

**FINAL AGENDA FOR THE COUNCIL MEETING
CITY OF PORTAGE
October 19, 2010**

7:30 p.m. Call to Order.

Invocation: Pastor David Barringer of the Kalamazoo First Assembly of God Church.

Pledge of Allegiance.

Roll Call.

Proclamations:

- A. Approval of the Special and Regular Meeting Minutes of October 5, 2010.
- * B. Approval of Consent Agenda Motions.
- * C. Communication from the City Manager recommending that City Council approve the Accounts Payable Register of October 19, 2010, as presented.
- D. Public Hearings:
- E. Petitions and Statements of Citizens.
- F. Reports from the Administration:
 - * 1. Communication from the City Manager recommending that City Council adopt the Resolution granting the Easement and Right-of-Way Agreement for Ingress and Egress and License Agreement To Locate Personal Property in City Right-of-Way to Duke Barrington Limited Dividend Housing Association Limited Partnership, place the Resolution on file with the City Clerk for 28 days and take final action on November 16, 2010.
 - * 2. Communication from the City Manager recommending that City Council accept the PA 451 Farmland/Open Space application from Behavior Development Corporation (DBA) Lake Village Homestead, 7943 South 25th Street, Pavilion Township.
 - * 3. Communication from the City Manager recommending that City Council grant an extension to November 1, 2012, for the completion of sidewalk and street tree installation within the following residential plats subject to submittal of a revised irrevocable bank letter of credit or other surety acceptable to the City Attorney:
 - a. Avalon Forest/Avalon Woods No. 1 and 2, T. A. Scott Construction
 - b. Austin Shores Condominium Subdivision, Irwin Union Bank
 - c. Holiday Village East No. 3 and South No. 3, WTM, Incorporated
 - d. Stateland Park Subdivision, Broekema/Scott, LLC
 - * 4. Communication from the City Manager recommending that City Council enact a ban of all tobacco products in and up to a distance of 25 feet from the following Portage Park locations:
 - a. Ramona Park Beach
 - b. Playgrounds
 - c. Picnic Shelters
 - d. Fishing Piers
 - e. Restrooms
 - f. Bleachers
 - g. Softball Dugouts
 - h. Courts (basketball, tennis and volleyball)
 - i. South Westnedge Skate Park and In-line Hockey Rink
 - j. Concessions (permanent or temporary)
 - k. Millennium Park Ice Rink
 - l. Celery Flats Amphitheatre
 - m. Hayloft Theatre
 - n. Overlander Bandshell

- * 5. Communication from the City Manager recommending that City Council establish a Special Meeting on Tuesday, November 16, 2010, at 6:30 p.m. in City Hall Conference Room #2 for the purpose of receiving a presentation concerning an upgrade to the city website.
- * 6. Communication from the City Manager regarding the September 2010 Summary Environmental Activity Report – Information Only.
- * 7. Department Monthly Reports.
- G. Communications:
- H. Unfinished Business:
- * I. Minutes of Boards and Commissions Meetings:
 - 1. Portage Park Board of September 1, 2010.
 - 2. Portage Human Services Board of September 2, 2010.
 - 3. Portage Planning Commission of September 16, 2010.
 - 4. Portage Zoning Board of Appeals of September 20, 2010.
 - 3. Kalamazoo County Board of Commissioners Committee of the Whole and Regular of September 21, 2010.
- J. Ad Hoc Committee Reports:
- K. New Business:
- L. Bid Tabulations:
 - * 1. Communication from the City Manager recommending that City Council accept the low bid submitted by Central Interconnect, Incorporated, at a total cost of \$40,108.87 for the upgrade of the Council Chambers video system and authorize the City Manager to execute all documents related to this action.
 - * 2. Communication from the City Manager recommending that City Council approve a sole-source provider bid from Aggressive Industries in the amount of \$16,600 for supply and delivery of SuperDeck for improvements to the Bishop's Bog Preserve trail and authorize the City Manager to execute all documents related to this action on behalf of the city.
 - * 3. Communication from the City Manager recommending that City Council approve the low bid from Gail Andrus Travel, LLC, for motor coach services for the 2011 Portage Senior Center travel program in the amount of \$15,657.75 and authorize the City Manager to execute all documents related to this action on behalf of the city.
- M. Other City Matters:
 - 1. Statements of Citizens.
 - 2. From City Council and City Manager.
 - * 3. Reminder of Meetings:
 - a. Wednesday, October 20, 2:30 p.m., Senior Citizens Advisory Board, Portage Senior Center.
 - b. Thursday, October 21, 7:00 p.m., Library Board, Portage District Library.
 - c. Thursday, October 21, 7:00 p.m., Planning Commission, City Council Chambers.
 - d. Thursday, October 28, 4:30 p.m., Public Media Network Board of Directors, 359 S. Kalamazoo Mall, 3rd Floor, Kalamazoo.
 - e. Monday, November 1, 6:30 p.m., Youth Advisory Committee, City Hall Room #1.
- N. Materials Transmitted of October 1, 2010.

Adjournment.

CITY COUNCIL MEETING SUMMARY

October 5, 2010

CHECK REGISTER

- ◆ Approved the Check Register of October 5, 2010, as presented.

REPORTS FROM THE ADMINISTRATION

- ◆ Adopted the resolution to support the Michigan State Housing Development Authority Grant application in the amount of \$135,000 for the North Portage Home Buyer Purchase-Rehabilitation Program and authorized the Mayor and City Manager to execute all documents related to the application in the event the grant is awarded.
- ◆ Amended the General Appropriations Act (budget) for the fiscal year ending June 30, 2011.
- ◆ Established November 12 and 13 as the dates of the 2010 City Council Goal Setting Session.
- ◆ Received the communication from the City Manager regarding the Local Development Finance Authority Annual Report as information only.

COMMUNICATION

- ◆ Received a communication from Mary Ann Borr, 7274 White Oak Circle, regarding two recent sign ordinance violations.

UNFINISHED BUSINESS

- ◆ Approved an ordinance to amend the Codified Ordinances of the City of Portage to grant Portage Hearthside Limited Dividend Housing Association Limited Partnership a tax exemption and establish a payment in lieu of taxes for the Hearthside Apartments I & II.

NEW BUSINESS

- ◆ Reappointed Thomas King with term ending December 31, 2016, to the Economic Development Corporation/Tax Increment Finance Authority/Brownfield Redevelopment Authority; reappointed Jason Kosciński and appointed Kathleen Hoyle and James Novario with terms ending October 1, 2013, to the Park Board; reappointed Ruth Caputo and Martin Sepanik and appointed Amy Tanis with terms ending October 1, 2013, and Andrew Judge with an unfulfilled term ending October 1, 2011, to the Environmental Board; reappointed Ruth Ann Meyer and Larry Smith and appointed Ruth Michelhaugh, current Alternate, with terms ending October 1, 2013, and reappointed Mary Lou Petruccio and appointed Gertrude Riker with alternate terms ending October 1, 2012, to the Senior Citizens Advisory Board; reappointed Elma (Pat) Maye and appointed Pam Gilchrist and Genna Nichols with terms ending October 1, 2013, to the Human Services Board; and appointed Philip Ellison with term ending December 31, 2013, to the Historic District Commission.

BID TABULATIONS

- ◆ Accepted the low bid submitted by The Postman, Incorporated, in the amount of \$23,730 for Ramona Park and South Westledge Park softball diamond fencing improvements and authorized the City Manager to execute all documents related to this action on behalf of the city.
- ◆ Accepted the low bid submitted by Kuiper Building Services, LLC, in the amount of \$12,200 for City Hall breakroom roof and lower level window improvements and authorized the City Manager to execute all documents related to this action on behalf of the city.

STATEMENTS OF CITY COUNCIL AND CITY MANAGER

- ◆ Councilmember Reid referred to Item F.1, Michigan State Housing Development Authority Grant Application, as one of the many ways the City of Portage and its citizens address homelessness.
- ◆ Councilmember Urban commented on the wealth of applicants for City Council Boards and Commissions, asked that they maintain their interest, and indicated that there are still two vacancies on the Historic District Commission and one on the Human Services Board.
- ◆ City Manager Evans commended Deputy Parks Director Barry Bacon for his efforts with the 22nd Annual Apple Festival at Schrier Park and his efforts throughout the year with all of the Parks Department events and activities.
- ◆ Mayor Pro Tem Sackley concurred and pointed out that Mr. Bacon will soon be busy with the 23rd Annual Haunted Forest at Schrier Park, October 22, 23, 28, 29 and 30 from 7:30 p.m. to 9:30 p.m. and asked that Portage citizens welcome the thousands of visitors who will be attending the Invitational Cross Country Meet at West Middle School, Saturday, October 9, 2010.

COMPLETE MINUTES OF EACH CITY COUNCIL MEETING ARE AVAILABLE ON THE CITY WEBSITE AT PORTAGEMI.GOV, IN CITY HALL AND IN THE DISTRICT LIBRARY. MINUTES OF CITY BOARDS AND COMMISSIONS ARE AVAILABLE ON REQUEST FROM VARIOUS DEPARTMENTS.

MINUTES OF THE SPECIAL MEETING OF THE PORTAGE CITY COUNCIL OF OCTOBER 5, 2010 - BOARDS AND COMMISSIONS APPLICANTS

Mayor Pro Tem Sackley called the meeting to order at 5:20 p.m. The following Councilmembers were present: Councilmembers Patricia Randall, Claudette Reid, Terry Urban and Mayor Pro Tem Edward Sackley. Councilmembers Elizabeth Campbell arrived at 5:40 p.m. Councilmember Margaret O'Brien and Mayor Peter Strazdas were absent with excuse. Also in attendance were City Manager Maurice Evans and City Clerk James R. Hudson.

Council interviewed applicants for the following Boards and Commissions:

- * 5:20-5:42 p.m., Tom King, Kathleen Hoyle, Andrew Judge, Aaron Allen and Philip Ellison for the Economic Development Corporation/Tax Increment Finance Authority and Brownfield Redevelopment Authority. Discussion followed.
- * 5:43-5:59 p.m., Philip Ellison, Jim Novaria, Pam Gilchrist, Kathleen Hoyle and Jason Koscinski for the Park Board. Park Board Chair Mike Zajac was present for questions and input and listed some of the events involving the Park Board. Discussion followed.
- * 6:00-6:18 p.m., Marty Sepanik, Ruth Caputo, Phil Ellison, Genna Nichols and Amy Tanis for the Environmental Board. Discussion followed.
- * 6:19-6:35 p.m., Gertude Riker, Larry Smith, Ruth Ann Meyer, and Mary Maisto for the Senior Citizens Advisory Board. Everyone wished Mary Maisto a Happy Birthday. Discussion followed. Senior Citizens Advisory Board Chair Jim Hoppe explained what the Senior Citizens Advisory Board does and the role of the Friends of the Senior Center. He also expressed his appreciation to the Board Members present for their contribution. Discussion followed.
- * 6:36-6:48 p.m., Pat Maye, Pam Gilchrist, Genna Nichols and Phil Ellison for the Human Services Board. Councilmember Campbell described the Red Ribbon Week activity and discussion followed regarding the types and quantity of services made available through the review of the Human Services Board of Community Development Block Grant (CDBG) funding and the 0.055% of the City of Portage General Fund Budget provided for Human Services. Discussion followed.
- * 6:49-6:58 p.m., Phil Ellison for the Historic District Commission. Discussion followed.

ADJOURN: Mayor Pro Tem Sackley adjourned the meeting at 6:59 p.m.

CITY COUNCIL MEETING MINUTES FROM OCTOBER 5, 2010

DRAFT

The Regular Meeting was called to order by Mayor Pro Tem Sackley at 7:30 p.m.

At the request of Mayor Pro Tem Sackley, Pastor Joan Herbon of the Lord of Life Lutheran Church of Portage gave the invocation and the City Council and the audience recited the Pledge of Allegiance.

The City Clerk called the roll with the following members present: Councilmembers Elizabeth A. Campbell, Patricia M. Randall, Claudette S. Reid and Terry R. Urban, and Mayor Pro Tem Edward J. Sackley. Councilmember Margaret E. O'Brien and Mayor Peter J. Strazdas were absent with excuse. Also in attendance were City Manager Maurice S. Evans, City Attorney Randall Brown and City Clerk James R. Hudson.

APPROVAL OF MINUTES: Motion by Reid, seconded by Campbell, to approve the September 21, 2010 Regular Meeting Minutes as presented. Upon a voice vote, motion carried 5 to 0.

* **CONSENT AGENDA:** Mayor Strazdas asked Councilmember Urban to read the Consent Agenda. Motion by Urban, seconded by Reid, to approve the Consent Agenda motions as presented. Upon a roll call vote, motion carried 5 to 0.

* **APPROVAL OF ACCOUNTS PAYABLE REGISTER OF OCTOBER 5, 2010:** Motion by Urban, seconded by Reid, to approve the Accounts Payable Register of October 5, 2010. Upon a roll call vote, motion carried 5 to 0.

REPORTS FROM THE ADMINISTRATION:

* **MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY GRANT APPLICATION:** Motion by Urban, seconded by Reid, to adopt the resolution to support the Michigan State Housing Development Authority Grant application in the amount of \$135,000 for the North Portage Home Buyer Purchase-Rehabilitation Program and authorize the Mayor and City Manager to execute all documents related to the application in the event the grant is awarded. Upon a roll call vote, motion carried 5 to 0.

* **RECOMMENDED BUDGET AMENDMENTS – END OF FISCAL YEAR HOUSEKEEPING:** Motion by Urban, seconded by Reid, to amend the General Appropriations Act (budget) for the fiscal year ending June 30, 2011. Upon a roll call vote, motion carried 5 to 0.

* **2010 CITY COUNCIL GOAL SETTING SESSION:** Motion by Urban, seconded by Reid, to establish November 12 and 13 as the dates of the 2010 City Council Goal Setting Session. Upon a roll call vote, motion carried 5 to 0.

* **LOCAL DEVELOPMENT FINANCE AUTHORITY ANNUAL REPORT – INFORMATION ONLY:** Motion by Urban, seconded by Reid, to receive the communication from the City Manager regarding the Local Development Finance Authority Annual Report as information only. Upon a roll call vote, motion carried 5 to 0.

COMMUNICATION:

MARY ANN BORR, 7274 WHITE OAK CIRCLE: Mayor Pro Tem Sackley reviewed the contents of the letter regarding two sign ordinance violations regarding the use of a very large tea cup and a shamrock on the roof of a daycare center as promotional signs in violation of the Code of Ordinances of the City of Portage.

Councilmember Campbell indicated that she has asked that the Administration provide information regarding the current sign ordinance and how it is applied for the City Council Retreat November 12 and 13, 2010, at the Gilmore House on the campus of Western Michigan University.

Councilmember Reid asked for some background information on the tea cup matter and Mayor Pro Tem Sackley asked Community Development Director Jeffrey Erickson to explain. Mr. Erickson explained that the use of the tea cup constitutes a sign under the city sign ordinance; that the business owners and staff have been in contact with one another, but no action has been taken at this time. Discussion followed and Mr. Erickson indicated that if the tea cup were a licensed vehicle, it would not be regulated by city ordinance; however, because of the nature of the item, it has to be considered in the context of the sign ordinance in a multi-business parking lot with signs already in place. Mr. Erickson distinguished the tea cup from people holding signs or costumed people on the sidewalk, shooting streamer devices as they are not covered by the sign ordinance like a tea cup on a zoned lot would be. Discussion followed.

Councilmember Randall stressed the importance of being friendly to small businesses and asked for ideas or other ways to reach out to the small businesses in the community.

Motion by Urban, seconded by Reid, to received the communication from Mary Ann Borr, 7274 White Oak Circle, regarding two recent sign ordinance violations. Upon a roll call vote, motion carried 5 to 0.

UNFINISHED BUSINESS:

* **TAX EXEMPTION FOR HEARTHESIDE APARTMENTS I & II:** Motion by Urban, seconded by Reid, to approve an ordinance to amend the Codified Ordinances of the City of Portage to grant Portage Hearthside Limited Dividend Housing Association Limited Partnership a tax exemption and establish a payment in lieu of taxes for the Hearthside Apartments I & II. Upon a roll call vote, motion carried 5 to 0.

* **MINUTES OF BOARDS AND COMMISSIONS:** City Council received the minutes for the following boards and commissions:

Portage Zoning Board of Appeals of August 9, 2010.

Portage Board of Education Special and Regular Business Meeting of August 23, Special of September 2, and Special Meeting and Committee of the Whole Work Session of September 13, 2010.

Portage Planning Commission of September 2, 2010.

NEW BUSINESS:

* **APPOINTMENTS TO VARIOUS BOARDS AND COMMISSIONS:** Motion by Urban, seconded by Reid, to reappoint Thomas King with term ending December 31, 2016, to the Economic Development Corporation/Tax Increment Finance Authority/Brownfield Redevelopment Authority; to reappoint Jason Kosciński and appoint Kathleen Hoyle and James Novario with terms ending October 1, 2013, to the Park Board; to reappoint Ruth Caputo and Martin Sepanik and appoint Amy Tanis with terms ending October 1, 2013, and Andrew Judge with an unfulfilled term ending October 1, 2011, to the Environmental Board; to reappoint Ruth Ann Meyer and Larry Smith and appoint Ruth Michelhaugh, current Alternate, with terms ending October 1, 2013, and reappoint Mary Lou Petrulio and appoint Gertrude Riker with alternate terms ending October 1, 2012, to the Senior Citizens Advisory Board; to reappoint Elma (Pat) Maye and appoint Pam Gilchrist and Genna Nichols with terms ending October 1, 2013, to the Human Services Board; and to appoint Philip Ellison with term ending December 31, 2013, to the Historic District Commission. Upon a roll call vote, motion carried 5 to 0.

BID TABULATIONS:

* **SOFTBALL FIELD FENCING IMPROVEMENTS – BID RECOMMENDATION:**

Motion by Urban, seconded by Reid, to accept the low bid submitted by The Postman, Incorporated, in the amount of \$23,730 for Ramona Park and South Westledge Park softball diamond fencing improvements 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.

* **CITY HALL BREAKROOM ROOF AND LOWER LEVEL WINDOW**

IMPROVEMENTS – BID RECOMMENDATION: Motion by Urban, seconded by Reid, to accept the low bid submitted by Kuiper Building Services, LLC, in the amount of \$12,200 for City Hall breakroom roof and lower level window improvements 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.

OTHER CITY MATTERS:

STATEMENTS OF CITY COUNCIL AND CITY MANAGER: Councilmember Reid referred to Item F.1, Michigan State Housing Development Authority Grant Application, as one of the many ways the City of Portage and its citizens address homelessness.

Councilmember Urban commented on the wealth of applicants for City Council Boards and Commissions, asked that those who were not appointed maintain their interest, and indicated that there are still two vacancies on the Historical District Commission and one on the Human Services Board.

City Manager Evans commended Deputy Parks Director Barry Bacon for his efforts with the 22nd Annual Apple Festival at Schrier Park and his efforts throughout the year with all of the Parks Department events and activities.

Mayor Pro Tem Sackley concurred and pointed out that Mr. Bacon will soon be busy with the 23rd Annual Haunted Forest at Schrier Park, October 22, 23, 28, 29 and 30, from 7:30 p.m. to 9:30 p.m., and asked that Portage citizens welcome the thousands of visitors who will be attending the Invitational Cross Country Meet at West Middle School, Saturday, October 9, 2010.

ADJOURNMENT: Mayor Pro Tem Sackley adjourned the meeting at 7:54 p.m.

James R. Hudson, City Clerk

*Indicates items included on the Consent Agenda.

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: October 12, 2010

FROM: Maurice S. Evans, City Manager



SUBJECT: Accounts Payable Register

ACTION RECOMMENDED: That City Council approve the Accounts Payable Register of October 19, 2010 as presented.

Attached please find the Accounts Payable Register for the period September 29, 2010 through October 12, 2010, which is recommended for approval.

c: Daniel S. Foecking, Finance Director

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT
10/01/2010	273200	A I S CONSTRUCTION EQUIP. CO.	640	1,517.07
10/01/2010	273201	AT&T	849	7,302.94
10/01/2010	273202	A T & T LONG DISTANCE	4060	134.17
10/01/2010	273203	ALL-PHASE ELECTRIC SUPPLY CO.	108	32.40
10/01/2010	273204	ALL-TRONICS, INC.	109	78.00
10/01/2010	273205	ALLEGRA PRINT & IMAGING	533	1,208.89
10/01/2010	273206	ALLEN, MARK OR GAIL	999999	45.13
10/01/2010	273207	ALLIED MECHANICAL SERVICE	974	1,246.50
10/01/2010	273208	AMERICAN SAFETY & FIRST AID	113	220.50
10/01/2010	273209	ANIMAL REMOVAL SERVICE, LLC	3428	525.00
10/01/2010	273210	ANY CUTTING & WELDING	3347	676.00
10/01/2010	273211	APOLLO FIRE EQUIPMENT COMPANY	1253	197.70
10/01/2010	273212	APPROVED FIRE PROTECTION CO.	630	461.00
10/01/2010	273213	TODD ARBANAS ENTERPRISES INC.	1704	8,075.00
10/01/2010	273214	ARISTA TRUCK SYSTEMS	4459	105.37
10/01/2010	273215	AUMACK, MICHAEL	670	94.00
10/01/2010	273216	AUTOMATIC DATA PROCESSING	3305	930.73
10/01/2010	273217	AUTOMATIC MICROFILMING CO.	863	3,312.35
10/01/2010	273218	AVALON FARMS	4614	230.00
10/01/2010	273219	BALKEMA EXCAVATING, INC.	130	10,162.15
10/01/2010	273220	BANK OF NEW YORK MELLON	3939	100.00
10/01/2010	273221	BEBBE, RON	3018	188.00
10/01/2010	273222	BESCO WATER TREATMENT, INC.	3339	50.25
10/01/2010	273223	BEST BUY CO, INC	1573	229.99
10/01/2010	273225	BORGESS HEALTH ALLIANCE	151	4,030.00
10/01/2010	273226	BRITTON, TAMARA	4610	900.00
10/01/2010	273227	BROWNELL'S INCORPORATED	2677	62.99
10/01/2010	273228	CALDWELL, JOHN	999999	102.00
10/01/2010	273229	CARTWRIGHT, STANLEY	999999	6.87
10/01/2010	273230	CASTILLO, NATALIE	999999	150.00
10/01/2010	273231	CHARTER COMMUNICATIONS	3080	14.70
10/01/2010	273232	CINTAS CORP.	2206	589.87
10/01/2010	273233	CITY OF KALAMAZOO (PUBLIC UTIL	540	256,250.84
10/01/2010	273234	CITY OF PORTAGE	177	8,281.08
10/01/2010	273235	COLLIER, MICHAEL	532	14.42
10/01/2010	273236	COMMERCIAL ENTRY SYSTEMS	1159	675.00
10/01/2010	273237	COMSTOCK PUBLIC SCHOOLS	1671	58,472.88
10/01/2010	273238	CONSUMERS ENERGY-BILL PMT CNT	189	15,089.51
10/01/2010	273239	CONTINENTAL LINEN SUPPLY CO.	191	31.62
10/01/2010	273241	CROSSROADS EXPERT AUTO SERVICE	4109	2,702.10
10/01/2010	273242	CROWN TROPHY	2790	125.00
10/01/2010	273243	D & D PRINTING CO.	920	225.00
10/01/2010	273244	DENOYER BROTHERS, INC.	210	95.96
10/01/2010	273245	DEPATIE FLUID POWER CO., INC.	211	415.47
10/01/2010	273246	DISPUTE RESOLUTION SERVICES	999999	15.00
10/01/2010	273247	JACK DOHNEY SUPPLIES INC.	69	976.81
10/01/2010	273248	DUNFIELD, TODD LEE	532	357.98
10/01/2010	273250	EMERGENCY VEHICLE PRODUCTS	2948	11,933.13
10/01/2010	273251	ETNA SUPPLY, INC.	692	5.67
10/01/2010	273252	FLETCHER ENTERPRISES	1399	1,523.00
10/01/2010	273253	FORBES MAGAZINE	999999	10.00

PROGRAM: GM350L FROM 09/29/2010 TO 10/12/2010 *ALL*

CITY OF PORTAGE BANK CODE

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	BANK CODE	CHECK AMOUNT
10/01/2010	273254	FRED PRYOR SEMINARS	999999		99.00
10/01/2010	273255	GORDON WATER SYSTEMS	517		238.75
10/01/2010	273256	GRAHAM FORESTRY SERVICE, INC.	464		720.00
10/01/2010	273257	W W GRAINGER INC	699		176.63
10/01/2010	273258	GREATER KALAMAZOO FOP LODGE 98	623		4,251.00
10/01/2010	273259	GREATER KALAMAZOO FOP LODGE 98	623		741.00
10/01/2010	273260	GREATER KALAMAZOO UNITED WAY	628		1,125.90
10/01/2010	273261	GREGWARE EQUIPMENT CO.	4397		896.25
10/01/2010	273262	GRIFFIN PEST CONTROL, INC.	598		259.00
10/01/2010	273263	B L HARROUN & SON INC.	124		1,545.00
10/01/2010	273264	HBI TITLE SERVICES INC	999999		164.40
10/01/2010	273265	HOME DEPOT	691		606.84
10/01/2010	273266	HOUSEWORKS SERVICES, INC.	4566		2,792.00
10/01/2010	273267	IERVOLINA, SUSAN	2074		150.00
10/01/2010	273268	INDUSCO SUPPLY CO., INC.	63		534.10
10/01/2010	273269	INTERSECT TECHNOLOGIES	379		181.00
10/01/2010	273270	IRISH AVRES ENTERPRISES, LLC	4143		8,433.75
10/01/2010	273271	THE IRRIGATOR	2047		7,463.89
10/01/2010	273272	J & J LAWN SERVICE, INC.	4244		2,050.00
10/01/2010	273273	J D E EQUIPMENT COMPANY	4244		2,391.71
10/01/2010	273274	J RETTENMAIER USA LP	999999		200.00
10/01/2010	273275	JEFFSON, IDA	999999		60.00
10/01/2010	273276	JOE NUYEN	999999		55.00
10/01/2010	273277	KALAMAZOO COUNTY TREASURER	514		557.50
10/01/2010	273278	KALAMAZOO LANDSCAPE SUPPLIES	90		251.00
10/01/2010	273279	KEHOE, EDWARD J	3783		360.00
10/01/2010	273280	KLOOSTER, FRAN	999999		72.50
10/01/2010	273281	KOPEC, CASEY	4409		84.00
10/01/2010	273282	KUIPER BUILDING SERVICES, LLC	4454		900.00
10/01/2010	273283	KZOO COUNTY TREASURERS ASS'N	999999		21.76
10/01/2010	273284	KZOO TIRE COMPANY	564		680.00
10/01/2010	273285	LANGUAGE LINE, INC	1093		33.83
10/01/2010	273286	LAWSON PRODUCTS, INC	240		545.87
10/01/2010	273287	LEXISNEXIS/MATTHEW BENDER	2701		302.75
10/01/2010	273288	LIFELOC TECHNOLOGIES, INC.	3732		66.00
10/01/2010	273289	LIROT, KIT	999999		434.25
10/01/2010	273290	LUKE'S TRUCK SERVICE, INC.	815		86.16
10/01/2010	273291	MACNLOW ASSOCIATES	2189		595.00
10/01/2010	273292	MASSIE, LARRY B.	3884		53.55
10/01/2010	273293	MEDEMA, TIMOTHY	4406		88.00
10/01/2010	273294	MEETH, PHILLIP P	999999		13.34
10/01/2010	273295	MEIJER, INC., STORE #196	2307		400.00
10/01/2010	273296	MENARDS, INC	258		14.88
10/01/2010	273297	MICHIGAN CAT	1307		113.60
10/01/2010	273298	MIDWEST COMMUNICATION SERVICES	1983		260.00
10/01/2010	273299	MIDWEST COMMUNICATION SERVICE	4613		55.00
10/01/2010	273300	MIDWEST ENERGY COOPERATIVE	2030		223.69
10/01/2010	273301	MILLER MECHANICAL CO.	1110		72.00
10/01/2010	273302	T MORGAN INC.	376		56.36
10/01/2010	273303	MR. THOM COOK'S	4611		600.00
10/01/2010	273304	NEOPOST	1208		1,684.82

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT
10/01/2010	273305	NEW WORLD SYSTEMS	1154	750.00
10/01/2010	273307	NEXTEL	1709	2,122.40
10/01/2010	273308	NICHOLS, ANDREW	4229	188.00
10/01/2010	273309	NORTHERN LAKE SERVICE, INC.	4474	12,177.00
10/01/2010	273310	O'BRIEN REAL ESTATE	999999	68.20
10/01/2010	273311	OAKLAND COUNTY FOC	999999	500.00
10/01/2010	273313	OFFICE DEPOT, INC.	1721	1,481.56
10/01/2010	273314	OFFICEMAX INCORPORATED	301	121.23
10/01/2010	273315	ONE WAY PRODUCTS	440	827.26
10/01/2010	273316	ORKIN, INC	469	42.00
10/01/2010	273317	OTTEN TROPHIES	304	359.20
10/01/2010	273318	PANNIER CORP	2443	2,258.28
10/01/2010	273319	PARADIGM DESIGN, INC.	3306	465.00
10/01/2010	273320	PARIS CLEANERS	1794	3,972.02
10/01/2010	273321	PARKER, FLORA	999999	60.00
10/01/2010	273322	PATESEL, TERRY	4455	141.00
10/01/2010	273323	PETERMAN CONCRETE CO.	310	3,693.10
10/01/2010	273324	PETERS CONSTRUCTION CO.	1638	1,207.50
10/01/2010	273325	PETTY CASH-CITY HALL	767	663.62
10/01/2010	273326	PETTY CASH-PARKS	536	395.48
10/01/2010	273327	PETTY CASH-POLICE DEPT.	890	314.38
10/01/2010	273328	PETTY CASH-SENIOR CENTER	537	301.97
10/01/2010	273329	PORTAGE FIREFIGHTERS	625	1,491.76
10/01/2010	273330	PORTAGE ON-CALL FIREFIGHTERS	504	133.98
10/01/2010	273331	PORTAGE POLICE OFFICERS ASSOC	624	177.85
10/01/2010	273332	PRINTING SYSTEMS, INC.	1214	239.50
10/01/2010	273333	PRO-FLEET	3209	1,841.25
10/01/2010	273334	PULVER CONSTRUCTION CO., INC.	4598	3,707.00
10/01/2010	273335	QUADRANT II MARKETING, LLC	3139	2,243.08
10/01/2010	273336	RAHCO SAFETY SUPPLY, INC.	327	750.40
10/01/2010	273337	REPUBLIC WASTE SERVICES OF W M	4443	41,212.50
10/01/2010	273338	RESIDENTIAL PLUMBING SERVICES,	1977	680.00
10/01/2010	273339	RHINO SEED & LANDSCAPE SUPPLY	1577	116.50
10/01/2010	273340	RIDGE AUTO NAPA	438	2,674.99
10/01/2010	273341	RIGHT-WAY RENTAL, INC.	337	57.00
10/01/2010	273342	ROAD EQUIPMENT PARTS CENTER	339	1,934.31
10/01/2010	273343	ROBERT G WATTS	999999	149.00
10/01/2010	273344	ROMENCE GARDENS, INC	343	177.09
10/01/2010	273345	ROSSIO, STEVE	2561	210.00
10/01/2010	273346	ROWLEY BROTHERS, INC.	346	470.34
10/01/2010	273347	S B F/CORONA GRAPHICS	3481	1,811.65
10/01/2010	273348	SHERWIN WILLIAMS	356	151.10
10/01/2010	273349	SIMMONS FORD	2064	47.20
10/01/2010	273350	SIMPLEX GRINNELL	2521	1,553.00
10/01/2010	273351	SINCLAIR RECREATION, LLC	3149	37.30
10/01/2010	273352	SPRINT	3721	1,528.98
10/01/2010	273353	STAP BROS LAWN & LANDSCAPE,INC	366	3,787.33
10/01/2010	273354	STATE INDUSTRIAL PRODUCTS CORP	2010	790.57
10/01/2010	273355	STATE OF MICHIGAN (DOT)	368	55,622.47
10/01/2010	273356	STATE SYSTEMS RADIO, INC	369	70.30
10/01/2010	273357	STATES GOLF COURSE	999999	191.00

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	BANK CODE	CHECK AMOUNT
10/01/2010	273358	STENSMA LAWN & POWER EQUIPMEN	3222		1,392.88
10/01/2010	273359	SUNGARD PUBLIC SECTOR	449		65,526.00
10/01/2010	273360	T M P ARCHITECTURE, INC.	2651		740.00
10/01/2010	273361	TARLETON, THOMAS	999999		100.00
10/01/2010	273362	TAX MANAGEMENT ASSOCIATES, INC	2458		1,400.00
10/01/2010	273363	TECHNOLOGY SOLUTIONS	4612		3,769.20
10/01/2010	273364	TENNIS COURTS UNLIMITED, INC.	1553		3,600.00
10/01/2010	273365	THOMPSON, HELENE	4417		116.00
10/01/2010	273366	TIGER DIRECT, INC.	4272		56.93
10/01/2010	273367	TIME EMERGENCY EQUIPMENT	574		493.27
10/01/2010	273368	TRACTOR SUPPLY CORP.	2817		118.44
10/01/2010	273369	TRIBOLET, CHARLES OR KATHLEEN	999999		20.00
10/01/2010	273370	TRUGREEN CHEMLAWN	390		53.75
10/01/2010	273371	U A W LOCAL 2290	1862		422.04
10/01/2010	273372	U S POSTMASTER	391		185.00
10/01/2010	273373	U S POSTMASTER	392		6,000.00
10/01/2010	273374	UNITED PARCEL SERVICE	545		52.41
10/01/2010	273376	VAN DORPE, COURTNEY	999999		937.79
10/01/2010	273377	VANDERBILT, JOHN	668		350.00
10/01/2010	273378	VANLIERE, PATTI	999999		188.00
10/01/2010	273379	CHRISTINE VADA	3686		100.00
10/01/2010	273380	VEENSTRA, CYNTHIA OR DAVID	999999		2,450.00
10/01/2010	273381	VERMEER, JEREMY	532		50.81
10/01/2010	273382	VICKERY, MARK	999999		500.00
10/01/2010	273383	VOLOGY DATA SYSTEMS	4594		177.38
10/01/2010	273384	WATKINS, GREG	4231		3,198.27
10/01/2010	273385	WESTERN MICHIGAN INT'L TRUCKS	4306		94.00
10/01/2010	273386	WESTERN MICHIGAN UNIVERSITY	999999		921.70
10/01/2010	273387	WESTIN SEATTLE	999999		200.00
10/01/2010	273388	WINDEMULLER ELECTRIC, INC.	3061		804.00
10/01/2010	273389	XEROX CORPORATION	2684		7,403.34
10/01/2010	273390	YALE, JACQUELYN A	999999		1,350.79
10/01/2010	273391	ZANTJER WATER WELLS, INC.	2406		7.89
10/01/2010	273392	ZEMLUCK OFFICE PRODUCTS & FURN	3529		.00
10/01/2010	273393	3RD CIRCUIT COURT	999999		99.89
10/01/2010	273394	360 SERVICES, INC.	637		500.00
10/01/2010	273395	7TH DISTRICT COURT	999999		2,582.61
10/01/2010	273396	KALAMAZOO COUNTY TREASURER	514		400.00
10/01/2010	273397	MICHIGAN PAVING & MATERIALS CO	3389		49,334.87
10/04/2010	273398	CompanionLink Software Inc.	999999		87,545.28
10/05/2010	273399	ZANTJER, TIM	999999		139.90
					140.00

DATE RANGE TOTAL * 843,430.21 *

PAYMENT NO	VENDOR NAME	TRANSFER DATE	AMOUNT	TRACE NUMBER	EFT BATCH	BANK CODE
86	B & B YARDSCAPE	10/01/2010	2,999.00	072000320000001	0000001	00
87	ROBERTS, BRIAN	10/01/2010	94.00	072000320000002	0000001	00
88	ROBERTS, CHARLES D	10/01/2010	94.00	072000320000003	0000001	00
89	WEST, STEVE	10/01/2010	94.00	072000320000004	0000001	00

GRAND TOTAL: 3,281.00 NO. OF CHECKS: 4

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: October 13, 2010

FROM: Maurice S. Evans, City Manager



SUBJECT: Barrington Woods Apartments – Easement and License Agreements

ACTION RECOMMENDED: That City Council adopt the Resolution granting the Easement and Right-of-Way Agreement for Ingress and Egress and License Agreement To Locate Personal Property in City Right-of-Way to Duke Barrington Limited Dividend Housing Association Limited Partnership, place the Resolution on file with the City Clerk for 28 days and take final action on November 16, 2010.

On November 17, 2009, City Council granted an access easement for an existing driveway over city-owned land to the owner of 7432 and 7452 Garden Lane to address a property access issue raised by a lending institution. During review of the 7432 and 7452 Garden Lane matter, another encroachment involving improvements associated with the Barrington Woods Apartments, which are owned by Duke Barrington Limited Dividend Housing Association Limited Partnership (Residential Opportunities, Incorporated), was identified. The encroachments involve 1) property located at 7451 Garden Lane, which is owned by the City of Portage and 2) former Garden Lane right-of-way, which was the subject of the easement granted by the City Council in November 2009. Information regarding each encroachment is explained below and shown on the accompanying aerial photo vicinity map.

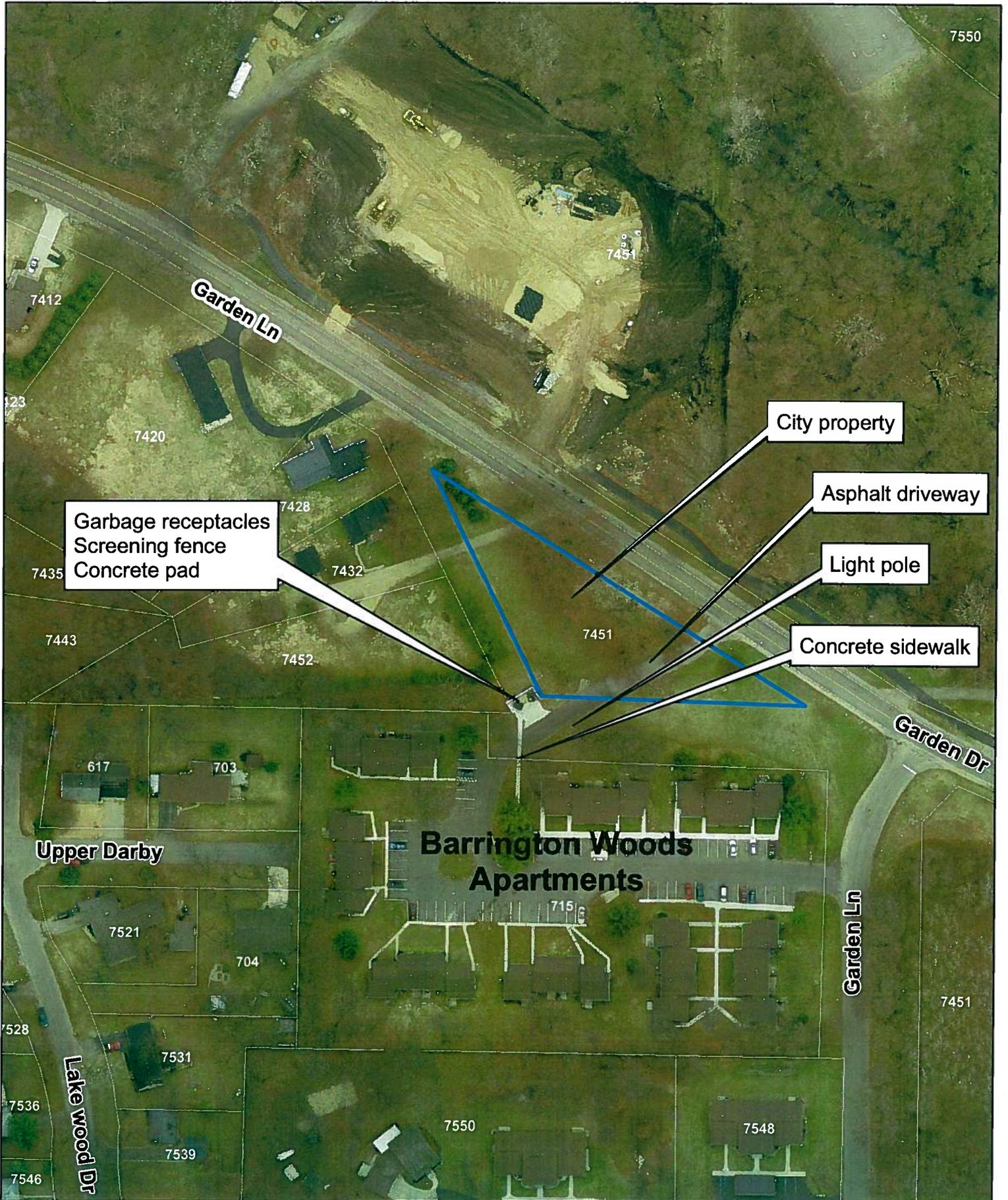
- Encroachment into city-owned property (7451 Garden Lane). An asphalt driveway that provides a second means of ingress and egress to the Barrington Woods Apartments was constructed in the mid-1980s over 7451 Garden Lane.
- Encroachment into the former Garden Lane right-of-way. In December 1983 City Council adopted a resolution and completed the realignment and extension of Garden Lane between South Westledge Avenue and Lovers Lane. The roadway improvements in the former Garden Lane were removed, but the right-of-way was specifically retained by the City Council for potential future use and for overhead utilities that exist. Several improvements associated with the Barrington Woods Apartments have been installed and include: refuse dumpster and concrete pad; screening fence; sidewalk; light pole; and asphalt driveway.

The City Council Ad-Hoc Property Committee met on March 22, 2010, to discuss the subject and recommended that the City Administration proceed with preparation of the appropriate documents to formalize city approval to allow the improvements. The City Attorney prepared the accompanying easement and license agreement and forwarded the documents to Residential Opportunities, Incorporated on May 7, 2010. After several discussions involving the language of the documents, the documents were signed and returned on September 22, 2010.

The City Attorney has prepared the accompanying Resolution. The City Administration recommends that the resolution be adopted and the access easement and license agreement be approved. The resolution, if approved by City Council, will be on file with the City Clerk for 28 days as required by City Charter. Finalization of the access easement and license agreement can be scheduled for the City Council meeting on November 16, 2010.

Attachments: Aerial photo vicinity map
Resolution, Easement and License Agreements

Vicinity Map



**CITY OF PORTAGE, MICHIGAN
RESOLUTION NO. 1 TO GRANT EASEMENT AND LICENSE AGREEMENT**

Minutes of a regular meeting of the City Council for the City of Portage, Michigan held on

_____, 2010 at 7:30 p.m. local time at City Hall in the City of Portage, Michigan.

PRESENT: _____

ABSENT: _____

The following resolution was offered by:

COUNCILMEMBER: _____ and supported by

COUNCILMEMBER: _____.

BE IT RESOLVED that the City of Portage grant an "Easement and Right-of-Way Agreement for Ingress and Egress" to Duke Barrington Limited Dividend Housing Association Limited Partnership as described as follows:

A 30 FOOT WIDE EASEMENT FOR INGRESS AND EGRESS IN THE NORTHWEST QUARTER OF SECTION 15, TOWNSHIP 3 SOUTH, RANGE 11 WEST, CITY OF PORTAGE, KALAMAZOO COUNTY, MICHIGAN, DESCRIBED AS: COMMENCING AT THE CENTER OF SAID SECTION 15; THENCE SOUTH 89° 54' 40" WEST ON THE EAST AND WEST QUARTER LINE OF SAID SECTION 15 A DISTANCE OF 232.20 FEET TO A POINT WHICH IS 2429.23 FEET NORTH 89° 54' 40" EAST OF THE WEST QUARTER CORNER OF SAID SECTION 15; THENCE NORTH 00°05'20" WEST PERPENDICULAR TO SAID EAST AND WEST QUARTER LINE 16.50 FEET TO THE NORTH RIGHT OF WAY LINE OF GARDEN LANE AND THE POINT OF BEGINNING OF THE EASEMENT HEREIN DESCRIBED; THENCE SOUTH 89° 54' 40" WEST ON SAID NORTH RIGHT OF WAY LINE AND 16.5 FEET NORTH OF AND PARALLEL WITH SAID EAST AND WEST QUARTER LINE 64.40 FEET; THENCE NORTH 58° 01' 55" EAST 25.07 FEET; THENCE NORTH 65° 17' 01" EAST 84.29 FEET; THENCE NORTH 52° 50' 27" EAST 17.25 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF GARDEN DRIVE; THENCE SOUTH 58° 25' 50" EAST ON SAID SOUTHERLY RIGHT OF WAY LINE 32.19 FEET; THENCE SOUTH 52° 50' 27" WEST 32.20 FEET; THENCE SOUTH 65° 17' 01" WEST 53.89 FEET TO THE POINT OF BEGINNING.

ASSUMED SAID EAST AND WEST QUARTER LINE TO BEAR SOUTH 89° 54' 40" WEST PER DESCRIPTION OF THE GARDEN LANE RIGHT OF WAY CONTAINED IN A RESOLUTION OF THE CITY OF PORTAGE CITY COUNCIL DATED DECEMBER 20, 1983.

BE IT FURTHER RESOLVED that the City of Portage grant a "License Agreement to Locate Personal Property" on the unimproved portion of Garden Lane, including two garbage receptacles, screening fence, concrete sidewalk, 22 foot wide asphalt driveway, light pole and concrete pad.

BE IT FURTHER RESOLVED that notice, in substantially the form attached as Exhibit A, be published in a newspaper of general circulation within the City, giving notice of the City's intent to grant the "Easement and Right-of-Way for Ingress and Egress" and "License Agreement to Locate Personal Property in City Right-of-Way".

AYES: Councilmember _____

NAYS: Councilmember _____

ABSENT: Councilmember _____

RESOLUTION DECLARED ADOPTED: _____

James R. Hudson, City Clerk

CERTIFICATION

STATE OF MICHIGAN)
)
COUNTY OF KALAMAZOO)

I, the undersigned, the duly qualified 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 _____, 2010, the original of which resolution is on file in my office.

IN WITNESS WHEREOF, I have hereunto affixed my official signature this ___ day of _____, 2010.

Approved as to Form
Date: 10/11/2010
[Signature]

JAMES R. HUDSON, City Clerk

EXHIBIT A

CITY OF PORTAGE, MICHIGAN
NOTICE OF PUBLIC HEARING FOR INTENTION TO GRANT EASEMENT
AND LICENSE AGREEMENT
IN THE CITY OF PORTAGE, MICHIGAN

PLEASE TAKE NOTICE, that on the ____ day of _____, 2010, the City Council of the City of Portage voted to grant an "Easement and Right-of-Way Agreement for Ingress and Egress" on City owned property and "License Agreement to Locate Personal Property in City Right-of-Way" to Duke Barrington Limited Dividend Housing Association Limited Partnership.

PLEASE TAKE FURTHER NOTICE that the resolution authorizing this action and the "Easement and Right-of-Way Agreement for Ingress and Egress" and "License Agreement to Locate Personal Property in City Right-of-Way" to be given are on file with the City Clerk and open for public inspection. Said documents will be so held by the City Clerk for twenty-eight (28) days after publication of this notice and may be inspected at the Clerk's office during regular working hours. Any person(s) objecting to this sale should make their objection known to the City Council within twenty-eight (28) days of the publication of this notice. After said twenty-eight (28) day period, the Council may take final action and grant said "Easement and Right-of-Way for Ingress and Egress" and "License Agreement to Locate Personal Property in City Right-of-Way".

Dated: _____, 2010

James R. Hudson, City Clerk

EASEMENT AND RIGHT-OF-WAY AGREEMENT FOR INGRESS AND EGRESS

This Easement and Right-of-Way Grant is made and entered into this 22 day of September, 2010 by and between the City of Portage, a Michigan municipal corporation, organized under the laws of the State of Michigan, with offices at 7900 South Westnedge Avenue, Portage, Michigan 49002 (hereinafter "Grantor") and Duke Barrington Limited Dividend Housing Association Limited Partnership of 1100 South Rose Street, Kalamazoo, Michigan 49007 (hereinafter "Grantee");

WHEREAS, the Grantor owns one (1) triangular shaped parcel of land addressed as 7451 Garden Lane, Portage, Michigan, which is included in the legal description attached as Exhibit A (hereinafter "Grantor's parcel"); and

WHEREAS, the Grantee owns the parcel located 715 Barrington Drive, Portage, Michigan, commonly known as Barrington Woods Apartments which is legally described in the attached Exhibit B (hereinafter "Grantee's parcel");

WHEREAS, Grantor's parcel is located between the existing Garden Drive right-of-way and Grantee's parcel as illustrated in the drawing attached and incorporated as Exhibit C; and

WHEREAS, one of Grantee's access points to Garden Drive from Grantee's parcel is by use of an improved driveway serving Grantee's parcel and extend across the Grantor's parcel; and

WHEREAS, the parties are now desirous of creating an easement and right-of-way over Grantor's parcel to be used by Grantee for ingress and egress and to establish certain rights and obligations in connection therewith as more fully set forth herein (the "Easement Agreement"); and

WHEREAS, contemporaneous with the execution of this Easement Agreement, the parties have entered into a License Agreement to Locate Personal Property in City Right-of-Way permitting Grantee to locate certain improvements, including a driveway, in the City right-of-way (Unimproved Garden Lane) which is situated between Grantee's parcel and Grantor's parcel.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. Grantor does hereby convey, grant and release to said Grantee a nonexclusive easement and right-of-way over that part of Grantor's parcel which is described below. The area constituting the Easement ("Easement Area") is as follows:

A 30 FOOT WIDE EASEMENT FOR INGRESS AND EGRESS IN THE NORTHWEST QUARTER OF SECTION 15, TOWNSHIP 3 SOUTH, RANGE 11 WEST, CITY OF PORTAGE, KALAMAZOO COUNTY, MICHIGAN, DESCRIBED AS: COMMENCING AT THE CENTER OF SAID SECTION 15; THENCE SOUTH 89° 54' 40" WEST ON THE EAST AND WEST QUARTER LINE OF SAID SECTION 15 A DISTANCE OF 232.20 FEET TO A POINT WHICH IS 2429.23 FEET NORTH 89° 54' 40" EAST OF THE WEST QUARTER CORNER OF SAID SECTION 15; THENCE NORTH 00°05'20" WEST PERPENDICULAR TO SAID EAST AND WEST QUARTER LINE 16.50 FEET TO THE NORTH RIGHT OF WAY LINE OF GARDEN LANE AND THE POINT OF BEGINNING OF THE EASEMENT HEREIN DESCRIBED; THENCE SOUTH 89° 54' 40" WEST ON SAID NORTH RIGHT OF WAY LINE AND 16.5 FEET NORTH OF AND PARALLEL WITH SAID EAST AND WEST QUARTER LINE 64.40 FEET; THENCE NORTH 58° 01' 55" EAST 25.07 FEET; THENCE NORTH 65° 17' 01" EAST 84.29 FEET; THENCE NORTH 52° 50' 27" EAST 17.25 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF GARDEN DRIVE; THENCE SOUTH 58° 25' 50" EAST ON SAID SOUTHERLY RIGHT OF WAY LINE 32.19 FEET; THENCE SOUTH 52° 50' 27" WEST 32.20 FEET; THENCE SOUTH 65° 17' 01" WEST 53.89 FEET TO THE POINT OF BEGINNING.

SUBJECT TO ANY AND ALL EASEMENTS AND RESTRICTIONS OF RECORD, OR OTHERWISE.

SUBJECT TO ANY FACTS THAT MAY BE DISCLOSED IN A FULL AND ACCURATE TITLE SEARCH.

ASSUMED SAID EAST AND WEST QUARTER LINE TO BEAR SOUTH 89° 54' 40" WEST PER DESCRIPTION OF THE GARDEN LANE RIGHT OF WAY CONTAINED IN A RESOLUTION OF THE CITY OF PORTAGE CITY COUNCIL DATED DECEMBER 20, 1983.

See Exhibit C for survey drawing.

2. This Easement Agreement is granted for the sole use, benefit and enjoyment of Grantee's parcel, and is given for the sole purpose of allowing ingress and egress from the Grantee's parcel to the existing Garden Drive right-of-way. There is no intention to grant third party beneficiary rights by the grant of this Easement Agreement.

3. Grantee's rights under this Easement Agreement are subject to any improvements which may be presently located in the Easement Area, and subject further to any prior easements, licenses, leases, or other interest in the land previously granted by Grantor or its predecessors in title.

4. Grantee shall not remove, enlarge, diminish, or in any way, alter any existing improvements which are located in the Easement Area nor shall Grantee erect any structure, fixture, improvement or obstruction upon the Easement Area without Grantor's written consent. Grantee may place underground utilities, e.g. gas, cable, etc., in the Easement Area provided Grantor provides written consent for the installation of said utilities.

5. Grantee shall be responsible for any maintenance, repairs or replacement work to be performed in the Easement Area. Grantee is permitted to remove trees, limbs, branches or brush as Grantee may deem reasonably necessary to maintain the Easement for its intended use. Grantee shall maintain the Easement Area in a state of good repair including, but not limited to, the removal of snow and ice and shall pay all expenses in connection with maintaining a driveway in the Easement Area.

6. Grantee shall not perform any work in the Easement Area which is of a permanent nature including, but not limited to, the construction of walls, fences, structures, or the reconstruction and/or expansion of the existing paved residential driveway without Grantor's written consent nor plant any trees or shrubs, or store materials in, on or under the Easement Area without

Grantor's written consent. Notwithstanding the above, the Grantee may perform such work in the Easement Area as is appropriate to maintain the existing pavement in a safe and good condition without the Grantor's written consent.

7. After Grantee completes any maintenance or utility work, Grantee shall restore Grantor's property as nearly as possible to its original condition, including grading and reseeding of all disturbed lawn areas and replacement of any damaged landscaping.

8. Grantor expressly reserves the right to use and allow others to use the Easement Area for any purpose including, but not limited to, the construction, operation and maintenance of electric, gas and other utility facilities, under, over and across the Easement Area. Grantee shall relocate the existing driveway, any utility or any other improvement in the Easement Area at Grantor's request if such relocation is necessary to accommodate construction of future public utilities and/or right-of-way on Grantor's land at Grantee's expense.

9. Grantor shall retain all rights to use Grantor's property, as well as the Easement Area which include, but are not limited to, the right to utilize its property for the construction of roadways, sidewalks, driveways, curbs, gutters, public utilities or any other improvement. In such case, Grantor may terminate the Easement Agreement pursuant to paragraph 10 below.

10. Grantor may terminate this Easement Agreement within thirty (30) days written notice upon the occurrence of any of the following:

- A. If Grantor believes that Grantee is in violation of any provision of this Easement Agreement, it shall provide written notice describing the default to Grantee at the address set forth on the first page of this Easement Agreement. The Grantee shall have a period of thirty (30) days from receipt of the notice to cure the default. If Grantee fails to cure the default within this thirty (30) day time period, then in that event, Grantor may terminate this Easement Agreement by recording a Termination Notice, a copy of which shall be provided to Grantee;
- B. If the use of the Easement Area as an access for Grantee's parcel to Garden Drive is abandoned or ceases to be used by Grantee's tenants for a period of thirty (30) days or longer. If the Grantor believes that the Easement Area has been abandoned or has ceased to be used by the

Grantee or Grantee's tenants for a period of thirty (30) days or more, written notice will be provided to Grantee of its intent to terminate the Easement Agreement. If Grantee fails to provide sufficient evidence to Grantor that the Easement Area has not been abandoned or that is continuing to be used by Grantee or by Grantee's tenants, then this Easement Agreement will terminate; or

- C. If Grantee's use of the Easement Area under this Easement Agreement is not compatible with or is inconsistent with the Grantor's right to utilize Grantee's parcel or the Easement Area under paragraph 9 above.

11. The following provisions concern liability, insurance and indemnity:

- A. Grantor shall not be liable to Grantee or Grantee's agents, employees, contractors, invitees, guests, volunteers or tenants, including any guest or invitee of tenants, (hereinafter collectively referred to as "Grantee's agents") for any personal injury, property damage or loss of life, or property caused by or arising out of, or in connection with the use of the Easement Area, or the exercise of any of the rights granted herein.
- B. Grantee shall, at its sole cost and expense, indemnify and hold harmless Grantor, its agents, officers, boards, employees and contractors, (hereinafter collectively referred to as "Indemnitees") from and against any and all liability, obligation, damages, penalties, claims, liens, costs, charges, losses and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and consultants) which may be imposed upon, incurred by, or be asserted against the Indemnitees by reason of any act or omission of Grantee or Grantee's agents, resulting in personal injury, bodily injury, sickness, disease or death to any person or damage to or loss of or destruction of tangible or intangible personal property which may arise out, or be in any way connected, directly or indirectly, with the use of the Easement Area by Duke or Duke's tenants, guests, invitees or agents or the exercise of their rights granted herein.
- C. While this Agreement is in effect, Grantee and its contractors who are performing work in the Easement Area, shall maintain or cause to maintain in full force and effect and at Grantee's sole cost and expense, comprehensive general liability insurance with minimum limits of One Million (\$1,000,000) Dollars as the combined single limit for each occurrence of bodily injury, personal injury and property damage. The policy shall be written on an occurrence and not on a claims made basis. The coverage amount set forth above may be met by a combination of underlying and umbrella policies so long as in combination the limits equal or exceed those stated.

- D. Grantee shall name Grantor and its respective officers, boards, commissions, employees, agents and contractors, as their respective interest may appear as Additional Insured (herein referred to as the "Additional Insured") on Grantee's policy of insurance, and give Grantor thirty (30) days written notice of any modification and/or cancellation.
- E. Certificates of insurance for each insurance policy required to be obtained by Grantee in compliance with this paragraph shall be filed with Grantor ten (10) days after execution of this Easement and maintained with Grantor annually during the term of this Easement. Grantee shall immediately advise Grantor of any claim or litigation that may result in liability to Grantor.
- F. All insurance shall be effected under valid and enforceable policies, insured by insurers licensed to do business by the State of Michigan which are satisfactory to Grantor.
- G. Grantee agrees to indemnify and save harmless the Grantor, the Indemnities and Additional Insured from and against the payment of any deductible, self-insured retention and from the payment of any premium on any insurance policy (all of which shall be the responsibilities of Grantee) required to be furnished by this Easement.

12. The Easement hereby granted, and the covenants herein contained, shall run with the land and shall inure to the benefit of and be binding upon the parties hereto and their respective heirs, legal representatives, successors and assigns, including all persons or entities owning any interest in Grantee's parcel.

13. This Easement Agreement represents the entire agreement between the parties. It may not be amended, altered or modified unless done so in writing by the entities against whom enforcement of any waiver, change or modification or discharge is sought.

14. All notices and demands required or permitted under this Easement Agreement shall be in writing and shall be served personally or by postage prepaid United States first-class, certified (return receipt requested), or registered mail, addressed to the party at the address indicated on page 1 hereof or to such other place as may be designated by notice given in accordance with this section. Notice shall be deemed to have been given on the earlier of (a) the date when received, or (b) two (2) business days after mailing if mailed in the State of Michigan.

15. Use of the Easement Area by Grantee pursuant to this Easement Agreement shall comply with all applicable federal, state and local laws.

16. This Easement Agreement shall be governed by and construed in accordance with the laws of the State of Michigan that are applicable to agreements made and to be performed in that State.

17. Any waiver of any provision of this Easement Agreement shall not be controlling, nor shall it prevent or estop such party from thereafter enforcing such provision. The failure of any party to insist in any one or more instances upon the strict performance of any of the terms of this Easement Agreement by another party shall not be construed as a waiver or relinquishment for the future of any such provision, and the same shall continue in full force and effect.

18. No provision in this Easement Agreement is to be interpreted for or against any party because that party or that party's legal representative drafted the provision.

19. If any party commences an action against another party as the result of a breach or alleged breach of this Easement Agreement, the prevailing party shall be entitled to have and recover from the losing party reasonable attorney fees and costs of suit.

20. Nothing in this Easement Agreement constitutes, nor shall the same be construed, as a waiver of any governmental immunity provided to the City, its agents, employees and officers provided for under common law or statute.

21. This Easement Agreement and any originals of exhibits referred to herein may be executed in any number of duplicate originals or counterparts, each of which (when the original signatures are affixed) shall be an original but all of which shall constitute one and the same instrument.

The undersigned have affixed their signatures this _____ day of _____,
2010.

GRANTOR:

CITY OF PORTAGE, a Michigan
Municipal Corporation

By: _____
Maurice S. Evans
Its: City Manager

STATE OF MICHIGAN)
) ss
COUNTY OF KALAMAZOO)

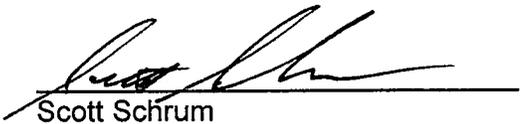
On this _____ day of _____, 2009 before me personally came the above
named Maurice S. Evans to me personally known, who being duly sworn, did for himself say that
he is the City Manager of the municipal corporation named in and who executed the within
instrument and that said instrument was signed on behalf of said corporation by authority of its City
Council; and said Maurice S. Evans acknowledges said instrument to be the free act and deed of
said municipal corporation.

_____, Notary Public
Kalamazoo County, Michigan
My Commission Expires: _____
Acting in Kalamazoo County, Michigan

GRANTEE::

DUKE BARRINGTON LIMITED DIVIDEND
HOUSING ASSOCIATION LIMITED
PARTNERSHIP

By: Residential Opportunities
Development, LLC
By: Residential Opportunities, Inc.
Its: Sole Member

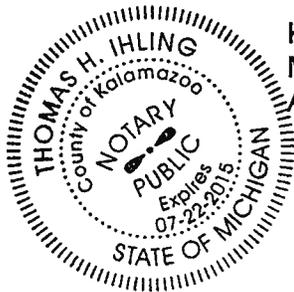
By: 
Scott Schrum
Its: Executive Director

STATE OF MICHIGAN)
) ss
COUNTY OF KALAMAZOO)

On this 22 day of September, 2010 before me personally came the above named Scott Schrum to me personally known, who being duly sworn, did for himself say that he is the Executive Director of the limited liability company named in and who executed the within instrument and that said instrument was signed on behalf of said limited liability company and said Scott Schrum acknowledges said instrument to be the free act and deed of said limited liability company.



_____, Notary Public
Kalamazoo County, Michigan
My Commission Expires: July 22, 2015
Acting in Kalamazoo County, Michigan



PREPARED BY:

Randall L. Brown
City Attorney
1662 East Centre Avenue
Portage, MI 49002
Portage, MI 49024
Phone: (269) 323-8812
Fax: (269) 323-0055

RETURN AFTER RECORDING TO:

Randall L. Brown
City Attorney
1662 East Centre Avenue
Portage, MI 49002
Phone: (269) 323-8812
Fax: (269) 323-0055

Z:\Jody\PORTAGE\AGREEMENT\Easement - Right of Way Agreement Barrington Woods CLEAN.091310.wpd

SECTION 15-3-11 BEG AT C 1/4 POST SEC 15, TH W 334.31 FT, TH NWLY 165 FT, TH N 54 DEG E APPROX 745 FT, TH S 52 DEG E 944.16 FT, TH W TO THE C 1/4 POST AND POB, EXC GARDEN LANE RD ROW. 8.43 AC - WELL SITE & BI-CENTENNIAL PARK.;SECTION 15-3-11 BEG 132 FT W OF N 1/4 POST SEC 15, TH CONT W ALG N LI OF SEC 15 656 FT TO ELY LI NYC RR ROW, TH SWLY ALG SD ROW TO S BANK OF PORTAGE CREEK, TH NELY ALG SD BANK 298.08 FT, TH E ALG SD BANK 49 FT TO A POINT, TH S ALG PRIVATE ROW 1179.91 FT, TH SELY 127.87 FT, TH S 57 DEG E 450.29 FT, TH N 54 DEG E 637.87 FT, TH N 51 DEG W 196.73 FT, TH N TO POB. 46.35 AC BI-CENTENNIAL PARK.SEC 15-3-11 BEG AT PT ON N&S1/4 LI SEC 15 447.5 FT N OF C1/4 POST SD SEC TH S 54 DEG 2 MIN W 501 FT TH N 25 DEG 55 MIN W 161.7 FT TH N 57 DEG 11 MIN W 66.15 FT TH N 54 DEG 34 MIN E 673.4 FT TH SELY 221.28 FT TH S 54 DEG 02 MIN W 240.4 FT TO PL OF BEG. 3.11 AC BI-CENTENNIAL PARK.SEC 15-3-11 BEG AT C1/4 POST SEC 15 TH S 495 FT TH E 1320 FT TH N 188.2 FT TH NWLY 528.56 FT TH W 927.69 FT TO PL OF BEG. 11.87 AC - WELL SITE.

Parcel A:

A Part of Lot 328 in the plat of "Lakewood Homesites", in Section 15, Town 3 South, Range 11 West, City of Portage, Kalamazoo County, Michigan, being more particularly described as follows: Commencing at the Northeast corner of Lot 328 in the plat of "Lakewood Homesites", in Section 15, Town 3 South, Range 11 West, City of Portage, Kalamazoo County, Michigan, as recorded in Liber 12 of Plats on Page 20 in the Register of Deeds office for Kalamazoo County, Michigan, thence South 89°53' West, along the North line of said Lot 328 to the point being 49.5 feet Westerly of the East line of said Lot 328; thence South 0°06' East, parallel with and 49.5 feet Westerly of the East line of said Lot 328, to a point being 46.0 feet Southerly of the North line of said Lot 328, said point being the place of beginning; thence South 0°06' East, parallel with and 49.5 feet Westerly of the East line of said Lot 328, 121.00 feet; thence South 89°53' West, parallel with the North line of said Lot 328, 230.00 feet; thence South 61°58'55" West, 46.97 feet; thence South 89°53' West, parallel with the North line of said Lot 328, 50.00 feet to the point being 371.00 feet Westerly of the East line of said Lot 328; thence North 0°06' West parallel with and 371.0 feet Westerly of the East line of said Lot 328, 130.00 feet; thence North 57°50'50" East 24.47 feet to a point being 46.0 feet Southerly of the North line of aid Lot 328; thence North 89°53' East parallel with and 46.0 feet Southerly of the North line of said Lot 328, 300.76 feet to the place of beginning.

Parcel B:

A part of Lot 328 in the plat of "Lakewood Homesites, in Section 15, Town 3 South, Range 11 West, City of Portage, Kalamazoo County, Michigan, being more particularly described as follows: Commencing at the Northeast corner of Lot 328 in the plat of Lakewood Homesites, in Section 15, Town 3 south, Range 11 West, City of Portage, Kalamazoo County, Michigan, as recorded in Liber 12 of Plats, on Page 20, in the Register of Deeds office for Kalamazoo County, Michigan; thence South 89° 53' West, along the North line of Lot 328 to a point 49.5 feet Westerly of the East line of said Lot 328; thence South 0° 06' East, parallel with and 49.5 feet Westerly of the East line of said Lot 328, 347.77 feet to the South line of said Lot 328; thence Westerly along the South line of said Lot 328, 314.00 feet to a point being 363.5 feet Westerly of the East line of said Lot 328, said point being the place of beginning; thence continuing Westerly along the South line of said Lot 328, 189.59 feet to the West line of aid Lot 328; thence Northerly along the West line of said Lot 328, 347.77 feet to the North line of said Lot 328; thence North 89° 53' East, along the North line of said 328, 183.42 feet to a point being 371.0 feet Westerly of the East line of said Lot 328; thence South 0°06' East, parallel with and 371.0 feet Westerly of the East line of aid Lot 328, to a point being 46.0 feet Southerly of the North line of said lot 328; thence North 89°53' East, parallel with and 46.0 feet Southerly of the North line of said Lot 328, 20.74 feet; thence South 57° 50' 50" West 24.47 feet to at a point being 371.0 feet Westerly of the East line of said Lot 328; thence South 0°06' East, parallel with and 371.0 feet Westerly of the East line of said Lot 328, 130.00 feet; thence North 89°53' East, parallel with the North line of said Lot 328, 7.50 feet; thence South 0°06' East, parallel with the East line of said Lot 328, 158.79 feet to the place of beginning.

Parcel C:

A part of Lot 328 in the plat of "Lakewood Homesites, in Section 15, Town 3 South, Range 11 West, City of Portage, Kalamazoo County, Michigan, being more particularly described as follows: Commencing at the Northeast Corner of Lot 328 in the Plat of Lakewood Homesites, in Section 15, Town 3 South, Range 11 West, City of Portage, Kalamazoo County, Michigan, as recorded in Liber 12 of Plats, on Page 20, in the Register of Deeds office for Kalamazoo County, Michigan; thence South 89°53' West along the North line of said Lot 328 to a point being 49.5 feet Westerly of the East line of said Lot 328 to a point being 49.5 feet Westerly the East line of said Lot 328; thence South 0°06' East parallel with and 49.5 feet Westerly of the East line of said d Lot 328, 167.00 feet for the place of beginning; thence South 89°53' West parallel with the North line of said Lot 328, 230.00 feet; thence South 61°58'55" West 46.97 feet; thence South 89°53' West parallel with the North line of said Lot 328, 42.50 feet to a point being 363.5 feet Westerly of the East line of said Lot 328; thence South 0°06' East parallel with and 363.5 feet Westerly of the East line of said Lot 328, 158.79 feet to the South line of said Lot 328; thence Easterly along the South line of said Lot 328, 314.00 feet to a point being 49.5 feet Westerly of the East line of said Lot 328; thence North 0°06' West parallel with and 49.5 feet Westerly of the East line of said Lot 328, 180.77 feet to the place of beginning.

Parcel D:

Together with a 22 foot wide easement for ingress and egress, for Parcels A, B and C, to be shared in common with others extending 11.00 feet, as measured at right angles on each side of the following described centerline: Commencing at the Northeast corner of Lot 328 in the Plat of "Lakewood Homesites", in Section 15, Town 3 South, Range 11 West, City of Portage, Kalamazoo County, Michigan, as recorded in Liber 12 of Plat on Page 20, in the Register of Deeds Office for Kalamazoo County, Michigan; thence South 89° 53' West along the North line of said Lot 328 to a point being 49.5 feet Westerly of the East line of said Lot 328; thence South 0°06' East parallel with and 49.5 feet Westerly of the East line of said Lot 328, 167.00 feet to the place of beginning; thence South 89°53' West parallel with the North line of said Lot 328, 230.00 feet; thence South 61° 58' 55" West 46.97 feet; thence South 89°53' West parallel with the North line of said Lot 328, 50.00 feet to a point being 371.0 feet Westerly of the East line of said Lot 328; thence North 0°06' West parallel with and 371.0 feet Westerly of the East line of said Lot 328, 130.00 feet; thence North 57°50'50" East 24.47 feet to a point being 46.0 feet Southerly of the North line of said Lot 328 for the place of ending.

Act 288 of 1967 and act 591 of 1996 of the Michigan Public Acts should be checked to see that any property conveyance does not violate these acts.

SHEET 1 OF 1

SKETCH OF DESCRIPTION

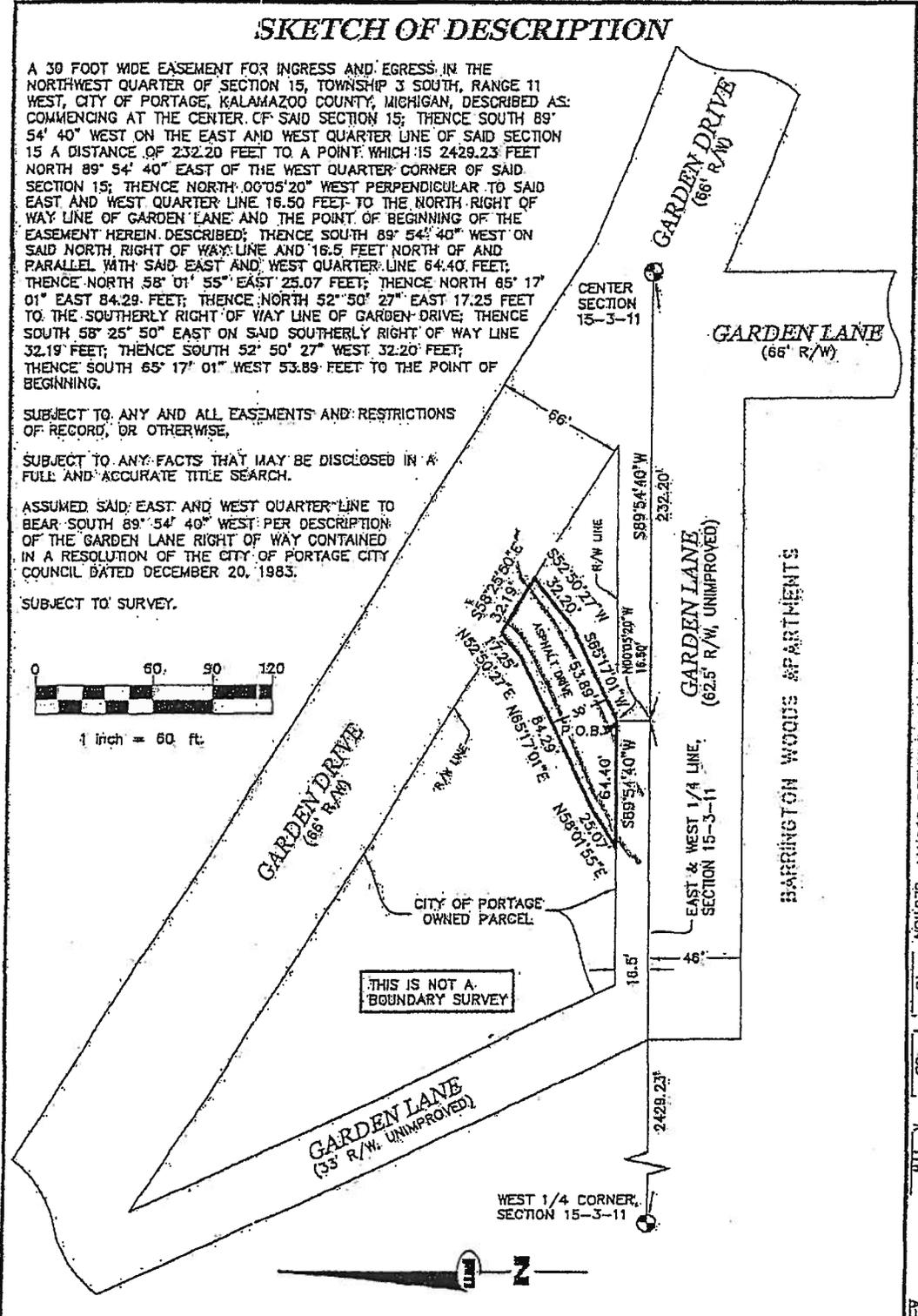
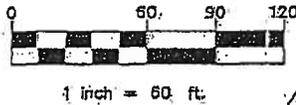
A 30 FOOT WIDE EASEMENT FOR INGRESS AND EGRESS IN THE NORTHWEST QUARTER OF SECTION 15, TOWNSHIP 3 SOUTH, RANGE 11 WEST, CITY OF PORTAGE, KALAMAZOO COUNTY, MICHIGAN, DESCRIBED AS: COMMENCING AT THE CENTER OF SAID SECTION 15; THENCE SOUTH 89° 54' 40" WEST ON THE EAST AND WEST QUARTER LINE OF SAID SECTION 15 A DISTANCE OF 232.20 FEET TO A POINT WHICH IS 2429.23 FEET NORTH 89° 54' 40" EAST OF THE WEST QUARTER CORNER OF SAID SECTION 15; THENCE NORTH 00° 05' 20" WEST PERPENDICULAR TO SAID EAST AND WEST QUARTER LINE 16.50 FEET TO THE NORTH RIGHT OF WAY LINE OF GARDEN LANE AND THE POINT OF BEGINNING OF THE EASEMENT HEREIN DESCRIBED; THENCE SOUTH 89° 54' 40" WEST ON SAID NORTH RIGHT OF WAY LINE AND 16.5 FEET NORTH OF AND PARALLEL WITH SAID EAST AND WEST QUARTER LINE 64.40 FEET; THENCE NORTH 58° 01' 55" EAST 25.07 FEET; THENCE NORTH 85° 17' 01" EAST 84.29 FEET; THENCE NORTH 52° 50' 27" EAST 17.25 FEET TO THE SOUTHERLY RIGHT OF WAY LINE OF GARDEN DRIVE; THENCE SOUTH 58° 25' 50" EAST ON SAID SOUTHERLY RIGHT OF WAY LINE 32.19 FEET; THENCE SOUTH 52° 50' 27" WEST 32.20 FEET; THENCE SOUTH 65° 17' 01" WEST 53.89 FEET TO THE POINT OF BEGINNING.

SUBJECT TO ANY AND ALL EASEMENTS AND RESTRICTIONS OF RECORD, OR OTHERWISE,

SUBJECT TO ANY FACTS THAT MAY BE DISCLOSED IN A FULL AND ACCURATE TITLE SEARCH.

ASSUMED SAID EAST AND WEST QUARTER LINE TO BEAR SOUTH 89° 54' 40" WEST PER DESCRIPTION OF THE GARDEN LANE RIGHT OF WAY CONTAINED IN A RESOLUTION OF THE CITY OF PORTAGE CITY COUNCIL DATED DECEMBER 20, 1983.

SUBJECT TO SURVEY.



CLIENT: CITY OF PORTAGE	
DATE: 3/30/2010	100122
SCALE: 1" = 60'	
DRAWN BY: T. ROOT	
CHECKED BY:	

WIGHTMAN & ASSOCIATES, INC.
 ENGINEERING • SURVEYING • ARCHITECTURE
 1303 PIPESTONE ROAD
 PORTAGE, MI 49783
 PHONE: (269) 227-1100
 WWW.WIGHTMAN-INC.COM

CITY OF PORTAGE, KALAMAZOO COUNTY SECTION 15, T. 3S, R. 11W A-100122

LICENSE AGREEMENT TO LOCATE PERSONAL PROPERTY IN CITY RIGHT-OF-WAY

This License Agreement is made and entered into this 22 day of September, 2010, by and between the City of Portage, a Michigan municipal corporation, organized under the laws of the State of Michigan, with offices at 7900 South Westnedge Avenue, Portage, Michigan 49002 (hereinafter "City") and Duke Barrington Limited Dividend Housing Association Limited Partnership, 1100 South Rose Street, Kalamazoo, Michigan 49007 (hereinafter "Duke");

WHEREAS, in 1983, City realigned Garden Lane so that a new public street named Garden Drive was created from Garden Lane to Lovers Lane;

WHEREAS, the unimproved portion of Garden Lane (herein referred to as "Unimproved Garden Lane") was "temporarily terminated" as a public street but City retained all rights in the land;

WHEREAS, Unimproved Garden Lane is not being used by the general public for vehicular travel or pedestrian travel and has not been so used since 1983;

WHEREAS, Duke has located two garbage receptacles, a screening fence, concrete sidewalk, a 22 foot wide asphalt driveway, a light pole and a concrete pad (collectively the "improvements") on the Unimproved Garden Lane for the use of its tenants who occupy residential units in the development owned by Duke known as "Barrington Woods" which is described in the attached Exhibit A;

WHEREAS, the improvements are situated on Unimproved Garden Lane as shown in the attached Exhibit B;

WHEREAS, Duke desires continued use of the improvements; and

WHEREAS, contemporaneous with execution of this License Agreement to Locate Personal Property in City Right-of-Way, the parties have entered into an Easement and Right-of-Way Agreement for Ingress and Egress which grants Duke a right-of-way over City owned land at 7451 Garden Lane which abuts the Unimproved Garden Lane to the north.

WHEREAS, the City will not be expending any public funds for Duke's maintenance or repair of the improvements;

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1. City grants to Duke a personal, revocable, non-exclusive license (hereinafter "License") to use, locate and maintain the improvements presently located on Unimproved Garden Lane.

2. This License is granted for the sole use, benefit and enjoyment of Duke and is given for the sole purpose of allowing the use of the improvements at all reasonable times for their intended use. There is no intention to grant third party beneficiary rights to any tenant (or their invitees or guests) by the grant of this License Agreement.

3. Duke shall, at its own expense, keep the improvements in good condition and repair and keep the surrounding area free of debris, obnoxious fumes or other condition not appropriate to the surrounding area. City may request Duke to conduct repair and maintenance on the improvements and/or remove any debris and/or odors from the area. City may perform the required work and charge Duke for all time and materials expended if, after thirty (30) days written notice to Duke, Duke fails or refuses to perform or complete the requested work.

4. Duke shall be responsible for removal of snow and ice in any area used by Duke and where the improvements are located.

5. City shall not be required to incur any cost or expense as a result of Duke's exercise of the rights granted by this License.

6. City expressly reserves the right to use and allow others to use Unimproved Garden Lane for any purpose including, but not limited to, the construction, operation and maintenance of electric, gas and other utility facilities, under, over and across Unimproved Garden Lane. Duke shall, at Duke's sole cost and expense, relocate the improvements (or any one of them) at City's request if such relocation is necessary to accommodate construction of future public utilities and/or right-of-way on City's land. Nothing contained herein shall be interpreted or construed to grant Duke or any of Duke's transferees or assigns any property interest in Unimproved Garden Lane. The City retains all property rights in and to Unimproved Garden Lane including, but not limited to, the right to utilize Unimproved Garden Lane for construction of roadways, sidewalks, driveways, curbs, gutters, public utilities or any other improvement. In such case, City may terminate this License pursuant to paragraph 9 below.

7. Other than the improvements identified in Attachment B, Duke shall not perform any further work on Unimproved Garden Lane which is of a permanent nature including, but not limited to, the construction of walls, additional fences, structures, or the paving of a residential driveway without City's written consent, nor plant any trees or shrubs, or store materials in, on or under Unimproved Garden Lane without City's written consent. Notwithstanding the above, the Grantee may perform such work on Unimproved Garden Lane as is appropriate to maintain the existing pavement in a safe and good condition without the City's written consent.

8. In the event Duke conveys any of its right, title and interest in the Duke property, Duke's successor in interest shall, after approval by the City, thereafter assume all rights and obligations herein. Duke's rights under this License are subject to any prior easements, licenses, leases, or other interest in the land previously granted by City or its predecessors in title.

9. City may terminate this License upon thirty (30) days written notice upon occurrence of any of the following: A) If Grantor believes that Grantee is in violation of any provision of this License Agreement, it shall provide written notice describing the default to Grantee at the address set forth on the first page of this License Agreement. The Grantee shall have a period of thirty (30) days from receipt of the notice to cure the default. If Grantee fails to cure the default within this thirty (30) day time period, then in that event, Grantor may terminate this License Agreement in writing; B) If the use of the improvements identified in Attachment B by Duke's tenants ceases for a period of thirty (30) days or longer. If the Grantor believes that the Improvements have been abandoned or has ceased to be used by the Grantee or Grantee's tenants for a period of thirty (30) days or more written notice will be provided to Grantee of its intent to terminate the License Agreement. If Grantee fails to provide sufficient evidence to Grantor that the Improvements have not been abandoned or are continuing to be used by Grantee or by Grantee's tenants, then Grantor may terminate this License Agreement in writing; C) If Duke's use of Unimproved Garden Lane under this License is not compatible with or is inconsistent with the City's right to utilize Unimproved Garden Lane under paragraph 6 above; or D) If City permanently vacates Unimproved Garden Lane. If the License is terminated for any reason, Duke, at its sole cost and expense, shall remove all improvements from Unimproved Garden Lane unless fee ownership to the area upon which the improvements are located has passed to Duke.

10. The following provisions concern liability, insurance and indemnity:

- A. City shall not be liable to Duke or Duke's agents, employees, contractors, invitees, guests, volunteers or tenants, including any guest or invitee of tenants, (hereinafter collectively referred to as "Duke's agents") for any personal injury, property damage or loss of life, or property caused by or arising out of, or in connection with the use of Unimproved Garden Lane, or the improvements thereon and the rights granted herein.
- B. Duke shall, at its sole cost and expense, indemnify and hold harmless City, its agents, officers, boards, employees and contractors, (hereinafter collectively referred to as "Indemnitees") from and against any and all liability, obligation, damages, penalties, claims, liens, costs, charges, losses

and expenses (including, without limitation, reasonable fees and expenses of attorneys, expert witnesses and consultants) which may be imposed upon, incurred by, or be asserted against the Indemnitees by reason of any act or omission of Duke or Duke's agents, resulting in personal injury, bodily injury, sickness, disease or death to any person or damage to or loss of or destruction of tangible or intangible personal property which may arise out, or be in any way connected, directly or indirectly, with the use of Unimproved Garden Lane by Duke or Duke's tenants, guests, invitees or agents or arising out of or the rights granted herein.

- C. While this Agreement is in effect, Duke and its contractors who are performing work on Unimproved Garden Lane, shall maintain or cause to maintain in full force and effect and at Duke's sole cost and expense, comprehensive general liability insurance with minimum limits of One Million (\$1,000,000) Dollars as the combined single limit for each occurrence of bodily injury, personal injury and property damage. The policy shall be written on an occurrence and not on a claims made basis. The coverage amount set forth above may be met by a combination of underlying and umbrella policies so long as in combination the limits equal or exceed those stated.
- D. Duke shall name City and its respective officers, boards, commissions, employees, agents and contractors, as their respective interest may appear as Additional Insured (herein referred to as the "Additional Insured") on Duke's policy of insurance, and give City thirty (30) days written notice of any modification and/or cancellation.
- E. Certificates of insurance for each insurance policy required to be obtained by Duke in compliance with this paragraph shall be filed with City ten (10) days after execution of this License and maintained with City annually during the term of this License. Duke shall immediately advise City of any claim or litigation that may result in liability to City.
- F. All insurance shall be effected under valid and enforceable policies, insured by insurers licensed to do business by the State of Michigan which are satisfactory to City.
- G. Duke agrees to indemnify and save harmless the City, the Indemnities and Additional Insured from and against the payment of any deductible, self-insured retention and from the payment of any premium on any insurance policy (all of which shall be the responsibilities of Duke) required to be furnished by this License.

11. This License represents the entire agreement between the parties. It may not be amended, altered or modified unless done so in writing by the entities against whom enforcement of any waiver, change or modification or discharge is sought.

12. All notices and demands required or permitted under this License shall be in writing and shall be served personally or by postage prepaid United States first-class, certified (return receipt requested), or registered mail, addressed to the party at the address indicated on page 1 hereof or to such other place as may be designated by notice given in accordance with this section. Notice shall be deemed to have been given on the earlier of (a) the date when received, or (b) two (2) business days after mailing if mailed in the State of Michigan.

13. Use of Unimproved Garden Lane by Duke pursuant to this License shall comply with all applicable federal, state and local laws.

14. This License shall be governed by and construed in accordance with the laws of the State of Michigan that are applicable to agreements made and to be performed in that State.

15. Any waiver of any provision of this License shall not be controlling, nor shall it prevent or estop such party from thereafter enforcing such provision. The failure of any party to insist in any one or more instances upon the strict performance of any of the terms of this License by another party shall not be construed as a waiver or relinquishment for the future of any such provision, and the same shall continue in full force and effect.

16. No provision in this License is to be interpreted for or against any party because that party or that party's legal representative drafted the provision.

17. If any party commences an action against another party as the result of a breach or alleged breach of this License, the prevailing party shall be entitled to have and recover from the losing party reasonable attorney fees and costs of suit.

18. Nothing in this License constitutes, nor shall the same be construed, as a waiver of any governmental immunity provided to the City, its agents, employees and officers provided for under common law or statute.

19. This License and any originals of exhibits referred to herein may be executed in any number of duplicate originals or counterparts, each of which (when the original signatures are affixed) shall be an original but all of which shall constitute one and the same instrument.

IN WITNESS WHEREOF, the undersigned have hereunto affixed their signatures this _____ day of _____, 2010.

LICENSOR:

CITY OF PORTAGE, a Michigan
Municipal Corporation

By: _____

Maurice S. Evans

Its: City Manager

STATE OF MICHIGAN)
) ss
COUNTY OF KALAMAZOO)

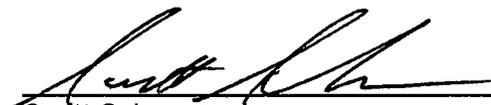
On this _____ day of _____, 2010 before me personally came the above named Maurice S. Evans to me personally known, who being duly sworn, did for himself say that he is the City Manager of the municipal corporation named in and who executed the within instrument and that said instrument was signed on behalf of said corporation by authority of its City Council; and said Maurice S. Evans acknowledges said instrument to be the free act and deed of said municipal corporation.

_____, Notary Public
Kalamazoo County, Michigan
My Commission Expires: _____
Acting in Kalamazoo County, Michigan

LICENSEE:

Duke Barrington Limited Dividend Housing
Association Limited Partnership

By: Residential Opportunities Development, LLC
By: Residential Opportunities, Inc.
Its: Sole Member

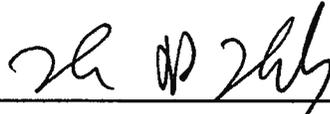
By: 
Scott Schrum
Its: Executive Director

STATE OF MICHIGAN

)
) ss
)

COUNTY OF KALAMAZOO

On this 22 day of September, 2010 before me personally came the above named Scott Schrum to me personally known, who being duly sworn, did for himself say that he is the Executive Director of the limited liability company named in and who executed the within instrument and that said instrument was signed on behalf of said limited liability company and said Scott Schrum acknowledges said instrument to be the free act and deed of said limited liability company.



_____, Notary Public
Kalamazoo County, Michigan
My Commission Expires: July 22, 2015
Acting in Kalamazoo County, Michigan

PREPARED BY:
Randall L. Brown
City Attorney
1662 East Centre Avenue
Portage, MI 49002
Portage, MI 49024
Phone: (269) 323-8812
Fax: (269) 323-0055



Z:\Jody\PORTAGEVAGREEMEN\License Agreement Barrington Woods CLEAN.091310.wpd

EXHIBIT A

Parcel A:

A Part of Lot 328 in the plat of "Lakewood Homesites", in Section 15, Town 3 South, Range 11 West, City of Portage, Kalamazoo County, Michigan, being more particularly described as follows: Commencing at the Northeast corner of Lot 328 in the plat of "Lakewood Homesites", in Section 15, Town 3 South, Range 11 West, City of Portage, Kalamazoo County, Michigan, as recorded in Liber 12 of Plats on Page 20 in the Register of Deeds office for Kalamazoo County, Michigan, thence South 89°53' West, along the North line of said Lot 328 to the point being 49.5 feet Westerly of the East line of said Lot 328; thence South 0°06' East, parallel with and 49.5 feet Westerly of the East line of said Lot 328, to a point being 46.0 feet Southerly of the North line of said Lot 328, said point being the place of beginning; thence South 0°06' East, parallel with and 49.5 feet Westerly of the East line of said Lot 328, 121.00 feet; thence South 89°53' West, parallel with the North line of said Lot 328, 230.00 feet; thence South 61°58'55" West, 46.97 feet; thence South 89°53' West, parallel with the North line of said Lot 328, 50.00 feet to the point being 371.00 feet Westerly of the East line of said Lot 328; thence North 0°06' West parallel with and 371.0 feet Westerly of the East line of said Lot 328, 130.00 feet; thence North 57°50'50" East 24.47 feet to a point being 46.0 feet Southerly of the North line of said Lot 328; thence North 89°53' East parallel with and 46.0 feet Southerly of the North line of said Lot 328, 300.76 feet to the place of beginning.

Parcel B:

A part of Lot 328 in the plat of "Lakewood Homesites, in Section 15, Town 3 South, Range 11 West, City of Portage, Kalamazoo County, Michigan, being more particularly described as follows: Commencing at the Northeast corner of Lot 328 in the plat of Lakewood Homesites, in Section 15, Town 3 south, Range 11 West, City of Portage, Kalamazoo County, Michigan, as recorded in Liber 12 of Plats, on Page 20, in the Register of Deeds office for Kalamazoo County, Michigan; thence South 89° 53' West, along the North line of Lot 328 to a point 49.5 feet Westerly of the East line of said Lot 328; thence South 0° 06' East, parallel with and 49.5 feet Westerly of the East line of said Lot 328, 347.77 feet to the South line of said Lot 328; thence Westerly along the South line of said Lot 328, 314.00 feet to a point being 363.5 feet Westerly of the East line of said Lot 328, said point being the place of beginning; thence continuing Westerly along the South line of said Lot 328, 189.59 feet to the West line of said Lot 328; thence Northerly along the West line of said Lot 328, 347.77 feet to the North line of said Lot 328; thence North 89° 53' East, along the North line of said 328, 183.42 feet to a point being 371.0 feet Westerly of the East line of said Lot 328; thence South 0°06' East, parallel with and 371.0 feet Westerly of the East line of said Lot 328, to a point being 46.0 feet Southerly of the North line of said lot 328; thence North 89°53' East, parallel with and 46.0 feet Southerly of the North line of said Lot 328, 20.74 feet; thence South 57° 50' 50" West 24.47 feet to at a point being 371.0 feet Westerly of the East line of said Lot 328; thence South 0°06' East, parallel with and 371.0 feet Westerly of the East line of said Lot 328, 130.00 feet; thence North 89°53' East, parallel with the North line of said Lot 328, 7.50 feet; thence South 0°06' East, parallel with the East line of said Lot 328, 158.79 feet to the place of beginning.

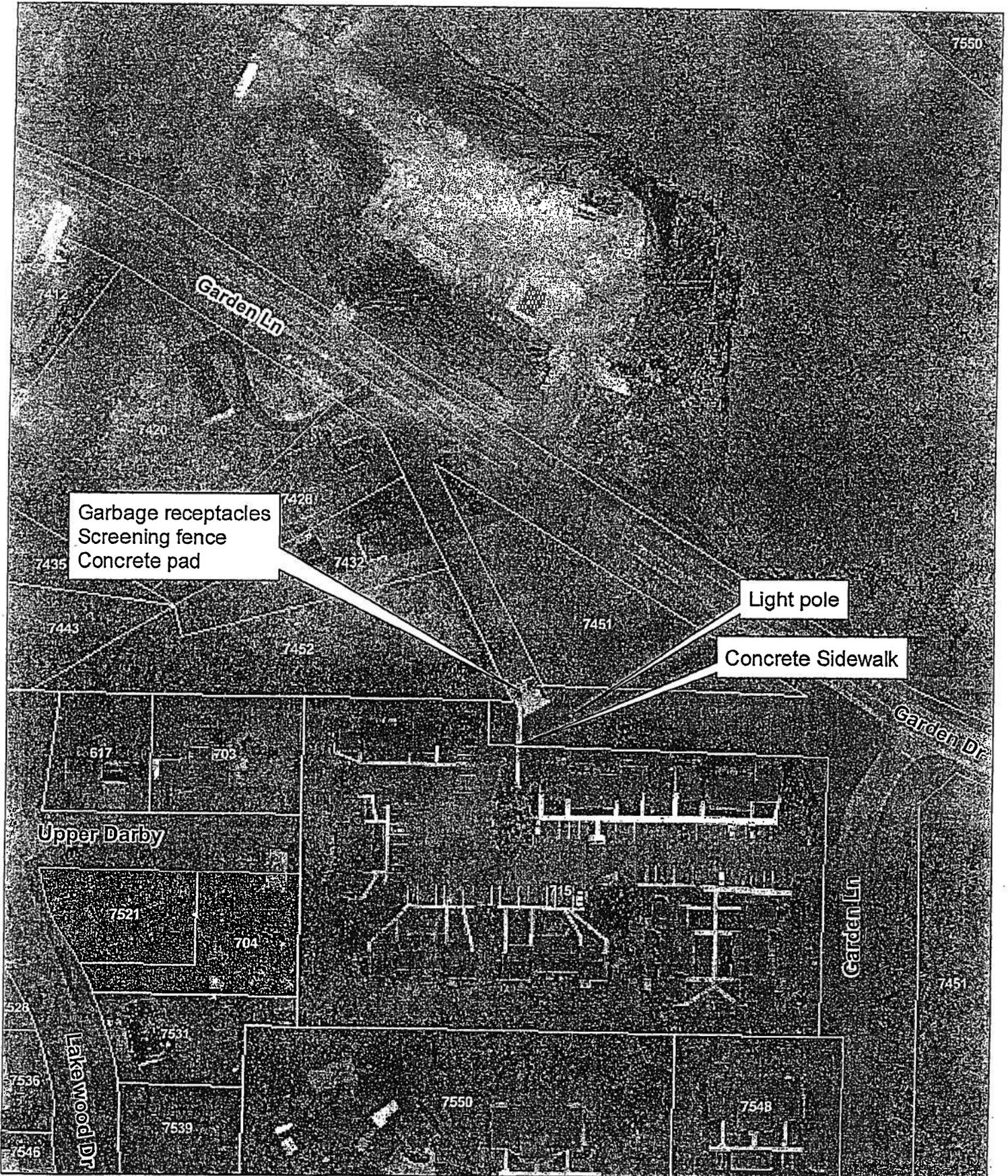
Parcel C:

A part of Lot 328 in the plat of "Lakewood Homesites, in Section 15, Town 3 South, Range 11 West, City of Portage, Kalamazoo County, Michigan, being more particularly described as follows: Commencing at the Northeast Corner of Lot 328 in the Plat of Lakewood Homesites, in Section 15, Town 3 South, Range 11 West, City of Portage, Kalamazoo County, Michigan, as recorded in Liber 12 of Plats, on Page 20, in the Register of Deeds office for Kalamazoo County, Michigan; thence South 89°53' West along the North line of said Lot 328 to a point being 49.5 feet Westerly of the East line of said Lot 328 to a point being 49.5 feet Westerly the East line of said Lot 328; thence South 0°06' East parallel with and 49.5 feet Westerly of the East line of said Lot 328, 167.00 feet for the place of beginning; thence South 89°53' West parallel with the North line of said Lot 328, 230.00 feet; thence South 61°58'55" West 46.97 feet; thence South 89°53' West parallel with the North line of said Lot 328, 42.50 feet to a point being 363.5 feet Westerly of the East line of said Lot 328; thence South 0°06' East parallel with and 363.5 feet Westerly of the East line of said Lot 328, 158.79 feet to the South line of said Lot 328; thence Easterly along the South line of said Lot 328, 314.00 feet to a point being 49.5 feet Westerly of the East line of said Lot 328; thence North 0°06' West parallel with and 49.5 feet Westerly of the East line of said Lot 328, 180.77 feet to the place of beginning.

Parcel D:

Together with a 22 foot wide easement for ingress and egress, for Parcels A, B and C, to be shared in common with others extending 11.00 feet, as measured at right angles on each side of the following described centerline: Commencing at the Northeast corner of Lot 328 in the Plat of "Lakewood Homesites", in Section 15, Town 3 South, Range 11 West, City of Portage, Kalamazoo County, Michigan, as recorded in Liber 12 of Plat on Page 20, in the Register of Deeds Office for Kalamazoo County, Michigan; thence South 89° 53' West along the North line of said Lot 328 to a point being 49.5 feet Westerly of the East line of said Lot 328; thence South 0°06' East parallel with and 49.5 feet Westerly of the East line of said Lot 328, 167.00 feet to the place of beginning; thence South 89°53' West parallel with the North line of said Lot 328, 230.00 feet; thence South 61° 58' 55" West 46.97 feet; thence South 89°53' West parallel with the North line of said Lot 328, 50.00 feet to a point being 371.0 feet Westerly of the East line of said Lot 328; thence North 0°06' West parallel with and 371.0 feet Westerly of the East line of said Lot 328, 130.00 feet; thence North 57°50'50" East 24.47 feet to a point being 46.0 feet Southerly of the North line of said Lot 328 for the place of ending.

Vicinity Map



CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: October 11, 2010

FROM: Maurice S. Evans, City Manager



SUBJECT: PA 451 Farmland/Open Space Application: 7943 South 25th Street, Pavilion Township

ACTION RECOMMENDED: That City Council accept the PA 451 Farmland/Open Space application from Behavior Development Corporation (DBA) Lake Village Homestead, 7943 South 25th Street, Pavilion Township.

Attached are a transmittal from the Planning Commission and a report from the Community Development Director concerning a PA 451 Farmland/Open Space application filed by Behavior Development Corporation that is doing business as Lake Village Homestead, 7943 South 25th Street. The application involves approximately 56 acres situated along the east side of South 25th Street, near the P Avenue intersection within Section 18 of Pavilion Township. Prior to formal action by Pavilion Township, the statute requires that if the land is within three miles of a city, an opportunity to comment on the application must be provided.

Farmland/Open Space Easement agreements are executed in order to grant property owners certain income or property tax benefits in return for an agreement ensuring that the land remains in agricultural use or as open space. Preserving farmland or open space within rural areas is one method to focus development within urban areas and to take advantage of existing infrastructure.

The City Administration and the Planning Commission have reviewed the application. It is advised that the application be received. Unless City Council wishes to communicate comments to the township, no other action is necessary.

Attachments: Planning Commission Transmittal dated October 11, 2010
Planning Commission draft meeting minutes dated October 7, 2010
Department of Community Development staff report dated October 1, 2010

TO: Honorable Mayor and City Council
FROM: Planning Commission
DATE: October 11, 2010
SUBJECT: PA 451 Farmland/Open Space Application: 7943 South 25th Street, Pavilion Township

At the meeting of October 7, 2010, the Planning Commission reviewed and discussed the PA 451 Farmland/Open Space Preservation application filed by Behavior Development Corporation (DBA) Lake Village Homestead involving an approximate 56 acre tract of land located along the east side of South 25th Street, near the P Avenue intersection, within Section 18 of Pavilion Township.

After a brief discussion, the Planning Commission voted unanimously to accept the application.

Sincerely,

CITY OF PORTAGE PLANNING COMMISSION

A handwritten signature in cursive script that reads "James Cheesebro". The signature is written in dark ink and includes a stylized initial "C" at the end.

James Cheesebro
Chairman

DRAFT

1) No overnight boarding, breeding or selling of dogs; 2) Hours of operation be restricted to 6:30am-6:00pm; and 3) Compliance with all applicable City of Portage Code of Ordinances including Community Quality (Chapter 24) related to the operation of this use including noise, odors, sanitation and health. The motion was unanimously approved.

PLATS/RESIDENTIAL CONDOS:

None.

OLD BUSINESS:

1. Valley Family Church-Kalamazoo, 2500 Vincent Drive – background information. Mr. Forth summarized the staff report dated October 1, 2010 and indicated the Valley Family Church-Kalamazoo (VFC-K) requested that the attached document entitled “City/Traffic Documentation” be provided to the Planning Commission for review, prior to the October 21, 2010 public hearing.

The Commission and staff briefly discussed issue of noise complaints listed in the documentation provided by VFC-K. Assistant City Attorney Bear stated the noise complaints were being handled by the Police Department and City Attorney Office. Commissioner Pearson briefly provided some background information regarding the May 2008 approval and the conditions that were attached to the approval. Since six of the nine current Commissioners were not part of the May 2008 consideration, Commissioner Pearson asked that the legal opinion previously provided by the City Attorney in regard to the Religious Land Use and Institutionalized Persons Act of 2000 (RLUIPA) be reissued to the Planning Commission prior to the October 21, 2010 public hearing. Assistant City Attorney Bear stated that the legal opinion would be provided prior to the October 21, 2010 meeting.

NEW BUSINESS:

1. Request that the Planning Commission initiate an Ordinance Amendment for the keeping of hens in residential zones from Mr. Fernando Costas. Mr. West summarized the staff report dated October 1, 2010 involving the request from Mr. Fernando Costas that the Planning Commission initiate an ordinance amendment that would allow the keeping of hens in residential zones. Mr. West referred the Commission to the materials provided by Mr. Costas including existing ordinance language samples from other communities, suggested ordinance language and a May 2008 study prepared by the University of New Mexico entitled “Residential Urban Chicken Keeping: An Examination of 25 Cities.”

Mr. Fernando Costas (7619 Harvest Lane) was presented to support the request. Mr. Costas stated that he was requesting the Planning Commission initiate the ordinance amendment because he could not afford the application fee. Mr. Costas briefly discussed the proposal and materials provided and stated that he has a petition signed by more than 80 people supporting the proposed ordinance amendment. Seven additional citizens spoke in support of Mr. Costas and the proposed ordinance amendment: 1) Ms. Lynda Stewart, 329 East VanHoesen; 2) Mr. Mike Zajac, 8143 Brookwood Drive; 3) Ms. Betty Ongley, 8620 Tozer Court; 4) Mr. Roger Schultz, 3208 Romence Road; 5) Mr. Earnest Noel, 1812 Apple Street; 6) Mr. Eric Myers, 7245 Balfour Drive and 7) Mr. Luke Ostrem, 1515 Dogwood Drive.

After additional discussion, a motion was made by Commissioner Bailes, seconded by Commissioner Patterson, that the Planning Commission initiate an ordinance amendment to consider the keeping/raising of chickens, and other possible poultry/animals, and schedule a public hearing for the November 18, 2010 meeting. The motion was unanimously approved.

2. Farmland and Open Space Preservation Application, 7943 South 25th Street, Pavilion Township. Mr. Forth summarized the staff report dated October 1, 2010 involving the notification provided by Pavilion Township regarding a PA 451 Farmland and Open Space Preservation application for an approximate 56 acre tract of land located at 7943 South 25th Street. Mr. Forth indicated the statute stipulates that communities located within three

DRAFT

miles of subject property are afforded an opportunity to comment on the application. Mr. Forth stated the last application reviewed by the Planning Commission and City Council occurred in 2007 for another property located in Pavilion Township.

Some Commissioners indicated they did not receive the staff report and application materials in their agenda packets while other Commissioners stated they did receive the report and materials. The Commission suggested postponing action on this agenda item until the October 21st meeting. Mr. Forth stated any comments regarding this application must be forwarded to Pavilion Township within 30 days of receipt and the application was received on September 23rd. If postponed until the October 21st Planning Commission meeting, City Council would not consider the application until November 2nd. Although the statute only requires review by the governing body (City Council), these applications are provided to the Planning Commission for review/recommendation since it is a land use matter. The Commissioners who received the application materials shared the information with those who did not. Mr. Forth suggested a short recess while the Commission members reviewed the material. Mr. Forth reiterated the purpose of the application is to obtain a State of Michigan tax credit in exchange for preserving farmland and/or open space and, as a result, comments from the City of Portage that may affect the application are unlikely. After a short discussion, a motion was made by Commissioner Pearson, seconded by Commissioner Welch, to accept the Farmland and Open Space Preservation application for 7943 South 25th Street, Pavilion Township. The motion was unanimously approved. If the Commission members had any additional comments regarding the application, the comments would be provided to staff by the middle part of next week.

STATEMENT OF CITIZENS:

None.

ADJOURNMENT:

There being no further business, the meeting was adjourned at 8:05 p.m.

Respectfully submitted,

Christopher Forth, AICP
Deputy Director of Planning and Development Services

TO: Planning Commission **DATE:** October 1, 2010
FROM: Jeffrey M. Erickson, Director of Community Development
SUBJECT: Farmland and Open Space Preservation Application: 7943 South 25th Street, Pavilion Township

I. INTRODUCTION:

In accordance with Part 361 (Farmland and Open Space Preservation) of the Natural Resources and Environmental Protection Act, Act 451 of 1994, as amended, notification has been received from Pavilion Township involving an application filed by Behavior Development Corporation, 7943 South 25th Street, Pavilion Township. The approximate 55.91 acre property is located on the east side of 25th Street near the "P" Avenue intersection within Section 18, Pavilion Township. Farmland and Open Space Preservation Agreements are executed in order to grant property owners certain income or property tax benefits in return for an agreement ensuring that the land remains in agricultural and/or open space land use for a specified period of time.

For Commission information, Public Act 116 referenced in the attached information was repealed in 2000 and the Farmland and Open Space Preservation provisions incorporated into the Natural Resources and Environmental Protection Act. The statute stipulates that if the subject property is located within three miles of the boundary of a city then that city is afforded the opportunity to comment on the application.

II. RECOMMENDATION:

Staff has reviewed the application and supports the PA 451 Farmland and Open Space Preservation request. Preserving open space/farmland within rural areas is one method to focus development within urban areas and to take advantage of existing infrastructure. The Planning Commission is advised to review this matter. Comments from the Planning Commission will be forwarded to City Council for consideration.

Attachments: Communication from Pavilion Township dated September 22, 2010
Farmland and Open Space Preservation Application materials (Behavior Development Corporation)

S:\2010-2011 Department Files\Board Files\PLANNING COMMISSION\PC Reports\2010 10 01 Farmland Preservation, 7943 South 25th Street, Pavilion doc

PAVILION Township



Scotts Mill

7510 East Q Avenue • Scotts, Michigan 49088 • (269) 327-0462 • Fax (269) 327-0098

September 22, 2010

RECEIVED

SEP 23 10

COMMUNITY DEVELOPMENT



City of Portage
7900 South Westnedge Avenue
Portage, MI 49002

Attention: Planning Dept.

Re: PA-116 Application
Behavior Development Corporation
(DBA) Lake Village Homestead
Roger and Carole Ulrich and others

Dear City of Portage Planning Department,

In accordance with provisions of paragraph three (3) of Section 5 of Public Act 116, the Farmland and Open Space Preservation Act of 1974, as amended, I am enclosing a copy of the application of Behavior Development Corporation, at 7943 South 25th Street, Kalamazoo, MI 49048.

Please take this application under consideration and provide me with your input and/or approval (Under PA 116, reviewing agencies have 30 days to return comments).

Your prompt attention in this matter would be appreciated so our Township Board can take action on this request.

Thank you,

Respectfully,

Karen E. Siegwart

Karen E. Siegwart
Pavilion Township Clerk



Farmland and Open Space Preservation Program

APPLICATION FOR FARMLAND AGREEMENT

(Part 361 of the Natural Resources and Environmental Protection Act, 1994 Act 451 as amended, more commonly known as P. A. 116. Please read the Requirements and Instructions before filling out this form. Please print or type. Attach additional sheets as needed.)

Mailed Back 9/15/2010 (not complete)

OFFICIAL USE ONLY
Local Governing Body: _____

RECEIVED KES
SEP 21 2010

Date Received: 8-19-10 / 8-21-10

Application No.: _____

State: _____

Date Received: _____

Application No.: _____

Approved: _____ Rejected: _____

I. Personal Information:

- Name(s) of Applicant: Behavior Development Corporation
(If more than two see #15)
Last: (DBA) Lake Village Homestead First: _____ Initial: _____
- Marital Status: Married Single Divorced Widowed N/A
- Mailing Address: 7943 S. 25th St. Kalamazoo Mi: MI Zip Code: 49048
Street: _____ City: _____ State: _____ Zip Code: _____
- Telephone Number: (Area Code) (269) 808-2529, (269) 323-3629
- Social Security Number: N/A Spouse's Social Security Number: _____
- Federal Employer Identification Number (if applicable): 38 6141772

II. Property Location: (Can be taken from the deed.)

- County: Kalamazoo
- Township, city or village: Pavilion
- Section No.: 18; Town No.: 3; Range No.: low

III. Legal Information:

- Attach a clear copy of the deed, land contract or memorandum of land contract. (See #14)
- Attach a clear copy of the most recent property tax assessment notice or tax bill.
- Is there a tax lien against the land described above? Yes No
If "Yes," please explain circumstances: _____
- Does the applicant own the mineral rights? Yes No
If owned by the applicant, are the mineral rights leased? Yes No
Indicate who owns or is leasing rights if other than the applicant: _____
Name the types of mineral(s) involved: _____
- Is land cited in the application subject to a lease agreement (other than for mineral rights) permitting a use for something other than agricultural purposes? Yes No If yes, indicate to whom, for what purposes and the number of acres involved: _____
- Is land being purchased under land contract? Yes No; If "Yes," indicate vendor (seller):
Name: _____
Mailing Address: _____
Street: _____ City: _____ State: _____ Zip Code: _____
- Part 361 of the Natural Resources and Environmental Protection Act, 1994 Act 451 as amended, states that the vendor (seller) must agree to allow the land cited in the application to be enrolled in the program. Please have the land contract seller sign below. (All sellers must sign.)

Land Contract Seller:

I, the undersigned, understand and agree to permit the land cited in this application into the Farmland and Open Space Preservation Program.

(Date) (Signature of Land Contract Vendor (Seller))

15) If the applicant is one of the following, please check the appropriate box and complete the following information (not applicable to an individual not meeting one of the categories - please leave blank):

- Corporation *501c3 non profit*
 Limited Liability Company
 Partnership
 Estate
 Trust
 Association
 2 or more persons having a joint or common interest in the land

If applicable, list the following: President, Vice President, Secretary, Treasurer, or trustees or members:

Name: Roger E. Ulrich Title: President S.S.# 350-24-6736
 Mailing Address: 7943 S. 25th St. Kalamazoo MI. 49048
Street City State Zip Code

Name: Ann Brown Title: Vice President S.S.# 038-28-8980
 Mailing Address: 7413 S. 25th St. Kalamazoo MI. 49048
Street City State Zip Code

Name: Tony Kaufman Title: Secretary S.S.# 385-58-2680
 Mailing Address: 5884 E. "P" Ave Kalamazoo MI. 49048
Street City State Zip Code

Name: Carole Ulrich Title: Treasurer S.S.# 340-28-3310
 Mailing Address: 7943 S. 25th St. Kalamazoo MI. 49048
Street City State Zip Code

(Additional names may be attached on a separate sheet.)

IV. Land Eligibility Qualifications: (Check one and fill out correct section or sections)

This application is for:

- a. an application of 40 acres or more, complete only section 16 (a through g);
 b. an application of 5 acres or more but less than 40 acres; complete only sections 16 and 17; or
 c. a specialty farm, complete only sections 16 and 18.

16a. Type of agricultural enterprise (e.g., livestock, cash crops, fruit, etc.):

Hay, pasture, forage, cattle, hogs, goats, chickens, Ducks, Apples, Garden, berries.

- b. Total number of acres on this farm: 219.36
 c. Total number of acres being applied for: 55.91
 d. Acreage in cultivation: 20 Hay
 e. Acreage in cleared, fenced, improved pasture or harvested grassland: All Fenced, all used for agriculture
 f. All other acres (swamp, woods, etc.) 20 ac woods 1 ac Swamp
 g. Indicate any structures on the property. (If more than one building, indicate the number of buildings.):

No. of Buildings: 2 Residence: 1 Barn: _____ Tool Shed: _____
 Silo: _____ Grain Storage Facility: _____ Grain Drying Facility: _____
 Poultry House: 1 Milking Parlor: _____ Milk House: _____
 Other: (Indicate) _____

17. To qualify as agricultural land of 5 acres or more but less than 40 acres, the land must meet certain minimum income requirements (see definition of farmland in Section I (2) and II (1) on the Eligibility Requirements information sheet).

What is the average gross annual income per acre of cleared and tillable land during 2 of the last 3 years immediately preceding application from the sale of agricultural products:

$$\$ \frac{\text{total income}}{\text{total acres of tillable land}} = \$ \text{ (per acre)}$$

18. To qualify as a specialty farm, the land must be designated by the Michigan Department of Agriculture and meet certain minimum income and acreage requirements. (See definition of farmland in Section I (3) and II (1&2) on the Eligibility and Instructions sheet). If a specialty farm, indicate average gross annual income during 2 of the last 3 years immediately preceding application from the sale of agricultural products: \$ _____

19. What is the number of years you wish the agreement to run? (Minimum 10 years, maximum 90 years): 90

V. Signature:

20. The undersigned declare that this application, including any accompanying informational material, has been examined by them and to the best of their knowledge and belief is true and correct.

Roger E Ulrich
 (Signature of Applicant)
 Board Members ^{Ann Brodie & Tony Kaufman} Carele Ulrich
 (Co-Owner)
8-18-10
 (Date)

Behavior Development Corp.
 (Corporation Name, if Applicable)
 X Roger E Ulrich
 (Signature of Corporate Officer)
President
 (Title)

ALL APPLICATIONS MUST BE APPROVED BY LOCAL GOVERNING BODY ON OR BEFORE NOVEMBER 1 IN ORDER TO BE EFFECTIVE FOR THE CURRENT TAX YEAR.

RESERVED FOR LOCAL GOVERNMENT USE, CLERK PLEASE COMPLETE ALL SPACES - SECTION I AND II

I. Action by Local Governing Body: Jurisdiction: _____
 County, Township, City or Village

Date received by clerk: _____

This application is _____ approved, _____ rejected.
 (If rejected, see attached statement by Local Governing Body.)

Date of approval or rejection: _____ Clerk's signature and seal: _____
 Property Appraisal: The current fair market value of the real property in this application has been determined to be \$ _____

II. Check List:
 DATE

- _____ Upon filing an application, clerk issues receipt indicating date received.
- _____ Clerk notifies reviewing agencies by forwarding a copy of the application (review agencies have 30 days to return comments).
- _____ If approved, applicant is notified and the original application, letters of review or comment from reviewing agencies and all supportive material is sent to the MDA - Farmland and Open Space Program, PO Box 30449, Lansing, MI 48909.
- _____ If rejected, clerk notifies applicant in writing within 10 days stating reason for rejection and returning the application, etc. to the applicant.

SENT RECD

- _____ County or Regional Planning Commission
- _____ Soil Conservation District
- _____ Township (if county has jurisdiction)
- _____ City (if land is within 3 miles of city boundary)
- _____ Village (if land is within 1 mile of village boundary)
- _____ Clerk schedules application for presentation at next regular meeting of governing body (governing body has 45 days from meeting date to approve or reject application).
- _____ Clerk notifies applicant 5 days before action is taken on the application by the local governing body.
- _____ Approval or rejection by local governing body.

FINAL APPLICATION SHOULD INCLUDE (✓)

- _____ Copy of deed or land contract
- _____ Copy of tax description
- _____ Copy of recent appraisal record
- _____ Map of farm
- _____ REVIEW LETTERS FROM
- _____ County planning commission or regional planning commission
- _____ Soil conservation district
- _____ Township (if applicable)
- _____ City (if applicable)
- _____ Village (if applicable)

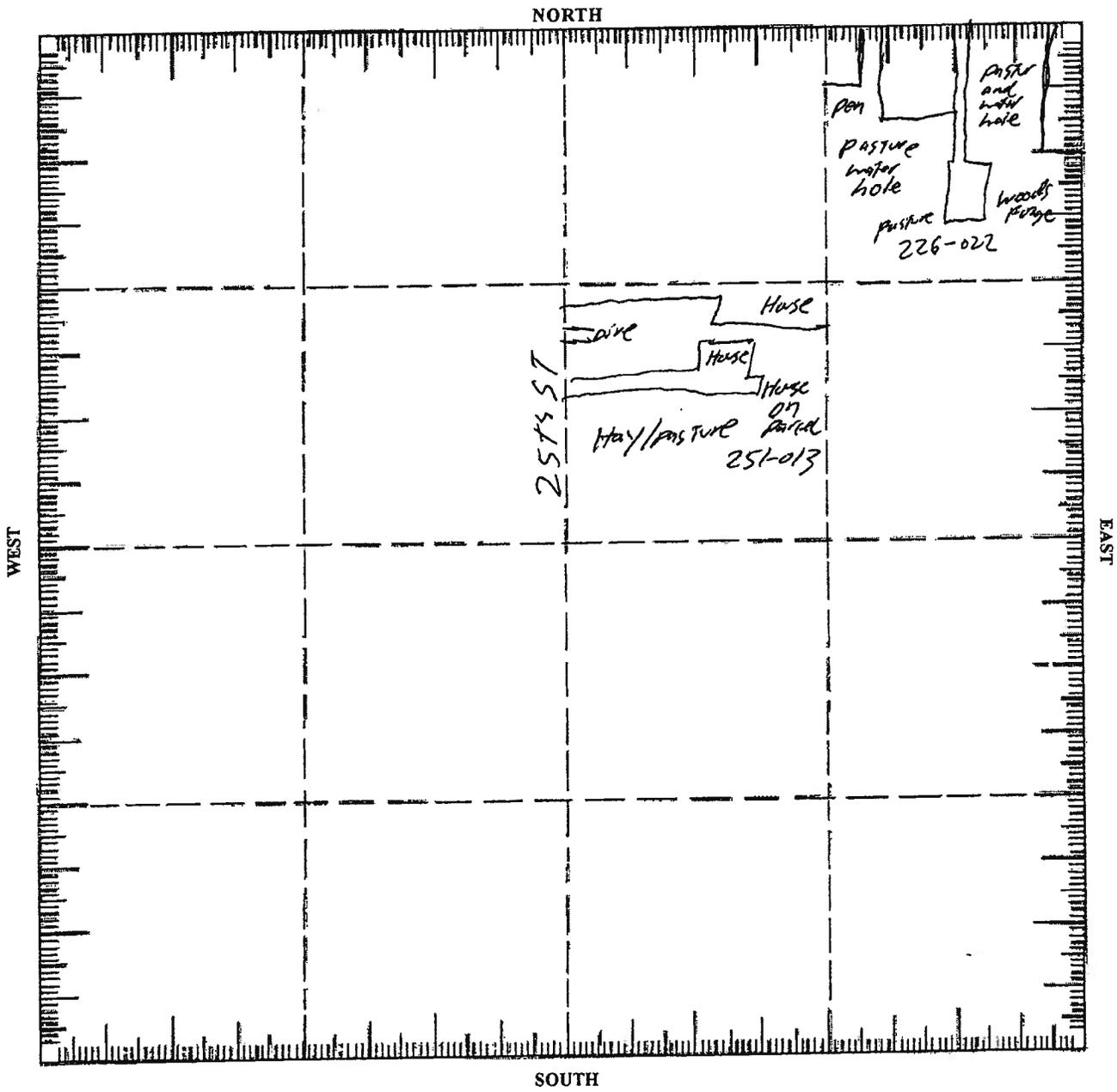
Please see
other attached
maps

Map of Farm with Structures and Natural Features:

- A. Show boundary of land cited in application.
- B. Show buildings as house, barn, etc., also sketch roads and other avenues of travel.
- C. Outline and designate the current uses of the property if possible.
- D. Any residential structures which are rented to persons not directly associated with the farm operation must be excluded from the application. Please indicate if a building falls in this category and provide the appropriate property description for its exclusion. Unless the appropriate description is included, we cannot exclude any parcels.

All persons
associated
with farm

County R200
Township Pavillion
T. ___ R. ___ SEC. ___



SOUTH



CATTLE PASTURE/Hay
Q.A.

CATTLE Forage

Farm Houses

PASTURE
watering hole
Forage
Pasture
Trees used as shelter, Cooling area and Forage.

<p>Special Message #1</p> <p>2010 SUMMER TAXES: PAYABLE JULY 1 THRU SEPT 14 BEGINNING SEPT 15 THRU SEPT 30 1% INTEREST WILL BE ADDED. AN ADDITIONAL 1% PER MONTH WILL BE ADDED ON THE 1ST OF EACH MONTH. ON 2-15-11 AN ADDITIONAL 3% PENALTY WILL BE ADDED. IF NOT PAID BY 2-28-2011 TAXES GO DELINQUENT TO THE KALAMAZOO COUNTY TREASURER.</p>	<p>Special Message #2 Bill #: 00730</p> <p>This tax is due by: 09/14/2010 AFTER 09/14/2010 ADDITIONAL INTEREST AND FEES APPLY Pay by mail to: PAVILION TOWNSHIP</p> <p>KEEP TOP PORTION FOR YOUR RECORDS MAIL BOTTOM PORTION WITH YOUR CHECK. PAVILION TOWNSHIP WEB SITE: WWW.PAVILIONTOWNSHIP.COM</p>									
<p>Legal Description</p> <p>Property Owner: BEHVAIOR DEVELOPMENT CORP 7943 S 25TH ST KALAMAZOO, MI 49048 Parcel #: 3911-18-251-013</p> <p>Class: 401 School: 39140 PORTAGE PUBLIC SCHOOLS Prop Addr: 7301 S 25TH ST BANK NAME: ***Legal Description***</p> <p>SEC 18-3-10 SW1/4 NE1/4 EXC N112' ALSO EXC S200' OF W275' ALSO EXC BEG ON N&S1/4 LINE 521.5' S OF NW COR SW1/4 NE1/4 TH E AT RT ANGLES 749.6' TH N100' TH E100' TH S100' TH E230' TH S145' TH W330' TH N112' TH W749.5' TO N&S1/4 LINE TH N THEREON 33' TO BEG ALSO EXC BEG ON N&S1/4 LINE 132' S OF NW COR SW1/4 NE1/4TH E PAR WITH N LINE SW1/4 NE1/4 TO E LINE SD SW1/4 TH S ALG SD E LINE 300' TH W PAR WI N LINE SW1/4 NE1/4 400' TH N PAR WITH E LI SD SW1/4 NE1/4 234' TH W TO N&S1/4 LINE TH N THEREON 66' TO BEG*** SPLIT 05/28/03 FROM 3911-18-251-012</p> <p>*BALANCE OF DESCRIPTION ON FILE*</p>	<p>Computation of Tax</p> <p>Homestead %: 71.0000</p> <p>Assessed Value: 78,300 Equalization Factor: 1.000000 State Equalized Value: 78,300 Capped Value: 71,223 Taxable Value: 71,223 (1 mill equals \$1.00 per 1,000)</p> <table border="1"> <thead> <tr> <th>Tax DESCRIPTION</th> <th>Rate</th> <th>AMOUNT</th> </tr> </thead> <tbody> <tr> <td>COUNTY OPERATING</td> <td>4.68710</td> <td>333.82</td> </tr> <tr> <td>STATE EDUC TAX</td> <td>6.00000</td> <td>427.33</td> </tr> </tbody> </table> <p><i>White house</i></p> <p>Total Millage: 10.68710 Total Tax: 761.15 Administration Fee: 7.61 TOTAL PAYMENT DUE: 768.76</p> <p>P.R.E. Exemption Has Reduced This Bill By: 0.00</p>	Tax DESCRIPTION	Rate	AMOUNT	COUNTY OPERATING	4.68710	333.82	STATE EDUC TAX	6.00000	427.33
Tax DESCRIPTION	Rate	AMOUNT								
COUNTY OPERATING	4.68710	333.82								
STATE EDUC TAX	6.00000	427.33								

TAXPAYER'S COPY (please retain this portion for your records)

TREASURER'S COPY (Please return this portion with your payment)

Bill #:00730

Send Payment To

MAKE CHECK PAYBLE TO: DO NOT SEND CASH

PAVILION TOWNSHIP
7510 EAST "Q" AVE.
SCOTTS MI 49088
1-269-327-0462
TREASURER: KAREN Y. RUTHVEN

[Empty box for payment information]

Parcel #: 3911-18-251-013 BANK CODE:
Taxable Value: 71,223 School: 39140

Tax Bill Address

BEHVAIOR DEVELOPMENT CORP
7943 S 25TH ST
KALAMAZOO MI 49048

Tax Payment Information

THIS TAX IS DUE BY: 09/14/2010
TOTAL PAYMENT DUE: 768.76

Amount Remitted: CASH _____ CHECK _____

<p>Special Message #1</p> <p>2010 SUMMER TAXES: PAYABLE JULY 1 THRU SEPT 14 BEGINNING SEPT 15 THRU SEPT 30 1% INTEREST WILL BE ADDED. AN ADDITIONAL 1% PER MONTH WILL BE ADDED ON THE 1ST OF EACH MONTH. ON 2-15-11 AN ADDITIONAL 3% PENALTY WILL BE ADDED. IF NOT PAID BY 2-28-2011 TAXES GO DELINQUENT TO THE KALAMAZOO COUNTY TREASURER.</p>	<p>Special Message #2 Bill #: 00726</p> <p>This tax is due by: 09/14/2010 AFTER 09/14/2010 ADDITIONAL INTEREST AND FEES APPLY Pay by mail to: PAVILION TOWNSHIP</p> <p>KEEP TOP PORTION FOR YOUR RECORDS MAIL BOTTOM PORTION WITH YOUR CHECK. PAVILION TOWNSHIP WEB SITE: WWW.PAVILIONTOWNSHIP.COM</p>									
<p>Legal Description</p> <p>Property Owner: BEHAVIOR DEVELOPMENT CORP 7943 S 25TH ST KALAMAZOO, MI 49048 Parcel #: 3911-18-226-022</p> <p>Class: 401 School: 39140 PORTAGE PUBLIC SCHOOLS Prop Addr: EAST P AVE BANK NAME: ***Legal Description***</p> <p>SEC 18-3-10 BEG ON N SEC LI 236 FT W OF NE COR TH S PAR WI E SEC LI 780 FT TH E PAR WI N SEC LI 170 FT TO W LI E 66 FT NE1/4 NE1/4 TH S ALG SD W LI TO S LI NE1/4 TH W ALG SD S LI TO W LI NE1/4 NE1/4 TH N ALG SD W LI TO A PT 360 FT S OF N SEC LI TH E PAR N SEC LI 175 FT TH N PAR WI W LI NE1/4 NE1/4 360 FT TO N SEC LI TH E THEREON TO A PT 1110 FT W OF NE COR TH S PAR WI W LI NE1/4 NE1/4 450 FT TH E PAR WI N SEC LI 395 FT TH N PAR WI W LI NE1/4 NE1/4 450 FT TO N SEC LI TH E THEREON 60 FT TH S AT RT ANG 720 FT TH W PAR N SEC LI 40 FT TH S AT RT ANG TO N SEC LI 330 FT TH E PAR WI N SEC LI 200 FT TH N 330 FT TH W 127 FT TH N 720 FT TO N SEC LI TH E THEREON 386 FT TO BEG EXC THAT PART LYING SELY OF LI DESCRIBED AS BEG ON E SEC LI 175.21 FT N OF SE COR NE1/4 NE1/4 TH SWLY 264.79 FT TO S LI NE1/4 NE1/4 AND POINT OF ENDING** 11/99 1999 SPLIT FROM 18-226-018.</p> <p>*BALANCE OF DESCRIPTION ON FILE*</p>	<p>Computation of Tax</p> <p>Homestead %: 0.0000</p> <p>Assessed Value: 54,200 Equalization Factor: 1.000000 State Equalized Value: 54,200 Capped Value: 21,423 Taxable Value: 21,423 (1 mill equals \$1.00 per 1,000)</p> <table border="1"> <thead> <tr> <th>Tax DESCRIPTION</th> <th>Rate</th> <th>AMOUNT</th> </tr> </thead> <tbody> <tr> <td>COUNTY OPERATING</td> <td>4.68710</td> <td>100.41</td> </tr> <tr> <td>STATE EDUC TAX</td> <td>6.00000</td> <td>128.53</td> </tr> </tbody> </table> <p><i>Lue/ka</i></p> <p>Total Millage: 10.68710 Total Tax: 228.94 Administration Fee: 2.28 TOTAL PAYMENT DUE: 231.22</p> <p>P.R.E. Exemption Has Reduced This Bill By: 0.00</p>	Tax DESCRIPTION	Rate	AMOUNT	COUNTY OPERATING	4.68710	100.41	STATE EDUC TAX	6.00000	128.53
Tax DESCRIPTION	Rate	AMOUNT								
COUNTY OPERATING	4.68710	100.41								
STATE EDUC TAX	6.00000	128.53								
<p>OPERATING FISCAL YEARS</p> <p>The following is provided for your information. This does not affect the amount of taxes or when the taxes are due.</p> <p>County: JAN 1 - DEC 31 Twn/Cty: APRIL 1 - MARCH 31 School: JULY 1 - JUNE 30 State: OCT 1 - SEPT 30</p>										

TAXPAYER'S COPY (please retain this portion for your records)

TREASURER'S COPY (Please return this portion with your payment)

Bill #:00726

Send Payment To

MAKE CHECK PAYABLE TO: DO NOT SEND CASH

PAVILION TOWNSHIP
7510 EAST "Q" AVE.
SCOTT'S MI 49088
1-269-327-0462
TREASURER: KAREN Y. RUTHVEN

Parcel #: 3911-18-226-022 BANK CODE:
Taxable Value: 21,423 School: 39140

Tax Bill Address

Tax Payment Information

BEHAVIOR DEVELOPMENT CORP
7943 S 25TH ST
KALAMAZOO MI 49048

THIS TAX IS DUE BY: 09/14/2010
TOTAL PAYMENT DUE: 231.22

Amount Remitted: CASH _____ CHECK _____

3/247-

RECEIVED

2010 MAR 23 PM 2: 32

COUNTY OF KALAMAZOO



QUIT-CLAIM DEED

This Indenture,
KNOW ALL MEN BY THESE PRESENTS THAT:

Dated this day of:
3/22/10

ROGER ULRICH, A MARRIED MAN; CAROLE ULRICH, BY ROGER ULRICH AS ATTORNEY IN FACT; TOM ULRICH, A MARRIED MAN, BY ROGER ULRICH AS ATTORNEY IN FACT; TRACI SEUSS, BY ROGER ULRICH AS ATTORNEY IN FACT; AND KRISTAN GIBBS, BY ROGER ULRICH AS ATTORNEY IN FACT, AS JOINT TENANTS WITH FULL RIGHTS OF SURVIVORSHIP AND NOT AS TENANTS IN Convey(s) and Quit-Claim(s) To: COMMON OF 7943 S. 25TH STREET, KALAMAZOO, MI 49048

BEHAVIOR DEVELOPMENT CORPORATION
7943 S. 25TH STREET
KALAMAZOO, MI 49048

For the sum of

(\$145,000)

the following described premises situated in the State of MICHIGAN, County of KALAMAZOO, PAVILION TOWNSHIP, DESCRIBED AS FOLLOWS:

The premises commonly known as

PARCEL 3911-18-251-013

SEC 18-3-10 SW1/4 NE1/4 EXC N132' ALSO EXC S200' OF W275' ALSO EXC BEG ON N&S1/4 LINE 521.5' S OF NW COR SW1/4 NE1/4 TH E AT RT ANGLES 749.6' TH N100' TH E100' TH S100' TH E230' TH S145' TH W330' TH N112' TH W749.5' TO N&S1/4 LINE TH N THEREON 33' TO BEG ALSO EXC BEG ON N&S1/4 LINE 132' S OF NW COR SW1/4 NE1/4 TH E PAR WITH N LINE SW1/4 NE1/4 TO E LINE SD SW1/4 TH S ALG SD E LINE 300' TH W PAR WI N LINE SW1/4 NE1/4 400' TH N PAR WITH E LI SD SW1/4 NE1/4 234' TH W TO N&S1/4 LINE TH N THEREON 66' TO BEG*** SPLIT 05/28/03 FROM 3911-18-251-012

and

STATE OF MICHIGAN
Kalamazoo
03/23/2010
242885

REAL ESTATE TRANSFER TAX ★
\$159.50 -C ★
\$1087.50 -S ★
#255693 ★

PARCEL 3911-18-226-022

SEC 18-3-10 BEG ON N SEC LI 236 FT W OF NE COR TH S PAR WI E SEC LI 780 FT TH E PAR
WI N SEC LI 170 FT TO LI E 66 FT NE1/4 NE1/4 TH S ALG SD W LI TO S LI NE1/4 TH W ALG SD
S LI TO W LI NE1/4 NE1/4 TH N ALG SD W LI TO A PT 360 FT S OF N SEC LI TH E PAR N SEC
LI 175 FT TH N PAR WI W LI NE1/4 NE1/4 360 FT TO N SEC LI TH E THEREON TO A PT 1110 FT
W OF NE COR TH S PAR WI W LI NE1/4 NE1/4 450 FT TH E PAR WI N SEC LI 395 FT TH N PAR
WI W LI NE1/4 NE1/4 450 FT TO N SEC LI TH E THEREON 60 FT TH S AT RT ANG 720 FT TH W
PAR N SEC LI 40 FT TH S AT RT ANG TO N SEC LI 330 FT TH E PAR WI N SEC LI 200 FT TH N
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PART LYING SELY OF LI DESCRIBED AS BEG ON E SEC LI 175.21 FT N OF SE COR NE1/4
NE1/4 TH SWLY 264.79 FT TO S LI NE1/4 NE1/4 AND POINT OF ENDING** 11/99 1999 SPLIT
FROM 18-226-018



2010-007805

Page: 3 of 3

03/23/2010 02:33P

TONY KAUFMAN

QC-Kalamazoo R00

SIGNED AND SEALED

Roger E. Ulrich
ROGER ULRICH

Witnesses:

Erika Miller
Erika Miller

Mike Lauraine
Mike Lauraine

Roger Ulrich for Carole U.
CAROLE ULRICH BY ROGER ULRICH AS
ATTORNEY IN FACT (1999-054521)

Roger Ulrich for Tom U.
TOM ULRICH BY ROGER ULRICH AS
ATTORNEY IN FACT (1999-054522)

Roger Ulrich for Traci
TRACI SEUSS BY ROGER ULRICH AS Ulrich
ATTORNEY IN FACT (1999-05423) Seuss

Roger Ulrich for Krista
KRISTAN GIBBS BY ROGER ULRICH AS Ulrich
ATTORNEY IN FACT (1999-054520) Gibbs

STATE OF MICHIGAN COUNTY OF

Eaton

The foregoing instrument was acknowledged
before me on 3/22/2010

By: ROGER ULRICH, CAROLE ULRICH, BY
ROGER ULRICH AS ATTORNEY IN FACT;
TOM ULRICH, BY ROGER ULRICH AS
ATTORNEY IN FACT; TRACI SEUSS, BY
ROGER ULRICH AS ATTORNEY IN FACT;
KRISTAN GIBBS, BY ROGER ULRICH AS
ATTORNEY IN FACT.

PREPARED BY:
ANDREW STEVENSON
5884 EAST P AVE.
KALAMAZOO, MI 49048

KARIE L. POWERS
Notary Public, State of Michigan
County of Eaton
My Commission Expires Feb. 18, 2014
Acting in the County of KALAMAZOO

Karrie Powers
Notary Signature
NOTARY
PUBLIC Acting in Kalamazoo
COUNTY, MICHIGAN
MY COMMISSION
EXPIRES: 2/18/14



2010-007805
Page: 2 of 3
03/23/2010 02:33P

TONY KAUFMAN

QC-Kalamazoo R0D

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: October 11, 2010

FROM: Maurice S. Evans, City Manager



SUBJECT: Residential Plat Sidewalk Extension Requests

ACTION RECOMMENDED: That City Council grant an extension to November 1, 2012 for the completion of sidewalk and street tree installation within the following residential plats subject to submittal of a revised irrevocable bank letter of credit or other surety acceptable to the City Attorney:

- a. Avalon Forest/Avalon Woods No. 1 and 2, T. A. Scott Construction
- b. Austin Shores Condominium Subdivision, Irwin Union Bank
- c. Holiday Village East No. 3 and South No. 3, WTM, Incorporated
- d. Staland Park Subdivision, Broekema/Scott, LLC

Attached for consideration of the City Council are several letters received from developers of single-family residential subdivisions in various areas of the community. Essentially, the correspondence requests between one and two year extensions of time to construct the required sidewalks and install street trees along the public streets in each of the subdivisions. The developers have cited the large number of available lots, economic downturn and the housing market and the absorption rate as principal reasons for the requests. This issue was last considered by City Council in October 2008, when extensions of time were approved. Following is a brief summary about each subdivision and request.

Avalon Forest/Avalon Woods No. 1 and No. 2. On June 10, 2003 and August 10, 2004, City Council granted final plat approvals for Avalon Forest/Avalon Woods No. 1 and No. 2, respectively. At the request of the developer, T.A. Scott Construction, City Council has granted two, one-year sidewalk and street tree installation extensions and one, two-year sidewalk and street tree installation extension, with the last extension expiring on November 1, 2010. During the past three years, only one single family building permit was requested by the developer and sidewalks remain to be installed on 28 of the 96 total lots. On behalf of T.A. Scott Construction, Mr. Tom Scott is requesting the extension to complete sidewalk and street tree installation.

Austin Shores Condominium Subdivision. In March 2005, City Council granted final approval for this single family condominium development. At the request of Mr. Jeff Chupp (original developer) and Irwin Union Bank, City Council has granted two, one-year sidewalk and street tree installation extensions and one, two-year sidewalk and street tree extension, with the last extension expiring on November 1, 2010. The property was foreclosed upon and is now owned primarily by BEX Farms, Inc. No building permits for new residential construction have been issued during the past two-year period and 43 of the 61 total lots remain vacant. On behalf of BEX Farms, Inc., Mr. Jeff Balkema is requesting the extension to complete the sidewalks and street trees.

Holiday Village East No. 3 and South No. 3. In March 2007, City Council granted final approval for the plats of Holiday Village East No. 3 and South No. 3, subject to installation of sidewalks by October 2008. At the request of the developer, WTM, Inc., City Council granted a two-year sidewalk and street tree

extension, which is scheduled to expire on November 1, 2010. During the past two years, only three single family building permits have been requested by the developer and 27 of the 36 total lots remain vacant. On behalf of WTM, Inc., Mr. Jeff Hansen is requesting an extension of time to complete the sidewalk and street tree installation.

Stateland Park Subdivision. City Council granted final approval for the plat of Stateland Park in December 2006, subject to installation of sidewalks and street trees by November 2008. At the request of the developer, Broekema/Scott, LLC, City Council granted a two-year sidewalk and street tree extension, which is scheduled to expire on November 1, 2010. During the past two years, six single family building permits have been issued and 13 of the 19 total lots remain vacant. Broekema/Scott, LLC, is requesting the extension to complete the sidewalk and street tree installation.

As previously indicated, the general economic slow down and housing crisis continue to have a negative affect on new residential construction. As indicated in the attached correspondence, these developers continue to be significantly impacted. Existing homeowners in these subdivisions expect a completed residential neighborhood and the resumption of construction and completion of subdivision sidewalk and street tree installation is anticipated with the gradual economic recovery. To again provide assistance, the City Administration recommends that a two-year extension (until the end of the 2012 construction season) be granted to complete the sidewalks and street trees along the local streets in these subdivisions. Consistent with Section 42-831 of the Land Development Regulations, each developer must provide a new or extended irrevocable letter of credit or other surety acceptable to the City Attorney for this period of time. Should the developer not complete the improvements and other arrangements are not made, the surety will be used to fund completion of the sidewalks.

Attachments: Letter from TA Scott Construction dated August 12, 2010
Avalon Forest/Avalon Woods No. 1 and No. 2 Vicinity Map
Letter from BEX Farms, Inc. dated September 27, 2010
Austin Shores Condominium Subdivision Vicinity Map
Letter from WTM, Inc. dated October 1, 2010
Holiday Village East No. 3 and South No. 3 Vicinity Map
Letter from Ingersoll, Watson and McMahon, on behalf of Broekema/Scott LLC, dated September 14, 2010
Stateland Park Subdivision Vicinity Map



RECEIVED
AUG 12 2010
COMMUNITY DEVELOPMENT

Tom A. Scott
Phone: (269) 679-4766
Fax: (269) 679- 2831

August 12, 2010

City of Portage
7900 South Westnedge Ave
Portage MI 49002

RE: Sidewalk completion and street trees at Avalon Woods 1 & 2 and Avalon Forest

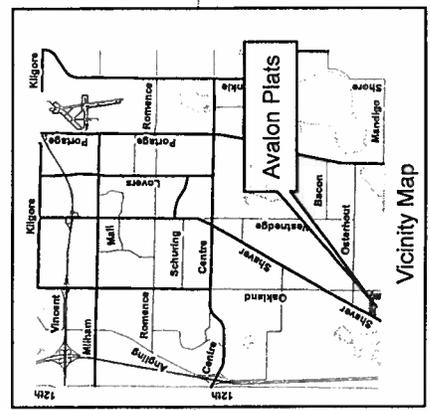
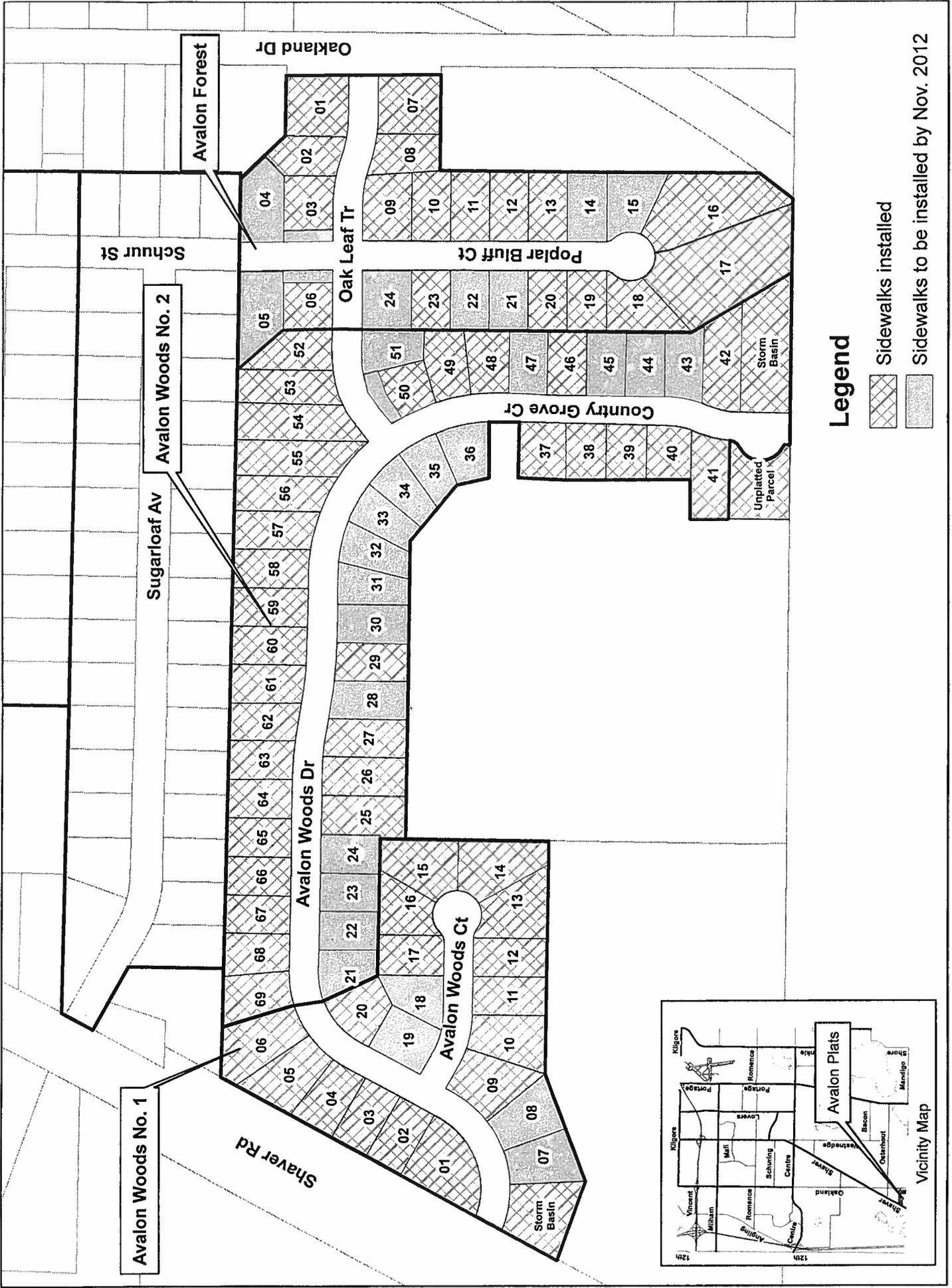
Dear City Council,

The housing market has continued to be very slow as we are all very much aware. I had not taken out a building permit for three years in Avalon until June of this year. I believe we will be starting another home there very soon. Both are customs and are encouraging for our company.

We are asking for your consideration for a year extension and we will continue to work closely with the Planning Department.

Respectfully,

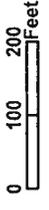

Thomas A Scott

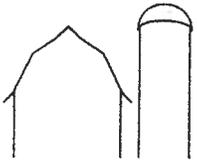


Legend

-  Sidewalks installed
-  Sidewalks to be installed by Nov. 2012

Avalon Woods No. 1 and 2 and Avalon Forest





BEX Farms, Inc.

5300 Miller Road
Kalamazoo, MI 49048

Phone: (269) 226-9200

Fax: (269) 226-0285

RECEIVED

COMMUNITY DEVELOPMENT

Mr. Christopher T. Forth
CITY OF PORTAGE
7900 South Westnedge
Portage, MI 49002

Sept 27, 2010

Re: Austin Shores
Sidewalk & Tree Planting

Dear Mr. Forth

As requested in your May 28, 2010 letter, BEX FARMS, INC.
would like to request an additional 2 year extension till
Nov 1, 2012 for the sidewalk and tree plantings.

Please find enclosed a revised completion bond #929442566

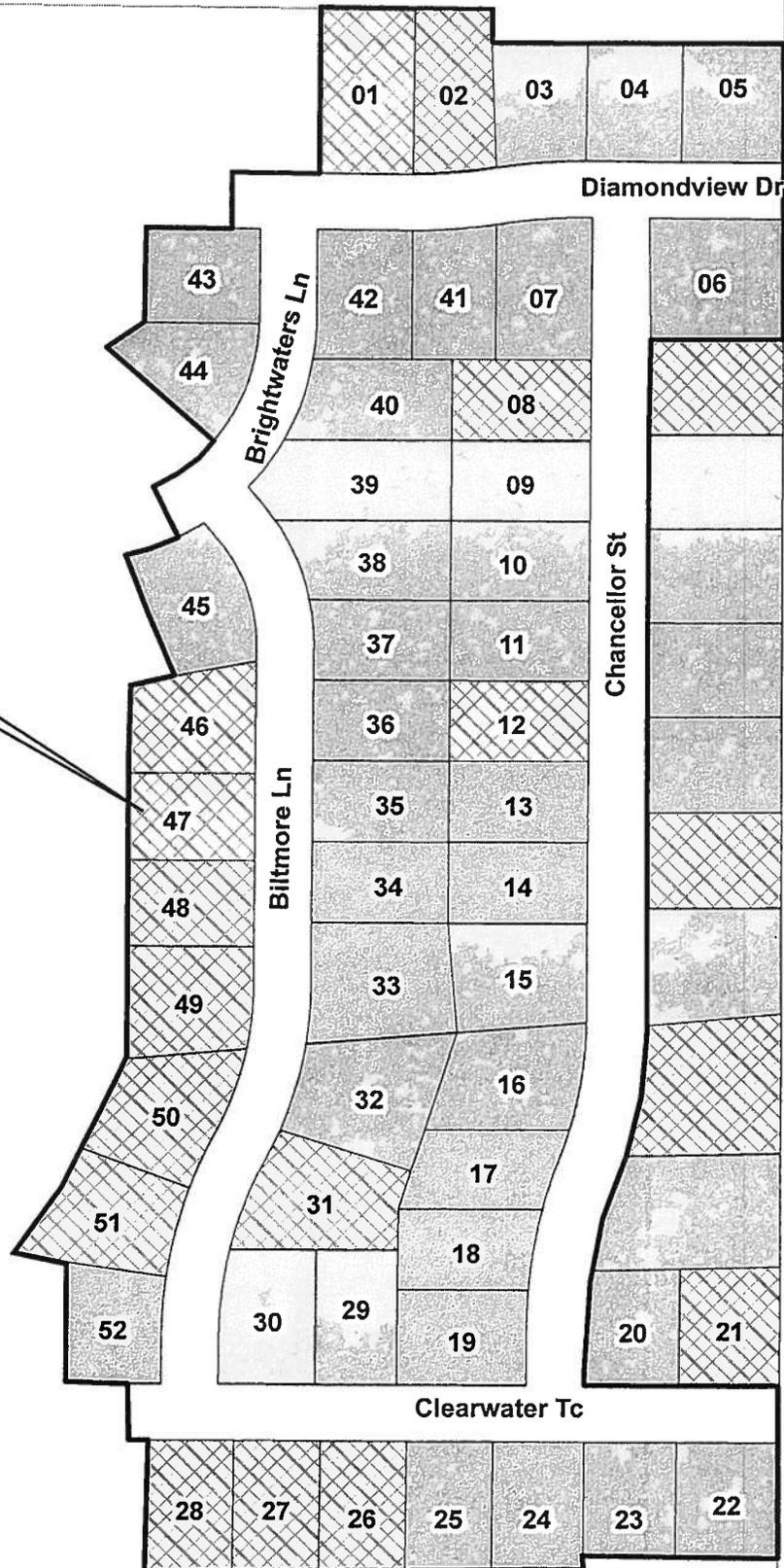
Please do not hesitate to call if you have any further questions.

THANK YOU

Jeff Balkema



Austin Shores



Legend

-  Sidewalks to be constructed by Nov. 2012
-  Sidewalks installed

Austin Shores





WTM, INC. - JEFF HANSEN
1226 Breckenridge Way, Portage, MI 49002

Nextel (269) 806-6614 or 35*19686 / Fax (269) 321-0970
MrJHansen@chartermi.net

Friday, October 01, 2010

Dear Chris Forth and City of Portage Counsel Members,

RE: Completion of Sidewalk and Street Trees at Holiday Village East and South No. 3

On behalf of WTM, Inc., I am formally requesting an extension of the completion date related to sidewalks and trees needed in Holiday Village to be March 23, 2012.

A certified letter of credit will be forthcoming directly from 1st Source Bank within seven business days to the city. This letter of credit will insure the full cost of the remaining Sidewalk and Tree project with a value of \$32,231. The letter of credit is set to expire March 23, 2012.

Constructing sidewalks and trees prior to home construction would cause an undo economic hardship for WTM. Also, prior installed sidewalks would need to be replaced as homes are built in the future essentially costing twice the financial and material resources. Sidewalks that are constructed prior to home construction become destroyed, uneven, or do not conform to the final ground elevation after a home is built.

Additionally, installation, tear-out and reinstallation of sidewalks contradict the practice of Green and Energy Star Construction that I employ. The financial and environmental cost may well exceed the perceived benefit.

On behalf of WTM I sincerely appreciate your time and consideration. Please feel free to contact me with any questions you may have.

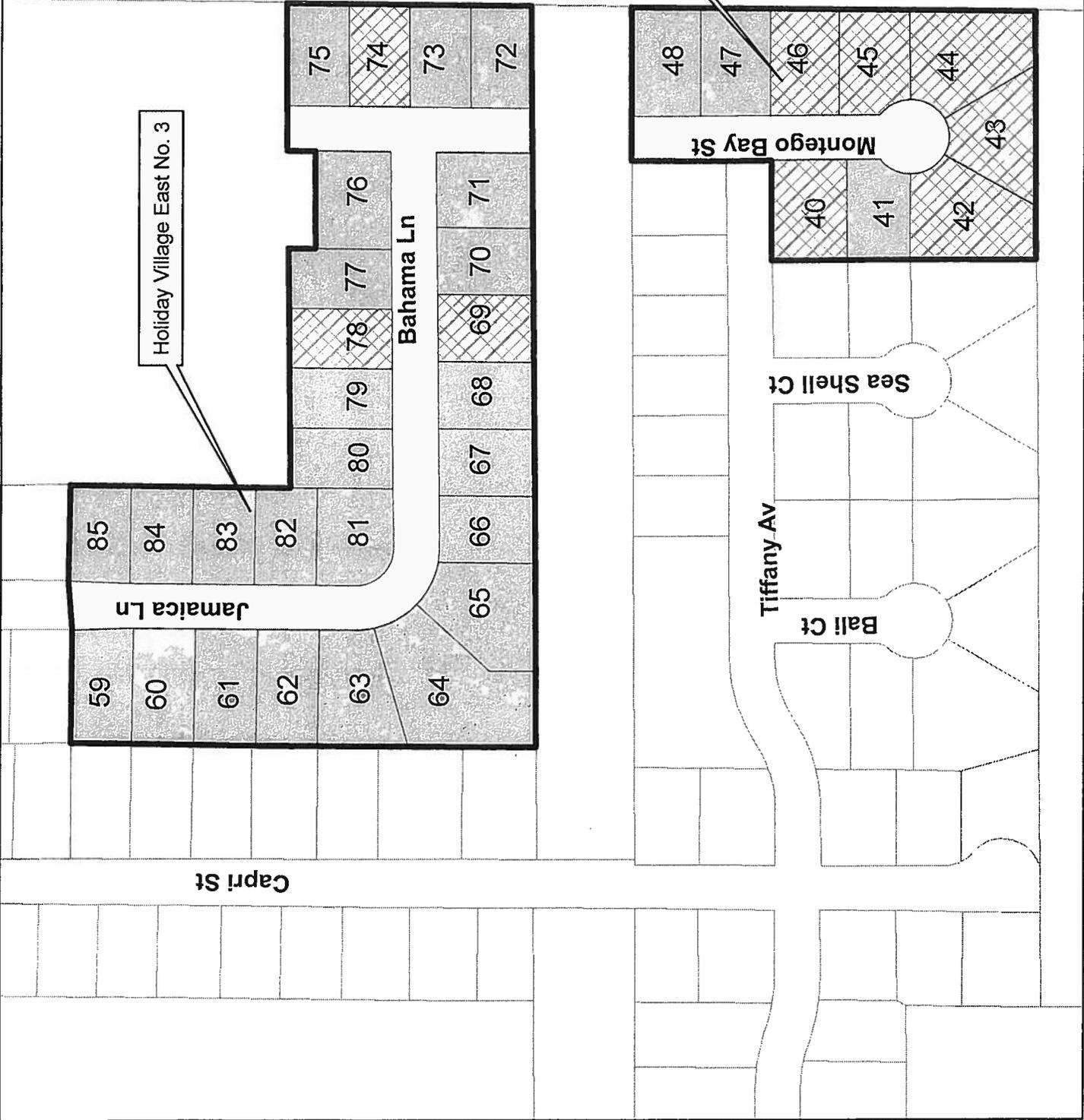
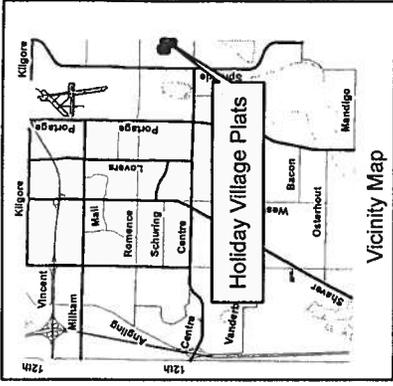
Sincerely,

Jeff Hansen
WTM, Inc. Managing Builder



QUALITY, EXPERIENCE, & SATISFACTION





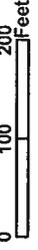
Holiday Village East No. 3

Holiday Village South No. 3

Legend

Siderwalks installed

Siderwalks to be installed by Nov. 2012



Holiday Village South No. 3 and East No. 3

Ingersoll, Watson & McMachen, Inc.

CONSULTING CIVIL ENGINEERS AND LAND SURVEYORS

September 14, 2010

Mr. Chris Forth, AICP, Deputy Director
City of Portage Dept. of Community Development
7900 South Westnedge Avenue
Portage, MI 49002

RECEIVED
SEP 14 2010
COMMUNITY DEVELOPMENT

RE: Sidewalks at "Stateland Park"

Dear Chris,

This letter is written on behalf of Broekema/Scott, LLC, developer for the "Stateland Park" subdivision, with regards to the surety that was given to the City to cover installation of sidewalks at this site. With this letter, we ask that the City consider granting an extension to the time frame for installation of the concrete sidewalks at this site. We propose that the installation deadline be extended to October 31, 2012.

This request is based on the following:

- 1) The current housing market in the area is very slow.
- 2) 13 of the 20 lots within "Stateland Park" are vacant and currently for sale. Note that the plat was recorded almost 4 years ago.
- 3) Installation of sidewalks now would dictate that most of the walk would eventually be destroyed during future house construction. The sidewalk would need replacing anyway.

Again, we ask that the City consider extending the time frame for sidewalk installation at "Stateland Park" to October 31, 2012.

Please feel free to contact the developer or our office if you would like to discuss this matter.

Thank you for your continued assistance.

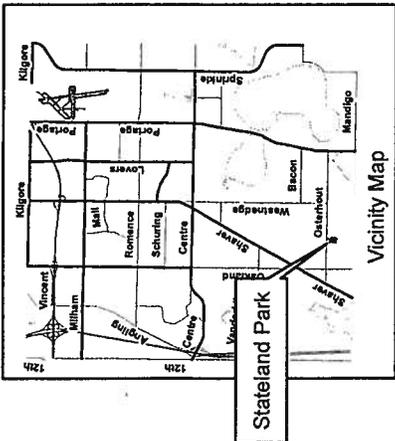
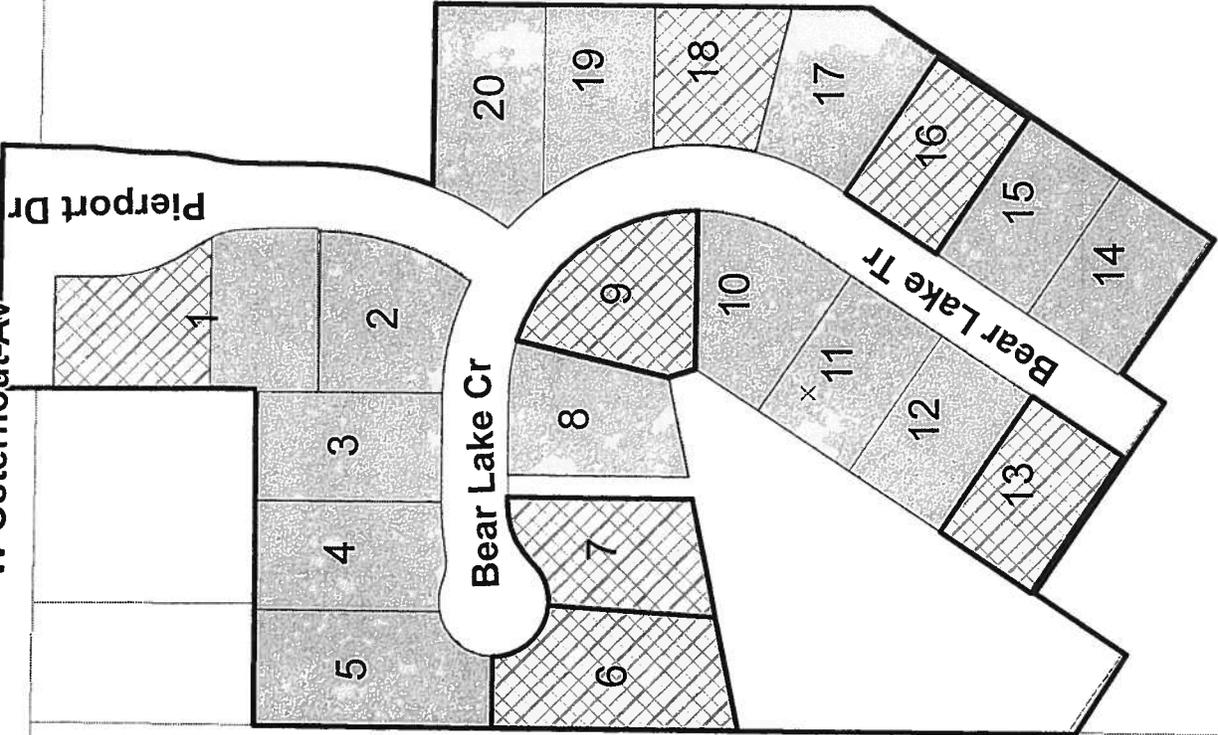
Sincerely,
Ingersoll, Watson & McMachen, Inc.



Patrick D. Flanagan, P.E.

Cc: Broekema/Scott, LLC
Mike West, City of Portage

W Osterhout-AV
Pierport Dr



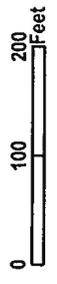
Stateland Park

Bear Lake Cr

Bear Lake Tr

Legend

-  Sidewalks installed
-  Sidewalks to be installed by Nov. 2012



Stateland Park

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: October 11, 2010

FROM: Maurice S. Evans, City Manager



SUBJECT: Tobacco Ban in Portage Parks

ACTION RECOMMENDED: That City Council enact a ban of all tobacco products in and up to a distance of 25 feet from the following Portage Park locations:

- a. Ramona Park Beach
- b. Playgrounds
- c. Picnic Shelters
- d. Fishing Piers
- e. Restrooms
- f. Bleachers
- g. Softball Dugouts
- h. Courts (basketball, tennis and volleyball)
- i. South Westnedge Skate Park and In-line Hockey Rink
- j. Concessions (permanent or temporary)
- k. Millennium Park Ice Rink
- l. Celery Flats Amphitheatre
- m. Hayloft Theatre
- n. Overlander Bandshell

On August 24, 2010, the City Council received a communication from the Portage Park Board recommending the extension of the smoking ban in Portage Parks to include all park playground and picnic shelter areas. Currently, smoking bans are in place only at Ramona Park Beach and inside the fenced area at the South Westnedge Skate Park. The recommendation from the Park Board, along with several questions posed by members of Council, was referred to the Administration for review. Attached is a thorough report from Parks, Recreation & Property Management Director Deming in this regard.

The City Administration concurs with the Park Board with regard to enhancing the existing smoking ban and recommends that the ban be extended to several additional active spaces to include: Ramona Park Beach, playgrounds, picnic shelters, fishing piers, restrooms, bleachers, softball dugouts, courts (basketball, tennis and volleyball), South Westnedge Skate Park and in-line hockey rink, concessions (permanent or temporary), Millennium Park Ice Rink, Celery Flats Amphitheatre, Hayloft Theatre and the Overlander Bandshell. Additionally, the Administration recommends that the Council enact a ban of **all** tobacco products in these designated areas and that the "Tobacco Free Zones" extend up to a distance of 25 feet from the designated areas.

Attachment

CITY OF PORTAGE

COMMUNICATION

TO: Maurice S. Evans, City Manager

DATE: September 28, 2010

FROM: William M. Deming, Director, Parks, Recreation & Property Management

SUBJECT: Smoking Ban in Parks

Parks Department staff has evaluated the Park Board recommendation to ban smoking in park picnic shelters and playground areas. In addition, responses to several questions presented by City Council are addressed below:

Question: What was the rationale for the current ban at Ramona Park Beach – was this an issue to address litter (i.e., cigarette butts in the sand), second-hand smoke or some other consideration?

Response: As indicated in the Park Board letter from Chair Mark Martin, banning smoking in certain park areas is not a new proposal. In the late 90's, tobacco products were banned from the Ramona Park Beach for a variety of reasons including:

- Litter – the beach was turning into an “ash tray” and removal of cigarette butts and tobacco residue from the sand is extremely difficult.
- Safety – smoldering cigarette butts were a concern for beach patrons in bare feet.
- Patron Health Concerns – non-smoking patrons complained about second-hand smoke impacting their health.

Smoking is also prohibited inside the fenced South Westledge Skatepark facility. This rule was made prior to completion of the skate park for health, safety and litter concerns.

Questions: What has been the enforcement experience with the current RPB smoking ban? Any problems?

Response: Signs are posted at the entry points to Ramona Park Beach and the South Westledge Skatepark and butt dispensers are provided. Ramona Beach staff members rarely have enforcement problems, as the public has been receptive and understanding of this rule.

Enforcement has been a bit more problematic with young adults at the skatepark, but Park Rangers are attentive to this issue and take appropriate action such as requiring patrons to smoke outside or away from the skatepark when necessary. Overall, skatepark users are supportive and peer pressure and parents assist with enforcement. It would be beneficial, however, to extend the no-smoking boundaries at the skatepark area to a distance of 25 feet from the skatepark and in-line hockey rink.

Question: What is the rationale for the Park Board recommendation to ban smoking from playground and picnic areas – concern for the health impact of second-hand smoke, litter control or some other consideration(s)?

Response: The Portage Park Board recommendation to expand the smoking ban to playgrounds and picnic shelters was primarily from a healthy community standpoint. Playgrounds are places for children to exercise and interact and picnic shelters tend to be a location for family use and interaction. The Board felt that whether a group reservation or just drop-in visit, patrons using playgrounds and shelters, particularly children, should not be subjected to second-hand smoke. Litter is another concern. One of the biggest distractions in and around picnic shelters is the number of cigarette butts on the ground. The cigarette butts are difficult to clean up and do not promote a litter-free appearance in Portage parks.

Questions: How is enforcement of an expanded smoking ban to be addressed? How practical will it be to actually implement enforcement (i.e., what are the challenges/issues anticipated with enforcing an expanded smoking ban)? What is the penalty for violation?

Response: Signs, patron pressure and publicity would be the three primary enforcement options associated with an expanded smoking ban. Park Rangers could enforce while on patrol, but with the number of shelters and playgrounds in the system, enforcement by city personnel would be minimal. In those instances where enforcement occurred, the penalty would be a civil infraction, with a ticket issued. Civil infractions for the first offense are punishable by a fine not to exceed \$50 plus costs. For a more serious or continued violation, the patron could receive a larger fine and also be expelled from the park system. Several years ago, pets were banned from the picnic and playground areas for the safety and enjoyment of patrons. Signs were placed at these locations and park users regularly obey with few complaints or the need for intense enforcement. If the proposed smoking ban were implemented, signs in the playground and picnic areas would be updated. Per input from Lexington, Kentucky and research from other communities with smoking bans, enforcement has been successful mainly through signs and publicity.

Question: Should consideration be given to expanding the smoking ban to the entire park system, including trails, or to additional portions/areas thereof?

Response: Although other communities have banned smoking throughout the park system, this could become problematic for Portage, particularly with enforcement. From my research, the total ban requires vigilance by authorized personnel and is not as accepted by patrons. I believe that for the most part, patrons will refrain from smoking if limited to specific areas which can be easily identified – beach, playgrounds and picnic shelters for example. I also believe that a ban should be extended to other active spaces such as sports courts and the ice rink and to areas where people congregate such as outdoor venues, bleachers and immediately outside of park buildings. These are locations where second hand smoke can be problematic for patrons. Open air spaces where both smokers and non-smokers have room to relocate, would be more difficult to manage if a total ban was enacted.

Question: What is the experience of other agencies/communities in implementing and enforcing park smoking bans (e.g., extent of the smoking ban in park areas, issues encountered with enforcement, etc.)? Policies on smoking bans at KVCC, Borgess, Bronson, the cities of Lexington, Kentucky, and Marquette, Michigan, should be obtained, as well as any others of which you may be aware.

Response: Banning of smoking in public parks is not a new idea. Research indicates that over 460 communities nation-wide ban smoking in all parks or a specific city park (attachment), although only two communities in Michigan are identified as having a complete/partial ban on smoking in park areas. Numerous communities also ban smoking in select areas – playgrounds and beaches are most common. For those communities with existing smoking ban regulations, self-enforcement through signage, user pressure and publicity appears to be common. Police and staff can enforce, but typically as a secondary priority. Of particular interest was input from the Lexington, Kentucky Parks Manager Jerry Hancock. Per an additional attachment, the Lexington Park Board enacted a smoking ban at playgrounds, swimming facilities and enclosed and covered facilities very similar to the ban proposed by the Portage Park Board. The ban is not enforced other than peer pressure and parental support. However, the Lexington Parks Department receives few complaints of violations. This is particularly relevant as the Lexington area is known for tobacco production. Information was requested, but not received from Marquette, Michigan.

As requested, I also investigated other local entities with smoke free zones. I received information from Borgess Health Care regarding the ban on tobacco use in buildings and grounds. Enforcement is the responsibility of executives, department directors and managers. The Borgess campus areas are not as large or widespread at the Portage Park system, so enforcement on the total ban may be manageable. From my research, KVCC does not have a smoking ban for exterior spaces and I would think the Bronson policy to be similar to that of Borgess.

Research indicates that smoking bans in city parks are being introduced and debated in several communities nation-wide. In a large majority, the ban is limited to specific areas and not throughout the system.

Recommendation

The Park Board proposal to ban smoking from playgrounds and picnic shelter areas is supported, however, it is believed the ban should be expanded for public benefit as outlined below:

- The ban be extended to include all tobacco products.
- A distance of 25 feet from the specific sites be identified for the tobacco free zones.
- Wording for the revised rule:
Tobacco products are prohibited in and within 25-feet of the following park facilities:
 - **Ramona Park Beach**
 - **Playgrounds**
 - **Picnic Shelters**

- **Fishing Piers**
- **Restrooms**
- **Bleachers**
- **Softball Dugouts**
- **Courts – Basketball, Tennis and Volleyball**
- **South Westnedge Skatepark and In-line Hockey Rink**
- **Concessions – permanent or temporary**
- **Millennium Park Ice Rink**
- **Celery Flats Amphitheatre**
- **Hayloft Theatre**
- **Overlander Bandshell**

Attachments

c: Brian J. Bowling, Deputy City Manager

Municipalities with Smokefree Park Laws

Enacted as of July 5, 2010

This list includes those municipalities that specified that all city parks and/or specifically named city parks are smokefree. The list does not include those municipalities that have designated smoking areas in city parks, those that provide coverage only a certain number of feet from playgrounds or youth areas, and those that provide coverage only during youth events.

	Municipality	State
1.	Bay Minette	AL
2.	Bayou La Batre	AL
3.	Center Point	AL
4.	Crossville	AL
5.	Daphne	AL
6.	Decatur	AL
7.	Fayette	AL
8.	Florence	AL
9.	Fultondale	AL
10.	Gulf Shores	AL
11.	Headland	AL
12.	Homewood	AL
13.	Hueytown	AL
14.	Huntsville	AL
15.	Irondale	AL
16.	Jacksonville	AL
17.	Jasper	AL
18.	Montevallo	AL
19.	Orange Beach	AL
20.	Spanish Fort	AL
21.	Sylvania	AL
22.	Atkins	AR
23.	Batesville	AR
24.	Benton	AR
25.	Bentonville	AR
26.	Conway	AR
27.	Russellville	AR
28.	Goodyear	AZ
29.	Alameda County	CA
30.	Albany	CA
31.	Amador County	CA
32.	Arcata	CA
33.	Arroyo Grande	CA
34.	Atascadero	CA
35.	Baldwin Park	CA
36.	Banning	CA
37.	Belmont	CA
38.	Berkeley	CA
39.	Beverly Hills	CA
40.	Blue Lake	CA

	Municipality	State
41.	Calabasas	CA
42.	Calexico	CA
43.	Camarillo	CA
44.	Capitola	CA
45.	Carpinteria	CA
46.	Carson	CA
47.	Ceres	CA
48.	Cerritos	CA
49.	Chula Vista	CA
50.	Clayton	CA
51.	Clovis	CA
52.	Colton	CA
53.	Concord	CA
54.	Contra Costa County	CA
55.	Corona	CA
56.	Crescent City	CA
57.	Culver City	CA
58.	Del Mar	CA
59.	El Cajon	CA
60.	El Monte	CA
61.	Emeryville	CA
62.	Encinitas	CA
63.	Fairfax	CA
64.	Firebaugh	CA
65.	Fowler	CA
66.	Fresno	CA
67.	Gardena	CA
68.	Glendora	CA
69.	Grand Terrace	CA
70.	Hayward	CA
71.	Healdsburg	CA
72.	Huntington Park	CA
73.	Imperial Beach	CA
74.	Jackson	CA
75.	Laguna Hills	CA
76.	Laguna Woods	CA
77.	Loma Linda	CA
78.	Los Angeles	CA
79.	Mammoth Lakes	CA
80.	Marin County	CA

Municipality	State
81. Martinez	CA
82. Monterey Park	CA
83. Napa	CA
84. National City	CA
85. Norco	CA
86. Novato	CA
87. Oak Park	CA
88. Oakland	CA
89. Oceanside	CA
90. Palos Verdes Estates	CA
91. Pasadena	CA
92. Petaluma	CA
93. Pinole	CA
94. Pismo Beach	CA
95. Rancho Cucamonga	CA
96. Redlands	CA
97. Redondo Beach	CA
98. Redwood City	CA
99. Reedley	CA
100. Richmond	CA
101. Rosemead	CA
102. Roseville	CA
103. Ross	CA
104. San Anselmo	CA
105. San Bernardino	CA
106. San Diego County	CA
107. San Dimas	CA
108. San Fernando	CA
109. San Francisco	CA
110. San Gabriel	CA
111. San Jose	CA
112. San Luis Obispo	CA
113. San Mateo County	CA
114. San Ramon	CA
115. Santa Clarita	CA
116. Santa Cruz County	CA
117. Santa Monica	CA
118. Santa Rosa	CA
119. Seal Beach	CA
120. Simi Valley	CA
121. Solana Beach	CA
122. South Pasadena	CA
123. Temecula	CA
124. Thousand Oaks	CA
125. Truckee	CA
126. Ukiah	CA
127. Watsonville	CA
128. Windsor	CA
129. Winters	CA

Municipality	State
130. Yuba City	CA
131. Yucaipa	CA
132. Arvada	CO
133. Avon	CO
134. Eagle County	CO
135. Snowmass Village	CO
136. Steamboat Springs	CO
137. Timnath	CO
138. Colchester	CT
139. Wallingford	CT
140. Bethany Beach	DE
141. Lewes	DE
142. Chipley	FL
143. Sarasota County	FL
144. Athens/Clarke County	GA
145. Coweta County	GA
146. Douglasville	GA
147. Effingham County	GA
148. Gainesville	GA
149. Henry County	GA
150. Marietta	GA
151. Hawaii County	HI
152. Honolulu	HI
153. Clarinda	IA
154. Des Moines	IA
155. Glenwood	IA
156. Humboldt	IA
157. Indianola	IA
158. Iowa City	IA
159. Johnson County	IA
160. Johnston	IA
161. Muscatine	IA
162. Red Oak	IA
163. Scott County	IA
164. Tipton	IA
165. Urbandale	IA
166. Ammon	ID
167. Buffalo Grove	IL
168. Chicago Heights	IL
169. Cook County	IL
170. Deerfield	IL
171. Hawthorn Woods	IL
172. Highland Park	IL
173. Hoffman Estates	IL
174. Lake Bluff	IL
175. Lake Forest	IL
176. Libertyville	IL
177. Lindenhurst	IL
178. New Lenox	IL

Municipality	State
179. Northbrook	IL
180. Palatine	IL
181. Wheaton	IL
182. Wilmette	IL
183. Zion	IL
184. Cumberland	IN
185. Elkhart	IN
186. Evansville	IN
187. Fishers	IN
188. Goshen	IN
189. Logansport	IN
190. St. Joseph County	IN
191. Westfield	IN
192. Winfield	KS
193. Baton Rouge/East Baton Rouge Parish	LA
194. Shreveport	LA
195. Abington	MA
196. Attleboro	MA
197. Braintree	MA
198. Cambridge	MA
199. Holliston	MA
200. Malden	MA
201. Mashpee	MA
202. Raynham	MA
203. Somerville	MA
204. Townsend	MA
205. Tyngsborough	MA
206. Westford	MA
207. Whately	MA
208. Augusta	ME
209. Bath	ME
210. Biddeford	ME
211. Bucksport	ME
212. China	ME
213. Gardiner	ME
214. Gorham	ME
215. Gray	ME
216. Litchfield	ME
217. Portland	ME
218. South Portland	ME
219. Westbrook	ME
220. Winthrop	ME
221. Huntington Woods	MI
222. Muskegon	MI
223. Adrian	MN
224. Aitkin	MN
225. Albert Lea	MN
226. Andover	MN
227. Anoka	MN

Municipality	State
228. Arden Hills	MN
229. Ashby	MN
230. Aurora	MN
231. Austin	MN
232. Battle Lake	MN
233. Baxter	MN
234. Biwabik	MN
235. Bloomington	MN
236. Callaway	MN
237. Champlin	MN
238. Cohasset	MN
239. Coon Rapids	MN
240. Dakota County	MN
241. Dassel	MN
242. Dayton	MN
243. Donnelly	MN
244. Eden Prairie	MN
245. Edina	MN
246. Elbow Lake	MN
247. Ellsworth	MN
248. Fayal Township	MN
249. Ham Lake	MN
250. Hancock	MN
251. Hardwick	MN
252. Hastings	MN
253. Henning	MN
254. Hermantown	MN
255. Hoffman	MN
256. International Falls	MN
257. Kent	MN
258. Lester Prairie	MN
259. Luverne	MN
260. Maple Grove	MN
261. Maplewood	MN
262. Marshall	MN
263. Mendota Heights	MN
264. Morris	MN
265. Mounds View	MN
266. New York Mills	MN
267. North St. Paul	MN
268. Olmsted County	MN
269. Parkers Prairie	MN
270. Pelican Rapids	MN
271. Plymouth	MN
272. Ramsey	MN
273. Robbinsdale	MN
274. Round Lake	MN
275. Savage	MN
276. Spring Lake Park	MN

Municipality	State
277. St. Francis	MN
278. Wendell	MN
279. Wheaton	MN
280. White Earth	MN
281. Clayton	MO
282. Kirksville	MO
283. Aberdeen	MS
284. Batesville	MS
285. Ecu	MS
286. Greenwood	MS
287. Gulfport	MS
288. Hattiesburg	MS
289. Hernando	MS
290. Hollandale	MS
291. Kosciusko	MS
292. McComb	MS
293. Ocean Springs	MS
294. Pascagoula	MS
295. Petal	MS
296. Pontotoc	MS
297. Senatobia	MS
298. Tupelo	MS
299. Walls	MS
300. Havre	MT
301. Boone	NC
302. Grand Island	NE
303. Hastings	NE
304. Laconia	NH
305. Peterborough	NH
306. Somersworth	NH
307. Bergen County	NJ
308. Berlin Township	NJ
309. Beverly	NJ
310. Bloomingdale Borough	NJ
311. Burlington Township	NJ
312. Butler Borough	NJ
313. Byram	NJ
314. Carlstadt Borough	NJ
315. Delran Township	NJ
316. East Greenwich	NJ
317. East Newark Borough	NJ
318. East Rutherford Borough	NJ
319. Fairfield Township	NJ
320. Franklin Lakes	NJ
321. Glen Ridge	NJ
322. Hackettstown Town	NJ
323. Hamilton Township	NJ
324. Hawthorne	NJ
325. Jackson Township	NJ

Municipality	State
326. Kearny	NJ
327. Lavallette Borough	NJ
328. Linwood City	NJ
329. Livingston Township	NJ
330. Logan Township	NJ
331. Long Hill Township	NJ
332. Mahwah Township	NJ
333. Manalapan Township	NJ
334. Manville Borough	NJ
335. Millstone Township	NJ
336. Moonachie Borough	NJ
337. Mount Arlington Borough	NJ
338. Newton	NJ
339. Northfield	NJ
340. Oxford Township	NJ
341. Point Pleasant Borough	NJ
342. Raritan Township	NJ
343. Ridgefield Borough	NJ
344. Ringwood	NJ
345. River Vale Township	NJ
346. Rockaway Township	NJ
347. Seaside Park	NJ
348. Secaucus	NJ
349. Shrewsbury Borough	NJ
350. Somers Point	NJ
351. Stafford Township	NJ
352. Teaneck Township	NJ
353. Union City	NJ
354. Ventnor City	NJ
355. Vernon Township	NJ
356. Vineland City	NJ
357. Wanaque Borough	NJ
358. Washington Township	NJ
359. West Milford Township	NJ
360. West Orange township	NJ
361. White Township	NJ
362. Wood-Ridge Borough	NJ
363. Woolwich Township	NJ
364. Albuquerque	NM
365. Mesilla	NM
366. Cooperstown	NY
367. DeWitt	NY
368. Dobbs Ferry	NY
369. Hornell	NY
370. Hudson Falls	NY
371. Moreau	NY
372. Newfield	NY
373. Niskayuna	NY
374. Oneida	NY

Municipality	State
375. Scarsdale	NY
376. Tarrytown	NY
377. Sylvania	OH
378. Owasso	OK
379. Ashland	OR
380. Bandon	OR
381. Corvallis	OR
382. Newport	OR
383. Sherwood	OR
384. Wasco County	OR
385. Brentwood	PA
386. East Donegal Township	PA
387. Edwardsville	PA
388. Erie County	PA
389. Kingston	PA
390. Lehighton	PA
391. Lemoyne	PA
392. New Hope	PA
393. Quakertown	PA
394. Richland Township	PA
395. Shoemakersville	PA
396. South Heidelberg Township	PA
397. Spring Garden	PA
398. Trafford	PA
399. Upper Dublin Township	PA
400. Upper Southampton Township	PA
401. West Goshen Township	PA
402. West Pittston	PA
403. York	PA
404. Warren	RI
405. West Warwick	RI
406. Clover	SC
407. Lexington	SC
408. Sumter	SC
409. Surfside Beach	SC
410. Johnson City	TN
411. Abilene	TX
412. Anna	TX
413. Bellaire	TX
414. Conroe	TX
415. Coppell	TX
416. Corsicana	TX
417. Farmers Branch	TX
418. Flower Mound	TX
419. Galveston	TX
420. Greenville	TX
421. Haltom City	TX
422. Kaufman	TX

Municipality	State
423. Kerrville	TX
424. Kilgore	TX
425. Laredo	TX
426. Lindale	TX
427. Lufkin	TX
428. McAllen	TX
429. McKinney	TX
430. North Richland Hills	TX
431. Pearland	TX
432. Portland	TX
433. Prosper	TX
434. Richardson	TX
435. Richland Hills	TX
436. Sugar Land	TX
437. Tyler	TX
438. Beaver	UT
439. Cedar City	UT
440. Davis County	UT
441. Harrisville	UT
442. Holladay	UT
443. Hooper	UT
444. Logan	UT
445. Orem	UT
446. Salt Lake City	UT
447. Salt Lake County	UT
448. Santa Clara	UT
449. Smithfield	UT
450. St. George	UT
451. Virgin	UT
452. West Valley City	UT
453. Rutland	VT
454. Bainbridge Island	WA
455. Gig Harbor	WA
456. Lake Stevens	WA
457. Mason County	WA
458. Puyallup	WA
459. Tacoma	WA
460. Appleton	WI
461. Columbia County	WI
462. Shorewood	WI
463. Verona	WI
464. Grant County	WV
465. Burlington	WY
466. Evanston	WY
467. Newcastle	WY
468. Pine Haven	WY
469. Rock Springs	WY

William Deming - RE: Smoking Ban

From: "Jerry Hancock" <JHancock@lexingtonky.gov>
To: "William Deming" <demingw@portagemi.gov>
Date: 8/31/2010 4:21 PM
Subject: RE: Smoking Ban
CC: "Brian Bowling" <bowlingb@portagemi.gov>, "Maurice Evans" <evansm@portagemi.gov>

Mr. Deming, thanks for writing.

The Lexington-Fayette Urban County Government has a comprehensive county-wide (we are a merged city-county government) public smoking ban inside all public buildings and places of business, including bars and restaurants. This restriction is enforced by the County Health Department's Environmental Health section. All government buildings are smoke free as well.

Our Parks Board has initiated a smoking ban on playgrounds in our parks, in enclosed spaces, and all park buildings and swimming facilities, but not on open spaces, golf courses, bleacher areas etc. the parks' policy is not enforced at this time, beyond parental and citizen peer pressure. I get very few complaints now that we have enacted it and included the "Tobacco Free Zone" language on our playground signage along with age appropriateness indicators on the equipment. Before the codification, we got several complaints a week, due in part because of the huge change the community had to go through with the county wide ban on indoor smoking. Lexington is the heart of tobacco growing country, and the change was difficult to institutionalize for the first few years, but it is the norm today.

I hope this helps.

From: William Deming [mailto:demingw@portagemi.gov]
Sent: Tuesday, August 31, 2010 3:20 PM
To: Jerry Hancock
Cc: Brian Bowling; Maurice Evans
Subject: Smoking Ban

Dear Mr. Hancock,

I am Park & Recreation Director for the City of Portage, Michigan. We have limited smoking bans at our beach and skate park facility. Our Park Board has recommended expanding to picnic shelter and playground areas.

City Council has requested administrative review and in doing so a council member indicated that Lexington, Kentucky has a smoking ban for parks.

If so, can you provide me with the rule and ordinance and how it is enforced?

Thank you for your time and effort.

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: October 13, 2010

FROM: Maurice S. Evans, City Manager



SUBJECT: Website Upgrade Presentation

ACTION RECOMMENDED: That City Council establish a Special Meeting on Tuesday, November 16, 2010 at 6:30 p.m. in City Hall Conference Room #2 for the purpose of receiving a presentation concerning an upgrade to the city website.

An upgrade to the city website (www.portagemi.gov) will be completed in January 2011, representing the third-generation website for the City of Portage. The upgrade will improve the ease and efficiency with which residents and business owners do business with the city, assist city employees while providing excellent customer service, provide easy access to relevant information and promote the City of Portage to help attract and retain businesses and residents. The upgraded site will use the newest technology. It is recommended that the Council establish a Special Meeting on Tuesday, November 16, 2010 at 6:30 p.m. to receive a presentation concerning the upgraded website.

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: October 8, 2010

FROM: Maurice S. Evans, City Manager



SUBJECT: September 2010 Summary Environmental Activity Report – Information Only

Attached please find the September 2010 Summary Environmental Activity Report from the Department of Transportation & Utilities Director, W. Christopher Barnes. New material, or material of specific interest to City Council is presented in italics.

These items serve to update the Council on environmental affairs.

c: W. Christopher Barnes, Department of Transportation & Utilities
Planning Commission
Portage Environmental Board

CITY OF PORTAGE

COMMUNICATION

RECEIVED

TO: Maurice S. Evans, City Manager

DATE: October 8, 2010 **OCT 11 2010**

FROM: W. Christopher Barnes, Director of Transportation & Utilities

WCB **CITY MANAGER'S OFFICE
PORTAGE MI**

SUBJECT: September 2010 Environmental Activity Report – Information Only

In keeping with goals and objectives adopted by the Council emphasizing the need to enhance environmental quality and protect natural resources, the following information is intended to keep the Council, Planning Commission and Environmental Board apprised of current environmental issues.

Important environmental issues being monitored and coordinated by the Administration are attached. The Summary Environmental Activity Report will continue to be provided on a monthly basis to the Council, Planning Commission and Environmental Board.

SUMMARY ENVIRONMENTAL ACTIVITY REPORT

September 2010 (*updates in italics*)

<u>Project/Activity</u>	<u>Description</u>	<u>Status</u>
Portage City Landfill	Ongoing groundwater monitoring of former municipal landfill.	-City Council awarded a 3 year contract to American Hydrogeologic Corporation on February 23, 2010 to perform annual groundwater sampling. The site groundwater data will continue to be monitored to confirm continuation of the natural attenuation process. Sampling shows continued improvement in groundwater quality. Sampling performed in June 2010. Annual report submitted to MDNRE in June 2010. General groundwater quality continues to improve, but site will require monitoring for the foreseeable future.
Site Inspection/Development Project Review	Review of existing business & industries and review of proposed business and industrial development projects for environmental protection purposes and/or building plans completed.	-Coordination with property owners and City or State agencies ongoing. <i>-Review of 2 site/building plans and/or plats completed in September 2010.</i>
Sewer Connection Program	Groundwater protection program requiring residential/business hookup to the sanitary sewer where available.	<i>-Sanitary sewer hookup permits issued in September 2010: 5 residential. One sewer connections made as part of the Mandatory Sewer Program.</i>
West Lake Management Program	Special assessment district designed to maintain/improve lake conditions.	-Five Year Lake Management Assessment District process initiated (Resolution #1) on December 7, 2004. Resolution #3 was approved by City Council on January 11, 2005. Resolution #5 was adopted by City Council on February 8, 2005. On March 22, 2005, City Council approved a contract with Aquatic Services, Goodrich, MI, to perform annual weed treatment. West Lake currently working with the Kalamazoo County Drain Commissioner to create a filtration system on the Austin Lake Drain. On July 10, 2007, City Council authorized the Administration to submit a grant application in the amount of \$5,000 to the Kalamazoo Foundation to assist funding the filtration system. Construction bids received by the Drain Commissioner on November 14, 2006. Construction began on the Austin Dam reconstruction in December 2006 and new structure completed in March 2007. Filtration system construction was substantially completed in July 2008. On July 8, 2008, City Council awarded contracts to Aquatic Services, Inc. for the 2008 Weed Treatment Program and awarded a contract to ASI Environmental to perform watershed and vegetation survey. Spring 2009 weed control application was completed in June 2009. New 5 year improvement plan and special assessment process was approved by

City Council on March 23, 2010. The initial 2010 lake treatment is complete and is being reviewed as to its effectiveness.

Retention Basin Sampling Program
Investigation regarding potential impact of retention basins on groundwater levels.

-Historical monitoring continues to show minor impacts at most basins. From 1993 through 2009 the monitoring program showed stable groundwater impacts due to stormwater infiltration. Alternative road salt practices continue to be considered and evaluated. City staff has initiated a compilation of all city retention basin groundwater levels. Winter sampling performed in early December 2009 with results submitted. Report under staff review. On March 23, 2010, City Council awarded a four-year contract to Wightman Environmental. Program will focus primarily on groundwater level information. Sampling of retention basins was completed on June 25, 2010. Report is due in November 2010.

Wellhead Protection Program (WHPP)
Development of program to protect City well fields and surrounding area from contamination resulting from improper land use.

-Wellhead Protection Grant award received from MDEQ on August 30, 1999 and Council accepted the grant on October 5, 1999. Council also awarded contract to Earth Tech to complete WHPP. Earth Tech completed the final wellhead protection plan and MDEQ submittal was made on October 14, 2000. Plan was reviewed by MDEQ with written approval received in March, 2001. City staff made a presentation to the American Water Works Association at their April 25, 2008 meeting to highlight current city initiatives. Plan implementation is ongoing.

Leaf Compost Monitoring Program
Monitoring and analysis of groundwater at the new Oakland Drive Leaf Compost site.

-City Council awarded contract on August 21, 2001 to Soil & Materials Engineers for monitoring and analysis of groundwater impact of the new compost operation. Drilling was completed in October 2001 and first sampling cycle was completed in February 2002. Semi annual sampling was performed from 2002 to 2009 in June and January. Sampling and analysis results continue to show no groundwater impacts from the leaf composting. Sampling schedule was reduced to annual sampling in 2009 with results showing continued minor impact on groundwater quality. *The 2010 report was received with results showing minimal impact on groundwater. Next sampling scheduled for July 2011.*

National Pollution Discharge Elimination System (NPDES) permit implementation
Five year plan to implement the current NPDES stormwater permit.

-Received NPDES general permit on August 15, 2001. Renewal Application submission was made to MDEQ on March 7, 2003. Permit implementation is ongoing. New permit received in 2004 mandates involvement in several county watershed groups. City staff completed the submission of a Stormwater Pollution Prevention Initiative (SWIPPI) as required by NPDES permit. SWIPPI submitted on October 21, 2005. Revised SWIPPI to incorporate watershed management plans. Annual report was submitted December 29, 2006. SWIPPI comments received from the MDEQ and revisions resubmitted. Public education plan submitted to MDEQ on October 31, 2007. Additional NPDES SWIPPI data

and public education plan submitted on November 6, 2007. Annual report was submitted December 31, 2007. The MDEQ approved the revised public education plan and SWIPPI on January 15, 2008. Re-application for permit extension was submitted on March 24, 2008. New permit applications are due August 1, 2008 for a 5 year permit cycle. The permit application for the city was submitted to MDEQ on July 31, 2008. Annual permit report submitted in December 31, 2008. Next five year permit expected in fall 2009. New certificate of coverage permit was issued by MDEQ on September 30, 2009. New permit covers a 5 year time frame with first work item (updating the Public Participation Plan) due December 11, 2009. Plan update completed with other local governments and submitted November 24, 2009. City staff worked with other agencies at the 2010 Home Expo on March 17 – 20, 2010. Staff currently working on updated SWIPPI submittal to MDNRE. SWIPPI was submitted for MDNRE approval on June 25, 2010.

National Pollution Discharge Elimination System (NPDES) permit implementation

Kalamazoo River Mainstem Watershed Management Plan

-First meeting was held September 17, 2004. The public participation plan for the Watershed was submitted on November 22, 2004. The Public Education Plan was submitted December 31, 2004. Proposals for completing the watershed plan were received by Kalamazoo County on September 15, 2005 and a contract awarded to Kieser & Associates in November 2005. Watershed Committee meeting held November 22, 2005. Watershed planning focused on threatened uses and potential correction of water quality. Draft watershed plan submitted to MDEQ on December 30, 2005. Review comments received from MDEQ and revised watershed plan due in December 2006. Public information meeting was held at County Fairgrounds on October 24, 2006. Revised Watershed Plan submitted November 30, 2006. A letter not to revise the Watershed Plan was submitted to the MDEQ on March 17, 2008. Public participation plan update submitted to MDEQ on November 24, 2009. Kalamazoo River Water Festival was held on August 14, 2010 with City of Portage participation. Preliminary grant request submitted September 16, 2010 for West Fork of Portage Creek storm water enhancements.

Portage River Watershed Management Plan

-Public participation plan submitted June 28, 2004. The Public Education Plan was submitted December 31, 2004. Proposals for a Watershed Management Plan were received by the Kalamazoo County Road Commission and a contract awarded to the Kalamazoo County Conservation Service in November 2005. First watershed meeting was held November 29, 2005. Meeting focused on water quality in the watershed and identification of pollution sources. Draft watershed plan submitted to MDEQ on December 30, 2005. Follow-up meetings are held monthly to facilitate an implementation schedule. Portage River Watershed public meeting held in Vicksburg on April 11, 2006. Review comments received from MDEQ and revised watershed plan due November

2006. Revised Watershed Plan submitted November 30, 2006, follow up meetings to be held as necessary. A letter not to revise the Watershed Plan was submitted to the MDEQ on March 17, 2008. Public participation plan update submitted to MDEQ on November 24, 2009. Based upon MDEQ comments, the plan was revised and resubmitted on December 21, 2009.

Five year plan to implement an Illicit Discharge Elimination Plan (IDEP).

-On October 21, 2001, City Council awarded a contract to Fishbeck, Thompson, Carr and Huber for the Portage Creek element of the IDEP, which was completed in July 2002. On February 19, 2002, City Council approved a new ordinance as required by the NPDES permit titled "Storm Water Illicit Discharges and Connections". On May 27, 2003, City Council awarded a contract to Fishbeck, Thompson, Carr and Huber for the West Fork element of the IDEP. On April 28, 2004, City Council accepted a grant from the State of Michigan in the amount of \$152,264 and awarded a contract to Fishbeck, Thompson, Carr and Huber in the amount of \$184,264 for the remainder of the IDEP for the entire city. Due to a less than anticipated number of illicit connections, city staff asked MDEQ to expand mapping activities under the grant program. Program implementation is ongoing as funding allows. Continued outfall sampling is required by permit and will be budgeted accordingly. IDEP program was updated for submittal to MDNRE on June 25, 2010, and part of the SWIPPI.

Garden Lane Arsenic Removal Facility

Construction of a water treatment facility at the Garden Lane Wellfield to remove arsenic, iron and manganese from the groundwater.

-City Council approved an agreement with Fishbeck, Thompson, Carr & Huber, Inc. on January 10, 2006 to prepare a feasibility study to meet new USEPA arsenic standards for drinking water. Feasibility study completed in August 2006. Feasibility study recommended construction of a filter system using various filter media materials. Small scale pilot studies began in spring 2007. Pilot studies completed with generally favorable results. Geotechnical soils report completed in April 2007 and wetlands delineation received in May. Operating plants visited in May to familiarize staff with various arsenic removal processes. Engineering proposals for the project were received August 14, 2007. Project engineering awarded to Earth Tech by City Council on September 11, 2007. Project design to include Leadership in Energy and Environmental Design (LEED) criteria. Project construction bids were received on November 25, 2008. Contract awarded by City Council on December 16, 2008 to Adams Building Contractors, Inc., Jackson, Michigan. Preconstruction meeting was held January 29, 2009. Construction underway with clearing and earth work complete. Underground piping and foundation work complete. Concrete floors and wall construction complete. Outside piping and inside plumbing complete. Building interior and exterior site work complete. Interior painting complete. Garden Lane Well #4 drilling is

complete and well building is completed. Start up activities began in May 2010. Facility is in operation with ribbon cutting held August 2, 2010. City staff gave a presentation on August 9, 2010 to the Michigan Chapter of the American Water Works Association about the arsenic removal of the facility. The facility is producing about one million gallons of water per day.

Environmental Incident/Spill
Clean Up Notification

Environmental Protection
Program to assist Portage
Police/Fire Departments with
spill containment and spill
cleanup.

-The number of environmental incident/spill investigations performed in September 2010-0. The number of incidents requiring city forces/contractor emergency cleanups-0.

Localized Groundwater Table
Investigation

Hydrogeologic study of the
Portage area, especially in the
Sprinkle Woods plat area, to
determine causes of increase in
groundwater elevation.

-On April 29, 2008, City Council awarded a contract to American Hydrogeology Corporation to investigate the reason and extent of seasonally high groundwater elevation. Special emphasis will be placed on the Black Forest plat area to suggest possible solutions to the basement leaking problems experienced in the area. Study was transmitted to City Council on July 22, 2008. Current activities are focused on assisting the affected property owners with possible solutions. A storm drainage line extension project has been designed with a bid opening set for September 18, 2008. City Council awarded a contract to Peters Construction Company on September 23, 2008. Construction began in mid October. Project was extended to serve 3 additional properties. Work was completed on October 31, 2008. City staff continues to investigate other remedies for local groundwater table elevations.

Work complete on compiling a history of local groundwater table elevations at 19 city-owned retention basins with data from 1994 to 2009. Data from the analysis shows a general upward trend through the Portage area from 2005 to present. Five monitoring wells were installed in the Jamaica Lane area as a result of a number of citizen concerns. *Analysis of the Jamaica Lane wells shows that seasonal groundwater table levels have dropped approximately 24" from spring 2009 levels and level has stabilized through September 2010. September sampling continued to show stable groundwater table. Sampling will continue through the fall months.*

Hampton Wetland Area Water
Level

Assistance with the Inverness
Condominium Association to
Review Surface Water Levels

-Ongoing assistance with the Condominium Association to develop appropriate measures to regulate the rising water level in Hampton Wetlands Area located on the north side of West Centre Avenue and east of Angling Road. Current activity has centered on meeting with MDNRE staff to determine feasible method to lower water levels. Association currently working with MDNRE permit staff to clarify permit requirements. No change in status. *Lower groundwater table elevation has reduced concerns from the Condominium Association.*

Southwest Michigan Regional
Sustainability Covenant

Collaborative effort with local
government, academic, and other
stakeholders to lead toward
environmental, economic and
social sustainability.

-On May 12, 2009, City Council approved the Southwest Michigan Regional
Sustainability Covenant. A sustainability work session was held April 14,
2010, to review elements of the covenant in cooperation with the City of
Kalamazoo and the City of Battle Creek. A grant application was made to
MDNRE for a greenhouse gas inventory study of the area. Success of grant
application may not be known until late summer. Notice received July 15,
2010 that the grant application was not successful. *City staff attended a
September 10, 2010 meeting in Grand Rapids to discuss sustainable
economic, environment, and society programs.*

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CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: October 5, 2010

FROM: Maurice S. Evans, City Manager 

SUBJECT: Council Chambers A Video Upgrade

ACTION RECOMMENDED: That City Council accept the low bid submitted by Central Interconnect, Incorporated, at a total cost of \$40,108.87 for the upgrade of the Council Chambers video system and authorize the City Manager to execute all documents related to this action.

The Council Chambers video system is more than twenty years old. This once state-of-the-art system is no longer capable of providing quality video output, requires constant maintenance and is no longer meeting the video needs of the city. Numerous modifications have been made throughout the years to keep the system functional, which has increased the instability of the overall system performance.

Since early 2010, the Chief Information Officer has worked with Public Media Network (PMN) to identify an appropriate video replacement system. PMN recommended the city purchase a NewTek Tricaster system based on cost, performance and familiarity. Upon review of the NewTek system and the city video requirements, which includes new cameras, updated output quality and updated master control station, a bid document was prepared to receive proposals for the NewTek system. The city received one bid from Central Interconnect, Incorporated in the amount of \$40,108.87. The bid is within \$4,000 of the estimated cost of the project. Central Interconnect has been in business for 29 years and has recently installed several large-scale video systems for clients such as the City of Kentwood, Portage Woodland Elementary and the Van Andel Institute. Central Interconnect, Incorporated comes highly recommended from the references provided and the IT Director is satisfied with their credentials, capabilities and warranty program.

The new video system will be compatible with the new audio system and is scalable for future planned upgrades, which will include a new light table and full-service document station designed for electronic presentations.

It is recommended that Council approve this project at the one-time cost of \$40,108.87 submitted by Central Interconnect, Incorporated and authorize the City Manager to execute all related documents. Funds have been budgeted for this planned expenditure as part of the 2010 Cable Access Equipment Fund. The bid tabulation is attached for the information of City Council.

Attachment

**Bid Tabulation
Cable Access Video System**

Central Interconnect, Inc.
1425 Coit Avenue NE
Grand Rapids, MI 49505

<u>Manufacturer/Product Description</u>	<u>Quantity</u>	<u>Unit Price</u>	<u>Total Price</u>
Sony - RM-BR300 Joystick Remote Control Panel	1	\$1,512.00	\$1,512.00
Sony - BRC-Z330 High Definition PTZ Camera	4	\$4,896.00	\$19,584.00
NewTek - Tricaster Broadcast EDU Triple Play	1	\$2,995.00	\$2,995.00
NewTek - Tricaster Broadcast Full Production Studio (Com/Gov P	1	\$11,995.00	\$11,995.00
NewTek - Tricaster Live Control 11	1	\$1,995.00	In Bundle
Installation	L.S.	\$4,022.87	\$4,022.87
 Grand Total			 \$40,108.87
 Hourly Call-In Rate			 \$79.50/hour

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor & City Council

DATE: October 13, 2010

FROM: Maurice S. Evans, City Manager



SUBJECT: SuperDeck Boardwalk – Bid Recommendation

ACTION RECOMMENDED: That City Council approve a sole-source provider bid from Aggressive Industries in the amount of \$16,600 for supply and delivery of SuperDeck for improvements to the Bishop's Bog Preserve trail and authorize the City Manager to execute all documents related to the approved action on behalf of the city.

The City of Portage Parks Department maintains several sections of wetlands trail utilizing a floating decking called "SuperDeck." SuperDeck provides access to and through wetlands with minimal negative impact on the environment. The Bishop's Bog Preserve trail incorporates over one mile of SuperDeck, which was originally installed in 1997. Due to the changing water levels in the Bishops Bog wetland, portions of the decking trail require a second layer. This practice has proven successful in other trail applications in Bishops Bog and the West Lake Nature Preserve. The overlay decking will enhance the unique Bishop's Bog trail to the benefit of the public.

SuperDeck is only available from Aggressive Industries, the sole-source provider for this product. A bid was requested and received to supply and deliver additional floatation decking for the Bishop's Bog trail in the amount of \$16,600. Installation of the decking materials will be addressed under a separate bid.

It is recommended that City Council approve this sole-source provider bid submitted by Aggressive Industries for supply and delivery of decking and authorize the City Manager to execute all documents related to this action. Funds are available in the 2010-2011 Capital Improvement Program budget for this purchase.

**BID TABULATION
SUPERDECK BOARDWALK FOR
BISHOPS BOG TRAIL**

- 1. Superdeck Marketing, Aggressive Industries*
8356 Sunset Rd NE
Spring Lake Park, MN 55432**

***Sole-source provider**

CITY OF PORTAGE

COMMUNICATION

TO: Honorable Mayor and City Council

DATE: October 13, 2010

FROM: Maurice S. Evans, City Manager 

SUBJECT: Bid Recommendation - 2011 Portage Senior Center Motor Coach Services

ACTION RECOMMENDED: That City Council approve the low bid from Gail Andrus Travel, LLC, for motor coach services for the 2011 Portage Senior Center travel program in the amount of \$15,657.75 and authorize the City Manager to execute all documents related to this action on behalf of the city.

The Portage Senior Center provides an extensive travel program for area seniors. Bids for necessary motor coaches for the 2011 travel schedule were received from three vendors. The low bid in the amount of \$15,657.75 was from Gail Andrus Travel, LLC, located in Grand Rapids. Gail Andrus Travel, LLC, satisfactorily provided motor coach services for the 2010 Portage Senior Center travel program.

It is recommended that City Council approve the low bid from Gail Andrus Travel, LLC, for motor coach services for the 2011 Portage Senior Center travel program in the amount of \$15,657.75 and authorize the City Manager to execute all documents related to this action. The travel program is self-supporting through user fees, which cover the costs for motor coach services. A bid tabulation is attached for the information of City Council.

Attachment

BID TABULATION
2011 SENIOR CENTER BUS TRIP TRANSPORTATION

<u>Bidder</u>	<u>Bid</u>
Gail Andrus Travel 400 Ann Street NW #206 Grand Rapids, MI 49504	\$15,657.75
Cardinal Buses, Inc. 202 E. Winslow PO Box 59 Middlebury, IN 46540	\$15,717.75
Dean Trailways of Michigan 4726 Aurelius Rd. Lansing, MI 48910	\$16,117.00

MATERIALS TRANSMITTED

Friday, October 1, 2010

1. Communication from the City Manager regarding Knox Boxes – Information Only.
2. Communication from the City Manager regarding the Citizen Comment Card summary for September 2010 – Information Only.



Maurice S. Evans, City Manager

cc: Brian J. Bowling, Deputy City Manager