIMBURSE TRAVEL EXPENSES	833.18
02/21/2025	23505(A)	WOLF, SARAH	REIMB EXPS-ADV FINGERPRINT PROCESSING TR	518.44
02/28/2025	23506(A)	A I S CONSTRUCTION EQUIP. CO.	REPAIR & MAINTENANCE SUPPLIES	1,710.51
02/28/2025	23507(A)	A NEW LEAF	CITY HALL PLANT CARE	125.00
02/28/2025	23508(A)	ABONMARCHE CONSULTANTS, INC	ENGINEERING SERVICES	2,700.00
02/28/2025	23509(A)	ADAMS REMCO, INC.	MLK PARK KIOSK SUBSCRIPTION	400.00
02/28/2025	23510(A)	ADP, INC.	YEAR END REPORTING & W2'S	3,743.75
02/28/2025	23511(A)	ALL CITY MANAGEMENT SERVICES, INC.	CROSSING GUARD CONTRACT	3,552.48
02/28/2025	23512(A)	ALL-TRONICS, INC.	FIRE ALARM MONITORING	81.00
02/28/2025	23513(A)	ALRO STEEL CORPORATION	FABRICATION SUPPLIES	1,293.46
02/28/2025	23514(A)	AMAZON.COM SALES, INC.	MISC PATROL SUP-PD; PROG/EVENT SUP-PZSC	1,301.29
02/28/2025	23515(A)	VOID		0.00
02/28/2025	23516(A)	ANIMAL REMOVAL SERVICE, LLC	ANIMAL REMOVAL SERVICES	1,606.00
02/28/2025	23517(A)	ASCENSION BORGESS HOSPITAL	PHYSICAL EXAM	367.00
02/28/2025	23518(A)	AUNALYTICS INC	DISASTER RECOVERY SERVICES	1,918.00
02/28/2025	23519(A)	AVI SYSTEMS, INC.	AVI CABLECASTING EQUIPMENT	3,400.00
02/28/2025	23520(A)	B S & A INTERMEDIATE LLC	PERMIT APPLICATION SUB, INVENTORY MGMT SYS	5,926.00
02/28/2025	23521(A)	BALKEMA CONSTRUCTION, INC.	LEXINGTON GREEN PARK CONSTRUCTION	24,750.00
02/28/2025	23522(A)	BAREITHER, CHAD	STRATEGIC PLANNING	2,620.83
02/28/2025	23523(A)	BARRON, DIANE E	PZSC TAP CLASS INSTRUCTOR	180.00
02/28/2025	23524(A)	BATTERIES PLUS	MISC BATTERIES	15.45
02/28/2025	23525(A)	BEL-AIRE HEATING & AIR CONDITI	MI NEIGHBOR - REPLACE HVAC & DUCTWORK	20,998.00
02/28/2025	23526(A)	BIO-CARE, INC.	FIRE PHYSICALS	725.00
02/28/2025	23527(A)	BLUE CARE NETWORK-GREAT LAKES	HEALTH INSURANCE	212,922.71
02/28/2025	23528(A)	C D W GOVERNMENT, INC.	PZSC REPLACEMENT MONITOR	241.18
02/28/2025	23529(A)	CARLETON EQUIPMENT CO.	SERVICE CALL/PARTS & LABOR	1,431.95
02/28/2025	23530(A)	CHARTER COMMUNICATIONS	INTERNET SVCS	749.76
02/28/2025	23531(A)	CONSOLIDATED ELECTRICAL DIST INC	LED SPOT LIGHTS FOR CITY SIGNS	1,956.00
02/28/2025	23532(A)	CONTINENTAL LINEN SERVICES	PZSC PROGRAM & ACTIVITIES SUPPLIES	72.26
02/28/2025	23533(A)	COX, ELISA ROSE	PZSC FITNESS TRAINER	555.00
02/28/2025	23534(A)	CROWN TROPHY	PING PONG CHAMPIONSHIP TROPHIES	35.90
02/28/2025	23535(A)	CUTSHAW, JESSICA LYNN	PER DIEM-INSTRUCTOR CERT COURSE	242.00
02/28/2025	23536(A)	DATA CONSTRUCTS LLC	DNS FAILOVER SERVICES	80.50

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02/28/2025	23537(A)	DELTA DENTAL PLAN OF MICHIGAN	DENTAL INSURANCE	20,692.04
02/28/2025	23538(A)	DEMING, JONATHAN	PZSC FOOT CARE CLINIC	1,600.00
02/28/2025	23539(A)	DEPATIE FLUID POWER CO., INC.	HYDRAULIC REPAIRS	2,093.77
02/28/2025	23540(A)	EARLE, SHELIA L	PZSC FITNESS INSTRUCTOR PILATES, BARRE	1,565.00
02/28/2025	23541(A)	ENGINEERED PROTECTION SYSTEMS, INC.	CITYWIDE SECURITY QTLY MAINT, ALARM MON	22,266.63
02/28/2025	23542(A)	ESCAPE FIRE & SAFETY SERVICES, INC.	TAILGATE/WING RACKS LABOR, PARTS/MAINT	2,158.60
02/28/2025	23543(A)	EVERETT, CHIP	PER DIEM-MFIS WINTER CONFERENCE	194.00
02/28/2025	23544(A)	FELDT, ERIC	REIMB EXPS-MI STORMWATER FLOODPLAIN CONF	67.49
02/28/2025	23545(A)	FIBERS OF KALAMAZOO INC	SNOW MELT	1,462.65
02/28/2025	23546(A)	GARRISON, AUSTIN	PER DIEM-INSTRUCTOR CERT COURSE	242.00
02/28/2025	23547(A)	GLOBAL EQUIPMENT CO., INC.	OFFICE PARTITION	333.90
02/28/2025	23548(A)	GORDON WATER SYSTEMS	WATER SERVICES	488.86
02/28/2025	23549(A)	GRAINGER INC	POND AERATION SYSTEM	1,857.50
02/28/2025	23550(A)	GRIFFIN PEST SOLUTIONS	PEST CONTROL SERVICES	402.00
02/28/2025	23551(A)	HELMER, TRAVIS	PER DIEM-SMEMSIC EMS IC CONFERENCE	225.00
02/28/2025	23552(A)	INDUSCO SUPPLY CO., INC.	JANITORIAL SUPPLIES	3,012.91
02/28/2025	23553(A)	INSIGHT PUBLIC SECTOR, INC.	ADOBE PRO LICENSES	710.90
02/28/2025	23554(A)	IP CONSULTING, INC.	REPLACEMENT PHONE	234.79
02/28/2025	23555(A)	J & H OIL COMPANY	DIESEL EXHAUST FLUID	97.79
02/28/2025	23556(A)	KALAMAZOO PICKLEBALL	PZSC PICKLEBALL LEAGUE	420.00
02/28/2025	23557(A)	KEHOE, EDWARD J	PZSC FITNESS INSTRUCTOR	555.00
02/28/2025	23558(A)	KENDIG KEAST COLLABORATIVE	ZONING CODE UPDATE	18,535.40
02/28/2025	23559(A)	KURZAVA, MATTHEW STEPHEN	PZSC TAI CHI & PARKINSONS INSTRUCTOR	720.00
02/28/2025	23560(A)	LAWSON PRODUCTS, INC	SHOP SUPPLIES	40.44
02/28/2025	23561(A)	LEATHERMAN, ROBERT	PER DIEM-SMEMSIC EMS IC CONFERENCE	225.00
02/28/2025	23562(A)	LOWE'S HOME CENTER	PORTABLE LIGHTS FOR EVENTS	435.10
02/28/2025	23563(A)	MACQUEEN EQUIPMENT, LLC	FIRE REPAIR/MAINTENANCE	178.75
02/28/2025	23564(A)	MARTIN SPRING & DRIVE, INC.	SUPPORT BRACKETS	198.00
02/28/2025	23565(A)	MCLAUGHLIN, GARRETT	PZSC TOTAL INFUSION INSTRUCTOR	480.00
02/28/2025	23566(A)	MCNALLY ELEVATOR CO.	ELEVATOR MAINTENANCE	166.72
02/28/2025	23567(A)	MEJEUR ELECTRIC LLC	ELECTRICAL SERVICES-MULT LOCS	3,243.00
02/28/2025	23568(A)	MIDWEST ENERGY & COMMUNICATIONS	STREETLIGHT ENERGY COSTS	317.34
02/28/2025	23569(A)	MOTOR PARTS AND EQUIPMENT CORP	REPAIR & MAINTENANCE SUPPLIES	2,090.34
02/28/2025	23570(A)	MUNICIPAL EMERGENCY SERVICES INC	FIRE SCBA PARTS	2,926.95

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02/28/2025	23571(A)	MY GREEN MICHIGAN	MGM FOOD WASTE COMPOST SVC AGREEMENT	462.75
02/28/2025	23572(A)	NYE UNIFORM CO	MISC UNIFORMS	612.99
02/28/2025	23573(A)	O'REILLY AUTO PARTS	AUTO SUPPLIES	157.74
02/28/2025	23574(A)	ONE WAY PRODUCTS	CLEANING SUPPLIES	450.00
02/28/2025	23575(A)	ONSTAFF GROUP SERVICES LLC	TEMPORARY EMPLOYEE SERVICES	4,319.63
02/28/2025	23576(A)	ORBIS ENVIRONMENTAL CONSULTING, LLC	AUSTIN LAKE TRAIL CULTURAL ASSESS	2,015.00
02/28/2025	23577(A)	PARIS CLEANERS	LAUNDRY SERVICES	877.92
02/28/2025	23578(A)	PEARSON, GERALD	PARK FACILITY CLEANING	2,415.00
02/28/2025	23579(A)	PECKELS, CHRISTINE	PZSC YOGA INSTRUCTOR	630.00
02/28/2025	23580(A)	PETERS CONSTRUCTION CO.	HYDRANT REPAIRS	1,000.00
02/28/2025	23581(A)	PLASKO, PATRICIA MARIE	PZSC BEMOVED INSTRUCTOR	480.00
02/28/2025	23582(A)	PLAYFORD, LOUIE	REIMB EXPS-NFA CMMD/CONTROL & HMLAND SEC	433.00
02/28/2025	23583(A)	PORTAGE FIREFIGHTERS	IAFF UNION DUES FOR FEBRUARY 2025	1,961.22
02/28/2025	23584(A)	PORTAGE POLICE OFFICERS ASSOC	PPOA UNION DUES FOR FEBRUARY 2025	728.00
02/28/2025	23585(A)	POULIOT, GRETCHEN I	PZSC FITNESS INSTRUCTOR ZUMBA GOLD	350.00
02/28/2025	23586(A)	PRECISION PRINTER SERVICES INC	PRINTER SUPPORT SERVICES	671.03
02/28/2025	23587(A)	PRINTING SERVICES INC	PRINTING SERVICES	1,334.33
02/28/2025	23588(A)	REYES, JORGE	PER DIEM-SFST PRACTITIONER SCHOOL	190.00
02/28/2025	23589(A)	ROSE, SANDRA K.	PZSC CARDIO DRUMMING INSTRUCTOR	400.00
02/28/2025	23590(A)	SCAVO, TYLER	PER DIEM - SFST PRACTITIONER SCHOOL	190.00
02/28/2025	23591(A)	SEVERANCE ELECTRIC COMPANY, INC	TRAFFIC SIGNAL MAINTENANCE	4,920.00
02/28/2025	23592(A)	SIMPLIFILE LLC	DOCUMENT RECORDING FEES	133.00
02/28/2025	23593(A)	SMITH GARSON, INC.	FEDERAL ADVOCACY SERVICES	5,000.00
02/28/2025	23594(A)	SPC SPECIALTY PRODUCTS, LLC	AQUAPHALT -POT HOLE REPAIR	3,988.00
02/28/2025	23595(A)	STOUT, MELISSA JOY	PZSC CHAIR YOGA & BARRE INSTRUCTOR	600.00
02/28/2025	23596(A)	TANNER, STEVE	PER DIEM-MFIS WINTER CONFERENCE	194.00
02/28/2025	23597(A)	TELUS COMMUNICATIONS (U.S.) INC	SKYHAWK GPS ACCESS/SERVICE FEES	851.45
02/28/2025	23598(A)	TMK WORLDWIDE, LLC	METER SERVICE	1,442.59
02/28/2025	23599(A)	TRUCK & TRAILER SPECIALTIES	VEHICLE PARTS & MAINTENANCE	8,808.60
02/28/2025	23600(A)	UNIFIRST CORPORATION	HALLWAY CARPET RENTAL	175.54
02/28/2025	23601(A)	UNITED AUTO. IMPLEMENT WORKERS 2290	UAW UNION DUES FOR FEBRUARY 2025	924.18
02/28/2025	23602(A)	VEOLIA WATER CONTRACT OPERATIONS	UTILITY SYSTEM OPERATION, LIFT STATION MAINT	235,493.67
02/28/2025	23603(A)	WEST MICHIGAN INT'L LLC	REPAIR & MAINTENANCE SUPPLIES	2,286.73
02/28/2025	23604(A)	WEST MICHIGAN STAMP & SEAL, INC	PAID DATE STAMP	65.25

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Check Date	Check	Vendor Name	Description	Amount
02/28/2025	23605(A)	WIGHTMAN	ENGINEERING SERVICES - MULT LOCS	18,360.00
02/28/2025	23606(A)	WOLVERINE LAWN SERVICES, INC.	SNOWPLOWING/CROSSWALK SERVICES	14,281.00
02/28/2025	23607(A)	XEROX CORPORATION	XEROX COPIER FEES	177.58
02/28/2025	23608(A)	YOUNGS, KENNETH M	K-9 KENNELING SERVICES	200.00
Total ACH				704,870.72

Check Type: Paper

02/18/2025	329949	KALAMAZOO CONSERVATION SERVICE	YAC GREEN-A-THON/TREE CITY INITIATIVE	535.00
02/21/2025	329950	AMROCK, LLC	2024 SUMMER TAX REFUND DUE VETERAN EXEMP	5,828.39
02/21/2025	329951	CHICAGO TITLE	UTILITY BILLING REFUND OVERPAYMENT	85.19
02/21/2025	329952	EFFECTIVE FITNESS COMBATIVES	EFFECTIVE FITNESS COMBATIVES - REGISTRATION	2,498.00
02/21/2025	329953	GLEAVES, LATOYA	CATERER KARA-MO-KE BLACK HISTORY MONTH	514.00
02/21/2025	329954	JOHNSON, JAHDAL K	DJ CONSCIOUS KARA-MO-KE BLK HIST MONTH	300.00
02/21/2025	329955	RAMER, JAMES S & W F	REFUND FIRE ESCROW FUNDS	15,520.00
02/21/2025	329956	STREET, CALDIN	PERFORMER KARA-MO-KE BLK HIST MONTH	150.00
02/21/2025	329957	VERIZON WIRELESS	WIRELESS CARDS	517.49
02/28/2025	329958	ALLEGRA PRINT & IMAGING	PRINTING SERVICES	1,928.00
02/28/2025	329959	ALLEN, KAREN	PZSC TRIP REFUND 25.05.07	80.00
02/28/2025	329960	ALLIED MECHANICAL SERVICE	HVAC SERVICES	750.22
02/28/2025	329961	ANDMARK PINEFIELD CONDOS, LLC	REF DUP PMT ON FINAL UTILITY BILL	113.33
02/28/2025	329962	AT&T	ELECTRONIC COMMUNICATIONS	81.60
02/28/2025	329963	AUTOMATIC EQUIPMENT SALES & SERVICE	PZSC BUILDING MAINTENANCE	222.00
02/28/2025	329964	BAUMAN, DAVID M.	THE WINDBREAKERS CONCERT DEPOSIT	2,600.00
02/28/2025	329965	BERISH, SHARON	PZSC TRIP REFUND 25.05.07	80.00
02/28/2025	329966	BORLIK, JOHN	PZSC TRIP REFUND 25.07.31	550.00
02/28/2025	329967	BRINN, CHAUNCEY J.	CULINARY ACADEMY INSTRUCTOR FEE	360.00
02/28/2025	329968	BRONSON HEALTHCARE GROUP	LEGAL BLOOD DRAWS	600.00
02/28/2025	329969	CALHOUN COUNTY SHERIFFS OFFICE	K9 DECOY/HIGH STRESS SCENARIOS-REGISTRATION	400.00
02/28/2025	329970	CALIBER HOLDINGS LLC	VEHICLE REPAIRS	1,519.99
02/28/2025	329971	CAPITOL STRATEGIES, LLC	CONSULTING SERVICES	6,000.00
02/28/2025	329972	CB FITNESS, LLC	PZSC WATER YOGA INSTRUCTOR	832.00
02/28/2025	329973	COMMUNITY LIVING OPTIONS	COMMUNITY LIVING ASSISTANCE	12,500.00
02/28/2025	329974	CONSUMERS ENERGY - CEM	STREETLIGHTS INSTALL - KINGSBURY	400.00
02/28/2025	329975	CONSUMERS ENERGY - CEM	STREETLIGHTS INSTALL - FRIENDLY	325.00

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Check Date	Check	Vendor Name	Description	Amount
02/28/2025	329976	D L GALLIVAN INC.	COPY MACHINE USAGE CHARGES	197.13
02/28/2025	329977	DEVON TITLE AGENCY	REFUND OVERPAYMENT OF WTAX & UB	439.52
02/28/2025	329978	DIGITAL IMPACT DESIGN, INC.	SCHOOLHOUSE PLAQUE	1,529.80
02/28/2025	329979	DORRANCE FORD INC	VEHICLE REPAIR & MAINTENANCE	248.80
02/28/2025	329980	EMERGENCY VEHICLE PRODUCTS	CHANGEOVER-POLICE VEH, REPAIR & MAINT	31,216.36
02/28/2025	329981	ENERTEMP, INC.	PZSC SOFTWARE MAINTENANCE	1,300.00
02/28/2025	329982	FADER EQUIPMENT, INC.	STEEL BLADES	284.30
02/28/2025	329983	FERGUSON US HOLDINGS, INC	ANODE RODS	332.55
02/28/2025	329984	FIRST REFORMED CHURCH OF PORTAGE	PZSC CHURCH ANNUAL PARKING FEE	1,200.00
02/28/2025	329985	FLOCK GROUP INC	ALPR CAMERAS ANNUAL MAINTENANCE	78,500.00
02/28/2025	329986	GALLS PARENT HOLDINGS, LLC	FIRE UNIFORMS	434.80
02/28/2025	329987	GIS WORKSHOP LLC	PUBWORKS-ASM SUBSCRIPTION	6,634.00
02/28/2025	329988	GORDON FOOD SERVICE	MPIR CONCESSION, PZSC PROG/EVENT SUPPLIES	488.04
02/28/2025	329989	GREATER KALAMAZOO FOP LODGE 98	FOP PORTIONS OF PPOA UNION DUES-FEB 2025	3,514.88
02/28/2025	329990	HICKS, JEFFREY	VACTOR REPAIR PARTS	1,062.60
02/28/2025	329991	HOME DEPOT	REPAIR & MAINTENANCE SUPPLIES	3,024.37
02/28/2025	329992	VOID		0.00
02/28/2025	329993	VOID		0.00
02/28/2025	329994	HOOVER, THELMA J.	MAILBOX REIMBURSEMENT	44.00
02/28/2025	329995	INTAX, INC	REF OVERPAYMENT OF TAXES FOR 00022-105-O	495.48
02/28/2025	329996	J & J LOCKSMITHS	ELEC STRIKE FOR FOB ENTRY, KEYS	549.00
02/28/2025	329997	JOZWIK, HEATHER	REIMB-MICHIGAN FIRE INSPECTORS SOCIETY	40.00
02/28/2025	329998	K2AVL INC	BHM EVENT - SPEAKERS FOR OVERFLOW ROOM	250.00
02/28/2025	329999	KALAMAZOO COUNTY HEALTH & COMMUNITY	HOUSEHOLD HAZARDOUS WASTE PROGRAM	41.99
02/28/2025	330000	KALAMAZOO COUNTY TREASURER	COLONIAL ACRES JANUARY 2025 MOBILE HOME	252.50
02/28/2025	330001	KALAMAZOO LAWN & GARDEN EQUIPMENT	HANDHELD PLOW CONTROLLERS, SVC REPAIR	989.99
02/28/2025	330002	KENDALL, MACKENZIE	CANDLE MAKING WORKSHOP	625.00
02/28/2025	330003	KIESER & ASSOCIATES, LLC	COMPOST SITE - ANNUAL WELL TESTING	885.00
02/28/2025	330004	KZOO TIRE COMPANY	POLICE VEHICLE REPAIR/MAINTENANCE	54.50
02/28/2025	330005	L FARNUM INCORPORATED	LOBBY FINANCIAL REPORT FEES	200.00
02/28/2025	330006	LARCINESE, WYATT	UST "A" AND "B" OPERATOR SERVICES	175.00
02/28/2025	330007	LIFE LINE SCREENING	SCHRIER BUILDING DEPOSIT REFUND	150.00
02/28/2025	330008	LOCKWOOD, MAX	THE INSIDERS CONCERT DEPOSIT	2,190.50
02/28/2025	330009	MCKENNA ASSOCIATES INC.	LAKE CENTER DISTRICT REZONING PROJECT	20,824.00

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Check Date	Check	Vendor Name	Description	Amount
02/28/2025	330010	METHODICAL MOVES	INTERIOR & EXTERIOR VEHICLE CLEAN	190.00
02/28/2025	330011	MI ASSOC. OF CHIEFS OF POLICE	MACP MEMBERSHIP DUES 2025	100.00
02/28/2025	330012	MI ASSOC. OF CHIEFS OF POLICE	MACP ADMIN ASSISTANT CONFERENCE	175.00
02/28/2025	330013	MICH MUNICIPAL POLICE & FIRE REPAIR	POLICE VEHICLE REPAIR & MAINTENANCE	1,944.88
02/28/2025	330014	MICHIGAN ASSOC OF MUNICIPAL CLERKS	MIPMC ADVANCED CERTIFICATION APPLICATION	90.00
02/28/2025	330015	MICHIGAN SECURITY AND LOCK LLC	MISC LOCK & KEY SERVICES	349.00
02/28/2025	330016	MILAN-CORCORAN, APRAL	YOGA WORKSHOP WITH CANDLES	150.00
02/28/2025	330017	MLIVE MEDIA GROUP	AFFIDAVIT & NOTICES	2,776.66
02/28/2025	330018	NORTHERN PUMP & WELL, INC.	PUMP & MOTOR REHAB - AMBERLY #1 WELL	44,401.08
02/28/2025	330019	OFFICE DEPOT, INC.	OFFICE SUPPLIES	639.93
02/28/2025	330020	OLD DAYS ENTERTAINMENT, LLC	OLD DAYS CHICAGO CONCERT DEPOSIT	2,090.50
02/28/2025	330021	PORTAGE ROTARY	ROTARY DUES 2025	210.53
02/28/2025	330022	RATHCO SAFETY SUPPLY, INC.	PARKS SIGNAGE	400.00
02/28/2025	330023	RUSCH PRODUCTIONS INC	CHET ALLEN OPENER DEPOSIT	300.00
02/28/2025	330024	SCHNEIDER, RONALD ALBERT	ELIMINATOR CONCERT DEPOSIT	2,375.00
02/28/2025	330025	SHERWIN WILLIAMS	PAINT FOR TRASH CANS	179.80
02/28/2025	330026	SMART SOURCE, LLC	PRINTING SERVICES	37.56
02/28/2025	330027	SMEMSIC	EMS IC CONFERENCE REGISTRATION	919.00
02/28/2025	330028	SPARTAN DISTRIBUTORS INC.	REPAIR & MAINTENANCE SUPPLIES	27.42
02/28/2025	330029	SPIRIT SHOPPE, INC.	FIRE UNIFORMS	155.00
02/28/2025	330030	STANTEC CONSULTING SERVICES INC	PARKS INVASIVE SPECIES REMOVAL	3,712.28
02/28/2025	330031	STATE OF MICHIGAN	SOR REGISTRATION	240.00
02/28/2025	330032	STEVENS, SHARON	PZSC TRIP REFUND 25.05.29	135.00
02/28/2025	330033	STRYKER SALES CORPORATION	FIRE EMS SUPPLIES	780.00
02/28/2025	330034	SUITS U TAILOR SHOP INC	FIRE UNIFORMS	50.00
02/28/2025	330035	SUN TITLE AGENCY OF MI, LLC	REFUND OVERPAYMENT WINTER TAX24	161.79
02/28/2025	330036	SWENSON, CONNIE	PZSC TRIP REFUND 25.03.09 & 25.05.04	250.00
02/28/2025	330037	SYTEK AND DAVIES LLC	PZSC PIANO TUNE-UP	195.00
02/28/2025	330038	T-MOBILE USA INC	MISC CELL PHONE CHARGES	3,352.87
02/28/2025	330039	T-MOBILE USA INC	MISC T-MOBILE SERVICE	115.00
02/28/2025	330040	TAYLOR, KRISTINE	SCHRIER PAVILION FEES REFUND	100.00
02/28/2025	330041	TEAGUE, FRANKIE	MAILBOX REIMBURSEMENT	44.00
02/28/2025	330042	TEAM SUPPORT SERVICES, LLC	PROJECT MGT AND STORAGE	1,035.00
02/28/2025	330043	THE BANCORP BANK, NA	INFORMATION REQUEST	80.00

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Check Date	Check	Vendor Name	Description	Amount
02/28/2025	330044	TWELVE BASKETS FOOD PANTRY	FOOD PANTRY SERVICES CDBG HPS	2,500.00
02/28/2025	330045	UNITED PARCEL SERVICE	UPS WEEKLY	49.02
02/28/2025	330046	US DIGITAL DESIGNS, INC.	FIRE CAPITAL OUTLAY	2,877.00
02/28/2025	330047	USPS	PZSC BULK MAIL	980.08
02/28/2025	330048	USPS	REFILL POSTAGE METER	5,000.00
02/28/2025	330049	VARIPHY INC.	VARIPHY SUBSCRIPTION	2,880.90
02/28/2025	330050	WENSTRUP, CATHY	PZSC TRIP REFUND 25.03.12	50.00
02/28/2025	330051	WILD, JED	REIMB-BREAKFAST FOR FD	111.03
02/28/2025	330052	WILLIAMS, JUSTIN	REIMB EXPS-MME WINTER INSTITUTE	386.50
02/28/2025	330053	WOLZ, MARI-CLARE	SCHOOLHOUSE DEPOSIT REFUND	50.00
02/28/2025	330054	WSMH, INC.	ADVERTISING FEES	3,499.78
02/28/2025	330055	ZOLMAN TIRE INC.	TIRES FOR FLEET VEHICLES	2,259.28
Total Paper Checks				301,870.21
Check Type: Auto-Pay Payments				
02/18/2025		MISSIONSQUARE	EMPLOYER RETIREMENT CONTRIBUTIONS	79,417.61
02/18/2025		CONSUMERS ENERGY	GAS-ELECTRIC	388.31
02/21/2025		MISSIONSQUARE	EMPLOYEE RETIREMENT WITHHOLDINGS	52,087.04
02/24/2025		FINTECHEFT	PZSC PROGRAM SUPPLIES	120.24
02/27/2025		CONSUMERS ENERGY	GAS-ELECTRIC	326.00
Total Auto-Pay Payments				132,339.20
Check Type: Electronic Payments				
02/14/2025		MULTIPLE	WEEKLY TAX DISBURSEMENT 2/7/25	1,398,698.57
02/21/2025		MULTIPLE	WEEKLY TAX DISBURSEMENT 2/14/25	3,389,208.54
02/21/2025		HUNTINGTON NATIONAL BANK	DEBT SERVICE FEES	500.00
02/25/2025		COUNTY NATIONAL BANK	INVEST PURCHASE	250,025.00
02/28/2025		HUNTINGTON NATIONAL BANK	DEBT SERVICE PAYMENTS	23,550.00
Total Electronic Payments				5,061,982.11
Grand Total				6,201,062.24

TO: Honorable Mayor and City Council

FROM: Pat McGinnis, City Manager

SUBJECT: Adoption of Bond Resolution

SUPPORTING PERSONNEL: Lauren VanderVeen, Finance Director

ACTION RECOMMENDED: Adopt the Notice of Intent Resolution to fund the construction of Fiscal Year 2024-2025 capital improvement projects in an amount not to exceed \$3,700,000.

The 2024-2030 Capital Improvement Program (CIP) budget includes bond proceeds as part of the total revenue to fund projects each fiscal year. Bonding for projects approved during Fiscal Year 2024-2025 is necessary to ensure a solid foundation for the CIP fund.

CIP projects considered for this issuance of bonds include the cost to design, acquire, and construct certain capital improvements, including, without limitation, improvements to the city's street systems, base construction and reconstruction, paving and repaving, storm sewer and drainage improvements, curb and gutter, signage, traffic signal replacement and restoration; fiber network improvements; trailway improvements, reconstructing and repairing trailways; public safety improvements, fire station facility improvements and renovations; parking lot improvements, and other capital improvements the city shall determine to make.

The issuance of bonds in an amount of up to \$3,700,000 will be the funding mechanism to pay for the above 2024-2025 CIP projects. In Fiscal Year 2024-2025, approximately \$6.3 million in debt principal will be paid and redeemed. With the addition of the new debt, total debt will decrease by \$2.6 million from the prior fiscal year to an overall balance of approximately \$45.2 million.

The City of Portage Bond Counsel, Dickinson Wright, prepared the attached bond resolution. If approved, the resolution approving the Notice of Intent to issue Capital Improvement Bonds will be published. A resolution authorizing the issuance of the Capital Improvement Bonds, Series 2025, and approving the Undertaking to Provide Continuing Disclosure will be presented at the April 15, 2025, City Council meeting. It is recommended that City Council approve the resolution approving the Notice of Intent to Issue Capital Improvement Bonds in an amount not to exceed \$3,700,000.

FUNDING: N/A

Attachments: 1. Notice of Intent Resolution CIP 2025

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

Resolution No. _____

**RESOLUTION TO PURCHASE, ACQUIRE AND CONSTRUCT
CAPITAL IMPROVEMENTS AND TO PUBLISH
NOTICE OF INTENT TO ISSUE MUNICIPAL SECURITIES**

Minutes of a regular meeting of the City Council of the City of Portage, Kalamazoo County, Michigan, held in the City Hall on March 11, 2025, at _____ p.m. local time.

PRESENT: _____

ABSENT: _____

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

WHEREAS, the City Council deems it to be in the best interest of the City of Portage (the “City”) to design, acquire, and construct certain capital improvements, including without limitation, improvements to the City’s Street Systems, including, without limitation, base construction and reconstruction, paving and repaving, storm sewer and drainage improvements, including without limitation, curb and gutter, signage, traffic signal replacement and restoration; fiber network improvements; railway improvements, including without limitation constructing, reconstructing and repairing railways; public safety improvements, including without limitation, fire station facility improvements and renovations; park parking lot improvements, including, without limitation, removal of asphalt, paving and repaving; and other capital improvements the City shall determine to make, and to pay the costs of issuance of municipal securities (the “Improvements”) and to finance the Improvements by the issuance of municipal securities which pledge the City’s limited tax general obligation pursuant to Section 517 of Act 34, Public Acts of Michigan, 2001, as amended (“Act 34”); and

WHEREAS, the City may proceed to acquire the Improvements prior to the issuance of the municipal securities; and

WHEREAS, the City may incur substantial capital expenditures for the Improvements prior to the issuance of the municipal securities and desires to be reimbursed for such expenditures from the proceeds of the municipal securities; and

WHEREAS, pursuant to Section 517 of Act 34, it is necessary to publish a Notice of Intent to Issue Municipal Securities for the Improvements.

NOW, THEREFORE, BE IT RESOLVED that:

1. The City Council hereby determines to purchase, acquire, and construct the Improvements and to pay for the cost through the issuance of one or more series of municipal

securities, which pledge the City's limited tax full faith and credit, pursuant to Section 517 of Act 34, in an amount of not to exceed \$3,700,000 (the "Municipal Securities").

2. A Notice of Intent to Issue Municipal Securities be published in accordance with Section 517 of Act 34, and the City Clerk is authorized and directed to publish the Notice of Intent to Issue Municipal Securities in a newspaper of general circulation in the City, which Notice shall be substantially in the form as set forth on Exhibit A attached hereto with such changes as are approved by the City Manager, and shall be at least one-quarter (1/4) page size in the newspaper.

3. The City may proceed to acquire and construct the Improvements using available funds of the City from the general fund, a fund for the general operations of the City, the street fund, a fund for the improvement of streets, and other funds of the City.

4. At such time as the City issues the Municipal Securities for the long-term financing of the acquisition of the Improvements, the City shall be reimbursed for its expenditures for the Improvements out of the proceeds of the Municipal Securities.

5. This resolution and the expression of intent to seek reimbursement from future proceeds of the Municipal Securities is intended to satisfy the requirements of Section 150 of the Internal Revenue Code of 1986, as amended.

6. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution be and the same are hereby rescinded.

YEAS: _____

NAYS: _____

ABSTAIN: _____

RESOLUTION DECLARED ADOPTED.

Erica Eklov, Clerk

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 March 11, 2025, and that the public notice of the meeting was given pursuant to Act 267, Public Acts of Michigan, 1976, as amended.

Dated: March 11, 2025

Erica Eklov, Clerk

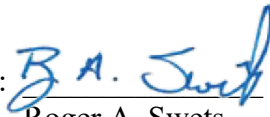
Approved as to Form: By: 
Roger A. Swets

EXHIBIT A

[NOTE TO PUBLISHER - PUBLICATION MUST BE 1/4 PAGE SIZE]

NOTICE OF INTENT TO ISSUE MUNICIPAL SECURITIES TO THE ELECTORS OF THE CITY OF PORTAGE

PLEASE TAKE NOTICE that the City Council of the City of Portage (the “City”) intends to issue municipal securities in one or more series, in an amount of not to exceed \$3,700,000 (the “Municipal Securities”).

The Municipal Securities shall be issued for the purpose of defraying the cost to design, acquire and construct certain capital improvements, including without limitation, improvements to the City’s Street Systems, including, without limitation, base construction and reconstruction, paving and repaving, storm sewer and drainage improvements, including without limitation, curb and gutter, signage, traffic signal replacement, and restoration; fiber network improvements; trailway improvements, including without limitation constructing, reconstructing and repairing trailways; public safety improvements, including without limitation, fire station facility improvements and renovations; park parking lot improvements, including, without limitation, removal of asphalt, paving and repaving; and other capital improvements the City shall determine to make and to pay the costs of issuance of municipal securities and capitalized interest, if any.

The Municipal Securities of this issue shall mature within the maximum terms permitted by law with interest on the unpaid balance at a rate to be determined upon the sale of the Municipal Securities, but in no event to exceed the maximum rate permitted by law. The Municipal Securities shall be issued pursuant to Act 34, Public Acts of Michigan, 2001, as amended (“Act 34”).

SOURCE OF PAYMENT

The principal of and interest on the Municipal Securities will be limited tax full faith and credit general obligations of the City, payable from any available funds of the City. Pursuant to this pledge of its limited tax full faith and credit, the City will be obligated to levy such ad valorem taxes upon all taxable property in the City as shall be necessary to make the payments of principal and interest on the Municipal Securities, which taxes, however, will be limited by applicable constitutional, statutory and charter limitations on the taxing power of the City.

RIGHT OF REFERENDUM

This notice is given, by order of the City Council of the City, to and for the benefit of the electors of the City in order to inform them of their right to petition for a referendum upon the question of the issuance of the Municipal Securities. The Municipal Securities will be issued, without submitting such a question to a vote of the electors, unless within 45 days after the date of publication of this notice a petition requesting a referendum upon such question, signed by not less than 10% or 15,000 of the registered electors residing within the City, whichever is the lesser, shall have been filed with the undersigned City Clerk. In the event that such a petition is filed, the Municipal Securities will not be issued unless and until the issuance thereof shall have been approved by the vote of a majority of the electors of the City qualified to vote and voting thereon at a general or special election.

This Notice is published pursuant to the requirements of Section 517 of Act 34.

Erica Eklov, Clerk
City of Portage

TO: Honorable Mayor and City Council

FROM: Pat McGinnis, City Manager

SUBJECT: Comprehensive Liability, Property and Auto Fleet Insurance

SUPPORTING PERSONNEL: Victoria Barboza, Purchasing Manager

ACTION RECOMMENDED: Approve a one-year agreement for comprehensive liability, property and auto fleet insurance through the Michigan Municipal Risk Management Authority (MMRMA) at a total cost not to exceed \$608,865 for the period March 1, 2025, to March 1, 2026, and authorize the Authorized Member Representative (City Manager) to execute all documents related to this action on behalf of the city.

The City of Portage has been insured by the Michigan Municipal Risk Management Authority (MMRMA) for comprehensive liability, property, and auto fleet insurance since 1984. The MMRMA has quoted a one-year renewal rate for the period March 1, 2025, to March 1, 2026, of \$608,865, which includes \$15 million of liability coverage and \$75,000 of self-insurance retention coverage (the dollar amount that must be paid by the city before the insurance policy will respond to a liability loss). The renewal rate represents an increase of 6.5% from the premium cost paid for the period March 1, 2024, to March 1, 2025, of \$571,660.

A distribution of assets is expected from MMRMA in the next four to five months, which will be based on favorable claim experience by the city and investment income earned by MMRMA on its assets. The exact amount is not yet known; however, the distribution received over the past five years averaged \$120,810 per year. A summary of MMRMA insurance premiums and distribution of assets for the past five years is shown below.

<u>Year</u>	<u>Premium</u>	<u>Distribution of Assets</u>	<u>Total Premium After Distribution</u>
2020	\$499,352	\$206,976	\$292,376
2021	\$504,273	\$99,741	\$404,532
2022	\$530,068	\$112,692	\$417,376
2023	\$547,680	\$94,665	\$453,015
2024	\$571,660	\$89,975	\$481,685

It is therefore recommended that City Council approve a one-year agreement for comprehensive liability, property, and auto fleet insurance through the MMRMA at a total cost not to exceed \$608,865 for the period March 1, 2025, to March 1, 2026, and authorize the Authorized Member Representative (City Manager) to execute all documents related to this action on behalf of the city.

FUNDING: Funds have been programmed for insurance costs in the FY 2024 - 2025 budget, with the balance to be included in the FY 2025 - 2026 budget.

Attachments:

1. MMRMA Coverage Proposal
2. Premium Breakdown

MICHIGAN MUNICIPAL RISK MANAGEMENT AUTHORITY COVERAGE PROPOSAL

Member:	City of Portage	Proposal No: Q000014873
Date of Original Membership:	March 10, 1986	
Proposal Effective Dates:	March 01, 2025 To March 01, 2026	
Member Representative:	Patrick McGinnis	Telephone #: (269) 329-4400
Regional Risk Manager:	Ibex Insurance Services	Telephone #: (248) 538-0470

A. Introduction

The Michigan Municipal Risk Management Authority (hereinafter "MMRMA") is created by authority granted by the laws of the State of Michigan to provide risk financing and risk management services to eligible Michigan local governments. MMRMA is a separate legal and administrative entity as permitted by Michigan laws. **City of Portage** (hereinafter "Member") is eligible to be a Member of MMRMA. **City of Portage** agrees to be a Member of MMRMA and to avail itself of the benefits of membership.

City of Portage is aware of and agrees that it will be bound by all of the provisions of the Joint Powers Agreement, Coverage Documents, MMRMA rules, regulations, and administrative procedures.

This Coverage Proposal summarizes certain obligations of MMRMA and the Member. Except for specific coverage limits, attached addenda, and the Member's Self Insured Retention (SIR) and deductibles contained in this Coverage Proposal, the provisions of the Joint Powers Agreement, Coverage Documents, reinsurance agreements, MMRMA rules, regulations, and administrative procedures shall prevail in any dispute. The Member agrees that any dispute between the Member and MMRMA will be resolved in the manner stated in the Joint Powers Agreement and MMRMA rules.

B. Member Obligation - Deductibles and Self Insured Retentions

City of Portage is responsible to pay all costs, including damages, indemnification, and allocated loss adjustment expenses for each occurrence that is within the Member's Self Insured Retention (hereinafter the "SIR"). **City of Portage's** SIR and deductibles are as follows:

Table I
Member Deductibles and Self Insured Retentions

COVERAGE	DEDUCTIBLE	SELF INSURED RETENTION
Liability	N/A	\$75,000 Per Occurrence
Vehicle Physical Damage	\$1,000 Per Vehicle	\$15,000 Per Vehicle \$30,000 Per Occurrence
Fire/EMS Replacement Cost	\$1,000 Per Occurrence	N/A
Property and Crime	\$1,000 Per Occurrence	N/A
Sewage System Overflow	N/A	\$75,000 Per Occurrence

The member must satisfy all deductibles before any payments are made from the Member's SIR or by MMRMA.

Member's Motor Vehicle Physical Damage deductible applies, unless the amount of the loss exceeds the deductible. If the amount of loss exceeds the deductible, the loss including deductible amount, will be paid by MMRMA, subject to the Member's SIR.

The **City of Portage** is afforded all coverages provided by MMRMA, except as listed below:

1. Specialized Emergency Response Expense Recovery Coverage
- 2.
- 3.
- 4.

All costs including damages and allocated loss adjustment expenses are on an occurrence basis and must be paid first from the Member's SIR. The Member's SIR and deductibles must be satisfied fully before MMRMA will be responsible for any payments. The most MMRMA will pay is the difference between the Member's SIR and the Limits of Coverage stated in the Coverage Overview.

City of Portage agrees to maintain the Required Minimum Balance as defined in the Member Financial Responsibilities section of the MMRMA Governance Manual. The Member agrees to abide by all MMRMA rules, regulations, and administrative procedures pertaining to the Member's SIR.

C. MMRMA Obligations - Payments and Limits of Coverage

After the Member's SIR and deductibles have been satisfied, MMRMA will be responsible for paying all remaining costs, including damages, indemnification, and allocated loss adjustment expenses to the Limits of Coverage stated in Table II. The Limits of Coverage include the Member's SIR payments.

The most MMRMA will pay, under any circumstances, which includes payments from the Member's SIR, per occurrence, is shown in the Limits of Coverage column in Table II. The Limits of Coverage includes allocated loss adjustment expenses.

Table II
Limits of Coverage

Liability and Motor Vehicle Physical Damage	Limits of Coverage Per Occurrence		Annual Aggregate	
	Member	All Members	Member	All Members
1 Liability	15,000,000	N/A	N/A	N/A
2 Judicial Tenure	N/A	N/A	N/A	N/A
3 Sewage System Overflows	500,000	N/A	500,000	N/A
4 Volunteer Medical Payments	25,000	N/A	N/A	N/A
5 First Aid	2,000	N/A	N/A	N/A
6 Vehicle Physical Damage	1,500,000	N/A	N/A	N/A
7 Uninsured/Underinsured Motorist Coverage (per person)	100,000	N/A	N/A	N/A
Uninsured/Underinsured Motorist Coverage (per occurrence)	250,000	N/A	N/A	N/A
8 Michigan No-Fault	Per Statute	N/A	N/A	N/A
9 Terrorism	5,000,000	N/A	N/A	5,000,000

Property and Crime	Limits of Coverage Per Occurrence		Annual Aggregate	
	Member	All Members	Member	All Members
1 Buildings and Personal Property	104,666,239	350,000,000	N/A	N/A
2 Personal Property in Transit	2,000,000	N/A	N/A	N/A
3 Unreported Property	5,000,000	N/A	N/A	N/A
4 Member's Newly Acquired or Constructed Property	10,000,000	N/A	N/A	N/A
5 Fine Arts	2,000,000	N/A	N/A	N/A
6 Debris Removal (25% of Insured direct loss plus)	25,000	N/A	N/A	N/A
7 Money and Securities	1,000,000	N/A	N/A	N/A
8 Accounts Receivable	2,000,000	N/A	N/A	N/A
9 Fire Protection Vehicles, Emergency Vehicles, and Mobile Equipment (Per Unit)	5,000,000	10,000,000	N/A	N/A
10 Fire and Emergency Vehicle Rental (12 week limit)	2,000 per week	N/A	N/A	N/A
11 Structures Other Than a Building	20,226,400	N/A	N/A	N/A
12 Dam/Dam Structures/Lake Level Controls	0	N/A	N/A	N/A
13 Transformers	2,500,000	N/A	N/A	N/A
14 Storm or Sanitary Sewer Back-Up	1,000,000	N/A	N/A	N/A
15 Marine Property	1,000,000	N/A	N/A	N/A
16 Other Covered Property	20,000	N/A	N/A	N/A
17 Income and Extra Expense	5,000,000	N/A	N/A	N/A
18 Blanket Employee Fidelity	1,000,000	N/A	N/A	N/A
19 Faithful Performance	Per Statute	N/A	N/A	N/A
20 Earthquake	5,000,000	N/A	5,000,000	100,000,000
21 Flood	5,000,000	N/A	5,000,000	100,000,000
22 Terrorism	50,000,000	50,000,000	N/A	N/A

Table III

Network and Information Security Liability, Media Injury Liability, Network Security Loss, Breach Mitigation Expense, PCI Assessments, Social Engineering Loss, Reward Coverage, Telecommunications Fraud Reimbursement, Extortion.			
	Limits of Coverage Per Occurrence/Claim	Deductible Per Occurrence/Claim	Retroactive Date
	\$2,000,000		
Coverage A Network and Information Security Liability: Regulatory Fines:	Each Claim Included in limit above Each Claim Included in limit above	\$25,000 Each Claim	7/1/2013
Coverage B Media Injury Liability	Each Claim Included in limit above	\$25,000 Each Claim	7/1/2013
Coverage C Network Security Loss Network Security Business Interruption Loss:	Each Unauthorized Access Included in limit above Each Business Interruption Loss Included in limit above	\$25,000 Each Unauthorized Access Retention Period of 72 hours of Business Interruption Loss	Occurrence
Coverage D Breach Mitigation Expense:	Each Unintentional Data Compromise Included in limit above	\$25,000 Each Unintentional Data Compromise	Occurrence
Coverage E PCI Assessments:	Each Payment Card Breach \$1,000,000 Occ./\$1,000,000 Agg. Included in limit above	\$25,000 Each Payment Card Breach	Occurrence
Coverage F Social Engineering Loss:	Each Social Engineering Incident \$100,000 Occ./\$100,000 Agg. Included in limit above	\$25,000 Each Social Engineering Incident	Occurrence
Coverage G Reward Coverage	Maximum of 50% of the Covered Claim or Loss; up to \$25,000 Included in Limit above	Not Applicable	Occurrence
Coverage H Telecommunications Fraud Reimbursement	\$25,000 Included in limit above	Not Applicable	Occurrence
Coverage I Extortion Coverage	Each Claim Included in limit above	\$25,000 Each Extortion Loss	Occurrence

Annual Aggregate Limit of Liability

Each Member Aggregate	All Members Aggregate
\$2,000,000	\$17,500,000

The Each Member Aggregate Limit of Liability for the combined total of all coverage payments of MMRMA and MCCRMA shall not exceed \$2,000,000 per Member for all Subjects of Coverage in any Coverage Period, regardless of the number of coverage events.

The All Member Aggregate Limit of Liability for the combined total of all coverage payments of MMRMA and MCCRMA shall not exceed \$17,500,000 for All Members for all Subjects of Coverage in any Coverage Period, regardless of the number of Members or the number of coverage events.

It is the intent of MMRMA that the coverage afforded under the Subjects of Coverage be mutually exclusive. If however, it is determined that more than one Subject of Coverage applies to one coverage event ensuing from a common nexus of fact, circumstance, situation, event, transaction, or cause, then the largest of the applicable Deductibles for the Subjects of Coverage will apply.

Table IV**Specialized Emergency Response Expense Recovery Coverage****Limits of Coverage**

Specialized Emergency Response Expense Recovery	Limits of Coverage per Occurrence		Annual Aggregate	
	Member	All Members	Member	All Members
	N/A	N/A	N/A	N/A

Table V**Specialized Emergency Response Expense Recovery Coverage****Deductibles**

Specialized Emergency Response Expense Recovery	Deductible per Occurrence
	Member
	N/A

City of Portage

To March 01, 2026

Coverages per Member Coverage Overview:	\$608,865
Stop Loss Coverage:	\$0
Member Loss Fund Deposit:	\$0
TOTAL ANNUAL CONTRIBUTIONS:	\$608,865

1. Limited Liability Coverage For Use or Operations of Unmanned Aircraft

This document is for the purpose of quotation only and does not bind coverage in the Michigan Municipal Risk Management Authority, unless accepted and signed by both the authorized Member Representative and MMRMA Representative below.

MMRMA

City of Portage

Q000014873

C. J.

Member Representative

MMRMA Representative

3-3-2025

Date

Date

ADDENDUM

LIMITED LIABILITY COVERAGE FOR USE OR OPERATIONS OF UNMANNED AIRCRAFT (Optional)

This addendum modifies the Liability and Motor Vehicle Physical Damage Coverage Document

A. LIMITATIONS OF COVERAGE, PROCEDURES, EXCLUSIONS, DEFINITIONS.

1. MMRMA will pay for any loss as defined in Sections 1 and 2 of the Liability and Motor Vehicle Physical Damage Coverage Document, caused by the use or operation of an Unmanned Aircraft, the actual loss up to a \$1,000,000 limit per occurrence and subject to a \$2,000,000 annual member aggregate.
2. The Member Duties, Responsibilities, Other Conditions stated in Section 7 of the Liability and Motor Vehicle Physical Damage Coverage Document shall apply to Limited Liability Coverage for use or operations of Unmanned Aircraft.
3. As respects this Limited Liability Coverage for Use or Operations of Unmanned Aircraft Addendum, Section 7; Member Duties, Responsibilities, Other Conditions, of the Liability and Motor Vehicle Physical Damage Coverage Document is amended to include the following:

P. FAA COMPLIANCE

The terms of this Addendum apply only if the Member is in compliance with all FAA rules and regulations governing the use or operation of an unmanned aircraft, at time of occurrence.

4. The Liability and Motor Vehicle Physical Damage Coverage Document Section 4, Definitions, shall apply to this Limited Liability Coverage For Use Or Operation Of An Unmanned Aircraft Addendum.
5. As respects this Limited Liability Coverage For Use Or Operations Of Unmanned Aircraft Addendum, Section 2; Exclusion C, of the Liability and Motor Vehicle Physical Damage Coverage Document is deleted in its entirety and replaced by the following:

EXCLUSIONS

- C. Ownership, maintenance, loading or unloading, use or operation of any aircraft (other than unmanned aircraft), airfields, or runways; watercraft over 75 feet in length;

Period: 03/01/2025 to 03/01/2026

LIMITED LIABILITY COVERAGE FOR USE OR OPERATIONS OF UNMANNED AIRCRAFT
(Optional)

Accepted By:
City of Portage

Member ID:
1049

MMRMA

Member Representative

Date



MMRMA Representative

3-3-2025

Date

RISK

MICHIGAN MUNICIPAL
RISK MANAGEMENT
A U T H O R I T Y

March 1, 2025

Patrick McGinnis
City of Portage
7900 South Westnedge Avenue
Portage, MI 49002

Dear Patrick McGinnis,

The following is a breakout of annual contribution of your coverage with the Michigan Municipal Risk Management Authority (MMRMA) for the policy period March 1, 2025 to March 1, 2026.

Automobile Liability & Vehicle Physical Damage		\$144,964
28 Private Passenger	\$18,403	
25 Police	\$19,573	
20 Police "Other"	\$12,687	
73 Trucks	\$37,763	
1 Motorcycle	\$352	
6 Fire	\$56,186	
Sewer Liability Coverage		\$8,839
Police Professional Liability		\$205,396
Public Officials Liability		\$64,151
All Other Liability		\$27,558
Property		\$157,957
Total Contribution		\$608,865

If you have any questions or if I can be of further assistance, please call.

Sincerely,



Craig Manser
Regional Risk Manager

TO: Honorable Mayor and City Council

FROM: Pat McGinnis, City Manager

SUBJECT: ADP Payroll Processing, Time and Attendance and Benefits Services

SUPPORTING PERSONNEL: Devin Mackinder, Director of Technology Services

ACTION RECOMMENDED: Approve the three-year pricing agreement with ADP, LLC, for electronic payroll processing, time and attendance and benefits software and hosting for \$103,015 per year for the first two years and \$105,075 for the third year and authorize the City Manager to execute all documents related to the contract on behalf of the city.

The ADP, LLC pricing agreement includes payroll processing, time and attendance and benefits software and hosting. The Technology Services Director has successfully negotiated a new three-year pricing agreement with ADP, LLC for the continuation of the same services with no cost increase in the first two years of the agreement and a two percent (2%) cost increase in the third year of the agreement. Annual costs may fluctuate as a result of employee count changes.

Year 1	\$103,015.00
Year 2	\$103,015.00
Year 3	\$105,075.30
Estimated Total Contract:	\$311,105.30

Therefore, it is recommended that City Council accept the three-year pricing agreement with ADP, LLC for electronic payroll processing, time and attendance and benefits software and hosting at a cost of \$103,015 per year for the first two years and \$105,075 for the third year and authorize the City Manager to execute all documents related to the contract on behalf of the city.

FUNDING: Funds are available for this planned expenditure.

Attachments: None

TO: Honorable Mayor and City Council

FROM: Pat McGinnis, City Manager

SUBJECT: Computer Replacements

SUPPORTING PERSONNEL: Devin Mackinder, Director of Technology Services

ACTION RECOMMENDED: Approve the purchase of computing devices from CDW Government LLC for the amount of \$257,340.89, rescind the prior Council approval of purchasing the computing devices from BITS, Inc., and authorize the City Manager to execute all documents related to this action on behalf of the city.

At the February 25, 2025, Regular Meeting, City Council approved the purchase of computing devices from BITS, Inc. However, the total bid amount for BITS, Inc., was incorrectly entered in the bid tabulation presented to City Council as part of the agenda at that meeting. The actual amount bid by BITS, Inc., was \$287,289.03 and not \$257,289.03. Therefore, they are not the lowest bidder. The lowest responsive bid was entered by CDW Government LLC, with a bid total of \$257,340.89. This agenda item is being presented again with corrected information and a revised recommendation.

The Technology Services Department maintains an industry-standard computing devices replacement schedule of three to five years to avoid repair costs and compatibility issues. This purchase represents the replacement of approximately two-thirds of City of Portage computing equipment.

The city invited interested vendors to submit a sealed bid for 132 desktops and workstations, 57 laptops, and 20 dock stations. The city received 21 submissions with CDW Government LLC providing the lowest responsive bid in the amount of \$257,340.89.

It is therefore recommended that City Council approve the purchase of computing devices from CDW Government LLC for the amount of \$257,340.89, rescind the prior Council approval of purchasing the computing devices from BITS, Inc., and authorize the City Manager to execute all documents related to this action on behalf of the city.

FUNDING: Capital budget funds are available and budgeted for this purpose.

Attachments: 1. Revised Computer Equipment Refresh Bid Tab - 2025.02.26

2025 RFB COMPUTER EQUIPMENT REFRESH
BID TABULATION
 BID OPENING ON FEBRUARY 4, 2025 AT 3 PM

1	CDW Government LLC 230 N. Milwaukee Ave. Vernon Hills, IL 60061	\$257,340.89	4-5 weeks 1-2 weeks 2-3 weeks
2	Y&S Technologies 383 Kingston Ave Ste 357 Brooklyn NY 11213	\$259,950.00	15 days
3	Brightcentra, Inc. 52 Buena Vista Road South San Francisco, CA 94080	\$264,855.00	3-4 weeks 1-2 weeks
4	Malor & Company, Inc. 3 Columbus Circle 15th Floor New York, NY 10019	\$265,448.21	30 days
5	AlxTel, Inc. 8403 Colesville Road Suite 1100 Silver Spring, MD 20910	\$266,183.00	
6	New Tech Solutions, Inc. 4179 Business Center Drive Fremont, CA 94538	\$266,994.51	30 days
7	Coquina Labs Inc. 2 Herald Square, 10th Floor New York, NY 10001	\$266,994.51	15 days

8	Zones, LLC 1102 15th Street SW Auburn,WA, 98001-6524	\$269,346.83	30 days
9	Insight Public Sector, Inc. 2701 E Insight Way Chandler AZ 85286	\$271,102.00	5 week 4 week 10 day
10	Hypertec USA Inc. 1270 E. Broadway Rd. Suite 101 Tempe, AZ 85282	\$271,519.60	4-5 weeks 1-2 Weeks 2-3 weeks
11	Milliard Tek LLC 23135 Newcut RD Clarksburg MD 20871	\$271,729.00	3/14/2025
12	INTD Solutions LLC 21013 NW 14th Place Unit 443 Miami Gardens, Florida 33169	\$272,281.53	3-4 weeks
13	Virtucom Inc. 1 Sun Ct. NW Peachtree Corners, Georgia 30092	\$272,565.00	2-3 weeks 3-5 weeks 1-2 weeks
14	Windham's Tech Firm 2610 Randolph Rd. Silver Spring, MD 20902	\$280,996.26	4-5 weeks 1-2 weeks 2-3 weeks
15	rusd solutions PO Box 404 Tappan, NY 10983	\$281,190.00	15 days

- | | | | |
|----|---|--------------|---------------------|
| 16 | Computer Design Center, LLC
249 West Main Street
Branford CT 06405 | \$287,202.00 | 30-45 days |
| 17 | BITS Inc., DBA Network One
624 N. Milford Rd.
Milford MI 48381 | \$287,289.03 | 14-21 business days |
| 18 | Netsolutions LLC
17151 Rowe St
Detroit, MI 48205 | \$317,253.75 | |

Opened by:  _____
Victoria Barboza, Purchasing Manager

TO: Honorable Mayor and City Council

FROM: Pat McGinnis, City Manager

SUBJECT: South Westnedge Avenue Water Leak Investigation and Repair

SUPPORTING PERSONNEL: Kendra Gwin, Director of Transportation & Utilities

ACTION RECOMMENDED: Approve payment to Veolia Water Contract Operations USA, Incorporated, in the amount of \$111,736 for the South Westnedge Avenue water leak investigation and repair and authorize the City Manager to approve payment.

On October 20, 2024, a water leak was reported at 7506 South Westnedge Avenue. Veolia crews excavated the water main under the sidewalk and determined that the water leak was not emanating from the water main. Veolia then engaged American Leak Detection and Peters Construction Company to assist in the investigation and repair. Further excavation determined that the water leak at 7506 South Westnedge Avenue emanated from an abandoned gas main. After extensive investigation and exploration, it was determined that the water was coming from a leak on the water service at 7237 South Westnedge Avenue and was flowing through the abandoned gas main. The repairs were completed to the water service on October 31, 2024, and the final restoration of the roadway and sidewalks was completed on November 14, 2024.

Veolia Water Contract Operations USA, Incorporated has held the contract for utility management and operations services since 1997. By contract, Veolia is responsible for repair costs of up to \$7,500 per incident. The total subcontracted cost for the emergency repair is \$119,236.

It is recommended that City Council approve payment to Veolia Water Contract Operations USA, Incorporated, in the amount of \$111,736 for the South Westnedge Avenue water leak investigation and repair and authorize the City Manager to approve payment.

FUNDING: Sufficient funding exists in the Water Operating budget.

Attachments: 1. Veolia Invoice # 9000200645



Invoice # 9000200654

Pro Forma # 8000001742

1 of 2

City of Portage
Finance Department
7900 S. Westnedge Ave.
Portage MI 49002-5160
USA

Donna Konrad
Contract Billing Manager
Veolia Water Contract Operations
461 From Rd Ste. #400
Paramus, NJ 07652
USA
Tel: 317.408.0150
donna.konrad@veolia.com

Invoice #:	Invoice Date:	Payment Terms:	Sales/Contract #:	Customer #:	Customer PO:
9000200654	02/20/2025	30 days	70013090	1000244751	2011 PT 401

South Westnedge WM Repair

Qty	UOM	Description	Unit Price	Total
1.000	EA	INVESTIGATE LEAK ON SOUTH WESTNEDGE 10/7	110,461.0000	110,461.00
1.000	EA	532441002/LEAK DETECTION REPORT/AMERICAN	1,275.0000	1,275.00

Total Amount Due (USD): 111,736.00

Subtotal: 111,736.00
Sales Tax:
Total Taxes: 0.00
Total Amount Due (USD): 111,736.00

American Leak Detection
PO Box 2073
Portage, MI 49081 US
1-800-787-2895
americanleakswmi@gmail.com

Invoice 9376



**AMERICAN
LEAK
DETECTION**

THE ORIGINAL LEAK SPECIALISTS™

BILL TO
Veolia Water
7500 S Westnedge Ave
Portage, MI 49002 USA

SHIP TO
Veolia Water
7500 S Westnedge Ave
Portage, MI 49002 USA

DATE
10/22/2024

PLEASE PAY
\$1,275.00

DUE DATE
11/21/2024

SALES REP
BM

DATE	ACTIVITY	DESCRIPTION	QTY	RATE	AMOUNT
	Commercial Leak Detection	Technician used correlator to try to find leak but had no success in getting a good read. Tried going from several different points off of valves to hydrants hydrant to hydrant, but could not get a good read anywhere. Listened with the ground mikes and not get a good sound anywhere. The best sound that I got was by a marker they had on the side of the road which I showed to the guy that was there with me that morning Jerry I think. Water was definitely flowing out the hole that they had punched but could not get a real good sound only on the one spot that I showed him that was all I could get.	1	1,275.00	1,275.00

ALL WORK IS GUARANTEED FOR 30 DAYS FROM THE DATE OF THE ORIGINAL DETECTION. If ALD is notified that the leak was not as marked we will re-test or refund the leak detection fee (at our sole option). In most cases, only 1 leak can be located on plumbing lines at a time. Therefore, it is very important that the line is re-tested after initial repair is completed. If there is an additional leak on the line we will retest for a service call fee. Most leaks will be located within several inches of their exact location, but this can vary to within several feet, depending on soil conditions, construction methods, and other factors known and unknown. We will not be liable for repairs by others or any consequential losses arising from the inaccurate location of leaks in excess of the fee paid. Charges for collection, including attorneys fees, in the event of your default, as well as interest as allowed by law will be applied after 30 days.

TOTAL DUE

\$1,275.00

THANK YOU.

We appreciate your business!



Peters Construction Co.

3325 E. Kilgore Road
 Kalamazoo, MI 49001-5512
 Phone: (269) 345-1145
 Fax: (269) 345-2233

Invoice

Invoice Number
11184
Invoice Date
11/30/2024

Bill To: Veolia
 PO Box 270286

Re: City of Portage - T&M Work

St Louis, MO 63217-0286

Job No	Customer Job No	Customer PO	Payment Terms	Due Date
PORTAGE		1000458783	Net 30 Days	Due Upon Receipt
Quantity	Description	U/M	Rate/Unit	Price
1.00	Please see attached breakdown	LS	117,961.00	117,961.00

PO #1000458783

Westnedge Water Service Leak	Subtotal	\$	117,961.00
	Sales Tax (if applicable)	\$	0.00
	Total Due	\$	117,961.00

Thank you for your business!

TO: Honorable Mayor and City Council

FROM: Pat McGinnis, City Manager

SUBJECT: Property Acquisition - 6510 Lovers Lane

SUPPORTING PERSONNEL: Kathleen Hoyle, Director of Parks & Recreation

ACTION RECOMMENDED: Approve the purchase of 6510 Lovers Lane in the amount of \$1.00 and authorize the City Manager to execute all documents related to this purchase on behalf of the city.

Pfizer, Inc. representatives recently contacted the City of Portage regarding their property at 6510 Lovers Lane. Pfizer has deemed the property surplus and has offered to sell it to the city for \$1.00.

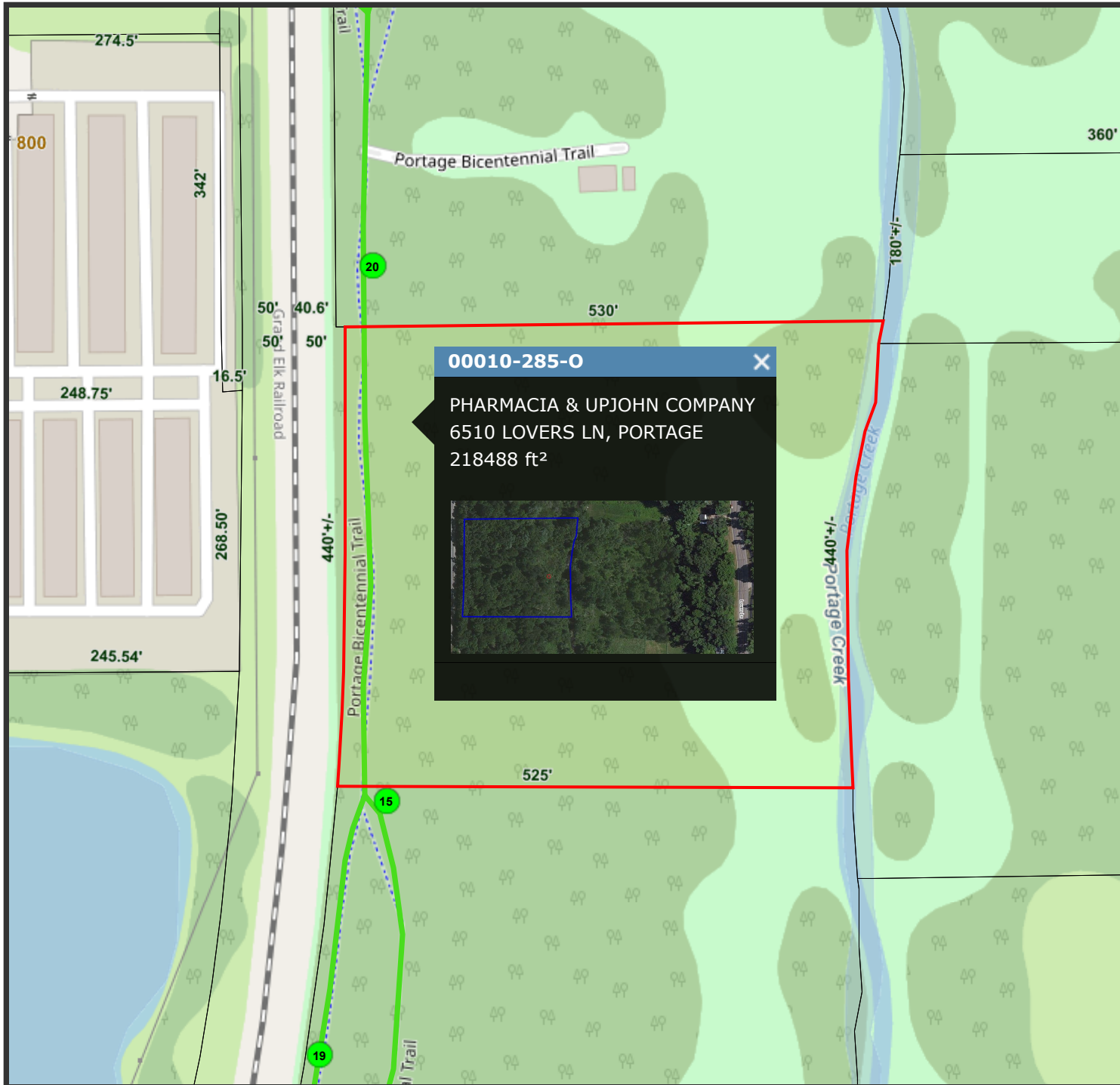
The city already owns adjacent parcels to the north and south of this site and holds an easement along the western edge for the Portage Creek Bicentennial Park Trail. Portage Creek defines the eastern boundary. Acquiring this property would provide the city with contiguous ownership along the western edge of Portage Creek, preserving valuable green space and enhancing community stewardship.

This generous offer from Pfizer reflects strong corporate responsibility and presents a unique opportunity for the city to expand its environmental preservation efforts.

It is recommended that City Council approve the purchase of 6510 Lovers Lane in the amount of \$1.00 and authorize the City Manager to execute all documents related to this purchase on behalf of the city.

FUNDING: It's \$1.00. The City Budget has this covered.

Attachments: 1. 6510 Lovers Lane Map



6510 Lovers Lane



Map Publication:
02/26/2025 4:29 PM



powered by
FetchGIS

Disclaimer: This map does not represent a survey or legal document and is provided on an "as is" basis. City of Portage expresses no warranty for the information displayed on this map document.

TO: Honorable Mayor and City Council

FROM: Pat McGinnis, City Manager

SUBJECT: Act 381 Brownfield Plan - Allen Edwin Homes, 9581 Oakland Drive and 8150 Creekside Drive

SUPPORTING PERSONNEL: Peter Dame, Chief Development Officer
Jonathon Hallberg, Deputy Director of Economic Development
Andrew Falkenberg, Deputy City Assessor

ACTION RECOMMENDED: Accept the City of Portage Brownfield Redevelopment Plan Application, with Brownfield Redevelopment Plan Amendment No. 13, Green Development Ventures, LLC, 9581 Oakland Drive and 8150 Creekside Drive, and set a Public Hearing for March 25, 2025.

I. INTRODUCTION

The [Brownfield Redevelopment Financing Act \(PA 381 of 1996, as amended\)](#) ("Act") allows a city, village, township, or county to establish a Brownfield Redevelopment Program to facilitate the reuse of contaminated, blighted, or functionally obsolete properties; historic resources; land bank properties; properties in targeted redevelopment areas, housing properties; and parcels that are adjacent and contiguous with qualified properties. Per the resolution adopted by the City Council in July 2001, the City of Portage Brownfield Redevelopment Program was established to facilitate the reuse of environmentally distressed, functionally obsolete, and/or blighted buildings and property in the community. This economic development program is intended to place vacant and/or underutilized/blighted properties back into productive use, fostering reinvestment in the city and discouraging sprawling development. Amendments to the Brownfield Redevelopment Finance Act have opened the door for attainable housing investments to be included as an eligible activity. The Portage City Council continues to endorse the use of all available tools to foster the addition of new housing units in Portage, as evidenced by formal policy statements setting City Goals in 2023, 2024 and 2025.

Green Development Ventures, LLC, d.b.a. Allen Edwin Homes has applied for two housing developments under one brownfield plan and P.A. 381 work plan. The developer intends to redevelop and improve the property by establishing two separate for-lease housing developments: Oakland Commons and Creekside Commons. The combined developments will result in a total of 114 for-lease housing units and an estimated total capital investment of \$35,464,602.

Oakland Commons involves the construction of 58 new residential units at 9581 Oakland Drive, consisting of 26 single-family homes that are anticipated to be 1,640-square-foot, three-bedroom homes; three duplex buildings for a total of six residential units; six 3-plex buildings for a total of 18 residential units; and two 4-plex buildings for a total of eight residential units. Of the 58 for-lease housing units at Oakland Commons, 46 will be market-rate housing units, and 12 will be income-qualified workforce housing units for fifteen (15) years. The total capital investment for Oakland Commons is estimated at

\$19,000,000.

Creekside Commons involves the construction of 46 new residential units at 8150 Creekside Drive, consisting of 38 single-family homes that are anticipated to be 1,640-square-foot, 4-bedroom homes and two 4-plex buildings, resulting in eight attached residential units. Of the 46 for-lease housing units at Creekside Commons, 36 will be market-rate housing units, and 10 will be income-qualified workforce housing units for ten (10) years. The total capital investment for Creekside Commons is estimated at \$16,000,000.

Allen Edwin's Brownfield Redevelopment Plan Application is eligible for tax incremental financing under the Act by virtue of both developments qualifying as "Housing Properties." To date, this application has undergone review by the City Administration and the Brownfield Redevelopment Authority, which met on February 27, 2025, to review the application and voted unanimously to recommend approval to City Council.

II. PROPOSED BROWNFIELD REDEVELOPMENT PLAN

A copy of the Allen Edwin Homes Act 381 Brownfield Plan is attached, in addition to site preparation, infrastructure improvements, environmental activities, contingency costs, and housing subsidy financing gap costs at the subject properties. Under the Act, Allen Edwin has identified specific housing needs through the Kalamazoo County Housing Plan prepared by the Upjohn Institute in 2022. A review of Census Tract 20.02 where the developments will occur indicates a five-year increase of 8% in housing units compared with a population growth of 10.5% and a broadening housing gap that is being seen throughout the county. Both properties are eligible under the Act as a result of being defined as "Housing Properties." Eligible activities associated with the site remediation efforts proposed to be funded through state and local tax reimbursement include the following:

Department of Environment, Great Lakes and Energy (EGLE) Eligible Activities

- Phase I Environmental Site Assessment ("ESA") at Oakland Commons.

Michigan State Housing Development Authority (MSHDA) and Local Tax Capture Eligible Activities

- Site Demolition at both locations.
- Site Preparation: Grading, soil erosion control, clearing, topsoil removal, wetland delineation, cut and fill, temporary access, and construction facilities.
- Public Infrastructure Improvements: Pipework, Roads, Sidewalks, Water and Sewer Home Connection Fees and Tie-Ins, Home Meter Fee, Driveways, Gas, Electric, Site Lighting, and Site Design, Engineering and Inspections.
- Contingency of 15%
- Interest of 3.5% on unreimbursed eligible expenses.
- Brownfield Plan/Act 381 Work Plan Preparation, Brownfield Plan, and Administrative Expenses related to implementing the plan.
- Financing Gap activities for Rent-Controlled Units for the duration of the rent control at each location - 15 years for Oakland Commons and 10 years for Creekside Commons.

Because the City of Portage is a "qualified local unit of government," certain non-environmental costs can be reimbursed through a brownfield plan. Allen Edwin Homes' Brownfield Plan includes, among others, non-environmentally eligible costs for demolition, site preparation, and infrastructure improvement.

Allen Edwin seeks reimbursement for eligible activities through the capture of both local and school tax dollars:

1. Specifically, Allen Edwin anticipates a capture of \$2,973,399 for Oakland Commons and \$2,553,006 for Creekside Commons over 20 years based on a 2.5% inflation rate from school tax increment revenues for costs associated with the MSHDA Eligible Activities above, including housing-specific infrastructure, demolition, water and sewer mains, stormwater management facility, site preparation, and brownfield/Act 381 work plans. Therefore, Allen Edwin has prepared an Act 381 Work Plan for approval by the Michigan Department of Environment, Great Lakes, and Energy (EGLE) and the Michigan State Housing Development Authority (MSHDA). Total school tax increment revenue capturable for eligible expenses is estimated at \$5,526,405.
2. EGLE Environmental costs covered through State Tax Reimbursement are forecast to be \$5,000.
3. The Affordable Housing Financing Gap payment for 15 years at Oakland Commons is estimated at \$4,855,375, and for 10 years at Creekside Commons is estimated at \$2,561,912. The total Affordable Housing Financing Gap payment is estimated at \$7,417,287.
4. In addition, the Act 381 Brownfield Plan anticipates the capture of \$1,161,390 for Authority administrative costs, \$806,009 for the State Brownfield Redevelopment Fund, and \$2,715,229 for the Local Brownfield Revolving Fund.
5. As shown in Table 1 (Eligible Activity Costs) in the Act 381 Brownfield Plan, the estimated cost to complete all eligible activities, including a 15% contingency (\$594,993), and estimated interest of 3.5% on unpaid balances (\$2,470,266) is \$14,514,164.
6. The base year taxable value for purposes of the capture of Tax Increment Revenue (TIR) is proposed to be 2026.

The developer has met three (3) investment criteria for Oakland Commons: 1) housing development activities, 2) diversity of housing type, and 3) public space improvements for the extension of city water lines beyond the needs of the development.

The developer has also met three (3) investment criteria for Creekside Commons: 1) housing development activities, 2) diversity of housing type, and 3) public space improvements for the extension of sidewalks out to Centre Ave past properties that are not a part of the development.

Consistent with the [City of Portage Brownfield Redevelopment Incentive Policy](#), the capture of tax increment revenue for reimbursement of Allen Edwin's eligible expenses is limited to 20 years (excluding the projected capture of tax increment revenue for the Local Brownfield Revolving Fund, which is projected to occur until year 25 of the Act 381 Brownfield Plan). The capture of tax increment revenue for the LBRF involves an additional five years after the developer reimbursement period.

III. CONCLUSION

Allen Edwin Homes' Brownfield Redevelopment Plan Application is eligible for tax incremental financing under the Act. Following the [City of Portage Brownfield Redevelopment Incentive Policy](#) ("Policy"), the applicant meets three investment criteria for each development and is thus eligible for up to a 20-year TIF capture period for reimbursement of eligible expenses.

Notwithstanding the above, approval of any Brownfield Redevelopment Plan Application is discretionary, and the ultimate decision to approve, or deny, an application lies with the Brownfield

Redevelopment Authority ("Authority"). MCL § 125.2657. Though each plan is unique, the Authority should generally consider the following when evaluating each plan:

- **Meeting Goals of City of Portage Plans** (primarily City of Portage Comprehensive Plan, City of Portage Housing Needs Assessment and/or Market Analysis, or City of Portage Attainable Housing Plan of 2022)
- **Job Creation** (quality of the jobs created by a plan)
- **Investment** (how much it will cost to implement a plan)
- **Location** (whether a plan is in a blighted area where the Authority seeks redevelopment, and whether the proposed use is consistent with zoning and urban planning)
- **Project Type** (whether the plan is a project that the city wants to encourage in the community).

Along with the above considerations, the [City of Portage Brownfield Redevelopment Incentive Policy](#) ("Policy") lists several factors for the Authority to consider. As explained in the Policy, the City Council will use the following criteria when reviewing applications:

- The financial incentives to be provided for the plan will not result in the impairment of the operation or the financial soundness of any affected taxing unit.
- A public purpose will be served (expanded tax base, additional employment, income, and capital investment in the community).
- The plan will provide for an expansion of the employment base in the community.
- The plan's proposed facilities will be compatible with the present and future requirements for city services such as roads, utilities, and public safety.
- The applicant meets current financial obligations to the city, is in compliance with all applicable state and city codes and ordinances, and has no pending or current litigation against the city.
- That the project pro forma, financial structure, and financing commitments justify the project's need and financial viability.
- That the applicant will actively pursue State of Michigan funding through an Act 381 Work Plan and will collaborate with the Community Development Department throughout the application process.
- That the requested incentive level is commensurate with the number of Investment Criteria met within the Policy.

IV. RECOMMENDATION

The Brownfield Redevelopment Authority reviewed and unanimously recommended this application be forwarded to the City Council through a formal vote on February 27, 2025. It is therefore recommended that the Council accept the City of Portage Brownfield Redevelopment Plan Application, with Brownfield Redevelopment Plan Amendment No. 13, Green Development Ventures, LLC, 9581 Oakland Drive, and 8150 Creekside Drive, and set a Public Hearing for March 25, 2025.

FUNDING: Not applicable.

- Attachments:**
1. 2024 10 25 DRAFT BRA Meeting Minutes
 2. Attachment A. Allen Edwin Homes Act 381 Brownfield Plan - Oakland Commons & Creekside Commons
 3. Attachment B. Oakland Commons & Creekside Commons Brownfield Application

4. Attachment C. DRAFT Oakland Commons & Creekside Development & Reimbursement Agreement - 2025.02.18_Draft

CITY OF PORTAGE BROWNFIELD REDEVELOPMENT AUTHORITY

Friday, October 25, 2024

8:00 AM

**Portage City Hall, Conference Room 1
7900 S. Westnedge Ave, Portage MI 49002**

The City of Portage Brownfield Redevelopment Authority meeting of September 19, 2024, was called to order by Chair Lewandowski at 8:33 am.

In Attendance

Board: Vice Chair Eric Alburtus (yes), Todd Campbell (yes), Bradley Galin (excused), Karen Gallagher (yes), John Herberg (yes), Michelle Karpinski (no), Secretary/Treasurer William Lenehan (no), Chair Keith Lewandowski (yes), Jeff Monroe (no).

Staff: Jonathon Hallberg, Deputy Director of Economic Development; Peter Dame, Chief Development Officer

Guests: Rick Freiman, Planning Commissioner

Introductions

Introduction of Authority members, staff, and guests was conducted. The board also reviewed the agenda.

Approval of Minutes

Motion by Gallagher, seconded by Alburtus, to approve the BRA Meeting Minutes of September 19, 2024, as submitted. Motion carried, 5-0.

Staff Report – The Staff Report was moved to the end of the board agenda before Statement of Citizens.

Old Business - none

New Business

1. Approval of 2024 Brownfield Policy Update

Hallberg outlined the changes to the 2022 Brownfield Policy being recommended by staff. Board members and audience members made the following observations and recommendations:

- A. Hallberg shared an email from Rick Frieman regarding adding the City's resolution on the climate crisis to the list of key plans noted in the policy. Frieman elaborated on how a solar array paid for with Brownfield TIF capture might be a possible solution for creating a viable use on an otherwise contaminated site. The board members agreed that, if a viable project was proposed, there would be no reason for them not to consider the

application, and that not specifically referencing the resolution in question would not materially affect the policy as presented.

- B. At the board's request, staff reviewed which recommended changes to the policy came as a result of suggestions by other community representatives.
- C. Under item "6.f., Promote Utilization of Multimodal Transportation", Gallagher asked whether the board wanted to suggest requiring an applicant to address two listed issues, raising concerns that the category may be easy to qualify for and that it represents an investment criterion for extra benefit. The board directed Hallberg to add language indicating that the improvement must be both "substantial and justified by the developer."
- D. Herberg recommended that the same language be added to "6.j., Site Amenities", and the board agreed.
- E. Chair Lewandowski asked why, under "1.n", the applicant had to be a U.S. citizen. Campbell shared it is difficult to prosecute or otherwise hold accountable a person who has left the country. Dame stated it may be possible for a non-citizen to be represented by an accountable person who is a U.S. citizen. The board directed staff to check with legal counsel on whether adding "permanent legal resident non-citizen" would be a permitted addition to this section of the policy.

Motion by Campbell, seconded by Albertus, to recommend approval of the updates to the Brownfield Redevelopment Incentive Policy as amended, subject to review and alteration as required by the City Attorney regarding Section 1.n. Gallagher asked what the board should do if legal counsel recommends against the change. Staff proposed that the board should accept legal counsel's recommendation and the board agreed. Chair Lewandowski directed Hallberg to email the board with the document as amended and indicate to the board what legal counsel decided.

Motion carried, 5-0.

Staff Report –

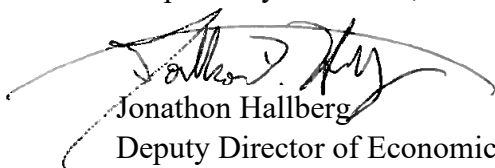
Hallberg shared the most recent TIF capture report for summer taxes. The board agreed to table any further presentations until the next meeting.

Statements of Citizens: none

Adjournment:

Motion by Herberg, seconded by Gallagher, to adjourn. Motion carried, 5-0. The meeting was adjourned at 9:34 am.

Respectfully submitted,



Jonathon Hallberg

Deputy Director of Economic Development

ACT 381 BROWNFIELD PLAN

**Allen Edwin Homes
9581 Oakland Drive and 8150 Creekside Drive
Kalamazoo County, City of Portage
City of Portage Brownfield Redevelopment Authority**

February 17, 2025



Prepared by
Michigan Growth Advisors
100 W Michigan Avenue
Suite #200
Kalamazoo, MI 49007

Approved by the Brownfield Redevelopment Authority on _____

Approved by the City of Portage on _____

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ACT 381 BROWNFIELD PLAN

1.0 INTRODUCTION

1.1 **Proposed Redevelopment and Future Use for Each Eligible Property**

The proposed redevelopment consists of two vacant parcels totaling 20.47 acres in the City of Portage. The project will involve preparing the sites for development to make way for 104 new residential units on the two properties. Allen Edwin Homes is one of Michigan's largest home builders with 30 years of building experience and over 10,000 homes built. Allen Edwin Homes builds homes that are 30-40% more efficient than a typical used home. Of the total 104 units, approximately 22 (21%) are expected to income restricted to at or below 100% of Area Median Income ("AMI"). The development on the 11.36-acre property located at 9581 Oakland Drive is named "Oakland Commons" and the development on the 9.11-acre property located at 8150 Creekside Drive is named "Creekside Commons." A detailed description of each development is provided below.

Oakland Commons will include 58 new residential units available for rent. The 58 units include 26 single family homes that are anticipated to be 1,640-square foot 3-bedroom homes, three duplex buildings for a total of six residential units, six 3-plex buildings for a total of 18 residential units, and two 4-plex buildings for a total of eight residential units. The project will be developed around a ring road that will include 18 single family homes in the interior of the ring road and the balance of the units on the outside of the ring road. The development will include multiple paved walking paths with a primary entrance from Oakland Drive and an additional emergency access drive with access from Shaver Road. The development anticipates approximately 20% of units to be income restricted to at or below 100% of Area Median Income ("AMI").

The total capital investment on Oakland Commons is expected to be approximately \$19 million. Construction on the project is planned to begin in the spring of 2025 and will be completed by summer of 2027.

Creekside Commons will include 46 new residential units available for rent. The 46 units will include 38 single family homes that are anticipated to be 1,640-square foot 4-bedroom homes, and two 4-plex buildings for a total of eight attached residential units. The development will include a connection road "Elton Lane" off of Creekside Drive that will connect to another cul-de-sac "Crestbrook Court." The single-family units will be developed along Crestbrook Court and the attached units will be developed along Creekside Drive.

The total capital investment on Creekside Commons is expected to be approximately \$16 million. Construction on the project is planned to begin in the spring of 2025 and will be completed by summer of 2028.

In total, the developments represent approximately \$35 million in investment that will be completed within three years of construction start in the Spring of 2025.

1.2 Identification of Housing Need

Specific Housing Need

The Kalamazoo County Housing Plan prepared by the Upjohn Institute in 2022 identified that the county required 7,750 new housing units in order to appropriately house the growth anticipated in the county. The report also indicated that 15,000 households in the county are in homes that do not meet their budget, and many others are in types of housing that do not meet their needs. The Census Tract that the Plan is located (Tract 20.02) grew by 10.5% over the preceding 5 years, which far outpaces the county average growth rate of 1.9%. However, the number of housing units in the Census Tract only grew by 8.0% over the same period, indicating a housing supply that is not keeping pace with demand for the area. Additionally, survey results from the Housing Plan indicate that the vast majority of residents prefer single family homes, however the current supply of single-family homes does not reflect the preference in the region. This project delivering 22 income restricted units will allow a diverse household cohort to occupy this development, and the creation of single-family homes and duplexes, 3-plexes, and 4-plexes will provide renters and families with a diverse option for rental property that what is traditionally offered in the rental market, such as multi-family development. This rental development will serve various needs of households and families with a diverse unit mix, making the development optimal to serve the needs of Portage and the County as a whole.

Job Growth Data

Southwest Michigan First, the economic development organization serving the 7-county region of Southwest Michigan, has announced 4,666 new jobs to the region between 2021 to 2023. This includes significant investment and job creation in Kalamazoo County and the City of Portage, including Pfizer Global Supply's 2022 announcement of a \$870M expansion which is expected to create 550 jobs, and Midwest Fasteners, which announced a \$10.4M expansion that will create and retain 124 jobs in Portage. The region is undergoing significant corporate investment that will require new employees in the region. Based on the specific housing need and job growth data in the area, the absorption of these new residential units is expected to be accelerated.

1.3 Eligible Property Information

Basis of Eligibility

Section 2(y)(i) of Public Act 381 of 1996 ("Act 381"), as amended, defines "Housing Property" as "A property on which 1 or more units of residential housing are proposed to be constructed, rehabilitated, or otherwise designated to be used as a

dwelling." The development proposes 58 housing units on Parcel #10-00029-425-G and 46 units on Parcel #10-00021-125-J, thus these parcels are eligible property under Act 381.

Location and Legal Description

9581 Oakland Drive Parcel ID: 10-00029-425-G 11.36 Acres
Portage, MI 49024

Legal Description:

A PARCEL OF LAND SITUATED IN THE SE ¼ OF SEC 29, 3S, 11W: COMMENCING AT THE EAST ¼ COR OF SEC 29, 3S, 11 W; TH NORTH 89 DEG 50' 19" WEST (PREVIOUSLY RECORDED AS SOUTH 89 DEG 55' 07" WEST) 331.47 FT ALG THE NORTH LI OF THE SE ¼ OF SD SEC TO REFERENCE POINT "A"; TH SOUTH 90 DEG 50' 19" EAST (PREVIOUSLY RECORDED AS NORTH 90 DEG 55' 07" EAST) 331.47 FT ALG SD NORTH LI TO SD EAST ¼ COR; TH NORTH 90 DEG 59' 23" EAST (PREVIOUSLY RECORDED AS EAST) 116.95 FT ALG THE SOUTH LI OF THE NW ¼ OF SEC 28 3S, 11W TO THE NORTHWESTERLY ROW LI OF SHAVER RD; TH SOUTH 29 DEG 38' 07" WEST (PREVIOUSLY RECORDED AS SOUTH 29 DEG 39' WEST) 152.31 FT ALG SD ROW LI; TH NORTH 60 DEG 21' 53" WEST 145.41 FT; TH NORTH 89 DEG 50' 19" WEST (PREVIOUSLY RECORDED AS NORTH 89 DEG 55' 07" EAST) 198.90 FT PARALLEL W SD SOUTH LI; TH NORTH 44 DEG 50' 19" WEST 67.78 FT TO A LI EXTENDING SOUTH 00 DEG 05' 30" EAST FROM SD REFERENCE POINT "A"; TH NORTH 00 DEG 05' 30" WEST 12.78 FT TO SD REFERENCE POINT "A"; TH NORTH 89 DEG 50' 19" WEST (PREVIOUSLY RECORDED AS SOUTH 89 DEG 55' 07" WEST) 278.54 FT ALG SD NORTH LI TO THE POB; THN SOUTH 00 DEG 09' 41" WEST 753.56 FT; TH NORTH 89 DEG 50' 19" WEST 163.82 FT (PREVIOUSLY RECORDED AS NORTH 89 DEG 55' 07" EAST) PARALLEL W SD NORTH LI; TH SOUTH 00 DEG 09' 41" WEST 26 FT; TH NORTH 89 DEG 50' 19" WEST (PREVIOUSLY RECORDED AS SOUTH 89 DEG 55' 07" WEST) 543.56 FT PARALLEL W SD NORTH LI TO THE WEST LI OF THE EAST ½ OF SD SE ¼ AS ESTABLISHED BY "OAKLAND FARMS NORTH" SUBDIVISION; TH NORTH 00 DEG 04' 14" EAST (PREVIOUSLY RECORDED AS NORTH) 779.56 FT ALG SD WEST LI OF THE EAST ½ TO SD NORTH LI OF THE SE ¼ ; TH SOUTH 89 DEG 50' 19" EAST (PREVIOUSLY RECORDED AS NORTH 89 DEG 55' 07" EAST) 708.61 FT ALG SD NORTH LI OF THE SE ¼ TO THE POB, CONTAINING 12.57 ACRES OF LAND. THE WESTERLY PORTION BEING SUBJECT TO EASEMENT FOR OAKLAND DR. SPLIT/COMBINED ON 08/20/2018 FROM 00029-425-E, 00029-425-C;

8150 Creekside Drive Parcel ID: 10-00021-125-J 9.11 Acres
Portage, MI 49024

Legal Description:

Unit 5 of Creekside Commons, a site condominium according to the Master Deed recorded in Document No. 2000-003766 and amended by First Amendment to Master Deed recorded as Document No. 2001-021465 in the Office of the Kalamazoo County Register of Deeds and designated as the Kalamazoo County Condominium Subdivision Plan No. 115, together with rights in general common elements and limited common elements as set forth in the Master Deed and as described in Act 59 of the Public Acts of 1978, as amended.

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

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

Tax increment revenues will be used to reimburse Allen Edwin Homes ("Developer") for the cost of eligible activities as authorized by Act 381. Michigan State Housing Development Authority ("MSHDA") approved non-environmental eligible activities and statutorily approved EGLE environmental eligible activities will be reimbursed with local and school tax increment revenues ("TIR"). The remaining eligible activities will be reimbursed with local TIR only.

The total cost of eligible activities in this Brownfield Plan including contingency are anticipated to be \$12,043,898. The total cost of eligible activities related to Oakland Commons including contingency are anticipated to be \$6,933,610. The total cost of eligible activities related to Creekside Commons including contingency are anticipated to be \$5,110,288. Simple interest on unreimbursed eligible activities is also included as an eligible activity at 3.5%. Funding to the State Brownfield Redevelopment Fund is anticipated to be \$806,009. The estimated cost of all eligible activities under this plan are summarized in Table 1.

Environmental Activities

Department specific activities considered under this plan include a Phase I Environmental Site Assessment ("ESA").

Non-Environmental Activities

Because the basis of property eligibility is "Housing Property" under Public Act 381, additional non-environmental costs can be reimbursed through a brownfield plan. This plan provides for reimbursement of eligible "housing development activities" including reimbursement provided to the developer to fill a financing gap associated with the development of housing units priced for income qualified households, and site preparation and infrastructure improvement activities that are necessary for new housing development for income qualified households on eligible property.

2.2 Summary of Eligible Activities

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

A Phase I ESA will be required for the project and is anticipated to cost \$5,000. This is a cost statutorily approved for reimbursement with school taxes. The \$5,000 Phase I ESA is related to the Oakland Commons project.

2.2..2 Infrastructure

Infrastructure activities will include the construction of a stormwater retention systems, sanitary sewer and water main construction, sewer and water home connection fees and tie ins, home meter fees, gas and electric, sidewalk development, landscaping, and private

infrastructure, including driveways, site lighting and parking areas. Engineering and design of these activities are also included as eligible activities. The total cost of these infrastructure improvement is anticipated to be \$3,037,133. The portion of the infrastructure improvements related to the Oakland Commons site is anticipated to be \$1,465,972 and the portion of the infrastructure improvements related to the Creekside Commons site is anticipated to be \$1,571,161.

2.2..3 Site Preparation

Site preparation activities will include soil erosion control; clearing, grubbing and topsoil removal; rough grading of the site, temporary site access and temporary construction facilities and controls. Engineering and design of these activities are also included as eligible activities. The total cost of these site preparation activities is anticipated to be \$891,985. The portion of the site preparation costs related to the Oakland Commons site is anticipated to be \$304,254 and the portion of the site preparation costs related to the Creekside Commons site is anticipated to be \$587,731.

2.2..4 Interest

Financing costs for the project are considered an eligible activity. This plan allows for 3.5% interest rate on the developer's unreimbursed eligible activities.

2.2..5 Contingency

A 15% contingency is included as an eligible activity. The contingency is estimated to be \$594,993. The portion of the contingency related to the Oakland Commons site is anticipated to be \$266,509 and the portion of the contingency related to the Creekside Commons site is anticipated to be \$328,484.

2.2..6 Financing Gap

Housing development activities, related to reimbursement provided to the developer to fill a financing gap associated with the development of housing units priced for income qualified households' units, are included as eligible activities. The financing gap is calculated utilizing the Total Housing Subsidy formula developed by MSHDA.

On the Oakland Commons site, the Total Housing Subsidy is anticipated to be \$286,049 in year one of the Plan. With a MSHDA Control Rent of \$3,910 for a 3-Bedroom and \$4,178 for a 4-Bedroom, the annual rent gap and total rent gap over the term of a 15-year affordability period are delineated below. There are anticipated to be

12 income qualified units as a part of this development for a total of 15 years of income restriction. This Plan anticipates a rental gap inflation rate of 2% over the 15 years of income restriction.

Type	MSHDA Control Rent	Project Rent (Year 1)	Rent Gap (Year 1)	Income Qualified Units	Annual Gap (Year 1)	Total Loss
3-Bed	\$3,910	\$1,959	\$23,412	5	\$117,060	
4-Bed	\$4,178	\$2,232.50	\$23,340	7	\$163,380	
Total				12	\$280,440	\$4,855,375

On the Creekside Commons site, the Total Housing Subsidy is anticipated to be \$238,215 in year one of the Plan. With a MSHDA Control Rent of 3,910 for a 3-Bedroom and \$4,178 for a 4-Bedroom, the annual rent gap and total rent gap over the term of a 10-year affordability period are delineated below. There are anticipated to be 10 income qualified units as a part of this development for a total of 10 years of income restriction. This Plan anticipates a rental gap inflation rate of 2% over the 10 years of income restriction.

Type	MSHDA Control Rent	Project Rent (Year 1)	Rent Gap (Year 1)	Income Qualified Units	Annual Gap (Year 1)	Total Loss
3-Bed	\$3,910	\$1,959	\$23,412	2	\$46,824	
4-Bed	\$4,178	\$2,232.50	\$23,340	8	\$186,720	
Total				10	\$233,544	\$2,561,912

The Total Housing Subsidy contemplated on the 22 units that will be income restricted based on MSHDA's Rent Control formula over a 15-year period of affordability in Oakland Commons and a 10-year period of affordability in Creekside Commons with 2% rental rate inflation is \$7,417,287.

2.2..7 Brownfield Plan and Act 381 Work Preparation

The cost to prepare the Brownfield Plan and Act 381 Work Plan is anticipated to be \$30,000.

2.2..8 Brownfield Plan Implementation

The cost of implementing the Brownfield Plan is anticipated to be \$30,000.

2.2..9 Local Brownfield Revolving Fund

Local Brownfield Revolving Fund capture is also included in this plan. Capture to the Local Brownfield Revolving Fund is anticipated to be \$2,715,229.

2.3 Estimate of Captured Taxable Value and Tax Increment Revenues

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

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

The eligible activities will be financed by the developer and reimbursed as outlined in this plan and accompanying development agreement. No advances from the City or County are anticipated at this time.

2.5 Maximum Amount of Note or Bonded Indebtedness

No note or bonded indebtedness for this project is anticipated at this time. Therefore, this section is not applicable.

2.6 Duration of Brownfield Plan

The duration of this plan is estimated to be 20 years, with an additional 5 years of capture to the Local Brownfield Revolving Fund ("LBRF"). It is estimated that the redevelopment of the property will be completed in 2028 and that full recapture of eligible costs and eligible administrative costs of the authority will continue until 2050. Capture of TIR is expected to begin in 2026, however could be delayed for up to 5 years after the approval of this plan as permitted by Act 381. In no event shall capture extend beyond 30 year as required by Act 381. An analysis showing the reimbursement schedule is attached as Table 3.

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

An estimate of the impact of tax increment financing on the revenues of all taxing jurisdictions is illustrated in detail within Table 2. It is anticipated that tax increment capture will remain independent between the two parcels and be reimbursed for eligible activities related to each independent parcel. The tax increment revenue reimbursement schedule will be defined in the reimbursement agreement.

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

The property consists of two parcels which total 20.47 acres in size and is located at 9581 Oakland Drive in Portage, Kalamazoo County (Parcel Identification Number 10-00029-425-G) and 8150 Creekside Drive in Portage, Kalamazoo County (Parcel Identification Number 10-00021-125-J). A legal description of the properties along with a scaled map showing eligible property dimensions, is attached as Figure 1.

The parcel is considered "eligible property" due to the development of residential housing units on the property, as defined within the definition of "Housing Property" in Section 2(y) of Public Act 381 of 1996, as amended.

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

2.9 Estimates of Residents and Displacement of Individuals/Families

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

2.10 Plan for Relocation of Displaced Persons

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

2.11 Provisions for Relocation Costs

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

2.12 Strategy for Compliance with Michigan's Relocation Assistance Law

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

2.13 Other Material that the Authority or Governing Body Considers Pertinent

None.

Legal Description and Eligible Property Map



**9581 Oakland Drive
Portage, MI 49024**

Parcel ID: 10-00029-425-G

11.36 Acres

**8150 Creekside Drive
Portage, MI 49024**

Parcel ID: 10-00021-125-J

9.11 Acres



**9581 Oakland Drive
Portage, MI 49024**

Parcel ID: 10-00029-425-G

11.36 Acres

Legal Description:

A PARCEL OF LAND SITUATED IN THE SE ¼ OF SEC 29, 3S, 11W: COMMENCING AT THE EAST ¼ COR OF SEC 29, 3S, 11 W; TH NORTH 89 DEG 50' 19" WEST (PREVIOUSLY RECORDED AS SOUTH 89 DEG 55' 07" WEST) 331.47 FT ALG THE NORTH LI OF THE SE ¼ OF SD SEC TO REFERENCE POINT "A"; TH SOUTH 90 DEG 50' 19" EAST (PREVIOUSLY RECORDED AS NORTH 90 DEG 55' 07" EAST) 331.47 FT ALG SD NORTH LI TO SD EAST ¼ COR; TH NORTH 90 DEG 59' 23" EAST (PREVIOUSLY RECORDED AS EAST) 116.95 FT ALG THE SOUTH LI OF THE NW ¼ OF SEC 28 3S, 11W TO THE NORTHWESTERLY ROW LI OF SHAVER RD; TH SOUTH 29 DEG 38' 07" WEST (PREVIOUSLY RECORDED AS SOUTH 29 DEG 39' WEST) 152.31 FT ALG SD ROW LI; TH NORTH 60 DEG 21' 53" WEST 145.41 FT; TH NORTH 89 DEG 50' 19" WEST (PREVIOUSLY RECORDED AS NORTH 89 DEG 55' 07" EAST) 198.90 FT PARALLEL W SD SOUTH LI; TH NORTH 44 DEG 50' 19" WEST 67.78 FT TO A LI EXTENDING SOUTH 00 DEG 05' 30" EAST FROM SD REFERENCE POINT "A"; TH NORTH 00 DEG 05' 30" WEST 12.78 FT TO SD REFERENCE POINT "A"; TH NORTH 89 DEG 50' 19" WEST (PREVIOUSLY RECORDED AS SOUTH 89 DEG 55' 07" WEST) 278.54 FT ALG SD NORTH LI TO THE POB; THN SOUTH 00 DEG 09' 41" WEST 753.56 FT; TH NORTH 89 DEG 50' 19" WEST 163.82 FT (PREVIOUSLY RECORDED AS NORTH 89 DEG 55' 07" EAST) PARALLEL W SD NORTH LI; TH SOUTH 00 DEG 09' 41" WEST 26 FT; TH NORTH 89 DEG 50' 19" WEST (PREVIOUSLY RECORDED AS SOUTH 89 DEG 55' 07" WEST) 543.56 FT PARALLEL W SD NORTH LI TO THE WEST LI OF THE EAST ½ OF SD SE ¼ AS ESTABLISHED BY "OAKLAND FARMS NORTH" SUBDIVISION; TH NORTH 00 DEG 04' 14" EAST (PREVIOUSLY RECORDED AS NORTH) 779.56 FT ALG SD WEST LI OF THE EAST ½ TO SD NORTH LI OF THE SE ¼ ; TH SOUTH 89 DEG 50' 19" EAST (PREVIOUSLY RECORDED AS NORTH 89 DEG 55' 07" EAST) 708.61 FT ALG SD NORTH LI OF THE SE ¼ TO THE POB, CONTAINING 12.57 ACRES OF LAND. THE WESTERLY PORTION BEING SUBJECT TO EASEMENT FOR OAKLAND DR. SPLIT/COMBINED ON 08/20/2018 FROM 00029-425-E, 00029-425-C;



**8150 Creekside Drive
Portage, MI 49024**

Parcel ID: 10-00021-125-J

9.11 Acres

Legal Description

Unit 5 of Creekside Commons, a site condominium according to the Master Deed recorded in Document No. 2000-003766 and amended by First Amendment to Master Deed recorded as Document No. 2001-021465 in the Office of the Kalamazoo County Register of Deeds and designated as the Kalamazoo County Condominium Subdivision Plan No. 115, together with rights in general common elements and limited common elements as set forth in the Master Deed and as described in Act 59 of the Public Acts of 1978, as amended.

Table 1

Eligible Activity Costs



Eligible Activities Table
Allen Edwin Homes
 9581 Oakland Dr and 8150 Creeksie Dr
 Portage, MI
 February 2025

Allen Edwin Homes - Total Eligible Activities				
EGLE Eligible Activities Costs and Schedule				
EGLE Eligible Activities	Oakland Commons	Creekside Commons	Total	Completion Season/Year
Department Specific Activities Sub-Total	\$ 5,000	\$ -	\$ 5,000	Winter 2023
<i>Phase I Environmental Site Assessment</i>	\$ 5,000	\$ -	\$ 5,000	
EGLE Eligible Activities Sub-Total	\$ 5,000	\$ -	\$ 5,000	
MSDHA Housing Development Activities Costs and Schedule				
MSHDA Eligible Activities	Oakland Commons	Creekside Commons	Cost	Completion Season/Year
Demolition Sub-Total	\$ 6,500	\$ 31,000	\$ 37,500	Spring 2025
<i>Site Demolition</i>	\$ 6,500	\$ 31,000	\$ 37,500	
Infrastructure Sub-Total	\$ 1,465,972	\$ 1,571,161	\$ 3,037,133	Spring 2025
<i>Pipework, Roads and Sidewalks</i>	\$ 1,081,131	\$ 1,253,551	\$ 2,334,682	
<i>Site Design, Engineering and Inspections</i>	\$ 83,561	\$ 56,250	\$ 139,811	
<i>Water/Sewer Home Connection Fees</i>	\$ 17,400	\$ 13,800	\$ 31,200	
<i>Home Meter Fee</i>	\$ 20,880	\$ 16,560	\$ 37,440	
<i>Sewer and Water Home Tie In</i>	\$ 72,500	\$ 57,500	\$ 130,000	
<i>Driveways</i>	\$ 130,500	\$ 103,500	\$ 234,000	
<i>Gas</i>	\$ 30,000	\$ 30,000	\$ 60,000	
<i>Electric</i>	\$ 30,000	\$ 40,000	\$ 70,000	
<i>Site Lighting</i>	\$ -	\$ -	\$ -	
Site Preparation Sub-Total	\$ 304,254	\$ 587,731	\$ 891,985	Spring 2025
<i>Grading, soil erosion control, clearing, top soil removal, wetland delineation, cut and fill, temporary access and construction facilities</i>	\$ 304,254	\$ 587,731	\$ 891,985	
Affordable Housing Financing Gap	\$ 4,855,375	\$ 2,561,912	\$ 7,417,287	
Brownfield Plan/Act 381 Work Plan	\$ 15,000	\$ 15,000	\$ 30,000	Winter 2025
Brownfield Plan Implementation	\$ 15,000	\$ 15,000	\$ 30,000	
MSHDA Eligible Activities Sub-Total	\$ 6,662,101	\$ 4,781,804	\$ 11,443,905	
Contingency (15%)	\$ 266,509	\$ 328,484	\$ 594,993	
Interest (3.5%)	\$ 1,224,179	\$ 1,246,087	\$ 2,470,266	
Total Brownfield Eligible Activities	\$ 8,157,789	\$ 6,356,375	\$ 14,514,164	

Table 2

Tax Capture Schedule



Tax Increment Financing Capture Schedule

Allen Edwin Homes

9581 Oakland Drive

Portage, MI

February 2025

Estimated Taxable Value (TV) Increase Rate: 2.50%

Plan Year	1	2	3	4	5	6	7	8	9	10	11
Calendar Year	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036
*Base Taxable Value	\$ 140,139	\$ 140,139	\$ 140,139	\$ 140,139	\$ 140,139	\$ 140,139	\$ 140,139	\$ 140,139	\$ 140,139	\$ 140,139	\$ 140,139
Estimated New TV	\$ 2,543,103	\$ 6,047,500	\$ 6,198,688	\$ 6,353,655	\$ 6,512,496	\$ 6,675,308	\$ 6,842,191	\$ 7,013,246	\$ 7,188,577	\$ 7,368,292	\$ 7,552,499
Incremental Difference (New TV - Base TV)	\$ 2,402,964	\$ 5,907,361	\$ 6,058,549	\$ 6,213,516	\$ 6,372,357	\$ 6,535,169	\$ 6,702,052	\$ 6,873,107	\$ 7,048,438	\$ 7,228,153	\$ 7,412,360

School Capture	Millage Rate												
State Education Tax (SET)	6.0000	\$ 14,418	\$ 35,444	\$ 36,351	\$ 37,281	\$ 38,234	\$ 39,211	\$ 40,212	\$ 41,239	\$ 42,291	\$ 43,369	\$ 44,474	
School Operating Tax	17.5695	\$ 42,219	\$ 103,789	\$ 106,446	\$ 109,168	\$ 111,959	\$ 114,820	\$ 117,752	\$ 120,757	\$ 123,838	\$ 126,995	\$ 130,231	
School Total	23.5695	\$ 56,637	\$ 139,234	\$ 142,797	\$ 146,449	\$ 150,193	\$ 154,031	\$ 157,964	\$ 161,996	\$ 166,128	\$ 170,364	\$ 174,706	

Local Capture	Millage Rate												
County Public Safety	1.4380	\$ 3,455	\$ 8,495	\$ 8,712	\$ 8,935	\$ 9,163	\$ 9,398	\$ 9,638	\$ 9,884	\$ 10,136	\$ 10,394	\$ 10,659	
County 911	0.6459	\$ 1,552	\$ 3,816	\$ 3,913	\$ 4,013	\$ 4,116	\$ 4,221	\$ 4,329	\$ 4,439	\$ 4,553	\$ 4,669	\$ 4,788	
County Housing	0.7453	\$ 1,791	\$ 4,403	\$ 4,515	\$ 4,631	\$ 4,749	\$ 4,871	\$ 4,995	\$ 5,123	\$ 5,253	\$ 5,387	\$ 5,524	
County Seniors	0.3462	\$ 832	\$ 2,045	\$ 2,097	\$ 2,151	\$ 2,206	\$ 2,262	\$ 2,320	\$ 2,379	\$ 2,440	\$ 2,502	\$ 2,566	
KRESA ISD	6.9935	\$ 16,805	\$ 41,313	\$ 42,370	\$ 43,454	\$ 44,565	\$ 45,704	\$ 46,871	\$ 48,067	\$ 49,293	\$ 50,550	\$ 51,838	
County Veteran Fund	0.1000	\$ 240	\$ 591	\$ 606	\$ 621	\$ 637	\$ 654	\$ 670	\$ 687	\$ 705	\$ 723	\$ 741	
Portage District Library	1.4959	\$ 3,595	\$ 8,837	\$ 9,063	\$ 9,295	\$ 9,532	\$ 9,776	\$ 10,026	\$ 10,281	\$ 10,544	\$ 10,813	\$ 11,088	
Library Extra	0.4986	\$ 1,198	\$ 2,945	\$ 3,021	\$ 3,098	\$ 3,177	\$ 3,258	\$ 3,342	\$ 3,427	\$ 3,514	\$ 3,604	\$ 3,696	
City Operating	10.6400	\$ 25,568	\$ 62,854	\$ 64,463	\$ 66,112	\$ 67,802	\$ 69,534	\$ 71,310	\$ 73,130	\$ 74,995	\$ 76,908	\$ 78,868	
School Site SF	0.4983	\$ 1,197	\$ 2,944	\$ 3,019	\$ 3,096	\$ 3,175	\$ 3,256	\$ 3,340	\$ 3,425	\$ 3,512	\$ 3,602	\$ 3,694	
Cen Cnty Transit	0.8933	\$ 2,147	\$ 5,277	\$ 5,412	\$ 5,551	\$ 5,692	\$ 5,838	\$ 5,987	\$ 6,140	\$ 6,296	\$ 6,457	\$ 6,621	
County Operating	4.6202	\$ 11,102	\$ 27,293	\$ 27,992	\$ 28,708	\$ 29,442	\$ 30,194	\$ 30,965	\$ 31,755	\$ 32,565	\$ 33,396	\$ 34,247	
County Transit	0.3102	\$ 745	\$ 1,832	\$ 1,879	\$ 1,927	\$ 1,977	\$ 2,027	\$ 2,079	\$ 2,132	\$ 2,186	\$ 2,242	\$ 2,299	
KVCC	2.7729	\$ 6,663	\$ 16,381	\$ 16,800	\$ 17,229	\$ 17,670	\$ 18,121	\$ 18,584	\$ 19,058	\$ 19,545	\$ 20,043	\$ 20,554	
	31.9983	\$ 76,891	\$ 189,026	\$ 193,863	\$ 198,822	\$ 203,905	\$ 209,114	\$ 214,454	\$ 219,928	\$ 225,538	\$ 231,289	\$ 237,183	

Non-Capturable Millages	Millage Rate												
School Debt	6.8500	\$ 16,460	\$ 40,465	\$ 41,501	\$ 42,563	\$ 43,651	\$ 44,766	\$ 45,909	\$ 47,081	\$ 48,282	\$ 49,513	\$ 50,775	
County Juvenile	0.1668	\$ 401	\$ 985	\$ 1,011	\$ 1,036	\$ 1,063	\$ 1,090	\$ 1,118	\$ 1,146	\$ 1,176	\$ 1,206	\$ 1,236	
Total Non-Capturable Taxes	7.0168	\$ 16,861	\$ 41,451	\$ 42,512	\$ 43,599	\$ 44,714	\$ 45,856	\$ 47,027	\$ 48,227	\$ 49,457	\$ 50,719	\$ 52,011	
	62.5846												

Total Tax Increment Revenue (TIR) Available for Capture \$ 133,527 \$ 328,259 \$ 336,660 \$ 345,271 \$ 354,098 \$ 363,145 \$ 372,418 \$ 381,923 \$ 391,666 \$ 401,653 \$ 411,889

Footnotes:

Average Single Family taxable Value	\$ 157,500
Average Duplex TV	\$ 138,208
Average 3-Plex TV	\$ 96,011
Average 4-Plex TV	\$ 93,341
Percentage of Homestead units	0%

Single Family Home Construction	8	18	0	0	0	26
Duplex Construction	0	6	0	0	0	6
3-Plex Construction	9	9	0	0	0	18
4-Plex Construction	8	0	0	0	0	8

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Tax Increment Financing Capture Schedule
Allen Edwin Homes
 9581 Oakland Drive
 Portage, MI
 February 2025

12	13	14	15	16	17	18	19	20	21	22	23	24	25	TOTAL
2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	
\$ 140,139	\$ 140,139	\$ 140,139	\$ 140,139	\$ 140,139	\$ 140,139	\$ 140,139	\$ 140,139	\$ 140,139	\$ 140,139	\$ 140,139	\$ 140,139	\$ 140,139	\$ 140,139	\$ -
\$ 7,741,311	\$ 7,934,844	\$ 8,133,215	\$ 8,336,546	\$ 8,544,959	\$ 8,758,583	\$ 8,977,548	\$ 9,201,986	\$ 9,432,036	\$ 9,667,837	\$ 9,909,533	\$ 10,157,271	\$ 10,411,203	\$ 10,671,483	\$ -
\$ 7,601,172	\$ 7,794,705	\$ 7,993,076	\$ 8,196,407	\$ 8,404,820	\$ 8,618,444	\$ 8,837,409	\$ 9,061,847	\$ 9,291,897	\$ 9,527,698	\$ 9,769,394	\$ 10,017,132	\$ 10,271,064	\$ 10,531,344	\$ -
\$ 45,607	\$ 46,768	\$ 47,958	\$ 49,178	\$ 50,429	\$ 51,711	\$ 53,024	\$ 54,371	\$ 55,751						\$ 867,323
\$ 133,549	\$ 136,949	\$ 140,434	\$ 144,007	\$ 147,668	\$ 151,422	\$ 155,269	\$ 159,212	\$ 163,254						\$ 2,539,738
\$ 179,156	\$ 183,717	\$ 188,393	\$ 193,185	\$ 198,097	\$ 203,132	\$ 208,293	\$ 213,583	\$ 219,005	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 3,407,061
\$ 10,930	\$ 11,209	\$ 11,494	\$ 11,786	\$ 12,086	\$ 12,393	\$ 12,708	\$ 13,031	\$ 13,362	\$ 13,701	\$ 14,048	\$ 14,405	\$ 14,770	\$ 15,144	\$ 279,936
\$ 4,910	\$ 5,035	\$ 5,163	\$ 5,294	\$ 5,429	\$ 5,567	\$ 5,708	\$ 5,853	\$ 6,002	\$ 6,154	\$ 6,310	\$ 6,470	\$ 6,634	\$ 6,802	\$ 125,738
\$ 5,665	\$ 5,809	\$ 5,957	\$ 6,109	\$ 6,264	\$ 6,423	\$ 6,587	\$ 6,754	\$ 6,925	\$ 7,101	\$ 7,281	\$ 7,466	\$ 7,655	\$ 7,849	\$ 145,088
\$ 2,632	\$ 2,699	\$ 2,767	\$ 2,838	\$ 2,910	\$ 2,984	\$ 3,060	\$ 3,137	\$ 3,217	\$ 3,298	\$ 3,382	\$ 3,468	\$ 3,556	\$ 3,646	\$ 67,395
\$ 53,159	\$ 54,512	\$ 55,900	\$ 57,322	\$ 58,779	\$ 60,273	\$ 61,804	\$ 63,374	\$ 64,983	\$ 66,632	\$ 68,322	\$ 70,055	\$ 71,831	\$ 73,651	\$ 1,361,428
\$ 760	\$ 779	\$ 799	\$ 820	\$ 840	\$ 862	\$ 884	\$ 906	\$ 929	\$ 953	\$ 977	\$ 1,002	\$ 1,027	\$ 1,053	\$ 19,467
\$ 11,371	\$ 11,660	\$ 11,957	\$ 12,261	\$ 12,573	\$ 12,892	\$ 13,220	\$ 13,556	\$ 13,900	\$ 14,252	\$ 14,614	\$ 14,985	\$ 15,364	\$ 15,754	\$ 291,208
\$ 3,790	\$ 3,886	\$ 3,985	\$ 4,087	\$ 4,191	\$ 4,297	\$ 4,406	\$ 4,518	\$ 4,633	\$ 4,751	\$ 4,871	\$ 4,995	\$ 5,121	\$ 5,251	\$ 97,063
\$ 80,876	\$ 82,936	\$ 85,046	\$ 87,210	\$ 89,427	\$ 91,700	\$ 94,030	\$ 96,418	\$ 98,866	\$ 101,375	\$ 103,946	\$ 106,582	\$ 109,284	\$ 112,054	\$ 2,071,293
\$ 3,788	\$ 3,884	\$ 3,983	\$ 4,084	\$ 4,188	\$ 4,295	\$ 4,404	\$ 4,516	\$ 4,630	\$ 4,748	\$ 4,868	\$ 4,992	\$ 5,118	\$ 5,248	\$ 97,004
\$ 6,790	\$ 6,963	\$ 7,140	\$ 7,322	\$ 7,508	\$ 7,699	\$ 7,894	\$ 8,095	\$ 8,300	\$ 8,511	\$ 8,727	\$ 8,948	\$ 9,175	\$ 9,408	\$ 173,899
\$ 35,119	\$ 36,013	\$ 36,930	\$ 37,869	\$ 38,832	\$ 39,819	\$ 40,831	\$ 41,868	\$ 42,930	\$ 44,020	\$ 45,137	\$ 46,281	\$ 47,454	\$ 48,657	\$ 899,416
\$ 2,358	\$ 2,418	\$ 2,479	\$ 2,543	\$ 2,607	\$ 2,673	\$ 2,741	\$ 2,811	\$ 2,882	\$ 2,955	\$ 3,030	\$ 3,107	\$ 3,186	\$ 3,267	\$ 60,387
\$ 21,077	\$ 21,614	\$ 22,164	\$ 22,728	\$ 23,306	\$ 23,898	\$ 24,505	\$ 25,128	\$ 25,766	\$ 26,419	\$ 27,090	\$ 27,777	\$ 28,481	\$ 29,202	\$ 539,802
\$ 243,225	\$ 249,417	\$ 255,765	\$ 262,271	\$ 268,940	\$ 275,776	\$ 282,782	\$ 289,964	\$ 297,325	\$ 304,870	\$ 312,604	\$ 320,531	\$ 328,657	\$ 336,985	\$ 6,229,123
\$ 52,068	\$ 53,394	\$ 54,753	\$ 56,145	\$ 57,573	\$ 59,036	\$ 60,536	\$ 62,074	\$ 63,649	\$ 65,265	\$ 66,920	\$ 68,617	\$ 70,357	\$ 72,140	\$ 1,333,492
\$ 1,268	\$ 1,300	\$ 1,333	\$ 1,367	\$ 1,402	\$ 1,438	\$ 1,474	\$ 1,512	\$ 1,550	\$ 1,589	\$ 1,630	\$ 1,671	\$ 1,713	\$ 1,757	\$ 32,471
\$ 53,336	\$ 54,694	\$ 56,086	\$ 57,513	\$ 58,975	\$ 60,474	\$ 62,010	\$ 63,585	\$ 65,199	\$ 66,854	\$ 68,550	\$ 70,288	\$ 72,070	\$ 73,896	\$ 1,365,964
\$ 422,380	\$ 433,135	\$ 444,158	\$ 455,456	\$ 467,037	\$ 478,908	\$ 491,075	\$ 503,547	\$ 516,330	\$ 304,870	\$ 312,604	\$ 320,531	\$ 328,657	\$ 336,985	\$ 9,636,184



Tax Increment Financing Capture Schedule

Allen Edwin Homes

8150 Creekside Dr

Portage, MI

February 2025

Estimated Taxable Value (TV) Increase Rate: 2.50%

Plan Year	1	2	3	4	5	6	7	8	9	10	11
Calendar Year	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036
*Base Taxable Value	\$ 345,800	\$ 345,800	\$ 345,800	\$ 345,800	\$ 345,800	\$ 345,800	\$ 345,800	\$ 345,800	\$ 345,800	\$ 345,800	\$ 345,800
Estimated New TV	\$ 1,705,800	\$ 3,998,445	\$ 5,598,406	\$ 5,738,366	\$ 5,881,825.44	\$ 6,028,871	\$ 6,179,593	\$ 6,334,083	\$ 6,492,435	\$ 6,654,746	\$ 6,821,114
Incremental Difference (New TV - Base TV)	\$ 1,360,000	\$ 3,652,645	\$ 5,252,606	\$ 5,392,566	\$ 5,536,025	\$ 5,683,071	\$ 5,833,793	\$ 5,988,283	\$ 6,146,635	\$ 6,308,946	\$ 6,475,314

School Capture	Millage Rate												
State Education Tax (SET)	6.0000	\$ 8,160	\$ 21,916	\$ 31,516	\$ 32,355	\$ 33,216	\$ 34,098	\$ 35,003	\$ 35,930	\$ 36,880	\$ 37,854	\$ 38,852	
School Operating Tax	17.5695	\$ 23,895	\$ 64,175	\$ 92,286	\$ 94,745	\$ 97,265	\$ 99,849	\$ 102,497	\$ 105,211	\$ 107,993	\$ 110,845	\$ 113,768	
School Total	23.5695	\$ 32,055	\$ 86,091	\$ 123,801	\$ 127,100	\$ 130,481	\$ 133,947	\$ 137,500	\$ 141,141	\$ 144,873	\$ 148,699	\$ 152,620	

Local Capture	Millage Rate												
County Public Safety	1.4380	\$ 1,956	\$ 5,253	\$ 7,553	\$ 7,755	\$ 7,961	\$ 8,172	\$ 8,389	\$ 8,611	\$ 8,839	\$ 9,072	\$ 9,312	
County 911	0.6459	\$ 878	\$ 2,359	\$ 3,393	\$ 3,483	\$ 3,576	\$ 3,671	\$ 3,768	\$ 3,868	\$ 3,970	\$ 4,075	\$ 4,182	
County Housing	0.7453	\$ 1,014	\$ 2,722	\$ 3,915	\$ 4,019	\$ 4,126	\$ 4,236	\$ 4,348	\$ 4,463	\$ 4,581	\$ 4,702	\$ 4,826	
County Seniors	0.3462	\$ 471	\$ 1,265	\$ 1,818	\$ 1,867	\$ 1,917	\$ 1,967	\$ 2,020	\$ 2,073	\$ 2,128	\$ 2,184	\$ 2,242	
KRESA ISD	6.9935	\$ 9,511	\$ 25,545	\$ 36,734	\$ 37,713	\$ 38,716	\$ 39,745	\$ 40,799	\$ 41,879	\$ 42,986	\$ 44,122	\$ 45,285	
County Veteran Fund	0.1000	\$ 136	\$ 365	\$ 525	\$ 539	\$ 554	\$ 568	\$ 583	\$ 599	\$ 615	\$ 631	\$ 648	
Portage District Library	1.4959	\$ 2,034	\$ 5,464	\$ 7,857	\$ 8,067	\$ 8,281	\$ 8,501	\$ 8,727	\$ 8,958	\$ 9,195	\$ 9,438	\$ 9,686	
Library Extra	0.4986	\$ 678	\$ 1,821	\$ 2,619	\$ 2,689	\$ 2,760	\$ 2,834	\$ 2,909	\$ 2,986	\$ 3,065	\$ 3,146	\$ 3,229	
City Operating	10.6400	\$ 14,470	\$ 38,864	\$ 55,888	\$ 57,377	\$ 58,903	\$ 60,468	\$ 62,072	\$ 63,715	\$ 65,400	\$ 67,127	\$ 68,897	
School Site SF	0.4983	\$ 678	\$ 1,820	\$ 2,617	\$ 2,687	\$ 2,759	\$ 2,832	\$ 2,907	\$ 2,984	\$ 3,063	\$ 3,144	\$ 3,227	
Cen Cnty Transit	0.8933	\$ 1,215	\$ 3,263	\$ 4,692	\$ 4,817	\$ 4,945	\$ 5,077	\$ 5,211	\$ 5,349	\$ 5,491	\$ 5,636	\$ 5,784	
County Operating	4.6202	\$ 6,283	\$ 16,876	\$ 24,268	\$ 24,915	\$ 25,578	\$ 26,257	\$ 26,953	\$ 27,667	\$ 28,399	\$ 29,149	\$ 29,917	
County Transit	0.3102	\$ 422	\$ 1,133	\$ 1,629	\$ 1,673	\$ 1,717	\$ 1,763	\$ 1,810	\$ 1,858	\$ 1,907	\$ 1,957	\$ 2,009	
KVCC	2.7729	\$ 3,771	\$ 10,128	\$ 14,565	\$ 14,953	\$ 15,351	\$ 15,759	\$ 16,177	\$ 16,605	\$ 17,044	\$ 17,494	\$ 17,955	
	31.9983	\$ 43,518	\$ 116,878	\$ 168,074	\$ 172,553	\$ 177,143	\$ 181,849	\$ 186,671	\$ 191,615	\$ 196,682	\$ 201,876	\$ 207,199	

Non-Capturable Millages	Millage Rate												
School Debt	6.8500	\$ 9,316	\$ 25,021	\$ 35,980	\$ 36,939	\$ 37,922	\$ 38,929	\$ 39,961	\$ 41,020	\$ 42,104	\$ 43,216	\$ 44,356	
County Juvenile	0.1668	\$ 227	\$ 609	\$ 876	\$ 899	\$ 923	\$ 948	\$ 973	\$ 999	\$ 1,025	\$ 1,052	\$ 1,080	
Total Non-Capturable Taxes	7.0168	\$ 9,543	\$ 25,630	\$ 36,856	\$ 37,839	\$ 38,845	\$ 39,877	\$ 40,935	\$ 42,019	\$ 43,130	\$ 44,269	\$ 45,436	
	62.5846												

Total Tax Increment Revenue (TIR) Available for Capture \$ 75,572 \$ 202,969 \$ 291,876 \$ 299,653 \$ 307,625 \$ 315,796 \$ 324,171 \$ 332,756 \$ 341,555 \$ 350,574 \$ 359,819

Footnotes:

Average Single Family taxable Value	\$ 125,000
Average Duplex TV	\$ -
Average 3-Plex TV	\$ -
Average 4-Plex TV	\$ 45,000
Percentage of Homestead units	0%

Single Family Home Construction	8	18	12	0	0		38
Duplex Construction	0	0	0	0	0		0
3-Plex Construction	0	0	0	0	0		0
4-Plex Construction	8	0	0	0	0		8

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Tax Increment Financing Capture Schedule
Allen Edwin Homes
 8150 Creekside Dr
 Portage, MI
 February 2025

12	13	14	15	16	17	18	19	20	21	22	23	24	25	TOTAL
2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	
\$ 345,800	\$ 345,800	\$ 345,800	\$ 345,800	\$ 345,800	\$ 345,800	\$ 345,800	\$ 345,800	\$ 345,800	\$ 345,800	\$ 345,800	\$ 345,800	\$ 345,800	\$ 345,800	\$ -
\$ 6,991,642	\$ 7,166,433	\$ 7,345,594	\$ 7,529,234	\$ 7,717,465	\$ 7,910,401	\$ 8,108,161	\$ 8,310,865	\$ 8,518,637	\$ 8,731,603	\$ 8,949,893	\$ 9,173,640	\$ 9,402,981	\$ 9,638,056	\$ -
\$ 6,645,842	\$ 6,820,633	\$ 6,999,794	\$ 7,183,434	\$ 7,371,665	\$ 7,564,601	\$ 7,762,361	\$ 7,965,065	\$ 8,172,837	\$ 8,385,803	\$ 8,604,093	\$ 8,827,840	\$ 9,057,181	\$ 9,292,256	\$ -
\$ 39,875	\$ 40,924	\$ 41,999	\$ 43,101	\$ 44,230	\$ 45,388	\$ 46,574	\$ 47,790	\$ 49,037						\$ 744,697
\$ 116,764	\$ 119,835	\$ 122,983	\$ 126,209	\$ 129,516	\$ 132,906	\$ 136,381	\$ 139,942	\$ 143,593						\$ 2,180,658
\$ 156,639	\$ 160,759	\$ 164,982	\$ 169,310	\$ 173,746	\$ 178,294	\$ 182,955	\$ 187,733	\$ 192,630	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,925,355
\$ 9,557	\$ 9,808	\$ 10,066	\$ 10,330	\$ 10,600	\$ 10,878	\$ 11,162	\$ 11,454	\$ 11,753	\$ 12,059	\$ 12,373	\$ 12,694	\$ 13,024	\$ 13,362	\$ 241,991
\$ 4,293	\$ 4,405	\$ 4,521	\$ 4,640	\$ 4,761	\$ 4,886	\$ 5,014	\$ 5,145	\$ 5,279	\$ 5,416	\$ 5,557	\$ 5,702	\$ 5,850	\$ 6,002	\$ 108,694
\$ 4,953	\$ 5,083	\$ 5,217	\$ 5,354	\$ 5,494	\$ 5,638	\$ 5,785	\$ 5,936	\$ 6,091	\$ 6,250	\$ 6,413	\$ 6,579	\$ 6,750	\$ 6,926	\$ 125,422
\$ 2,301	\$ 2,361	\$ 2,423	\$ 2,487	\$ 2,552	\$ 2,619	\$ 2,687	\$ 2,758	\$ 2,829	\$ 2,903	\$ 2,979	\$ 3,056	\$ 3,136	\$ 3,217	\$ 58,260
\$ 46,478	\$ 47,700	\$ 48,953	\$ 50,237	\$ 51,554	\$ 52,903	\$ 54,286	\$ 55,704	\$ 57,157	\$ 58,646	\$ 60,173	\$ 61,738	\$ 63,341	\$ 64,985	\$ 1,176,889
\$ 665	\$ 682	\$ 700	\$ 718	\$ 737	\$ 756	\$ 776	\$ 797	\$ 817	\$ 839	\$ 860	\$ 883	\$ 906	\$ 929	\$ 16,828
\$ 9,942	\$ 10,203	\$ 10,471	\$ 10,746	\$ 11,027	\$ 11,316	\$ 11,612	\$ 11,915	\$ 12,226	\$ 12,544	\$ 12,871	\$ 13,206	\$ 13,549	\$ 13,900	\$ 251,735
\$ 3,314	\$ 3,401	\$ 3,490	\$ 3,582	\$ 3,676	\$ 3,772	\$ 3,870	\$ 3,971	\$ 4,075	\$ 4,181	\$ 4,290	\$ 4,402	\$ 4,516	\$ 4,633	\$ 83,906
\$ 70,712	\$ 72,572	\$ 74,478	\$ 76,432	\$ 78,435	\$ 80,487	\$ 82,592	\$ 84,748	\$ 86,959	\$ 89,225	\$ 91,548	\$ 93,928	\$ 96,368	\$ 98,870	\$ 1,790,534
\$ 3,312	\$ 3,399	\$ 3,488	\$ 3,580	\$ 3,673	\$ 3,769	\$ 3,868	\$ 3,969	\$ 4,073	\$ 4,179	\$ 4,287	\$ 4,399	\$ 4,513	\$ 4,630	\$ 83,856
\$ 5,937	\$ 6,093	\$ 6,253	\$ 6,417	\$ 6,585	\$ 6,757	\$ 6,934	\$ 7,115	\$ 7,301	\$ 7,491	\$ 7,686	\$ 7,886	\$ 8,091	\$ 8,301	\$ 150,327
\$ 30,705	\$ 31,513	\$ 32,340	\$ 33,189	\$ 34,059	\$ 34,950	\$ 35,864	\$ 36,800	\$ 37,760	\$ 38,744	\$ 39,753	\$ 40,786	\$ 41,846	\$ 42,932	\$ 777,502
\$ 2,062	\$ 2,116	\$ 2,171	\$ 2,228	\$ 2,287	\$ 2,347	\$ 2,408	\$ 2,471	\$ 2,535	\$ 2,601	\$ 2,669	\$ 2,738	\$ 2,810	\$ 2,882	\$ 52,201
\$ 18,428	\$ 18,913	\$ 19,410	\$ 19,919	\$ 20,441	\$ 20,976	\$ 21,524	\$ 22,086	\$ 22,662	\$ 23,253	\$ 23,858	\$ 24,479	\$ 25,115	\$ 25,766	\$ 466,633
\$ 212,656	\$ 218,249	\$ 223,982	\$ 229,858	\$ 235,881	\$ 242,054	\$ 248,382	\$ 254,869	\$ 261,517	\$ 268,331	\$ 275,316	\$ 282,476	\$ 289,814	\$ 297,336	\$ 5,384,779
\$ 45,524	\$ 46,721	\$ 47,949	\$ 49,207	\$ 50,496	\$ 51,818	\$ 53,172	\$ 54,561	\$ 55,984	\$ 57,443	\$ 58,938	\$ 60,471	\$ 62,042	\$ 63,652	\$ 1,152,741
\$ 1,109	\$ 1,138	\$ 1,168	\$ 1,198	\$ 1,230	\$ 1,262	\$ 1,295	\$ 1,329	\$ 1,363	\$ 1,399	\$ 1,435	\$ 1,472	\$ 1,511	\$ 1,550	\$ 28,070
\$ 46,633	\$ 47,859	\$ 49,116	\$ 50,405	\$ 51,725	\$ 53,079	\$ 54,467	\$ 55,889	\$ 57,347	\$ 58,842	\$ 60,373	\$ 61,943	\$ 63,552	\$ 65,202	\$ 1,180,810
\$ 369,295	\$ 379,008	\$ 388,963	\$ 399,168	\$ 409,627	\$ 420,348	\$ 431,337	\$ 442,601	\$ 454,147	\$ 268,331	\$ 275,316	\$ 282,476	\$ 289,814	\$ 297,336	\$ 8,310,134



Tax Increment Financing Capture Schedule
Allen Edwin Homes
 Summary Capture
 Portage, MI
 February 2025

Estimated Taxable Value (TV) Increase Rate: 2.50%

Plan Year	1	2	3	4	5	6	7	8	9	10	11
Calendar Year	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035	2036
* Base Taxable Value	\$ 485,939	\$ 485,939	\$ 485,939	\$ 485,939	\$ 485,939	\$ 485,939	\$ 485,939	\$ 485,939	\$ 485,939	\$ 485,939	\$ 485,939
Estimated New TV	\$ 4,248,903	\$ 10,045,945	\$ 11,797,094	\$ 12,092,021	\$ 12,394,321	\$ 12,704,180	\$ 13,021,784	\$ 13,347,329	\$ 13,681,012	\$ 14,023,037	\$ 14,373,613
Incremental Difference (New TV - Base TV)	\$ 3,762,964	\$ 9,560,006	\$ 11,311,155	\$ 11,606,082	\$ 11,908,382	\$ 12,218,241	\$ 12,535,845	\$ 12,861,390	\$ 13,195,073	\$ 13,537,098	\$ 13,887,674

School Capture	Millage Rate												
State Education Tax (SET)	6.0000	\$ 22,578	\$ 57,360	\$ 67,867	\$ 69,636	\$ 71,450	\$ 73,309	\$ 75,215	\$ 77,168	\$ 79,170	\$ 81,223	\$ 83,326	
School Operating Tax	17.5695	\$ 66,113	\$ 167,965	\$ 198,731	\$ 203,913	\$ 209,224	\$ 214,668	\$ 220,249	\$ 225,968	\$ 231,831	\$ 237,840	\$ 243,999	
School Total	23.5695	\$ 88,691	\$ 225,325	\$ 266,598	\$ 273,550	\$ 280,675	\$ 287,978	\$ 295,464	\$ 303,137	\$ 311,001	\$ 319,063	\$ 327,326	

Local Capture	Millage Rate												
County Public Safety	1.4380	\$ 5,411	\$ 13,747	\$ 16,265	\$ 16,690	\$ 17,124	\$ 17,570	\$ 18,027	\$ 18,495	\$ 18,975	\$ 19,466	\$ 19,970	
County 911	0.6459	\$ 2,430	\$ 6,175	\$ 7,306	\$ 7,496	\$ 7,692	\$ 7,892	\$ 8,097	\$ 8,307	\$ 8,523	\$ 8,744	\$ 8,970	
County Housing	0.7453	\$ 2,805	\$ 7,125	\$ 8,430	\$ 8,650	\$ 8,875	\$ 9,106	\$ 9,343	\$ 9,586	\$ 9,834	\$ 10,089	\$ 10,350	
County Seniors	0.3462	\$ 1,303	\$ 3,310	\$ 3,916	\$ 4,018	\$ 4,123	\$ 4,230	\$ 4,340	\$ 4,453	\$ 4,568	\$ 4,687	\$ 4,808	
KRESA ISD	6.9935	\$ 26,316	\$ 66,858	\$ 79,105	\$ 81,167	\$ 83,281	\$ 85,448	\$ 87,669	\$ 89,946	\$ 92,280	\$ 94,672	\$ 97,123	
County Veteran Fund	0.1000	\$ 376	\$ 956	\$ 1,131	\$ 1,161	\$ 1,191	\$ 1,222	\$ 1,254	\$ 1,286	\$ 1,320	\$ 1,354	\$ 1,389	
Portage District Library	1.4959	\$ 5,629	\$ 14,301	\$ 16,920	\$ 17,362	\$ 17,814	\$ 18,277	\$ 18,752	\$ 19,239	\$ 19,739	\$ 20,250	\$ 20,775	
Library Extra	0.4986	\$ 1,876	\$ 4,767	\$ 5,640	\$ 5,787	\$ 5,938	\$ 6,092	\$ 6,250	\$ 6,413	\$ 6,579	\$ 6,750	\$ 6,924	
City Operating	10.6400	\$ 40,038	\$ 101,718	\$ 120,351	\$ 123,489	\$ 126,705	\$ 130,002	\$ 133,381	\$ 136,845	\$ 140,396	\$ 144,035	\$ 147,765	
School Site SF	0.4983	\$ 1,875	\$ 4,764	\$ 5,636	\$ 5,783	\$ 5,934	\$ 6,088	\$ 6,247	\$ 6,409	\$ 6,575	\$ 6,746	\$ 6,920	
Cen Cnty Transit	0.8933	\$ 3,361	\$ 8,540	\$ 10,104	\$ 10,368	\$ 10,638	\$ 10,915	\$ 11,198	\$ 11,489	\$ 11,787	\$ 12,093	\$ 12,406	
County Operating	4.6202	\$ 17,386	\$ 44,169	\$ 52,260	\$ 53,622	\$ 55,019	\$ 56,451	\$ 57,918	\$ 59,422	\$ 60,964	\$ 62,544	\$ 64,164	
County Transit	0.3102	\$ 1,167	\$ 2,966	\$ 3,509	\$ 3,600	\$ 3,694	\$ 3,790	\$ 3,889	\$ 3,990	\$ 4,093	\$ 4,199	\$ 4,308	
KVCC	2.7729	\$ 10,434	\$ 26,509	\$ 31,365	\$ 32,183	\$ 33,021	\$ 33,880	\$ 34,761	\$ 35,663	\$ 36,589	\$ 37,537	\$ 38,509	
31.9983	\$ 120,408	\$ 305,904	\$ 361,938	\$ 371,375	\$ 381,048	\$ 390,963	\$ 401,126	\$ 411,543	\$ 422,220	\$ 433,164	\$ 444,382		

Non-Capturable Millages	Millage Rate												
School Debt	6.8500	\$ 25,776	\$ 65,486	\$ 77,481	\$ 79,502	\$ 81,572	\$ 83,695	\$ 85,871	\$ 88,101	\$ 90,386	\$ 92,729	\$ 95,131	
County Juvenile	0.1668	\$ 628	\$ 1,595	\$ 1,887	\$ 1,936	\$ 1,986	\$ 2,038	\$ 2,091	\$ 2,145	\$ 2,201	\$ 2,258	\$ 2,316	
Total Non-Capturable Taxes	7.0168	\$ 26,404	\$ 67,081	\$ 79,368	\$ 81,438	\$ 83,559	\$ 85,733	\$ 87,962	\$ 90,246	\$ 92,587	\$ 94,987	\$ 97,447	
	62.5846												

Total Tax Increment Revenue (TIR) Available for Capture \$ 209,100 \$ 531,229 \$ 628,536 \$ 644,924 \$ 661,723 \$ 678,941 \$ 696,589 \$ 714,679 \$ 733,221 \$ 752,227 \$ 771,707



Tax Increment Financing Capture Schedule
Allen Edwin Homes
 Summary Capture
 Portage, MI
 February 2025

12	13	14	15	16	17	18	19	20	21	22	23	24	25	TOTAL
2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	
\$ 485,939	\$ 485,939	\$ 485,939	\$ 485,939	\$ 485,939	\$ 485,939	\$ 485,939	\$ 485,939	\$ 485,939	\$ 485,939	\$ 485,939	\$ 485,939	\$ 485,939	\$ 485,939	\$ -
\$ 14,732,953	\$ 15,101,277	\$ 15,478,809	\$ 15,865,779	\$ 16,262,424	\$ 16,668,984	\$ 17,085,709	\$ 17,512,852	\$ 17,950,673	\$ 18,399,440	\$ 18,859,426	\$ 19,330,912	\$ 19,814,184	\$ 20,309,539	\$ -
\$ 14,247,014	\$ 14,615,338	\$ 14,992,870	\$ 15,379,840	\$ 15,776,485	\$ 16,183,045	\$ 16,599,770	\$ 17,026,913	\$ 17,464,734	\$ 17,913,501	\$ 18,373,487	\$ 18,844,973	\$ 19,328,245	\$ 19,823,600	\$ -
\$ 85,482	\$ 87,692	\$ 89,957	\$ 92,279	\$ 94,659	\$ 97,098	\$ 99,599	\$ 102,161	\$ 104,788						\$ 1,612,020
\$ 250,313	\$ 256,784	\$ 263,417	\$ 270,216	\$ 277,185	\$ 284,328	\$ 291,650	\$ 299,154	\$ 306,847						\$ 4,720,396
\$ 335,795	\$ 344,476	\$ 353,374	\$ 362,495	\$ 371,844	\$ 381,426	\$ 391,248	\$ 401,316	\$ 411,635	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 6,332,416
\$ 20,487	\$ 21,017	\$ 21,560	\$ 22,116	\$ 22,687	\$ 23,271	\$ 23,870	\$ 24,485	\$ 25,114	\$ 25,760	\$ 26,421	\$ 27,099	\$ 27,794	\$ 28,506	\$ 521,927
\$ 9,202	\$ 9,440	\$ 9,684	\$ 9,934	\$ 10,190	\$ 10,453	\$ 10,722	\$ 10,998	\$ 11,280	\$ 11,570	\$ 11,867	\$ 12,172	\$ 12,484	\$ 12,804	\$ 234,432
\$ 10,618	\$ 10,893	\$ 11,174	\$ 11,463	\$ 11,758	\$ 12,061	\$ 12,372	\$ 12,690	\$ 13,016	\$ 13,351	\$ 13,694	\$ 14,045	\$ 14,405	\$ 14,775	\$ 270,509
\$ 4,932	\$ 5,060	\$ 5,191	\$ 5,325	\$ 5,462	\$ 5,603	\$ 5,747	\$ 5,895	\$ 6,046	\$ 6,202	\$ 6,361	\$ 6,524	\$ 6,691	\$ 6,863	\$ 125,655
\$ 99,636	\$ 102,212	\$ 104,853	\$ 107,559	\$ 110,333	\$ 113,176	\$ 116,090	\$ 119,078	\$ 122,140	\$ 125,278	\$ 128,495	\$ 131,792	\$ 135,172	\$ 138,636	\$ 2,538,317
\$ 1,425	\$ 1,462	\$ 1,499	\$ 1,538	\$ 1,578	\$ 1,618	\$ 1,660	\$ 1,703	\$ 1,746	\$ 1,791	\$ 1,837	\$ 1,884	\$ 1,933	\$ 1,982	\$ 36,295
\$ 21,312	\$ 21,863	\$ 22,428	\$ 23,007	\$ 23,600	\$ 24,208	\$ 24,832	\$ 25,471	\$ 26,125	\$ 26,797	\$ 27,485	\$ 28,190	\$ 28,913	\$ 29,654	\$ 542,942
\$ 7,104	\$ 7,287	\$ 7,475	\$ 7,668	\$ 7,866	\$ 8,069	\$ 8,277	\$ 8,490	\$ 8,708	\$ 8,932	\$ 9,161	\$ 9,396	\$ 9,637	\$ 9,884	\$ 180,969
\$ 151,588	\$ 155,507	\$ 159,524	\$ 163,642	\$ 167,862	\$ 172,188	\$ 176,622	\$ 181,166	\$ 185,825	\$ 190,600	\$ 195,494	\$ 200,511	\$ 205,653	\$ 210,923	\$ 3,861,828
\$ 7,099	\$ 7,283	\$ 7,471	\$ 7,664	\$ 7,861	\$ 8,064	\$ 8,272	\$ 8,485	\$ 8,703	\$ 8,926	\$ 9,156	\$ 9,390	\$ 9,631	\$ 9,878	\$ 180,860
\$ 12,727	\$ 13,056	\$ 13,393	\$ 13,739	\$ 14,093	\$ 14,456	\$ 14,829	\$ 15,210	\$ 15,601	\$ 16,002	\$ 16,413	\$ 16,834	\$ 17,266	\$ 17,708	\$ 324,227
\$ 65,824	\$ 67,526	\$ 69,270	\$ 71,058	\$ 72,891	\$ 74,769	\$ 76,694	\$ 78,668	\$ 80,691	\$ 82,764	\$ 84,889	\$ 87,068	\$ 89,300	\$ 91,589	\$ 1,676,919
\$ 4,419	\$ 4,534	\$ 4,651	\$ 4,771	\$ 4,894	\$ 5,020	\$ 5,149	\$ 5,282	\$ 5,418	\$ 5,557	\$ 5,699	\$ 5,846	\$ 5,996	\$ 6,149	\$ 112,588
\$ 39,506	\$ 40,527	\$ 41,574	\$ 42,647	\$ 43,747	\$ 44,874	\$ 46,030	\$ 47,214	\$ 48,428	\$ 49,672	\$ 50,948	\$ 52,255	\$ 53,595	\$ 54,969	\$ 1,006,434
\$ 455,880	\$ 467,666	\$ 479,746	\$ 492,129	\$ 504,821	\$ 517,830	\$ 531,164	\$ 544,832	\$ 558,842	\$ 573,202	\$ 587,920	\$ 603,007	\$ 618,471	\$ 634,321	\$ 11,613,902
\$ 97,592	\$ 100,115	\$ 102,701	\$ 105,352	\$ 108,069	\$ 110,854	\$ 113,708	\$ 116,634	\$ 119,633	\$ 122,707	\$ 125,858	\$ 129,088	\$ 132,398	\$ 135,792	\$ 2,486,233
\$ 2,376	\$ 2,438	\$ 2,501	\$ 2,565	\$ 2,632	\$ 2,699	\$ 2,769	\$ 2,840	\$ 2,913	\$ 2,988	\$ 3,065	\$ 3,143	\$ 3,224	\$ 3,307	\$ 60,541
\$ 99,968	\$ 102,553	\$ 105,202	\$ 107,917	\$ 110,700	\$ 113,553	\$ 116,477	\$ 119,474	\$ 122,547	\$ 125,695	\$ 128,923	\$ 132,231	\$ 135,622	\$ 139,098	\$ 2,546,774
\$ 791,675	\$ 812,142	\$ 833,121	\$ 854,624	\$ 876,665	\$ 899,256	\$ 922,413	\$ 946,148	\$ 970,477	\$ 573,202	\$ 587,920	\$ 603,007	\$ 618,471	\$ 634,321	\$ 17,946,318

Table 3

Reimbursement Schedule



Tax Increment Revenue Reimbursement Schedule

Allen Edwin Homes

9581 Oakland Drive

Portage, MI

February 2025

Developer Maximum Reimbursement	Proportionality	School & Local Taxes	Local-Only Taxes	Total
State	41.7%	\$ 2,973,399		\$ 2,973,399
Local	58.3%	\$ 4,162,928		\$ 4,162,928
TOTAL		\$ 7,136,328		\$ 7,136,328

Estimated Total Years of Plan:	25
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Plan Year	1	2	3	4	5	6	7	8	9	10
	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035
Total State Incremental Revenue	\$ 56,637	\$ 139,234	\$ 142,797	\$ 146,449	\$ 150,193	\$ 154,031	\$ 157,964	\$ 161,996	\$ 166,128	\$ 170,364
State Brownfield Redevelopment Fund (50% of SET)	\$ (7,209)	\$ (17,722)	\$ (18,176)	\$ (18,641)	\$ (19,117)	\$ (19,606)	\$ (20,106)	\$ (20,619)	\$ (21,145)	\$ (21,684)
State TIR Available for Reimbursement	\$ 49,428	\$ 121,511	\$ 124,621	\$ 127,809	\$ 131,076	\$ 134,425	\$ 137,858	\$ 141,376	\$ 144,983	\$ 148,679
Total Local Incremental Revenue	\$ 76,891	\$ 189,026	\$ 193,863	\$ 198,822	\$ 203,905	\$ 209,114	\$ 214,454	\$ 219,928	\$ 225,538	\$ 231,289
BRA Administrative Fee (10%)	\$ (7,689)	\$ (18,903)	\$ (19,386)	\$ (19,882)	\$ (20,390)	\$ (20,911)	\$ (21,445)	\$ (21,993)	\$ (22,554)	\$ (23,129)
Local TIR Available for Reimbursement	\$ 69,202	\$ 170,123	\$ 174,477	\$ 178,940	\$ 183,514	\$ 188,203	\$ 193,009	\$ 197,935	\$ 202,984	\$ 208,160
Total State & Local TIR Available	\$ 118,629	\$ 291,634	\$ 299,098	\$ 306,749	\$ 314,590	\$ 322,628	\$ 330,867	\$ 339,311	\$ 347,967	\$ 356,839

DEVELOPER	Beginning Balance											
DEVELOPER Eligible Activity Balance	\$ 2,078,235	\$ 2,198,974	\$ 2,193,389	\$ 2,186,060	\$ 2,176,917	\$ 2,165,884	\$ 2,152,884	\$ 2,137,838	\$ 2,120,664	\$ 2,101,277	\$ 2,079,590	

100%												
Developer Reimbursement	\$ 2,078,235	\$ 239,369	\$ 286,049	\$ 291,770	\$ 297,605	\$ 303,557	\$ 309,628	\$ 315,821	\$ 322,137	\$ 328,580	\$ 335,152	
State Tax Reimbursement		\$ 49,428	\$ 121,511	\$ 124,621	\$ 127,809	\$ 131,076	\$ 134,425	\$ 137,858	\$ 141,376	\$ 144,983	\$ 148,679	
Local Tax Reimbursement		\$ 69,202	\$ 170,123	\$ 174,477	\$ 178,940	\$ 183,514	\$ 188,203	\$ 193,009	\$ 197,935	\$ 202,984	\$ 208,160	
Total Developer Reimbursement Balance		\$ 2,198,974	\$ 2,193,389	\$ 2,186,060	\$ 2,176,917	\$ 2,165,884	\$ 2,152,884	\$ 2,137,838	\$ 2,120,664	\$ 2,101,277	\$ 2,079,590	
0%												
Interest Accrual	3.5%	\$ 76,964	\$ 76,769	\$ 76,512	\$ 76,192	\$ 75,806	\$ 75,351	\$ 74,824	\$ 74,223	\$ 73,545	\$ 72,786	
State Interest Reimbursement			\$ -	\$ -	\$ -	\$ -	\$ -					
Local Interest Reimbursement			\$ -	\$ -	\$ -	\$ -	\$ -					
Total Interest Reimbursement Balance		\$ 76,964	\$ 153,733	\$ 230,245	\$ 306,437	\$ 382,243	\$ 457,594	\$ 532,418	\$ 606,641	\$ 680,186	\$ 752,972	
Total Annual Developer Reimbursement		\$ 118,629	\$ 291,634	\$ 299,098	\$ 306,749	\$ 314,590	\$ 322,628	\$ 330,867	\$ 339,311	\$ 347,967	\$ 356,839	

LOCAL BROWNFIELD REVOLVING FUND

LBRF Deposits *												
State Tax Capture	\$ -											
Local Tax Capture	\$ -											
Total LBRF Capture	\$ -											

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

Footnotes:



Tax Increment Revenue Reimbursement Schedule

Allen Edwin Homes

9581 Oakland Drive

Portage, MI

February 2025

Estimated Capture	\$ 9,636,184
Administrative Fees	\$ 622,912
State Brownfield Redevelopment Fund	\$ 433,661
Local Brownfield Revolving Fund	\$ 1,443,282

11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	TOTAL
2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	
\$ 174,706	\$ 179,156	\$ 183,717	\$ 188,393	\$ 193,185	\$ 198,097	\$ 203,132	\$ 208,293	\$ 213,583	\$ 219,005						\$ 3,407,061
\$ (22,237)	\$ (22,804)	\$ (23,384)	\$ (23,979)	\$ (24,589)	\$ (25,214)	\$ (25,855)	\$ (26,512)	\$ (27,186)	\$ (27,876)						\$ (433,661)
\$ 152,469	\$ 156,352	\$ 160,333	\$ 164,414	\$ 168,596	\$ 172,883	\$ 177,277	\$ 181,781	\$ 186,398	\$ 191,130	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,973,399
\$ 237,183	\$ 243,225	\$ 249,417	\$ 255,765	\$ 262,271	\$ 268,940	\$ 275,776	\$ 282,782	\$ 289,964	\$ 297,325	\$ 304,870	\$ 312,604	\$ 320,531	\$ 328,657	\$ 336,985	\$ 6,229,123
\$ (23,718)	\$ (24,322)	\$ (24,942)	\$ (25,576)	\$ (26,227)	\$ (26,894)	\$ (27,578)	\$ (28,278)	\$ (28,996)	\$ (29,732)	\$ (30,487)	\$ (31,260)	\$ (32,053)	\$ (32,866)	\$ (33,699)	\$ (622,912)
\$ 213,465	\$ 218,902	\$ 224,476	\$ 230,188	\$ 236,044	\$ 242,046	\$ 248,198	\$ 254,504	\$ 260,967	\$ 267,592	\$ 274,383	\$ 281,344	\$ 288,478	\$ 295,791	\$ 303,287	\$ 5,606,211
\$ 365,933	\$ 375,254	\$ 384,809	\$ 394,602	\$ 404,640	\$ 414,929	\$ 425,475	\$ 436,285	\$ 447,365	\$ 458,722	\$ 274,383	\$ 281,344	\$ 288,478	\$ 295,791	\$ 303,287	
\$ 2,055,512	\$ 2,028,949	\$ 1,999,806	\$ 1,967,983	\$ 1,933,378	\$ 1,518,449	\$ 1,092,974									
\$ 341,855	\$ 348,692	\$ 355,666	\$ 362,779	\$ 370,035	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 6,886,930
\$ 152,469	\$ 156,352	\$ 160,333	\$ 164,414	\$ 168,596	\$ 172,883	\$ 177,277	\$ 181,781	\$ 186,398	\$ 87,216						\$ 2,869,486
\$ 213,465	\$ 218,902	\$ 224,476	\$ 230,188	\$ 236,044	\$ 242,046	\$ 248,198	\$ 254,504	\$ 260,967	\$ 122,108						\$ 4,017,444
\$ 2,055,512	\$ 2,028,949	\$ 1,999,806	\$ 1,967,983	\$ 1,933,378	\$ 1,518,449	\$ 1,092,974	\$ 656,689	\$ 209,324	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 6,886,930
\$ 71,943	\$ 71,013	\$ 69,993	\$ 68,879	\$ 67,668	\$ 53,146	\$ 38,254	\$ 22,984	\$ 7,326	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,224,179
						\$ -	\$ -	\$ -	\$ 103,913						\$ 103,913
						\$ -	\$ -	\$ -	\$ 145,485						\$ 145,485
\$ 824,915	\$ 895,928	\$ 965,921	\$ 1,034,800	\$ 1,102,469	\$ 1,155,614	\$ 1,193,868	\$ 1,216,853	\$ 1,224,179	\$ 974,781	\$ 974,781	\$ 974,781	\$ 974,781	\$ 974,781	\$ 974,781	
\$ 365,933	\$ 375,254	\$ 384,809	\$ 394,602	\$ 404,640	\$ 414,929	\$ 425,475	\$ 436,285	\$ 447,365	\$ 458,722	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 7,136,328
								\$ -	\$ -	\$ 274,383	\$ 281,344	\$ 288,478	\$ 295,791	\$ 303,287	\$ 1,443,282
			\$ -	\$ -	\$ -		\$ -	\$ -	\$ -	\$ 274,383	\$ 281,344	\$ 288,478	\$ 295,791	\$ 303,287	\$ 1,443,282



Tax Incremental Revenue Reimbursement Schedule

Allen Edwin Homes

8150 Creekside Dr

Portage, MI

February 2025

Developer Maximum Reimbursement	Proportionality	School & Local Taxes	Local-Only Taxes	Total
State	41.7%	\$ 2,553,006		\$ 2,553,006
Local	58.3%	\$ 3,574,354		\$ 3,574,354
TOTAL		\$ 6,127,361		\$ 6,127,361

Estimated Total
Years of Plan: 25

Plan Year	1	2	3	4	5	6	7	8	9	10
	2026	2027	2028	2029	2030	2031	2032	2033	2034	2035
Total State Incremental Revenue	\$ 32,055	\$ 86,091	\$ 123,801	\$ 127,100	\$ 130,481	\$ 133,947	\$ 137,500	\$ 141,141	\$ 144,873	\$ 148,699
State Brownfield Redevelopment Fund (50% of SET)	\$ (4,080)	\$ (10,958)	\$ (15,758)	\$ (16,178)	\$ (16,608)	\$ (17,049)	\$ (17,501)	\$ (17,965)	\$ (18,440)	\$ (18,927)
State TIR Available for Reimbursement	\$ 27,975	\$ 75,133	\$ 108,043	\$ 110,922	\$ 113,873	\$ 116,898	\$ 119,998	\$ 123,176	\$ 126,433	\$ 129,772
Total Local Incremental Revenue	\$ 43,518	\$ 116,878	\$ 168,074	\$ 172,553	\$ 177,143	\$ 181,849	\$ 186,671	\$ 191,615	\$ 196,682	\$ 201,876
BRA Administrative Fee (10%)	\$ (4,352)	\$ (11,688)	\$ (16,807)	\$ (17,255)	\$ (17,714)	\$ (18,185)	\$ (18,667)	\$ (19,161)	\$ (19,668)	\$ (20,188)
Local TIR Available for Reimbursement	\$ 39,166	\$ 105,191	\$ 151,267	\$ 155,298	\$ 159,429	\$ 163,664	\$ 168,004	\$ 172,453	\$ 177,014	\$ 181,688
Total State & Local TIR Available	\$ 67,140	\$ 180,324	\$ 259,311	\$ 266,220	\$ 273,302	\$ 280,562	\$ 288,003	\$ 295,629	\$ 303,447	\$ 311,460

DEVELOPER	Beginning Balance											
DEVELOPER Eligible Activity Balance	\$ 2,548,376	\$ 2,719,450	\$ 2,777,341	\$ 2,761,010	\$ 2,742,629	\$ 2,722,122	\$ 2,699,412	\$ 2,674,418	\$ 2,647,057	\$ 2,617,244	\$ 2,584,891	

100%												
Developer Reimbursement	\$ 2,548,376	\$ 238,215	\$ 238,215	\$ 242,979	\$ 247,839	\$ 252,796	\$ 257,851	\$ 263,008	\$ 268,269	\$ 273,634	\$ 279,107	
State Tax Reimbursement		\$ 27,975	\$ 75,133	\$ 108,043	\$ 110,922	\$ 113,873	\$ 116,898	\$ 119,998	\$ 123,176	\$ 126,433	\$ 129,772	
Local Tax Reimbursement		\$ 39,166	\$ 105,191	\$ 151,267	\$ 155,298	\$ 159,429	\$ 163,664	\$ 168,004	\$ 172,453	\$ 177,014	\$ 181,688	
Total Developer Reimbursement Balance		\$ 2,719,450	\$ 2,777,341	\$ 2,761,010	\$ 2,742,629	\$ 2,722,122	\$ 2,699,412	\$ 2,674,418	\$ 2,647,057	\$ 2,617,244	\$ 2,584,891	
0%												
Interest Accrual	3.5%	\$ 95,181	\$ 97,207	\$ 96,635	\$ 95,992	\$ 95,274	\$ 94,479	\$ 93,605	\$ 92,647	\$ 91,604	\$ 90,471	
State Interest Reimbursement			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Local Interest Reimbursement			\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	
Total Interest Reimbursement Balance		\$ 95,181	\$ 192,388	\$ 289,023	\$ 385,015	\$ 480,289	\$ 574,769	\$ 668,373	\$ 761,020	\$ 852,624	\$ 943,095	
Total Annual Developer Reimbursement		\$ 67,140	\$ 180,324	\$ 259,311	\$ 266,220	\$ 273,302	\$ 280,562	\$ 288,003	\$ 295,629	\$ 303,447	\$ 311,460	

LOCAL BROWNFIELD REVOLVING FUND

LBRF Deposits *												
State Tax Capture	\$ -											
Local Tax Capture	\$ -											
Total LBRF Capture	\$ -											

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

Footnotes:



Tax Increment Revenue Reimbursement Schedule

Allen Edwin Homes

8150 Creekside Dr

Portage, MI

February 2025

Estimated Capture	\$ 8,310,134
Administrative Fees	\$ 538,478
State Brownfield Redevelopment Fund	\$ 372,348
Local Brownfield Revolving Fund	\$ 1,271,947

11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	TOTAL
2036	2037	2038	2039	2040	2041	2042	2043	2044	2045	2046	2047	2048	2049	2050	
\$ 152,620	\$ 156,639	\$ 160,759	\$ 164,982	\$ 169,310	\$ 173,746	\$ 178,294	\$ 182,955	\$ 187,733	\$ 192,630						\$ 2,925,355
\$ (19,426)	\$ (19,938)	\$ (20,462)	\$ (20,999)	\$ (21,550)	\$ (22,115)	\$ (22,694)	\$ (23,287)	\$ (23,895)	\$ (24,519)						\$ (372,348)
\$ 133,194	\$ 136,702	\$ 140,297	\$ 143,982	\$ 147,760	\$ 151,631	\$ 155,600	\$ 159,668	\$ 163,837	\$ 168,111	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 2,553,006
\$ 207,199	\$ 212,656	\$ 218,249	\$ 223,982	\$ 229,858	\$ 235,881	\$ 242,054	\$ 248,382	\$ 254,869	\$ 261,517	\$ 268,331	\$ 275,316	\$ 282,476	\$ 289,814	\$ 297,336	\$ 5,384,779
\$ (20,720)	\$ (21,266)	\$ (21,825)	\$ (22,398)	\$ (22,986)	\$ (23,588)	\$ (24,205)	\$ (24,838)	\$ (25,487)	\$ (26,152)	\$ (26,833)	\$ (27,532)	\$ (28,248)	\$ (28,981)	\$ (29,734)	\$ (538,478)
\$ 186,479	\$ 191,390	\$ 196,424	\$ 201,583	\$ 206,872	\$ 212,293	\$ 217,849	\$ 223,544	\$ 229,382	\$ 235,365	\$ 241,498	\$ 247,785	\$ 254,228	\$ 260,833	\$ 267,603	\$ 4,846,301
\$ 319,673	\$ 328,092	\$ 336,721	\$ 345,566	\$ 354,632	\$ 363,924	\$ 373,449	\$ 383,212	\$ 393,219	\$ 403,476	\$ 241,498	\$ 247,785	\$ 254,228	\$ 260,833	\$ 267,603	
\$ 2,265,218	\$ 1,937,126	\$ 1,600,405													
\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 5,110,288
\$ 133,194	\$ 136,702	\$ 140,297	\$ 143,982	\$ 147,760	\$ 151,631	\$ 155,600	\$ 67,846								\$ 2,129,236
\$ 186,479	\$ 191,390	\$ 196,424	\$ 201,583	\$ 206,872	\$ 212,293	\$ 217,849	\$ 94,989								\$ 2,981,052
\$ 2,265,218	\$ 1,937,126	\$ 1,600,405	\$ 1,254,840	\$ 900,208	\$ 536,284	\$ 162,835	\$ (0)	\$ (0)	\$ (0)	\$ (0)	\$ (0)	\$ (0)	\$ (0)	\$ (0)	\$ 5,110,288
\$ 79,283	\$ 67,799	\$ 56,014	\$ 43,919	\$ 31,507	\$ 18,770	\$ 5,699	\$ (0)	\$ (0)	\$ (0)	\$ (0)	\$ (0)	\$ (0)	\$ (0)	\$ (0)	\$ 1,246,087
\$ -	\$ -	\$ -					\$ 91,822	\$ 163,837	\$ 168,111						\$ 423,770
\$ -							\$ 128,555	\$ 229,382	\$ 235,365						\$ 593,302
\$ 1,022,378	\$ 1,090,177	\$ 1,146,191	\$ 1,190,111	\$ 1,221,618	\$ 1,240,388	\$ 1,246,087	\$ 1,025,710	\$ 632,491	\$ 229,015	\$ 229,015	\$ 229,015	\$ 229,015	\$ 229,015	\$ 229,015	\$ 1,017,072
\$ 319,673	\$ 328,092	\$ 336,721	\$ 345,566	\$ 354,632	\$ 363,924	\$ 373,449	\$ 383,212	\$ 393,219	\$ 403,476	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 6,127,361
										\$ 241,498	\$ 247,785	\$ 254,228	\$ 260,833	\$ 267,603	\$ -
			\$ -	\$ -	\$ -		\$ -	\$ -	\$ -	\$ 241,498	\$ 247,785	\$ 254,228	\$ 260,833	\$ 267,603	\$ 1,271,947

Attachment A

Brownfield Plan Resolutions

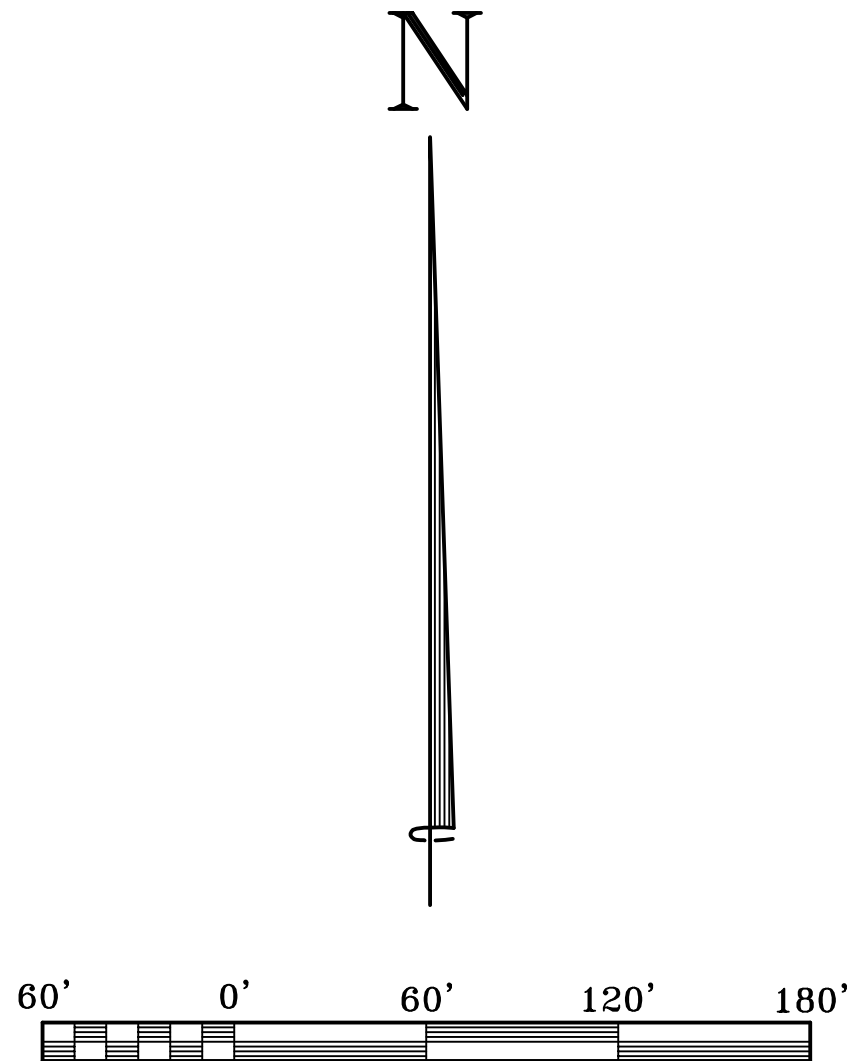
Attachment B

Reimbursement Agreement

Attachment C

Site Plan

FINAL PLAN for "OAKLAND COMMONS" in PORTAGE, MICHIGAN



ADDRESS = 9581 OAKLAND DRIVE
PARCEL ID = 00029-425-G
CURRENT ZONING = PD
SUBJECT PROPERTY = 12.57 ACRES
(AREA INCLUDES OAKLAND DRIVE RIGHT-OF-WAY AREA)

NOTE: REFER TO LANDSCAPE PLAN (BY OTHERS) FOR PROPOSED PLANTINGS ALONG OAKLAND DRIVE AND FOR ENTRYWAY LANDSCAPING.

NOTE: A PRELIMINARY 'STORM WATER BEST MANAGEMENT PRACTICES OPERATIONS AND MAINTENANCE AGREEMENT' SHALL BE PROVIDED TO THE CITY PRIOR TO THE CITY REQUIRED PRE-CONSTRUCTION MEETING. THE FINAL AGREEMENT SHALL BE PROVIDED TO THE CITY PRIOR TO COMPLETION OF THE PROJECT.

SITE DATA:
-PARCEL AREA = 12.57 ACRES
-# DWELLINGS = 58
-DENSITY = 4.6 DWELLINGS / ACRE

BUILDING SEPARATION & SETBACKS

- SINGLE FAMILY:**
-20' SETBACK FROM BACK OF CURB
-MINIMUM 12' BETWEEN BUILDINGS
-MINIMUM 30' OFF OAKLAND DRIVE R.O.W.
- DUPLEXES:**
-25' SETBACK OFF BACK OF CURB
-MINIMUM 18' BETWEEN BUILDINGS
- THREE-PLEXES AND FOUR-PLEXES:**
-25' SETBACK OFF BACK OF CURB
-MINIMUM 30' BETWEEN BUILDINGS
-MINIMUM 30' REAR SETBACK
-MINIMUM 30' OFF OAKLAND R.O.W.

FIRE DEPT. NOTES

COMBUSTIBLE BUILDING CONSTRUCTION SHALL NOT COMMENCE UNTIL FIRE HYDRANTS ARE OPERABLE AND AN ALL WEATHER ROAD SURFACE IS IN PLACE.

THE FIRE FLOW FOR EACH BUILDING IS 1000 GPM FROM ONE HYDRANT WITHIN 400' OF ALL PORTIONS OF THE BUILDING. THIS FLOW IS BASED ON THE FLOOR AREA OF ALL FLOORS INCLUDING BASEMENT FOR A BUILDING OF TYPE V-B CONSTRUCTION. SHOULD A BUILDING EXCEED 3600 SQUARE FEET, THE MINIMUM FIRE FLOW WILL BE BASED ON THE SIZE AND TYPE OF CONSTRUCTION FOR THAT BUILDING.

FIRE APPARATUS ACCESS ROADS 26.1 TO 32 FEET WIDE SHALL BE POSTED ON ONE SIDE AS A FIRE LANE.

ALL STREETS WILL BE WIDE ENOUGH TO ALLOW PARKING ON ONE SIDE OF THE STREET PER THE FIRE CODE.

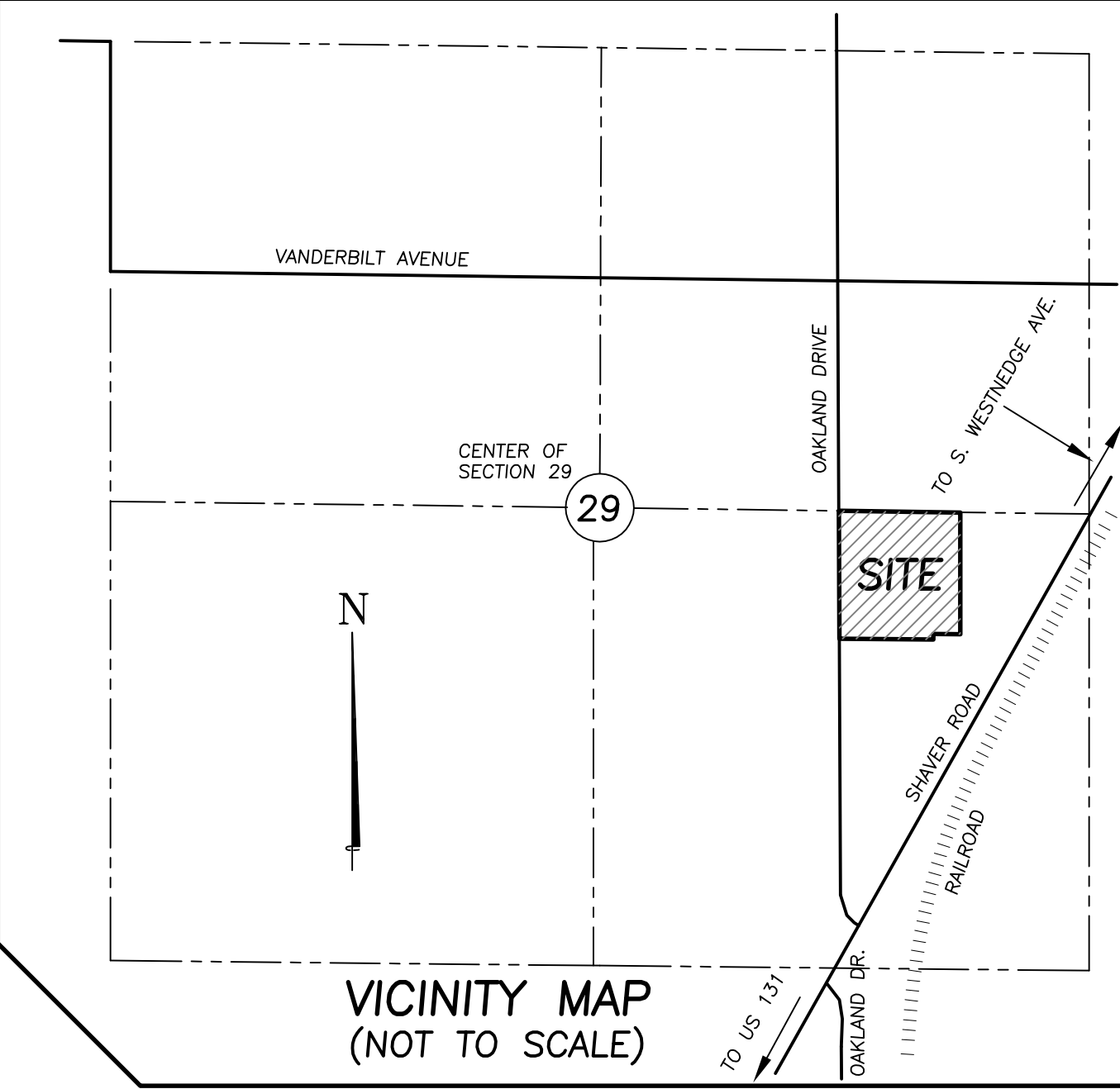
PARCEL DESCRIPTION PER CITY WEBSITE:
A PARCEL OF LAND SITUATED IN THE SE 1/4 OF SEC 29, T. 3 S., R. 11 W., TH NORTH 89 DEG 50' 15" WEST (PREVIOUSLY RECORDED AS SOUTH 89 DEG 55' 07" WEST) 331.47 FT ALG THE NORTH LI OF THE SE 1/4 OF SD 50' 19" EAST (PREVIOUSLY RECORDED AS NORTH 90 DEG 55' 07" EAST) 331.47 FT ALG SD NORTH LI TO SD EAST 1/4 COR; TH NORTH 89 DEG 59' 23" EAST (PREVIOUSLY RECORDED AS EAST) 116.85 FT ALG THE SOUTH LI OF THE NW 1/4 OF SEC 28, T. 3 S., R. 11 W. TO THE NORTHWESTLY ROW LI OF SHAVER RD; TH SOUTH 29 DEG 36' 07" WEST (PREVIOUSLY RECORDED AS SOUTH 29 DEG 39' WEST) 152.31 FT ALG SD ROW LI; TH NORTH 69 DEG 21' 53" WEST 145.41 FT; TH NORTH 89 DEG 50' 19" WEST (PREVIOUSLY RECORDED AS NORTH 89 DEG 55' 07" EAST) 108.90 FT PARALLEL; W SD SOUTH LI TH NORTH 44 DEG 50' 19" WEST 67.78 FT TO A LI EXTENDING SOUTH 00 DEG 05' 30" EAST FROM SD REFERENCE POINT "A"; TH NORTH 00 DEG 05' 30" WEST 12.78 FT TO SD REFERENCE POINT "A"; TH NORTH 89 DEG 50' 19" WEST (PREVIOUSLY RECORDED AS SOUTH 89 DEG 55' 07" WEST) 278.54 FT ALG SD NORTH LI TO THE POB; THN SOUTH 00 DEG 09' 41" WEST 753.56 FT; TH NORTH 89 DEG 50' 19" WEST 163.82 FT (PREVIOUSLY RECORDED AS NORTH 89 DEG 55' 07" EAST) PARALLEL; W SD NORTH LI; TH SOUTH 00 DEG 09' 41" WEST 26 FT; TH NORTH 89 DEG 50' 19" WEST (PREVIOUSLY RECORDED AS SOUTH 89 DEG 55' 07" WEST) 543.56 FT PARALLEL; W SD NORTH LI TO THE WEST LI OF THE EAST 1/4 OF SD SE 1/4 AS ESTABLISHED BY "OAKLAND FARMS NORTH" SUBDIVISION; TH NORTH 00 DEG 04' 14" EAST (PREVIOUSLY RECORDED AS NORTH) 779.56 FT ALG SD WEST LI OF THE EAST 1/4 TO SD NORTH LI OF THE SE 1/4; TH SOUTH 89 DEG 50' 19" EAST (PREVIOUSLY RECORDED AS NORTH 89 DEG 55' 07" EAST) 708.61 FT ALG SD NORTH LI OF THE SE 1/4 TO THE POB, CONTAINING 12.57 ACRES OF LAND, THE WESTERLY PORTION BEING SUBJECT TO EASEMENT FOR OAKLAND DR. SPLIT/COMBINED ON 08/20/2018 FROM 00029-425-E, 00029-425-G.

NOTE: UNOBSTRUCTED ACCESS TO FIRE HYDRANTS SHALL BE MAINTAINED AT ALL TIMES. THE FIRE DEPARTMENT SHALL NOT BE PREVENTED FROM GAINING IMMEDIATE ACCESS TO FIRE HYDRANTS OR FIRE PROTECTION EQUIPMENT. THIS PROVISION INCLUDES SNOW REMOVAL TO ALLOW FOR PROPER ACCESS TO FIRE HYDRANTS.

- GENERAL NOTES:**
- CURRENT CITY ZONING = PD.
 - PARCEL AREA = 12.57 ACRES.
 - SITE IS PARTIALLY COVERED WITH TREES AND BRUSH.
 - SITE LANDSCAPING SHALL BE PROVIDED. ANY SHOWN LANDSCAPING IS PRELIMINARY.
 - BUILDING PLANS (BY OTHERS) ARE PENDING.
 - ON-SITE FIRE HYDRANTS SHALL BE PROVIDED AS REQUIRED.
 - ALL ON-SITE WATER MAIN & SANITARY SEWER SHALL BE PUBLIC AND SHALL BE WITHIN AN EASEMENT TO THE CITY OF PORTAGE.
 - BUILDINGS SHALL CONNECT TO CITY WATER SYSTEM AND CITY SANITARY SEWER SYSTEM (EXCEPT GARAGES).
 - ALL NEW ROADWAYS SHALL BE PRIVATE.
 - EXISTING WATER MAINS AND SANITARY SEWERS ARE LOCATED WEST OF THE SUBJECT PROPERTY IN OAKLAND DRIVE.
 - STORM SEWER SYSTEM AND STORM WATER DISPOSAL SYSTEM SHALL BE PRIVATE.

NOTE: SHOWN NUMBER OF DWELLINGS = 58.
ALL ON SITE IMPROVEMENTS AND ALL DWELLINGS SHALL BE UNDER SINGLE OWNERSHIP.

NOTE: ANY NEW STREET TREES SHALL NOT BE PLANTED IN FUTURE DRIVEWAY LOCATIONS AND SHALL NOT BE PLANTED ABOVE SEWER LINES AND WATER LINES. ALSO, STREET TREES SHALL BE PLANTED TO MAXIMIZE DISTANCE FROM UTILITY MAINS (SANITARY SEWER, STORM SEWER, AND WATER MAIN).



AERIAL PHOTOGRAPH OF VICINITY
NO SCALE

- SHEET INDEX:**
- COVER SHEET
 - LAYOUT PLAN
 - GRADING & STORM SEWER PLAN
 - OAKLAND DRIVE DETAIL
 - PLAN & PROFILE SHEET (SOUTH PORTION)
 - PLAN & PROFILE SHEET (NORTH PORTION)
 - CONSTRUCTION DETAILS & NOTES
 - MDOT EROSION CONTROL DETAILS
 - TRAFFIC CONTROL PLAN
 - STORM WATER TREATMENT DEVICE
 - WATER MAIN (ADJOINING PROPERTY)

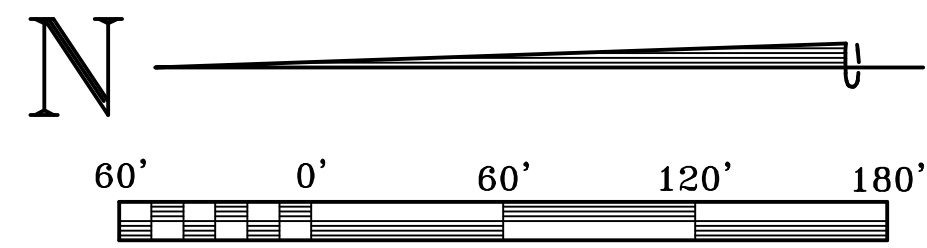
NOTE: LANDSCAPING PLAN SHALL BE PREPARED BY OTHERS.

APPLICANT:
GREEN DEVELOPMENT VENTURES, LLC
2186 EAST CENTRE STREET
PORTAGE, MI 49002
(269) 321-2610

COVER SHEET "OAKLAND COMMONS" PART OF THE SE 1/4 OF SEC. 29, T. 3 S., R. 11 W., CITY OF PORTAGE		DATE: 11/28/2023
MONUMENT ENGINEERING GROUP ASSOC., INC. Formerly Ingersoll, Watson & McMachen, Inc. 1209 East Milham Road, Suite B • Portage, Michigan 49002 • Phone 269 344-6165		SHEET: 1
		JOB No.: 23-039

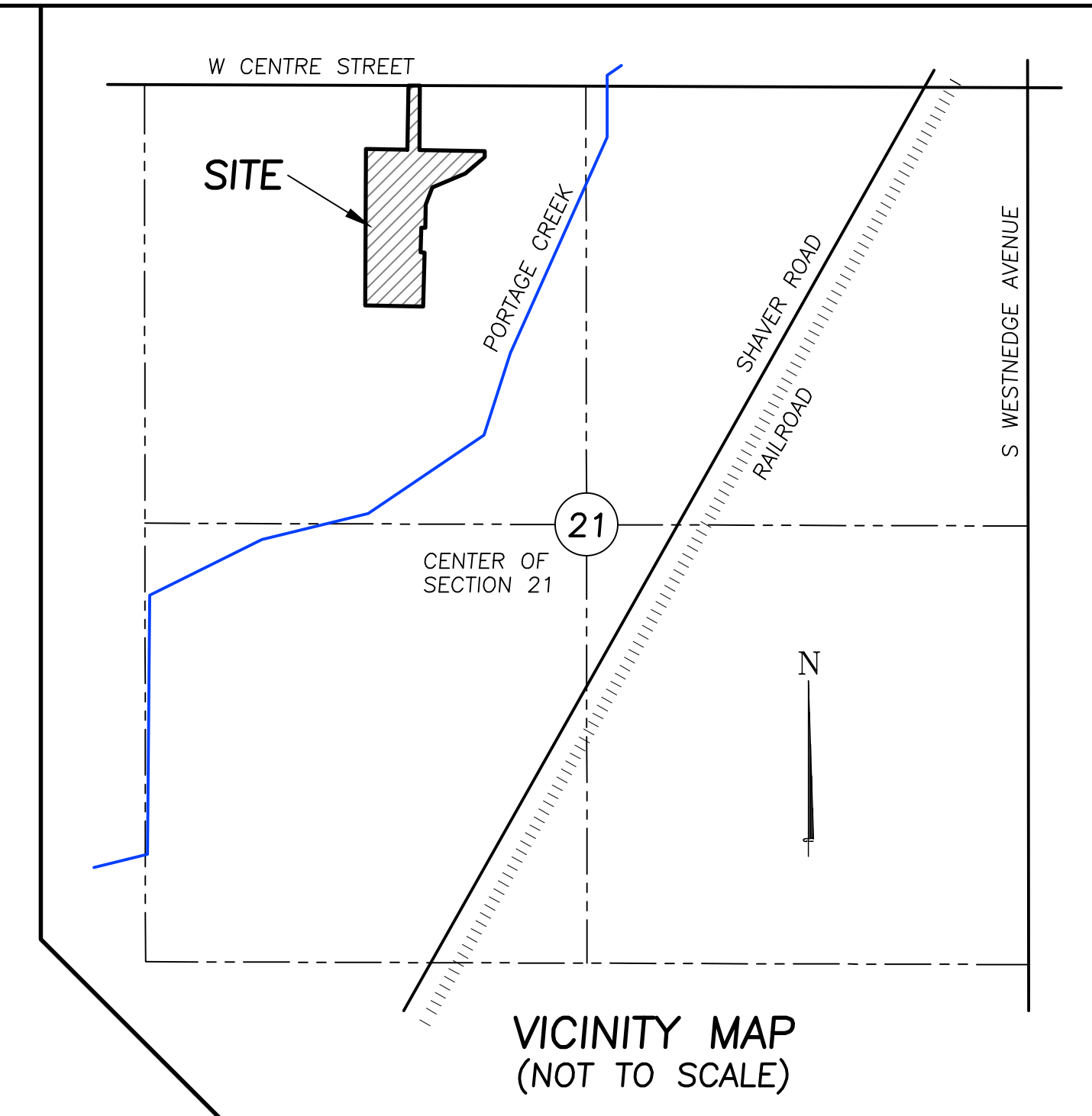
REVISED: 5/07/2024
REVISED: 4/25/2024
REVISED: 4/09/2024
REVISED: 2/28/2024





FINAL PLAN for "CREEKSIDE" in PORTAGE, MICHIGAN

ADDRESS = 8150 CREEKSIDE DRIVE
PARCEL ID = 00021-125-J
CURRENT ZONING = PD
SUBJECT PROPERTY = 9.11 ACRES
(AREA INCLUDES CENTRE STREET RIGHT-OF-WAY AREA)



AERIAL PHOTOGRAPH OF VICINITY
(NO SCALE)

- GENERAL NOTES:**
- 1) CURRENT CITY ZONING = PD.
 - 2) PARCEL AREA = 9.11 ACRES.
 - 3) SITE IS PARTIALLY COVERED WITH TREES AND BRUSH.
 - 4) SITE LANDSCAPING IS PROVIDED ON SHEET 2.
 - 5) BUILDING PLANS (BY OTHERS) ARE PENDING.
 - 6) ON-SITE FIRE HYDRANTS SHALL BE PROVIDED AS REQUIRED.
 - 7) ALL ON-SITE WATER MAIN & SANITARY SEWER SHALL BE PUBLIC AND SHALL BE WITHIN AN EASEMENT TO THE CITY OF PORTAGE.
 - 8) BUILDINGS SHALL CONNECT TO CITY WATER SYSTEM AND CITY SANITARY SEWER SYSTEM.
 - 9) SHOWN LAYOUT IS SUBJECT TO FINAL ADJUSTMENT.
 - 10) STORM SEWER SYSTEM AND STORM WATER DISPOSAL SYSTEM SHALL BE PRIVATE.
 - 11) ALL NEW DRIVES SHALL BE PRIVATE.

FIRE DEPT. NOTES

COMBUSTIBLE BUILDING CONSTRUCTION SHALL NOT COMMENCE UNTIL FIRE HYDRANTS ARE OPERABLE AND AN ALL WEATHER ROAD SURFACE IS IN PLACE.

THE FIRE FLOW FOR EACH BUILDING IS 1000 GPM FROM ONE HYDRANT WITHIN 400' OF ALL PORTIONS OF THE BUILDING. THIS FLOW IS BASED ON THE FLOOR AREA OF ALL FLOORS INCLUDING BASEMENT FOR A BUILDING OF TYPE V-B CONSTRUCTION. SHOULD A BUILDING EXCEED 3600 SQUARE FEET, THE MINIMUM FIRE FLOW WILL BE BASED ON THE SIZE AND TYPE OF CONSTRUCTION FOR THAT BUILDING.

FIRE APPARATUS ACCESS ROADS 26.1 TO 32 FEET WIDE SHALL BE POSTED ON ONE SIDE AS A FIRE LANE.

BUILDING SEPARATION & SETBACKS

- FRONT SETBACK (CRESTBROOK COURT): 25' SETBACK FROM BACK OF CURB
- FRONT SETBACK (ELTON LANE & CREEKSIDE DRIVE): 20' SETBACK FROM BACK OF CURB
- SINGLE FAMILY: MINIMUM 10' BETWEEN BUILDINGS
- MULTI-FAMILY: MINIMUM 30' BETWEEN BUILDINGS
- PERIMETER SETBACK (EXCLUDING CREEKSIDE DRIVE): 30' FROM PERIMETER PROPERTY LINES

PARCEL DESCRIPTION:
UNIT 5 OF "CREEKSIDE COMMONS"
SITE CONDOMINIUM.

SITE DATA:

- PARCEL AREA = 9.11 ACRES
- # DWELLINGS = 46
- DENSITY = 5.05 DWELLINGS / ACRE

SHEET INDEX:

- 1) COVER SHEET
- 2) LAYOUT & LANDSCAPE PLAN
- 3) PLAN & PROFILE SHEET (ELTON LANE)
- 4) PLAN & PROFILE SHEET (CRESTBROOK COURT)
- 5) PLAN & PROFILE SHEET (WATER MAIN)
- 6) GRADING & STORM SEWER PLAN
- 7) CONSTRUCTION DETAILS & NOTES
- 8) CONSTRUCTION DETAILS & NOTES
- 9) MDOT EROSION CONTROL DETAILS

INNOVATIVE GEOSPATIAL
& ENGINEERING SOLUTIONS



1209 MILHAM ROAD,
SUITE B,
PORTAGE, MI 49002
(OFFICE) 269-344-6165

COVER SHEET

CREEKSIDE
PART OF NW 1/4 OF SEC. 21, T.3S., R.11W.
CITY OF PORTAGE, MICHIGAN

GREEN DEVELOPMENT VENTURES, LLC
2186 EAST CENTRE STREET
PORTAGE, MICHIGAN 49002

JOB # : 24-042	DRAWN: TB	CHK: PF
SCALE : 1" = 60'	SHEET:	
DATE : 9/16/2024	1	



Attachment D

Housing Study

An excerpt of the W.E. Upjohn Institute Kalamazoo County Housing Plan dated July 2022 is included in this Plan, which includes the Introduction, Executive Summary, and Methodology. The complete Kalamazoo County Housing Plan can be found here:

https://www.kalcounty.com/housing/pdf_files/Kalamazoo%20County%20Housing%20Plan%20final%208.15.22.pdf

Kalamazoo County Housing Plan

July 2022

Report prepared by W.E. Upjohn Institute and the Southcentral Michigan Planning Council
for the Kalamazoo County Board of Commissioners



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1

Introduction

Introduction

Creating This Plan

The Upjohn Institute was asked by the Kalamazoo County Board of Commissioners to complete a housing plan for Kalamazoo County. This plan includes a housing needs assessment, market demands, results from the county-wide housing survey, goals and objectives, and strategies to move forward. Community and committee engagement helped guide the direction and focus.

Executive Summary

A healthy housing continuum provides homes for those in a range of incomes or in different life situations. Kalamazoo County has a shortage of housing units at multiple price points. Low rates of construction, high construction costs, increased demand from a growing population, and housing costs that are increasing faster than wages have contributed to the shortage and affordability issues. Fortunately, many strategies are available to help alleviate some of the housing concerns found in the county. These strategies are most effective when community partners band together and implement them as a cohesive unit.

The housing concerns in Kalamazoo County are not small. Rising costs have put most moderate- and low-income earners into situations where they are paying more in rent or ownership costs than what is financially sustainable. This increases the chances for displacement, especially for those with fixed incomes, such as seniors, individuals with disabilities, or people trying to rebuild after homelessness. There are over 15,000 overburdened renting households in Kalamazoo County. Of those households, 13,000 have annual gross incomes below \$35,000; that level of income only allows for monthly housing expenses to be at or below \$875. These numbers are further discussed on page 67.

Housing situations exist on a continuum from homelessness to securely affording a market-rate home. An example of this housing continuum is shown on the next page. A healthy housing market has options for any situation. People can move throughout the continuum as needs change in their lives. Kalamazoo County needs additional housing units in all types and price points, but there is a greater need for homes that are consistently affordable for those making moderate to low incomes. The addition of income-qualified units could provide sustained housing at price points that allow occupants to achieve financial stability and potentially move to a more secure form of housing.

Affordability is defined by a household paying 30% or less of their total gross annual income on housing. This is an inclusive definition is used for market-rate or subsidized housing. Conversely, income-qualified units are intended only for low- and moderate-income households.

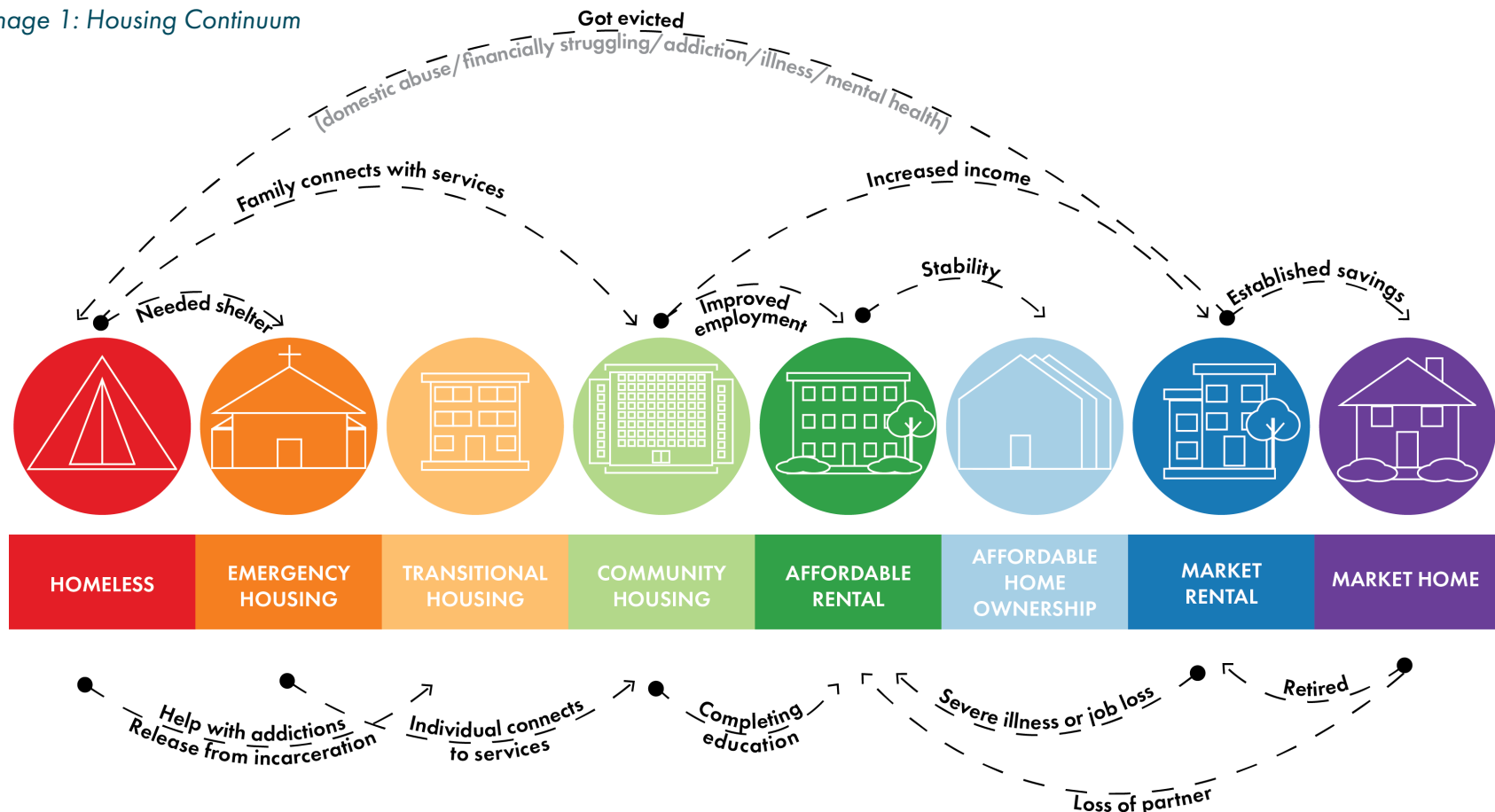
Introduction

Housing Continuum

The housing continuum demonstrates the range of housing types in which individuals may live during their lifetimes. A healthy housing market has options for any stage. Individuals can move in any direction at any point in their lives. A healthy community has

options along this continuum in order to allow residents to not only stay in their community through each stage, but, more importantly, to thrive through economic stability.

Image 1: Housing Continuum



These are a few examples of how people might move within the housing continuum.

Source: Housing Continuum Image Courtesy of United Way of Halifax (Canada)

Introduction

Partners

No single group or solution will solve the housing crisis in Kalamazoo County. As such, many individuals and organizations were asked to contribute to the creation of this housing plan, including municipal leaders, realtors, developers, employers, nonprofit agencies, and residents. A Steering Committee was created to provide critical direction and innovative ideas to the planning process, which in turn guided the goals and objectives of this plan. Stakeholder input on these strategies is vital, as their knowledge of local conditions and politics helps determine which are likely to succeed. Several public meetings were held to collect feedback on preliminary results, and survey responses were collected from around 3,000 county residents. The participation showed the level of concern and passion people have for housing solutions in Kalamazoo County.

The housing plan was made possible by the financial contributions from Kalamazoo County Board of Commissioners, Local Initiatives Support Corporation (LISC), the city of Portage, Kalamazoo County Continuum of Care, and an anonymous donor. Additional support was contributed by Oshtemo Township and volunteers at shelters and nonprofits to help distribute the unhoused survey. These shelters and nonprofits included the Disability Network, Cope/Kalamazoo Homeless Coalition, Ministry with Community, Open Doors, Kalamazoo Gospel Mission, Recovery Institute, South County Community Services, Vine Neighborhood, YWCA, Integrated Services of Kalamazoo, and Housing Resources Inc. We are very grateful for the collaboration and partnerships that were created throughout this process.



Introduction

Housing Assessment

This plan uses a number of indicators to assess the condition of the housing continuum. The indicators examined include the current and projected population, the existing housing stock, and the needs and desires of the current population. Population indicators are needed to understand the current and future demand for housing in the county. An examination of the existing housing stock is needed in order to grasp what problems currently exist and which housing types are needed going forward. Assessing the needs and desires of the existing population helps guide decision-making around how resources are utilized to provide the greatest benefit to county residents.

The population of Kalamazoo County has increased over the past few years and is expected to increase through 2030. The rate of growth in the county exceeded that of the state; likewise, Kalamazoo County has a higher proportion of those aged 18–24 than the state. This population increase has led to a higher number of households as well. Unfortunately, the number of housing units produced since the Great Recession did not keep pace with the population growth. This underproduction of housing has caused housing shortages and price increases, which in turn have caused more households to pay more than 30% of their income toward housing expenses. This phenomenon was not experienced equally across all parts of the county with both urban and rural areas (Northside Neighborhood and Prairie Ronde and Pavilion Townships, respectively) seeing higher than average levels of overburdened renters.

Many homes in Kalamazoo County have issues that require repairs. This is exacerbated by the fact that much of the housing

stock is older than 50 years. There are also multiple historic districts requiring specific standards for updates, adding cost or complication for owners, many who have low to moderate incomes. Those who responded to the housing survey stated that structural issues, mold, electrical, pests, and lead were the top concerns with their house or apartment; structural issues were the most frequent concern. Residents are also concerned about poor insulation and leaky windows, which was brought up regularly by survey respondents in different questions. Addressing the immediate and long-term issues with existing homes may, in some cases, cost more than the value of the house; this often leads to delays in addressing these concerns and impacts the quality of housing throughout the county.

The top four housing concerns of those responding to the survey were affordable housing for low income, unhoused, and vulnerable families; supportive services (mental health, financial literacy, etc.); and more units; followed closely by more transitional or temporary housing for those currently unhoused. Addressing all of these priorities would add options to the housing continuum for the most vulnerable and overburdened populations in the county. It is also important to note that survey respondents were from all income levels and from all parts of the county.

The survey results show many people preferring to live in more rural parts of the county. This corresponds with the amenities individuals look for when buying a new home. The top seven included safety, cost, features of the dwelling, location, proximity to work, sense of community, and connection to nature through trails and parks. Many of these needs can be met in different urban and rural settings by increasing access to nature through connected trails and improving public transportation.

Introduction

Supply and Demand

Over 15,000 households are in homes that do not meet their budget, while others are in types of housing they do not prefer. Meanwhile, the population in the county is growing, and housing construction is not keeping pace; it is anticipated that 7,750 new units are needed to appropriately house the new households forming or looking to locate in the county. These two factors have created housing shortages in several segments of the housing market. Therefore, higher rates of construction are essential to address both the current pent-up demand as well as the future demand. Local leaders will need to implement various strategies to enable and incentivize that increase in the supply of housing.

Unhoused

Forty percent of the respondents to the unhoused survey identified as Black, while just over 10% of the county's population does, calling attention to racial equity concerns. Feedback from community meetings and survey responses focused on concern about the impact of longstanding institutionalized racism, which is preventing individuals from generating wealth. This further establishes that the impacts of race-based lending practices, redlining, and fair housing issues with renting remain an issue despite recent attention.

Over one-third (38.5%) of the unhoused individuals surveyed indicated that children under the age of 16 are part of their household. Respondents listed the top reason (42.4%) they moved to Kalamazoo County as family connections, and the least frequently cited (less than 4%) was for the emergency shelters in the county.

Prior to becoming unhoused, half of the individuals surveyed rented their homes, some of which included renting individual rooms. Another quarter stayed with friends or relatives. Half of the individuals surveyed considered where they lived before becoming unhoused as unaffordable. To further that point, the respondents also chose the price of rent being too high as the top factor contributing to their unhoused condition.

The survey also asked what additional programs or supports individuals needed to become rehoused. The greatest number of respondents marked rental financial assistance as a need, followed by pre-rental programs to improve the likelihood of landlord acceptance of their applications.

Introduction

Vision

Create an equitable, sustainable, and inclusive community that offers quality, healthy, safe, decent, and affordable homes for all.

Mission

Improve residents' quality of life and sense of belonging, invigorate neighborhoods, and improve the economic future of our residents. Housing and other service providers will collaborate to leverage resources and build healthy residential communities throughout the county while promoting an atmosphere of pride, sustainability, and responsibility.

The Charge

To provide quality, affordable, accessible, and sustainable housing. To transform the lives of those who face affordable housing challenges by providing support through education and opportunity.

Introduction

Core Values

Professionalism: (Excellence, Financial Integrity, Accountability) To ensure financial integrity and be good stewards of our community's investment. To achieve excellence in programs, services, and products.

Transparency: To be transparent throughout all steps of the millage implementation.

Equity: To dismantle systemic racism and commit to work toward an equitable and inclusive future for all residents.

Respect: To communicate in ways that promote open dialogue and respect. To respond to people with integrity, dignity, compassion, and fairness.

Collaboration: To build strong partnerships and demonstrate a collaborative spirit. To enhance our community by advocating for creative and equitable solutions to housing issues across all systems and services.

Innovation: To foster innovative and creative solutions that develop diverse county-wide housing solutions

Goals

1. Increase Rental Opportunities
2. Ensure Housing Supply Is Built to Meet Demand
3. Remove Barriers to Acquiring and Keeping Homes
4. Rehab Existing Housing Stock
5. Embrace Housing as a Workforce Development Strategy
6. Increase and Coordinate Supportive Services
7. Advocate for Housing for All

Methodology

Housed Survey Methodology

The intent of this survey was to document the housing characteristics and preferences of housed residents of Kalamazoo County. Survey questions were focused on demand for specific housing types, location preferences, clarifying housing challenges, getting feedback on housing priorities, and determining how different demographic groups are impacted by the housing crises. Information gathered from this survey was used to inform content in the Kalamazoo County Housing Plan.

The target population for the survey was housed residents living in Kalamazoo County. For the purposes of this survey, all adults living in the household were asked to respond. As of 2020, Kalamazoo County has a population of 264,322, American Community Survey 5 year estimates. There are 207,218, individuals aged 18 and over residing in Kalamazoo County as of 2020, American Community Survey 5 year estimates. Additionally, there are 104,278 occupied housing units as of 2020, [Kalamazoo County Continuum of Care Annual Report](#).

A sample of residential addresses was obtained from the Kalamazoo County government. Because the county government utilizes the address list for emergency services, apartment units are not specified. This lack of information was accounted for by identifying multifamily residents in the address list and verifying the number of units at the address from voting records. Addresses to be mailed survey prompts were randomly selected from the augmented list. Moreover, the survey was also shared on social

media by cities, townships, villages, neighborhood groups, and nonprofits throughout Kalamazoo County.

The survey instrument was implemented via Survey Monkey on March 1, 2022, and concluded on May 22, 2022. A total of 35,500 survey prompts were mailed to homes in Kalamazoo County. Resource limitations led to the selection of a multifaceted approach to advertising the survey among housed residents of Kalamazoo County. Moreover, this approach would attempt to account for the errors that could occur from administering a survey prompts only via a mailer.

From the 35,500 survey prompts that were mailed, 3,000 responses were received. Of the total population, the survey received a response rate of 1.4%. As the survey results were not a random sample of the county, the responses were weighted to reflect county demographics. The responses were more concentrated in homeowners and white individuals than the county's population. For example, according to the U.S. Census American Community Survey, about 35% of households are renters. In the survey responses, about 15% were renters. Iterative proportional fitting (raking) was used to weight the results by both renters or owners, and race/ethnicity. Reweighting the survey responses brought the results closer to a representative sample of the county and helped reduce the possibility of response bias.

Methodology

Unhoused Survey Methodology

The intent of this survey was to document the housing characteristics and preferences of unhoused residents of Kalamazoo County. Survey questions focused on the impacts of programs and services, needs that are not being met, clarifying past and present housing challenges, getting feedback on housing priorities, and determining how different demographic groups are impacted by the housing crises. Information gathered from this survey was used to inform content in the Kalamazoo County Housing Plan.

The target population for the survey was unhoused residents living in Kalamazoo County. For the purposes of this survey, unhoused individuals were self-identified. As of 2020, Kalamazoo County had a population of 264,322, according to the American Community Survey 5 year estimates. At least 2,112 individuals experienced homelessness in Kalamazoo County in 2020, [Kalamazoo County Continuum of Care Annual Report](#). The unhoused survey received 169 responses.

The Continuum of Care worked with multiple different organizations to reach those who are experiencing homelessness. The target population was category one: literal homeless. This is defined as an individual or family who lacks a fixed, regular, and adequate nighttime residence, meaning: (i) Has a primary nighttime residence that is a public or private place not meant for human habitation; (ii) Is living in a publicly or privately operated shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by

charitable organizations or by federal, state, and local government programs); or (iii) Is exiting an institution where (s)he has resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution. An individual or family has to meet only one of the above criteria to qualify as literal homeless. Partner organizations volunteered their time and energy to administer the survey through computers, phones, and tablets. The organizations serve or work with those who are unhoused in different capacities, including street outreach, case management, shelters, and transitional housing. These organizations included the Disability Network, Cope/Kalamazoo Homeless Coalition, Ministry with Community, Open Doors, Kalamazoo Gospel Mission, Recovery Institute, South County Community Services, Vine Neighborhood, YWCA, Integrated Service of Kalamazoo, and Housing Resources Inc.

The survey instrument was implemented via Survey Monkey on March 20, 2022 and concluded on May 31, 2022. The compensation for unhoused individuals' time to complete the survey was a \$10 gift card.

Of the total unhoused population from the 2020 annual report, the survey received a response rate of 8%.



Brownfield Redevelopment Authority Project Application

To be considered for inclusion in the Program, the applicant will request a pre-application meeting with the Community Development Department. Department staff will share the Program criteria and will review the applicant's proposed project. Following the meeting, department staff will provide the applicant with a summary review of the project and a recommendation of whether the project would qualify for participation in the Program. When the applicant has made the required preparations, an application must be submitted to the Community Development Department in electronic format.

Please submit your application in this Excel format. Submittals may be in draft version up until such a time that legal review is requested, prior to which, the final version must be completed and the application fee must be paid. This application form must be completed by the applicant to initiate the brownfield review process by the City of Portage Brownfield Redevelopment Authority (BRA).

Last Updated: 12/3/24

Contents

The following sections are included in this application. All sections must be completed in order for the application to be accepted.

- A. Application Fee**
- B. Applicant Information**
- C. Project Information**
- D. Investment Criteria**
- Tab Required Documents**
- Tab Org Chart**
- Tab Certifications**

A. Application Fee

The Application fee is based on total project investment: 0.1%, i.e. a \$1,000,000 project will result in a \$1,000 fee, due at the time of application submittal. No legal review of a submitted application will occur unless the requisite fee is paid. After submitting your application an application fee will be determined and an invoice will be created (within 24 hours) and payable online or at city hall. Once payment has been received the review process will be initiated.

[Once Your Invoice is Received, Click Here to Pay Your Application Fee on the BS&A Platform](#)

You may submit the completed application form and any supplemental materials to:

Jonathon Hallberg | Deputy Director of Economic Development
City of Portage, Community Development Department
7900 S. Westnedge Ave., Portage, MI 49002
O (269) 329-4474, F (269) 324-0537
hallberj@portagemi.gov

Additional information about Brownfield Applications and the City of Portage Brownfield Authority process is [available HERE.](#)

B. Applicant Information

Date: 2/20/2025

Applicant (Organization/Firm): Allen Edwin Homes

Mailing Address: 2186 E Centre Ave
Portage, MI 49002

Principal: Tom Larabel

Title: VP of Land Development

Contact Person for Applicant: Brian Farkas

Title: Director of Workforce Hous

Contact Phone Number: 248.412.3407

Contact Email Address: bfarkas@allenedwin.com

Current Property Owner: SDI Oakland Commons LLC; Green De

Mailing Address: 2186 E Centre Ave
Portage, MI 49002

Principal: Tom Larabel

Title: VP of Land Development

Contact Person for Owner: Brian Farkas

Title: Director of Workforce Hous

Contact Phone Number: 248.412.3407

Contact Email Address: bfarkas@allenedwin.com

Project Architect/Engineer: Monument Engineering

Mailing Address: 1209 E Milham Ave
Portage, MI 49002

Contact Person: Pat Flanagan

Title: Civil Engineer

Contact Phone Number: pflanagan@monumentengineering.cc

Contact Email Address: 269.344.6165

Project Architect/Engineer: _____ (if more than one)

Mailing Address: _____

Contact Person: _____

Title: _____

Contact Phone Number: _____

Contact Email Address: _____

Construction Project Manager/

General Contractor: Allen Edwin Homes

Mailing Address: 2186 E Centre St
Portage, MI 49002

Contact Person: Craig Russel

Title: VP of Construction

Contact Phone Number: 269.321.2610

Contact Email Address: crussel@allenedwin.com

Property Management Firm: Copper Bay (if applicable)
Mailing Address: 2186 East Centre St
Portage, MI 49002
Contact Person: Lexis Hornbeck **Title:** Leasing Manager
Contact Phone Number: 616.878.1748
Contact Email Address: lhornbeck@copperbay.com

Please complete the Org Chart tab in this application document.

☐ Completed

C. Project Information

Project Name: Creekside Commons; Oakland Commons
Project Address(es): 8150 Creekside Drive; 9581 Oakland Drive
Portage, MI 49024
Parcel ID Number(s): 10-00021-125-J; 10-00029-425-G
Existing Acreage: 20.47 **Existing Building Square Footage:** 0

Project is a(n):

☒ Greenfield Construction ☐ Redevelopment ☐ Adaptive Re-Use/ Renovation

Project Summary: For mixed-use projects, include percentage of residential by square footage. For residential projects (or components of mixed-use), please share proposed method of certification and duration of affordability impact. Indicate if project will result in the subdivision of any present tax parcels and provide details. If more space is required, please create an **Attachment I** and share these details therein. Information should be consistent with and/or reference the details provided in proforma document.

The proposed redevelopment consists of two vacant parcel totaling 9.11 acres and 11.36 acres in the City of Portage. The development involves two eligible properties that will be developed by Allen Edwin Homes with a total of 104 new residential units on the two properties. The Creekside Commons property (8150 Creekside Drive, 9.11 acres) will involve preparing the site for development to make way for 46 new residential units available for rent. The 46 units include 38 single family homes that are anticipated to be 1,640-square foot 4-bedroom homes, and two 4-plex buildings for a total of eight residential units that are also expected to be 1,640-square feet per unit. The Project will involve the creation of a drive off of Creekside Drive connecting to a cul-de-sac drive through the development. The project includes income restricting 10 units in this development (22%), including eight single-family homes and two 4-plex units. The Oakland Commons property (9581 Oakland Drive, 11.36 acres) will involve preparing the site to make way for 58 new residential units available for rent. The 58 units include 26 single family homes that are anticipated to be 1,640-square foot 3-bedroom units, three duplex buildings for a total of six residential units, six 3-plex buildings for a total of 18 residential units, and two 4-plex units for a total of eight residential units. The project will be developed around a ring road that will include 18 single family homes in the interior of the ring road and the balance of the units on the outside of the ring road. The developmetn will include multiple paved walking paths with a primary entrance from Oakland Drive and an additional emergency access drive with access from Shaver Road. The project includes income restricting 12 units (21%), including 5 single family units, 2 duplex units, 3 3-plex units, and 2 4-plex units. A total of 22 units out of 104 will be income restricted. The total capital invesmtent is expected to be approximately \$35,464,602.

Projected Private Investment in Development / Redevelopment: \$35,464,602

Future Number of Buildings: 77 **Total Future Square Footage:** 170,560

Status of Development Permits and Applications: (Indicate any rezoning applications, tentative plan applications, site plan applications, state and federal permitting that must be approved either prior to, or concurrent with, the Brownfield Redevelopment Incentive.)

The Site Plan for the project has already been created. Local and state approvals of the project are anticipated in Winter 2025 with construction start in spring 2025 on both parcels. All units are expected to be built by 2028 on a three-year build schedule. The Oakland Commons parcel is expected to have construction completed by 2027. The Creekside Commons parcel is expected to have construction completed by 2028. Any encumbrances on the property are identified in the submitted site plans.

Status of Assessment Appeals: (Indicate if there are any assessments presently under appeal and the status of those appeals.)

Not applicable.

Qualifying Status of the Property:

☐ Facility

☐ Blighted

☐ Functionally
Obsolete

Projected Number of Years of Local Tax Capture to Reimburse Eligible Expenses: _____

Summary of Rationale for Qualifying Status (provide documentation under separate cover if necessary):

Section 2(y)(i) of Public Act 381 of 1996 ("Act 381"), as amended, defines "Housing Property" as "A property on which 1 or more units of residential housing are proposed to be constructed, rehabilitated, or otherwise designated to be used as a dwelling." The development proposes 58 housing units on Parcel #10-00029-425-G and 46 units on #10-00021-125-J, thus these parcels are eligible property under Act 381.

Other incentives applicant intends to apply for: (Please include anticipated review/approval dates and amount of incentive proposed.)

State tax capture through a MSHDA approved Act 381 Work Plan.

If applicant is not applying for other incentives, please state why the Brownfield Incentive Policy is the only assistance being sought for the project:

The project is not eligible for the MEDC CRP program. Development projects cannot apply for MSHDA MI Neighborhoods funding without the capital stack (including TIF incentives) approved and this project does not contemplate income restriction at 60% AMI, so it is not a MI Neighborhoods candidate.

Is the project located within a TIFA District? (i.e. Downtown Development Authority, LDFA, etc.)

Yes ☐ No ☒

If so, state the appropriate authority's current level of support and any official action taken by the authority related to the project with date:

Not applicable.

New and Retained Jobs

Include additional data in ATTACHMENT I if necessary.

Description	New		Retained		Avg. Annual Pay
	# Full-Time	# Part-Time	# Full-Time	# Part-Time	

Residential Unit Details (if relevant)

Submit an external document, or as part of ATTACHMENT I, if necessary.

Unit Type	Income/AMI Restrictions	# Units	Sq. Ft.	Rent or Sale Price

Describe method of annual income certification and duration of affordability impact.

We plan to use one of the tenant self-certification forms made available by MSHDA. Income restricted units will be income restricted for 15 years at Oakland Commons and income restricted for 10 year at Creekside Commons.

D. Investment Criteria

IMPORTANT - Refer to the [City of Portage Brownfield Redevelopment Incentive Policy](#) and indicate which of the investment criteria the project will meet:

Check all that Apply

Sustainable Development

LEED Silver (or higher) Certification

Energy Star V3.2 (or higher)

Equivalent Alternative (List)

--

Housing Development Activities

Project includes "Housing Development Activities", as defined in Section 2(x) of the Brownfield Act, **and** provides income qualified housing

X

Diversity of Housing Type

Provides a housing type (single-family attached, single-family detached, duplex, or multi-family) that is less than 20% of the existing housing type in a census block group, according to the most recent decennial census, **or** if the census data is more than five years old, according to the most recent American Community Survey data

X

Accessibility / Visitability

If both criteria are met, the applicant will receive two points

Provides a housing development where at least 10%+ of units meet/exceed ADA Accessibility Standards.

75%+ of units meet/exceed Visitability standards: a) no-step entry; b) barrier free parking, with ramps if needed; c) barrier free entry door; d) barrier free half-bath on first floor; e) electrical switches at reachable heights; f) accessible route through first floor living space.

Activation in Designated Sub-Areas of Portage

Master Plan Subarea

Sub-area District:

Stated Master Plan Goal Delivered:

City-Targeted Parcel

Property designated in Portage Forward Together 2045 Master Plan

--

--

--

--

Multimodal Transportation

Transit Passes for residents & employees for three years **AND** provide land/

Proposed Number of Passes:

--

--

improvements on-site

Improvement to be financed:

Contribution to Multi-Modal Fund

Amount:

Job Creation

20 FTE jobs/25% + increase in FTE jobs

Jobs

Avg. Pay
(Annual)

Summary - Jobs Created (what
kind of jobs, how many, etc.):

Mixed-Use Development

Includes housing and a mix of other commercial uses

☐

Public Space Improvements

Based upon an approved City of Portage plan

☐

Alternative Public Space Improvement

☒

Summary Information (in either case):

Oakland Commons: Walking and biking trails throughout and improvements to City infrastructure included in the PUD Approval in excess of what's required. Creekside Commons: Walking and Biking Trails and Sidewalk extension to Centre in excess of what is required.

Site Amenities (residential/mixed-use) Provides at least **two**:

Secured mail/package room

☐

Clubhouse with social areas

☐

Furnished & landscaped terrace w/ outdoor kitchen or grill station

☐

Walking/ biking path

☐

Multi-use seating area/ gazebo/ pavilion

☐

Fitness Center

☐

Dedicated pet park

☐

Sports courts

☐

Secured bicycle storage

☐

Swimming pool

☐

Child Care Facilities

Includes State-licensed child daycare center per MCL 722.111(f)(iv)

☐

Total Investment (If \$15 million, qualifies for two investment criteria)

Will equate to a minimum taxable value of \$10 million or more upon completion.

☐

Will equate to a minimum taxable value of \$15 million or more upon completion.

☐

TOTAL INVESTMENT CRITERIA

Unit Type	Income/AMI Restriction	# Units	SF	Rent or Sale Price	
4-BD Single Fam	N/A	30	1640	\$	2,400
4-BD Single Fam	90% AMI	8	1640	\$	2,233
3-BD Attached	N/A	6	1640	\$	2,100
3-BD Attached	90% AMI	2	1640	\$	1,959
4-BD Single Fam	N/A	21	1640	\$	2,300
4-BD Single Fam	90% AMI	5	1640	\$	2,233
4-BD Attached	N/A	4	1640	\$	2,400
4-BD Attached	90% AMI	2	1640	\$	2,233
3-BD Attached	N/A	15	1640	\$	2,300
3-BD Attached	90% AMI	3	1640	\$	1,959
3-BD Attached	N/A	6	1640	\$	2,100
3-BD Attached	90% AMI	2	1640	\$	1,959

OAKLAND COMMONS & CREEKSIDE COMMONS

DEVELOPMENT AGREEMENT AND BROWNFIELD REIMBURSEMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT AND BROWNFIELD REIMBURSEMENT AGREEMENT, is made and entered into effective as of the latter of the signature dates below, by and among the City of Portage “Brownfield Redevelopment Authority” a Michigan public body corporate established pursuant to Act 381 of the Public Acts of 1996, as amended, MCL 125.2651 et seq. (“Act 381”), whose address is 7900 South Westnedge Avenue, Portage, Michigan 49024 (the “Authority”) and GREEN DEVELOPMENT VENTURES, LLC, a Michigan Limited Liability Company, d.b.a. Allen Edwin Homes (“Developer”).

RECITALS

- A. The Authority, and the City of Portage (the "City"), have determined that brownfield redevelopment constitutes the performance of an essential public purpose which protects and promotes the public health, safety, and welfare.
- B. The City has established a Brownfield Redevelopment Authority and the Authority, and the City have adopted a Brownfield Plan specifically for this site (the “Plan”), pursuant to the provisions of Act 381.
- C. The Authority and the City have designated certain properties that have conditions of environmental contamination, blight, or obsolescence as appropriate sites for creating a Plan.
- D. Act 381 permits the use of the real and personal property tax revenues generated from the increase in value (the “Increment” or “Tax Increment Revenue or “TIR”) to brownfield sites constituting Eligible Property under Act 381 resulting from their redevelopment to pay or reimburse the payment of costs of conducting Eligible Activities (these costs are referred to as “Eligible Costs”) and permits the reimbursement to Developer of “Eligible Costs” it has incurred.
- E. Developer is the owner of two parcels in the City located at **9581 Oakland Drive and 8150 Creekside Drive, Portage, Michigan, 49024** (the “Property”) and legally described and depicted on the attached Exhibit A.
- F. The Property has been included in the Plan and qualified as an “Eligible Property” under the terms of Act 381.
- G. The Developer intends to redevelop and improve the Property by establishing two separate for-lease housing developments, Oakland Commons and Creekside Commons. The combined developments will result in a total of 114 for-lease housing units and an estimated total capital investment of \$35,000,000.
- H. Oakland Commons involves the construction of 58 new residential units at 9581 Oakland Drive, consisting of 26 single family homes that are anticipated to be 1,640-square foot 3-bedroom homes, three duplex buildings for a total of six residential units, six 3-plex buildings for a total of 18 residential units, and two 4-plex buildings for a total of eight residential units. Of the 58 for-lease housing units at Oakland Commons, 46 will be market rate housing units and 12 will be income qualified workforce housing units for a period of fifteen (15) years. The total capital investment for Oakland Commons is estimated at \$19,000,000.
- I. Creekside Commons involves the construction of 46 new residential units at 8150 Creekside Drive, consisting of 38 single family homes that are anticipated to be 1,640-square foot 4-bedroom homes, and two 4-plex buildings resulting in eight attached residential units. Of the 46 for-lease housing units at Creekside Commons, 36 will be market rate housing units and 10 will be income qualified workforce housing units for a period of ten (10) years. The total capital investment for Creekside Commons is estimated at \$16,000,000.
- J. The Project will require the Developer to incur “Eligible Costs” including site preparation, infrastructure improvements, environmental activities, contingency costs, and housing subsidy financing gap costs to satisfy Due Care obligations under the Developer’s Brownfield Plan and “381 Work Plan” dated February

17, 2025, all of which may require the services of various contractors, engineers, environmental consultants, attorneys, and other professionals. The Developer's Eligible Costs are estimated at \$12,043,898. The parties are entering into this Agreement to establish the procedure for the reimbursement from Tax Increment Revenues under Act 381 as amended and to set forth the Authority's commitments to the Project, and to establish the use of the Authority's Tax Increment Revenues to reimburse Developer for Developer's Act 381 Eligible Costs.

- K. The Authority may retain funds to pay Administrative Costs from the annual Tax Increment Revenues attributable to the Property. The amount the Authority may retain shall not exceed the amounts permitted by Act 381.

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

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

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

3. CONTINGENCIES: The obligation of the Developer to develop the Project on the Property is contingent upon the Developer's ability to secure the following:

3.1. The Developer shall have obtained all necessary governmental and quasi-governmental approvals needed to develop the Property and permit the use of the Property for the Project, including, for example, and not limitation, a special use permit, site plan approvals, zoning variances and/or rezoning, building permits, and any and all other permits, consents and final approvals and authorizations necessary to develop, construct and utilize the Property for the Project.

3.2 Approval by Michigan State Housing Development Authority ("MSHDA") of the Act 381 Work Plan and other financial incentives needed by the Developer for the Project and The Plan approved by the Authority and City Council.

4. Term of Agreement. Pursuant to the Plan, the Authority shall capture and reimburse the Developer the amount of Tax Increment Revenues (TIR) generated from real and personal property taxes allowed by law on the Eligible Property and based upon the Developer's actual Eligible Costs. The capture of TIR and reimbursement of the Developer's Eligible Costs are anticipated to begin in **2026**, but the Project commencement and Completion Date could be delayed for up to 5 years after the approval of the Plan as permitted by Act 381, and will continue until the earlier of (hereinafter, the "End Date"):

4.1 Both the total reimbursement to the Authority of its Administrative Costs, and reimbursement to the Developer of the Developer's actual Eligible Costs for those Eligible Activities set forth in Paragraph 6, plus an additional amount captured by the Authority for an additional five full years of tax capture ("Additional Authority Amount"), such Additional Authority Amount to be designated for the Local Brownfield Revolving Fund "Local Fund"; or

4.2 25 years from the beginning date of the capture of Tax Increment Revenues, with the final five years designated for the Local Fund only.

The period during which the Developer is reimbursed under this Paragraph 4 shall be referred to as the "Reimbursement Term."

5. Evidence of Property Control. Prior to the execution of this Agreement, the Developer has provided to the Authority a copy of its fully executed warranty deeds for each of the Parcel(s), verifying the Developer's obligation for payment of real property taxes at the Property.

6. Eligible Activities. The Developer shall diligently pursue completion of the Eligible Activities summarized in the Plan and set forth in this Paragraph. The Authority shall reimburse the Developer for Eligible Costs incurred and included in the Plan. It may include environmental due diligence and Due Care Activities, site preparation, and infrastructure improvements, which may require the services of various contractors, engineers, environmental consultants, attorneys, and other professionals.

7. Reimbursement Source. During the term of this Agreement and except as otherwise set forth in this Agreement, the Authority shall reimburse the Developer for its Eligible Costs from all available Tax Increment Revenues collected from the real and personal property taxes on the Property.

8. Reimbursement Process.

8.1 Cost Reimbursement Request. The Developer's Cost Reimbursement Requests for Oakland Commons and Creekside Commons shall be submitted separately, and the terms identified in this Agreement shall be applied independently for Oakland Commons and Creekside Commons. The Developer shall submit to the Authority the Eligible Costs incurred, including the dates of each Eligible Activity, a detailed description of the work, proof of payment, detailed invoices for the costs involved for each Eligible Activity, and other backup documentation reasonably requested by the Authority, and a written statement certifying to the Authority that all such costs are "Eligible Costs" and, upon completion of each Project, final certificates of occupancy to document project completion (the "Completion Date"). After the Developer has completed each Project and, in no event, more than 12 months following the Completion Date, the Developer shall submit to the BRA the above documentation of the Eligible Costs incurred by the Developer for each Project. Failure to provide the above-noted information when due or within the time permitted by the Authority may result in foregone reimbursement to the Developer by the Authority for Eligible Costs that have not been requested within the time frame described above.

8.2 Authority Staff Review. The Authority Staff shall review each reimbursement request within 30 days after receiving it. If Authority Staff determines that the documentation submitted by the Developer is not complete, then the Developer shall cooperate in the Authority's review by providing, within 30 days of the Authority's request, any additional documentation of the Eligible Costs as deemed reasonable and necessary by the Authority to complete its review. Within 45 days following the receipt of such supplemental information, the Authority shall determine whether the submittals of incurred costs are Eligible Costs. If the Developer wishes to challenge that determination, it shall provide written notice to the Authority within fifteen (15) days of receipt of the determination, and the issue shall be brought to the Authority within 45 days thereafter for a final determination. The Developer shall not have any further appeal rights to challenge the final determination of the Authority and shall not be entitled to any claim or cause of action against the City or the Authority as a result of any determinations made in good faith regarding whether or not any cost submitted by the Developer constitutes an "Eligible Cost," and hereby grants the City and the Authority and their respective officers, agents and employees, a complete release and waiver of any claims or causes of action as a result of the foregoing.

8.3 Reimbursement. After collection of each of the summer and winter taxes on the Property, the Authority shall reimburse its Eligible and Administrative Costs and pay approved Eligible Costs to the

Developer from Tax Increment Revenues that are generated from the Property in accordance with the Plan and Paragraph 8 to the extent that taxes have been captured and are available in that fiscal year. Under Act 381, the Authority shall collect one hundred percent (100%) of Tax Increment Revenues from the Project for the purpose of reimbursing the Authority for Administrative Costs and the Developer for Eligible Costs until fully reimbursed. Simple interest at the rate of three-and-one-half percent (3.5%) per annum ("Interest") shall accrue on all approved Eligible Costs as described in the plan, in each case calculated from the date that the Authority approves the Developer's request(s) for reimbursement for pertinent Eligible Costs until such Eligible Costs are reimbursed in full, subject to the limitations set forth in this Agreement. Interest will be calculated at the end of each calendar year based on the total unreimbursed Eligible Costs outstanding at the time (other than accrued Interest). Principal amounts of the Eligible Costs shall be reimbursed to the Developer prior to Interest accruing thereon. If there are insufficient Tax Increment Revenues available in any given year to reimburse all the Authority's Administrative Costs and Developer's Eligible Costs, as such Administrative Costs and Eligible Costs are described in this Agreement and in the Plan, then the Authority shall reimburse the Authority or Developer only from available Tax Increment Revenues. The Developer shall receive the available Tax Increment Revenue, less Administrative Costs, during the term of this Agreement until all the amounts for which submissions have been made have been fully paid to the Developer, subject to the limitations of Section J of the Recitals, or the repayment obligation expires, whichever occurs first. The Developer shall not be entitled to reimbursement under this Agreement unless all real and personal property taxes have been timely and completely paid, including all penalties, interest, and other amounts due in relation thereto when due. For purposes of this Agreement, to be paid in a timely manner, taxes must be paid before the date on which they can no longer be paid without penalties or interest. The repayment obligation under this Agreement shall expire on the End Date. The Developer's reimbursed Eligible Costs for Oakland Commons, inclusive of contingency and interest, shall not exceed the lesser of \$8,157,789 or the MSHDA-approved limitation of Eligible Cost reimbursement. The Developer's reimbursed Eligible Costs for Creekside Commons, inclusive of contingency and interest, shall not exceed the lesser of \$6,356,375 or the MSHDA-approved limitation of Eligible Cost reimbursement.

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

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

Green Development Ventures, LLC
c/o Tom Larabel, VP of Land Development
2186 E. Centre Ave.
Portage, MI 49002

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

9.1 Audit or Court Ruling: In the event that a state agency of competent jurisdiction conducting an audit of payments made to the Developer under this Agreement or a court of competent jurisdiction determines that any portion of the payments made to the Developer under this Agreement is unlawful, the Developer shall pay back to the Authority that portion of the payments made to the Developer within 30 days of the determination made by a state agency or the court as the case may be. However, the Developer shall have the right, before any such repayment is made, to appeal on its or the Authority's behalf, any such determination made by a state agency or court as the case may be. If the Developer is unsuccessful in such an appeal, the Developer shall repay the portion of payments found to be unlawful to the Authority

within thirty (30) days of the date when the final determination is made on the appeal. The Developer shall be responsible for payment of all the City and Authority's legal fees associated with any determination of whether a cost for which reimbursement is requested constitutes an "Eligible Cost" and all the City's and Authority's legal fees associated with the review or determination of such issues by any state agency or court.

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

- a. The Authority shall remit Tax Increment Revenue (TIR) reimbursement payments based upon the lowest taxable value being sought pursuant to the appeal.
- b. Any Tax Increment Revenue that is collected shall be held in a separate account of the Authority until the pending appeal is adjudicated.
- b. Once any tax appeals are adjudicated, the Authority will either return the escrowed funds to the local unit in compliance with any tax appeal rulings or will resume payments to Developer based upon the conclusion of such tax appeal pursuant to Section 8 of this Agreement.

9.3 Reduction of Property Assessments: If Developer successfully petitions the Michigan Tax Tribunal (Tribunal) to lower the assessments levied by the City against the Property for tax purposes, the provisions under Paragraph 8.3 may require a redetermination regarding the amount of TIR that would be captured over the remaining Reimbursement Term of this Agreement because of such lower assessments. If such amount is less than the actual amount of TIR that Authority has already paid to the Developer, Developer shall reimburse Authority the difference between the total amounts of adjusted TIR captured over the balance of the Reimbursement Term of this Agreement and the amount actually paid to Developer. The Developer indemnifies and shall fully reimburse the Authority for all Administrative Costs as defined within the Plan, expenses, or reductions in revenue from what was projected as tax increment capture because of the successful petition. Otherwise, any refund due to the Developer because of the lower assessments is limited only to the amount such refund exceeds the amount of TIR paid to Developer for those years covered by the Tribunal's order. The Developer shall fully reimburse the Authority within 30 days of notification from the Authority as to the amount due resulting from the reduction(s) in question.

10. Responsibilities of Developer. In consideration of the inclusion of the Property into the Plan and the resulting financial benefits, which it expects to receive, Developer agrees to the following (collectively the "Undertakings"):

10.1 Project. At its sole expense, Developer shall use its best efforts to conduct the activities described in the Plan and construct the Project. Subject to matters beyond the reasonable control of Developer (e.g., matters of force majeure, war, acts of God, the COVID-19 pandemic or a future similar pandemic, failure to obtain governmental approvals, etc.) ("Force Majeure"), Developer shall commence construction of the Project within a commercially reasonable time after the date that Developer secures all necessary approvals, authorizations, permits and entitlements for the Project and otherwise satisfies all requirements of Developer's lenders or other financing parties for the Project, but in no case later than one-hundred-twenty (120) days after execution of this agreement (collectively, the "Approvals", and such date on which Developer is required to commence construction being the "Commencement Date"), and shall use commercially reasonable efforts to substantially complete the Project - defined as date when Developer receives a temporary or final occupancy permit from the City - within thirty-six (36) months of the Commencement Date. Under no circumstances shall the Authority have any responsibility or liability for remediation or redevelopment of the Property, or for conducting any "Eligible Activities" at the Property,

except for its obligations under this Agreement to provide funds to the extent available as permitted in Paragraph 8 hereof with respect to payments from Tax Incremental Revenues.

10.2 Work Force Housing. Developer commits to an allocation of twenty-two (22) Workforce Housing Units within the residential component of the Project (the “**Workforce Housing Set-Aside**”), upon the following terms and conditions:

i. For purposes of this Agreement, the term “**Workforce Housing Units**” or “**WFH Units**” shall mean units offered at the rental rates specified in Paragraph 10.2 (ii) below. The Workforce Housing Units shall be “floating” units in that such Units may be relocated within the Project from time-to-time during the Reimbursement Term (as defined below), provided that Developer maintains the minimum number of Workforce Housing Units required to satisfy the Workforce Housing Set-Aside during the Reimbursement Term.

ii. Subject to the terms herein, monthly rent for a Workforce Housing Unit shall not exceed the “Rent by Bedroom” rates as published in the Michigan State Housing Development Authority Income and Rent Limits report for Kalamazoo County in effect at the time the lease for the Workforce Housing Unit is executed (the “**MSHDA Rent Report**”), in accordance with the following proportions:

1. Monthly rent for five (5) of the three-bedroom WFH Units and seven (7) of the four-bedroom WFH Units shall not exceed an average Rent by Bedroom at 90% at the Oakland Commons development site for a period of fifteen (15) years per Exhibit C.

2. Monthly rent for two (2) of the three-bedroom WFH Units and four (4) of the four-bedroom WFH Units shall not exceed an average Rent by Bedroom at 90% at the Creekside Commons development site for a period of ten (10) years per Exhibit C.

“Monthly rent” shall include gas, water, heat and electric. “Monthly rent” shall exclude parking, security deposits, internet service, application fees, storage, pet fees and similar fees and deposits.

iii. Monthly rent charged for the WFH Units will increase or decrease from time to time during the Reimbursement Term in accordance with increases or decreases in the “Rent by Bedroom” rates published in the MSHDA Rent Report; provided, however: (A) such increases or decreases in Monthly rent shall only affect new leases for WFH Units executed after the changed “Rent by Bedroom” rates are published in the MSHDA Rent Report; and (B) in no event shall the Monthly rent charged for the WFH Units decrease below the “Rent by Bedroom” rates published in the most current MSHDA Rent Report published prior to the date of execution of this Agreement, which is attached as Exhibit C.

iv. If the MSHDA Rent Report is no longer published during the Reimbursement Term, Monthly rent for new leases of WFH Units shall be based on 30% of Gross Annual Area Median Income for the Portage-Portage MSA as published by the U.S. Department of Housing and Urban Development (“**HUD**”), divided by 12, and adjusted to “Rent by Bedroom” rates in the same proportions as set forth in the last published MSHDA Rent Report.

v. The Workforce Housing Set-Aside component of the Project as described in this Paragraph 10.2 shall expire automatically upon the expiration of the Reimbursement Term.

vi. The Developer shall income qualify all tenants for WFH Units utilizing a MSHDA-approved tenant self-certification form and shall verify the tenant household income through tax return data or other appropriate alternatives, as being no greater than 120% of Kalamazoo County Area Median

Income prior to lease signing. The Developer shall maintain an average household income of all WFH units, at Oakland Commons and Creekside Commons, independent of one another, of 90% of Kalamazoo County Area Median Income for the duration of their respective rent control periods. The Developer shall annually verify the tenants' household incomes as of their lease anniversaries to ensure that all WHF Units are occupied by income-qualified households based upon this average. In all other respects, and subject to subsection (viii) below, Developer is entitled to retain and exercise full and exclusive authority for the management of its operations and remain the sole judge in selecting tenants for the Workforce Housing Units, utilizing the same tenant selection and screening criteria as used by Developer for the non-WFH Units.

viii. Upon request by the Authority, but not more than once annually, Developer shall provide a written certification annually to the BRA (which will be due to the Authority on March 1 of the following calendar year), certifying as to Developer's compliance with the Workforce Housing Set-Aside.

ix. If the Authority believes that Developer has not met its obligations pursuant to this Paragraph 10.2, the Authority shall provide a written document to Developer describing in reasonable detail, the specific obligation not being satisfied, including an analysis of such non-performance (a "**Written Notice**"). Within 10 days after receipt of the Written Notice, Developer shall respond in writing, either a) agreeing to the Authority's findings and including a written plan for achieving compliance with this Paragraph 10.2 that is reasonably acceptable to the Authority, or b) disagreeing with the Authority's findings and the reasons therefor. If Developer disagrees with the Authority's position, Developer and the Authority shall meet (one or more times) within 30 days following the date of the Written Notice to attempt to resolve the WFH issues raised in the Authority's Written Notice. Should those meetings fail to reach a resolution satisfactory to the parties (a "**Dispute**"), then the parties agree to submit the Dispute as to this section 10.2 to a mediator. The mediator shall be an independent person, residing in Kalamazoo County with experience in residential real estate development; and who is acceptable to Developer and the Authority (the "**Mediator**"). Only if mediation does not resolve the Dispute can either the Developer or the City pursue legal or equitable remedies through judicial proceedings; the jurisdiction for which is in Kalamazoo County. During the Dispute process outlined above the Incentives for the Project shall continue, unless Developer has not cured a default regarding the other Undertakings or other provisions in this Agreement for which withholding, or withdrawal of Incentives is a permitted remedy.

Authority agrees and acknowledges if Developer terminates this Agreement for a failure of any of the contingencies set forth in Paragraph 3 hereof, or does not otherwise proceed with the development for any other reason, the foregoing Undertakings in Section 10.2 shall be void and of no force or effect.

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

10.4 Project Sign. Place on the Property during the Project a development sign provided by the Authority to promote the Project and the Authority's participation in it. The sign will be returned to the Authority upon completion of the Project.

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

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

10.7 Payment of Authority Legal and Professional Fees. To the extent the following costs and fees under paragraph 4.1 or 8.3 hereof are not paid to the Authority from Tax Increment Revenues it receives under paragraph 4.1 or 8.3 hereof, the Developer shall reimburse the Authority for its legal and professional fees and disbursements incurred in connection with the review, approval and administration of the Plan for this Project, including any further amendments thereto; the preparation and negotiation of this Agreement, as it may be amended from time to time; and all documents and matters related thereto, including future expense. The Developer shall reimburse the Authority for such expenses within 30 days from the date that the Authority sends an invoice and request for payment to the Developer, provided the Developer shall be eligible for reimbursement for such expenses to the extent permitted by law from Tax Increment Revenues.

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

11.1 Agency Contacts. Provide the Developer with the appropriate service/employment agency contact to identify City residents to interview for potential improvement.

11.2 Cooperation. Cooperate and utilize its best efforts to obtain any governmental approvals required to close the transaction contemplated by this Agreement.

11.3 Reimbursement of Eligible Costs. The Authority shall extend to the Developer the benefits outlined in the Plan, subject to the provisions of Act 381 (Brownfield Redevelopment Financing Act of 1996 as amended). Those benefits include reimbursement for Eligible Activities from Authority Tax Increment Revenues as more fully set forth in Paragraph 8. These Eligible Cost activities may include, without limitation, site preparation (soil removal, grading, filling, etc.), parking facility and other infrastructure improvements, environmental assessment, due care obligations, or environmental response activities; and the services of various contractors, engineers, environmental consultants, attorneys, and other professionals retained regarding such activities, in each case to the extent included in the Plan. The Developer has undertaken discussion with the City regarding Eligible Activities that will be incurred by the Developer, and the Plan reflects those discussions. The Plan, as approved by the Authority and the City Council of the City of Portage as it relates only to the Property, is attached as Exhibit B and incorporated as part of this Agreement. To the extent provisions of the Plan or this Agreement violate or would cause any party to be in violation of Act 381, Act 381 controls. Reimbursement of financing gap subsidies shall be reviewed for approval annually and may commence once the Developer has satisfied a full year of WFH Unit assistance in accordance with this Agreement.

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

12. Developer's Representations, Warranties and Covenants. The Authority represents and warrants that it has the full authority to enter into and perform this Agreement in accordance with its terms, without breaching or defaulting on any obligation or commitment that it has to any third parties. The Developer hereby makes the following representations, warranties, and covenants:

12.1 Eligible Property. The Property is “eligible property” as defined in Act 381 and is eligible for the capture of Tax Increment Revenues pursuant to Act 381.

12.2 Eligible Costs. The Developer will only submit for reimbursement under Paragraph 8 hereof such costs that it has reasonably determined are reimbursable in connection with “Eligible Activities” within the meaning of Act 381.

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

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

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

13.2 Developer's failure for reasons other than Force Majeure to observe or perform any covenant or agreement contained in this Agreement, or otherwise violates any term of this Agreement, and fails to perform such covenant or agreement or otherwise cure such violation within 45 days after written notice thereof shall have been given to the Developer by the Authority (subject to Developer's right to cure as provided in Section 14).

13.3 The Developer abandons or withdraws from the reuse and redevelopment of the Property or indicates its intention to do so.

13.4 The Developer fails to pay any funds within 30 days of the date due which are required to be paid to the Authority pursuant to this Agreement, including but not limited to its real and personal property taxes as set forth herein.

13.5 Except as provided in Section 22 of this Agreement, any assignment of this Agreement or the rights or obligations hereunder by Developer, or transfer or other conveyance of the Property, or transfer or other conveyance of more than fifty (50%) percent of the beneficial ownership interests or voting control of the Developer, in each case whether directly or indirectly, or if the Developer terminates its existence.

13.6 Any material provision of this Agreement shall cease to be valid and binding on the Developer or shall be declared null and void; the validity or enforceability of such provision shall be contested or denied by the Developer; or the Developer denies that it is bound by this Agreement.

14. Remedies upon Default. If any event of default as defined above shall occur and be continuing for 30 days (or such additional time as specified in Section 13) after written notice of default from the Authority specifying the alleged default (or such additional time as may be reasonably necessary and authorized by the Authority Board Chair, or their proxy, to cure the default at issue, provided that the Developer has commenced such cure within the initial cure period described above and is proceeding in good faith to cure but not more than three (3) months), the Authority shall have the right, but not the obligation, to exercise any of the following rights and remedies either individually or concurrently:

(a) withhold or suspend reimbursement to the Developer for Eligible Costs from TIR until the Developer has cured that default to the satisfaction of the Authority. Any action by the Authority shall not under any circumstances extend the Reimbursement Term unless approved explicitly by the Authority. In the event, the Authority suspends or withholds reimbursement, and such default by the Developer related to such suspension or withholding of reimbursement is not cured within 12 months from the end of any

applicable cure periods specified under this paragraph 14 or 13, the Authority may terminate this Agreement upon written notice to Developer.

(b) Receive reimbursement from the Developer for all costs which the Authority has incurred in connection with the Project, the Property, or this Development Agreement (within 30 days following demand); and

(c) To secure any amount owed by the Developer to the Authority under this Paragraph, the Authority has the right to place a lien against the Property in the same manner as delinquent taxes, including the accrual of interest, penalties, and administrative expenses until the lien is fully satisfied.

(d) All other remedies available at law or in equity.

In addition, if the Developer fails to substantially complete the Project within the timelines required by this Agreement, or if the Developer otherwise defaults prior to substantial completion of the Project, the Developer shall pay back to the Authority (within thirty (30) days following demand by the Authority) any amounts paid to Developer as reimbursement for Eligible Costs pursuant to the terms of this Agreement or otherwise.

Following a default by the Developer, or following expiration or termination of this Agreement for any reason, the Developer shall then be responsible for all subsequent Project costs, including Eligible Costs, without contribution from Tax Incremental Revenues collected by the Authority from taxes levied on the Property.

15. Authority Default and Developer Remedies. If the Authority in any material respect fails to perform or provide the Incentives in accordance with this agreement, and such undisputed failure continues for a period of thirty (30) days after written notice from Developer to the Authority specifying the alleged default (or such additional time as may be reasonably necessary to cure the default at issue provided that the Authority has commenced such cure within the initial thirty (30) days and are proceeding in good faith to cure but not more than three (3) months), the Developer shall have the option to exercise one or any combination of remedies under this Agreement or otherwise available at law or in equity, including without limitation:

a. To withhold or suspend the performance of all or any of the Undertakings.

b. To seek specific performance of the Authority under this Agreement.

c. To seek any other available remedies under the law.

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

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

18. Plan Modification. The Plan and this Agreement may be modified by mutual agreement of the parties to the extent allowed under the Act and the City's applicable Brownfield Redevelopment Policy (as amended from time to time).

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

If to Developer: GREEN DEVELOPMENT VENTURES, LLC
c/o Brian Farkas
2186 E. Centre Ave.
Portage, MI, 49002

With copy to: (TBD)

If to the Authority: City of Portage Brownfield Redevelopment Authority
C/O Department of Community Development
7900 S. Westnedge Avenue
Portage, Michigan 49002

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

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

22. Binding Effect/Third Parties. This Agreement is binding on and shall inure to the benefit of the parties to this Agreement and their respective successors, but it may not be assigned by any party without the prior written consent of the other party. The Authority shall not unreasonably withhold its consent to such assignment so long as the assignee assumes all of the Developer's obligations and liabilities under this Agreement. The Developer may make a collateral assignment of this Agreement to any institutional lender in connection with any financing for the Project, provided that the form of such assignment shall be subject to review by the Authority's legal counsel to verify that it does not violate any applicable constraints imposed by the constitutional prohibition on the lending of credit. The parties do not intend to confer any benefits on any person, firm, corporation, or other entity, which is not party to this Agreement. The parties do not intend to confer any benefits on any person, firm, corporation, or other entity which is not party to this Agreement.

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

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

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

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

27. Additional Actions. Developer and the Authority agree to execute and deliver such additional documents and to perform such additional acts as may become necessary to effectuate the transfers contemplated by this Agreement.

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

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

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

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

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

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

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

[Signature Page Follows]

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

CITY OF PORTAGE BROWNFIELD
REDEVELOPMENT AUTHORITY

By _____

Print Name: Keith Lewandowski

Title: BRA Chairperson

Date _____

DEVELOPER
GREEN DEVELOPMENT VENTURES, LLC

By: _____

PRINTED NAME:

Its:

Date: _____

By: _____

PRINTED NAME:

Its:

Date: _____

EXHIBITS:

A (Legal Description of Property)

B (Copy of the Plan)

Exhibit A – Legal Descriptions

9581 Oakland Drive
Portage, MI 49024

Parcel ID: 10-00029-425-G

11.36 Acres

Legal Description:

A PARCEL OF LAND SITUATED IN THE SE ¼ OF SEC 29, 3S, 11W: COMMENCING AT THE EAST ¼ COR OF SEC 29, 3S, 11 W; TH NORTH 89 DEG 50' 19" WEST (PREVIOUSLY RECORDED AS SOUTH 89 DEG 55' 07" WEST) 331.47 FT ALG THE NORTH LI OF THE SE ¼ OF SD SEC TO REFERENCE POINT "A"; TH SOUTH 90 DEG 50' 19" EAST (PREVIOUSLY RECORDED AS NORTH 90 DEG 55' 07" EAST) 331.47 FT ALG SD NORTH LI TO SD EAST ¼ COR; TH NORTH 90 DEG 59' 23" EAST (PREVIOUSLY RECORDED AS EAST) 116.95 FT ALG THE SOUTH LI OF THE NW ¼ OF SEC 28 3S, 11W TO THE NORTHWESTERLY ROW LI OF SHAVER RD; TH SOUTH 29 DEG 38' 07" WEST (PREVIOUSLY RECORDED AS SOUTH 29 DEG 39' WEST) 152.31 FT ALG SD ROW LI; TH NORTH 60 DEG 21' 53" WEST 145.41 FT; TH NORTH 89 DEG 50' 19" WEST (PREVIOUSLY RECORDED AS NORTH 89 DEG 55' 07" EAST) 198.90 FT PARALLEL W SD SOUTH LI; TH NORTH 44 DEG 50' 19" WEST 67.78 FT TO A LI EXTENDING SOUTH 00 DEG 05' 30" EAST FROM SD REFERENCE POINT "A"; TH NORTH 00 DEG 05' 30" WEST 12.78 FT TO SD REFERENCE POINT "A"; TH NORTH 89 DEG 50' 19" WEST (PREVIOUSLY RECORDED AS SOUTH 89 DEG 55' 07" WEST) 278.54 FT ALG SD NORTH LI TO THE POB; THN SOUTH 00 DEG 09' 41" WEST 753.56 FT; TH NORTH 89 DEG 50' 19" WEST 163.82 FT (PREVIOUSLY RECORDED AS NORTH 89 DEG 55' 07" EAST) PARALLEL W SD NORTH LI; TH SOUTH 00 DEG 09' 41" WEST 26 FT; TH NORTH 89 DEG 50' 19" WEST (PREVIOUSLY RECORDED AS SOUTH 89 DEG 55' 07" WEST) 543.56 FT PARALLEL W SD NORTH LI TO THE WEST LI OF THE EAST ½ OF SD SE ¼ AS ESTABLISHED BY "OAKLAND FARMS NORTH" SUBDIVISION; TH NORTH 00 DEG 04' 14" EAST (PREVIOUSLY RECORDED AS NORTH) 779.56 FT ALG SD WEST LI OF THE EAST ½ TO SD NORTH LI OF THE SE ¼ ; TH SOUTH 89 DEG 50' 19" EAST (PREVIOUSLY RECORDED AS NORTH 89 DEG 55' 07" EAST) 708.61 FT ALG SD NORTH LI OF THE SE ¼ TO THE POB, CONTAINING 12.57 ACRES OF LAND. THE WESTERLY PORTION BEING SUBJECT TO EASEMENT FOR OAKLAND DR. SPLIT/COMBINED ON 08/20/2018 FROM 00029-425-E, 00029-425-C;

8150 Creekside Drive
Portage, MI 49024

Parcel ID: 10-00021-125-J

9.11 Acres

Legal Description:

Unit 5 of Creekside Commons, a site condominium according to the Master Deed recorded in Document No. 2000-003766 and amended by First Amendment to Master Deed recorded as Document No. 2001-021465 in the Office of the Kalamazoo County Register of Deeds and designated as the Kalamazoo County Condominium Subdivision Plan No. 115, together with rights in general common elements and limited common elements as set forth in the Master Deed and as described in Act 59 of the Public Acts of 1978, as amended.

Exhibit B – Copy of Brownfield Plan

DRAFT

TO: Honorable Mayor and City Council

FROM: Pat McGinnis, City Manager

SUBJECT: AVB Development Agreement Exhibits for Stanwood Crossings

SUPPORTING PERSONNEL: Peter Dame, Chief Development Officer

ACTION RECOMMENDED: Authorize the City Manager to execute the Infrastructure Construction Management Agreement and approve the Master Home Building Agreement, and incorporate these documents as Exhibits B and C to the May 22, 2024 development agreement with AVB, LLC for the Stanwood Crossings project.

The City of Portage owns 14 acres of land along Portage Road between Woodbine and Stanley Avenues on which the current plan is to construct 42 single-family homes for a development known as Stanwood Crossings. These homes will be sold to individuals with an income range between 80 and 120 percent of the Area Median Income (AMI). This range of home buyers and type of home development is also known as "attainable" or "workforce" housing, as it is intended to provide an affordable homeownership option for individuals who work in jobs that are typical in the community. The land was purchased, and the project is being pursued to further the goals of the 2022 Attainable Housing Plan adopted by City Council. The city has secured \$2.5 million in a combination of grant and ARPA funds toward the construction of infrastructure for this project: \$100,000 from Kalamazoo County for down-payment assistance as needed, and \$3 million from the Kalamazoo County Housing for All Millage to provide financing to construct the houses and to offset the gap between the cost of construction and what a person or family in the 80 to 120 AMI income range can afford.

In 2023, the city conducted a competitive Request For Proposals, and the City Council approved the selection of AVB, Inc., a local company, to be the development partner with the city in creating this affordable housing project. AVB has constructed many housing and commercial developments in Portage and the surrounding area. In May 2024, the City Council adopted a development agreement with AVB that spells out the responsibilities of both the city and AVB in this partnership. It also established a fee arrangement with AVB for their services in each of the distinct phases of the project. The key elements of the development agreement are summarized below.

DEVELOPMENT AGREEMENT SUMMARY POINTS

The development agreement is broken into five different functional phases: I) Feasibility, II) Entitlements, III) Infrastructure Construction, IV) Housing Construction, and an optional phase: V) Marketing and Sales.

With the final Planned Development approval of Stanwood Crossings, the city is approaching Phase III and Phase IV for housing construction this year. The development agreement approved in May 2024 called for the drafting and approval of a construction management agreement for AVB to bid out and oversee the infrastructure construction as a future exhibit. It also called for review and approval for the

use of a model construction agreement the city will use before the start of each home, also as an exhibit.

The proposed construction management agreement takes the format of an American Institute of Architects (AIA) model. The AIA agreements are commonly used as an accepted standard, avoiding the need to negotiate a new construction management contract every time someone has a project. The elements specific to this project are added to the standard form. This agreement formalizes the understanding of AVB's requirements to oversee the project, including having a person on-site during the period when the infrastructure work is being conducted. None of the work will be done using AVB's forces. The project is in the process of being bid out, now that the infrastructure plans were approved last month by the Council. When the bids come back, the City Council will need to authorize the expenditure of funds at a later Council meeting.

Similarly, before construction begins on any house, the city will enter into an agreement with AVB for every house using the attached model agreement. To streamline the approval process, the City Administration will request that City Council authorize a set number of houses annually, allowing the Council to monitor sales progress and home prices effectively. Approval of the model agreement, reviewed by Council, would simply authorize this model agreement, based on AVB's standard sales agreement, to be utilized.

Both Exhibit B, the infrastructure construction management agreement, and Exhibit C, the model new home construction agreement, have been reviewed and approved as to form by the City Attorney. Approval of these two exhibits to the development agreement does not constitute an authorization for the expenditure of funds.

It is recommended that the City Council authorize the City Manager to execute the Infrastructure Construction Management Agreement and approve the Master Home Building Agreement, and incorporate these documents as Exhibits B and C to the May 22, 2024 development agreement with AVB, LLC for the Stanwood Crossings project.

FUNDING: Not applicable.

Attachments:

1. AVB agreement Exhibit B on Infrastructure Construction Management
2. AVB Agreement Exhibit C Model New Home Construction Agreement

EXHIBIT "B"

Form of Infrastructure Construction Agreement

55533676.3

✓

AIA® Document A134® – 2019

Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee without a Guaranteed Maximum Price

AGREEMENT made as of the 14th day of November in the year 2024
(In words, indicate day, month, and year.)

BETWEEN the Owner:
(Name, legal status, address, and other information)

City of Portage
7900 S. Westnedge Ave.
Portage, MI 49002

and the Construction Manager:
(Name, legal status, address, and other information)

AVB Construction, Limited Liability Company
4200 W. Centre Avenue
Portage, MI 49024
Telephone Number: 269.323.2022

for the following Project:
(Name, location, and detailed description)

Stanwood Crossings Infrastructure Construction Agreement

The Architect:
(Name, legal status, address, and other information)

Wightman
443 E Ransom Street
Kalamazoo, MI 49007

The Owner and Construction Manager agree as follows.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

AIA Document A201™–2017, General Conditions of the Contract for Construction, is adopted in this document by reference. Do not use with other general conditions unless this document is modified.

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EXHIBIT A INSURANCE AND BONDS

ARTICLE 1 INITIAL INFORMATION

§ 1.1 This Agreement is based on the Initial Information set forth in this Section 1.1.

(For each item in this section, insert the information or a statement such as "not applicable" or "unknown at time of execution.")

§ 1.1.1 The Owner's program for the Project, as described in Section 4.1.1:

(Insert the Owner's program, identify documentation that establishes the Owner's program, or state the manner in which the program will be developed.)

The City owns the real property located at 9617 Portage Road and 2010 Woodbine, Portage, Michigan and legally described in Exhibit "B" (the "Property"). The City desires to develop the Property with approximately forty-five (45) single family residences that are intended to provide workforce housing for residents having a household income of 80% to 120% of area median income (the "Project"). The final scope of the infrastructure work will be documented in Wightman's construction documents which are yet to be released.

§ 1.1.2 The Project's physical characteristics:

(Identify or describe pertinent information about the Project's physical characteristics, such as size; location; dimensions; geotechnical reports; site boundaries; topographic surveys; traffic and utility studies; availability of public and private utilities and services; legal description of the site, etc.)

See attached Exhibit B

§ 1.1.3 The Owner's budget for the Contract Sum, as defined in Section 2.4:
(Provide total and, if known, a line item breakdown.)

§ 1.1.4 The Owner's anticipated design and construction milestone dates:

.1 Design phase milestone dates, if any:

Final construction documents December 2024

.2 Construction commencement date:

Spring/Summer 2025

.3 Substantial Completion date or dates, if not established in this Agreement under Section 3.3.1.3:

Five months from date of commencement subject to change based on final design.

.4 Other milestone dates:

§ 1.1.5 The Owner's requirements for accelerated or fast-track scheduling, or phased construction, are set forth below:
(Identify any requirements for fast-track scheduling or phased construction.)

NA

§ 1.1.6 The Owner's anticipated Sustainable Objective for the Project:
(Identify and describe the Owner's Sustainable Objective for the Project, if any.)

NA

§ 1.1.6.1 If the Owner identifies a Sustainable Objective, the Owner and Construction Manager shall complete and incorporate AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, into this Agreement to define the terms, conditions and services related to the Owner's Sustainable Objective. If E234™–2019 is incorporated into this agreement, the Owner and Construction Manager shall incorporate the completed E234™–2019 into the agreements with the consultants and contractors performing services or Work in any way associated with the Sustainable Objective.

§ 1.1.7 Other Project information:
(Identify special characteristics or needs of the Project not provided elsewhere.)

NA

§ 1.1.8 The Owner identifies the following representative in accordance with Section 4.2:
(List name, address, and other contact information.)

Peter J. Dame, Chief Development Officer
7900 S. Westnedge Ave.
Portage, MI 49002

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§ 1.1.9 The persons or entities, in addition to the Owner's representative, who are required to review the Construction Manager's submittals to the Owner are as follows:
(List name, address and other contact information.)

Victoria Barboza

§ 1.1.10 The Owner shall retain the following consultants and contractors:
(List name, legal status, address, and other contact information.)

.1 Geotechnical Engineer:

TBD

.2 Civil Engineer:

Wightman
443 E Ransom Street
Kalamazoo, MI 49007

.3 Other, if any:

(List any other consultants retained by the Owner, such as a Project or Program Manager.)

§ 1.1.11 The Architect's representative:
(List name, address, and other contact information.)

Paul Schram
443 E Ransom Street
Kalamazoo, MI 49007

§ 1.1.12 The Construction Manager identifies the following representative in accordance with Article 3:
(List name, address, and other contact information.)

Andrew Schipper
4200 W. Centre Avenue
Portage, MI 49024
Telephone Number: 269.323.2022

§ 1.1.13 The Owner's requirements for the Construction Manager's staffing plan for Preconstruction Services, as required under Section 3.1.9:
(List any Owner-specific requirements to be included in the staffing plan.)

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NA

§ 1.1.14 The Owner's requirements for subcontractor procurement for the performance of the Work:
(List any Owner-specific requirements for subcontractor procurement.)

AVB will take bids for subcontracts of more than \$4,000.00. Bid review to be an open book process. AVB will review all subcontractor bids and recommendations with the City of Portage.

§ 1.1.15 Other Initial Information on which this Agreement is based:

§ 1.2 The Owner and Construction Manager may rely on the Initial Information. Both parties, however, recognize that such information may materially change and, in that event, the Owner and the Construction Manager shall appropriately adjust the Project schedule, the Construction Manager's services, and the Construction Manager's compensation. The Owner shall adjust the Owner's budget for the Contract Sum and the Owner's anticipated design and construction milestones, as necessary, to accommodate material changes in the Initial Information.

§ 1.3 Neither the Owner's nor the Construction Manager's representative shall be changed without ten days' prior notice to the other party.

ARTICLE 2 GENERAL PROVISIONS

§ 2.1 The Contract Documents

The Contract Documents consist of this Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of this Agreement, other documents listed in this Agreement, and Modifications issued after execution of this Agreement, all of which form the Contract and are as fully a part of the Contract as if attached to this Agreement or repeated herein. Upon the Owner's approval of the Control Estimate, the Contract Documents will also include the documents described in Section 3.2.2 and revisions prepared by the Architect and furnished by the Owner as described in Section 3.2.7. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations or agreements, either written or oral. If anything in the other Contract Documents, other than a Modification, is inconsistent with this Agreement, this Agreement shall govern. An enumeration of the Contract Documents, other than a Modification, appears in Article 15.

§ 2.2 Relationship of the Parties

The Construction Manager accepts the relationship of trust and confidence established by this Agreement and covenants with the Owner to cooperate with the Architect and exercise the Construction Manager's skill and judgment in furthering the interests of the Owner to furnish efficient construction administration, management services, and supervision; to furnish at all times an adequate supply of workers and materials; and to perform the Work in an expeditious and economical manner consistent with the Owner's interests. The Owner agrees to furnish or approve, in a timely manner, information required by the Construction Manager and to make payments to the Construction Manager in accordance with the requirements of the Contract Documents.

§ 2.3 General Conditions

§ 2.3.1 For the Preconstruction Phase, AIA Document A201™-2017, General Conditions of the Contract for Construction, shall apply as follows: Section 1.5, Ownership and Use of Documents; Section 1.7, Digital Data Use and Transmission; Section 1.8, Building Information Model Use and Reliance; Section 2.2.4, Confidential Information; Section 3.12.10, Professional Services; Section 10.3, Hazardous Materials; Section 13.1, Governing Law. The term "Contractor" as used in A201-2017 shall mean the Construction Manager.

§ 2.3.2 For the Construction Phase, the general conditions of the contract shall be as set forth in A201-2017, which document is incorporated herein by reference. The term "Contractor" as used in A201-2017 shall mean the Construction Manager.

§ 2.4 Contract Sum, Contract Time and Changes in the Work

The Contract Sum is the actual Cost of the Work as defined in Section 7.1.1 plus the Construction Manager's Fee as defined in Section 6.1. The Contract Time is the period of time, including authorized adjustments, allotted in the

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Contract Documents for Substantial Completion of the Work as certified by the Architect in accordance with Section 9.8 of AIA Document A201–2017. The Contract Time shall be measured from the date of commencement of the Work. Changes in the Work shall be governed by Article 7 of A201–2017.

ARTICLE 3 CONSTRUCTION MANAGER'S RESPONSIBILITIES

The Construction Manager's Preconstruction Phase responsibilities are set forth in Sections 3.1 and 3.2, and in the applicable provisions of A201–2017 referenced in Section 2.3.1. The Construction Manager's Construction Phase responsibilities are set forth in Section 3.3. The Owner and Construction Manager may agree, in consultation with the Architect, for the Construction Phase to commence prior to completion of the Preconstruction Phase, in which case, both phases will proceed concurrently. The Construction Manager shall identify a representative authorized to act on behalf of the Construction Manager with respect to the Project.

§ 3.1 Preconstruction Phase

§ 3.1.1 Extent of Responsibility

The Construction Manager shall exercise reasonable care in performing its Preconstruction Services. The Owner and Architect shall be entitled to rely on, and shall not be responsible for, the accuracy, completeness, and timeliness of services and information furnished by the Construction Manager. The Construction Manager, however, does not warrant or guarantee estimates and schedules. The Construction Manager is not required to ascertain that the Drawings and Specifications are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Construction Manager shall promptly report to the Architect and Owner any nonconformity discovered by or made known to the Construction Manager as a request for information in such form as the Architect may require.

§ 3.1.2 The Construction Manager shall provide a preliminary evaluation of the Owner's program, schedule and construction budget requirements, each in terms of the other.

§ 3.1.3 Consultation

§ 3.1.3.1 The Construction Manager shall schedule and conduct meetings with the Architect and Owner to discuss such matters as procedures, progress, coordination, and scheduling of the Work.

§ 3.1.3.2 The Construction Manager shall advise the Owner and the Architect on proposed site use and improvements, selection of materials, and building systems and equipment. The Construction Manager shall also provide recommendations to the Owner and Architect, consistent with the Project requirements, on constructability; availability of materials and labor; time requirements for procurement, installation and construction; prefabrication; and factors related to construction cost including, but not limited to, costs of alternative designs or materials, preliminary budgets, life-cycle data, and possible cost reductions. The Construction Manager shall consult with the Architect regarding professional services to be provided by the Construction Manager during the Construction Phase.

§ 3.1.3.3 The Construction Manager shall assist the Owner and Architect in establishing building information modeling and digital data protocols for the Project, using AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 3.1.4 Project Schedule

When Project requirements in Section 4.1.1 have been sufficiently identified, the Construction Manager shall prepare and periodically update a Project schedule for the Architect's review and the Owner's acceptance. The Construction Manager shall obtain the Architect's approval for the portion of the Project schedule relating to the performance of the Architect's services. The Project schedule shall coordinate and integrate the Construction Manager's services, the Architect's services, other Owner consultants' services, and the Owner's responsibilities; and identify items that affect the Project's timely completion. The updated Project schedule shall include the following: submission of the Control Estimate; components of the Work; times of commencement and completion required of each Subcontractor; ordering and delivery of products, including those that must be ordered in advance of construction; and the occupancy requirements of the Owner.

§ 3.1.5 Phased Construction

The Construction Manager, in consultation with the Architect, shall provide recommendations with regard to accelerated or fast-track scheduling, procurement, and sequencing for phased construction. The Construction Manager shall take into consideration cost reductions, cost information, constructability, provisions for temporary facilities, and procurement and construction scheduling issues.

§ 3.1.6 Cost Estimates

§ 3.1.6.1 Based on the preliminary design and other design criteria prepared by the Architect, the Construction Manager shall prepare, for the Architect's review and the Owner's approval, preliminary estimates of the Cost of the Work or the cost of program requirements using area, volume, or similar conceptual estimating techniques. If the Architect or Construction Manager suggests alternative materials and systems, the Construction Manager shall provide cost evaluations of those alternative materials and systems.

§ 3.1.6.2 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall prepare and update, at appropriate intervals agreed to by the Owner, Construction Manager and Architect, an estimate of the Cost of the Work with increasing detail and refinement. The Construction Manager shall include in the estimate those costs to allow for the further development of the design, price escalation, and market conditions, until such time as the Construction Manager submits a Control Estimate for the Work, pursuant to Section 3.2. The estimate shall be provided for the Architect's review and the Owner's approval. The Construction Manager shall inform the Owner and Architect in the event that the estimate of the Cost of the Work exceeds the latest approved Project budget, and make recommendations for corrective action.

§ 3.1.6.3 If the Architect is providing cost estimating services as a Supplemental Service, and a discrepancy exists between the Construction Manager's cost estimates and the Architect's cost estimates, the Construction Manager and the Architect shall work together to reconcile the cost estimates.

§ 3.1.7 As the Architect progresses with the preparation of the Schematic Design, Design Development and Construction Documents, the Construction Manager shall consult with the Owner and Architect and make recommendations regarding constructability and schedules, for the Architect's review and the Owner's approval.

§ 3.1.8 The Construction Manager shall provide recommendations and information to the Owner and Architect regarding equipment, materials, services, and temporary Project facilities.

§ 3.1.9 The Construction Manager shall provide a staffing plan for Preconstruction Phase services for the Owner's review and approval.

§ 3.1.10 If the Owner identified a Sustainable Objective in Article 1, the Construction Manager shall fulfill its Preconstruction Phase responsibilities as required in AIA Document E234 TM-2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

§ 3.1.11 Subcontractors and Suppliers

§ 3.1.11.1 If the Owner has provided requirements for subcontractor procurement in section 1.1.14, the Construction Manager shall provide a subcontracting plan, addressing the Owner's requirements, for the Owner's review and approval.

§ 3.1.11.2 The Construction Manager shall develop bidders' interest in the Project.

§ 3.1.11.3 The processes described in Article 9 shall apply if bid packages will be issued during the Preconstruction Phase.

§ 3.1.12 Procurement

The Construction Manager shall prepare, for the Architect's review and the Owner's acceptance, a procurement schedule for items that must be ordered in advance of construction. The Construction Manager shall expedite and coordinate the ordering and delivery of materials that must be ordered in advance of construction. If the Owner agrees to procure any items prior to the Owner's approval of the Control Estimate, the Owner shall procure the items on terms and conditions acceptable to the Construction Manager. Upon the Owner's approval of the Control

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Estimate, the Owner shall assign all contracts for these items to the Construction Manager and the Construction Manager shall thereafter accept responsibility for them.

§ 3.1.13 Compliance with Laws

The Construction Manager shall comply with applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to its performance under this Contract, and with equal employment opportunity programs, and other programs as may be required by governmental and quasi-governmental authorities.

§ 3.1.14 Other Preconstruction Phase Services

Insert a description of any other Preconstruction Phase services to be provided by the Construction Manager, or reference an exhibit attached to this document.

(Describe any other Preconstruction Phase services, such as providing cash flow projections, development of a project information management system, early selection or procurement of subcontractors, etc.)

§ 3.2 Control Estimate

§ 3.2.1 At a time to be mutually agreed upon by the Owner and the Construction Manager, the Construction Manager shall prepare a Control Estimate for the Owner's and Architect's review, and the Owner's approval. The Control Estimate shall be the sum of the Construction Manager's estimate of the Cost of the Work and the Construction Manager's Fee. The Control Estimate shall be used to monitor actual costs and the timely performance of the Work. The Construction Manager shall update the Control Estimate with each Application for Payment as needed to reflect changes in the Work.

§ 3.2.2 The Control Estimate shall include:

- .1 the documents enumerated in Article 15, including all Modifications thereto;
- .2 a list of the assumptions made by the Construction Manager in the preparation of the Control Estimate, including assumptions under Section 3.2.4, to supplement the information provided by the Owner and contained in the Contract Documents;
- .3 a statement of the estimated Cost of the Work organized by trade categories or systems, and the Construction Manager's Fee;
- .4 a project schedule upon which the Control Estimate is based, indicating proposed Subcontractors, activity sequence and durations, milestone dates for receipt and approval of pertinent information, schedule of shop drawings and samples, procurement and delivery of materials or equipment, and the Owner's occupancy requirements;
- .5 a date of Substantial Completion, if not established in accordance with Section 3.3.1.3; and
- .6 contingencies for further development of design and construction, as required by Section 3.2.4.

§ 3.2.3 The Construction Manager shall meet with the Owner and Architect to review the Control Estimate. In the event that the Owner or Architect discovers any inconsistencies or inaccuracies in the information presented, they shall promptly notify the Construction Manager, who shall make appropriate adjustments to the Control Estimate. When the Control Estimate is approved by the Owner, the Owner shall acknowledge its approval in writing. The Owner's approval of the Control Estimate does not imply that the Control Estimate constitutes a Guaranteed Maximum Price.

§ 3.2.4 To the extent that the Contract Documents are anticipated to require further development, the Control Estimate shall include the costs attributable to such further development consistent with the Contract Documents and reasonably inferable therefrom. Such further development does not include changes in scope, systems, kinds and quality of materials, finishes, or equipment, all of which, if required, shall be incorporated in a revised Control Estimate by mutual agreement of the parties.

§ 3.2.5 The Construction Manager shall develop and implement a detailed system of cost control that will provide the Owner and Architect with timely information as to the anticipated total Cost of the Work. The cost control system shall compare the Control Estimate with the actual cost for activities in progress and estimates for uncompleted tasks and proposed changes. This information shall be reported to the Owner, in writing, no later than the Construction Manager's first Application for Payment and shall be revised and submitted with each Application for Payment.

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§ 3.2.6 Prior to commencement of the Construction Phase, the Construction Manager shall not incur any cost to be reimbursed as part of the Cost of the Work, unless the Owner provides prior written authorization for such costs.

§ 3.2.7 The Owner shall authorize preparation of revisions to the Contract Documents that incorporate the agreed-upon assumptions contained in the Control Estimate. The Owner shall promptly furnish such revised Contract Documents to the Construction Manager. The Construction Manager shall notify the Owner and Architect of any inconsistencies between the Control Estimate and the revised Contract Documents.

§ 3.3 Construction Phase

§ 3.3.1 General

§ 3.3.1.1 For purposes of Section 8.1.2 of A201–2017, the date of commencement of the Work shall mean the date of commencement of the Construction Phase.

§ 3.3.1.2 The Construction Phase shall commence upon the Owner’s approval of the Control Estimate or, prior to acceptance of the Control Estimate, by written agreement of the parties. The written agreement shall set forth a description of the Work to be performed by the Construction Manager, and any insurance and bond requirements for Work performed prior to approval of the Control Estimate.

§ 3.3.1.3 Substantial Completion

§ 3.3.1.3.1 Subject to adjustments of the Contract Time as provided in the Contract Documents, the Construction Manager shall achieve Substantial Completion of the entire Work:

(Check one of the following boxes and complete the necessary information.)

☒ [X] Not later than 5 months from the date of commencement of the Work subject to change based on final design.

☐ [] By the following date:

☐ [] By the date to be established in the Control Estimate and approved by the Owner.

§ 3.3.1.3.2 Subject to adjustments of the Contract Time as provided in the Contract Documents, if portions of the Work are to be completed prior to Substantial Completion of the entire Work, the Construction Manager shall achieve Substantial Completion of such portions by the following dates:

Portion of Work

Substantial Completion Date

§ 3.3.1.3.3 If the Construction Manager fails to achieve Substantial Completion as provided in this Section 3.3.1.3, liquidated damages, if any, shall be assessed as set forth in Section 6.1.7.

§ 3.3.2 Administration

§ 3.3.2.1 The Construction Manager shall schedule and conduct meetings to discuss such matters as procedures, progress, coordination, scheduling, and status of the Work. The Construction Manager shall prepare and promptly distribute minutes of the meetings to the Owner and Architect.

§ 3.3.2.2 Upon the Owner’s approval of the Control Estimate, the Construction Manager shall prepare and submit to the Owner and Architect a construction schedule for the Work and a submittal schedule in accordance with Section 3.10 of A201–2017.

§ 3.3.2.3 Monthly Report

The Construction Manager shall record the progress of the Project. On a monthly basis, or otherwise as agreed to by the Owner, the Construction Manager shall submit written progress reports to the Owner and Architect, showing percentages of completion and other information required by the Owner.

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§ 3.3.2.4 Daily Logs

The Construction Manager shall keep, and make available to the Owner and Architect, a daily log containing a record for each day of weather, portions of the Work in progress, number of workers on site, identification of equipment on site, problems that might affect progress of the Work, accidents, injuries, and other information required by the Owner.

ARTICLE 4 OWNER'S RESPONSIBILITIES

§ 4.1 Information and Services Required of the Owner

§ 4.1.1 The Owner shall provide information with reasonable promptness, regarding requirements for and limitations on the Project, including a written program which shall set forth the Owner's objectives, constraints, and criteria, including schedule, space requirements and relationships, flexibility and expandability, special equipment, systems, sustainability and site requirements.

§ 4.1.2 Prior to the Owner's approval of the Control Estimate, the Construction Manager may request in writing that the Owner provide reasonable evidence that the Owner has made financial arrangements to fulfill the Owner's obligations under the Contract. After the Owner approves the Control Estimate, the Construction Manager may request such information as set forth in A201-2017, Section 2.2.

§ 4.1.3 The Owner shall establish and periodically update the Owner's budget for the Project, including (1) the budget for the Cost of the Work as defined in Article 7, (2) the Owner's other costs, and (3) reasonable contingencies related to all of these costs. If the Owner significantly increases or decreases the Owner's budget for the Cost of the Work, the Owner shall notify the Construction Manager and Architect. The Owner and the Architect, in consultation with the Construction Manager, shall thereafter agree to a corresponding change in the Project's scope and quality.

§ 4.1.4 Structural and Environmental Tests, Surveys and Reports. During the Preconstruction Phase, the Owner shall furnish the following information or services with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services. The Construction Manager shall be entitled to rely on the accuracy of information and services furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 4.1.4.1 The Owner shall furnish tests, inspections, and reports, required by law and as otherwise agreed to by the parties, such as structural, mechanical, and chemical tests, tests for air and water pollution, and tests for hazardous materials.

§ 4.1.4.2 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a written legal description of the site. The surveys and legal information shall include, as applicable, grades and lines of streets, alleys, pavements and adjoining property and structures; designated wetlands; adjacent drainage; rights-of-way, restrictions, easements, encroachments, zoning, deed restrictions, boundaries and contours of the site; locations, dimensions and other necessary data with respect to existing buildings, other improvements and trees; and information concerning available utility services and lines, both public and private, above and below grade, including inverts and depths. All the information on the survey shall be referenced to a Project benchmark.

§ 4.1.4.3 The Owner, when such services are requested, shall furnish services of geotechnical engineers, which may include test borings, test pits, determinations of soil bearing values, percolation tests, evaluations of hazardous materials, seismic evaluation, ground corrosion tests and resistivity tests, including necessary operations for anticipating subsoil conditions, with written reports and appropriate recommendations.

§ 4.1.5 During the Construction Phase, the Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Construction Manager's performance of the Work with reasonable promptness after receiving the Construction Manager's written request for such information or services.

§ 4.1.6 If the Owner identified a Sustainable Objective in Article 1, the Owner shall fulfill its responsibilities as required in AIA Document E234™–2019, Sustainable Projects Exhibit, Construction Manager as Constructor Edition, attached to this Agreement.

§ 4.2 Owner's Designated Representative

The Owner shall identify a representative authorized to act on behalf of the Owner with respect to the Project. The Owner's representative shall render decisions promptly and furnish information expeditiously, so as to avoid unreasonable delay in the services or Work of the Construction Manager. Except as otherwise provided in Section 4.2.1 of A201–2017, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 4.2.1 **Legal Requirements.** The Owner shall furnish all legal, insurance and accounting services, including auditing services, that may be reasonably necessary at any time for the Project to meet the Owner's needs and interests.

§ 4.3 Architect

The Owner shall retain an Architect to provide services, duties and responsibilities as described in AIA Document B133™–2019, Standard Form of Agreement Between Owner and Architect, Construction Manager as Constructor Edition, including any additional services requested by the Construction Manager that are necessary for the Preconstruction and Construction Phase services under this Agreement. The Owner shall provide the Construction Manager with a copy of the scope of services in the executed agreement between the Owner and the Architect, and any further modifications to the Architect's scope of services in the agreement.

ARTICLE 5 COMPENSATION AND PAYMENTS FOR PRECONSTRUCTION PHASE SERVICES

§ 5.1 Compensation

§ 5.1.1 For the Construction Manager's Preconstruction Phase services described in Sections 3.1 and 3.2, the Owner shall compensate the Construction Manager as follows:

(Insert amount of, or basis for, compensation and include a list of reimbursable cost items, as applicable.)

AVB's scope of services will start at the bidding phase so there are no preconstruction fees at this point.

§ 5.1.2 The hourly billing rates for Preconstruction Phase services of the Construction Manager and the Construction Manager's Consultants and Subcontractors, if any, are set forth below.

(If applicable, attach an exhibit of hourly billing rates or insert them below.)

Individual or Position	Rate
------------------------	------

§ 5.1.2.1 Hourly billing rates for Preconstruction Phase services include all costs to be paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, and shall remain unchanged unless the parties execute a Modification.

§ 5.1.3 If the Preconstruction Phase services covered by this Agreement have not been completed within () months of the date of this Agreement, through no fault of the Construction Manager, the Construction Manager's compensation for Preconstruction Phase services shall be equitably adjusted.

§ 5.2 Payments

§ 5.2.1 Unless otherwise agreed, payments for services shall be made monthly in proportion to services performed.

(Paragraph Deleted)

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ARTICLE 6 COMPENSATION FOR CONSTRUCTION PHASE SERVICES

§ 6.1 Contract Sum

§ 6.1.1 The Owner shall pay the Construction Manager the Contract Sum in current funds for the Construction Manager's performance of the Contract after approval of the Control Estimate. The Contract Sum is the Cost of the Work as defined in Article 7 plus the Construction Manager's Fee.

§ 6.1.2 The Construction Manager's Fee:

(State a lump sum, percentage of Cost of the Work or other provision for determining the Construction Manager's Fee.)

5% of the Cost of the Work based on the following assumptions:

\$2,600,000.00 in hard costs with a 5 month duration billed monthly to the City of Portage

6% General Conditions- includes supervision, project administration, accounting, general liability insurance, EGLE, water and sanitary main permits, bidding, contracting, dumpsters, temporary facilities, safety controls and project signage.

§ 6.1.3 The method of adjustment of the Construction Manager's Fee for changes in the Work:

5% of the Cost of the Changes in the Work, via Change Order

§ 6.1.4 Limitations, if any, on a Subcontractor's overhead and profit for increases in the cost of its portion of the Work:

10%

§ 6.1.5 Rental rates for Construction Manager-owned equipment shall not exceed one hundred percent (100 %) of the standard rental rate paid at the place of the Project.

§ 6.1.6 Unit prices, if any:

(Identify the item and state the unit price and quantity limitations, if any, to which the unit price will be applicable.)

Item

Units and Limitations

Price per Unit (\$0.00)

§ 6.1.7 Liquidated damages, if any:

(Insert terms and conditions for liquidated damages, if any.)

NA

§ 6.1.8 Other:

(Insert provisions for bonus or other incentives, if any, that might result in a change to the Contract Sum.)

NA

§ 6.2 Changes in the Work

§ 6.2.1 The Owner may, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions or other revisions. The Owner shall issue such changes in writing. The Construction Manager may be entitled to an equitable adjustment in the Contract Time as a result of changes in the Work, as provided in Article 7 of AIA Document A201-2017, General Conditions of the Contract for Construction. The Construction Manager shall incorporate all changes in the Work and Contract Time as separate entries in the Control Estimate.

§ 6.2.1.1 The Architect may order minor changes in the Work as provided in Article 7 of AIA Document A201-2017, General Conditions of the Contract for Construction.

§ 6.2.2 Increased costs for the items set forth in Sections 7.1 through 7.7 that result from changes in the Work shall become part of the Cost of the Work, and the Construction Manager's Fee shall be adjusted as provided in Section 6.1.3.

§ 6.2.3 If the Construction Manager receives any Drawings, Specifications, interpretations or instructions from the Owner or Architect which are inconsistent with the Contract Documents, or encounters unanticipated conditions, any of which will result in a significant change in the Cost of the Work in comparison with the Control Estimate or the date of Substantial Completion, the Construction Manager shall promptly notify the Owner and Architect in writing and shall not proceed with the affected Work until the Construction Manager receives further written instructions from the Owner and Architect.

§ 6.2.4 Adjustments to subcontracts awarded on the basis of a stipulated sum shall be determined in accordance with Article 7 of A201-2017, as they refer to "cost" and "fee," and not by Articles 6 and 7 of this Agreement. Adjustments to subcontracts awarded with the Owner's prior written consent on the basis of cost plus a fee shall be calculated in accordance with the terms of those subcontracts.

§ 6.2.5 If no specific provision is made in Section 6.1.3 for adjustment of the Construction Manager's Fee in the case of changes in the Work, or if the extent of such changes is such, in the aggregate, that application of the adjustment provisions of Section 6.1.3 will cause substantial inequity to the Owner or Construction Manager, the Construction Manager's Fee shall be equitably adjusted on the same basis that was used to establish the Fee for the original Work.

ARTICLE 7 COST OF THE WORK FOR CONSTRUCTION PHASE

§ 7.1 Costs to Be Reimbursed

§ 7.1.1 The term Cost of the Work shall mean costs necessarily incurred by the Construction Manager in the proper performance of the Work. The Cost of the Work shall include only the items set forth in Sections 7.1 through 7.7.

§ 7.1.2 Where, pursuant to the Contract Documents, any cost is subject to the Owner's prior approval, the Construction Manager shall obtain such approval in writing prior to incurring the cost.

§ 7.1.3 Costs shall be at rates not higher than the standard paid at the place of the Project, except with prior approval of the Owner.

§ 7.2 Labor Costs

§ 7.2.1 Wages or salaries of construction workers directly employed by the Construction Manager to perform the construction of the Work at the site or, with the Owner's prior approval, at off-site workshops.

§ 7.2.2 Wages or salaries of the Construction Manager's supervisory and administrative personnel when stationed at the site and performing Work, with the Owner's prior approval.

§ 7.2.2.1 Wages or salaries of the Construction Manager's supervisory and administrative personnel when performing Work and stationed at a location other than the site, but only for that portion of time required for the Work, and limited to the personnel and activities listed below:

(Identify the personnel, type of activity and, if applicable, any agreed upon percentage of time to be devoted to the Work.)

Project Manager
Project Engineer

§ 7.2.3 Wages or salaries of the Construction Manager's supervisory or administrative personnel engaged at factories, workshops or while traveling, in expediting the production or transportation of materials or equipment required for the Work, but only for that portion of their time required for the Work.

§ 7.2.4 Costs paid or incurred by the Construction Manager, as required by law or collective bargaining agreements, for taxes, insurance, contributions, assessments and benefits and, for personnel not covered by collective bargaining agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions, provided such costs are based on wages and salaries included in the Cost of the Work under Sections 7.2.1 through 7.2.3.

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§ 7.2.5 If agreed rates for labor costs, in lieu of actual costs, are provided in this Agreement, the rates shall remain unchanged throughout the duration of this Agreement, unless the parties execute a Modification.

§ 7.3 Subcontract Costs

Payments made by the Construction Manager to Subcontractors in accordance with the requirements of the subcontracts and this Agreement.

§ 7.4 Costs of Materials and Equipment Incorporated in the Completed Construction

§ 7.4.1 Costs, including transportation and storage at the site, of materials and equipment incorporated, or to be incorporated, in the completed construction.

§ 7.4.2 Costs of materials described in the preceding Section 7.4.1 in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, if any, shall become the Owner's property at the completion of the Work or, at the Owner's option, shall be sold by the Construction Manager. Any amounts realized from such sales shall be credited to the Owner as a deduction from the Cost of the Work.

§ 7.5 Costs of Other Materials and Equipment, Temporary Facilities and Related Items

§ 7.5.1 Costs of transportation, storage, installation, dismantling, maintenance, and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site and fully consumed in the performance of the Work. Costs of materials, supplies, temporary facilities, machinery, equipment, and tools, that are not fully consumed, shall be based on the cost or value of the item at the time it is first used on the Project site less the value of the item when it is no longer used at the Project site. Costs for items not fully consumed by the Construction Manager shall mean fair market value.

§ 7.5.2 Rental charges for temporary facilities, machinery, equipment, and hand tools not customarily owned by construction workers that are provided by the Construction Manager at the site, and the costs of transportation, installation, dismantling, minor repairs, and removal of such temporary facilities, machinery, equipment, and hand tools. Rates and quantities of equipment owned by the Construction Manager, or a related party as defined in Section 7.8, shall be subject to the Owner's prior approval. The total rental cost of any such equipment may not exceed the purchase price of any comparable item.

§ 7.5.3 Costs of removal of debris from the site of the Work and its proper and legal disposal.

§ 7.5.4 Costs of the Construction Manager's site office, including general office equipment and supplies.

§ 7.5.5 Costs of materials and equipment suitably stored off the site at a mutually acceptable location, subject to the Owner's prior approval.

§ 7.6 Miscellaneous Costs

§ 7.6.1 Premiums for that portion of insurance and bonds required by the Contract Documents that can be directly attributed to this Contract.

§ 7.6.1.1 Costs for self-insurance, for either full or partial amounts of the coverages required by the Contract Documents, with the Owner's prior approval.

§ 7.6.1.2 Costs for insurance through a captive insurer owned or controlled by the Construction Manager, with the Owner's prior approval.

§ 7.6.2 Sales, use, or similar taxes, imposed by a governmental authority, that are related to the Work and for which the Construction Manager is liable.

§ 7.6.3 Fees and assessments for the building permit, and for other permits, licenses, and inspections, for which the Construction Manager is required by the Contract Documents to pay.

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§ 7.6.4 Fees of laboratories for tests required by the Contract Documents; except those related to defective or nonconforming Work for which reimbursement is excluded under Article 13 of AIA Document A201–2017 or by other provisions of the Contract Documents, and which do not fall within the scope of Section 7.7.3.

§ 7.6.5 Royalties and license fees paid for the use of a particular design, process, or product, required by the Contract Documents.

§ 7.6.5.1 The cost of defending suits or claims for infringement of patent rights arising from requirements of the Contract Documents, payments made in accordance with legal judgments against the Construction Manager resulting from such suits or claims, and payments of settlements made with the Owner's consent, unless the Construction Manager had reason to believe that the required design, process, or product was an infringement of a copyright or a patent, and the Construction Manager failed to promptly furnish such information to the Architect as required by Article 3 of AIA Document A201–2017. The costs of legal defenses, judgments, and settlements shall not be included in the Cost of the Work used to calculate the Construction Manager's Fee.

§ 7.6.6 Costs for communications services, electronic equipment, and software, directly related to the Work and located at the site, with the Owner's prior approval.

§ 7.6.7 Costs of document reproductions and delivery charges.

§ 7.6.8 Deposits lost for causes other than the Construction Manager's negligence or failure to fulfill a specific responsibility in the Contract Documents.

§ 7.6.9 Legal, mediation and arbitration costs, including attorneys' fees, other than those arising from disputes between the Owner and Construction Manager, reasonably incurred by the Construction Manager after the execution of this Agreement in the performance of the Work and with the Owner's prior approval, which shall not be unreasonably withheld.

§ 7.6.10 Expenses incurred in accordance with the Construction Manager's standard written personnel policy for relocation and temporary living allowances of the Construction Manager's personnel required for the Work, with the Owner's prior approval.

§ 7.6.11 That portion of the reasonable expenses of the Construction Manager's supervisory or administrative personnel incurred while traveling in discharge of duties connected with the Work.

§ 7.7 Other Costs and Emergencies

§ 7.7.1 Other costs incurred in the performance of the Work, with the Owner's prior approval.

§ 7.7.2 Costs incurred in taking action to prevent threatened damage, injury, or loss, in case of an emergency affecting the safety of persons and property, as provided in Article 10 of AIA Document A201–2017.

§ 7.7.3 Costs of repairing or correcting damaged or nonconforming Work executed by the Construction Manager, Subcontractors, or suppliers, provided that such damaged or nonconforming Work was not caused by the negligence of, or failure to fulfill a specific responsibility by, the Construction Manager, and only to the extent that the cost of repair or correction is not recovered by the Construction Manager from insurance, sureties, Subcontractors, suppliers, or others.

§ 7.7.4 The costs described in Sections 7.1 through 7.7 shall be included in the Cost of the Work, notwithstanding any provision of AIA Document A201–2017 or other Conditions of the Contract which may require the Construction Manager to pay such costs, unless such costs are excluded by the provisions of Section 7.9.

§ 7.8 Related Party Transactions

§ 7.8.1 For purposes of this Section 7.8, the term "related party" shall mean (1) a parent, subsidiary, affiliate or other entity having common ownership of, or sharing common management with, the Construction Manager; (2) any entity in which any stockholder in, or management employee of, the Construction Manager holds an equity interest in excess of ten percent in the aggregate; (3) any entity which has the right to control the business or affairs of the

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Construction Manager; and (4) any person, or any member of the immediate family of any person, who has the right to control the business or affairs of the Construction Manager.

§ 7.8.2 If any of the costs to be reimbursed arise from a transaction between the Construction Manager and a related party, the Construction Manager shall notify the Owner of the specific nature of the contemplated transaction, including the identity of the related party and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. If the Owner, after such notification, authorizes the proposed transaction in writing, then the cost incurred shall be included as a cost to be reimbursed, and the Construction Manager shall procure the Work, equipment, goods, or service, from the related party, as a Subcontractor, according to the terms of Article 9. If the Owner fails to authorize the transaction in writing, the Construction Manager shall procure the Work, equipment, goods, or service from some person or entity other than a related party according to the terms of Article 9.

§ 7.9 Costs Not to Be Reimbursed

§ 7.9.1 The Cost of the Work shall not include the items listed below:

- .1 Salaries and other compensation of the Construction Manager's personnel stationed at the Construction Manager's principal office or offices other than the site office, except as specifically provided in Section 7.2, or as may be provided in Article 14;
- .2 Bonuses, profit sharing, incentive compensation, and any other discretionary payments, paid to anyone hired by the Construction Manager or paid to any Subcontractor or vendor, unless the Owner has provided prior approval;
- .3 Expenses of the Construction Manager's principal office and offices other than the site office;
- .4 Overhead and general expenses, except as may be expressly included in Sections 7.1 through 7.7;
- .5 The Construction Manager's capital expenses, including interest on the Construction Manager's capital employed for the Work;
- .6 Except as provided in Section 7.7.3 of this Agreement, costs due to the negligence of, or failure to fulfill a specific responsibility of the Contract by, the Construction Manager, Subcontractors, and suppliers, or anyone directly or indirectly employed by any of them or for whose acts any of them may be liable;
- .7 Any cost not specifically and expressly described in Sections 7.1 through 7.7; and
- .8 Costs for services incurred during the Preconstruction Phase.

ARTICLE 8 DISCOUNTS, REBATES, AND REFUNDS

§ 8.1 Cash discounts obtained on payments made by the Construction Manager shall accrue to the Owner if (1) before making the payment, the Construction Manager included the amount to be paid, less such discount, in an Application for Payment and received payment from the Owner, or (2) the Owner has deposited funds with the Construction Manager with which to make payments; otherwise, cash discounts shall accrue to the Construction Manager. Trade discounts, rebates, refunds, and amounts received from sales of surplus materials and equipment shall accrue to the Owner, and the Construction Manager shall make provisions so that they can be obtained.

§ 8.2 Amounts that accrue to the Owner in accordance with the provisions of Section 8.1 shall be credited to the Owner as a deduction from the Cost of the Work.

ARTICLE 9 SUBCONTRACTS AND OTHER AGREEMENTS

§ 9.1 Those portions of the Work that the Construction Manager does not customarily perform with the Construction Manager's own personnel shall be performed under subcontracts or other appropriate agreements with the Construction Manager. The Owner may designate specific persons from whom, or entities from which, the Construction Manager shall obtain bids. The Construction Manager shall obtain bids from Subcontractors, and from suppliers of materials or equipment fabricated especially for the Work, who are qualified to perform that portion of the Work in accordance with the requirements of the Contract Documents. The Construction Manager shall deliver such bids to the Architect and Owner with an indication as to which bids the Construction Manager intends to accept. The Owner then has the right to review the Construction Manager's list of proposed subcontractors and suppliers in consultation with the Architect and to object to any subcontractor or supplier. Any advice of the Architect, or approval or objection by the Owner, shall not relieve the Construction Manager of its responsibility to perform the Work in accordance with the Contract Documents. The Construction Manager shall not be required to contract with anyone to whom the Construction Manager has reasonable objection.

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§ 9.2 Subcontracts or other agreements shall conform to the applicable payment provisions of this Agreement, and shall not be awarded on the basis of cost plus a fee without the Owner's prior written approval. If a subcontract is awarded on the basis of cost plus a fee, the Construction Manager shall provide in the subcontract for the Owner to receive the same audit rights with regard to the Subcontractor as the Owner receives with regard to the Construction Manager in Article 10.

ARTICLE 10 ACCOUNTING RECORDS

The Construction Manager shall keep full and detailed records and accounts related to the Cost of the Work, and exercise such controls, as may be necessary for proper financial management under this Contract and to substantiate all costs incurred. The accounting and control systems shall be satisfactory to the Owner. The Owner and the Owner's auditors shall, during regular business hours and upon reasonable notice, be afforded access to, and shall be permitted to audit and copy, the Construction Manager's records and accounts, including complete documentation supporting accounting entries, books, job cost reports, correspondence, instructions, drawings, receipts, subcontracts, Subcontractor's proposals, Subcontractor's invoices, purchase orders, vouchers, memoranda, and other data relating to this Contract. The Construction Manager shall preserve these records for a period of three years after final payment, or for such longer period as may be required by law.

ARTICLE 11 PAYMENTS FOR CONSTRUCTION PHASE SERVICES

§ 11.1 Progress Payments

Bank and wire fraud is a real and growing threat that AVB takes very seriously. To ensure that neither the Owner or AVB is a victim of wire fraud, AVB has the following policy: If the Owner intends to wire transfer funds for payment directly to AVB, funds should only be wired to Horizon Bank, Routing number 071201320, Account number 8675356. AVB will **NOT** change this Bank, Routing number and Account number for the duration of Owner's project. Relative to this Owner Contract, under no circumstances should the Owner send a wire payment to any other bank, routing number, or account number. AVB will **NEVER** communicate to Owner wire instructions via phone or email different than as stated above. It is the Owner's responsibility to provide the above information to their Bank. See attached Exhibit C Wire Transfer Acknowledgement.

§ 11.1.1 Based upon Applications for Payment submitted to the Architect by the Construction Manager, and Certificates for Payment issued by the Architect, the Owner shall make progress payments on account of the Contract Sum, to the Construction Manager, as provided below and elsewhere in the Contract Documents.

§ 11.1.2 The period covered by each Application for Payment shall be one calendar month ending on the last day of the month, or as follows:

§ 11.1.3. Payments are due and payable within twenty days of presentation of the Construction Manager's invoice.

(Paragraph Deleted)

§ 11.1.4 With each Application for Payment, the Construction Manager shall submit the cost control information required in Section 3.2.5, along with payrolls, petty cash accounts, receipted invoices or invoices with check vouchers attached, and any other evidence required by the Owner or Architect to demonstrate that payments already made by the Construction Manager on account of the Cost of the Work equal or exceed progress payments already received by the Construction Manager, plus payrolls for the period covered by the present Application for Payment, less that portion of the progress payments attributable to the Construction Manager's Fee.

§ 11.1.5 Applications for Payment shall show the Cost of the Work actually incurred by the Construction Manager through the end of the period covered by the Application for Payment and for which the Construction Manager has made or intends to make actual payment prior to the next Application for Payment.

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§ 11.1.6 In accordance with AIA Document A201–2017 and subject to other provisions of the Contract Documents, the amount of each progress payment shall be computed as follows:

§ 11.1.6.1 The amount of each progress payment shall first include:

- .1 The Cost of the Work as described in Article 7;
- .2 That portion of Construction Change Directives that the Architect determines, in the Architect's professional judgment, to be reasonably justified; and
- .3 The Construction Manager's Fee computed upon the Cost of the Work described in the preceding Section 11.1.6.1.1 at the rate stated in Section 6.1.2; or if the Construction Manager's Fee is stated as a fixed sum in Section 6.1.2, an amount which bears the same ratio to that fixed-sum Fee as the Cost of the Work included in Section 11.1.6.1.1 bears to a reasonable estimate of the probable Cost of the Work upon its completion.

§ 11.1.6.2 The amount of each progress payment shall then be reduced by:

- .1 The aggregate of any amounts previously paid by the Owner;
- .2 The amount, if any, for Work that remains uncorrected and for which the Architect has previously withheld a Certificate for Payment as provided in Article 9 of AIA Document A201–2017;
- .3 Any amount for which the Construction Manager does not intend to pay a Subcontractor or material supplier, unless the Work has been performed by others the Construction Manager intends to pay;
- .4 For Work performed or defects discovered since the last payment application, any amount for which the Architect may withhold payment, or nullify a Certificate of Payment in whole or in part, as provided in Article 9 of AIA Document A201–2017;
- .5 The shortfall, if any, indicated by the Construction Manager in the documentation required by Section 11.1.4 to substantiate prior Applications for Payment, or resulting from errors subsequently discovered by the Owner's auditors in such documentation; and
- .6 Retainage withheld pursuant to Section 11.1.7.

§ 11.1.7 Retainage

§ 11.1.7.1 For each progress payment made prior to Substantial Completion of the Work, the Owner may withhold the following amount, as retainage, from the payment otherwise due:

(Insert a percentage or amount to be withheld as retainage from each Application for Payment. The amount of retainage may be limited by governing law.)

In accordance with the State of Michigan Public Act 524 of 1980, retainage will be withheld for any construction contract in excess of \$60,000.

Ten percent (10%) retaining will be withheld from the first fifty percent (50%) of the contracted amount.

§ 11.1.7.1.1 The following items are not subject to retainage:

(Insert any items not subject to the withholding of retainage, such as general conditions, insurance, etc.)

General Conditions and the Construction Manager's fee

§ 11.1.7.2 Reduction or limitation of retainage, if any, shall be as follows:

(If the retainage established in Section 11.1.7.1 is to be modified prior to Substantial Completion of the entire Work, insert provisions for such modification.)

NA

§ 11.1.7.3 Except as may be set forth in this Section 11.1.7.3, upon Substantial Completion of the Work, the Construction Manager may submit an Application for Payment that includes the retainage withheld from prior Applications for Payment pursuant to this Section 11.1.7. The Application for Payment submitted at Substantial Completion shall not include retainage as follows:

(Insert any other conditions for release of retainage, such as upon completion of the Owner's audit and reconciliation, upon Substantial Completion.)

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§ 11.1.8 If final completion of the Work is materially delayed through no fault of the Construction Manager, the Owner shall pay the Construction Manager any additional amounts in accordance with Article 9 of AIA Document A201–2017.

§ 11.1.9 Except with the Owner's prior written approval, the Construction Manager shall not make advance payments to suppliers for materials or equipment which have not been delivered and suitably stored at the site.

§ 11.1.10 The Owner and the Construction Manager shall agree upon a mutually acceptable procedure for review and approval of payments to Subcontractors, and the percentage of retainage held on Subcontracts, and the Construction Manager shall execute subcontracts in accordance with those agreements.

§ 11.1.11 In taking action on the Construction Manager's Applications for Payment the Architect shall be entitled to rely on the accuracy and completeness of the information furnished by the Construction Manager, and such action shall not be deemed to be a representation that (1) the Architect has made a detailed examination, audit, or arithmetic verification, of the documentation submitted in accordance with Section 11.1.4 or other supporting data; (2) that the Architect has made exhaustive or continuous on-site inspections; or (3) that the Architect has made examinations to ascertain how or for what purposes the Construction Manager has used amounts previously paid on account of the Contract. Such examinations, audits, and verifications, if required by the Owner, will be performed by the Owner's auditors acting in the sole interest of the Owner.

§ 11.2 Final Payment

§ 11.2.1 Final payment, constituting the entire unpaid balance of the Contract Sum, shall be made by the Owner to the Construction Manager when

- .1 the Construction Manager has fully performed the Contract, except for the Construction Manager's responsibility to correct Work as provided in Article 12 of AIA Document A201–2017, and to satisfy other requirements, if any, which extend beyond final payment;
- .2 the Construction Manager has submitted a final accounting for the Cost of the Work and a final Application for Payment; and
- .3 a final Certificate for Payment has been issued by the Architect in accordance with Section 11.2.2.2.

§ 11.2.2 Within 30 days of the Owner's receipt of the Construction Manager's final accounting for the Cost of the Work, the Owner shall conduct an audit of the Cost of the Work or notify the Architect that it will not conduct an audit.

§ 11.2.2.1 If the Owner conducts an audit of the Cost of the Work, the Owner shall, within 10 days after completion of the audit, submit a written report based upon the auditors' findings to the Architect.

§ 11.2.2.2 Within seven days after receipt of the written report described in Section 11.2.2.1, or receipt of notice that the Owner will not conduct an audit, and provided that the other conditions of Section 11.2.1 have been met, the Architect will either issue to the Owner a final Certificate for Payment with a copy to the Construction Manager, or notify the Construction Manager and Owner in writing of the Architect's reasons for withholding a certificate as provided in Article 9 of AIA Document A201–2017. The time periods stated in this Section 11.2.2 supersede those stated in Article 9 of AIA Document A201–2017. The Architect is not responsible for verifying the accuracy of the Construction Manager's final accounting.

§ 11.2.2.3 If the Owner's auditors' report concludes that the Cost of the Work, as substantiated by the Construction Manager's final accounting, is less than claimed by the Construction Manager, the Construction Manager shall be entitled to request mediation of the disputed amount without seeking an initial decision pursuant to Article 15 of AIA Document A201–2017. A request for mediation shall be made by the Construction Manager within 30 days after the Construction Manager's receipt of a copy of the Architect's final Certificate for Payment. Failure to request mediation within this 30-day period shall result in the substantiated amount reported by the Owner's auditors becoming binding on the Construction Manager. Pending a final resolution of the disputed amount, the Owner shall pay the Construction Manager the amount certified in the Architect's final Certificate for Payment.

§ 11.2.3 The Owner's final payment to the Construction Manager shall be made no later than 30 days after the issuance of the Architect's final Certificate for Payment, or as follows:

§ 11.2.4 If, subsequent to final payment, and at the Owner's request, the Construction Manager incurs costs described in Sections 7.1 through 7.7 and not excluded by Section 7.9 to correct defective or nonconforming Work, the Owner shall reimburse the Construction Manager for such costs, and the Construction Manager's Fee applicable thereto on the same basis as if such costs had been incurred prior to final payment.

§ 11.3 Waivers of Subrogation

If permitted by Owner's and Contractor's insurance companies, without penalties, the Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The

policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or

otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3)

whether or not the person or entity had an insurable interest in the damaged property.

ARTICLE 12 DISPUTE RESOLUTION

§ 12.1 Initial Decision Maker

§ 12.1.1 Any Claim between the Owner and Construction Manager shall be resolved in accordance with the provisions set forth in this Article 12 and Article 15 of A201–2017. However, for Claims arising from or relating to the Construction Manager's Preconstruction Phase services, no decision by the Initial Decision Maker shall be required as a condition precedent to mediation or binding dispute resolution, and Section 12.1.2 of this Agreement shall not apply.

§ 12.1.2 The Architect will serve as the Initial Decision Maker pursuant to Article 15 of AIA Document A201–2017 for Claims arising from or relating to the Construction Manager's Construction Phase services, unless the parties appoint below another individual, not a party to the Agreement, to serve as the Initial Decision Maker.
(If the parties mutually agree, insert the name, address and other contact information of the Initial Decision Maker, if other than the Architect.)

§ 12.2 Binding Dispute Resolution

For any Claim subject to, but not resolved by mediation pursuant to Article 15 of AIA Document A201–2017, the method of binding dispute resolution shall be as follows:

(Check the appropriate box.)

☒ [X] Arbitration pursuant to Article 15 of AIA Document A201–2017

☐ [] Litigation in a court of competent jurisdiction

☐ [] Other: (Specify)

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If the Owner and Construction Manager do not select a method of binding dispute resolution, or do not subsequently agree in writing to a binding dispute resolution method other than litigation, Claims will be resolved by litigation in a court of competent jurisdiction.

ARTICLE 13 TERMINATION OR SUSPENSION

§ 13.1 Termination Prior to Owner's Approval of the Control Estimate

§ 13.1.1 Prior to the Owner's approval of the Control Estimate, the Owner may terminate this Agreement upon not less than seven days' written notice to the Construction Manager for the Owner's convenience and without cause and the Construction Manager may terminate this Agreement, upon not less than seven days' written notice to the Owner, for the reasons set forth in Article 14 of A201–2017.

§ 13.1.2 In the event of termination of this Agreement pursuant to Section 13.1.1, the Construction Manager shall be equitably compensated for Preconstruction Phase services and Work performed prior to receipt of a notice of termination. In no event shall the Construction Manager's compensation under this Section exceed the compensation set forth in Section 5.1.

§ 13.1.3 In the event of termination of this Agreement pursuant to Section 13.1.1 after the commencement of the Construction Phase but prior to the Owner's approval of the Control Estimate, the Owner shall pay to the Construction Manager an amount calculated as follows, which amount shall be in addition to any compensation paid to the Construction Manager under Section 13.1.2:

- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion; and
- .3 Subtract the aggregate of previous payments made by the Owner for Construction Phase services.

§ 13.1.4 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.1.3.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontracts and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontracts or purchase orders. All Subcontracts, purchase orders and rental agreements entered into by the Construction Manager will contain provisions allowing for assignment to the Owner as described above.

§ 13.1.4.1 If the Owner accepts assignment of subcontracts, purchase orders or rental agreements as described above, the Owner will reimburse or indemnify the Construction Manager for all costs arising under the subcontract, purchase order or rental agreement, if those costs would have been reimbursable as Cost of the Work if the contract had not been terminated. If the Owner chooses not to accept assignment of any subcontract, purchase order or rental agreement that would have constituted a Cost of the Work had this agreement not been terminated, the Construction Manager will terminate the subcontract, purchase order or rental agreement and the Owner will pay the Construction Manager the costs necessarily incurred by the Construction Manager because of such termination.

§ 13.2 Termination or Suspension Following the Owner's Approval of the Control Estimate

§ 13.2.1 Termination

The Contract may be terminated by the Owner or the Construction Manager as provided in Article 14 of AIA Document A201–2017.

§ 13.2.2 Termination by the Owner for Cause

§ 13.2.2.1 If the Owner terminates the Contract for cause as provided in Article 14 of AIA Document A201-2017, the Owner shall then only pay the Construction Manager an amount calculated as follows:

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- .1 Take the Cost of the Work incurred by the Construction Manager to the date of termination;
- .2 Add the Construction Manager's Fee, computed upon the Cost of the Work to the date of termination at the rate stated in Section 6.1 or, if the Construction Manager's Fee is stated as a fixed sum in that Section, an amount that bears the same ratio to that fixed-sum Fee as the Cost of the Work at the time of termination bears to a reasonable estimate of the probable Cost of the Work upon its completion;
- .3 Subtract the aggregate of previous payments made by the Owner; and
- .4 Subtract the costs and damages incurred, or to be incurred, by the Owner under Article 14 of AIA Document A201-2017.

§ 13.2.2.2 The Owner shall also pay the Construction Manager fair compensation, either by purchase or rental at the election of the Owner, for any equipment owned by the Construction Manager that the Owner elects to retain and that is not otherwise included in the Cost of the Work under Section 13.2.2.1.1. To the extent that the Owner elects to take legal assignment of subcontracts and purchase orders (including rental agreements), the Construction Manager shall, as a condition of receiving the payments referred to in this Article 13, execute and deliver all such papers and take all such steps, including the legal assignment of such subcontract and other contractual rights of the Construction Manager, as the Owner may require for the purpose of fully vesting in the Owner the rights and benefits of the Construction Manager under such subcontract or purchase orders.

§ 13.2.3 Termination by the Owner for Convenience

If the Owner terminates the Contract for convenience in accordance with Article 14 of AIA Document A201-2017, then the Owner shall pay the Construction Manager a termination fee as follows:

(Insert the amount of or method for determining the fee, if any, payable to the Construction Manager following a termination for the Owner's convenience.)

§ 13.2.4 Suspension

The Work may be suspended by the Owner as provided in Article 14 of AIA Document A201-2017. In such case, the Contract Sum and Contract Time shall be increased as provided in Article 14 of AIA Document A201-2017, except that the term "profit" shall be understood to mean the Construction Manager's Fee as described in Sections 6.1 and 6.2.5 of this Agreement.

ARTICLE 14 MISCELLANEOUS PROVISIONS

§ 14.1 Terms in this Agreement shall have the same meaning as those in A201-2017. Where reference is made in this Agreement to a provision of AIA Document A201-2017 or another Contract Document, the reference refers to that provision as amended or supplemented by other provisions of the Contract Documents.

§ 14.2 Successors and Assigns

§ 14.2.1 The Owner and Construction Manager, respectively, bind themselves, their partners, successors, assigns and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 14.2.2 of this Agreement, and in Section 13.2.2 of A201-2017, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 14.2.2 The Owner may, without consent of the Construction Manager, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Construction Manager shall execute all consents reasonably required to facilitate the assignment.

§ 14.3 Insurance and Bonds

§ 14.3.1 Preconstruction Phase

The Construction Manager shall maintain the following insurance for the duration of the Preconstruction Services performed under this Agreement. If any of the requirements set forth below exceed the types and limits the Construction Manager normally maintains, the Owner shall reimburse the Construction Manager for any additional cost.

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§ 14.3.1.1 Commercial General Liability with policy limits of not less than (\$) for each occurrence and (\$) in the aggregate for bodily injury and property damage.

§ 14.3.1.2 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager with policy limits of not less than (\$) per accident for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles, along with any other statutorily required automobile coverage.

§ 14.3.1.3 The Construction Manager may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided that such primary and excess or umbrella liability insurance policies result in the same or greater coverage as the coverages required under Sections 14.3.1.1 and 14.3.1.2, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ 14.3.1.4 Workers' Compensation at statutory limits and Employers Liability with policy limits not less than (\$) each accident, (\$) each employee, and (\$) policy limit.

§ 14.3.1.5 Professional Liability covering negligent acts, errors and omissions in the performance of professional services, with policy limits of not less than (\$) per claim and (\$) in the aggregate.

§ 14.3.1.6 Other Insurance

(List below any other insurance coverage to be provided by the Construction Manager and any applicable limits.)

Coverage

Limits

§ 14.3.1.7 Additional Insured Obligations. To the fullest extent permitted by law, the Construction Manager shall cause the primary and excess or umbrella policies for Commercial General Liability and Automobile Liability to include the Owner as an additional insured for claims caused in whole or in part by the Construction Manager's negligent acts or omissions. The additional insured coverage shall be primary and non-contributory to any of the Owner's insurance policies and shall apply to both ongoing and completed operations.

§ 14.3.1.8 The Construction Manager shall provide certificates of insurance to the Owner that evidence compliance with the requirements in this Section 14.3.1.

§ 14.3.2 Construction Phase

After the Owner approves the Control Estimate, the Owner and Construction Manager shall purchase and maintain insurance as set forth in AIA Document A134-2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee without a Guaranteed Maximum Price, Exhibit A, Insurance and Bonds, and elsewhere in the Contract Documents.

§ 14.3.2.1 The Construction Manager shall provide bonds as set forth in AIA Document A134™-2019 Exhibit A, and elsewhere in the Contract Documents.

§ 14.4 Notice

Notice in electronic format, pursuant to Article 1 of AIA Document A201-2017, may be given in accordance with AIA Document E203™-2013, Building Information Modeling and Digital Data Exhibit, if completed, or otherwise as set forth below:

(If other than in accordance with AIA Document E203-2013, insert requirements for delivering notice in electronic format such as name, title, and email address of the recipient and whether and how the system will be required to generate a read receipt for the transmission.)

§ 14.5 Other provisions:

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ARTICLE 15 SCOPE OF THE AGREEMENT

§ 15.1 This Agreement represents the entire and integrated agreement between the Owner and the Construction Manager and supersedes all prior negotiations, representations or agreements, either written or oral. This Agreement may be amended only by written instrument signed by both Owner and Construction Manager.

§ 15.2 The following documents comprise the Agreement:

- .1 AIA Document A134™-2019, Standard Form of Agreement Between Owner and Construction Manager as Constructor where the basis of payment is the Cost of the Work Plus a Fee without a Guaranteed Maximum Price
- .2 AIA Document A134™-2019, Exhibit A, Insurance and Bonds
- .3 AIA Document A201™-2017, General Conditions of the Contract for Construction
- .4

Other Exhibits:

(Check all boxes that apply.)

(Paragraph Deleted)

Exhibit B
Exhibit C

Property Legal Description
Wire Transfer
Acknowledgement

[] Supplementary and other Conditions of the Contract:

Document

Title

Date

Pages

.6 Other documents, if any, listed below:

(List here any additional documents that are intended to form part of the Contract Documents. AIA Document A201-2017 provides that the advertisement or invitation to bid, Instructions to Bidders, sample forms, the Construction Manager's bid or proposal, portions of Addenda relating to bidding or proposal requirements, and other information furnished by the Owner in anticipation of receiving bids or proposals, are not part of the Contract Documents unless enumerated in this Agreement. Any such documents should be listed here only if intended to be part of the Contract Documents.)

Development and Construction Agreement executed 5/22/2024

This Agreement is entered into as of the day and year first written above.

OWNER (Signature)

Patrick McGinnis, City Manager

(Printed name and title)

CONSTRUCTION MANAGER (Signature)

Andrew Schipper, President, AVB Construction, a
Michigan Limited Liability Company

(Printed name and title)

APPROVED AS TO FORM FOR CITY OF PORTAGE
BAUCKHAM, THALL, SEEGER,

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AIA® Document A201® – 2017

General Conditions of the Contract for Construction

for the following PROJECT:

(Name and location or address)

Stanwood Crossings Infrastructure Construction Agreement

THE OWNER:

(Name, legal status and address)

City of Portage
7900 S. Westnedge Ave.
Portage, MI 49002

THE ARCHITECT:

(Name, legal status and address)

Wightman
443 E. Ransom Street
Kalamazoo, MI 49007

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ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

For guidance in modifying this document to include supplementary conditions, see AIA Document A503™, Guide for Supplementary Conditions.

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ARTICLE 1 GENERAL PROVISIONS

§ 1.1 Basic Definitions

§ 1.1.1 The Contract Documents

The Contract Documents are enumerated in the Agreement between the Owner and Contractor (hereinafter the Agreement) and consist of the Agreement, Conditions of the Contract (General, Supplementary and other Conditions), Drawings, Specifications, Addenda issued prior to execution of the Contract, other documents listed in the Agreement, and Modifications issued after execution of the Contract. A Modification is (1) a written amendment to the Contract signed by both parties, (2) a Change Order, (3) a Construction Change Directive, or (4) a written order for a minor change in the Work issued by the Architect. Unless specifically enumerated in the Agreement, the Contract Documents do not include the advertisement or invitation to bid, Instructions to Bidders, sample forms, other information furnished by the Owner in anticipation of receiving bids or proposals, the Contractor's bid or proposal, or portions of Addenda relating to bidding or proposal requirements.

§ 1.1.2 The Contract

The Contract Documents form the Contract for Construction. The Contract represents the entire and integrated agreement between the parties hereto and supersedes prior negotiations, representations, or agreements, either written or oral. The Contract may be amended or modified only by a Modification. The Contract Documents shall not be construed to create a contractual relationship of any kind (1) between the Contractor and the Architect or the Architect's consultants, (2) between the Owner and a Subcontractor or a Sub-subcontractor, (3) between the Owner and the Architect or the Architect's consultants, or (4) between any persons or entities other than the Owner and the Contractor. The Architect shall, however, be entitled to performance and enforcement of obligations under the Contract intended to facilitate performance of the Architect's duties.

§ 1.1.3 The Work

The term "Work" means the construction and services required by the Contract Documents, whether completed or partially completed, and includes all other labor, materials, equipment, and services provided or to be provided by the Contractor to fulfill the Contractor's obligations. The Work may constitute the whole or a part of the Project.

§ 1.1.4 The Project

The Project is the total construction of which the Work performed under the Contract Documents may be the whole or a part and which may include construction by the Owner and by Separate Contractors.

§ 1.1.5 The Drawings

The Drawings are the graphic and pictorial portions of the Contract Documents showing the design, location and dimensions of the Work, generally including plans, elevations, sections, details, schedules, and diagrams.

§ 1.1.6 The Specifications

The Specifications are that portion of the Contract Documents consisting of the written requirements for materials, equipment, systems, standards and workmanship for the Work, and performance of related services.

§ 1.1.7 Instruments of Service

Instruments of Service are representations, in any medium of expression now known or later developed, of the tangible and intangible creative work performed by the Architect and the Architect's consultants under their respective professional services agreements. Instruments of Service may include, without limitation, studies, surveys, models, sketches, drawings, specifications, and other similar materials.

§ 1.1.8 Initial Decision Maker

The Initial Decision Maker is the person identified in the Agreement to render initial decisions on Claims in accordance with Section 15.2. The Initial Decision Maker shall not show partiality to the Owner or Contractor and shall not be liable for results of interpretations or decisions rendered in good faith.

§ 1.2 Correlation and Intent of the Contract Documents

§ 1.2.1 The intent of the Contract Documents is to include all items necessary for the proper execution and completion of the Work by the Contractor. The Contract Documents are complementary, and what is required by one shall be as binding as if required by all; performance by the Contractor shall be required only to the extent consistent with the Contract Documents and reasonably inferable from them as being necessary to produce the indicated results.

§ 1.2.1.1 The invalidity of any provision of the Contract Documents shall not invalidate the Contract or its remaining provisions. If it is determined that any provision of the Contract Documents violates any law, or is otherwise invalid or unenforceable, then that provision shall be revised to the extent necessary to make that provision legal and enforceable. In such case the Contract Documents shall be construed, to the fullest extent permitted by law, to give effect to the parties' intentions and purposes in executing the Contract.

§ 1.2.2 Organization of the Specifications into divisions, sections and articles, and arrangement of Drawings shall not control the Contractor in dividing the Work among Subcontractors or in establishing the extent of Work to be performed by any trade.

§ 1.2.3 Unless otherwise stated in the Contract Documents, words that have well-known technical or construction industry meanings are used in the Contract Documents in accordance with such recognized meanings.

§ 1.3 Capitalization

Terms capitalized in these General Conditions include those that are (1) specifically defined, (2) the titles of numbered articles, or (3) the titles of other documents published by the American Institute of Architects.

§ 1.4 Interpretation

In the interest of brevity the Contract Documents frequently omit modifying words such as "all" and "any" and articles such as "the" and "an," but the fact that a modifier or an article is absent from one statement and appears in another is not intended to affect the interpretation of either statement.

§ 1.5 Ownership and Use of Drawings, Specifications, and Other Instruments of Service

§ 1.5.1 The Architect and the Architect's consultants shall be deemed the authors and owners of their respective Instruments of Service, including the Drawings and Specifications, and retain all common law, statutory, and other reserved rights in their Instruments of Service, including copyrights. The Contractor, Subcontractors, Sub-subcontractors, and suppliers shall not own or claim a copyright in the Instruments of Service. Submittal or distribution to meet official regulatory requirements or for other purposes in connection with the Project is not to be construed as publication in derogation of the Architect's or Architect's consultants' reserved rights.

§ 1.5.2 The Contractor, Subcontractors, Sub-subcontractors, and suppliers are authorized to use and reproduce the Instruments of Service provided to them, subject to any protocols established pursuant to Sections 1.7 and 1.8, solely and exclusively for execution of the Work. All copies made under this authorization shall bear the copyright notice, if any, shown on the Instruments of Service. The Contractor, Subcontractors, Sub-subcontractors, and suppliers may not use the Instruments of Service on other projects or for additions to the Project outside the scope of the Work without the specific written consent of the Owner, Architect, and the Architect's consultants.

§ 1.6 Notice

§ 1.6.1 Except as otherwise provided in Section 1.6.2, where the Contract Documents require one party to notify or give notice to the other party, such notice shall be provided in writing to the designated representative of the party to whom the notice is addressed and shall be deemed to have been duly served if delivered in person, by mail, by courier, or by electronic transmission if a method for electronic transmission is set forth in the Agreement.

§ 1.6.2 Notice of Claims as provided in Section 15.1.3 shall be provided in writing and shall be deemed to have been duly served only if delivered to the designated representative of the party to whom the notice is addressed by certified or registered mail, or by courier providing proof of delivery.

§ 1.7 Digital Data Use and Transmission

The parties shall agree upon protocols governing the transmission and use of Instruments of Service or any other information or documentation in digital form. The parties will use AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, to establish the protocols for the development, use, transmission, and exchange of digital data.

§ 1.8 Building Information Models Use and Reliance

Any use of, or reliance on, all or a portion of a building information model without agreement to protocols governing the use of, and reliance on, the information contained in the model and without having those protocols set forth in AIA Document E203™–2013, Building Information Modeling and Digital Data Exhibit, and the requisite AIA Document

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G202™–2013, Project Building Information Modeling Protocol Form, shall be at the using or relying party's sole risk and without liability to the other party and its contractors or consultants, the authors of, or contributors to, the building information model, and each of their agents and employees.

ARTICLE 2 OWNER

§ 2.1 General

§ 2.1.1 The Owner is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Owner shall designate in writing a representative who shall have express authority to bind the Owner with respect to all matters requiring the Owner's approval or authorization. Except as otherwise provided in Section 4.2.1, the Architect does not have such authority. The term "Owner" means the Owner or the Owner's authorized representative.

§ 2.1.2 The Owner shall furnish to the Contractor, within fifteen days after receipt of a written request, information necessary and relevant for the Contractor to evaluate, give notice of, or enforce mechanic's lien rights. Such information shall include a correct statement of the record legal title to the property on which the Project is located, usually referred to as the site, and the Owner's interest therein.

(Paragraphs deleted)

§ 2.3 Information and Services Required of the Owner

§ 2.3.1 Except for permits and fees that are the responsibility of the Contractor under the Contract Documents, including those required under Section 3.7.1, the Owner shall secure and pay for necessary approvals, easements, assessments and charges required for construction, use or occupancy of permanent structures or for permanent changes in existing facilities.

§ 2.3.2 The Owner shall retain an architect lawfully licensed to practice architecture, or an entity lawfully practicing architecture, in the jurisdiction where the Project is located. That person or entity is identified as the Architect in the Agreement and is referred to throughout the Contract Documents as if singular in number.

§ 2.3.3 If the employment of the Architect terminates, the Owner shall employ a successor to whom the Contractor has no reasonable objection and whose status under the Contract Documents shall be that of the Architect.

§ 2.3.4 The Owner shall furnish surveys describing physical characteristics, legal limitations and utility locations for the site of the Project, and a legal description of the site. The Contractor shall be entitled to rely on the accuracy of information furnished by the Owner but shall exercise proper precautions relating to the safe performance of the Work.

§ 2.3.5 The Owner shall furnish information or services required of the Owner by the Contract Documents with reasonable promptness. The Owner shall also furnish any other information or services under the Owner's control and relevant to the Contractor's performance of the Work with reasonable promptness after receiving the Contractor's written request for such information or services.

§ 2.3.6 Unless otherwise provided in the Contract Documents, the Owner shall furnish to the Contractor one copy of the Contract Documents for purposes of making reproductions pursuant to Section 1.5.2.

§ 2.4 Owner's Right to Stop the Work

If the Contractor fails to correct Work that is not in accordance with the requirements of the Contract Documents as required by Section 12.2 or repeatedly fails to carry out Work in accordance with the Contract Documents, the Owner may issue a written order to the Contractor to stop the Work, or any portion thereof, until the cause for such order has been eliminated; however, the right of the Owner to stop the Work shall not give rise to a duty on the part of the Owner to exercise this right for the benefit of the Contractor or any other person or entity, except to the extent required by Section 6.1.3.

§ 2.5 Owner's Right to Carry Out the Work

If the Contractor defaults or neglects to carry out the Work in accordance with the Contract Documents and fails within a ten-day period after receipt of notice from the Owner to commence and continue correction of such default or

neglect with diligence and promptness, the Owner may, without prejudice to other remedies the Owner may have, correct such default or neglect. Such action by the Owner and amounts charged to the Contractor are both subject to prior approval of the Architect and the Architect may, pursuant to Section 9.5.1, withhold or nullify a Certificate for Payment in whole or in part, to the extent reasonably necessary to reimburse the Owner for the reasonable cost of correcting such deficiencies, including Owner's expenses and compensation for the Architect's additional services made necessary by such default, neglect, or failure. If current and future payments are not sufficient to cover such amounts, the Contractor shall pay the difference to the Owner. If the Contractor disagrees with the actions of the Owner or the Architect, or the amounts claimed as costs to the Owner, the Contractor may file a Claim pursuant to Article 15.

ARTICLE 3 CONTRACTOR

§ 3.1 General

§ 3.1.1 The Contractor is the person or entity identified as such in the Agreement and is referred to throughout the Contract Documents as if singular in number. The Contractor shall be lawfully licensed, if required in the jurisdiction where the Project is located. The Contractor shall designate in writing a representative who shall have express authority to bind the Contractor with respect to all matters under this Contract. The term "Contractor" means the Contractor or the Contractor's authorized representative.

§ 3.1.2 The Contractor shall perform the Work in accordance with the Contract Documents.

§ 3.1.3 The Contractor shall not be relieved of its obligations to perform the Work in accordance with the Contract Documents either by activities or duties of the Architect in the Architect's administration of the Contract, or by tests, inspections or approvals required or performed by persons or entities other than the Contractor.

§ 3.2 Review of Contract Documents and Field Conditions by Contractor

§ 3.2.1 Execution of the Contract by the Contractor is a representation that the Contractor has visited the site, become generally familiar with local conditions under which the Work is to be performed, and correlated personal observations with requirements of the Contract Documents.

§ 3.2.2 Because the Contract Documents are complementary, the Contractor shall, before starting each portion of the Work, carefully study and compare the various Contract Documents relative to that portion of the Work, as well as the information furnished by the Owner pursuant to Section 2.3.4, shall take field measurements of any existing conditions related to that portion of the Work, and shall observe any conditions at the site affecting it. These obligations are for the purpose of facilitating coordination and construction by the Contractor and are not for the purpose of discovering errors, omissions, or inconsistencies in the Contract Documents; however, the Contractor shall promptly report to the Architect any errors, inconsistencies or omissions discovered by or made known to the Contractor as a request for information in such form as the Architect may require. It is recognized that the Contractor's review is made in the Contractor's capacity as a contractor and not as a licensed design professional, unless otherwise specifically provided in the Contract Documents.

§ 3.2.3 The Contractor is not required to ascertain that the Contract Documents are in accordance with applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, but the Contractor shall promptly report to the Architect any nonconformity discovered by or made known to the Contractor as a request for information in such form as the Architect may require.

§ 3.2.4 If the Contractor believes that additional cost or time is involved because of clarifications or instructions the Architect issues in response to the Contractor's notices or requests for information pursuant to Sections 3.2.2 or 3.2.3, the Contractor shall submit Claims as provided in Article 15. If the Contractor fails to perform the obligations of Sections 3.2.2 or 3.2.3, the Contractor shall pay such costs and damages to the Owner, subject to Section 15.1.7, as would have been avoided if the Contractor had performed such obligations. If the Contractor performs those obligations, the Contractor shall not be liable to the Owner or Architect for damages resulting from errors, inconsistencies or omissions in the Contract Documents, for differences between field measurements or conditions and the Contract Documents, or for nonconformities of the Contract Documents to applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities.

§ 3.3 Supervision and Construction Procedures

§ 3.3.1 The Contractor shall supervise and direct the Work, using the Contractor's best skill and attention. The Contractor shall be solely responsible for, and have control over, construction means, methods, techniques, sequences, and procedures, and for coordinating all portions of the Work under the Contract. If the Contract Documents give specific instructions concerning construction means, methods, techniques, sequences, or procedures, the Contractor shall evaluate the jobsite safety thereof and shall be solely responsible for the jobsite safety of such means, methods, techniques, sequences, or procedures. If the Contractor determines that such means, methods, techniques, sequences or procedures may not be safe, the Contractor shall give timely notice to the Owner and Architect, and shall propose alternative means, methods, techniques, sequences, or procedures. The Architect shall evaluate the proposed alternative solely for conformance with the design intent for the completed construction. Unless the Architect objects to the Contractor's proposed alternative, the Contractor shall perform the Work using its alternative means, methods, techniques, sequences, or procedures.

§ 3.3.2 The Contractor shall be responsible to the Owner for acts and omissions of the Contractor's employees, Subcontractors and their agents and employees, and other persons or entities performing portions of the Work for, or on behalf of, the Contractor or any of its Subcontractors.

§ 3.3.3 The Contractor shall be responsible for inspection of portions of Work already performed to determine that such portions are in proper condition to receive subsequent Work.

§ 3.4 Labor and Materials

§ 3.4.1 Unless otherwise provided in the Contract Documents, the Contractor shall provide and pay for labor, materials, equipment, tools, construction equipment and machinery, water, heat, utilities, transportation, and other facilities and services necessary for proper execution and completion of the Work, whether temporary or permanent and whether or not incorporated or to be incorporated in the Work.

§ 3.4.2 Except in the case of minor changes in the Work approved by the Architect in accordance with Section 3.12.8 or ordered by the Architect in accordance with Section 7.4, the Contractor may make substitutions only with the consent of the Owner, after evaluation by the Architect and in accordance with a Change Order or Construction Change Directive.

§ 3.4.3 The Contractor shall enforce strict discipline and good order among the Contractor's employees and other persons carrying out the Work. The Owner has the right to request that any person be removed from this jobsite at the Owner's discretion.

§ 3.5 Warranty

§ 3.5.1 The Contractor warrants to the Owner and Architect that materials and equipment furnished under the Contract will be of good quality and new unless the Contract Documents require or permit otherwise. The Contractor further warrants that the Work will conform to the requirements of the Contract Documents and will be free from defects, except for those inherent in the quality of the Work the Contract Documents require or permit. Work, materials, or equipment not conforming to these requirements may be considered defective. The Contractor's warranty excludes remedy for damage or defect caused by abuse, alterations to the Work not executed by the Contractor, improper or insufficient maintenance, improper operation, or normal wear and tear and normal usage. If required by the Architect, the Contractor shall furnish satisfactory evidence as to the kind and quality of materials and equipment.

§ 3.5.2 All material, equipment, or other special warranties required by the Contract Documents shall be issued in the name of the Owner, or shall be transferable to the Owner, and shall commence in accordance with Section 9.8.4.

§ 3.6 Taxes

The Contractor shall pay sales, consumer, use and similar taxes for the Work provided by the Contractor that are legally enacted when bids are received or negotiations concluded, whether or not yet effective or merely scheduled to go into effect.

§ 3.7 Permits, Fees, Notices and Compliance with Laws

§ 3.7.1 Unless otherwise provided in the Contract Documents, the Contractor shall secure and pay for the building permit as well as for other permits, fees, licenses, and inspections by government agencies necessary for proper

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execution and completion of the Work that are customarily secured after execution of the Contract and legally required at the time bids are received or negotiations concluded.

§ 3.7.2 The Contractor shall comply with and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities applicable to performance of the Work.

§ 3.7.3 If the Contractor performs Work knowing it to be contrary to applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of public authorities, the Contractor shall assume appropriate responsibility for such Work and shall bear the costs attributable to correction.

§ 3.7.4 Concealed or Unknown Conditions

If the Contractor encounters conditions at the site that are (1) subsurface or otherwise concealed physical conditions that differ materially from those indicated in the Contract Documents or (2) unknown physical conditions of an unusual nature that differ materially from those ordinarily found to exist and generally recognized as inherent in construction activities of the character provided for in the Contract Documents, the Contractor shall promptly provide notice to the Owner and the Architect before conditions are disturbed and in no event later than 14 days after first observance of the conditions. The Architect will promptly investigate such conditions and, if the Architect determines that they differ materially and cause an increase or decrease in the Contractor's cost of, or time required for, performance of any part of the Work, will recommend that an equitable adjustment be made in the Contract Sum or Contract Time, or both. If the Architect determines that the conditions at the site are not materially different from those indicated in the Contract Documents and that no change in the terms of the Contract is justified, the Architect shall promptly notify the Owner and Contractor, stating the reasons. If either party disputes the Architect's determination or recommendation, that party may submit a Claim as provided in Article 15.

§ 3.7.5 If, in the course of the Work, the Contractor encounters human remains or recognizes the existence of burial markers, archaeological sites or wetlands not indicated in the Contract Documents, the Contractor shall immediately suspend any operations that would affect them and shall notify the Owner and Architect. Upon receipt of such notice, the Owner shall promptly take any action necessary to obtain governmental authorization required to resume the operations. The Contractor shall continue to suspend such operations until otherwise instructed by the Owner but shall continue with all other operations that do not affect those remains or features. Requests for adjustments in the Contract Sum and Contract Time arising from the existence of such remains or features may be made as provided in Article 15.

§ 3.8 Allowances

§ 3.8.1 The Contractor shall include in the Contract Sum all allowances stated in the Contract Documents. Items covered by allowances shall be supplied for such amounts and by such persons or entities as the Owner may direct, but the Contractor shall not be required to employ persons or entities to whom the Contractor has reasonable objection.

§ 3.8.2 Unless otherwise provided in the Contract Documents,

- .1 allowances shall cover the cost to the Contractor of materials and equipment delivered at the site and all required taxes, less applicable trade discounts;
- .2 Contractor's costs for unloading and handling at the site, labor, installation costs, overhead, profit, and other expenses contemplated for stated allowance amounts shall be included in the Contract Sum but not in the allowances; and
- .3 whenever costs are more than or less than allowances, the Contract Sum shall be adjusted accordingly by Change Order. The amount of the Change Order shall reflect (1) the difference between actual costs and the allowances under Section 3.8.2.1 and (2) changes in Contractor's costs under Section 3.8.2.2.

§ 3.8.3 Materials and equipment under an allowance shall be selected by the Owner with reasonable promptness.

§ 3.9 Superintendent

§ 3.9.1 The Contractor shall employ a competent superintendent and necessary assistants who shall be in attendance at the Project site during performance of the Work. The superintendent shall represent the Contractor, and communications given to the superintendent shall be as binding as if given to the Contractor.

§ 3.9.2 The Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the name and qualifications of a proposed superintendent. Within 14 days of receipt of the information, the Architect may notify the Contractor, stating whether the Owner or the Architect (1) has reasonable objection to the proposed

superintendent or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 3.9.3 The Contractor shall not employ a proposed superintendent to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not change the superintendent without the Owner's consent, which shall not unreasonably be withheld or delayed.

§ 3.10 Contractor's Construction and Submittal Schedules

§ 3.10.1 The Contractor, within 14 days or longer if an extension is granted by the Owner, after being awarded the Contract, shall prepare and submit for the Owner's and Architect's information a Contractor's construction schedule for the Work. The schedule shall not exceed the time limits current under the Contract Documents, shall be revised at appropriate intervals as required by the conditions of the Work and Project, shall be related to the entire Project to the extent required by the Contract Documents, and shall provide for expeditious and practicable execution of the Work. The Owner's, or Architect's, failure to object to a submitted schedule that exceeds time limits current under the Contract Documents shall not relieve the Contractor of its obligations to meet those time limits, nor shall it make the Owner, or Architect, liable for any of the Contractor's damages incurred as a result of increased construction time or not meeting those time limits. Similarly, the Architect's or Owner's failure to object to a Contractor's schedule showing performance in advance of such time limits shall not create or infer any rights in favor of the Contractor for acceleration of the Work.

§ 3.10.2 The Contractor, promptly after being awarded the Contract and thereafter as necessary to maintain a current submittal schedule, shall submit a submittal schedule for the Architect's approval. The Architect's approval shall not be unreasonably delayed or withheld. The submittal schedule shall (1) be coordinated with the Contractor's construction schedule, and (2) allow the Architect reasonable time to review submittals. If the Contractor fails to submit a submittal schedule, or fails to provide submittals in accordance with the approved submittal schedule, the Contractor shall not be entitled to any increase in Contract Sum or extension of Contract Time based on the time required for review of submittals.

§ 3.10.3 The Contractor shall perform the Work in general accordance with the most recent schedules submitted to the Owner and Architect.

§ 3.11 Documents and Samples at the Site

The Contractor shall make available, at the Project site, the Contract Documents, including Change Orders, Construction Change Directives, and other Modifications, in good order and marked currently to indicate field changes and selections made during construction, and the approved Shop Drawings, Product Data, Samples, and similar required submittals. These shall be in electronic form or paper copy, available to the Architect and Owner, and delivered to the Architect for submittal to the Owner upon completion of the Work as a record of the Work as constructed.

§ 3.12 Shop Drawings, Product Data and Samples

§ 3.12.1 Shop Drawings are drawings, diagrams, schedules, and other data specially prepared for the Work by the Contractor or a Subcontractor, Sub-subcontractor, manufacturer, supplier, or distributor to illustrate some portion of the Work.

§ 3.12.2 Product Data are illustrations, standard schedules, performance charts, instructions, brochures, diagrams, and other information furnished by the Contractor to illustrate materials or equipment for some portion of the Work.

§ 3.12.3 Samples are physical examples that illustrate materials, equipment, or workmanship, and establish standards by which the Work will be judged.

§ 3.12.4 Shop Drawings, Product Data, Samples, and similar submittals are not Contract Documents. Their purpose is to demonstrate how the Contractor proposes to conform to the information given and the design concept expressed in the Contract Documents for those portions of the Work for which the Contract Documents require submittals. Review by the Architect is subject to the limitations of Section 4.2.7. Informational submittals upon which the Architect is not expected to take responsive action may be so identified in the Contract Documents. Submittals that are not required by the Contract Documents may be returned by the Architect without action.

§ 3.12.5 The Contractor shall review for compliance with the Contract Documents, approve, and submit to the Architect, Shop Drawings, Product Data, Samples, and similar submittals required by the Contract Documents, in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness and in such sequence as to cause no delay in the Work or in the activities of the Owner or of Separate Contractors.

§ 3.12.6 By submitting Shop Drawings, Product Data, Samples, and similar submittals, the Contractor represents to the Owner and Architect that the Contractor has (1) reviewed and approved them, (2) determined and verified materials, field measurements and field construction criteria related thereto, or will do so, and (3) checked and coordinated the information contained within such submittals with the requirements of the Work and of the Contract Documents.

§ 3.12.7 The Contractor shall perform no portion of the Work for which the Contract Documents require submittal and review of Shop Drawings, Product Data, Samples, or similar submittals, until the respective submittal has been approved by the Architect.

§ 3.12.8 The Work shall be in accordance with approved submittals except that the Contractor shall not be relieved of responsibility for deviations from the requirements of the Contract Documents by the Architect's approval of Shop Drawings, Product Data, Samples, or similar submittals, unless the Contractor has specifically notified the Architect of such deviation at the time of submittal and (1) the Architect has given written approval to the specific deviation as a minor change in the Work, or (2) a Change Order or Construction Change Directive has been issued authorizing the deviation. The Contractor shall not be relieved of responsibility for errors or omissions in Shop Drawings, Product Data, Samples, or similar submittals, by the Architect's approval thereof.

§ 3.12.9 The Contractor shall direct specific attention, in writing or on resubmitted Shop Drawings, Product Data, Samples, or similar submittals, to revisions other than those requested by the Architect on previous submittals. In the absence of such notice, the Architect's approval of a resubmission shall not apply to such revisions.

§ 3.12.10 The Contractor shall not be required to provide professional services that constitute the practice of architecture or engineering unless such services are specifically required by the Contract Documents for a portion of the Work or unless the Contractor needs to provide such services in order to carry out the Contractor's responsibilities for construction means, methods, techniques, sequences, and procedures. The Contractor shall not be required to provide professional services in violation of applicable law.

§ 3.12.10.1 If professional design services or certifications by a design professional related to systems, materials, or equipment are specifically required of the Contractor by the Contract Documents, the Owner and the Architect will specify all performance and design criteria that such services must satisfy. The Contractor shall be entitled to rely upon the adequacy and accuracy of the performance and design criteria provided in the Contract Documents. The Contractor shall cause such services or certifications to be provided by an appropriately licensed design professional, whose signature and seal shall appear on all drawings, calculations, specifications, certifications, Shop Drawings, and other submittals prepared by such professional. Shop Drawings, and other submittals related to the Work, designed or certified by such professional, if prepared by others, shall bear such professional's written approval when submitted to the Architect. The Owner and the Architect shall be entitled to rely upon the adequacy and accuracy of the services, certifications, and approvals performed or provided by such design professionals, provided the Owner and Architect have specified to the Contractor the performance and design criteria that such services must satisfy. Pursuant to this Section 3.12.10, the Architect will review and approve or take other appropriate action on submittals only for the limited purpose of checking for conformance with information given and the design concept expressed in the Contract Documents.

§ 3.12.10.2 If the Contract Documents require the Contractor's design professional to certify that the Work has been performed in accordance with the design criteria, the Contractor shall furnish such certifications to the Architect at the time and in the form specified by the Architect.

§ 3.13 Use of Site

The Contractor shall confine operations at the site to areas permitted by applicable laws, statutes, ordinances, codes, rules and regulations, lawful orders of public authorities, and the Contract Documents and shall not unreasonably encumber the site with materials or equipment.

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§ 3.14 Cutting and Patching

§ 3.14.1 The Contractor shall be responsible for cutting, fitting, or patching required to complete the Work or to make its parts fit together properly. All areas requiring cutting, fitting, or patching shall be restored to the condition existing prior to the cutting, fitting, or patching, unless otherwise required by the Contract Documents.

§ 3.14.2 The Contractor shall not damage or endanger a portion of the Work or fully or partially completed construction of the Owner or Separate Contractors by cutting, patching, or otherwise altering such construction, or by excavation. The Contractor shall not cut or otherwise alter construction by the Owner or a Separate Contractor except with written consent of the Owner and of the Separate Contractor. Consent shall not be unreasonably withheld. The Contractor shall not unreasonably withhold, from the Owner or a Separate Contractor, its consent to cutting or otherwise altering the Work.

§ 3.15 Cleaning Up

§ 3.15.1 The Contractor shall keep the premises and surrounding area free from accumulation of waste materials and rubbish caused by operations under the Contract. At completion of the Work, the Contractor shall remove waste materials, rubbish, the Contractor's tools, construction equipment, machinery, and surplus materials from and about the Project.

§ 3.15.2 If the Contractor fails to clean up as provided in the Contract Documents, the Owner may do so and the Owner shall be entitled to reimbursement from the Contractor.

§ 3.16 Access to Work

The Contractor shall provide the Owner and Architect with access to the Work in preparation and progress wherever located.

§ 3.17 Royalties, Patents and Copyrights

The Contractor shall pay all royalties and license fees. The Contractor shall defend suits or claims for infringement of copyrights and patent rights and shall hold the Owner and Architect harmless from loss on account thereof, but shall not be responsible for defense or loss when a particular design, process, or product of a particular manufacturer or manufacturers is required by the Contract Documents, or where the copyright violations are contained in Drawings, Specifications, or other documents prepared by the Owner or Architect. However, if an infringement of a copyright or patent is discovered by, or made known to, the Contractor, the Contractor shall be responsible for the loss unless the information is promptly furnished to the Architect.

§ 3.18 Indemnification

§ 3.18.1 To the fullest extent permitted by law and to the extent claims, damages, losses or expenses are not covered by Project Management Protective Liability insurance purchased by the Contractor in accordance with Section 11.3, the Contractor shall indemnify, defend, and hold harmless the Owner, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from or in connection with the performance of the Work, provided that any such claim, damage, loss, or expense (these are collectively referred to as "claims") is caused in whole or in part by the acts or omissions of the Contractor, any Subcontractor, or anyone for whose acts any of them may be liable, regardless of whether or not it is caused in part by a party indemnified hereunder that which would otherwise exist as to a party or person described in this Contract.

§ 3.18.2 In any and all claims by an employee of the Contractor, any Subcontractor, anyone directly or indirectly, employed by them, or anyone for whose acts they may be liable, the indemnification obligation under this contract shall not be limited in any way by any limitation on amount or type of damages, compensation, or benefits payable by or for the Contractor or a Subcontractor under workers' compensation acts, disability benefit acts, or other employee benefit acts.

§ 3.19 Trade Unions

§ 3.19.1 If the Work is to be performed by trade unions, the Contractor shall make all necessary arrangements to reconcile, without delay, damage, or cost to the Owner and without recourse to the Architect or the Owner, any

conflict between the Contract Documents and any agreements or regulations of any kind at any time in force among members or councils which regulate or distinguish what activities shall not be included in the Work of any particular trade. In case the progress of the Work is affected by any undue delay in furnishing or installing any items or materials or equipment required under the Contract Documents because of the conflict involving any such agreement or regulation, the Architect may require that other material or equipment of equal kind and quality be provided at no additional cost to the Owner.

ARTICLE 4 ARCHITECT

§ 4.1 General

§ 4.1.1 The Architect is the person or entity retained by the Owner pursuant to Section 2.3.2 and identified as such in the Agreement.

§ 4.1.2 Duties, responsibilities, and limitations of authority of the Architect as set forth in the Contract Documents shall not be restricted, modified, or extended without written consent of the Owner, Contractor, and Architect. Consent shall not be unreasonably withheld.

§ 4.2 Administration of the Contract

§ 4.2.1 The Architect will provide administration of the Contract as described in the Contract Documents and will be an Owner's representative during construction until the date the Architect issues the final Certificate for Payment. The Architect will have authority to act on behalf of the Owner only to the extent provided in the Contract Documents.

§ 4.2.2 The Architect will visit the site at intervals appropriate to the stage of construction, or as otherwise agreed with the Owner, to become generally familiar with the progress and quality of the portion of the Work completed, and to determine in general if the Work observed is being performed in a manner indicating that the Work, when fully completed, will be in accordance with the Contract Documents. However, the Architect will not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of the Work. The Architect will not have control over, charge of, or responsibility for the construction means, methods, techniques, sequences or procedures, or for the safety precautions and programs in connection with the Work, since these are solely the Contractor's rights and responsibilities under the Contract Documents.

§ 4.2.3 On the basis of the site visits, the Architect will keep the Owner reasonably informed about the progress and quality of the portion of the Work completed, and promptly report to the Owner (1) known deviations from the Contract Documents, (2) known deviations from the most recent construction schedule submitted by the Contractor, and (3) defects and deficiencies observed in the Work. The Architect will not be responsible for the Contractor's failure to perform the Work in accordance with the requirements of the Contract Documents. The Architect will not have control over or charge of, and will not be responsible for acts or omissions of, the Contractor, Subcontractors, or their agents or employees, or any other persons or entities performing portions of the Work.

§ 4.2.4 Communications

The Owner and Contractor shall include the Architect in all communications that relate to or affect the Architect's services or professional responsibilities. The Owner shall promptly notify the Architect of the substance of any direct communications between the Owner and the Contractor otherwise relating to the Project. Communications by and with the Architect's consultants shall be through the Architect. Communications by and with Subcontractors and suppliers shall be through the Contractor. Communications by and with Separate Contractors shall be through the Owner. The Contract Documents may specify other communication protocols.

§ 4.2.5 Based on the Architect's evaluations of the Contractor's Applications for Payment, the Architect will review and certify the amounts due the Contractor and will issue Certificates for Payment in such amounts.

§ 4.2.6 The Architect has authority to reject Work that does not conform to the Contract Documents. Whenever the Architect considers it necessary or advisable, the Architect will have authority to require inspection or testing of the Work in accordance with Sections 13.4.2 and 13.4.3, whether or not the Work is fabricated, installed or completed. However, neither this authority of the Architect nor a decision made in good faith either to exercise or not to exercise such authority shall give rise to a duty or responsibility of the Architect to the Contractor, Subcontractors, suppliers, their agents or employees, or other persons or entities performing portions of the Work.

§ 4.2.7 The Architect will review and approve, or take other appropriate action upon, the Contractor's submittals such as Shop Drawings, Product Data, and Samples, but only for the limited purpose of checking for conformance with

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information given and the design concept expressed in the Contract Documents. The Architect's action will be taken in accordance with the submittal schedule approved by the Architect or, in the absence of an approved submittal schedule, with reasonable promptness while allowing sufficient time in the Architect's professional judgment to permit adequate review. Review of such submittals is not conducted for the purpose of determining the accuracy and completeness of other details such as dimensions and quantities, or for substantiating instructions for installation or performance of equipment or systems, all of which remain the responsibility of the Contractor as required by the Contract Documents. The Architect's review of the Contractor's submittals shall not relieve the Contractor of the obligations under Sections 3.3, 3.5, and 3.12. The Architect's review shall not constitute approval of safety precautions or of any construction means, methods, techniques, sequences, or procedures. The Architect's approval of a specific item shall not indicate approval of an assembly of which the item is a component.

§ 4.2.8 The Architect will prepare Change Orders and Construction Change Directives, and may order minor changes in the Work as provided in Section 7.4. The Architect will investigate and make determinations and recommendations regarding concealed and unknown conditions as provided in Section 3.7.4.

§ 4.2.9 The Architect will conduct inspections to determine the date or dates of Substantial Completion and the date of final completion; issue Certificates of Substantial Completion pursuant to Section 9.8; receive and forward to the Owner, for the Owner's review and records, written warranties and related documents required by the Contract and assembled by the Contractor pursuant to Section 9.10; and issue a final Certificate for Payment pursuant to Section 9.10.

§ 4.2.10 If the Owner and Architect agree, the Architect will provide one or more Project representatives to assist in carrying out the Architect's responsibilities at the site. The Owner shall notify the Contractor of any change in the duties, responsibilities and limitations of authority of the Project representatives.

§ 4.2.11 The Architect will interpret and decide matters concerning performance under, and requirements of, the Contract Documents on written request of either the Owner or Contractor. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness.

§ 4.2.12 Interpretations and decisions of the Architect will be consistent with the intent of, and reasonably inferable from, the Contract Documents and will be in writing or in the form of drawings. When making such interpretations and decisions, the Architect will endeavor to secure faithful performance by both Owner and Contractor, will not show partiality to either, and will not be liable for results of interpretations or decisions rendered in good faith.

§ 4.2.13 The Architect's decisions on matters relating to aesthetic effect will be final if consistent with the intent expressed in the Contract Documents.

§ 4.2.14 The Architect will review and respond to requests for information about the Contract Documents. The Architect's response to such requests will be made in writing within any time limits agreed upon or otherwise with reasonable promptness. If appropriate, the Architect will prepare and issue supplemental Drawings and Specifications in response to the requests for information.

ARTICLE 5 SUBCONTRACTORS

§ 5.1 Definitions

§ 5.1.1 A Subcontractor is a person or entity who has a direct contract with the Contractor to perform a portion of the Work at the site. The term "Subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Subcontractor or an authorized representative of the Subcontractor. The term "Subcontractor" does not include a Separate Contractor or the subcontractors of a Separate Contractor.

§ 5.1.2 A Sub-subcontractor is a person or entity who has a direct or indirect contract with a Subcontractor to perform a portion of the Work at the site. The term "Sub-subcontractor" is referred to throughout the Contract Documents as if singular in number and means a Sub-subcontractor or an authorized representative of the Sub-subcontractor.

§ 5.2 Award of Subcontracts and Other Contracts for Portions of the Work

§ 5.2.1 Unless otherwise stated in the Contract Documents, the Contractor, as soon as practicable after award of the Contract, shall notify the Owner and Architect of the persons or entities proposed for each principal portion of the Work, including those who are to furnish materials or equipment fabricated to a special design. Within 14 days of

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receipt of the information, the Architect may notify the Contractor whether the Owner or the Architect (1) has reasonable objection to any such proposed person or entity or (2) requires additional time for review. Failure of the Architect to provide notice within the 14-day period shall constitute notice of no reasonable objection.

§ 5.2.2 The Contractor shall not contract with a proposed person or entity to whom the Owner or Architect has made reasonable and timely objection. The Contractor shall not be required to contract with anyone to whom the Contractor has made reasonable objection.

§ 5.2.3 If the Owner or Architect has reasonable objection to a person or entity proposed by the Contractor, the Contractor shall propose another to whom the Owner or Architect has no reasonable objection. If the proposed but rejected Subcontractor was reasonably capable of performing the Work, the Contract Sum and Contract Time shall be increased or decreased by the difference, if any, occasioned by such change, and an appropriate Change Order shall be issued before commencement of the substitute Subcontractor's Work. However, no increase in the Contract Sum or Contract Time shall be allowed for such change unless the Contractor has acted promptly and responsively in submitting names as required.

§ 5.2.4 The Contractor shall not substitute a Subcontractor, person, or entity for one previously selected if the Owner or Architect makes reasonable objection to such substitution.

§ 5.3 Subcontractual Relations

By appropriate written agreement, the Contractor shall require each Subcontractor, to the extent of the Work to be performed by the Subcontractor, to be bound to the Contractor by terms of the Contract Documents, and to assume toward the Contractor all the obligations and responsibilities, including the responsibility for safety of the Subcontractor's Work that the Contractor, by these Contract Documents, assumes toward the Owner and Architect. Each subcontract agreement shall preserve and protect the rights of the Owner and Architect under the Contract Documents with respect to the Work to be performed by the Subcontractor so that subcontracting thereof will not prejudice such rights, and shall allow to the Subcontractor, unless specifically provided otherwise in the subcontract agreement, the benefit of all rights, remedies, and redress against the Contractor that the Contractor, by the Contract Documents, has against the Owner. Where appropriate, the Contractor shall require each Subcontractor to enter into similar agreements with Sub-subcontractors. The Contractor shall make available to each proposed Subcontractor, prior to the execution of the subcontract agreement, copies of the Contract Documents to which the Subcontractor will be bound, and, upon written request of the Subcontractor, identify to the Subcontractor terms and conditions of the proposed subcontract agreement that may be at variance with the Contract Documents. Subcontractors will similarly make copies of applicable portions of such documents available to their respective proposed Sub-subcontractors.

§ 5.4 Contingent Assignment of Subcontracts

§ 5.4.1 Each subcontract agreement for a portion of the Work is assigned by the Contractor to the Owner, provided that

- .1 assignment is effective only after termination of the Contract by the Owner for cause pursuant to Section 14.2 and only for those subcontract agreements that the Owner accepts by notifying the Subcontractor and Contractor; and
- .2 assignment is subject to the prior rights of the surety, if any, obligated under bond relating to the Contract.

When the Owner accepts the assignment of a subcontract agreement, the Owner assumes the Contractor's rights and obligations under the subcontract.

§ 5.4.2 Upon such assignment, if the Work has been suspended for more than 60 days, the Subcontractor's compensation shall be equitably adjusted for increases in cost resulting from the suspension.

§ 5.4.3 Upon assignment to the Owner under this Section 5.4, the Owner may further assign the subcontract to a successor contractor or other entity. If the Owner assigns the subcontract to a successor contractor or other entity, the Owner shall nevertheless remain legally responsible for all of the successor contractor's obligations under the subcontract.

ARTICLE 6 CONSTRUCTION BY OWNER OR BY SEPARATE CONTRACTORS

§ 6.1 Owner's Right to Perform Construction and to Award Separate Contracts

§ 6.1.1 The term "Separate Contractor(s)" shall mean other contractors retained by the Owner under separate agreements. The Owner reserves the right to perform construction or operations related to the Project with the Owner's own forces, and with Separate Contractors retained under Conditions of the Contract substantially similar to those of this Contract, including those provisions of the Conditions of the Contract related to insurance and waiver of subrogation.

§ 6.1.2 When separate contracts are awarded for different portions of the Project or other construction or operations on the site, the term "Contractor" in the Contract Documents in each case shall mean the Contractor who executes each separate Owner-Contractor Agreement.

§ 6.1.3 The Owner shall provide for coordination of the activities of the Owner's own forces and of each Separate Contractor with the Work of the Contractor, who shall cooperate with them. The Contractor shall participate with any Separate Contractors and the Owner in reviewing their construction schedules. The Contractor shall make any revisions to its construction schedule deemed necessary after a joint review and mutual agreement. The construction schedules shall then constitute the schedules to be used by the Contractor, Separate Contractors, and the Owner until subsequently revised.

§ 6.1.4 Unless otherwise provided in the Contract Documents, when the Owner performs construction or operations related to the Project with the Owner's own forces or with Separate Contractors, the Owner or its Separate Contractors shall have the same obligations and rights that the Contractor has under the Conditions of the Contract, including, without excluding others, those stated in Article 3, this Article 6, and Articles 10, 11, and 12.

§ 6.2 Mutual Responsibility

§ 6.2.1 The Contractor shall afford the Owner and Separate Contractors reasonable opportunity for introduction and storage of their materials and equipment and performance of their activities, and shall connect and coordinate the Contractor's construction and operations with theirs as required by the Contract Documents.

§ 6.2.2 If part of the Contractor's Work depends for proper execution or results upon construction or operations by the Owner or a Separate Contractor, the Contractor shall, prior to proceeding with that portion of the Work, promptly notify the Architect of apparent discrepancies or defects in the construction or operations by the Owner or Separate Contractor that would render it unsuitable for proper execution and results of the Contractor's Work. Failure of the Contractor to notify the Architect of apparent discrepancies or defects prior to proceeding with the Work shall constitute an acknowledgment that the Owner's or Separate Contractor's completed or partially completed construction is fit and proper to receive the Contractor's Work. The Contractor shall not be responsible for discrepancies or defects in the construction or operations by the Owner or Separate Contractor that are not apparent.

§ 6.2.3 The Contractor shall reimburse the Owner for costs the Owner incurs that are payable to a Separate Contractor because of the Contractor's delays, improperly timed activities or defective construction. The Owner shall be responsible to the Contractor for costs the Contractor incurs because of a Separate Contractor's delays, improperly timed activities, damage to the Work or defective construction.

§ 6.2.4 The Contractor shall promptly remedy damage that the Contractor wrongfully causes to completed or partially completed construction or to property of the Owner or Separate Contractor as provided in Section 10.2.5.

§ 6.2.5 The Owner and each Separate Contractor shall have the same responsibilities for cutting and patching as are described for the Contractor in Section 3.14.

§ 6.3 Owner's Right to Clean Up

If a dispute arises among the Contractor, Separate Contractors, and the Owner as to the responsibility under their respective contracts for maintaining the premises and surrounding area free from waste materials and rubbish, the Owner may clean up and the Architect will allocate the cost among those responsible.

ARTICLE 7 CHANGES IN THE WORK

§ 7.1 General

§ 7.1.1 Changes in the Work may be accomplished after execution of the Contract, and without invalidating the Contract, by Change Order, Construction Change Directive or order for a minor change in the Work, subject to the limitations stated in this Article 7 and elsewhere in the Contract Documents.

§ 7.1.2 A Change Order shall be based upon agreement among the Owner, Contractor, and Architect. A Construction Change Directive requires agreement by the Owner and Architect and may or may not be agreed to by the Contractor. An order for a minor change in the Work may be issued by the Architect alone.

§ 7.1.3 Changes in the Work shall be performed under applicable provisions of the Contract Documents. The Contractor shall proceed promptly with changes in the Work, unless otherwise provided in the Change Order, Construction Change Directive, or order for a minor change in the Work.

§ 7.2 Change Orders

§ 7.2.1 A Change Order is a written instrument prepared by the Architect and signed by the Owner, Contractor, and Architect stating their agreement upon all of the following:

- .1 The change in the Work;
- .2 The amount of the adjustment, if any, in the Contract Sum; and
- .3 The extent of the adjustment, if any, in the Contract Time.

§ 7.3 Construction Change Directives

§ 7.3.1 A Construction Change Directive is a written order prepared by the Architect and signed by the Owner and Architect, directing a change in the Work prior to agreement on adjustment, if any, in the Contract Sum or Contract Time, or both. The Owner may by Construction Change Directive, without invalidating the Contract, order changes in the Work within the general scope of the Contract consisting of additions, deletions, or other revisions, the Contract Sum and Contract Time being adjusted accordingly.

§ 7.3.2 A Construction Change Directive shall be used in the absence of total agreement on the terms of a Change Order.

§ 7.3.3 If the Construction Change Directive provides for an adjustment to the Contract Sum, the adjustment shall be based on one of the following methods:

- .1 Mutual acceptance of a lump sum properly itemized and supported by sufficient substantiating data to permit evaluation;
- .2 Unit prices stated in the Contract Documents or subsequently agreed upon;
- .3 Cost to be determined in a manner agreed upon by the parties and a mutually acceptable fixed or percentage fee; or
- .4 As provided in Section 7.3.4.

§ 7.3.4 If the Contractor does not respond promptly or disagrees with the method for adjustment in the Contract Sum, the Architect shall determine the adjustment on the basis of reasonable expenditures and savings of those performing the Work attributable to the change, including, in case of an increase in the Contract Sum, an amount for overhead and profit as set forth in the Agreement, or if no such amount is set forth in the Agreement, a reasonable amount. In such case, and also under Section 7.3.3.3, the Contractor shall keep and present, in such form as the Architect may prescribe, an itemized accounting together with appropriate supporting data. Unless otherwise provided in the Contract Documents, costs for the purposes of this Section 7.3.4 shall be limited to the following:

- .1 Costs of labor, including applicable payroll taxes, fringe benefits required by agreement or custom, workers' compensation insurance, and other employee costs approved by the Architect;
- .2 Costs of materials, supplies, and equipment, including cost of transportation, whether incorporated or consumed;
- .3 Rental costs of machinery and equipment, exclusive of hand tools, whether rented from the Contractor or others;
- .4 Costs of premiums for all bonds and insurance, permit fees, and sales, use, or similar taxes, directly related to the change; and
- .5 Costs of supervision and field office personnel directly attributable to the change.

§ 7.3.5 If the Contractor disagrees with the adjustment in the Contract Time, the Contractor may make a Claim in accordance with applicable provisions of Article 15.

§ 7.3.6 Upon receipt of a Construction Change Directive, the Contractor shall promptly proceed with the change in the Work involved and advise the Architect of the Contractor's agreement or disagreement with the method, if any, provided in the Construction Change Directive for determining the proposed adjustment in the Contract Sum or Contract Time.

§ 7.3.7 A Construction Change Directive signed by the Contractor indicates the Contractor's agreement therewith, including adjustment in Contract Sum and Contract Time or the method for determining them. Such agreement shall be effective immediately and shall be recorded as a Change Order.

§ 7.3.8 The amount of credit to be allowed by the Contractor to the Owner for a deletion or change that results in a net decrease in the Contract Sum shall be actual net cost as confirmed by the Architect. When both additions and credits covering related Work or substitutions are involved in a change, the allowance for overhead and profit shall be figured on the basis of net increase, if any, with respect to that change. Also, if the amount of either the credit or the addition is in dispute the amount of the other non-disputed item may not be included in Applications for Payment. Overhead and profit will be included in credits to the same extent they are included in additions.

§ 7.3.9 Pending final determination of the total cost of a Construction Change Directive to the Owner, the Contractor may request payment for Work completed under the Construction Change Directive in Applications for Payment. The Architect will make an interim determination for purposes of monthly certification for payment for those costs and certify for payment the amount that the Architect determines, in the Architect's professional judgment, to be reasonably justified. The Architect's interim determination of cost shall adjust the Contract Sum on the same basis as a Change Order, subject to the right of either party to disagree and assert a Claim in accordance with Article 15.

§ 7.3.10 When the Owner and Contractor agree with a determination made by the Architect concerning the adjustments in the Contract Sum and Contract Time, or otherwise reach agreement upon the adjustments, such agreement shall be effective immediately and the Architect will prepare a Change Order. Change Orders may be issued for all or any part of a Construction Change Directive.

§ 7.4 Minor Changes in the Work

The Architect may order minor changes in the Work that are consistent with the intent of the Contract Documents and do not involve an adjustment in the Contract Sum or an extension of the Contract Time. The Architect's order for minor changes shall be in writing. If the Contractor believes that the proposed minor change in the Work will affect the Contract Sum or Contract Time, the Contractor shall notify the Architect and shall not proceed to implement the change in the Work. If the Contractor performs the Work set forth in the Architect's order for a minor change without prior notice to the Architect that such change will affect the Contract Sum or Contract Time, the Contractor waives any adjustment to the Contract Sum or extension of the Contract Time.

ARTICLE 8 TIME

§ 8.1 Definitions

§ 8.1.1 Unless otherwise provided, Contract Time is the period of time, including authorized adjustments, allotted in the Contract Documents for Substantial Completion of the Work.

§ 8.1.2 The date of commencement of the Work is the date established in the Agreement.

§ 8.1.3 The date of Substantial Completion is the date certified by the Architect in accordance with Section 9.8.

§ 8.1.4 The term "day" as used in the Contract Documents shall mean calendar day unless otherwise specifically defined.

§ 8.2 Progress and Completion

§ 8.2.1 Time limits stated in the Contract Documents are of the essence of the Contract. By executing the Agreement, the Contractor confirms that the Contract Time is a reasonable period for performing the Work.

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§ 8.2.2 The Contractor shall not knowingly, except by agreement or instruction of the Owner in writing, commence the Work prior to the effective date of insurance required to be furnished by the Contractor and Owner.

§ 8.2.3 The Contractor shall proceed expeditiously with adequate forces and shall achieve Substantial Completion within the Contract Time.

§ 8.3 Delays and Extensions of Time

§ 8.3.1 If the Contractor is delayed at any time in the commencement or progress of the Work, without the fault or neglect of the Contractor or those for whom the Contractor is responsible, by (1) an act or neglect of the Owner or Architect, of an employee of either, or of a Separate Contractor; (2) by changes ordered in the Work; (3) by, fire, unusual delay in deliveries, unavoidable casualties, adverse weather conditions documented in accordance with Section 15.1.6.2, (4) by delay authorized by the Owner pending mediation and binding dispute resolution or other Force Majeure causes beyond the Contractor's control as defined in Section 8.3.1.1 of the Agreement; or (5) by other causes that the Contractor asserts, and the Architect determines, justify delay or increased cost, then the Contract Time and/or cost shall be increased as the Architect may determine reasonable.

§ 8.3.1.1 Force Majeure

Force Majeure Events are defined as events beyond the Contractor's or Owner's reasonable control and without its fault or negligence, including, but not limited to, governmental action or inaction, inability or delay in obtaining permits or approvals from governmental, quasi-governmental or private parties, inability to obtain any required easements or licenses over property of third parties, failure of third parties to complete any roads, utility lines or other required infrastructure at or serving the Site on a timely basis or delays caused by performance of such work, acts of God, epidemic or pandemic, including quarantine or other public health restrictions or advisories in connection therewith, delays caused by Owner, underground or other site conditions not known and not reasonably anticipatable, fire, floods, strikes or labor disputes, freight embargoes, unusual delay in deliveries, unavailability of materials and delays which the Contractor has the right to assert as the basis for an extension of the deadline to complete the work under the General Conditions.

§ 8.3.2 Claims relating to time shall be made in accordance with applicable provisions of Article 15.

§ 8.3.3 This Section 8.3 does not preclude recovery of damages for delay by either party under other provisions of the Contract Documents.

ARTICLE 9 PAYMENTS AND COMPLETION

§ 9.1 Contract Sum

§ 9.1.1 The Contract Sum is stated in the Agreement and, including authorized adjustments, is the total amount payable by the Owner to the Contractor for performance of the Work under the Contract Documents.

§ 9.1.2 If unit prices are stated in the Contract Documents or subsequently agreed upon, and if quantities originally contemplated are materially changed so that application of such unit prices to the actual quantities causes substantial inequity to the Owner or Contractor, the applicable unit prices shall be equitably adjusted.

§ 9.2 Schedule of Values

Where the Contract is based on a stipulated sum or Guaranteed Maximum Price, the Contractor shall submit a schedule of values to the Architect before the first Application for Payment, allocating the entire Contract Sum to the various portions of the Work. The schedule of values shall be prepared in the form, and supported by the data to substantiate its accuracy, required by the Architect. This schedule, unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's Applications for Payment. Any changes to the schedule of values shall be submitted to the Architect and supported by such data to substantiate its accuracy as the Architect may require, and unless objected to by the Architect, shall be used as a basis for reviewing the Contractor's subsequent Applications for Payment.

§ 9.3 Applications for Payment

§ 9.3.1 At least ten days before the date established for each progress payment, the Contractor shall submit to the Architect an itemized Application for Payment prepared in accordance with the schedule of values, if required under Section 9.2, for completed portions of the Work. The application shall be notarized, if required, and supported by all

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data substantiating the Contractor's right to payment that the Owner or Architect require, such as copies of requisitions, and releases and waivers of liens from Subcontractors and suppliers, and shall reflect retainage if provided for in the Contract Documents.

§ 9.3.1.1 As provided in Section 7.3.9, such applications may include requests for payment on account of changes in the Work that have been properly authorized by Construction Change Directives, or by interim determinations of the Architect, but not yet included in Change Orders.

§ 9.3.1.2 Applications for Payment shall not include requests for payment for portions of the Work for which the Contractor does not intend to pay a Subcontractor or supplier, unless such Work has been performed by others whom the Contractor intends to pay.

§ 9.3.2 Unless otherwise provided in the Contract Documents, payments shall be made on account of materials and equipment delivered and suitably stored at the site for subsequent incorporation in the Work. If approved in advance by the Owner, payment may similarly be made for materials and equipment suitably stored off the site at a location agreed upon in writing. Payment for materials and equipment stored on or off the site shall be conditioned upon compliance by the Contractor with procedures satisfactory to the Owner to establish the Owner's title to such materials and equipment or otherwise protect the Owner's interest, and shall include the costs of applicable insurance, storage, and transportation to the site, for such materials and equipment stored off the site.

§ 9.3.3 The Contractor warrants that title to all Work covered by an Application for Payment will pass to the Owner no later than the time of payment. The Contractor further warrants that upon submittal of an Application for Payment all Work for which Certificates for Payment have been previously issued and payments received from the Owner shall, to the best of the Contractor's knowledge, information, and belief, be free and clear of liens, claims, security interests, or encumbrances, in favor of the Contractor, Subcontractors, suppliers, or other persons or entities that provided labor, materials, and equipment relating to the Work.

§ 9.4 Certificates for Payment

§ 9.4.1 The Architect will, within seven days after receipt of the Contractor's Application for Payment, either (1) issue to the Owner a Certificate for Payment in the full amount of the Application for Payment, with a copy to the Contractor; or (2) issue to the Owner a Certificate for Payment for such amount as the Architect determines is properly due, and notify the Contractor and Owner of the Architect's reasons for withholding certification in part as provided in Section 9.5.1; or (3) withhold certification of the entire Application for Payment, and notify the Contractor and Owner of the Architect's reason for withholding certification in whole as provided in Section 9.5.1.

§ 9.4.2 The issuance of a Certificate for Payment will constitute a representation by the Architect to the Owner, based on the Architect's evaluation of the Work and the data in the Application for Payment, that, to the best of the Architect's knowledge, information, and belief, the Work has progressed to the point indicated, the quality of the Work is in accordance with the Contract Documents, and that the Contractor is entitled to payment in the amount certified. The foregoing representations are subject to an evaluation of the Work for conformance with the Contract Documents upon Substantial Completion, to results of subsequent tests and inspections, to correction of minor deviations from the Contract Documents prior to completion, and to specific qualifications expressed by the Architect. However, the issuance of a Certificate for Payment will not be a representation that the Architect has (1) made exhaustive or continuous on-site inspections to check the quality or quantity of the Work; (2) reviewed construction means, methods, techniques, sequences, or procedures; (3) reviewed copies of requisitions received from Subcontractors and suppliers and other data requested by the Owner to substantiate the Contractor's right to payment; or (4) made examination to ascertain how or for what purpose the Contractor has used money previously paid on account of the Contract Sum.

§ 9.4.3 The first payment application shall be accompanied by the Contractor's Partial Waiver of Lien only for the full amount of the payment. Each subsequent monthly payment application shall be accompanied by the Contractor's Partial Waiver, and by the Partial Waivers of Subcontractors and Suppliers who were included in the immediately preceding payment application to the extent of that payment. Application for Final Payment shall be accompanied by Final Waivers of Lien from the Contractor, Subcontractors, and Suppliers who have not previously furnished such Final Waivers. Final Waivers shall be for the full amount of the Contract. All applications for payment shall be accompanied by affidavits from the Contractor and Subcontractors containing such information and showing in detail the sources of all labor and materials used and contracted to be used on the job,

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including names and addresses of subcontractors and material suppliers; amounts paid and remaining due to each; together with all other documents as shall, in the Owner's and Architect's judgment, be necessary to waive all claims of liens to date and comply with all applicable state and local laws.

§ 9.5 Decisions to Withhold Certification

§ 9.5.1 The Architect may withhold a Certificate for Payment in whole or in part, to the extent reasonably necessary to protect the Owner, if in the Architect's opinion the representations to the Owner required by Section 9.4.2 cannot be made. If the Architect is unable to certify payment in the amount of the Application, the Architect will notify the Contractor and Owner as provided in Section 9.4.1. If the Contractor and Architect cannot agree on a revised amount, the Architect will promptly issue a Certificate for Payment for the amount for which the Architect is able to make such representations to the Owner. The Architect may also withhold a Certificate for Payment or, because of subsequently discovered evidence, may nullify the whole or a part of a Certificate for Payment previously issued, to such extent as may be necessary in the Architect's opinion to protect the Owner from loss for which the Contractor is responsible, including loss resulting from acts and omissions described in Section 3.3.2, because of

- .1 defective Work not remedied;
- .2 third party claims filed or reasonable evidence indicating probable filing of such claims, unless security acceptable to the Owner is provided by the Contractor;
- .3 failure of the Contractor to make payments properly to Subcontractors or suppliers for labor, materials or equipment;
- .4 reasonable evidence that the Work cannot be completed for the unpaid balance of the Contract Sum;
- .5 damage to the Owner or a Separate Contractor;
- .6 reasonable evidence that the Work will not be completed within the Contract Time, and that the unpaid balance would not be adequate to cover actual or liquidated damages for the anticipated delay; or
- .7 repeated failure to carry out the Work in accordance with the Contract Documents.

§ 9.5.2 When either party disputes the Architect's decision regarding a Certificate for Payment under Section 9.5.1, in whole or in part, that party may submit a Claim in accordance with Article 15.

§ 9.5.3 When the reasons for withholding certification are removed, certification will be made for amounts previously withheld.

§ 9.5.4 If the Architect withholds certification for payment under Section 9.5.1.3, the Owner may, at its sole option, issue joint checks to the Contractor and to any Subcontractor or supplier to whom the Contractor failed to make payment for Work properly performed or material or equipment suitably delivered. If the Owner makes payments by joint check, the Owner shall notify the Architect and the Contractor shall reflect such payment on its next Application for Payment.

§ 9.6 Progress Payments

§ 9.6.1 After the Architect has issued a Certificate for Payment, the Owner shall make payment in the manner and within the time provided in the Contract Documents, and shall so notify the Architect.

§ 9.6.2 The Contractor shall pay each Subcontractor, no later than seven days after receipt of payment from the Owner, the amount to which the Subcontractor is entitled, reflecting percentages actually retained from payments to the Contractor on account of the Subcontractor's portion of the Work. The Contractor shall, by appropriate agreement with each Subcontractor, require each Subcontractor to make payments to Sub-subcontractors in a similar manner.

§ 9.6.3 The Architect will, on request, furnish to a Subcontractor, if practicable, information regarding percentages of completion or amounts applied for by the Contractor and action taken thereon by the Architect and Owner on account of portions of the Work done by such Subcontractor.

§ 9.6.4 The Owner has the right to request written evidence from the Contractor that the Contractor has properly paid Subcontractors and suppliers amounts paid by the Owner to the Contractor for subcontracted Work. If the Contractor fails to furnish such evidence within seven days, the Owner shall have the right to contact Subcontractors and suppliers to ascertain whether they have been properly paid. Neither the Owner nor Architect shall have an obligation to pay, or to see to the payment of money to, a Subcontractor or supplier, except as may otherwise be required by law.

§ 9.6.5 The Contractor's payments to suppliers shall be treated in a manner similar to that provided in Sections 9.6.2, 9.6.3 and 9.6.4.

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§ 9.6.6 A Certificate for Payment, a progress payment, or partial or entire use or occupancy of the Project by the Owner shall not constitute acceptance of Work not in accordance with the Contract Documents.

§ 9.6.7 Unless the Contractor provides the Owner with a payment bond in the full penal sum of the Contract Sum, payments received by the Contractor for Work properly performed by Subcontractors or provided by suppliers shall be held by the Contractor for those Subcontractors or suppliers who performed Work or furnished materials, or both, under contract with the Contractor for which payment was made by the Owner. Nothing contained herein shall require money to be placed in a separate account and not commingled with money of the Contractor, create any fiduciary liability or tort liability on the part of the Contractor for breach of trust, or entitle any person or entity to an award of punitive damages against the Contractor for breach of the requirements of this provision.

§ 9.6.8 Provided the Owner has fulfilled its payment obligations under the Contract Documents, the Contractor shall defend and indemnify the Owner from all loss, liability, damage or expense, including reasonable attorney's fees and litigation expenses, arising out of any lien claim or other claim for payment by any Subcontractor or supplier of any tier. Upon receipt of notice of a lien claim or other claim for payment, the Owner shall notify the Contractor. If approved by the applicable court, when required, the Contractor may substitute a surety bond for the property against which the lien or other claim for payment has been asserted.

§ 9.7 Failure of Payment

If the Architect does not issue a Certificate for Payment, through no fault of the Contractor, within seven days after receipt of the Contractor's Application for Payment, or if the Owner does not pay the Contractor within seven days after the date established in the Contract Documents, the amount certified by the Architect or awarded by binding dispute resolution, then the Contractor may, upon seven additional days' notice to the Owner and Architect, stop the Work until payment of the amount owing has been received. The Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable costs of shutdown, delay and start-up, plus interest as provided for in the Contract Documents.

§ 9.8 Substantial Completion

§ 9.8.1 Substantial Completion is the stage in the progress of the Work when the Work or designated portion thereof is sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work for its intended use.

§ 9.8.2 When the Contractor considers that the Work, or a portion thereof which the Owner agrees to accept separately, is substantially complete, the Contractor shall prepare and submit to the Architect a comprehensive list of items to be completed or corrected prior to final payment. Failure to include an item on such list does not alter the responsibility of the Contractor to complete all Work in accordance with the Contract Documents.

§ 9.8.3 Upon receipt of the Contractor's list, the Architect will make an inspection to determine whether the Work or designated portion thereof is substantially complete. If the Architect's inspection discloses any item, whether or not included on the Contractor's list, which is not sufficiently complete in accordance with the Contract Documents so that the Owner can occupy or utilize the Work or designated portion thereof for its intended use, the Contractor shall, before issuance of the Certificate of Substantial Completion, complete or correct such item upon notification by the Architect. In such case, the Contractor shall then submit a request for another inspection by the Architect to determine Substantial Completion.

§ 9.8.4 When the Work or designated portion thereof is substantially complete, the Architect will prepare a Certificate of Substantial Completion that shall establish the date of Substantial Completion; establish responsibilities of the Owner and Contractor for security, maintenance, heat, utilities, damage to the Work and insurance; and fix the time within which the Contractor shall finish all items on the list accompanying the Certificate. Warranties required by the Contract Documents shall commence on the date of Substantial Completion of the Work or designated portion thereof unless otherwise provided in the Certificate of Substantial Completion.

§ 9.8.5 The Certificate of Substantial Completion shall be submitted to the Owner and Contractor for their written acceptance of responsibilities assigned to them in the Certificate. Upon such acceptance, and consent of surety if any, the Owner shall make payment of retainage applying to the Work or designated portion thereof. Such payment shall be adjusted for Work that is incomplete or not in accordance with the requirements of the Contract Documents.

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§ 9.9 Partial Occupancy or Use

§ 9.9.1 The Owner may occupy or use any completed or partially completed portion of the Work at any stage when such portion is designated by separate agreement with the Contractor, provided such occupancy or use is consented to by the insurer and authorized by public authorities having jurisdiction over the Project. Such partial occupancy or use may commence whether or not the portion is substantially complete, provided the Owner and Contractor have accepted in writing the responsibilities assigned to each of them for payments, retainage, if any, security, maintenance, heat, utilities, damage to the Work and insurance, and have agreed in writing concerning the period for correction of the Work and commencement of warranties required by the Contract Documents. When the Contractor considers a portion substantially complete, the Contractor shall prepare and submit a list to the Architect as provided under Section 9.8.2. Consent of the Contractor to partial occupancy or use shall not be unreasonably withheld. The stage of the progress of the Work shall be determined by written agreement between the Owner and Contractor or, if no agreement is reached, by decision of the Architect.

§ 9.9.2 Immediately prior to such partial occupancy or use, the Owner, Contractor, and Architect shall jointly inspect the area to be occupied or portion of the Work to be used in order to determine and record the condition of the Work.

§ 9.9.3 Unless otherwise agreed upon, partial occupancy or use of a portion or portions of the Work shall not constitute acceptance of Work not complying with the requirements of the Contract Documents.

§ 9.10 Final Completion and Final Payment

§ 9.10.1 Upon receipt of the Contractor's notice that the Work is ready for final inspection and acceptance and upon receipt of a final Application for Payment, the Architect will promptly make such inspection. When the Architect finds the Work acceptable under the Contract Documents and the Contract fully performed, the Architect will promptly issue a final Certificate for Payment stating that to the best of the Architect's knowledge, information and belief, and on the basis of the Architect's on-site visits and inspections, the Work has been completed in accordance with the Contract Documents and that the entire balance found to be due the Contractor and noted in the final Certificate is due and payable. The Architect's final Certificate for Payment will constitute a further representation that conditions listed in Section 9.10.2 as precedent to the Contractor's being entitled to final payment have been fulfilled.

§ 9.10.2 Neither final payment nor any remaining retained percentage shall become due until the Contractor submits to the Architect (1) an affidavit that payrolls, bills for materials and equipment, and other indebtedness connected with the Work for which the Owner or the Owner's property might be responsible or encumbered (less amounts withheld by Owner) have been paid or otherwise satisfied, (2) a certificate evidencing that insurance required by the Contract Documents to remain in force after final payment is currently in effect, (3) a written statement that the Contractor knows of no reason that the insurance will not be renewable to cover the period required by the Contract Documents, (4) consent of surety, if any, to final payment, (5) documentation of any special warranties, such as manufacturers' warranties or specific Subcontractor warranties, and (6) if required by the Owner, other data establishing payment or satisfaction of obligations, such as receipts and releases and waivers of liens, claims, security interests, or encumbrances arising out of the Contract, to the extent and in such form as may be designated by the Owner. If a Subcontractor refuses to furnish a release or waiver required by the Owner, the Contractor may furnish a bond satisfactory to the Owner to indemnify the Owner against such lien, claim, security interest, or encumbrance. If a lien, claim, security interest, or encumbrance remains unsatisfied after payments are made, the Contractor shall refund to the Owner all money that the Owner may be compelled to pay in discharging the lien, claim, security interest, or encumbrance, including all costs and reasonable attorneys' fees.

§ 9.10.3 If, after Substantial Completion of the Work, final completion thereof is materially delayed through no fault of the Contractor or by issuance of Change Orders affecting final completion, and the Architect so confirms, the Owner shall, upon application by the Contractor and certification by the Architect, and without terminating the Contract, make payment of the balance due for that portion of the Work fully completed, corrected, and accepted. If the remaining balance for Work not fully completed or corrected is less than retainage stipulated in the Contract Documents, and if bonds have been furnished, the written consent of the surety to payment of the balance due for that portion of the Work fully completed and accepted shall be submitted by the Contractor to the Architect prior to certification of such payment. Such payment shall be made under terms and conditions governing final payment, except that it shall not constitute a waiver of Claims.

§ 9.10.4 The making of final payment shall constitute a waiver of Claims by the Owner except those arising from

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- .1 liens, Claims, security interests, or encumbrances arising out of the Contract and unsettled;
- .2 failure of the Work to comply with the requirements of the Contract Documents;
- .3 terms of special warranties required by the Contract Documents; or
- .4 audits performed by the Owner, if permitted by the Contract Documents, after final payment.

§ 9.10.5 Acceptance of final payment by the Contractor, a Subcontractor, or a supplier, shall constitute a waiver of claims by that payee except those previously made in writing and identified by that payee as unsettled at the time of final Application for Payment.

ARTICLE 10 PROTECTION OF PERSONS AND PROPERTY

§ 10.1 Safety Precautions and Programs

The Contractor shall be responsible for initiating, maintaining, and supervising all safety precautions and programs in connection with the performance of the Contract.

§ 10.2 Safety of Persons and Property

§ 10.2.1 The Contractor shall take reasonable precautions for safety of, and shall provide reasonable protection to prevent damage, injury, or loss to

- .1 employees on the Work and other persons who may be affected thereby;
- .2 the Work and materials and equipment to be incorporated therein, whether in storage on or off the site, under care, custody, or control of the Contractor, a Subcontractor, or a Sub-subcontractor; and
- .3 other property at the site or adjacent thereto, such as trees, shrubs, lawns, walks, pavements, roadways, structures, and utilities not designated for removal, relocation, or replacement in the course of construction.

§ 10.2.2 The Contractor shall comply with, and give notices required by applicable laws, statutes, ordinances, codes, rules and regulations, and lawful orders of public authorities, bearing on safety of persons or property or their protection from damage, injury, or loss.

§ 10.2.3 The Contractor shall implement, erect, and maintain, as required by existing conditions and performance of the Contract, reasonable safeguards for safety and protection, including posting danger signs and other warnings against hazards; promulgating safety regulations; and notifying the owners and users of adjacent sites and utilities of the safeguards.

§ 10.2.4 When use or storage of explosives or other hazardous materials or equipment, or unusual methods are necessary for execution of the Work, the Contractor shall exercise utmost care and carry on such activities under supervision of properly qualified personnel.

§ 10.2.5 The Contractor shall promptly remedy damage and loss (other than damage or loss insured under property insurance required by the Contract Documents) to property referred to in Sections 10.2.1.2 and 10.2.1.3 caused in whole or in part by the Contractor, a Subcontractor, a Sub-subcontractor, or anyone directly or indirectly employed by any of them, or by anyone for whose acts they may be liable and for which the Contractor is responsible under Sections 10.2.1.2 and 10.2.1.3. The Contractor may make a Claim for the cost to remedy the damage or loss to the extent such damage or loss is attributable to acts or omissions of the Owner or Architect or anyone directly or indirectly employed by either of them, or by anyone for whose acts either of them may be liable, and not attributable to the fault or negligence of the Contractor. The foregoing obligations of the Contractor are in addition to the Contractor's obligations under Section 3.18.

§ 10.2.6 The Contractor shall designate a responsible member of the Contractor's organization at the site whose duty shall be the prevention of accidents. This person shall be the Contractor's superintendent unless otherwise designated by the Contractor in writing to the Owner and Architect.

§ 10.2.7 The Contractor shall not permit any part of the construction or site to be loaded so as to cause damage or create an unsafe condition.

§ 10.2.8 Injury or Damage to Person or Property

If either party suffers injury or damage to person or property because of an act or omission of the other party, or of others for whose acts such party is legally responsible, notice of the injury or damage, whether or not insured, shall be

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given to the other party within a reasonable time not exceeding 21 days after discovery. The notice shall provide sufficient detail to enable the other party to investigate the matter.

§ 10.3 Hazardous Materials and Substances

§ 10.3.1 The Contractor is responsible for compliance with any requirements included in the Contract Documents regarding hazardous materials or substances. If the Contractor encounters a hazardous material or substance not addressed in the Contract Documents and if reasonable precautions will be inadequate to prevent foreseeable bodily injury or death to persons resulting from a material or substance, including but not limited to asbestos or polychlorinated biphenyl (PCB), encountered on the site by the Contractor, the Contractor shall, upon recognizing the condition, immediately stop Work in the affected area and notify the Owner and Architect of the condition.

§ 10.3.2 Upon receipt of the Contractor's notice, the Owner shall obtain the services of a licensed laboratory to verify the presence or absence of the material or substance reported by the Contractor and, in the event such material or substance is found to be present, to cause it to be rendered harmless. Unless otherwise required by the Contract Documents, the Owner shall furnish in writing to the Contractor and Architect the names and qualifications of persons or entities who are to perform tests verifying the presence or absence of the material or substance or who are to perform the task of removal or safe containment of the material or substance. The Contractor and the Architect will promptly reply to the Owner in writing stating whether or not either has reasonable objection to the persons or entities proposed by the Owner. If either the Contractor or Architect has an objection to a person or entity proposed by the Owner, the Owner shall propose another to whom the Contractor and the Architect have no reasonable objection. When the material or substance has been rendered harmless, Work in the affected area shall resume upon written agreement of the Owner and Contractor. By Change Order, the Contract Time shall be extended appropriately and the Contract Sum shall be increased by the amount of the Contractor's reasonable additional costs of shutdown, delay, and start-up.

§ 10.3.3 To the fullest extent permitted by law, the Owner shall indemnify and hold harmless the Contractor, Subcontractors, Architect, Architect's consultants, and agents and employees of any of them from and against claims, damages, losses, and expenses, including but not limited to attorneys' fees, arising out of or resulting from performance of the Work in the affected area if in fact the material or substance presents the risk of bodily injury or death as described in Section 10.3.1 and has not been rendered harmless, provided that such claim, damage, loss, or expense is attributable to bodily injury, sickness, disease or death, or to injury to or destruction of tangible property (other than the Work itself), except to the extent that such damage, loss, or expense is due to the fault or negligence of the party seeking indemnity.

§ 10.3.4 The Owner shall not be responsible under this Section 10.3 for hazardous materials or substances the Contractor brings to the site unless such materials or substances are required by the Contract Documents. The Owner shall be responsible for hazardous materials or substances required by the Contract Documents, except to the extent of the Contractor's fault or negligence in the use and handling of such materials or substances.

§ 10.3.5 The Contractor shall reimburse the Owner for the cost and expense the Owner incurs (1) for remediation of hazardous materials or substances the Contractor brings to the site and negligently handles, or (2) where the Contractor fails to perform its obligations under Section 10.3.1, except to the extent that the cost and expense are due to the Owner's fault or negligence.

§ 10.3.6 If, without negligence on the part of the Contractor, the Contractor is held liable by a government agency for the cost of remediation of a hazardous material or substance solely by reason of performing Work as required by the Contract Documents, the Owner shall reimburse the Contractor for all cost and expense thereby incurred.

§ 10.4 Emergencies

In an emergency affecting safety of persons or property, the Contractor shall act, at the Contractor's discretion, to prevent threatened damage, injury, or loss. Additional compensation or extension of time claimed by the Contractor on account of an emergency shall be determined as provided in Article 15 and Article 7.

ARTICLE 11 INSURANCE AND BONDS

§ 11.1 Contractor's Insurance and Bonds

§ 11.1.1 The Contractor shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract

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Documents. The Contractor shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Owner, Architect, and Architect's consultants shall be named as additional insureds under the Contractor's commercial general liability policy or as otherwise described in the Contract Documents.

§ 11.1.2 The Contractor shall provide surety bonds of the types, for such penal sums, and subject to such terms and conditions as required by the Contract Documents. The Contractor shall purchase and maintain the required bonds from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located.

§ 11.1.3 Upon the request of any person or entity appearing to be a potential beneficiary of bonds covering payment of obligations arising under the Contract, the Contractor shall promptly furnish a copy of the bonds or shall authorize a copy to be furnished.

§ 11.1.4 **Notice of Cancellation or Expiration of Contractor's Required Insurance.** Within three (3) business days of the date the Contractor becomes aware of an impending or actual cancellation or expiration of any insurance required by the Contract Documents, the Contractor shall provide notice to the Owner of such impending or actual cancellation or expiration. Upon receipt of notice from the Contractor, the Owner shall, unless the lapse in coverage arises from an act or omission of the Owner, have the right to stop the Work until the lapse in coverage has been cured by the procurement of replacement coverage by the Contractor. The furnishing of notice by the Contractor shall not relieve the Contractor of any contractual obligation to provide any required coverage.

§ 11.2 Owner's Insurance

§ 11.2.1 The Owner shall purchase and maintain insurance of the types and limits of liability, containing the endorsements, and subject to the terms and conditions, as described in the Agreement or elsewhere in the Contract Documents. The Owner shall purchase and maintain the required insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located.

(Paragraphs deleted)

§ 11.3 Waivers of Subrogation

§ 11.3.1 The Owner and Contractor waive all rights against (1) each other and any of their subcontractors, sub-subcontractors, agents, and employees, each of the other; (2) the Architect and Architect's consultants; and (3) Separate Contractors, if any, and any of their subcontractors, sub-subcontractors, agents, and employees, for damages caused by fire, or other causes of loss, to the extent those losses are covered by property insurance required by the Agreement or other property insurance applicable to the Project, except such rights as they have to proceeds of such insurance. The Owner or Contractor, as appropriate, shall require similar written waivers in favor of the individuals and entities identified above from the Architect, Architect's consultants, Separate Contractors, subcontractors, and sub-subcontractors. The policies of insurance purchased and maintained by each person or entity agreeing to waive claims pursuant to this section 11.3.1 shall not prohibit this waiver of subrogation. This waiver of subrogation shall be effective as to a person or entity (1) even though that person or entity would otherwise have a duty of indemnification, contractual or otherwise, (2) even though that person or entity did not pay the insurance premium directly or indirectly, or (3) whether or not the person or entity had an insurable interest in the damaged property.

§ 11.3.2 If during the Project construction period the Owner insures properties, real or personal or both, at or adjacent to the site by property insurance under policies separate from those insuring the Project, or if after final payment property insurance is to be provided on the completed Project through a policy or policies other than those insuring the Project during the construction period, to the extent permissible by such policies, the Owner waives all rights in accordance with the terms of Section 11.3.1 for damages caused by fire or other causes of loss covered by this separate property insurance.

§ 11.4 Loss of Use, Business Interruption, and Delay in Completion Insurance

The Owner, at the Owner's option, may purchase and maintain insurance that will protect the Owner against loss of use of the Owner's property, or the inability to conduct normal operations, due to fire or other causes of loss. The

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Owner waives all rights of action against the Contractor and Architect for loss of use of the Owner's property, due to fire or other hazards however caused.

§11.5 Adjustment and Settlement of Insured Loss

§ 11.5.1 A loss insured under the property insurance required by the Agreement shall be adjusted by the Owner as fiduciary and made payable to the Owner as fiduciary for the insureds, as their interests may appear, subject to requirements of any applicable mortgagee clause and of Section 11.5.2. The Owner shall pay the Architect and Contractor their just shares of insurance proceeds received by the Owner, and by appropriate agreements the Architect and Contractor shall make payments to their consultants and Subcontractors in similar manner.

§ 11.5.2 Prior to settlement of an insured loss, the Owner shall notify the Contractor of the terms of the proposed settlement as well as the proposed allocation of the insurance proceeds. The Contractor shall have 14 days from receipt of notice to object to the proposed settlement or allocation of the proceeds. If the Contractor does not object, the Owner shall settle the loss and the Contractor shall be bound by the settlement and allocation. Upon receipt, the Owner shall deposit the insurance proceeds in a separate account and make the appropriate distributions. Thereafter, if no other agreement is made or the Owner does not terminate the Contract for convenience, the Owner and Contractor shall execute a Change Order for reconstruction of the damaged or destroyed Work in the amount allocated for that purpose. If the Contractor timely objects to either the terms of the proposed settlement or the allocation of the proceeds, the Owner may proceed to settle the insured loss, and any dispute between the Owner and Contractor arising out of the settlement or allocation of the proceeds shall be resolved pursuant to Article 15. Pending resolution of any dispute, the Owner may issue a Construction Change Directive for the reconstruction of the damaged or destroyed Work.

ARTICLE 12 UNCOVERING AND CORRECTION OF WORK

§ 12.1 Uncovering of Work

§ 12.1.1 If a portion of the Work is covered contrary to the Architect's request or to requirements specifically expressed in the Contract Documents, it must, if requested in writing by the Architect, be uncovered for the Architect's examination and be replaced at the Contractor's expense without change in the Contract Time.

§ 12.1.2 If a portion of the Work has been covered that the Architect has not specifically requested to examine prior to its being covered, the Architect may request to see such Work and it shall be uncovered by the Contractor. If such Work is in accordance with the Contract Documents, the Contractor shall be entitled to an equitable adjustment to the Contract Sum and Contract Time as may be appropriate. If such Work is not in accordance with the Contract Documents, the costs of uncovering the Work, and the cost of correction, shall be at the Contractor's expense.

§ 12.2 Correction of Work

§ 12.2.1 Before Substantial Completion

The Contractor shall promptly correct Work rejected by the Architect or failing to conform to the requirements of the Contract Documents, discovered before Substantial Completion and whether or not fabricated, installed or completed. Costs of correcting such rejected Work, including additional testing and inspections, the cost of uncovering and replacement, and compensation for the Architect's services and expenses made necessary thereby, shall be at the Contractor's expense.

§ 12.2.2 After Substantial Completion

§ 12.2.2.1 In addition to the Contractor's obligations under Section 3.5, if, within one year after the date of Substantial Completion of the Work or designated portion thereof or after the date for commencement of warranties established under Section 9.9.1, or by terms of any applicable special warranty required by the Contract Documents, any of the Work is found to be not in accordance with the requirements of the Contract Documents, the Contractor shall correct it promptly after receipt of notice from the Owner to do so, unless the Owner has previously given the Contractor a written acceptance of such condition. The Owner shall give such notice promptly after discovery of the condition. During the one-year period for correction of Work, if the Owner fails to notify the Contractor and give the Contractor an opportunity to make the correction, the Owner waives the rights to require correction by the Contractor and to make a claim for breach of warranty. If the Contractor fails to correct nonconforming Work within a reasonable time during that period after receipt of notice from the Owner or Architect, the Owner may correct it in accordance with Section 2.5.

§ 12.2.2.2 The one-year period for correction of Work shall be extended with respect to portions of Work first performed after Substantial Completion by the period of time between Substantial Completion and the actual completion of that portion of the Work.

§ 12.2.2.3 The one-year period for correction of Work shall not be extended by corrective Work performed by the Contractor pursuant to this Section 12.2.

§ 12.2.3 The Contractor shall remove from the site portions of the Work that are not in accordance with the requirements of the Contract Documents and are neither corrected by the Contractor nor accepted by the Owner.

§ 12.2.4 The Contractor shall bear the cost of correcting destroyed or damaged construction of the Owner or Separate Contractors, whether completed or partially completed, caused by the Contractor's correction or removal of Work that is not in accordance with the requirements of the Contract Documents.

§ 12.2.5 Nothing contained in this Section 12.2 shall be construed to establish a period of limitation with respect to other obligations the Contractor has under the Contract Documents. Establishment of the one-year period for correction of Work as described in Section 12.2.2 relates only to the specific obligation of the Contractor to correct the Work, and has no relationship to the time within which the obligation to comply with the Contract Documents may be sought to be enforced, nor to the time within which proceedings may be commenced to establish the Contractor's liability with respect to the Contractor's obligations other than specifically to correct the Work.

§ 12.3 Acceptance of Nonconforming Work

If the Owner prefers to accept Work that is not in accordance with the requirements of the Contract Documents, the Owner may do so instead of requiring its removal and correction, in which case the Contract Sum will be reduced as appropriate and equitable. Such adjustment shall be effected whether or not final payment has been made.

ARTICLE 13 MISCELLANEOUS PROVISIONS

§ 13.1 Governing Law

The Contract shall be governed by the law of the place where the Project is located, excluding that jurisdiction's choice of law rules. If the parties have selected arbitration as the method of binding dispute resolution, the Federal Arbitration Act shall govern Section 15.4.

§ 13.2 Successors and Assigns

§ 13.2.1 The Owner and Contractor respectively bind themselves, their partners, successors, assigns, and legal representatives to covenants, agreements, and obligations contained in the Contract Documents. Except as provided in Section 13.2.2, neither party to the Contract shall assign the Contract as a whole without written consent of the other. If either party attempts to make an assignment without such consent, that party shall nevertheless remain legally responsible for all obligations under the Contract.

§ 13.2.2 The Owner may, without consent of the Contractor, assign the Contract to a lender providing construction financing for the Project, if the lender assumes the Owner's rights and obligations under the Contract Documents. The Contractor shall execute all consents reasonably required to facilitate the assignment.

§ 13.3 Rights and Remedies

§ 13.3.1 Duties and obligations imposed by the Contract Documents and rights and remedies available thereunder shall be in addition to and not a limitation of duties, obligations, rights, and remedies otherwise imposed or available by law.

§ 13.3.2 No action or failure to act by the Owner, Architect, or Contractor shall constitute a waiver of a right or duty afforded them under the Contract, nor shall such action or failure to act constitute approval of or acquiescence in a breach thereunder, except as may be specifically agreed upon in writing.

§ 13.4 Tests and Inspections

§ 13.4.1 Tests, inspections, and approvals of portions of the Work shall be made as required by the Contract Documents and by applicable laws, statutes, ordinances, codes, rules, and regulations or lawful orders of public authorities. Unless otherwise provided, the Contractor shall make arrangements for such tests, inspections, and approvals with an independent testing laboratory or entity acceptable to the Owner, or with the appropriate public

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authority, and shall bear all related costs of tests, inspections, and approvals. The Contractor shall give the Architect timely notice of when and where tests and inspections are to be made so that the Architect may be present for such procedures. The Owner shall bear costs of tests, inspections, or approvals that do not become requirements until after bids are received or negotiations concluded. The Owner shall directly arrange and pay for tests, inspections, or approvals where building codes or applicable laws or regulations so require.

§ 13.4.2 If the Architect, Owner, or public authorities having jurisdiction determine that portions of the Work require additional testing, inspection, or approval not included under Section 13.4.1, the Architect will, upon written authorization from the Owner, instruct the Contractor to make arrangements for such additional testing, inspection, or approval, by an entity acceptable to the Owner, and the Contractor shall give timely notice to the Architect of when and where tests and inspections are to be made so that the Architect may be present for such procedures. Such costs, except as provided in Section 13.4.3, shall be at the Owner's expense.

§ 13.4.3 If procedures for testing, inspection, or approval under Sections 13.4.1 and 13.4.2 reveal failure of the portions of the Work to comply with requirements established by the Contract Documents, all costs made necessary by such failure, including those of repeated procedures and compensation for the Architect's services and expenses, shall be at the Contractor's expense.

§ 13.4.4 Required certificates of testing, inspection, or approval shall, unless otherwise required by the Contract Documents, be secured by the Contractor and promptly delivered to the Architect.

§ 13.4.5 If the Architect is to observe tests, inspections, or approvals required by the Contract Documents, the Architect will do so promptly and, where practicable, at the normal place of testing.

§ 13.4.6 Tests or inspections conducted pursuant to the Contract Documents shall be made promptly to avoid unreasonable delay in the Work.

(Paragraphs deleted)

ARTICLE 14 TERMINATION OR SUSPENSION OF THE CONTRACT

§ 14.1 Termination by the Contractor

§ 14.1.1 The Contractor may terminate the Contract if the Work is stopped for a period of 30 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, for any of the following reasons:

- .1 Issuance of an order of a court or other public authority having jurisdiction that requires all Work to be stopped;
- .2 An act of government, such as a declaration of national emergency, that requires all Work to be stopped;
- .3 Because the Architect has not issued a Certificate for Payment and has not notified the Contractor of the reason for withholding certification as provided in Section 9.4.1, or because the Owner has not made payment on a Certificate for Payment within the time stated in the Contract Documents; or
- .4 The Owner has failed to furnish to the Contractor reasonable evidence as required by Section 2.2.

§ 14.1.2 The Contractor may terminate the Contract if, through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, their agents or employees, or any other persons or entities performing portions of the Work, repeated suspensions, delays, or interruptions of the entire Work by the Owner as described in Section 14.3, constitute in the aggregate more than 100 percent of the total number of days scheduled for completion, or 120 days in any 365-day period, whichever is less.

§ 14.1.3 If one of the reasons described in Section 14.1.1 or 14.1.2 exists, the Contractor may, upon seven days' notice to the Owner and Architect, terminate the Contract and recover from the Owner payment for Work executed, as well as reasonable overhead and profit on Work not executed, and costs incurred by reason of such termination.

§ 14.1.4 If the Work is stopped for a period of 60 consecutive days through no act or fault of the Contractor, a Subcontractor, a Sub-subcontractor, or their agents or employees or any other persons or entities performing portions of the Work because the Owner has repeatedly failed to fulfill the Owner's obligations under the Contract Documents with respect to matters important to the progress of the Work, the Contractor may, upon seven additional days' notice to the Owner and the Architect, terminate the Contract and recover from the Owner as provided in Section 14.1.3.

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§ 14.2 Termination by the Owner for Cause

§ 14.2.1 The Owner may terminate the Contract if the Contractor

- .1 repeatedly refuses or fails to supply enough properly skilled workers or proper materials;
- .2 fails to make payment to Subcontractors or suppliers in accordance with the respective agreements between the Contractor and the Subcontractors or suppliers;
- .3 repeatedly disregards applicable laws, statutes, ordinances, codes, rules and regulations, or lawful orders of a public authority; or
- .4 otherwise is guilty of substantial breach of a provision of the Contract Documents.

§ 14.2.2 When any of the reasons described in Section 14.2.1 exist, and upon certification by the Architect that sufficient cause exists to justify such action, the Owner may, without prejudice to any other rights or remedies of the Owner and after giving the Contractor and the Contractor's surety, if any, seven days' notice, terminate employment of the Contractor and may, subject to any prior rights of the surety:

- .1 Exclude the Contractor from the site and take possession of all materials, equipment, tools, and construction equipment and machinery thereon owned by the Contractor;
- .2 Accept assignment of subcontracts pursuant to Section 5.4; and
- .3 Finish the Work by whatever reasonable method the Owner may deem expedient. Upon written request of the Contractor, the Owner shall furnish to the Contractor a detailed accounting of the costs incurred by the Owner in finishing the Work.

§ 14.2.3 When the Owner terminates the Contract for one of the reasons stated in Section 14.2.1, the Contractor shall not be entitled to receive further payment until the Work is finished.

§ 14.2.4 If the unpaid balance of the Contract Sum exceeds costs of finishing the Work, including compensation for the Architect's services and expenses made necessary thereby, and other damages incurred by the Owner and not expressly waived, such excess shall be paid to the Contractor. If such costs and damages exceed the unpaid balance, the Contractor shall pay the difference to the Owner. The amount to be paid to the Contractor or Owner, as the case may be, shall be certified by the Initial Decision Maker, upon application, and this obligation for payment shall survive termination of the Contract.

§ 14.3 Suspension by the Owner for Convenience

§ 14.3.1 The Owner may, without cause, order the Contractor in writing to suspend, delay or interrupt the Work, in whole or in part for such period of time as the Owner may determine.

§ 14.3.2 The Contract Sum and Contract Time shall be adjusted for increases in the cost and time caused by suspension, delay, or interruption under Section 14.3.1. Adjustment of the Contract Sum shall include profit. No adjustment shall be made to the extent

- .1 that performance is, was, or would have been, so suspended, delayed, or interrupted, by another cause for which the Contractor is responsible; or
- .2 that an equitable adjustment is made or denied under another provision of the Contract.

§ 14.4 Termination by the Owner for Convenience

§ 14.4.1 The Owner may, at any time, terminate the Contract for the Owner's convenience and without cause.

§ 14.4.2 Upon receipt of notice from the Owner of such termination for the Owner's convenience, the Contractor shall

- .1 cease operations as directed by the Owner in the notice;
- .2 take actions necessary, or that the Owner may direct, for the protection and preservation of the Work; and
- .3 except for Work directed to be performed prior to the effective date of termination stated in the notice, terminate all existing subcontracts and purchase orders and enter into no further subcontracts and purchase orders.

§ 14.4.3 In case of such termination for the Owner's convenience, the Owner shall pay the Contractor for Work properly executed; costs incurred by reason of the termination, including costs attributable to termination of Subcontracts; and the termination fee, if any, set forth in the Agreement.

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ARTICLE 15 CLAIMS AND DISPUTES

§ 15.1 Claims

§ 15.1.1 Definition

A Claim is a demand or assertion by one of the parties seeking, as a matter of right, payment of money, a change in the Contract Time, or other relief with respect to the terms of the Contract. The term "Claim" also includes other disputes and matters in question between the Owner and Contractor arising out of or relating to the Contract. The responsibility to substantiate Claims shall rest with the party making the Claim. This Section 15.1.1 does not require the Owner to file a Claim in order to impose liquidated damages in accordance with the Contract Documents.

§ 15.1.2 Time Limits on Claims

The Owner and Contractor shall commence all Claims and causes of action against the other and arising out of or related to the Contract, whether in contract, tort, breach of warranty or otherwise, in accordance with the requirements of the binding dispute resolution method selected in the Agreement and within the period specified by applicable law, but in any case not more than 10 years after the date of Substantial Completion of the Work. The Owner and Contractor waive all Claims and causes of action not commenced in accordance with this Section 15.1.2.

§ 15.1.3 Notice of Claims

§ 15.1.3.1 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered prior to expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party and to the Initial Decision Maker with a copy sent to the Architect, if the Architect is not serving as the Initial Decision Maker. Claims by either party under this Section 15.1.3.1 shall be initiated within 21 days after occurrence of the event giving rise to such Claim or within 21 days after the claimant first recognizes the condition giving rise to the Claim, whichever is later.

§ 15.1.3.2 Claims by either the Owner or Contractor, where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2, shall be initiated by notice to the other party. In such event, no decision by the Initial Decision Maker is required.

§ 15.1.4 Continuing Contract Performance

§ 15.1.4.1 Pending final resolution of a Claim, except as otherwise agreed in writing or as provided in Section 9.7 and Article 14, the Contractor shall proceed diligently with performance of the Contract and the Owner shall continue to make payments in accordance with the Contract Documents.

§ 15.1.4.2 The Contract Sum and Contract Time shall be adjusted in accordance with the Initial Decision Maker's decision, subject to the right of either party to proceed in accordance with this Article 15. The Architect will issue Certificates for Payment in accordance with the decision of the Initial Decision Maker.

§ 15.1.5 Claims for Additional Cost

If the Contractor wishes to make a Claim for an increase in the Contract Sum, notice as provided in Section 15.1.3 shall be given before proceeding to execute the portion of the Work that is the subject of the Claim. Prior notice is not required for Claims relating to an emergency endangering life or property arising under Section 10.4.

§ 15.1.6 Claims for Additional Time

§ 15.1.6.1 If the Contractor wishes to make a Claim for an increase in the Contract Time, notice as provided in Section 15.1.3 shall be given. The Contractor's Claim shall include an estimate of cost and of probable effect of delay on progress of the Work. In the case of a continuing delay, only one Claim is necessary.

§ 15.1.6.2 If adverse weather conditions are the basis for a Claim for additional time, such Claim shall be documented by data substantiating that weather conditions were abnormal for the period of time, could not have been reasonably anticipated, and had an adverse effect on the scheduled construction.

§ 15.1.7 Waiver of Claims for Consequential Damages

The Contractor and Owner waive Claims against each other for consequential damages arising out of or relating to this Contract. This mutual waiver includes

- .1 damages incurred by the Owner for rental expenses, for losses of use, income, profit, financing, business and reputation, and for loss of management or employee productivity or of the services of such persons; and

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- .2 damages incurred by the Contractor for principal office expenses including the compensation of personnel stationed there, for losses of financing, business and reputation, and for loss of profit, except anticipated profit arising directly from the Work.

This mutual waiver is applicable, without limitation, to all consequential damages due to either party's termination in accordance with Article 14. Nothing contained in this Section 15.1.7 shall be deemed to preclude assessment of liquidated damages, when applicable, in accordance with the requirements of the Contract Documents.

§ 15.2 Initial Decision

§ 15.2.1 Claims, excluding those where the condition giving rise to the Claim is first discovered after expiration of the period for correction of the Work set forth in Section 12.2.2 or arising under Sections 10.3, 10.4, and 11.5, shall be referred to the Initial Decision Maker for initial decision. The Architect will serve as the Initial Decision Maker, unless otherwise indicated in the Agreement. Except for those Claims excluded by this Section 15.2.1, an initial decision shall be required as a condition precedent to mediation of any Claim. If an initial decision has not been rendered within 30 days after the Claim has been referred to the Initial Decision Maker, the party asserting the Claim may demand mediation and binding dispute resolution without a decision having been rendered. Unless the Initial Decision Maker and all affected parties agree, the Initial Decision Maker will not decide disputes between the Contractor and persons or entities other than the Owner.

§ 15.2.2 The Initial Decision Maker will review Claims and within ten days of the receipt of a Claim take one or more of the following actions: (1) request additional supporting data from the claimant or a response with supporting data from the other party, (2) reject the Claim in whole or in part, (3) approve the Claim, (4) suggest a compromise, or (5) advise the parties that the Initial Decision Maker is unable to resolve the Claim if the Initial Decision Maker lacks sufficient information to evaluate the merits of the Claim or if the Initial Decision Maker concludes that, in the Initial Decision Maker's sole discretion, it would be inappropriate for the Initial Decision Maker to resolve the Claim.

§ 15.2.3 In evaluating Claims, the Initial Decision Maker may, but shall not be obligated to, consult with or seek information from either party or from persons with special knowledge or expertise who may assist the Initial Decision Maker in rendering a decision. The Initial Decision Maker may request the Owner to authorize retention of such persons at the Owner's expense.

§ 15.2.4 If the Initial Decision Maker requests a party to provide a response to a Claim or to furnish additional supporting data, such party shall respond, within ten days after receipt of the request, and shall either (1) provide a response on the requested supporting data, (2) advise the Initial Decision Maker when the response or supporting data will be furnished, or (3) advise the Initial Decision Maker that no supporting data will be furnished. Upon receipt of the response or supporting data, if any, the Initial Decision Maker will either reject or approve the Claim in whole or in part.

§ 15.2.5 The Initial Decision Maker will render an initial decision approving or rejecting the Claim, or indicating that the Initial Decision Maker is unable to resolve the Claim. This initial decision shall (1) be in writing; (2) state the reasons therefor; and (3) notify the parties and the Architect, if the Architect is not serving as the Initial Decision Maker, of any change in the Contract Sum or Contract Time or both. The initial decision shall be final and binding on the parties but subject to mediation and, if the parties fail to resolve their dispute through mediation, to binding dispute resolution.

§ 15.2.6 Either party may file for mediation of an initial decision at any time, subject to the terms of Section 15.2.6.1.

§ 15.2.6.1 Either party may, within 30 days from the date of receipt of an initial decision, demand in writing that the other party file for mediation. If such a demand is made and the party receiving the demand fails to file for mediation within 30 days after receipt thereof, then both parties waive their rights to mediate or pursue binding dispute resolution proceedings with respect to the initial decision.

§ 15.2.7 In the event of a Claim against the Contractor, the Owner may, but is not obligated to, notify the surety, if any, of the nature and amount of the Claim. If the Claim relates to a possibility of a Contractor's default, the Owner may, but is not obligated to, notify the surety and request the surety's assistance in resolving the controversy.

(Paragraph deleted)

§ 15.3 Mediation

§ 15.3.1 Claims, disputes, or other matters in controversy arising out of or related to the Contract, except those waived as provided for in Sections 9.10.4, 9.10.5, and 15.1.7, shall be subject to mediation as a condition precedent to binding dispute resolution.

§ 15.3.2 The parties shall endeavor to resolve their Claims by mediation which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Mediation Procedures in effect on the date of the Agreement. A request for mediation shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the mediation. The request may be made concurrently with the filing of binding dispute resolution proceedings but, in such event, mediation shall proceed in advance of binding dispute resolution proceedings, which shall be stayed pending mediation for a period of 60 days from the date of filing, unless stayed for a longer period by agreement of the parties or court order. If an arbitration is stayed pursuant to this Section 15.3.2, the parties may nonetheless proceed to the selection of the arbitrator(s) and agree upon a schedule for later proceedings.

§ 15.3.3 Either party may, within 30 days from the date that mediation has been concluded without resolution of the dispute or 60 days after mediation has been demanded without resolution of the dispute, demand in writing that the other party file for binding dispute resolution. If such a demand is made and the party receiving the demand fails to file for binding dispute resolution within 60 days after receipt thereof, then both parties waive their rights to binding dispute resolution proceedings with respect to the initial decision.

§ 15.3.4 The parties shall share the mediator's fee and any filing fees equally. The mediation shall be held in the place where the Project is located, unless another location is mutually agreed upon. Agreements reached in mediation shall be enforceable as settlement agreements in any court having jurisdiction thereof.

§ 15.4 Arbitration

§ 15.4.1 If the parties have selected arbitration as the method for binding dispute resolution in the Agreement, any Claim subject to, but not resolved by, mediation shall be subject to arbitration which, unless the parties mutually agree otherwise, shall be administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules in effect on the date of the Agreement. The Arbitration shall be conducted in the place where the Project is located, unless another location is mutually agreed upon. A demand for arbitration shall be made in writing, delivered to the other party to the Contract, and filed with the person or entity administering the arbitration. The party filing a notice of demand for arbitration must assert in the demand all Claims then known to that party on which arbitration is permitted to be demanded.

§ 15.4.1.1 A demand for arbitration shall be made no earlier than concurrently with the filing of a request for mediation, but in no event shall it be made after the date when the institution of legal or equitable proceedings based on the Claim would be barred by the applicable statute of limitations. For statute of limitations purposes, receipt of a written demand for arbitration by the person or entity administering the arbitration shall constitute the institution of legal or equitable proceedings based on the Claim.

§ 15.4.2 The award rendered by the arbitrator or arbitrators shall be final, and judgment may be entered upon it in accordance with applicable law in any court having jurisdiction thereof.

§ 15.4.3 The foregoing agreement to arbitrate and other agreements to arbitrate with an additional person or entity duly consented to by parties to the Agreement, shall be specifically enforceable under applicable law in any court having jurisdiction thereof.

§ 15.4.4 Consolidation or Joinder

§ 15.4.4.1 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may consolidate an arbitration conducted under this Agreement with any other arbitration to which it is a party provided that (1) the arbitration agreement governing the other arbitration permits consolidation, (2) the arbitrations to be consolidated substantially involve common questions of law or fact, and (3) the arbitrations employ materially similar procedural rules and methods for selecting arbitrator(s).

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§ 15.4.4.2 Subject to the rules of the American Arbitration Association or other applicable arbitration rules, either party may include by joinder persons or entities substantially involved in a common question of law or fact whose presence is required if complete relief is to be accorded in arbitration, provided that the party sought to be joined consents in writing to such joinder. Consent to arbitration involving an additional person or entity shall not constitute consent to arbitration of any claim, dispute or other matter in question not described in the written consent.

§ 15.4.4.3 The Owner and Contractor grant to any person or entity made a party to an arbitration conducted under this Section 15.4, whether by joinder or consolidation, the same rights of joinder and consolidation as those of the Owner and Contractor under this Agreement.

ARTICLE 16 EQUAL OPPORTUNITY

§ 16.1 General

The Contractor agrees to comply with the Federal Civil Rights Act of 1964 as amended; the Federal Civil Rights Act of 1991 as amended; the Americans With Disabilities Act of 1990 as amended; the Elliott-Larsen Civil Rights Act, Article 2, Act no. 453, Public Act of 1976 as amended; the Michigan Handicapper's Civil Rights Act, Article 2, Act No. 220; Public Act of 1976, as amended and all other applicable Federal, State and Local laws and regulations. Specifically, contractors and subcontractors are required not to discriminate against any employee or applicant for employment with respect to such person's hire, tenure, terms, conditions, or privileges of employment, or any matter directly or indirectly related to employment because of such person's height, weight, race, color, religion, national origin, ancestry, age, marital status, sex, sexual orientation, gender identity or disability, as defined by law. Breach of this covenant may be regarded as a material breach of the contract.

The City of Portage in accordance with Title VI of the Civil Rights Act of 1964, 78 Stat. 252, 42 USC 2000d to 2000d-4 and Title 49, Code of Federal Regulations, Department of Federally-assisted programs of the Department of Transportation issued pursuant to such Act, hereby notifies all bidders that it will affirmatively ensure that in any contract entered into pursuant to this advertisement, minority business enterprises will be afforded full opportunity to submit bids in response to this invitation and will not be discriminated against on the grounds of gender, disability, race, color or national origin in consideration for an award.

Document A134® – 2019 Exhibit A

Insurance and Bonds

This Insurance and Bonds Exhibit is part of the Agreement, between the Owner and the Construction Manager, dated the Fourteenth day of November in the year 2024
(In words, indicate day, month and year.)

for the following **PROJECT**:
(Name and location or address)

Stanwood Crossings Infrastructure Construction Agreement

THE OWNER:
(Name, legal status, and address)

City of Portage
7900 S. Westnedge Ave.
Portage, MI 49002

THE CONSTRUCTION MANAGER:
(Name, legal status, and address)

AVB Construction, Limited Liability Company
4200 W. Centre Avenue
Portage, MI 49024

TABLE OF ARTICLES

- A.1 GENERAL**
- A.2 OWNER'S INSURANCE**
- A.3 CONSTRUCTION MANAGER'S INSURANCE AND BONDS**
- A.4 SPECIAL TERMS AND CONDITIONS**

ARTICLE A.1 GENERAL

The Owner and Construction Manager shall purchase and maintain insurance, and provide bonds, as set forth in this Exhibit. As used in this Exhibit, the term General Conditions refers to AIA Document A201™–2017, General Conditions of the Contract for Construction.

ARTICLE A.2 OWNER'S INSURANCE

§ A.2.1 General

Prior to commencement of the Work, the Owner shall secure the insurance, and provide evidence of the coverage, required under this Article A.2 and, upon the Construction Manager's request, provide a copy of the property insurance policy or policies required by Section A.2.3. The copy of the policy or policies provided shall contain all applicable conditions, definitions, exclusions, and endorsements.

ADDITIONS AND DELETIONS:

The author of this document has added information needed for its completion. The author may also have revised the text of the original AIA standard form. An *Additions and Deletions Report* that notes added information as well as revisions to the standard form text is available from the author and should be reviewed. A vertical line in the left margin of this document indicates where the author has added necessary information and where the author has added to or deleted from the original AIA text.

This document has important legal consequences. Consultation with an attorney is encouraged with respect to its completion or modification.

This document is intended to be used in conjunction with AIA Document A201™–2017, General Conditions of the Contract for Construction. Article 11 of A201™–2017 contains additional insurance provisions.

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§ A.2.2 Liability Insurance

The Owner shall be responsible for purchasing and maintaining the Owner's usual general liability insurance.

§ A.2.3 Required Property Insurance

§ A.2.3.1 Unless this obligation is placed on the Construction Manager pursuant to Section A.3.3.2.1, the Owner shall purchase and maintain, from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located, property insurance written on a builder's risk "all-risks" completed value or equivalent policy form and sufficient to cover the total value of the entire Project on a replacement cost basis. The Owner's property insurance coverage shall be no less than the amount of the initial Contract Sum, plus the value of subsequent Modifications and labor performed and materials or equipment supplied by others. The property insurance shall be maintained until Substantial Completion and thereafter as provided in Section A.2.3.1.3, unless otherwise provided in the Contract Documents or otherwise agreed in writing by the parties to this Agreement. This insurance shall include the interests of the Owner, Construction Manager, Subcontractors, and Sub-subcontractors in the Project as insureds. This insurance shall include the interests of mortgagees as loss payees.

§ A.2.3.1.1 **Causes of Loss.** The insurance required by this Section A.2.3.1 shall provide coverage for direct physical loss or damage, and shall not exclude the risks of fire, explosion, theft, vandalism, malicious mischief, collapse, earthquake, flood, or windstorm. The insurance shall also provide coverage for ensuing loss or resulting damage from error, omission, or deficiency in construction methods, design, specifications, workmanship, or materials. Sub-limits, if any, are as follows:

(Indicate below the cause of loss and any applicable sub-limit.)

Cause of Loss

Sub-Limit

§ A.2.3.1.2 **Specific Required Coverages.** The insurance required by this Section A.2.3.1 shall provide coverage for loss or damage to falsework and other temporary structures, and to building systems from testing and startup. The insurance shall also cover debris removal, including demolition occasioned by enforcement of any applicable legal requirements, and reasonable compensation for the Architect's and Construction Manager's services and expenses required as a result of such insured loss, including claim preparation expenses. Sub-limits, if any, are as follows:

(Indicate below type of coverage and any applicable sub-limit for specific required coverages.)

Coverage

Sub-Limit

§ A.2.3.1.3 Unless the parties agree otherwise, upon Substantial Completion, the Owner shall continue the insurance required by Section A.2.3.1 or, if necessary, replace the insurance policy required under Section A.2.3.1 with property insurance written for the total value of the Project that shall remain in effect until expiration of the period for correction of the Work set forth in Section 12.2.2 of the General Conditions.

§ A.2.3.1.4 **Deductibles and Self-Insured Retentions.** If the insurance required by this Section A.2.3 is subject to deductibles or self-insured retentions, the Owner shall be responsible for all loss not covered because of such deductibles or retentions.

§ A.2.3.2 **Occupancy or Use Prior to Substantial Completion.** The Owner's occupancy or use of any completed or partially completed portion of the Work prior to Substantial Completion shall not commence until the insurance company or companies providing the insurance under Section A.2.3.1 have consented in writing to the continuance of coverage. The Owner and the Construction Manager shall take no action with respect to partial occupancy or use that would cause cancellation, lapse, or reduction of insurance, unless they agree otherwise in writing.

§ A.2.3.3 Insurance for Existing Structures

If the Work involves remodeling an existing structure or constructing an addition to an existing structure, the Owner shall purchase and maintain, until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, "all-risks" property insurance, on a replacement cost basis, protecting the existing structure against direct physical loss or damage from the causes of loss identified in Section A.2.3.1, notwithstanding the undertaking of the Work. The Owner shall be responsible for all co-insurance penalties.

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§ A.2.4 Optional Extended Property Insurance.

The Owner shall purchase and maintain the insurance selected and described below.

(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. For each type of insurance selected, indicate applicable limits of coverage or other conditions in the fill point below the selected item.)

- ☐ **§ A.2.4.1 Loss of Use, Business Interruption, and Delay in Completion Insurance**, to reimburse the Owner for loss of use of the Owner's property, or the inability to conduct normal operations due to a covered cause of loss.
- ☐ **§ A.2.4.2 Ordinance or Law Insurance**, for the reasonable and necessary costs to satisfy the minimum requirements of the enforcement of any law or ordinance regulating the demolition, construction, repair, replacement or use of the Project.
- ☐ **§ A.2.4.3 Expediting Cost Insurance**, for the reasonable and necessary costs for the temporary repair of damage to insured property, and to expedite the permanent repair or replacement of the damaged property.
- ☐ **§ A.2.4.4 Extra Expense Insurance**, to provide reimbursement of the reasonable and necessary excess costs incurred during the period of restoration or repair of the damaged property that are over and above the total costs that would normally have been incurred during the same period of time had no loss or damage occurred.
- ☐ **§ A.2.4.5 Civil Authority Insurance**, for losses or costs arising from an order of a civil authority prohibiting access to the Project, provided such order is the direct result of physical damage covered under the required property insurance.
- ☐ **§ A.2.4.6 Ingress/Egress Insurance**, for loss due to the necessary interruption of the insured's business due to physical prevention of ingress to, or egress from, the Project as a direct result of physical damage.
- ☐ **§ A.2.4.7 Soft Costs Insurance**, to reimburse the Owner for costs due to the delay of completion of the Work, arising out of physical loss or damage covered by the required property insurance: including construction loan fees; leasing and marketing expenses; additional fees, including those of architects, engineers, consultants, attorneys and accountants, needed for the completion of the construction, repairs, or reconstruction; and carrying costs such as property taxes, building permits, additional interest on loans, realty taxes, and insurance premiums over and above normal expenses.

§ A.2.5 Other Optional Insurance.

The Owner shall purchase and maintain the insurance selected below.

(Select the types of insurance the Owner is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance.)

- ☐ **§ A.2.5.1 Cyber Security Insurance** for loss to the Owner due to data security and privacy breach, including costs of investigating a potential or actual breach of confidential or private information.

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(Indicate applicable limits of coverage or other conditions in the fill point below.)

[] § A.2.5.2 Other Insurance

(List below any other insurance coverage to be provided by the Owner and any applicable limits.)

Coverage

Limits

ARTICLE A.3 CONSTRUCTION MANAGER'S INSURANCE AND BONDS

§ A.3.1 General

§ A.3.1.1 Certificates of Insurance. The Construction Manager shall provide certificates of insurance acceptable to the Owner evidencing compliance with the requirements in this Article A.3 at the following times: (1) prior to commencement of the Work; (2) upon renewal or replacement of each required policy of insurance; and (3) upon the Owner's written request. An additional certificate evidencing continuation of commercial liability coverage, including coverage for completed operations, shall be submitted with the final Application for Payment and thereafter upon renewal or replacement of such coverage until the expiration of the periods required by Section A.3.2.1 and Section A.3.3.1. The certificates will show the Owner as an additional insured on the Construction Manager's Commercial General Liability and excess or umbrella liability policy or policies.

§ A.3.1.2 Deductibles and Self-Insured Retentions. The Construction Manager shall disclose to the Owner any deductible or self-insured retentions applicable to any insurance required to be provided by the Construction Manager.

§ A.3.1.3 Additional Insured Obligations. To the fullest extent permitted by law, the Construction Manager shall cause the commercial general liability coverage to include (1) the Owner, the Architect, and the Architect's consultants as additional insureds for claims caused in whole or in part by the Construction Manager's negligent acts or omissions during the Construction Manager's operations; and (2) the Owner as an additional insured for claims caused in whole or in part by the Construction Manager's negligent acts or omissions for which loss occurs during completed operations. The additional insured coverage shall be primary and non-contributory to any of the Owner's general liability insurance policies and shall apply to both ongoing and completed operations. To the extent commercially available, the additional insured coverage shall be no less than that provided by Insurance Services Office, Inc. (ISO) forms CG 20 10 07 04, CG 20 37 07 04, and, with respect to the Architect and the Architect's consultants, CG 20 32 07 04.

§ A.3.2 Construction Manager's Required Insurance Coverage

§ A.3.2.1 The Construction Manager shall purchase and maintain the following types and limits of insurance from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Construction Manager shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

(If the Construction Manager is required to maintain insurance for a duration other than the expiration of the period for correction of Work, state the duration.)

§ A.3.2.2 Commercial General Liability

§ A.3.2.2.1 Commercial General Liability insurance for the Project written on an occurrence form with policy limits of not less than One Million Dollars and Zero Cents (\$ 1,000,000.00) each occurrence, Two Million Dollars and Zero Cents (\$ 2,000,000.00) general aggregate, and Two Million Dollars and Zero Cents (\$ 2,000,000.00) aggregate for products-completed operations hazard, providing coverage for claims including

- .1 damages because of bodily injury, sickness or disease, including occupational sickness or disease, and death of any person;
- .2 personal injury and advertising injury;
- .3 damages because of physical damage to or destruction of tangible property, including the loss of use of such property;
- .4 bodily injury or property damage arising out of completed operations; and
- .5 the Construction Manager's indemnity obligations under Section 3.18 of the General Conditions.

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§ A.3.2.2.2 The Construction Manager's Commercial General Liability policy under this Section A.3.2.2 shall not contain an exclusion or restriction of coverage for the following:

- .1 Claims by one insured against another insured, if the exclusion or restriction is based solely on the fact that the claimant is an insured, and there would otherwise be coverage for the claim.
- .2 Claims for property damage to the Construction Manager's Work arising out of the products-completed operations hazard where the damaged Work or the Work out of which the damage arises was performed by a Subcontractor.
- .3 Claims for bodily injury other than to employees of the insured.
- .4 Claims for indemnity under Section 3.18 of the General Conditions arising out of injury to employees of the insured.
- .5 Claims or loss excluded under a prior work endorsement or other similar exclusionary language.
- .6 Claims or loss due to physical damage under a prior injury endorsement or similar exclusionary language.
- .7 Claims related to residential, multi-family, or other habitational projects, if the Work is to be performed on such a project.
- .8 Claims related to roofing, if the Work involves roofing.
- .9 Claims related to exterior insulation finish systems (EIFS), synthetic stucco or similar exterior coatings or surfaces, if the Work involves such coatings or surfaces.
- .10 Claims related to earth subsidence or movement, where the Work involves such hazards.
- .11 Claims related to explosion, collapse and underground hazards, where the Work involves such hazards.

§ A.3.2.3 Automobile Liability covering vehicles owned, and non-owned vehicles used, by the Construction Manager, with policy limits of not less than One Million Dollars and Zero Cents (\$ 1,000,000.00) per accident, for bodily injury, death of any person, and property damage arising out of the ownership, maintenance and use of those motor vehicles along with any other statutorily required automobile coverage.

§ A.3.2.4 The Construction Manager may achieve the required limits and coverage for Commercial General Liability and Automobile Liability through a combination of primary and excess or umbrella liability insurance, provided such primary and excess or umbrella insurance policies result in the same or greater coverage as the coverages required under Section A.3.2.2 and A.3.2.3, and in no event shall any excess or umbrella liability insurance provide narrower coverage than the primary policy. The excess policy shall not require the exhaustion of the underlying limits only through the actual payment by the underlying insurers.

§ A.3.2.5 Workers' Compensation at statutory limits.

§ A.3.2.6 Employers' Liability with policy limits not less than One Million Dollars and Zero Cents (\$ 1,000,000.00) each accident, One Million Dollars and Zero Cents (\$ 1,000,000.00) each employee, and One Million Dollars and Zero Cents (\$ 1,000,000.00) policy limit.

§ A.3.2.7 Jones Act, and the Longshore & Harbor Workers' Compensation Act, as required, if the Work involves hazards arising from work on or near navigable waterways, including vessels and docks.

§ A.3.2.8 If the Construction Manager is required to furnish professional services as part of the Work, the Construction Manager shall procure Professional Liability insurance covering performance of the professional services, with policy limits of not less than One Million Dollars and Zero Cents (\$ 1,000,000.00) per claim and One Million Dollars and Zero Cents (\$ 1,000,000.00) in the aggregate.

§ A.3.2.9 If the Work involves the transport, dissemination, use, or release of pollutants, the Construction Manager shall procure Pollution Liability insurance, with policy limits of not less than One Million Dollars and Zero Cents (\$ 1,000,000.00) per claim and One Million Dollars and Zero Cents (\$ 1,000,000.00) in the aggregate.

§ A.3.2.10 Coverage under Sections A.3.2.8 and A.3.2.9 may be procured through a Combined Professional Liability and Pollution Liability insurance policy, with combined policy limits of not less than (\$) per claim and (\$) in the aggregate.

§ A.3.2.11 Insurance for maritime liability risks associated with the operation of a vessel, if the Work requires such activities, with policy limits of not less than (\$) per claim and (\$) in the aggregate.

§ A.3.2.12 Insurance for the use or operation of manned or unmanned aircraft, if the Work requires such activities, with policy limits of not less than (\$) per claim and (\$) in the aggregate.

§ A.3.3 Construction Manager's Other Insurance Coverage

§ A.3.3.1 Insurance selected and described in this Section A.3.3 shall be purchased from an insurance company or insurance companies lawfully authorized to issue insurance in the jurisdiction where the Project is located. The Construction Manager shall maintain the required insurance until the expiration of the period for correction of Work as set forth in Section 12.2.2 of the General Conditions, unless a different duration is stated below:

(If the Construction Manager is required to maintain any of the types of insurance selected below for a duration other than the expiration of the period for correction of Work, state the duration.)

§ A.3.3.2 The Construction Manager shall purchase and maintain the following types and limits of insurance in accordance with Section A.3.3.1.

(Select the types of insurance the Construction Manager is required to purchase and maintain by placing an X in the box(es) next to the description(s) of selected insurance. Where policy limits are provided, include the policy limit in the appropriate fill point.)

- [] § A.3.3.2.1 Property insurance of the same type and scope satisfying the requirements identified in Section A.2.3, which, if selected in this Section A.3.3.2.1, relieves the Owner of the responsibility to purchase and maintain such insurance except insurance required by Section A.2.3.1.3 and Section A.2.3.3. The Construction Manager shall comply with all obligations of the Owner under Section A.2.3 except to the extent provided below. The Construction Manager shall disclose to the Owner the amount of any deductible, and the Owner shall be responsible for losses within the deductible. Upon request, the Construction Manager shall provide the Owner with a copy of the property insurance policy or policies required. The Owner shall adjust and settle the loss with the insurer and be the trustee of the proceeds of the property insurance in accordance with Article 11 of the General Conditions unless otherwise set forth below:

(Where the Construction Manager's obligation to provide property insurance differs from the Owner's obligations as described under Section A.2.3, indicate such differences in the space below. Additionally, if a party other than the Owner will be responsible for adjusting and settling a loss with the insurer and acting as the trustee of the proceeds of property insurance in accordance with Article 11 of the General Conditions, indicate the responsible party below.)

- [] § A.3.3.2.2 Railroad Protective Liability Insurance, with policy limits of not less than (\$) per claim and (\$) in the aggregate, for Work within fifty (50) feet of railroad property.
- [] § A.3.3.2.3 Asbestos Abatement Liability Insurance, with policy limits of not less than (\$) per claim and (\$) in the aggregate, for liability arising from the encapsulation, removal, handling, storage, transportation, and disposal of asbestos-containing materials.
- [] § A.3.3.2.4 Insurance for physical damage to property while it is in storage and in transit to the construction site on an "all-risks" completed value form.
- [] § A.3.3.2.5 Property insurance on an "all-risks" completed value form, covering property owned by the Construction Manager and used on the Project, including scaffolding and other equipment.
- [] § A.3.3.2.6 Other Insurance
(List below any other insurance coverage to be provided by the Construction Manager and any applicable limits.)

Coverage

Limits

Init.

The Construction Manager shall provide surety bonds, from a company or companies lawfully authorized to issue surety bonds in the jurisdiction where the Project is located, as follows:
(Specify type and penal sum of bonds.)

Penal Sum (\$0.00)

ARTICLE A.4 SPECIAL TERMS AND CONDITIONS

Init.

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(1160984646)

EXHIBIT "C"

Form of New Home Construction Agreement

55533676.3



EXHIBIT "C"

AMERICAN VILLAGE BUILDERS, LLC MASTER BUILDING CONSTRUCTION AGREEMENT

This Agreement made between **CITY OF PORTAGE** hereinafter referred to as the "City", a Michigan municipal corporation whose address is 7900 South Westnedge Avenue, Portage, MI 49002, hereinafter referred to as the "City" and **AMERICAN VILLAGE BUILDERS, LLC**, a Michigan limited liability company, whose address is 4200 West Centre Avenue, Portage, Michigan 49024, hereinafter referred to as the "Builder."

1. Construction of Homes. In consideration of the covenants and agreements herein contained, the City, who has title to all the property at 9617 Portage Road and 2010 Woodbine a proposed site condominium will be identified in the New Home Addendum (Exhibit "C"), incorporated herein by reference and made a part of this Agreement, hereby agrees to engage the Builder to construct and erect on said Building Site a home, according to the building and site plans and Contract specifications attached to the New Home Addendum, which the City will examine and approved and which are incorporated as part of this Agreement by reference.

2. Selections. All color and material selections will be proposed by Builder and approved by both City and Builder. All selections will be completed prior to commencement of construction.

City understands that upon approval of selections, materials are ordered, and the work is scheduled. Any changes in selections affecting prior approval by the City, will incur a minimum fee of \$200 for processing plus any restocking fees, trip charges, other fees, and delays in completion. Builder does not guarantee that any of the materials ordered are returnable and City is subject to paying for the original selected item along with the new selection.

3. Changes. No changes in the plans and specifications are to be made except upon written Addendum or Change Order, prior to any changes being made, signed by City, setting forth-detailed description of the change. Additions or deletions to the costs shall be provided to the City as soon as all associated costs are known. Builder's Supervision, Overhead and Fee shall be charged at the same rate at outlined in the Development and Construction agreement, for Addendums, Change Orders and cost adjustments to allowances item. Builder shall provide Addendums and Change Orders to City on a monthly basis. City shall review, sign, and return one (1) copy for the Builder's file within five (5) days after receipt of each Addendum and Change Order. Any additional cost shall be paid for upon Builder's monthly billings. Any changes, alterations, or extras from the plans or specifications, which may be required by any public body or inspector, which increase cost, shall constitute an extra and shall be added to the contract amount and shall not require written approval from City as stated above.

4. Payments. Total contract amount identified in the New Home Addendum shall be paid monthly in amounts by AVB as construction progresses and as agreed upon in accordance with the Master Development Agreement.

The Builder shall furnish proper waivers of lien and sworn statement to the City, to the extent of the progress payment authorized and shall indemnify, defend, and hold City harmless against any damages and losses arising out of the filing of any construction liens against subject property for all categories of work included in this Agreement as represented in the cost breakdown, as adjusted by Addendums and Change Orders. The Builder shall record in the Office of the Register of Deeds for the county in which the real property to be improved is located, a Notice of Commencement and provide the City with a copy of the same. City

may at City's expense, have the property surveyed or take such other action as City or City's Lender deems necessary to satisfy City as to the location of the improvements on and the boundaries of property.

5. Insurance. City shall obtain prior to the start of construction and maintain until the occupancy permit is issued, a Builders Risk coverage against loss or damage by fire, windstorm, vandalism, accidental losses, and all other hazards, in an amount equivalent to the completed construction value of the home(s). The Builder shall carry General Liability insurance of not less than One Million Dollars and no/100 (\$1,000,000.00) for Per Occurrence, General Aggregate, and Products-Completed Operations Aggregate. The Builder shall also carry Workmen's Compensation as required by law. Builder encourages City to contact their insurance agent to discuss general liability insurance as it relates to the property they own, including the site that the home will be constructed upon by Builder. As the property is City owned, the City will be responsible to carry their own liability insurance and other as recommend by their insurance carrier.

6. Commencement. The City understands the start of construction of the City's home(s) is contingent upon all contingencies being removed, trade contractor availability and weather conditions. Contingencies include but are not limited to the approval of the final construction drawings, completed selections, issuance of all required permits, and architectural approval. Both the City and the Builder will use their best efforts to remove all contingencies in a timely manner. Builder agrees to commence excavation of said building after all contingencies are cleared and when trade contractors are available. The Builder's Project Manager will keep City updated on the construction schedule.

7. Completion. The anticipated completion of said building in a good workmanlike manner in quality equal to the standards of the industry (together with the final Certificate of Occupancy) is approximately one hundred eighty (180) calendar days (not including holidays) after Builder has started excavation. Anticipated schedule shall be finalized by Builder and reviewed with City during the excavation/foundation phase of construction. When Builder shall be prevented from commencing or completing such building by reason of change in plans or specifications requested by the City or other acts of the City, weather conditions, permits issued, strikes, storms, lightning, hail, flood or similar occurrences, damages caused by riot, civil commotion, vandalism, theft, war, fire, or any other conditions or occurrences whether similar to the foregoing or not which are not within the control of the Builder, the completion date shall be extended. Builder shall keep a schedule updated on a regular basis available for the City's review. Builder shall attempt to inform City of schedule extensions. In the event commencement or completion of the building is delayed by reason of change in plans or specifications requested by the City or other acts of the City occurring during the contract period and by reason of such delay the cost of labor and materials are increased over original contract price, the increased cost may be charged as an extra. Builder shall furnish copies of invoices or other documentary evidence to verify such increased costs upon City's request. The Builder shall be the authority for the proper usage, arrangement, and placement of fixtures, equipment, and materials in accordance with recognized standards. Slight deviations from plans and specifications shall be accepted as substantial compliance with this Agreement.

8. City's Right to Inspect. City agrees that the direction and supervision of the working forces, including subcontractors, rests exclusively with the Builder and City agrees not to issue any instructions directly to or otherwise interfere with it. The City shall at all reasonable times during working hours have the right to inspect the work. Builder shall not be responsible for any injury to the City during said inspections. The City further agrees neither to negotiate for additional work with the subcontractors nor to engage other Builders or subcontractors except with the Builder's prior consent and in such manner as will not interfere with the Builder's completion of work under this Agreement.

9. Utilities. The City agrees that the water, gas, and electric meters when installed will be in their name and will be responsible for all utility billings during the construction period.

10. Work Stoppage. If the work shall be stopped by the order of the City, through no fault of the Builder, City shall pay Builder for all work performed. If the City fails to make payments or sign and return Change Orders as herein agreed, Builder shall have the right to stop work until such payments or Change Orders are received by Builder.

11. Physical Possession. Physical possession of improvements to said real estate shall be deemed to have been surrendered by the City to the Builder as of the time work is commenced hereunder and to continue in possession of said Builder until said work is completed. The City shall not be entitled to occupancy of said premises or any part thereof until all moneys owed Builder are paid in full as outlined in Exhibit C, New Home Addendum as adjusted as to additions, deductions, and any other extras during the time of this Agreement, if any, have been determined and paid in full. If the City shall occupy prior to completion and before final payments of monies due to the Builder under this Agreement, the Builder, at his option, may construe such occupancy as acceptance of all the work performed by the Builder to such date and the amount of the entire agreement shall become immediately payable less the amount of the Builder cost to complete said work relieving Builder of further responsibility to complete said work; or, the City shall take possession of the premises in derogation of the Builder's right thereto prior to payment in full of the agreement price adjusted as herein above set forth, City shall become liable for payment to the Builder as liquidated damages for use and occupancy of said premises, the sum of One Hundred Dollars and no/100 (\$100.00) per day during such period as the City wrongfully remains in possession thereof without payment in full.

12. Special Conditions. Final Construction Drawings shall be reviewed and approved by City & Builder prior to the commencement of construction. Any changes incorporated into the construction drawings that are not included in the contract drawings or specifications shall be reviewed and approved by Addendum to this agreement. After such approval, any charges for Architectural services required as a result of City-requested additions, changes and modifications to the plan that are not specified herein, shall be added to the contract amount.

13. Contract Documents. The Contract Documents, except for Modifications issued after execution of this Agreement and each New Home Addendum with associated specific documents as may be issued later, are enumerated as follows:

1. This Agreement
2. Insurance limitations (Exhibit "A")
3. Mold Notice and Waiver (Exhibit "B")
4. New Home Addendum (Exhibit "C")
5. Notice of Commencement (Exhibit "D")
6. New Home Warranty (Exhibit "E")

14. Prevalence. If a discrepancy occurs in the drawings and specifications, it's agreed by City and Builder that the specifications will prevail.

15. Binding Effect. This Agreement expresses all agreements between the parties concerning the subject matter hereof and supersedes all previous understandings relating thereto, whether oral or written, and shall be binding upon and shall inure to the benefit of the heirs, administrator, executors, successors and assignees of the parties hereto.

16. Benefit of Agreement. The terms of this Agreement shall be binding upon and inure to the benefit of the assigns, heirs, agent and representatives of the parties hereto.

17. Usage of Terms. The pronouns and relative words herein used shall be construed respectively to include the masculine, feminine, and neuter genders and the singular and plural numbers unless the contract indicates a contrary intention.

18. Facsimile and Email. The parties agree that this agreement may be executed by facsimile or in counter parts, and that all counterparts together, with or without facsimile signatures shall constitute one integrated agreement and be deemed an original document. Email approvals of addendums, Change Orders and other documents during the building process shall constitute integration into this agreement and be deemed an original document.

19. Captions. The captions of this Agreement are for the convenience of the parties and shall not be considered as a material part hereof.

20. Partial Invalidity. The invalidation of any portion of this Agreement shall not affect the validity of the remainder.

Builder MAKES NO WARRANTY OF MERCHANTABILITY OR HABITABILITY. Builder MAKES NO WARRANTIES EXCEPT THOSE THAT ARE EXPRESSLY SET FORTH IN THIS AGREEMENT.

*A Residential Builder is required to be licensed under Article 24 of Act ***229 of the Public Acts of 1980, as amended, being S339.2401 to 339.2412 of the Michigan Compiled Laws. That an electrician is required to be licensed under Acts 217 of the Public Acts of 1956, as amended, being S338.881 to 338.892 of the Michigan Compiled Laws. That a plumber is required to be licensed under Acts 266 of the Public Acts of 1929, as amended, being S338.901 to 338.917 of the Michigan Compiled Laws. American Village Builders, LLC is so licensed as a Residential Builder, License # 2102185971.

EXHIBIT A
Insurance Limitations



AMERVIL-02

SDAVIDSON

CERTIFICATE OF LIABILITY INSURANCEDATE (MM/DD/YYYY)
2/5/2024

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER
The Nulty Agency, Inc.
5579 Stadium Drive
Kalamazoo, MI 49009

CONTACT Nulty CertificatesPHONE
(A/C, No, Ext): (269) 372-9200FAX
(A/C, No):E-MAIL
ADDRESS: certs@nulty.com

INSURER(S) AFFORDING COVERAGE

NAIC #

INSURER A: EMCASCO Insurance Company

21407

INSURER B: EMC Insurance Companies

INSURER C: Employers Mutual Casualty Company

21415

INSURER D: Michigan Insurance Company

10857

INSURER E:

INSURER F:

INSURED

AVB Homes
4200 West Centre Ave
Portage, MI 49002

COVERAGES**CERTIFICATE NUMBER:****REVISION NUMBER:**

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR			6D50923	12/31/2023	12/31/2024	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 10,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMPROP AGG \$ 2,000,000
B	☒ AUTOMOBILE LIABILITY ☒ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY			6E50923	12/31/2023	12/31/2024	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
C	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE DED ☒ RETENTION \$ 0			6J50923	12/31/2023	12/31/2024	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000
D	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in MI) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	1000015485	12/31/2023	12/31/2024	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

CERTIFICATE HOLDER**CANCELLATION**

Sample Certificate For Informational Purposes Only

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

ACORD 25 (2016/03)

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EXHIBIT B
Mold Notice and Waiver

What Homeowners Should Know about Mold

Mold. Lately, mold has been in the news. Mold is a type of fungus. It occurs naturally in the environment, and it is necessary for the natural decomposition of plant and other organic material. It spreads by means of microscopic spores borne on the wind and is found everywhere life can be supported. Residential home construction is not, and cannot be, designed to exclude mold spores. If the growing conditions are right, mold can grow in your home. Most homeowners are familiar with mold growth in the form of bread mold, and mold that may grow on bathroom tile.

In order to grow, mold requires a food source. This might be supplied by items found in the home, such as fabric, carpet or even wallpaper, or by building materials, such as drywall, wood and insulation, to name a few. Also, mold growth requires a temperate climate. The best growth occurs at temperatures between 40^N F and 100^N F. Finally, mold growth requires moisture. Moisture is the only mold growth factor that can be controlled in a residential setting. By minimizing moisture, a homeowner can reduce or eliminate mold growth.

Moisture in the home can have many causes. Spills, leaks, overflows, condensation, and high humidity are common sources of home moisture. Good housekeeping and home maintenance practices are essential in the effort to prevent or eliminate mold growth. If moisture is allowed to remain on the growth medium, mold can develop within 24 to 48 hours.

Consequences of mold. All mold is not necessarily harmful, but certain strains of mold have been shown to have adverse health effects in susceptible persons. The most common effects are allergic reactions, including skin irritation, watery eyes, runny nose, coughing, sneezing, congestion, sore throat and headache. Individuals with suppressed immune systems may risk infections. Some experts contend that mold causes serious symptoms and diseases which may even be life threatening. However, experts disagree about the level of mold exposure that may cause health problems, and about the exact nature and extent of the health problems that may be caused by mold. The Center for Disease Control states that a causal link between the presence of toxic mold and serious health conditions has not been proven.

What the Homeowner can do. The homeowner can take positive steps to reduce or eliminate the occurrence of mold growth in the home, and thereby minimize any possible adverse effects that may be caused by mold. These steps include the following:

1. Before bringing items into the home, check for signs of mold. Potted plants (roots and soil), furnishings, or stored clothing and bedding material, as well as many other household goods, could already contain mold growth.
2. Regular vacuuming and cleaning will help reduce mold levels. Mild bleach solutions and most tile cleaners are effective in eliminating or preventing mold growth.
3. Keep the humidity in the home low. Vent clothes dryers to the outdoors. Ventilate kitchens and bathrooms by opening the windows, by using exhaust fans, or by running the air conditioning to remove excess moisture in the air, and to facilitate evaporation of water from wet surfaces.
4. Promptly clean up spills, condensation, and other sources of moisture. Thoroughly dry any wet surfaces or material. Do not let water pool or stand in your home. Promptly replace any materials that cannot be thoroughly dried, such as drywall or insulation.
5. Inspect for leaks on a regular basis. Look for discolorations or wet spots. Repair any leaks promptly. Inspect condensation pans (refrigerators and air conditioners) for mold growth. Take notice of musty odors, and any visible signs of mold.

EXHIBIT C
New Home Addendum

New Home Unit No.:__

The following information shall be incorporated into the terms and conditions of the Master Construction Agreement (“Master Agreement”) between City of Portage, as “City” and American Village Builders, LLC, as “Builder” dated _____, 2024. Terms not otherwise defined herein shall have the meaning ascribed to them in the Master Agreement. The terms and conditions of this New Home Amendment shall, to the extent, in conflict with the Master Agreement, supersede and control any provision of the Master Agreement but only with respect to this particular unit identified above.

New Project Information.

1. Address:
2. Legal Description: Unit #__
3. Contract Amount (construction only): _____
4. Exterior Color Package: _____
5. Interior Selections and Color Package: _____
6. Floor plan Attached hereto as Appendix A:
7. Building Specifications. Attached hereto as Appendix B.
8. Site Plan. Attached hereto as Appendix C.

Date for Commencement of Construction of Construction Services:

The parties hereto, agreeing to the terms above and incorporating by reference the attached Appendices, have caused this Addendum to be executed on this _____ day of _____, 2024, by their duly appointed officers.

City of Portage,
a Michigan Municipal Corporation

American Village Builders, LLC,
a Michigan limited liability company

By:

By: Jack S. Gesmundo

Its:

Its: Principal

6. Should mold develop, thoroughly clean the affected area with a mild solution of bleach. First, test to see if the affected material or surface is color safe. Porous materials, such as fabric, upholstery or carpet should be discarded. Should the mold growth be severe, call on the services of a qualified professional cleaner.

Waiver

Whether or not you as a Homeowner experience mold growth depends largely on how you manage and maintain your home. Our responsibility as a Seller and/or Home Builder must be limited to things that we can control. As explained in our written limited warranty, provided by separate instrument, we will repair or replace defects in our construction (defects defined as a failure to comply with reasonable standards of residential construction) for a period of (1) year.

Notwithstanding the limited one (1) year warranty set forth herein, the Homeowner acknowledges that the Seller and/or Home Builder will not be responsible for any damages, costs, or expenses caused by mold, or by some other agent, that may be associated with or caused by the Seller and/or Home Builder's construction, including, but not limited to, property damage, personal injury, loss of income, emotional distress, death, loss of use, loss of value, and adverse health effects, or any other effects. ALL OTHER EXPRESS OR IMPLIED WARRANTIES, OTHER THAN THE LIMITED WARRANTY SET FORTH HEREIN, INCLUDING AN IMPLIED WARRANTY OF WORKMANLIKE CONSTRUCTION, AN IMPLIED WARRANTY OF HABITABILITY, OR AN IMPLIED WARRANTY OF FITNESS FOR A PARTICULAR USE, PURPOSE, OR MERCHANTABILITY ARE HEREBY WAIVED AND DISCLAIMED.

EXHIBIT D
Notice of Commencement

KNOW ALL MEN BY THESE PRESENTS THAT: City of Portage, by its authorized _____, _____, the undersigned, being duly sworn, gives notice:

1. To lien claimants and subsequent City's:

Take notice that work is about to commence on an improvement to the real property described in this instrument. A person having a construction lien may preserve the lien by providing a notice of furnishing to the above-named designee and the general contractor, if any, and by timely recording a claim of lien, in accordance with law.

A person having a construction lien arising by virtue of work performed on this improvement should refer to the name of the City or lessee and the legal description appearing in this notice. A person subsequently acquiring an interest in the land described is not required to be named in a claim of lien.

A copy of this notice with an attachment form for notice of furnishing may be obtained upon making a written request by certified mail to the above-named City or lessee; the designee; or the person with whom you have contracted.

2. City or lessee of real property contracting for improvement:

Name: City of Portage
Address: 7900 South Westnedge Avenue,
Portage, MI 49002

Capacity: Owner

3. Fee City of the real property:

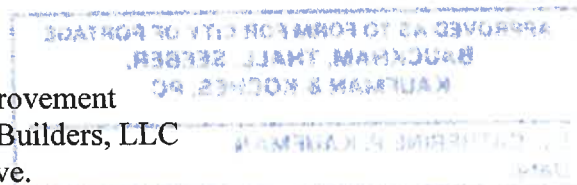
Name:
Address:

4. City or lessee's designee:

Name:
Address:

5. General Contractor to be making the improvement

Name: American Village Builders, LLC
Address: 4200 W. Centre Ave.
Portage, Michigan 49024
Nature of improvement: new home construction



6. The legal description of the real property on which the improvement is to be made is as follows:

Unit #

Verification of the truth and accuracy of the statements and contents of this NOTICE OF COMMENCEMENT is hereby made as required by Section 108(2) of P.A. 1980, No. 497, as amended.

Signed this ____ day of _____, 2024.

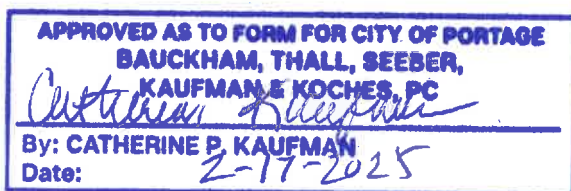
STATE OF MICHIGAN)
) ss.
COUNTY OF _____)

I, _____, a Notary Public of the County and State first above written, do hereby certify that _____, _____ of City of Portage, personally appeared before me on this ____ day of _____, 2024, and acknowledged the due execution of the foregoing instrument.

_____, Notary Public
County of _____, State of Michigan
My commission expires: _____
Acting in Kalamazoo County.

This instrument drafted by, and when recorded please return to:

Jack S. Gesmundo
4200 W. Centre Ave.
Portage, MI 49024



WARNING TO THE HOMECITY

Michigan law requires that you do the following:

- 1. Complete and return this form to the person who asked for it within 10 days after the date of the postmark on the request.**
- 2. If you do not complete and return this form within the 10 days, you may have to pay the expenses incurred in getting the information.**
- 3. If you do not live at the site of the improvement, you *must* post a copy of this form in a conspicuous place at that site.**

You are not required to, but *should*, do the following:

- 1. Complete and post a copy of this form at the place where the improvement is being made even if you live there.**
- 2. Make and keep a copy of this form for your own records**

EXHIBIT E
New Home Express Limited Warranty

AVB Homes, hereafter referred to as “AVB”, whose address is 4200 W. Centre Ave., Portage, Michigan, BUILDERS License No. 2102185971, extends the following one-year limited warranty to <CITY's name>, hereafter referred to as “CITY”, for the home located at <address> (the “Residence”). This warranty will commence on the date that the occupancy permit is issued and shall extend for a period of one year.

1. **COVERAGE ON HOME EXCEPT CONSUMER PRODUCTS:** AVB expressly warrants to the original CITY and to subsequent CITY of the home that the home will be free from defects in materials and workmanship due to noncompliance with the standards set forth in this One-year Limited Warranty and in the Homeowners Manual Section 6: Caring for your home, in effect on the date of this warranty, which are attached and part of this warranty.

Examples of items which are not consumer products under the Magnuson-Moss Warranty Act when sold as part of a new home and are therefore covered by this Express Limited Warranty are:

- Heating ducts and registers
- Electrical panel, circuit breakers, and wiring
- Plumbing fixtures (tubs, sinks, and toilets), faucets, fittings, water lines
In addition, drain lines
- Cabinets, vanities, and countertops
- Fireplace and chimney
- Windows
- Floor coverings
- Foundations
- Floor, wall, and roof structure
- Deck structure

These are examples only. In general, if the item has a function separate and apart from the house, it is likely to be considered a consumer product.

AVB also warrants the adequacy and sufficiency of the plans. AVB warrants all work and material supplied in constructing the Residence will conform to all applicable building codes in force at the time the work is completed or materials are installed.

2. **COVERAGE ON CONSUMER PRODUCTS:** For purposes of this Limited Warranty Agreement, the term “consumer products” means all appliances, equipment, and other items which are consumer products for the purposes of the Magnuson-Moss Warranty Act (15 U.S.C. §2301 *et seq.*) and which are located in the home on the commencement date of the warranty. Examples of such appliances and equipment are: dishwasher, microwave, range, oven, garbage disposal, hot water heater, water softener, air conditioner, electronic air cleaner, furnace, garage door operators, humidifier, thermostat, alarm systems, whirlpool, and in-ground sprinkling system. (This list is not all-inclusive).

It is the CITY’S responsibility to properly fill out and mail any manufacturers’ warranty for appliances and equipment installed during construction. AVB hereby assigns to CITY all rights under manufacturers’ warranties covering consumer products. Defects in items covered by manufacturers’ warranties are excluded from coverage of this limited warranty, and CITY should follow the procedures in the manufacturers’ warranties to make a claim if defects appear in these items.

3. AVB'S OBLIGATIONS: If a covered defect in materials or workmanship occurs during the one-year warranty period, AVB agrees to repair or replace, as it deems necessary, the defective item. Any steps taken by AVB to correct defects shall not act to extend the term of this warranty. All repairs by AVB shall be at no charge to the CITY and shall be performed within a reasonable length of time. Any item that may affect the health or safety of the occupants or problems that may cause continuing damage to the structure will be brought to the attention of AVB by the CITY, who will promptly take care of the item or problem.

4. CITY'S OBLIGATIONS: CITY must provide normal maintenance and proper care of the home according to this warranty, the warranties of manufacturers of consumer products, and generally accepted standards in the State of Michigan. The CITY must notify AVB of the existence of any defect before AVB is responsible for the correction of that defect. Notice of a defect must be received by AVB prior to the expiration of the warranty on that defect and no action at law or in equity may be brought by CITY against AVB for failure to remedy or repair any defect about which AVB has not received timely notice. CITY must provide access to AVB during normal business hours to inspect the defect reported and, if necessary, to take corrective action.

5. INSURANCE: In the event AVB repairs or replaces or pays the cost of repairing or replacing any defect covered by this warranty for which the CITY is covered by insurance or a warranty provided by another party, CITY must, upon request of AVB, assign the proceeds of such insurance or other warranty to AVB to the extent of the cost to AVB of such repair or replacement.

6. CONSEQUENTIAL OR INCIDENTAL DAMAGES: This Express Limited Warranty will not cover any consequential or incidental damages to persons or property which City may suffer as a result of any defect in the home which is otherwise within coverage of this Express Limited Warranty. In addition, this warranty only extends to the actual cost to repair or replace covered items.

The CITY'S sole remedy, and AVB'S sole obligation, as to any defect in accordance with AVB Homes Homeowners Manual Section 6 and this New Home Express Limited Warranty, at AVB'S option, to repair or replace the item, provided such repair or replacement is completed within a reasonable time. Notwithstanding the preceding, if AVB is unable or refuses to repair or replace such items, fails to complete such repair or replacement within a reasonable time, or, after 3 attempts to repair or replace such item, the defect continues, CITY will have any remedy available at law or equity.

7. OTHER EXCLUSIONS: THE FOLLOWING ADDITIONAL ITEMS ARE NOT COVERED BY THIS LIMITED WARRANTY:

- a. Defects in or damage to any item which was not part of the original home as constructed by AVB.
- b. Any defect caused by or worsened by negligence, misuse, abuse, alterations, improper maintenance, lack of maintenance, improper action or inaction, willful or malicious acts by any party other than AVB, its employees, agents, or subcontractors. AVB encourages CITY to call and discuss any specific maintenance problems CITY may have.
- c. Damages due to normal wear and tear of the home or consumer products in the home.
- d. Loss or damage caused by acts of God, including but not limited to fire, explosion, smoke, water escape, changes which are not reasonably foreseeable in the level of underground water table, glass breakage, windstorm, hail, lightning, falling trees, aircraft, vehicles, flood, earthquakes, and electrical malfunctions.
- e. Any defect or damage caused by changes in the grading or drainage patterns or groundwater conditions or changes which appear that are were not present during the excavation and construction of the home or by excessive watering of the ground of the CITY'S property or adjacent property by any party other than AVB, its employees, agents, or subcontractors.

TO: Honorable Mayor and City Council

FROM: Pat McGinnis, City Manager

SUBJECT: City of Portage liaison to Kalamazoo County Central Dispatch Authority (KCCDA)
Board of Directors

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

ACTION RECOMMENDED: Appoint Public Safety Director Nicholas Arnold as the second City of Portage liaison to the Kalamazoo County Central Dispatch Authority (KCCDA) Board of Directors to replace Councilmember Ledbetter.

Beginning in November of 2014 under the *Interlocal Agreement Creating the Kalamazoo County Consolidated Dispatch Authority (KCCDA)*, a Governing Board of Directors was established consisting of thirteen voting members from the nine appointed agencies in the Authority. The City of Portage is responsible for designating two members, as selected by City Council, which is currently filled by Councilmember Vic Ledbetter and the City Manager.

Mayor Pro Tem Pearson was the first appointee in 2014 following his service on the Consolidated Dispatch Steering Committee, followed by Councilmember Vic Ledbetter in light of his public safety background. Per the *Interlocal Agreement*, a member may be replaced by the individual appointing agency and will fill the remainder of the existing term. All members serve without compensation.

As such, it is recommended that the Council appoint Public Safety Director Nicholas Arnold as the second City of Portage liaison to the Kalamazoo County Central Dispatch Authority (KCCDA) Board of Directors to replace Councilmember Ledbetter.

FUNDING: Not applicable

Attachments: None

TO: Honorable Mayor and City Council

FROM: Pat McGinnis, City Manager

SUBJECT: Fiscal Year 2024-2025 Proposed Budget Review Schedule

SUPPORTING PERSONNEL: Lauren VanderVeen, Finance Director

ACTION RECOMMENDED: Establish April 23, 2024, from 2:00 to 5:30 p.m. and May 7, 2024, from 2:00 to 5:30 p.m. (if needed) for review of the proposed Fiscal Year 2024-2025 Budget.

City Council will receive the proposed Fiscal Year 2025-2026 budget on April 15, 2025. The budget review schedule has been developed to permit a review of all budget aspects. The first budget review session is proposed for Tuesday, April 29, 2025, at 2:00 p.m. in Conference Room #1 of Portage City Hall. If necessary, a second budget review session is proposed for Tuesday, May 13, 2025, at 2:00 p.m. in Conference Room #1.

Further, a public hearing on the proposed budget will be held during the May 13, 2025, regular meeting of the City Council, with formal adoption scheduled for May 27, 2025. The review sessions, the public hearing, and other Council meetings will provide ample opportunity for City Council analysis and public comment. It is therefore recommended that City Council establish April 29, 2025, from 2:00 to 5:30 p.m. and May 13, 2025, from 2:00 to 5:30 p.m. (if needed) for review of the proposed Fiscal Year 2025-2026 Budget.

FUNDING: N/A

Attachments: None

TO: Honorable Mayor and City Council

FROM: Pat McGinnis, City Manager

SUBJECT: Board & Commission Interviews

SUPPORTING PERSONNEL: Erica Eklov, City Clerk

ACTION RECOMMENDED: Set a Special Meeting for Tuesday, May 27, 2025, at 4:00 p.m. to review Board and Commission applicants.

The City of Portage relies on citizen participation on many Boards and Commissions that help serve the community. The advice received from these groups assists the City Council and City Administration in making Portage *A Natural Place to Move!* These citizens provide the talent and experience needed to meet the community's diverse challenges. Interviews of Board and Commission applicants are performed each year in January, May, and October.

Per the City Council Policy for Appointments to Citizen Advisory Boards, the Council will interview applicants to fill vacancies on the following Boards and Commissions.

- Youth Advisory Committee (30 expiring terms)
- Construction Board of Appeals (3 expiring terms)
- Environmental Board (1 vacancy)
- Local Officers Compensation Commission (1 vacancy)
- Planning Commission (3 vacancies)

In light of the large number of positions to interview, it is recommended that the City Council set a Special Meeting on May 27 beginning at 4:00 p.m. to interview applicants for these Boards and Commissions.

FUNDING: N/A

Attachments: None

Minutes of Boards & Commissions

CITY OF PORTAGE BROWNFIELD REDEVELOPMENT AUTHORITY

Friday, October 25, 2024

8:00 AM

**Portage City Hall, Conference Room 1
7900 S. Westnedge Ave, Portage MI 49002**

The City of Portage Brownfield Redevelopment Authority meeting of September 19, 2024, was called to order by Chair Lewandowski at 8:33 am.

In Attendance

Board: Vice Chair Eric Alburtus (yes), Todd Campbell (yes), Bradley Galin (excused), Karen Gallagher (yes), John Herberg (yes), Michelle Karpinski (no), Secretary/Treasurer William Lenehan (no), Chair Keith Lewandowski (yes), Jeff Monroe (no).

Staff: Jonathon Hallberg, Deputy Director of Economic Development; Peter Dame, Chief Development Officer

Guests: Rick Freiman, Planning Commissioner

Introductions

Introduction of Authority members, staff, and guests was conducted. The board also reviewed the agenda.

Approval of Minutes

Motion by Gallagher, seconded by Alburtus, to approve the BRA Meeting Minutes of September 19, 2024, as submitted. Motion carried, 5-0.

Staff Report – The Staff Report was moved to the end of the board agenda before Statement of Citizens.

Old Business - none

New Business

1. Approval of 2024 Brownfield Policy Update

Hallberg outlined the changes to the 2022 Brownfield Policy being recommended by staff. Board members and audience members made the following observations and recommendations:

- A. Hallberg shared an email from Rick Frieman regarding adding the City's resolution on the climate crisis to the list of key plans noted in the policy. Frieman elaborated on how a solar array paid for with Brownfield TIF capture might be a possible solution for creating a viable use on an otherwise contaminated site. The board members agreed that, if a viable project was proposed, there would be no reason for them not to consider the

application, and that not specifically referencing the resolution in question would not materially affect the policy as presented.

- B. At the board's request, staff reviewed which recommended changes to the policy came as a result of suggestions by other community representatives.
- C. Under item "6.f., Promote Utilization of Multimodal Transportation", Gallagher asked whether the board wanted to suggest requiring an applicant to address two listed issues, raising concerns that the category may be easy to qualify for and that it represents an investment criterion for extra benefit. The board directed Hallberg to add language indicating that the improvement must be both "substantial and justified by the developer."
- D. Herberg recommended that the same language be added to "6.j., Site Amenities", and the board agreed.
- E. Chair Lewandowski asked why, under "1.n", the applicant had to be a U.S. citizen. Campbell shared it is difficult to prosecute or otherwise hold accountable a person who has left the country. Dame stated it may be possible for a non-citizen to be represented by an accountable person who is a U.S. citizen. The board directed staff to check with legal counsel on whether adding "permanent legal resident non-citizen" would be a permitted addition to this section of the policy.

Motion by Campbell, seconded by Albertus, to recommend approval of the updates to the Brownfield Redevelopment Incentive Policy as amended, subject to review and alteration as required by the City Attorney regarding Section 1.n. Gallagher asked what the board should do if legal counsel recommends against the change. Staff proposed that the board should accept legal counsel's recommendation and the board agreed. Chair Lewandowski directed Hallberg to email the board with the document as amended and indicate to the board what legal counsel decided.

Motion carried, 5-0.

Staff Report –

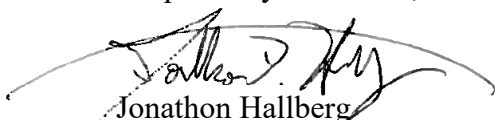
Hallberg shared the most recent TIF capture report for summer taxes. The board agreed to table any further presentations until the next meeting.

Statements of Citizens: none

Adjournment:

Motion by Herberg, seconded by Gallagher, to adjourn. Motion carried, 5-0. The meeting was adjourned at 9:34 am.

Respectfully submitted,


Jonathon Hallberg
Deputy Director of Economic Development



Kalamazoo County Board of Commissioners

RESOLUTION

WHEREAS Kalamazoo County (the "County") organized the Central County Transportation Authority (the "Authority" or "CCTA") as a public transit authority under Public Act 196 of 1986 ("Act 196") by filing Articles of Incorporation (the "Articles"), and the Articles include the geographic boundary of the Authority and Precinct List as EXHIBIT A, and

WHEREAS at the request of the CCTA, the County Board of Commissioners is hereby amending the CCTA Articles of Incorporation to establish the new geographic boundary for the Authority in order to add Precinct 1 in Comstock Township, and

WHEREAS the Comstock Township Board approved the proposed boundary change at its regular meeting held January 6, 2025, and

WHEREAS an amendment to the CCTA Articles of Incorporation is necessary in order to replace EXHIBIT A with a new EXHIBIT A to reflect the new Precinct List and Boundary Map.

IT IS HEREBY RESOLVED:

1. That The Kalamazoo County Board of Commissioners approves an amendment to the Articles of Incorporation for the Central County Transportation Authority to replace the current Exhibit A attached to the Articles (Precinct List and Boundary Map) with the Exhibit A attached to this Resolution in order to include Precinct 1 in Comstock Township, and
2. That the County Clerk is authorized and directed to take all actions appropriate to sign the amendment to the Articles, file it in the same manner that the original Articles must be filed and published and take all other steps necessary to effectuate this Resolution. The County Clerk shall also send a copy of this Resolution to the Authority, the Kalamazoo County Transportation Authority, and each jurisdiction originally included within the boundaries of the Authority.

The undersigned certifies that the County Board of Commissioners adopted the above Resolution on 4th March 2025

Meredith Place, County Clerk/Register of Deeds

Exhibit A - Page 1 of 2

Updated 03/04/25

Precinct List

This is a list of all voting precincts that are in the boundaries of the Authority.

City of Kalamazoo - All Precincts

City of Parchment - All Precincts

City of Portage - All Precincts

Comstock Township – All Precincts

Kalamazoo Township - All Precincts

Oshtemo Township #03

Oshtemo Township #04

Oshtemo Township #05

Oshtemo Township #06

Oshtemo Township #07

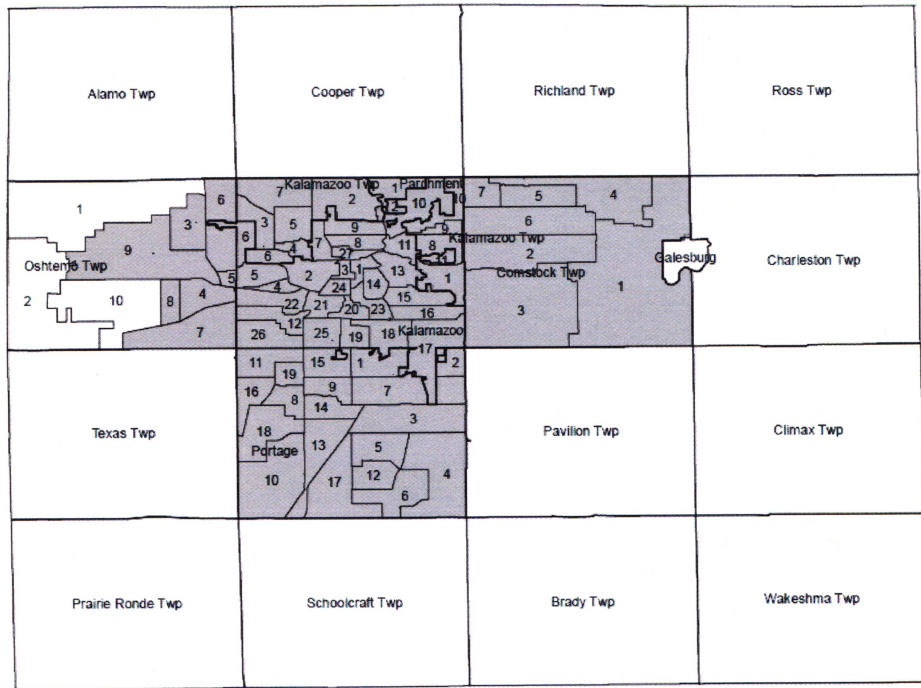
Oshtemo Township #08

Oshtemo Township #09

Exhibit A - Page 2 of 2

Updated 03/04/25

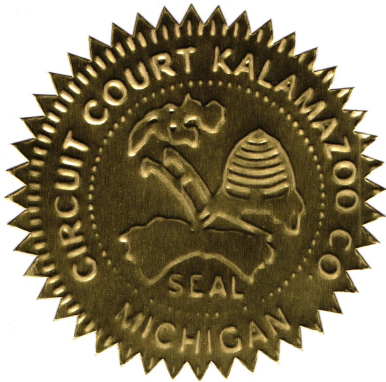
Central County Transportation Authority Boundary Map

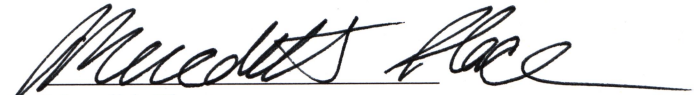


STATE OF MICHIGAN)
)SS
COUNTY OF KALAMAZOO)

I, Meredith Place, the duly qualified and acting Clerk of Kalamazoo County, Michigan (the "County") do hereby certify that the foregoing is a true and complete copy of a resolution adopted by the Board of Commissioners at a meeting held on this 4th day of March, 2025. Public notice of said meeting was given pursuant to and in compliance with Act No. 267 of the Public Acts of Michigan of 1976, as amended.

IN WITNESS WHEREOF, I have hereunto affixed by signature this 5 Day of March 2025.




Meredith Place
County Clerk/Register of Deeds

TO: Honorable Mayor and City Council

FROM: Pat McGinnis, City Manager

SUBJECT: West Lake Weed Management – 2025 to 2029 Application Program

SUPPORTING PERSONNEL: Kendra Gwin, Director of Transportation & Utilities

ACTION RECOMMENDED: Subsequent to the public hearing, consider adopting Resolution No. 3, for the West Lake Management Program Special District No. 025-Q.

The West Lake Improvement Association (Association) has requested city assistance in creating a new five-year assessment district for the management of aquatic plants in West Lake. West Lake Weed Management assessment programs were approved by City Council in 1988, 1993, 1999, 2005, 2010, 2015, and 2019. It is the desire of the West Lake residents, as indicated in the attached letter from the Association, to continue current lake management efforts. Maintenance efforts in the past have concentrated on herbicide treatment of the lake for control of nuisance aquatic plants. The project account balance as of June 30, 2024, was \$103,839 plus a \$19,100 Fall 2024 installment from the previous five-year program.

The Association has requested a five-year budget of approximately \$242,550. Utilizing a portion of the available funds in the project account reduces the anticipated five-year assessment of the management program to \$153,900 (\$135 per parcel per year). As in previous five-year programs, the Association has requested the city participate in the management plan in the amount of 20% of the anticipated funding of the five-year program, or \$38,475, with the riparian owners funding 80% of the program. At the Association's request, this amount would be assessed to lake riparians on a per-parcel basis, consistent with the approach used since the establishment of the assessment district in 1999. Per-parcel assessment is preferred by the Association because all riparian owners have the right to use the lake equally, regardless of lot size.

The five-year management plan for West Lake includes herbicide treatment and mechanical harvesting of lake aquatic plants. In 1988, the City Attorney and Bond Counsel determined that control of aquatic plants as part of an overall lake management program represented a public improvement and that a special assessment district could be established as permitted by City Charter and Ordinances. Protecting city resources is appropriate as lakes provide an overall benefit to the quality of life in the city. The city share cost would be funded within the Capital Improvement Program.

On February 11, 2025, City Council adopted Resolution No. 1, accepted the City Manager Report, and requested the preparation of Resolution No. 2. On February 25th, the City Council adopted Resolution No. 2, for the West Lake Management Program Special Assessment District No. 025-Q, and set the public hearing of necessity for March 11, 2025. Therefore, it is recommended that, subsequent to the public hearing, the City Council consider adopting Resolution No. 3, for the West Lake Management Program Special District No. 025-Q.

FUNDING: The project is funded through Special Assessment of the benefiting property owners.

Attachments:

1. West Lake Improvement Association Letter
2. Resolution No. 3 West Lake Special Assessment 2025-2029

West Lake Improvement Association



January 7, 2025

Kendra Gwin
Transportation & Utilities Department
City of Portage
7900 South Westnedge
Portage, MI 49024

RE: West Lake 2025-2030 Special Assessment District

Dear Ms. Gwin,

The purpose of this letter is a request to initiate a new special assessment district for the riparian property owners on West Lake for the purpose of a continued successful treatment of the lake to control weed growth, control storm drainage and promote the general health of the lake for the benefit of all Portage residents.

Our Board wants to thank you and Lauren VanderVeen, Finance Director, for your professional services provided over the years with processing payments, reports and information regarding the special assessment. Our recent exchanges over the past few months have solidified most items for the upcoming assessment renewal.

Our current, 5-year assessment district is ending, and we would like to continue the success we have had for another 5 years. The West Lake Improvement Association Board is prepared to assist the city with the establishment of the district and implement the necessary improvements.

The West Lake Improvement Association and its members are requesting an assessment of \$135 per West Lake deeded property owner, per year, for a (5) year period, 2025-2030. The City of Portage also contributes to this district

with the properties they own adjacent to the lake. This district would replace our currently expiring assessment.

Over the past 40 years, our West Lake Improvement Association has studied and addressed invasive weed problems by employing trained professionals to identify, monitor and treat these weeds with State approved herbicides. For many years, our board has retained the services of Dr. Jennifer L. Jermalowicz-Jones of Restorative Lake Sciences, LLC of Spring Lake to perform an annual thorough lake study and chart our progress down a proven path of success. The water quality of West Lake has benefited.

The expenses over 5 years is budgeted at \$49,000 for each year. See the attached budget document from Restorative Lake Sciences.

Our Board worked with the Portage Finance Director to calculate the annual assessment amount. We agreed that \$135 is appropriate and it maintains a reasonable fund balance.

The West Lake Improvement Association was chartered to protect water quality and home values by protecting the health of West Lake. For those reasons, the Association, on behalf of our members, respectfully request that the City favorably considers our petition to establish this continued special assessment district. The association stands ready to support the efforts required to make this district a success.

Sincerely,

West Lake Improvement Association Board

Attachments: 5-year budget

2024-25 Report, Restorative Lake Sciences

CITY OF PORTAGE
SPECIAL ASSESSMENT RESOLUTION NO. 3
WEST LAKE MANAGEMENT PROGRAM SPECIAL ASSESSMENT, DISTRICT #025-Q

At a regular meeting of the Council of the City of Portage, Kalamazoo County, Michigan held at City Hall in said city on the ____ day of _____, 2025 at 6:00 p.m., local time.

PRESENT: _____

ABSENT: _____

The following resolution was offered by:

Councilmember: _____, and seconded by:

Councilmember: _____.

WHEREAS, a public hearing on the necessity of the proposed improvement hereinafter described was held in accordance with the provisions of the City's Charter and Special Assessment Ordinance; and,

WHEREAS, the City Council of the City of Portage has determined to proceed with the public improvements in the City of Portage more particularly hereinafter described in this resolution; and,

WHEREAS, the City Manager has secured cost estimates for such improvements and the City Council has reviewed said figures;

NOW THEREFORE BE IT RESOLVED THAT:

1. The City Council hereby determines the necessity for and determines further to proceed with the improvements hereinbefore in these proceedings described as the WEST LAKE MANAGEMENT PROGRAM SPECIAL ASSESSMENT, DISTRICT #025-Q, more fully described as follows, to wit:

Establish funding to provide for the management of West Lake including herbicide treatment and mechanical harvesting of aquatic plants.

2. The cost of said public improvement, based on the aforesaid cost figures, is estimated

to be as follows:

<u>TOTAL COST</u>	<u>SHARE OF DISTRICT</u>	<u>SHARE OF CITY-AT LARGE</u>
\$242,550	\$153,900	\$38,475

It is hereby determined that the Special Assessment District's share is in proportion to the benefits to be derived from the improvements. The Special Assessment District's share shall be spread over the Special Assessment District as hereinafter described and the balance of \$38,475 shall be paid by the city-at-large. Further, \$50,175 from the balance of the existing project account shall also be used towards the cost of the improvement.

3. Said Special Assessment District shall consist of all of the following described lots and parcels of land;

Unplatted Land

Land located in Section 22 described as beginning 99 ft. west and approximately 540 ft. south of the center 1/4 Post of Section 22 on the North shore line of West Lake; thence Westerly along said north shore line of West Lake and West Lake channel to the Southwest corner of Lot 132 of the recorded plat of Fabercrest #2; thence south 42 degrees East approximately 90 ft. to the South line of West Lake channel; thence Easterly along said South line approximately 1,150 ft. to the west shore of West Lake; thence Southerly along said shore approximately 2,100 ft. to the Northeast corner of Lot 4 of the recorded plat of Matteson's Park and place of ending; Also land located in Section 27 described as: Beginning at the Northwest corner of Lot 30 of the recorded plat of West Lake Beach, which is on the South shore of West Lake, thence Westerly along said shore line approximately 165 ft. to the place of beginning.

Platted Land

Lots 7 through 57 inclusive of Ames West Lake Park; Lots 1 through 10 inclusive of Burr's West lake Resort; Lots 1 through 15 inclusive and Lot 89 of Dixie-Mac Park excluding the south 20 ft. of Lot 8; Lots 129 through 140 inclusive of Fabercrest #2; Lots 1 through 26 inclusive of Hilliard's Plat; Lots 1 through 14 inclusive of James W. Scott West Lake; Lots 3 through 37 inclusive of Matteson's Park; Lots 1 through 13 and Lots 28 through 46 inclusive of Newell's West Lake Subdivision; Lots 1 through 26 inclusive of Pleasant View Beach; Lots 1 through 14 inclusive of Reid's Plat; Lots 2 through 30 inclusive of West Lake Beach.

4. The City Assessor shall prepare a Special Assessment Roll spreading that portion of the cost of the aforesaid public improvement to be borne by the Special Assessment District against said district according to the benefits received, in conformity with the provision of the Special Assessment Ordinance of the City. As soon as said roll is prepared, the City Assessor shall file the same with the City Clerk for presentation to the City Council.

5. All resolutions and parts of resolutions insofar as they conflict with the provisions of this resolution are hereby rescinded.

ADOPTED: YEAS: Councilmember: _____
NAYS: Councilmember: _____
ABSENT: Councilmember: _____

Erica Eklov, City Clerk

STATE OF MICHIGAN)
)ss
COUNTY OF KALAMAZOO)

I, the undersigned duly qualified and acting City Clerk of the City of Portage, Kalamazoo County, 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 _____, 2025, the original of which resolution is on file in my office.

IN WITNESS WHEREOF, I have hereto affixed my official signature this _____ day of _____, 2025.

Erica Eklov, City Clerk

APPROVED AS TO FORM FOR CITY OF PORTAGE
BAUCKHAM, THALL, SEEGER,
KAUFMAN & KOCHES, PC
Catherine P. Kaufman
By: CATHERINE P. KAUFMAN
Date: 2-6-2025

TO: Honorable Mayor and City Council

FROM: Pat McGinnis, City Manager

SUBJECT: Proposed Amendment to Citizen Advisory Board Attendance Ordinance

SUPPORTING PERSONNEL: Erica Eklov, City Clerk

ACTION RECOMMENDED: Adopt the proposed ordinance to amend the Code of Ordinances, Chapter 1, Article 7, Section 2-252 - Attendance at meetings; and, authorize the City Administration the update the City Council policy accordingly.

The Mayor and City Council appoint over 120 community volunteers to serve on citizen advisory boards, commissions, and authorities. These committees provide valued insight to the City Council on topics ranging from senior center activities to housing rehabilitation. Each committee works alongside a staff member who serves as a direct point of contact with the City Administration. The City Clerk's Office maintains meeting and attendance records.

The last time the board attendance policy was updated was in August 2007. The update changes the number of absences a member can accrue in a calendar year and removes the distinction between excused and unexcused absences. These changes have been made to promote active participation on a board throughout the year. Board members who have been removed due to absences may re-apply for consideration at the next Special Meeting to determine board and commission appointments.

During the amendment's first reading at the February 11, 2025 Regular Council Meeting, Councilmembers Burns and Urban expressed concern regarding the lack of flexibility under the proposed revisions. In response, the City Administration suggested adding *Exceptions to this policy may be granted by City Council on a case-by-case basis* to the proposed amendment. The City Council accepted this revision via a unanimous vote at the meeting, before forwarding the amendment for a second reading. The proposed ordinance amendment has been incorporated into the attached document.

Adopt the proposed ordinance to amend the Code of Ordinances, Chapter 1, Article 7, Section 2-252 - Attendance at meetings; and, authorize the City Administration the update the City Council policy accordingly.

FUNDING: N/A

Attachments:

1. Board Attendance Ordinance Amendment (updated) - clean
2. Board Attendance Ordinance Amendment (updated) - red line strikeout
3. COUNCIL POLICY FOR APPOINTMENTS TO CITIZEN ADVISORY BOARDS Revised (red-line)

**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES
OF THE CITY OF PORTAGE, MICHIGAN
BY AMENDING CHAPTER 2 ADMINISTRATION, ARTICLE 7, DIVISION 2**

THE CITY OF PORTAGE ORDAINS:

**That Chapter 2 Administration, Article 7 Boards, Commissions and Authorities,
Division 2 Citizen Advisory Boards, be amended as follows:**

Sec. 2-252. Attendance at meetings.

All members of commissions, boards and committees created by the council should attend each meeting of the body to which they were appointed. Should a member be absent from one-third (33%) or more of a board's scheduled meetings within one calendar year, the person shall be automatically terminated from the body. The chairperson of the body shall inform the city clerk when a member has crossed the threshold of absences. The clerk shall notify the mayor and council, and the mayor or council, as the case may be, shall replace the person so terminated as soon as conveniently possible. Exceptions to this policy may be granted by the City Council on a case-by-case basis

Dated: _____

Patricia M. Randall, Mayor

FIRST READING:

SECOND READING:

ORDINANCE #:

EFFECTIVE DATE:

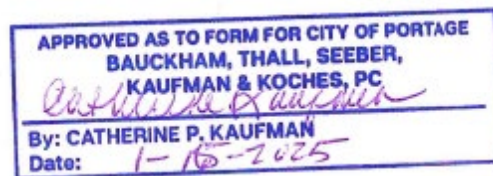
CERTIFICATION

I, Erica Eklov, do hereby certify that I am the duly appointed and acting City Clerk of the City of Portage and that the foregoing ordinance was adopted by the City of Portage on the _____ day of _____, 2025.

Erica Eklov, City Clerk

PREPARED BY:

Erica L. Eklov, City Clerk
City of Portage
7900 S. Westnedge Avenue
Portage, MI 49024



**AN ORDINANCE TO AMEND THE CODE OF ORDINANCES
OF THE CITY OF PORTAGE, MICHIGAN
BY AMENDING CHAPTER 2 ADMINISTRATION, ARTICLE 7, DIVISION 2**

THE CITY OF PORTAGE ORDAINS:

That Chapter 2 Administration, Article 7 Boards, Commissions and Authorities, Division 2 Citizen Advisory Boards, be amended as follows:

Sec. 2-252. Attendance at meetings.

All members of commissions, boards and committees created by the council ~~shall~~ should attend each meeting of the body to which they were appointed, ~~unless excused by a majority of a quorum of the body at that meeting~~. Should a member ~~incur three unexcused absences be absent from one-third (33%) or more of a board's scheduled meetings~~ within one calendar year, the person shall be automatically terminated from the body. The chairperson of the body shall inform the city clerk when a member has ~~incurred three unexcused~~ crossed the threshold of absences. The clerk shall notify the mayor and council, and the mayor or council, as the case may be, shall replace the person so terminated as soon as conveniently possible. Exceptions to this policy may be granted by the City Council on a case-by-case basis

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 and acting City Clerk of the City of Portage and that the foregoing ordinance was adopted by the City of Portage on the _____ day of _____, 2025.

Erica Eklov, City Clerk

PREPARED BY:

Erica L. Eklov, City Clerk
City of Portage
7900 S. Westnedge Avenue
Portage, MI 49024

Approved as to Form:

Date: _____

City Attorney

COUNCIL POLICY FOR APPOINTMENTS TO CITIZEN ADVISORY BOARDS

This policy is adopted on the ~~11th~~ day of ~~August~~ March, 2007~~2025~~, by the City Council of the City of Portage to establish procedures and guidelines for the appointment of citizens to City advisory boards.

WHEREAS, the City of Portage has many -citizens boards which serve as advisors to the City Council, and

WHEREAS, the City Council is responsible for appointing qualified citizens to these boards, and

WHEREAS, the City Council wishes to establish a policy setting procedures and guidelines for the appointment of these citizens;

NOW, THEREFORE, THE FOLLOWING POLICY IS ADOPTED:

1. Two months prior to the creation of vacancies on a citizen board through expiration of terms, the City Clerk shall notify the board chairperson, the citizen board member(s) with expiring term(s) and the board ex officio.
2. The Council, citizen board chairperson and citizen board ex officio should receive a vacancy summary and a listing and resume forms of all eligible applicants interested in a position on the board one month before the scheduled interview time. If an applicant is a current board member, the City Clerk should provide a summary of the individual's past attendance at board meetings during the individual's last term of service. Applications received after one month before the scheduled interview time will be considered as future vacancies occur. Attendance ~~less than 80%~~from one-third (33%) of a board's scheduled meetings in a calendar year will result in automatic removal from the board. may be considered grounds for non-reappointment or removal from the board. An individual who is subject to automatic removal may apply for reinstatement at the next City Council Meeting at which board and commission appointments are made. (Exceptions to this policy may be granted by the City Council on a case-by-case basis.)
3. The City Council shall invite applicants for an interview with the Council in October, May, or January. A majority of Council members voting affirmatively will serve to appoint an applicant to fill a board vacancy.
4. An applicant will not be excluded from consideration ~~because he or she cannot~~ for being unable to attend the scheduled interview.
5. In the case of Mayoral appointments, the Mayor will recommend an applicant to the Council following the Council's interview of the applicants. The process used by the Mayor will follow Michigan statutes and City ordinances. A majority of Council members will confirm or reject the Mayor's appointments.
6. The City Council may reappoint an incumbent if that member has not served more than one-half of a full term. In such cases, the City Council is not required to interview other candidates.
7. In making appointments to the boards, the City Council shall strive, whenever possible, to make the boards representative of the demographic composition of Portage. Service on a board will be limited to ten consecutive years or three consecutive terms, whichever is greater. Partial terms do not count toward the limit. In cases where there are no other

qualified applicants and the individual wishes to serve beyond the limit, the Council may waive the term limitation.

8. Applications for those candidates who are not selected for a board or commission vacancy shall be considered active for a period of thirteen months following the date of the application was received.

(Orig. Policy 7/87; Rev. 3/9/93; Rev. 6/16/98; Rev. 8/14/07; Proposed Revisions 01/14/2025)

TO: Honorable Mayor and City Council

FROM: Pat McGinnis, City Manager

SUBJECT: Solicitor Permit Denial Appeal

SUPPORTING PERSONNEL: Erica Eklov, City Clerk

ACTION RECOMMENDED: Take final action on the appeal of the denial of a Solicitor's Permit by Ms. Rishelle Hartman of Weed Man Lawncare.

The attached appeal was received by the Office of the City Clerk on January 30, 2025 from Rishelle Hartman, an employee of Weed Man Lawncare. Her appeal is a result of her employer's second annual application for a City of Portage Solicitor's Permit for several of their staff. Chapter 14 (Businesses) of the Code of Ordinances includes Article 4 "Solicitors and Canvassers" which guides how a person interested in soliciting or canvassing in the City of Portage must first obtain a permit by application to the City Clerk and the Police Division. As outlined in the ordinance, an application is required to allow for a review of an applicant's background for the "protection of the public good."

Weed Man Lawncare submitted a Solicitor Permit application in May 2024 for the 2024 calendar year, and in January 2025 for the 2025 calendar year. In both instances, Ms. Hartman was one of several representatives listed in the company's application. For both applications, the background reviews allowed for the approval of all applicants, except Ms. Hartman. When verified by Public Safety Director Nick Arnold, he confirmed her application was denied due to her background. As information, the City Council was provided copies of the 2024 and 2025 Weed Man Lawncare applications, including the supplementary Michigan criminal background history in the Materials Transmitted of February 6, 2025.

Per Sec. 14-145 of the Code of Ordinances: *"A person aggrieved by the action of the chief of police or the city clerk in the denial or revocation of a permit, as set forth in [section 14-143](#) or [section 14-147](#), may appeal to the council. Such appeal shall be taken by filing with the council, within 14 days after notice of the action complained of has been mailed to such person's last known address, a written statement setting forth fully the grounds for the appeal. The council shall set a time and place for a hearing on such appeal, and notice of such hearing shall be given to the appellant at his last known address by mail (postage prepaid) at least five days prior to the date set for the hearing."*

A public hearing regarding Ms. Hartman's appeal of the Solicitor's Permit denial was held at the February 25, 2025, City Council meeting. It is therefore recommended that City Council take final action on Ms. Rishelle Hartman of Weed Man Lawncare's appeal of the denial of a Solicitor's Permit.

FUNDING: Ms. Hartman's portion of the application fee was \$10. No additional funding is involved.

Attachments:

1. Appeal
2. Detail on the Appeal (confidential)

Attn: City Council

1-17-25

Recently, I applied for a
Solicitor's permit through Weed-
Man lawn care, are received
correspondence on January 16, 2025
that I was denied, so I'm
writing this letter to request
an appeal in regards to this
decision. Thank you for
this opportunity.

If you have additional
details to this process you
can contact me at [REDACTED]
or [REDACTED]

Sincerely, Rishelle Hartman

RECEIVED

JAN 30 2025

PORTAGE
CITY CLERK

Michelle Hartman



Kalamazoo, MI 49001

GRAND RAPIDS MI 493

27 JAN 2025 PM 5 L



Attention City Council
7900 South Westnedge Ave
Portage, MI 49002

49002-511700

