

**FINAL AGENDA FOR THE COUNCIL MEETING  
CITY OF PORTAGE  
April 26, 2011**

7:00 p.m. Tree Planting Ceremony.

7:30 p.m. Call to Order.

Invocation: Elder Chris VandenOever of the First Reformed Church of Portage

Pledge of Allegiance.

Roll Call.

Proclamations. National Arbor Day  
National Children's Mental Health Awareness Day

- A. Approval of the March 22 Special Meeting Minutes, April 12 Regular Meeting Minutes, April 14 Special Meeting Minutes and Budget Meeting Minutes of April 19, 2011.
- \* B. Approval of Consent Agenda Motions.
- \* C. Communication from the City Manager recommending that City Council approve the Accounts Payable Register of April 26, 2011, as presented.
- D. Public Hearings:
- E. Petitions and Statements of Citizens:
  - \* 1. Communication from the City Manager recommending that City Council receive a special assessment petition in favor of creating a special assessment district at Trade Centre Way for the purpose of installing a public street (curb and gutter, fencing, lighting, undergrounding of utilities and landscaping) street realignment, street intersection, utility infrastructure improvements, and storm water drainage and retention.
- F. Reports from the Administration:
  - \* 1. Communication from the City Manager recommending that City Council adopt the Resolution setting a public hearing on May 10, 2011, for the Fiscal Year 2011-2012 proposed city budget and the proposed 2011 tax levy, as computed in accordance with Public Act 5 of 1982.
  - \* 2. Communication from the City Manager recommending that City Council:
    - a. consider adoption of the resolution receiving an amended development plan, which is part of an amended tax increment financing plan, from the City of Portage Downtown Development Authority and set a public hearing for May 24, 2011; and
    - b. consider approval of the first reading of an ordinance amendment to approve the 2011 Amended Plan, with final action scheduled for June 28, 2011.
  - \* 3. Communication from the City Manager recommending that City Council adopt Resolution No. 1 for Trade Centre Way Relocation Project #997-R, approve the special assessment for properties contained within the preliminary special assessment roll, accept the City Manager Report and request preparation of Resolution No. 2.
  - \* 4. Communication from the City Manager recommending that City Council establish a public hearing for May 10, 2011, to consider resolutions to:
    - a. adopt a sewer commodity rate increase from \$4.65 to \$4.81 per 1,000 gallons of metered water;
    - b. adopt a water commodity rate increase from \$3.01 to \$3.10 per 1,000 gallons of metered water;
    - c. adopt the recommendation that adjustments be made to both the sewer and water base quarterly charges;
    - d. adopt the recommendation that the new rates become effective on October 1, 2011; and
    - e. adopt the recommended water and sewer franchise area fees and other service fees and charges as outlined in the 2011 Utility Rate Financial Study.
  - \* 5. Communication from the City Manager recommending that City Council approve Contract 11-5170 between the Michigan Department of Transportation (MDOT) and the City of Portage pertaining to funding for the 2011 Major Street Reconstruction Program and adopt a resolution authorizing the City Manager to sign all documents on behalf of the city.

- \* 6. Communication from the City Manager recommending that City Council approve an inter-local agreement with Texas Township for the design, construction, and maintenance of landscaping improvements at the 12<sup>th</sup> Street/Texas Drive/West Milham Avenue intersection and authorize the City Manager to execute all documents related to this matter.
- \* 7. Communication from the City Manager regarding the Downtown Development Authority Annual Report – Information Only.
- \* 8. Communication from the City Manager regarding the March 2011 Summary Environmental Activity Report – Information Only.
- \* 9. Department Monthly Reports.

G. Communications:

1. Communication and recommendation from Marc Meulman, Chair of the Human Services Board, regarding the representative to the Metro Transit ADA Local Advisory Committee.
2. Presentation by Marc Meulman, Human Services Board Chair.

H. Unfinished Business:

- \* 1. Communication from the City Manager recommending that City Council approve an ordinance to amend the Codified Ordinances of the City of Portage to grant the Kalamazoo Family Non-Profit Housing Corporation a tax exemption and establish a payment in lieu of taxes for 1506 Schuring Road.

\* I. Minutes of Boards and Commissions Meetings:

1. Portage Human Services Board of March 3, 2011.
2. Portage Environmental Board of March 8, 2011.
3. Portage Zoning Board of Appeals of March 14, 2011.
4. Portage Youth Advisory Committee of March 14 and March 28, 2011.
5. Kalamazoo County Board of Commissioners Regular of March 15 and Regular of April 5, 2011.
6. Portage Board of Education Special of March 17, Special and Regular of March 21, Policy Governance Session Revised of March 24, Special of March 28 and Special of March 30, 2011.
7. Portage Planning Commission of April 7, 2011.

J. Ad-Hoc Committee Reports:

K. New Business:

L. Bid Tabulations:

M. Other City Matters:

1. Statements of Citizens.
2. From City Council and City Manager.
- \* 3. Reminder of Meetings:
  - a. Thursday, April 28, 4:30 p.m., Public Media Network Board of Directors, 359 S. Kalamazoo Mall, 3<sup>rd</sup> Floor.
  - b. Wednesday, May 4, 8:15 a.m., Historic District Commission, City Hall Room #2.
  - c. Wednesday, May 4, 6:30 p.m., Park Board, West Lake Nature Preserve.
  - d. Thursday, May 5, 6:30 p.m., Human Services Board, City Hall Room #1.
  - e. Thursday, May 5, 7:00 p.m., Planning Commission, City Council Chambers.
  - f. Monday, May 9, 7:00 p.m., Zoning Board of Appeals, City Council Chambers.
  - g. Tuesday, May 10, 5:30 p.m., Special Meeting of the City Council to Interview Board and Commission Applicants, City Hall Room #1.

N. Materials Transmitted of April 8, 2011.

Adjournment.

# CITY COUNCIL MEETING SUMMARY

April 12, 2011

## PROCLAMATION

- ◆ Mayor Strazdas issued a Fair Housing Resolution.

## CHECK REGISTER

- ◆ Approved the Check Register of April 12, 2011, as presented.

## PUBLIC HEARING

- ◆ Amended the City of Portage Code of Ordinances by amending Section 42-121 of Chapter 42, Land Development Regulations, by adding Section 42-121(D), Keeping Certain Animals as an Accessory Use, also known as Ordinance Amendment 10-A, and adopted the resolution establishing an application fee of \$50 for applications involving the keeping of up to six chickens and eliminated Section 42-121.D.3.j.3 and all of Section 42-121.D.3.k from the proposed ordinance.

## REPORTS FROM THE ADMINISTRATION

- ◆ Received the Presentation of the proposed Fiscal Year 2011-12 Budget from City Manager Maurice Evans.
- ◆ Adopted the Bond Resolution authorizing the sale of Capital Improvement Bonds, Series 2011, in the amount of \$1,700,000; and the Resolution Approving the Undertaking to Provide Continuing Disclosure by the City of Portage for the Capital Improvement Bonds, Series 2011.
- ◆ Adopted the Resolution Authorizing Refunding of the City of Portage Building Authority Bonds, Series 1998, 2001 and 2002 and the Resolution to Approve of the Undertaking to Provide Continuing Disclosure.
- ◆ Received the proposed Medical Marihuana Ordinance amendment to the Zoning Code, and referred the ordinance to the Planning Commission for consideration and initiation of the Zoning Code amendment process, with submission of the recommendation on the amendment not later than June 3, 2011.
- ◆ Accepted for first reading an ordinance to amend the Codified Ordinances of the City of Portage to grant the Kalamazoo Family Non-Profit Housing Corporation a tax exemption, established a payment in lieu of taxes for 1506 Schuring Road and voted to take final action on April 26, 2011.
- ◆ Approved the purchase of software upgrades through CORE Technology Corporation in the amount of \$16,750 for Talon Client – Law Enforcement Information Network systems for crime analysis, crime mapping, and data sharing and authorized the City Manager to execute all documents related to the purchase.
- ◆ Accepted the Farmland and Open Space Preservation Application from Stephen Woolam, 7905 West RS Avenue, Texas Township.
- ◆ Set a Special Meeting on Tuesday, May 10, 2011, beginning at 5:30 p.m. to interview board and commission applicants.
- ◆ Received the communication from the City Manager regarding the Tree City USA Tree Planting and Proclamation as information only.

## COMMUNICATIONS

- ◆ Received the Presentation by Mike Zajac, Portage Park Board Chair.
- ◆ Received the communication from the Planning Commission regarding the City of Portage Fiscal Year 2011-2021 Capital Improvement Program.
- ◆ Voted to have the Customer Service Committee look into creating a Council Policy that would open up the use of City Hall by elected officials (with day time being exempt), to possibly look into reimbursement for weekends and after hours for cost incurred, to consider how scheduling would be handled and to consider or discuss reimbursement for weekends and after hours for cost for elected officials outside campaign times, not that there has to be a charge schedule.

## AD-HOC COMMITTEE REPORTS

- ◆ Received the information from the Ad Hoc Sign Committee and referred the proposed business banner sign language to the Planning Commission for consideration and to initiate the Zoning Code amendment process.
- ◆ Received the presentation by Councilmember Reid regarding the recent activity of the City Council Community Survey Committee.

## BID TABULATION

- ◆ Approved the purchase of one Hewlett Packard Proliant server for \$10,909 provided through PC Mall Gov and authorized the City Manager to execute all documents related to this action.

## STATEMENTS OF CITIZENS

- ◆ Bryan Mohney, 7911 Lake Wood Drive, asked how to obtain permits for chicken coops and pens under the new ordinance and was informed that the Community Development Department would handle all permits.

## STATEMENTS OF CITY COUNCIL AND CITY MANAGER

- ◆ Councilmember Campbell offered congratulations to Alan Reiff for being awarded the Rotary Man Of the Year.
- ◆ Councilmember Reid indicated that the Community Action Agency experienced some difficulties in funding, but is still in existence.
- ◆ City Manager Maurice Evans invited everyone to a Special Meeting of Portage City Council, Kalamazoo City Commission and Kalamazoo County Board of Commissioners, 7 p.m., Radisson Hotel, Kalamazoo, to receive a presentation on consolidation of services to reduce costs. Mayor Strazdas concurred.

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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.



# City of Portage Proclamation

## NATIONAL ARBOR DAY

**WHEREAS,** the importance of trees to the quality of the environment is recognized by designation of April 29<sup>th</sup> as National Arbor Day; and

**WHEREAS,** The National Arbor Day Foundation is a non-profit group committed to tree planting and conservation; and

**WHEREAS,** trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products; and

**WHEREAS,** trees in our City increase property values, enhance the economic vitality of business areas, and beautify our community; and

**WHEREAS,** the City of Portage has been designated as a Tree City USA by The National Arbor Day Foundation for its efforts in tree planting and tree conservation; and

**WHEREAS,** the Portage City Council will hold a ceremonial tree planting, Tuesday, April 26<sup>th</sup> on City property in recognition of National Arbor Day:

**NOW THEREFORE,** I, Peter Strazdas, Mayor of the City of Portage, Michigan do hereby proclaim April 29, 2011 as Arbor Day in Portage and do hereby encourage all residents to plant trees at their homes and places of work.



Signed this 26<sup>th</sup> day of April 2011

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Peter J. Strazdas, Mayor



# City of Portage Proclamation

## NATIONAL CHILDREN'S MENTAL HEALTH AWARENESS DAY

- WHEREAS,** addressing the complex mental health needs of children, youth and families today are fundamental to the future of the City of Portage; and
- WHEREAS,** the need for comprehensive, coordinated mental health services for children, youth and families places upon our community a critical responsibility; and
- WHEREAS,** it is appropriate that a day should be set aside each year for the direction of our thoughts toward our children's mental health and well-being; and
- WHEREAS,** Kalamazoo Wraps, through its unique and collaborative approach to serving children, youth and families, is improving the System of Care supporting the mental health needs of all children, youth and families in our community; and
- WHEREAS,** May 5<sup>th</sup> has been designated "National Children's Mental Health Awareness Day" and Kalamazoo Wraps is committed to caring for every child's mental health through education, raising awareness and eliminating stigma.

**NOW, THEREFORE,** I, Peter J. Strazdas, Mayor of the City of Portage, do hereby proclaim Thursday, May 5, 2011, as **NATIONAL CHILDREN'S MENTAL HEALTH AWARENESS DAY** in the City of Portage and urge our citizens and all agencies and organizations interested in meeting every child's mental health needs to unite on that day in the observance of such exercises as will acquaint the people of the City of Portage with the fundamental necessity of providing comprehensive and coordinated services for children and youth with mental health needs and their families.



Signed this 26th day of April 2011

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Peter J. Strazdas, Mayor

# DRAFT

## MINUTES OF THE SPECIAL MEETING OF THE PORTAGE CITY COUNCIL MAYOR AND CITY COUNCIL FOR THE DAY OF MARCH 22, 2011

Mayor Peter Strazdas called the meeting to order at 8:02 a.m. The following members of City Council were present: Councilmembers Cory A. Bailes, Elizabeth A. Campbell, Patricia M. Randall and Claudette S. Reid and Mayor Peter J. Strazdas. Mayor Pro Tem Edward J. Sackley arrived with U.S. Congressman Fred Upton at 11:30 a.m. Councilmember Terry R. Urban was absent with excuse. Also in attendance were City Manager Maurice S. Evans, City Attorney Randall L. Brown and City Clerk James R. Hudson.

Present from Portage Northern High School were: Youssef Farran, Kelsey Kitchens, Maddie Lange, Nathan Novaria, Olivia Pfund, Nate Rajpoot and Evan Williams. Also present was Student Advisor Rick Searing.

Present from Portage Central High School were: Darby Bennett, Mara Bennet, Zach Cook, Sam Ettwein, Max Geib, Maddy Krenselewski and Jared Szymanski. Also present was Student Advisor Mark Sutherland.

Mayor Strazdas provided a summary of the planned activities of the day and asked the students to introduce themselves and explain why they had an interest in government. Discussion followed.

City Attorney Randy Brown, each of the City Councilmembers, Mayor Strazdas and City Manager Maurice Evans provided a discussion of the Roles and Perspectives of their respective offices. Discussion and a question and answer session followed.

RECESS: 9:05 a.m.

Mayor Strazdas and the City Councilmembers each took a group of students on a tour of the offices of City Hall.

RECONVENE: 10:06 a.m.

Mayor Strazdas introduced Tom Haroldson, Reporter for the *Portage Gazette* and the *Kalamazoo Gazette*, who provided his background and discussed the role of the media as it relates to local government. Discussion and a question and answer session followed.

Mayor Strazdas asked the students to tell everyone what they felt are the important issues for the community and the football field for Portage Northern High School came up as the number one concern, again. Discussion followed.

ADJOURN: 10:33 a.m.

Mayor, City Council, Student Participants, Student Advisor and City Clerk Hudson adjourned and toured Portage Police Headquarters with Police Chief Richard White and Portage Fire Station #1 with Fire Chief Randy Lawton, both of whom took questions from the students. The students toured each of the facilities and discussion followed.

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**RECONVENE:** 11:25 a.m.

Mayor Strazdas reconvened the meeting and U.S. Congressman Fred Upton arrived and spoke with the students and had a question and answer session.

Mayor Strazdas invited the student participants to eat lunch and asked each student to provide a speech stating why he or she wanted to be Mayor or Councilmember for the Day.

Following the student speeches, City Clerk James Hudson and Deputy City Clerk Adam Herringa led the process for voting in the Mayor and City Councilmember for the Day Election. The election for Student Mayor for the Day followed and the Student Mayor Elect for the Day was Nathan Novaria.

The following students were elected Student Councilmembers for the Day from Portage Northern High School: Kelsey Kitchens, Nate Rajpoot and Yossef Farran, and from Portage Central High School: Maddy Krenselewski, Jared Szymanski and Zach Cook. Discussion followed.

Mayor Strazdas thanked all of the students for participating and wished them success and asked each of them to give it their “all” each day so the community can get better and thanked City Council for participating in this session.

**ADJOURN:** Mayor Strazdas adjourned the meeting at 12:10 p.m.

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James R. Hudson, City Clerk

# DRAFT

## CITY COUNCIL MEETING MINUTES FROM APRIL 12, 2011

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

At the request of Mayor Strazdas, Deacon Karen McDonald of the St. Barnabas Episcopal Church of Portage gave the invocation and Boy Scout Troop 277 led the City Council and the audience in reciting the Pledge of Allegiance.

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

**PROCLAMATION:** Mayor Strazdas issued a Fair Housing Resolution and received comment from Executive Director of the Fair Housing Center of Southwest Michigan, who reviewed some of the activities of the Center and praised Vicki Georgeau for her assistance.

**APPROVAL OF MINUTES:** Motion by Reid, seconded by Campbell, to approve the March 22, 2011 Regular Meeting Minutes as presented. Upon a voice vote, motion carried 7 to 0.

\* **CONSENT AGENDA:** Mayor Strazdas asked Mayor Pro Tem Sackley to read the Consent Agenda. Motion by Sackley, seconded by Bailes, to approve the Consent Agenda motions as presented. Upon a roll call vote, motion carried 7 to 0.

\* **APPROVAL OF ACCOUNTS PAYABLE REGISTER OF APRIL 12, 2011:** Motion by Sackley, seconded by Bailes, to approve the Accounts Payable Register of April 12, 2011. Upon a roll call vote, motion carried 7 to 0.

### **PUBLIC HEARING:**

**ORDINANCE AMENDMENT 10-A, KEEPING CHICKENS AND OTHER ANIMALS:** Mayor Strazdas opened the public hearing and introduced Community Development Director Jeffrey Erickson and asked him to summarize the events leading up to the public hearing. Mr. Erickson provided a brief summary of his communication to City Manager Maurice Evans dated February 25, 2011, which is contained in the City Council Agenda Packet as part of Item D.1, Ordinance Amendment 10-A, Keeping of Chickens and Other Animals, and provided the history of the process thus far. He cited the animals that are included in the ordinance, those animals that are not included, the requirement of a coop with an attached pen, the six foot opaque fence requirement for roaming hens, the set back requirements and materials that are not permitted in the construction of the coop and pen. Discussion followed regarding the requirement for Planning Commission review and approval for 4H projects; the storage of feed; other possible nuisance items; the Resolution establishing the permit fees; further restrictions for lake front lots; when was "Keeping of Fowl and other Animals" added to the ordinance; and, the responsibility of the notification of the neighbors by the applicant instead of the City of Portage and whether written approval of adjacent land owners in the sample Ann Arbor ordinance should be required. City Attorney Randy Brown indicated that he did not recommend the Ann Arbor ordinance

approach. Discussion followed. Mayor Pro Tem Sackley expressed his concern that the Ann Arbor ordinance notification procedure was not allowed as an option to be considered and there was no case law or legal reasoning for dismissal provided. Community Development Director responded that he is comfortable providing professional judgments, that he would review the matter but had no recollection of the issue ever being posed. Mayor Strazdas asked City Manager Evans to follow up with a response to these comments by Mayor Pro Tem Sackley. Discussion followed.

Discussion followed regarding the requirement of the six foot opaque fence requirement; nuisance abatement; the classification of rabbits as a domestic animal; vicious ducks versus pet ducks; geese; dogs and cats; the inclusion of “fowl and other animals” provision; natural screening such as plantings instead of the opaque fence requirement; and land use that is onerous or causes problems. Discussion followed.

Mayor Strazdas recognized Planning Commission Chair James Cheesebro and, in response to Councilmembers Bailes, Reid and Urban, he agreed with Mr. Erickson that the opaque fence provision was a response to a visual concern, not a containment or protection issue. He indicated that he did not recall other barriers being discussed, though the fence itself was minimally necessary for containment purposes. Discussion followed. Mayor Pro Tem Sackley objected to the fortress environment created by the opaque fence. Mr. Cheesebro responded. Discussion followed.

Mayor Strazdas opened the discussion for comment from the public. The following individuals spoke in favor of the ordinance: Dave Ostrem, 1515 Dogwood; Tony Kaufman, 5884 E P Avenue, Pavilion Township; Lynda Stewart, 329 East Van Hoesen Boulevard; Mildred Taraszka, 410 Marylynn Court; Tracey Tyler, 3109 Hill an Brook Drive; Bryan Mohny, 7911 Lake Wood Drive; Jacquelyn Stasevich, 9100 N 27<sup>th</sup> Street, Richland, and her 4H participant, Jacob Booth; Michelle Blesing, 324 Boston Avenue; and Fernando Costas, 7639 Harvest Lane. Mr. Erickson responded to their questions about fencing; he listed some of the communities that do not allow chickens at all or in a platted situation; he indicated that Planning Commission approval would be required for other animals such as those raised through the 4H Club; he pointed out that a coop and a pen do not require an opaque fence, but to free roam the chickens requires an opaque fence; and, he indicated that the Zoning Board of Appeals has made several decisions over the years and have denied having chickens in certain areas owing to problems or difficulties unique to specific situations. Discussion followed.

Motion by Campbell, seconded by Reid, to close the public hearing. Upon a voice vote, motion carried 7 to 0. Mayor Strazdas asked for dialogue from City Council. Discussion followed. Councilmember Reid expressed her opinion that rabbits remain a domestic animal and not be considered livestock. Discussion followed. Councilmember Urban was not in favor of moving forward on the ordinance at this time owing to too many concerns and objections still remaining with the proposed ordinance that would have to be incorporated in a final version of the ordinance. Discussion followed. In response to Mayor Strazdas, Mr. Evans indicated that a revised ordinance could be brought back at the April 26, 2011 Regular City Council Meeting. Discussion followed.

Motion by Sackley, seconded by Campbell, to approve an Ordinance to amend the City of Portage Code of Ordinances by amending Section 42-121 of Chapter 42, Land Development Regulations, by adding Section 42-121(D), Keeping Certain Animals as an Accessory Use, also known as Ordinance Amendment 10-A, and to adopt the resolution establishing an application fee of \$50 for applications involving the keeping of up to six chickens. Mayor Pro Tem Sackley stopped to add that the ordinance as drafted should be revised to specify a fence of any type should be a minimum four feet in height, and animals other than chickens should not be included in this ordinance. Councilmember Urban asked for clarification. Mayor Pro Tem Sackley explained.

City Attorney Brown repeated the specifics of the motion to ensure that he is clear of the intent of the motion. He indicated that Section 42-121.D.3.a should read, "...During daylight hours, chickens may be allowed to roam outside the coop and pen, if supervised, and only within an area completely enclosed by a fence with minimum height of 4 feet." Upon questioning, Mayor Pro Tem Sackley also confirmed that the language, "an application fee of \$100 for applications involving the keeping of more than six chickens or other types of fowl or animals where Planning Commission review and approval is required" was purposely left out of the motion. In effect, this eliminated Section 42-121.D.3.j.1 and Section 42-121.D.3.j.2. Discussion followed. Councilmember Urban took exception with Section 42-121.D.3.j.3 and indicated that if Section 42-121.D.3.j.3 were eliminated, Section 42-121.D.3.k, would be eliminated, also, and the Zoning Board of Appeals was the proper forum for deciding this matter, not the Planning Commission. City Attorney Brown concurred. Discussion followed.

Motion by Urban, seconded by Reid, to eliminate Section 42-121.D.3.j.3 and all of Section 42-121.D.3.k. Discussion followed. Upon a roll call vote, motion carried 7 to 0. Discussion followed. City Attorney Brown confirmed that a rabbit is classified as a domestic animal and no permit is necessary to keep a rabbit. At the request of Councilmember Urban, Mayor Pro Tem Sackley reread the original motion. Discussion followed. Upon a roll call vote, motion carried 7 to 0. Discussion followed. Mr. Evans indicated that he would provide City Council with a copy of the revised ordinance as amended and passed.

## **REPORTS FROM THE ADMINISTRATION:**

**PRESENTATION OF THE PROPOSED FISCAL YEAR 2011-12 BUDGET:** City Council received the Proposed Budget for Fiscal Year 2011-12, Supplemental Budget and Detail Line Item Budget. At the request of Mayor Strazdas, City Manager Evans presented the proposed 2011-12 Fiscal Year Budget to City Council and indicated that there are no surprises, that a conservative approach was utilized in formulating the \$60.3 million down from the \$61.8 million budget for Fiscal Year 2011-12. He indicated that Police and Fire, Parks Maintenance, Streets Maintenance, the Capital Improvement Program (CIP) are all still in the budget, just not at desired levels. He also indicated that there would be a continuing decrease in revenue stream that is attributable to declining property tax revenues for the second year in a row, with a drop this year of 2.9%. Under the new program outlined by Governor Snyder, the City of Portage would be competing for revenue sharing with other cities, but the City is planning for the day when revenue sharing is gone as a consequence of the poor fiscal health of the State of Michigan that will inevitably be addressed. He indicated that the City of Portage maintains a low overall 10.8916 mills and that the City of Portage continues to remain in the lower 25 percent of all Michigan cities of greater than 25,000 in population in terms of millage level.

He indicated that the recent trend analysis that was shared with City Council was taken into account when determining the budget, and the Administration continues to take additional reductions. He also indicated that there are continued staff reductions through attrition, for example, the number of employees is 184, down from 188, when just a few years ago Portage had 215 employees. Also, he pointed out that the General Fund continues to support the CIP, the Curbside Recycling Fund is in need of extra funding and the Spring Clean-up Fund has been depleted because of the storms. He reviewed the planned activity in the Street and Utility Funds. He summed up by saying that the fiscal year 2011-2012 proposed budget is balanced and services will continue in this wonderful community.

Mayor Strazdas announced that the budget review will take place, Tuesday, April 19, 2011; that he heard that there were no lay-off's, that public safety remains a priority, appropriate resources for

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CIP, infrastructure and roads and the City of Portage continues to remain in the lower 25 percent of all Michigan cities of greater than 25,000 in population in terms of millage level. City Manager Evans concurred and said that there is one grant position will not be replaced next year, either. Discussion followed. Motion by Reid, seconded by Sackley, to receive the Presentation of the proposed Fiscal Year 2011-12 Budget. Upon a voice vote, motion carried 7 to 0.

\* **ADOPTION OF BOND RESOLUTIONS:** Motion by Sackley, seconded by Bailes, to adopt the Bond Resolution authorizing the sale of Capital Improvement Bonds, Series 2011, in the amount of \$1,700,000; and the Resolution Approving the Undertaking to Provide Continuing Disclosure by the City of Portage for the Capital Improvement Bonds, Series 2011. Upon a roll call vote, motion carried 7 to 0.

\* **ADOPTION OF BOND REFUNDING RESOLUTION:** Motion by Sackley, seconded by Bailes, to adopt the Resolution Authorizing Refunding of the City of Portage Building Authority Bonds, Series 1998, 2001 and 2002 and Approve of the Undertaking to Provide Continuing Disclosure. Upon a roll call vote, motion carried 7 to 0.

\* **PROPOSED MEDICAL MARIHUANA HOME OCCUPATION ORDINANCE:** Motion by Sackley, seconded by Bailes, to receive the proposed Medical Marihuana Ordinance amendment to the Zoning Code, and refer the ordinance to the Planning Commission for consideration and initiation of the Zoning Code amendment process, with submission of the recommendation on the amendment not later than June 3, 2011. Upon a roll call vote, motion carried 7 to 0.

\* **TAX EXEMPTION FOR KALAMAZOO FAMILY NON-PROFIT HOUSING CORPORATION:** Motion by Sackley, seconded by Bailes, to accept for first reading an ordinance to amend the Codified Ordinances of the City of Portage to grant the Kalamazoo Family Non-Profit Housing Corporation a tax exemption, establish a payment in lieu of taxes for 1506 Schuring Road and take final action on April 26, 2011. Upon a roll call vote, motion carried 7 to 0.

\* **CORE TECHNOLOGY CORPORATION:** Motion by Sackley, seconded by Bailes, to approve the purchase of software upgrades through CORE Technology Corporation in the amount of \$16,750 for Talon Client – Law Enforcement Information Network systems for crime analysis, crime mapping, and data sharing and authorize the City Manager to execute all documents related to the purchase. Upon a roll call vote, motion carried 7 to 0.

\* **FARMLAND AND OPEN SPACE PRESERVATION APPLICATION FROM 7905 WEST RS AVENUE, TEXAS TOWNSHIP:** Motion by Sackley, seconded by Bailes, to accept the Farmland and Open Space Preservation Application from Stephen Woolam, 7905 West RS Avenue, Texas Township. Upon a roll call vote, motion carried 7 to 0.

\* **SPECIAL MEETING WITH BOARD AND COMMISSION APPLICANTS:** Motion by Sackley, seconded by Bailes, to set a Special Meeting on Tuesday, May 10, 2011, beginning at 5:30 p.m. to interview board and commission applicants. Upon a roll call vote, motion carried 7 to 0.

\* **TREE CITY USA TREE PLANTING AND PROCLAMATION – INFORMATION ONLY:** Motion by Sackley, seconded by Bailes, to receive the communication from the City Manager

regarding the Tree City USA Tree Planting and Proclamation as information only. Upon a roll call vote, motion carried 7 to 0.

**COMMUNICATION:**

**PRESENTATION BY MIKE ZAJAC, PORTAGE PARK BOARD CHAIR:** City Council received the Presentation by Mike Zajac, Portage Park Board Chair. He thanked City Council for adjusting the schedule to allow him to speak earlier than planned. He reviewed the goals of the Park Board, some of the activities in which each member participated and future plans for the Park Board initiatives, including: expanding health and wellness in the community, a youth triathlon, a contest to build Kalamazoo County landmarks out of recycled material and volunteer development. Discussion followed.

**CITY OF PORTAGE FISCAL YEAR 2011-2021 CAPITAL IMPROVEMENT PROGRAM:** At the request of Mayor Strazdas, City Manager Evans explained that the Planning Commission has reviewed the proposed FY 2011-2021 Capital Improvement Program (CIP) and recommended approval. Motion by Urban, seconded by Campbell, to receive the communication from the Planning Commission regarding the City of Portage Fiscal Year 2011-2021 Capital Improvement Program. Upon a voice vote, motion carried 7 to 0.

**REQUEST FROM COUNCILMEMBER PATRICIA RANDALL FOR DISCUSSION REGARDING THE CITY HALL FACILITIES USAGE POLICY:** At the request of Mayor Strazdas, Councilmember Randall issued a plea to open City Hall to the public and asked for other opinions of City Council. Mayor Strazdas asked for comment from City Council. Councilmember Campbell indicated the Council Customer Service committee would be the appropriate committee for review.

Councilmember Urban asked if Mayor Pro Tem Sackley was going to address the issues he raised in his recent e-mail. Since he was not, Councilmember Urban concurred with Mayor Pro Tem Sackley and his exception to City Hall usage during election cycles and election campaigns, but he did not agree that the city budget should bear the cost of the use of City Hall by other election officials. Councilmember Reid indicated that she was open to look at this issue, but it should be used first for business of the City of Portage, so a balance may be necessary. Discussion followed. Mayor Strazdas recommended that the Council Customer Service Committee would be the appropriate Committee to study this matter. Discussion followed.

Mayor Pro Tem Sackley cited other facilities in the community that could be used for meetings and indicated that City Hall should not be in competition with them. He said that the use of the facility by any elected official outside working hours, where there is additional cost, the elected official should pay that cost. If the elected official has an office in the community, he or she should use his or her own facility. Discussion followed.

Motion by Randall to have the Customer Service Committee look into creating an Administrative Order that would open up the use of City Hall by elected officials (with day time being exempt) and to possibly look into reimbursement for weekends and after hours for cost incurred. Mayor Strazdas asked City Attorney Brown whether the motion was construed narrowly enough and Mr. Brown answered in the affirmative, but the Committee would be creating a "Council Policy" or directing the Administration to devise an "Administrative Order," and Councilmember Randall indicated her preference for a Council Policy. The motion was then seconded by Councilmember Reid.

Councilmember Reid asked that the Committee consider how scheduling would be handled. Mayor Pro Tem Sackley asked that the Committee consider or discuss reimbursement for weekends and after hours for cost for elected officials outside campaign times, not that there has to be a charge schedule. Upon a roll call vote, motion carried 7 to 0.

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

Portage Board of Education Regular Business of February 21 and Special Meeting and Committee of the Whole Work Session of March 7, 2011.

Portage Historic District Commission of March 2, 2011.

Portage Park Board of March 2, 2011.

Portage Planning Commission of March 17 and March 28, 2011.

**AD HOC COMMITTEE REPORTS:**

**CITY COUNCIL AD HOC SIGN COMMITTEE BUSINESS SIGN INFORMATION:**

At the request of Councilmember Urban, Councilmember Campbell indicated that permit requirements on multitenant buildings to accommodate changes more easily needs further review and Councilmember Reid referred to a request to make the language in the sign ordinance more easily understood by local business owners and she referred to the new chart enclosed in the Agenda Packet. Councilmember Urban reviewed the suggested banner ordinance amendment and explained the reasoning behind the proposed changes. Discussion followed. Motion by Urban, seconded by Reid, to receive the information from the Ad Hoc Sign Committee and refer the proposed business banner sign language to the Planning Commission for consideration and to initiate the Zoning Code amendment process. Upon a roll call vote, motion carried 7 to 0.

**COMMUNITY SURVEY COMMITTEE:** Councilmember Reid reviewed the plan by the Survey Committee to seek approval of the contract with the Kercher Center to phrase the questions to get the information needed and to present the overview of the questions anticipated, the questions that were dropped, the questions that were modified and the questions that were added and to obtain input from the City Council and Western Michigan University Kercher Center for the contract. Discussion followed.

**BID TABULATION:**

\* **PURCHASE OF ONE HEWLETT PACKARD PROLIANT SERVER FOR SQL/.NET APPLICATIONS:** Motion by Sackley, seconded by Bailes, to approve the purchase of one Hewlett Packard Proliant server for \$10,909 provided through PC Mall Gov and authorize the City Manager to execute all documents related to this action. Upon a roll call vote, motion carried 7 to 0.

**OTHER CITY MATTERS:**

**STATEMENTS OF CITIZENS:** Bryan Mohney, 7911 Lake Wood Drive, asked how to obtain permits for chicken coops and pens under the new ordinance and was informed that the Community Development Department would handle all permits.

DRAFT

**STATEMENTS OF CITY COUNCIL AND CITY MANAGER:** Councilmember Campbell offered congratulations to Alan Reiff for being awarded the Rotary man of the Year.

Councilmember Reid indicated that the Community Action Agency experienced some difficulties in funding, but is still in existence.

City Manager Maurice Evans invited everyone to a Special Meeting of Portage City Council, Kalamazoo City Commission and Kalamazoo County Board of Commissioners, 7 p.m., Radisson Hotel, Kalamazoo, to receive a presentation on consolidation of services to reduce costs. Mayor Strazdas concurred.

**ADJOURNMENT:** Mayor Strazdas adjourned the meeting at 11:12 p.m.

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James R. Hudson, City Clerk

\*Indicates items included on the Consent Agenda.

DRAFT

MINUTES OF THE BUDGET WORK SESSION OF THE PORTAGE CITY COUNCIL  
APRIL 19, 2011

Meeting was called to order by Mayor Strazdas at 2:00 p.m.

The following members of Council were present: Councilmembers Cory Bailes, Elizabeth Campbell, Patricia Randall and Terry Urban, Mayor Pro Tem Ed Sackley and Mayor Peter Strazdas. Councilmember Claudette Reid arrived at 2:05 p.m. Also in attendance were City Manager Maurice Evans, Deputy City Manager Brian Bowling, Financial Services Director Bob Luders, Finance Director Daniel Foecking, Deputy Finance Director Patricia Fitnitch and City Clerk James Hudson.

City Manager Maurice Evans provided an overview of the proposed budget. He indicated that the City of Portage budget of \$60.3 million, down from the \$61.8 million budget for Fiscal Year 2011-12, and derived after the guidance of City Council at the annual retreat, was a balanced budget. He indicated that the Administration listened to City Council and streets, public safety and water and sewer remain protected with this budget. He indicated that the City is not filling positions, not sacrificing services and not counting on revenue sharing since Governor Snyder could take all of the statutory revenue sharing and property tax revenues are down because property values are down. He also indicated that there are continued staff reductions through attrition; for example, the number of employees is 184, down from 188, when just a few years ago Portage had 215 employees. He listed some of the cost-cutting measures because of the reduction in State Revenue Sharing and lowering of assessments in the city, including: operational reductions, fewer Christmas lights, no tulips and three years of no wage increases except union contracts. Discussion followed regarding the need for extra funding in the Curbside Recycling Fund and the Spring Clean-up Fund because of the storms. He reviewed the planned activity in the Street and Utility Funds. He summed up by saying that the fiscal year 2011-2012 proposed budget is balanced. Discussion followed. Mayor Strazdas announced that the Truth in Taxation Public Hearing (on the budget) will take place, Tuesday, May 10, 2011. Discussion followed.

Benefit Services Director Patti Thompson with Deputy Director Tracy Schmitt explained some of the functions and responsibilities of the Benefit Services Department, including union and non-union benefits, compensation plans, Workers' Compensation and the retiree health savings plan. She explained some of the cost control efforts of the Department including staff reduction, 312 Arbitrations, continuation of the Employee Health Management Program with 94% participation that has been negotiated into union contracts, changes to insurance carriers, a retiree health savings plan and meaningful assignments for workers compensation recipients on restricted duty. Discussion followed.

Financial Services Director Bob Luders provided a brief background of the department work functions related to the budget, including procurement of goods and services and capital improvement of the city. Mr. Luders discussed the Purchasing Department responsibilities in the areas of risk management, management of city contracts, management of city assets, property and auto insurance coverage through the Michigan

Municipal Risk Authority and the joint auction with the City of Kalamazoo. Discussion followed.

City Assessor James Bush indicated that the changes for the Assessor Budget are very minimal, basically unchanged from last year and that the Assessing Department budget is comprised of both the assessing component and the Board of Review component with the Board of Review component increased by approximately \$7,300 to account for the additional Board members compensation and the costs of training. Some of the basic responsibilities of the Assessor Department include keeper of the records related to ownership, homestead exemption and all property records, annually preparing the assessment roll and conducting the Board of Review. He indicated that the Assessor also prepares special assessment rolls, values all city property for insurance purposes, conducts the SWA annual vacancy study and prepares numerous other projects and reports for the Administration and City Council. Discussion followed.

He gave a Summary of the 2011 Assessment Roll saying that the 2011 Taxable Value is down 2.9%; Pfizer Real Estate is down 6% and Personal Property is down 2%; foreclosures continue at approximately 200 per year; and Pfizer reliance has decreased to 15% down from 17%. He indicated that the City Tax Base remains balanced with 54% Residential, 25% Commercial and 21% Industrial, with a breakdown between real estate and personal property as 82% real property and 18% personal property. He indicated that Tax Base and Revenue Forecasting is by far the most important activity that will be ongoing and will begin next month. Discussion followed.

For the 2011 Board of Review, Mr. Bush indicated that for the first time, the Board of Review consisted of two three-member panels hearing assessment appeals simultaneously in separate rooms. Each of the six board members participated in one or more Board of Review training sessions in assessing practices and customer service. He admitted that operating the dual panels had its administrative challenges, but the appointments were handled very smoothly and the Board members did not get backed up or get backlogged with paperwork and Joyce Foondle of Southwest Michigan Governmental Consultants monitored the Board appointments periodically. He said it was her opinion that there could be better uniformity between the two panels in terms of the logic of their appeal decisions. As a result, he is considering additional training opportunities leading toward further improvements in this area and is considering implementing a number of suggestions for improvements for the 2012 Board of Review that were voiced by members at an exit interview conducted. Discussion followed.

He reported that there are no pending commercial or industrial property tax appeals so the city has no uncertain future tax refund liability and all staff is committed to continuing positive public relations with citizens and the business community during extremely difficult economic times.

He indicated that the current residential inspection program was designed in response to the State Tax Commissions recommendation that at least 20% of all properties be inspected annually, in other words every

property would be inspected at least once every five years and is a test project at this time. Discussion followed.

Information Technology Services Director Devin Mackinder indicated that the IT Department reviews emerging technologies and indicated that there are increases in costs savings, customer service and computer expertise as a result of the contractual arrangement between the City of Portage and SARCOM. Mr. Mackinder explained that the \$160,000 in expenditures line item is being set aside for replacement of the current computer accounting system and explained the benefits of switching to a new system. He reviewed some of the service indicators, equipment purchase trends, cell phone usage and the future use of PDA devices by employees. Because of fewer Portager Newspapers being published, he is showing a reduction in desk top publishing hours, because of an increase in election activity he is showing an increase in mail processing and because of the demand for information, he is showing an increase in website updating time. Discussion followed regarding the progress of the city dashboard and Governor Snyder's mandates. He explained some of the changes, updates and advances accomplished over the past year in the technology area and announced some of the plans for new technologies for the upcoming fiscal year. He reviewed the Cable Access budget, and indicated he lost two part time employees to Mary Beth Block, who is now in charge of the Communication Services budget as Assistant to the City Manager. Discussion followed.

Streets and Equipment Director Jack Hartman with Deputy Director Ray Waurio explained the Streets and Equipment budget, including: the Major and Local Street Funds; the Routine Maintenance Fund; and the Traffic Services Fund for signals and crossings. Mr. Hartman also discussed the costs associated with administering the routine maintenance for major streets and site plan reviews and plat reviews as service indicators. Discussion followed regarding Act 151 and the subsidization of the local Street Fund using the General Fund, Special Funds, curbside recycling, leaf pickup, the spring cleanup program, brush pick-up program, road maintenance and strip paving. Discussion followed.

Planning Commissioner James Pearson, 3004 East Shore Drive, asked why the recycling fund had an increase of 37% and Mr. Foecking responded that the fund balance is not as large as desired, that the third year is more expensive, that the request for proposal and resultant contract was designed to be that way and that the decrease in the tax base is having an effect on the amount of revenue generated. He then surmised that 0.36 mills is reasonable. Discussion followed.

Parks, Recreation & Property Management Director William Deming with Deputy Director Barry Bacon and Senior Citizen Services Manager Jason Horan reviewed the Parks, Recreation & Property Management budget and emphasized that the department was engaging in increased efficiencies, reducing services, consolidation of duties, contractual services and utilizing volunteers where possible. He indicated that custodial services will be under the Community Development Department and there will be a reduction in tree plantings, flower beds and holiday decorations. Fundraising for cultural activities will be performed by

Cultural Events Coordinator and the special events banners will be eliminated. The livery will no longer be available except for special group tours and the Haunted Forest and Applefest events will no longer be supported by the Parks Department and, after some discussion, concluded that they will be possible only through private efforts. Discussion followed.

Mr. Deming indicated that the Wellness program at the Senior Center will disappear because the grant expired. He reviewed some of the activities provided at the Senior Center, and discussed buildings and grounds, cemeteries, City Center landscaping, perennials, Tree City USA, volunteers, contractual services and cultural activities. Discussion followed.

Police Chief Richard White with Deputy Kit Lirot and Deputy Dan Mills summarized the Police Department budget. Chief White discussed retirements, cross-training and movement of staff to create efficiencies and better serve the public. He mentioned that the Police Department had no lay-offs and pledged to improve customer service. He mentioned that SWEP and KVET will co-locate and share resources. He reviewed alcohol compliance checks and indicated that they will continue, especially during prom and graduation time, and indicated that four businesses were cited and will suffer license restrictions. He reviewed the Unwanted Meds Task Force for the disposal of prescription drugs program, the merging of surrounding county databases funded through Homeland Security for global crime analysis, updates in technology and the first part time police officer positions. Discussion followed.

Fire Chief Randolph Lawton with Deputy Chief John Podgorski provided a brief overview of the City of Portage Fire Department budget. Chief Lawton reviewed emergency management, fire equipment, efforts to control costs, reductions in staffing, fleet mileage and overtime, and indicated that the facilities and equipment continue to age.

Deputy Chief Podgorski reviewed the implementation of road safety data recorders and incident response by location instead of by district and the response to medical emergencies using smaller well-equipped vehicles. Discussion followed regarding the use of these vehicles and the use of volunteers on the fire teams and the elimination of the fire training for volunteer firefighters owing to a lack of attrition.

RECESS: 5:03 p.m.  
RECONVENE: 6:00 p.m.

Mr. Foecking introduced Deputy Finance Director Patricia Fitnitch and Deputy Finance Director of Revenue/Treasury Brian Kelley. Mr. Foecking reviewed the Legislative Department Budget, including City Council and Human Services.

Community Development Director Jeffrey Erickson introduced Deputy Director Vicki Georgeau. He provided an overview of the Human Services budget and referred City Council to the Supplemental Budget Recommendation dated April 1, 2011. Mr. Erickson indicated that for

FY 2011-12, a total of \$164,461 of General Fund and Community Development Block Grant (CDBG) Program funds are estimated to be available for human public service funding from two sources: the General Fund allocation is estimated to be \$117,127 (0.55% of General Fund revenue per City Council policy); and the CDBG Program allocation is now estimated to be \$47,334 (maximum of 15% of the estimated FY 2011-12 entitlement grant of \$219,197 and FY 2009-10 program income of \$96,375). He compared and contrasted these figures with the amounts from FY 2010-11 showing reductions for FY 2011-12. He reviewed the breakdown of contribution to Portage Community Center.

Mr. Erickson indicated that the review and approval of human/public service funding is accomplished as part of the annual budget process. He said that the City Administration analysis and funding options were provided to the Human Services Board (HSB) as was the City Administration funding recommendation for human/public services. He said that the HSB considered this information during the January and February 2011 meetings and expressed his satisfaction that the human/public service funding recommendations to City Council by the City Administration and the HSB for FY 2011-12 are in agreement.

He made reference to the Human/Public Service Application Summary Forms for each of the four General Fund applications and the single CDBG Fund application as forms that highlight agency activities for which funding has been requested.

He referenced Table 2 of the FY 2011-12 Supplemental Budget on page 3 of the Communication from the City Manager dated April 1, 2011, that summarizes the current funding, funding requests, application scores and rankings by the City Administration and HSB, and the City Administration and HSB funding recommendations. He noted the agencies, their amounts and the fact that the City Administration recommendation agrees with the Human Services Board recommendation. Discussion followed.

Mr. Erickson pointed out that for FY 2010-11, the recommended human/public service funding best provides for basic human needs and supports core housing assistance and anti-poverty services for the least advantaged in the Portage community.

At the request of Mayor Strazdas, City Council heard about the relationship of Portage citizens from Craig Ross, Portage Community Center Board of Directors and Diane Schrock, Portage Community Center Director, Housing Resources, Inc. (HRI) Executive Director Ellen Kisinger-Rothi, Kelli Swiatkowski, YWCA, and Councilmember Randall, Catholic Family Services Board of Directors. Discussion followed. Ms. Georgeau indicated that the Gryphon Place missed the application deadline. Discussion followed.

Mr. Erickson concluded by saying that the CDBG Program will be presented to City Council on the next agenda for approval in order to meet the May 10, 2011 filing deadline.

Employee Development Director Rob Boulis reviewed the Employee Development budget emphasizing department efforts in the areas of recruitment, safety administration, training, labor and employee relations and negotiations.

City Clerk Jim Hudson cited some of the services provided by the City Clerk staff in the areas of elections, Freedom of Information Act Requests, tax abatements, record keeping, liquor licenses, cemeteries and matters before Council. Mr. Hudson indicated that staff continues to upgrade the City Clerk website and staff is currently assisting the Kalamazoo County Clerk with the May 4 Consolidated School Election. Discussion followed.

Transportation and Utilities Director Chris Barnes introduced Utilities Engineer Kendra Gwin. He then outlined future improvements to various roadways in Portage for the upcoming construction season. He reviewed the street and utility portions of the Street Budget, and discussed Street Lighting, Local Streets, Signals and Crossings, the I-94 bridge over South Westnedge Avenue and Municipal Street Fund. Discussion followed.

Utilities Engineer Kendra Gwin discussed water and sewer assessments in general, the administration of the Garden Lane Arsenic Plant Project by United Water (formerly EarthTech), the annual cost to the City of Kalamazoo for utilities, the United Water Contract, and the Water Fund. Discussion followed.

As a result of Mayor Pro Tem Sackley raising the Utilities Workers Union of America criminal charges against two (2) individuals, Mayor Strazdas directed City Manager Evans to provide information on the progress of the actual legal cause of action. Discussion followed.

Community Development Director Jeffrey Erickson introduced Deputy Directors Terry Novak, Chris Forth and Vicki Georgeau. He reviewed some of the Community Development activities, including: Building Services, Planning and Development Services and Neighborhood Services. He cited some of the service indicators and highlighted the permitting amounts thus far for the year, including \$42 million through FY2010-11 versus \$18.2 million in FY 2009-10 and \$45 million for 2008-09. He pointed out that the amount for residential permits was \$14 million this year as opposed to \$11 million last year; for office, commercial and industrial it was \$37 million; for Pfizer it was \$12 million in Building 41; for the Air Zoo it was \$6 million; for Midwest Fasteners on Shaver Road it was \$5 million; for Cole Century it was \$650,000 and for Sam's Club it was \$365,000. He also mentioned the planned senior housing approved by City Council as a new PILOT. Mr. Erickson continued to review the remaining Community Development components in detail and discussion followed.

He referred to the success of the Backflow Prevention Program, National Insurance Requirements and the Community Development Block Grant Program (CDGB). Discussion followed.

Finance Director Dan Foecking introduced Deputy Finance Director for Accounting and Budget Patricia Fitnich and Deputy Finance Director for

Revenue and Treasury Brian Kelley. Mr. Foecking outlined the budget of the City Council and indicated that the City Council sets overall policy and priorities for the city and that the budget primarily represents the salaries of Mayor and Council Members, and Michigan Municipal League membership fees.

Mr. Foecking reviewed the City Manager Department Budget, including: oversight responsibility for all phases of city operations, economic initiatives, representation and promotion of city interests, development of administrative procedures intended to improve organizational effectiveness and administrative responsibility for all city goals and objectives.

Mr. Foecking also reviewed the City Attorney budget and indicated that the City Attorney provides general legal services to the City Council and all departments regarding municipal matters. He pointed out that specialized areas of labor counsel and bond counsel are budgeted in the specific departments or programs for which the services are provided.

He then summarized the Finance Department Budget, including: developing and maintaining sound financial management systems, timely and accurate financial reporting, most notably the Comprehensive Accounting Financial Report (CAFR) Preparation and cash management. He pointed out that processing of accounts payable produced approximately 5,000 checks and a growing number of electronic fund transfer payments and 7,800 payroll checks and direct deposits annually. He listed other primary functions, including: preparation of the annual operating budget, assistance in preparing the annual Capital Improvement Program budget, the Utility Rate Study and the information for bond issues and other financing. He then indicated that the Finance Department is responsible for city-wide budget control, fixed asset management, the Brownfield Redevelopment Authority Fund and the West Lake Weed Management Fund.

Mr. Foecking introduced Deputy Director of Revenue/Treasury Brian Kelley who said that the Treasury Division of the Finance Department accounts for the costs associated with the billing and collection of all city accounts receivable. He indicated that the Treasury interacts constantly with the general public to handle a myriad of queries and to process cash receipt transactions and listed some of the statistics. He indicated that technology is utilized where appropriate and 15% of all payments are performed electronically, 27% are paid at the counter and the rest are paid by mail. When Jim Pearson asked whether any other municipalities were paying online, Mr. Foecking indicated that the City of Portage looked at the program at Mishawaka, Indiana, where in their third year they had 20% participation. Discussion followed.

Financial Services Director Bob Luders provided two graphs depicting the Debt Service for the Capital Improvement Program. He pointed out that in FY 2006-07, a management initiative was implemented to reduce the rate of increase of the CIP debt service and level its growth; otherwise, the CIP debt service for FY 2011-12 would have been approximately \$2.5 million greater. He revealed that Debt Service as a percentage of net operating revenues for combined General Fund, Special Revenue Funds and

Debt Service Funds has reached a plateau and should begin to decline in value beginning this year. Discussion followed.

When Mayor Pro Tem Sackley advocated cutting the City Council budget, there was a consensus to eliminate the Mayor Exchange Day fund and to reduce the Training, Meetings and Education Seminars from \$14,000 to \$10,000.

Mr. Foecking indicated that the next steps for 2011-2012 Budget are: on May 10, 2011, the budget hearing required by law will be held simultaneously with the Truth-in-Taxation hearing (where oral and written comments will be accepted at the hearing from the public and any questions that are posed will be addressed). Next, on May 24, 2011, the General Appropriations Act Resolution to adopt the 2011-2012 Budget (including all components such as the Capital Improvement Program) along with the Salary and Wage Resolution and the Reimbursement Resolution (for bonds to be issued in the future) will be on the agenda for City Council approval.

Community Development Director Jeffrey Erickson reviewed the development process for the Capital Improvement Program, and summarized the communication from the City Manager to Planning Commission Chairperson James Cheesebro dated February 7, 2011. Discussion followed.

Mr. Erickson then provided an overview of the categories contained within the 10-year plan: Streets, Sidewalks and Bikeways, Water, Sanitary Sewer, Police, Fire, Public Facilities and Parks & Recreation. Discussion ensued throughout his presentation. He indicated that the emphasis was on streets. Discussion followed.

Mr. Erickson advised City Council that they would be asked to approve the FY 2011-2012 Community Development Block Grant Program and authorize the Administration to submit the FY 2011-2012 One-Year Action Plan to the Department of Housing and Urban Development on May 10, 2011. Discussion followed.

Mr. Evans referred City Council to the proposed Severance Policy found in the Supplemental Budget under Section 5 for their review to be considered for approval at the public hearing.

ADJOURNMENT: Mayor Strazdas adjourned the meeting at 9:26 p.m.

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James R. Hudson, City Clerk

**CITY OF PORTAGE**

**COMMUNICATION**

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**TO:** Honorable Mayor and City Council

**DATE:** April 18, 2011

**FROM:** Maurice S. Evans, City Manager



**SUBJECT:** Accounts Payable Register

**ACTION RECOMMENDED:** That City Council approve the Accounts Payable Register of April 26, 2011 as presented.

Attached please find the Accounts Payable Register for the period April 3, 2011 through April 16, 2011, which is recommended for approval.

c: Daniel S. Foecking, Finance Director

\*ALL\* BANK CODE

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	CHECK AMOUNT
04/15/2011	275746	A I S CONSTRUCTION EQUIP. CO.	640	9,336.00
04/15/2011	275747	AT&T	849	4,241.67
04/15/2011	275748	ABONMARCHE CONSULTANTS, INC	597	1,601.78
04/15/2011	275749	ACTION PIANO SERVICE	3675	125.00
04/15/2011	275750	AIR GAS GREAT LAKES	977	319.08
04/15/2011	275751	ALL-PHASE ELECTRIC SUPPLY CO.	108	43.50
04/15/2011	275752	ALLEGRA PRINT & IMAGING	533	971.24
04/15/2011	275753	AMERICAN SAFETY & FIRST AID	113	104.98
04/15/2011	275754	ANIMAL REMOVAL SERVICE, LLC	3428	1,025.00
04/15/2011	275755	APEX SOFTWARE	2548	1,265.00
04/15/2011	275756	APPROVED FIRE PROTECTION CO.	630	45.00
04/15/2011	275757	TODD ARBANAS ENTERPRISES INC.	1704	5,950.00
04/15/2011	275758	AUTOMATIC DATA PROCESSING	3305	742.35
04/15/2011	275759	BALKEMA EXCAVATING, INC.	130	8,190.00
04/15/2011	275760	BCHS-HELPMET	1732	1,286.16
04/15/2011	275761	BLUE CROSS/BLUE SHIELD OF MICH	642	121,067.37
04/15/2011	275762	BOOTH NEWSPAPERS INC	89	1,728.53
04/15/2011	275763	BRIDGEPORT EQUIPMENT CO.	4499	4,490.81
04/15/2011	275764	BRINK'S, INC	153	249.95
04/15/2011	275765	BROOKS JR, JOEL	999999	5.68
04/15/2011	275766	RANDALL L BROWN & ASSOC. PLC	2351	163.00
04/15/2011	275767	FENNELA ENTERPRISES, LLC	4645	75.00
04/15/2011	275768	BUSINESS INTELLIGENCE ASSOC	999999	6.47
04/15/2011	275769	C & C AUTO & TRUCK SERVICE, IN	4434	298.07
04/15/2011	275770	C T ELECTRICAL SERVICES, INC.	2407	2,960.00
04/15/2011	275771	CADWELL APPARELL	1845	312.00
04/15/2011	275772	CARTER, BRET	999999	44.00
04/15/2011	275773	CHARTER COMMUNICATIONS	3080	28.49
04/15/2011	275774	CINTAS CORP.	2206	406.20
04/15/2011	275775	CITY OF KALAMAZOO (TRANS MILLA	4649	199.60
04/15/2011	275776	CITY OF KALAMAZOO TREASURER	540	78.73
04/15/2011	275777	CLEAN EARTH ENVIRONMENTAL SERV	1821	112.50
04/15/2011	275778	COCHRAN GLASS AND DOOR, LLC	4547	903.70
04/15/2011	275779	CONSUMERS ENERGY	743	43,891.81
04/15/2011	275780	CONSUMERS ENERGY	4063	1,000.00
04/15/2011	275781	CONSUMERS ENERGY-BILL PMT CNT	189	35,897.35
04/15/2011	275782	COSTAR REALTY INFORMATION, INC	4620	282.00
04/15/2011	275783	CROSSROADS CAR WASH	195	430.25
04/15/2011	275785	CROSSROADS EXPERT AUTO SERVICE	4109	544.87
04/15/2011	275786	LASZLO CSISZAR	4646	85.00
04/15/2011	275787	DIESEL INJECTION SERVICE, LLC	1874	287.06
04/15/2011	275788	ECHELBARGER, HIMEBAUGH, TAMM &	4664	1,127.00
04/15/2011	275789	EMERGENCY VEHICLE PRODUCTS	2948	3,864.15
04/15/2011	275790	FARM N GARDEN	833	2,531.80
04/15/2011	275791	FAWLEY OVERHEAD DOOR, INC.	690	180.00
04/15/2011	275792	FIRST IMAGE	1679	156.00
04/15/2011	275793	FLETCHER ENTERPRISES	1399	975.00
04/15/2011	275794	FULTON & SONS INC., JAMES E	562	17,677.00
04/15/2011	275795	GORDON FOOD SERVICE	502	18.97
04/15/2011	275796	GORDON WATER SYSTEMS	517	96.50
04/15/2011	275797	GREGWARE EQUIPMENT CO.	4397	128.79

\*ALL\*

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	BANK CODE	CHECK AMOUNT
04/15/2011	275798	GRIFFIN PEST CONTROL, INC.	598		135.00
04/15/2011	275799	HOME DEPOT	691		21.94
04/15/2011	275800	IRVOLINA, SUSAN	2074		130.00
04/15/2011	275801	J B PRINTING COMPANY	1595		753.60
04/15/2011	275802	J P CONTROLS	77		167.00
04/15/2011	275803	KAL CO MEDICAL CONTROL AUTH	735		40.04
04/15/2011	275804	KALAMAZOO COUNTY HEALTH & COMM	84		200.00
04/15/2011	275805	KALAMAZOO COUNTY TREASURER	514		8,085.19
04/15/2011	275806	KALAMAZOO COURT SERVICES	3655		25.44
04/15/2011	275807	KALAMAZOO INSTITUTE OF ARTS	999999		112.00
04/15/2011	275808	KALAMAZOO REG'L EDUC SVS AGENG	721		2,334.47
04/15/2011	275809	KALAMAZOO REGIONAL CHAMBER	3499		440.00
04/15/2011	275810	KALAMAZOO REGIONAL CHAMBER	3499		390.00
04/15/2011	275811	KALAMAZOO VALLEY COMMUNITY COL	230		1,402.39
04/15/2011	275812	KELLY RADIATOR & AUTO REPAIR	4591		987.00
04/15/2011	275813	KURIEN, REJI	999999		71.44
04/15/2011	275814	LAW OFFICE OF	999999		19.01
04/15/2011	275815	LAWSON PRODUCTS, INC	240		1,561.36
04/15/2011	275816	THE LIFE GUARD STORE	1878		70.50
04/15/2011	275817	LOUIS, DOUGLAS	532		244.04
04/15/2011	275818	M S U EXTENSION	2309		100.00
04/15/2011	275819	MACNLOW ASSOCIATES	2189		980.00
04/15/2011	275820	MACOMB COMMUNITY COLLEGE	1409		1,280.00
04/15/2011	275821	MARTIN SPRING & DRIVE, INC.	2124		2,045.74
04/15/2011	275822	MAYHEW, BRYAN	999999		475.00
04/15/2011	275823	MCGRAW HILL CONSTRUCTION	999999		82.00
04/15/2011	275824	MCNALLY ELEVATOR CO.	256		86.98
04/15/2011	275825	MICHIGAN ELECTION RESOURCES, L	264		340.00
04/15/2011	275826	MICHIGAN POLICE EQUIPMENT CO.	269		950.00
04/15/2011	275827	MIDWEST GOLF AND TURF	4210		205.84
04/15/2011	275828	MML UNEMPLOYMENT FUND	4476		14,740.27
04/15/2011	275829	T MORGAN INC.	376		841.22
04/15/2011	275830	MOSES FIRE EQUIPMENT, INC.	993		1,402.17
04/15/2011	275831	MUNICIPAL FINANCIAL CONSULTANT	681		750.00
04/15/2011	275832	MUSIC THEATRE INTERNATIONAL	3983		10.00
04/15/2011	275833	NATIONAL INSTITUTE OF BUSINESS	3217		155.00
04/15/2011	275834	NEW FRESH CLEANING SERVICE	4351		5,881.00
04/15/2011	275835	A NEW LEAF	635		85.00
04/15/2011	275836	NEW WORLD SYSTEMS	1154		11,045.00
04/15/2011	275837	NEWCOMER GUIDES OF MICHIGAN	2788		1,431.00
04/15/2011	275838	NYE UNIFORMS	299		653.46
04/15/2011	275840	OFFICE DEPOT, INC.	1721		727.58
04/15/2011	275841	OFFICEMAX INCORPORATED	301		392.73
04/15/2011	275842	ONE WAY PRODUCTS	440		1,223.57
04/15/2011	275843	PARIS CLEANERS	1794		880.35
04/15/2011	275844	PETERS CONSTRUCTION CO.	1638		1,476.73
04/15/2011	275845	PETTY CASH-DEP	538		256.30
04/15/2011	275846	PETTY CASH-POLICE DEPT.	890		349.44
04/15/2011	275847	PETTY CASH-SENIOR CENTER	537		226.25
04/15/2011	275848	POLDERMAN'S FLOWER SHOP	4157		81.90
04/15/2011	275849	PORTAGE DISTRICT LIBRARY	810		1,590.42

CHECK DATE	CHECK NUMBER	VENDOR NAME	VENDOR #	BANK CODE	CHECK AMOUNT
04/15/2011	275850	PORTAGE PUBLIC SCHOOLS	590		6,100.72
04/15/2011	275851	THE POSTMAN	2633		740.00
04/15/2011	275852	COLLEEN POTTER	3460		440.00
04/15/2011	275853	POWERPHONE, INC	608		209.00
04/15/2011	275854	POWERPHONE, INC	608		209.00
04/15/2011	275855	PROFESSIONAL TREE SERVICE, INC	321		450.00
04/15/2011	275856	RELIABLE MANAGEMENT SYSTEMS, I	4354		331.00
04/15/2011	275857	REPUBLIC WASTE SERVICES OF W M	4443		918.26
04/15/2011	275858	RIDGE AUTO NAPA	438		1,879.83
04/15/2011	275859	RIVERSIDE INTEGRATED SYSTEMS,	3598		295.00
04/15/2011	275860	ROAD EQUIPMENT PARTS CENTER	339		1,404.63
04/15/2011	275861	SIGNATURE FORD/LINC/MERC/JEEP	1162		63,705.00
04/15/2011	275862	SIGNWRITER & SERIGRAPHICS	2376		530.00
04/15/2011	275863	SILLS, RAE	4571		350.00
04/15/2011	275864	SOLAR TECHNOLOGY	4242		355.15
04/15/2011	275865	SOUTHWEST MICHIGAN GOV CONSULT	4242		4,062.50
04/15/2011	275866	STATE OF MICHIGAN (MDEQ)	820		600.00
04/15/2011	275867	STATE OF MICHIGAN/MLCC	999999		25.00
04/15/2011	275868	STATE SYSTEMS RADIO, INC	369		1,318.55
04/15/2011	275869	STEENSWA LAWN & POWER EQUIPMEN	3222		532.73
04/15/2011	275870	SUPERCIRCUITS	1823		266.60
04/15/2011	275871	SUPERIOR ASPHALT, INC.	4183		5,730.00
04/15/2011	275872	SYMPRO INC.	3528		5,624.00
04/15/2011	275873	T D S METROCOM, LLC	4539		2,981.93
04/15/2011	275874	T-MOBILE USA INC	3665		29.99
04/15/2011	275875	TERMINIX INTERNATIONAL	381		306.00
04/15/2011	275876	THOMPSON PUBLISHING GROUP	385		837.00
04/15/2011	275877	THOMPSON, HELENE	4417		361.00
04/15/2011	275878	THOMPSON, JOHANNA	999999		312.00
04/15/2011	275879	THOMPSON, JOHANNA	999999		1,326.00
04/15/2011	275880	TIGER DIRECT, INC.	4272		376.10
04/15/2011	275881	TOY BOX STORAGE	3208		3,909.96
04/15/2011	275882	TRACTOR SUPPLY CORP.	2817		336.51
04/15/2011	275883	UNITED PARCEL SERVICE	545		83.13
04/15/2011	275884	UTILITY FINANCIAL SOLUTIONS	3967		25,585.00
04/15/2011	275885	VALLEY TRUCK PARTS, INC.	397		485.00
04/15/2011	275886	VANGUARD FIRE & SUPPLY CO., IN	3996		60.00
04/15/2011	275887	VOLOGY DATA SYSTEMS	4594		240.84
04/15/2011	275888	VOLZ, MARK	999999		44.00
04/15/2011	275889	W W WILLIAMS	2034		80.30
04/15/2011	275890	WEST MICHIGAN APPRAISAL SERVIC	2216		225.00
04/15/2011	275891	WEST SHORE SERVICES, INC	417		4,617.51
04/15/2011	275892	WIGHTMAN JONES, INC.	3785		980.00
04/15/2011	275893	WILSON, SUSAN AND	999999		3,021.00
04/15/2011	275894	WINDEMULLER ELECTRIC, INC.	3061		2,600.00
04/15/2011	275895	WINDER POLICE EQUIPMENT, INC.	429		980.28
04/15/2011	275896	WINGFOOT COMMERCIAL TIRE	2613		570.05
04/15/2011	275897	XEROX CORPORATION	2684		1,807.37
04/15/2011	275898	ZESIGER, JOHN	999999		475.00

DATE RANGE TOTAL \* 494,193.72 \*

PAYMENT NO	VENDOR NO	VENDOR NAME	TRANSFER DATE	AMOUNT	TRACE NUMBER	EFT BATCH	BANK CODE
181		ADAMS REMCO, INC.	04/15/2011	206.00	072000320000001	0000001	00
182		AERCOR WIRELESS, INC.	04/15/2011	3,045.00	072000320000002	0000001	00
183		ARISTA TRUCK SYSTEMS	04/15/2011	2,156.94	072000320000003	0000001	00
184		BATTERIES PLUS	04/15/2011	284.98	072000320000004	0000001	00
185		CONTINENTAL LINEN SUPPLY CO.	04/15/2011	81.00	072000320000005	0000001	00
186		EMPLOYMENT GROUP, INC.	04/15/2011	350.00	072000320000006	0000001	00
187		ENGINEERED PROTECTION SYSTEMS, INC.	04/15/2011	32.25	072000320000007	0000001	00
188		ETNA SUPPLY, INC.	04/15/2011	900.00	072000320000008	0000001	00
189		GRAINGER INC, W W	04/15/2011	374.43	072000320000009	0000001	00
190		HI-TECH ELECTRIC CO.	04/15/2011	1,930.90	072000320000010	0000001	00
191		KEHOE, EDWARD J	04/15/2011	250.00	072000320000011	0000001	00
192		KNAPP ENERGY, INC.	04/15/2011	8,083.80	072000320000012	0000001	00
193		MCCARTHY SMITH LAW GROUP, PLC	04/15/2011	3,429.30	072000320000013	0000001	00
194		PACIFIC TELEMGMT SERVS, JAROTH INC	04/15/2011	303.00	072000320000014	0000001	00
195		PLEUNE SERVICE COMPANY	04/15/2011	4,380.00	072000320000015	0000001	00
196		PRECISION PRINTER SERVICES INC	04/15/2011	1,915.50	072000320000016	0000001	00
197		ROE-COMM, INC.	04/15/2011	2,364.60	072000320000017	0000001	00
198		SAFETY SERVICES, INCORPORATED	04/15/2011	1,003.18	072000320000018	0000001	00
199		SARGOM, INC	04/15/2011	40,431.61	072000320000019	0000001	00
200		SNELL, DEBRA	04/15/2011	388.00	072000320000020	0000001	00
201		U S SIGNAL COMPANY, LLC	04/15/2011	549.00	072000320000021	0000001	00
202		UNITED PETROLEUM	04/15/2011	130.00	072000320000022	0000001	00
203		UNITED WATER NACO LLC	04/15/2011	167,775.40	072000320000023	0000001	00
204		VISION SERVICE PLAN INSURANCE CO	04/15/2011	2,248.86	072000320000024	0000001	00
205		360 SERVICES, INC.	04/15/2011	160.17	072000320000025	0000001	00

GRAND TOTAL:

242,773.92 NO. OF CHECKS:

25

**CITY OF PORTAGE**

**COMMUNICATION**

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**TO:** Honorable Mayor and City Council

**DATE:** April 18, 2011

**FROM:** Maurice S. Evans, City Manager



**SUBJECT:** Special Assessment Petition – 226, 230 & 420 Trade Centre Way

**ACTION RECOMMENDED:** That City Council receive a special assessment petition in favor of creating a special assessment district at Trade Centre Way for the purpose of installing a public street (curb and gutter, fencing, lighting, undergrounding of utilities and landscaping) street realignment, street intersection, utility infrastructure improvements, and storm water drainage and retention.

The attached petition was filed by two property owners on Trade Centre Way requesting the establishment of a special assessment district for the purpose of installation of a public street (curb and gutter, fencing, lighting, undergrounding of utilities and landscaping) street realignment, street intersection, utility infrastructure improvements, and storm water drainage and retention. It is recommended that the City Council receive the petition concerning the special assessment district.

c James R. Hudson, City Clerk



**Special Assessment Petition**

To the City Council of the City of Portage, Michigan:

The undersigned property owners request the creation of a special assessment district at the following locations:  
226, 230, & 420 Trade Centre Way, Portage, MI 49024

Public street (curb and gutter, fencing, lighting, undergrounding of utilities, landscaping) street realignment, street intersection, utility infrastructure improvements, and storm water drainage and retention.

For the following purpose: landscaping

*As petitioners, we acknowledge that we are aware and understand the information and procedures described on the back of this form and on the appropriate fact sheet. We understand that special assessments to be paid will be our responsibility and levied for the requested improvements based on assessment rates established by the City Council for the calendar year when the assessment process begins.*

Name	Address	Lot-Plat	Footage	Date
1. Trade Centre Holdings, LLC <b>REH</b>	420 Trade Centre Way Portage, MI 49024	01900-150-B	466	2/9/11
2. H&G 2, LLC <b>REH</b>	226 Trade Centre Way Portage, MI 49024	01900-064-0	66	2/9/11
3. H&G 2, LLC <b>REH</b>	230 Trade Centre Way Portage, MI 49024	01900-065-0	66	2/9/11
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*I, as circulator of the petition, verify that the petition signers are the owners of the property described in the petition and that each signature on the petition is the genuine signature of each respective petitioner.*

Circulator's Name: Rich MacDonald Phone: 269-488-3651

Address: 750 Trade Centre Way, Suite 100, Portage, MI 49002 Date Petition Issued: 2/9/11

# CITY OF PORTAGE

# COMMUNICATION

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**TO:** Honorable Mayor and City Council

**DATE:** April 18, 2011

**FROM:** Maurice S. Evans, City Manager



**SUBJECT:** Public Hearing on Fiscal Year 2011-2012 Budget

**ACTION RECOMMENDED:** That City Council adopt the Resolution setting a public hearing on May 10, 2011 for the Fiscal Year 2011-2012 proposed city budget and the proposed 2011 tax levy, as computed in accordance with Public Act 5 of 1982.

In order to permit adoption of the Fiscal Year 2011-2012 Budget on May 24, 2011 and satisfy the requirements of the City Charter and Public Act 5 of 1982, known as the Truth in Taxation Act, a public hearing must be held at the regular Council meeting of May 10, 2011.

Public Act 5 of 1982 requires that any millage rate above the "base tax rate" must be identified separately in the Notice of Public Hearing on the proposed 2011 tax levy. The "base tax rate" as defined by Public Act 5 of 1982 is the prior year operating millage adjusted for the inflationary growth in the Taxable Value of property in the city.

Adoption of the attached Resolution is recommended.

c: Daniel S. Foecking, Finance Director

CITY OF PORTAGE  
RESOLUTION OF CITY OF PORTAGE

Minutes of a regular meeting of the City Council for the City of Portage, Michigan held on April 26, 2011 at 7:30 p.m. local time at the Council Chambers in the City of Portage, Michigan.

Present: \_\_\_\_\_

Absent: \_\_\_\_\_

The following resolution was offered by:

Councilmember \_\_\_\_\_, and supported by:

Councilmember \_\_\_\_\_.

NOW THEREFORE, BE IT RESOLVED:

That the City of Portage set a public hearing for 7:30 p.m., or as soon thereafter as may be heard, on May 10, 2011, on the proposed 2011-2012 City budget as required by Chapter Seven of the City Charter and the proposed 2011 city tax levy including the proposed levy of not to exceed 0.1604 mills above the base tax rate as computed in accordance with Public Act 5 of 1982 (MCLA 211.24e).

Be it further resolved:

That notice, in substantially the following form, be published in a newspaper of general circulation within the City, giving notice of the City's intent to set the public hearing.

CITY OF PORTAGE, MICHIGAN  
NOTICE OF PUBLIC HEARING  
ON PROPOSED CITY BUDGET AND  
INCREASING PROPERTY TAXES

The City Council of the City of Portage will hold a public hearing at 7:30 p.m., or as soon thereafter as may be heard, on May 10, 2011 in the Council Chambers at 7900 South Westnedge Avenue on the proposed 2011-2012 City budget and on the proposed 2011 City tax levy. Copies of the proposed budget are available for public inspection during regular business hours in the offices of the City Clerk and the Finance Director.

Last year (2010) the City levied 10.7312 mills (\$10.7312 per \$1,000 of Taxable Value (TV)) for operating purposes. The estimated change in the Taxable Value of existing property in the City as determined by State law (Act 5 of 1982 MCLA 211.24e) will generate a base tax rate for 2011 City operating purposes of 10.7312 mills (\$10.7312 per \$1,000 TV).

The City has complete authority to establish the number of mills to be levied from within its authorized millage rate, and in order to fund the City proposed 2011-2012 budget and to maintain essential City services, it is necessary to establish a millage greater than the base limit of 10.7312 mills. Therefore the City proposes to levy a millage rate of not to exceed 0.1604 mills (\$0.1604 per \$1,000 TV) above the 2011 base operating millage rate of 10.7312 mills resulting

in an operating millage of not to exceed 10.8916 mills (\$10.8916 per \$1,000 TV). If adopted, the proposed millage will increase revenues for operating purposes from ad valorem property taxes of not to exceed 1.49 percent over such revenues generated by levies permitted without holding a hearing. If the proposed additional millage rate is not approved the revenues for operating purposes will decrease by 2.57 percent over the preceding year's revenue for operating purposes. However, changes in individual property taxes may be greater than or less than these estimated average changes. Action on the proposed millage of not to exceed 0.1604 mills above the base tax rate will be taken immediately after the public hearing.

The hearing is being held for the purpose of receiving testimony and discussing the proposed levy of the additional millage of not to exceed 0.1604 mills.

Public comments, oral or written, are welcome at the hearing on the proposed City budget and the proposed additional millage rate.

This notice published by:

CITY OF PORTAGE  
7900 SOUTH WESTNEDGE AVENUE  
PORTAGE, MICHIGAN 49002  
(269) 329-4412

Dated: \_\_\_\_\_, 2011

\_\_\_\_\_  
City Clerk

AYES: Councilmember \_\_\_\_\_

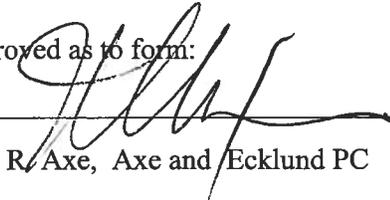
NAYS: Councilmember \_\_\_\_\_

ABSENT: Councilmember \_\_\_\_\_

RESOLUTION DECLARED ADOPTED: \_\_\_\_\_

I hereby certify that the foregoing is a true and complete copy of a resolution adopted at a regular meeting of the City Council of the City of Portage, Kalamazoo County, Michigan held on April 26, 2011, the original of which is in the official proceedings of the City Council.

\_\_\_\_\_  
City Clerk

Approved as to form:  
  
\_\_\_\_\_  
John R. Axe, Axe and Ecklund PC

# CITY OF PORTAGE

# COMMUNICATION

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**TO:** Honorable Mayor and City Council

**DATE:** April 14, 2011

**FROM:** Maurice S. Evans, City Manager



**SUBJECT:** 2011 Amended Tax Increment Finance Plan/2011 Development Plan

**ACTION RECOMMENDED:** That City Council:

- a. consider adoption of the resolution receiving an amended development plan, which is part of an amended tax increment financing plan, from the City of Portage Downtown Development Authority and setting a public hearing for May 24, 2011; and
- b. consider approval of the first reading of an ordinance amendment to approve the 2011 Amended Plan, with final action scheduled for June 28, 2011.

The City Administration recommends that City Council facilitate economic expansion in the City of Portage Downtown Development Authority (DDA) along Trade Centre Way, north of I-94 and west of South Westnedge Avenue. As City Council is aware, there have been ongoing discussions with private property owners involving additional, new private investments. Roger Hinman and Joseph Gesmundo plan to develop new projects that include an upscale motel, as well as another multi-story office building. These projects will have an anticipated market value of more than \$12 million and involve several hundred new jobs. Future projects are also anticipated that will involve restaurant, retail and office facilities. This initiative is exciting news for the community, particularly given the past several years in which the State of Michigan has experienced an economic recession of unparalleled scale as compared with the last 30 years.

Item F3 on the April 26, 2011 City Council Meeting Agenda includes a related action to initiate the Trade Centre Way Improvement and Relocation Special Assessment Project #997-R. This special assessment project is in response to a petition received from H&G 2, LLC, and Trade Centre Holdings, LLC. These two actions involving Project #997 and the 2011 Amended Tax Increment Finance Plan/2011 Development Plan are necessary for the successful implementation of this initiative.

This recommended economic expansion initiative follows several highly successful efforts by the city that began in 1998 and continued through 2005. These efforts will be renewed this year to again foster private development, grow the tax base in Portage and in Kalamazoo County, and generate new job opportunities for area residents. As brief background for the Council:

- In 1998, the City Administration presented the Community Investment Initiative, for City Council consideration, which involved the establishment of the City of Portage Downtown Development Authority (DDA) north of I-94 along the South Westnedge Avenue Commercial Corridor. With the creation of the DDA, public street (Market Place and West Fork Crossing) and sanitary sewer infrastructure were financed and completed that resulted in significant investment in the community by several property owners.
- In 2003, action to promote economic expansion using the DDA to finance public improvements was again approved to further induce redevelopment of deteriorating properties and new development on previously inaccessible vacant land. Construction of Trade Centre Way from West Fork Crossing west, together with public storm drainage facilities and water main utilities, were financed and constructed.
- In 2005, a related program -- the South Westnedge Enhancement Project (SWEPs) -- was approved. This project proposed public street and utility improvements along this commercial corridor with funding to be provided from multiple sources including DDA financing. The planned improvement of South Westnedge Avenue was designed to occur with the reconstruction and widening of I-94 and interchange reconstruction

activities by the State of Michigan. The enhancements to South Westnedge Avenue included widening, intersection signalization, boulevard construction and related activities to improve traffic safety and flow, encourage economic development, enhance the aesthetic character of the corridor and protect adjacent neighborhoods.

Today these initiatives in the DDA have resulted in new and redeveloped properties by multiple businesses exceeding approximately 607,000 square feet of building space and representing \$46 million of estimated market value, with more than 1,400 full- and part-time employment opportunities.

The following specific activities are proposed by the City of Portage to stimulate additional development in the Trade Centre area and along South Westnedge Avenue in the DDA:

#### TRADE CENTRE AREA (2011)

1. Property Acquisition. Vacant land will be purchased as right-of-way for the purpose of constructing a relocated Trade Centre Way – West Fork Crossing intersection to improve access to The Trade Centre area from South Westnedge Avenue. Properties will be transferred to accommodate public street, utility and storm drainage facilities between private property owners, with the State of Michigan and the City of Portage.
2. Construction of Public Street and Storm Drainage Facilities. Public street, utility, storm water drainage, street lighting, landscaping and related improvements will be completed at South Westnedge Avenue and Trade Centre Way, along Trade Centre Way and along the south 500 feet of West Fork Crossing.

The costs associated with the property acquisition and the public infrastructure construction are to be financed through a framework involving a petitioned special assessment from the property owners, H&G 2, LLC, and Trade Centre Holdings, LLC, and the future capture of tax increment revenue from private development within the 15 acre Trade Centre area. As an incentive, when sufficient tax increment is available from development within the Trade Centre area, the property owners will receive a credit up to the amount of the annual special assessment for that particular year if those tax increment amounts have been paid by the DDA to the City of Portage in that year. A Development Agreement that contains the provisions between the parties including the special assessment payments by the Developer, and the bond principal and interest payments, will be finalized by City of Portage Bond Counsel and City Administration, presented to the DDA Board of Directors for review and to City Council for approval.

#### SOUTH WESTNEDGE ENHANCEMENT PROJECTS (SWEPs)

As an added element, financing public improvements through the DDA that are included in SWEPs are also recommended as part of this initiative. A total of \$1.25 million of public improvements are proposed:

1. Public street construction. Widening of South Westnedge from Market Place to Kilgore Road including land acquisition, design and related street and utility activities.
2. Signalization/Overhead utility/Access management. Public activities to facilitate safe and efficient traffic flow along this commercial corridor, enhance aesthetics and protect existing neighborhoods.

These SWEPs elements were incorporated into the FY2005-15 Capital Improvement Program (CIP). Consistent with this proposal and as revised in the upcoming FY2011-21 CIP, the public improvements are projected to be accomplished beginning in 2018. Upon implementation, financing will be through the DDA utilizing bonds to be paid with tax increment revenue captured from anticipated private investments.

With specific regard to the economic impact of this next phase of development in the DDA, the additional investment within the DDA will benefit the City of Portage and the other partnering local taxing units. Pursuant to Act 197 of 1975, as amended, and the public-private cooperative venture enabled by this statute, the millage levied by the City of Portage, Kalamazoo County, Kalamazoo Valley Community College and the Portage District Library on new development within the DDA will be captured. While the county, community college and district library do not provide direct public services and do not directly expend tax revenues in this area of the City of Portage, current tax revenue to these taxing units will continue. Only the

new tax increment from new development is captured. With the anticipated financing, the capability to foster private investment in the DDA can be accomplished with special assessment payments and tax increment revenues. No new taxes will be required to finance the needed infrastructure improvements.

Documents associated with the proposed initiative including the amendment of the Tax Increment Finance Plan/Development Plan, new Development Agreement, resolutions, public notices and related materials will be completed over the next several months by the City Administration with the assistance of Bond Counsel and presented to the City Council and the DDA Board of Directors for formal action. Also, the meeting agenda item that involves Special Assessment Project #997-R will initiate the special assessment process including the special assessment costs, preliminary special assessment roll and bond process necessary to finance the public infrastructure improvements and public activities.

The DDA Board of Directors met on April 13, 2011 and considered the 2011 Amended Plan. The Board voted unanimously to approve the 2011 Amended Plan and forward the document to City Council. The City Administration recommends that City Council adopt the resolution receiving the 2011 Amended Plan and set a public hearing for May 24, 2011. It is further recommended that the ordinance to approve the 2011 Amended Plan be given first reading, with final action to adopt the ordinance scheduled for June 28, 2011.

Attachments: City of Portage DDA Map  
DDA Board of Directors Resolution Approving and Authorizing Transmission of the 2011 Amended Plan  
City Council Resolution Receiving the 2011 Amended Plan and Setting a Public Hearing (with the Plan)  
Ordinance to approve the 2011 Amended Plan (First reading)

# Downtown Development Authority

 Downtown Development Authority Area



Business	Address	Year Established	Site Area	Building Area	Jobs *	Estimated Market Value *
Meijer Inc. Gas	5121 S. Westnedge	1995	1	2,400	10	\$816,502
Rite Aid (vacant)	5003 S. Westnedge	1998	1.25	11,000		\$1,541,988
Gender Mountain	5348 S. Westnedge	1999	2.25	13,460	10	\$2,490,482
Hoopers	5250 S. Westnedge	1999	5	30,000	60	\$2,894,509
Lowes	5250 S. Westnedge	2000	1	4,000	110	\$1,085,274
Trade Center I	7500 Trade Centre Way	2001	15	135,000	200	\$11,364,447
Hop	5321 S. Westnedge	2003	5	78,494	290	\$11,234,766
Meijer Inc. (remodel)	5315 S. Westnedge	2004	0.9	4,500	75	\$1,415,821
Trade Center II *	5152 S. Westnedge	2004	1.8	10,500	150	\$2,940,881
Old Chicago	5314 S. Westnedge	2007	8.4	111,705	275	\$11,278,000
Totals			60.15	607,586	1,475	\$46,198,019

- a. Includes new or retained full and part time jobs as reported by the business owner
- b. Estimated market value as reported by the City Assessor
- c. Facility is adjacent to the DDA
- d. Old Chicago will occupy the former Benjamins facility in the summer of 2011. Value based on the Benjamins facility



Date of Photography: March 2009

CITY OF PORTAGE  
DOWNTOWN DEVELOPMENT AUTHORITY

At a regular meeting of the Board of the City of Portage Downtown Development Authority (the "Authority") held in the Portage City Hall, in the City of Portage, Michigan on April 13, 2011 at 8:00 a.m. Eastern Daylight Savings Time, there were:

PRESENT: Matt Milks, Terry Patterson, Jeff Chrystal, Ron Dunlop,  
Walt Hansen, James Huberty, Ben Boyer, Rich MacDonald

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ABSENT: None

The following preamble and resolution were offered by Chrystal and seconded by Boyer.

RESOLUTION APPROVING AND AUTHORIZING  
TRANSMISSION OF 2011 AMENDED DEVELOPMENT PLAN  
AND 2011 AMENDED TAX INCREMENT FINANCING PLAN TO THE  
CITY COUNCIL

WHEREAS, the City of Portage Downtown Development Authority (the "Authority") has been duly incorporated by the City of Portage (the "City") pursuant to Act No. 197 of the Public Acts of Michigan of 1975, as amended (the "Act") and the Board of the Authority has been duly appointed and sworn into office, and

WHEREAS, the Board has received and reviewed an Amended Development Plan (the "2011 Development Plan") meeting the requirements of Section 17 of the Act which is a part of an Amended Tax Increment Financing Plan (the "2011 Amended Tax Increment Financing Plan") together (the "Plan") meeting the requirements of Section 14 of the Act, and

WHEREAS, this Board approves the Plan, a copy of which is attached to this resolution as Exhibit A (the plan will be attached when in final form).

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE CITY OF PORTAGE DOWNTOWN DEVELOPMENT AUTHORITY as follows:

1. The 2011 Amended Development Plan and the 2011 Amended Tax Increment Financing Plan (together the "Plan") attached hereto as Exhibit A are hereby approved for submission to the City Council of the City of Portage as required by the Act.

2. The City Council of the City of Portage is requested to call a public hearing on the Plan as required by the Act.

3. The President of the Authority is authorized to transmit the Plan to the City Council of the City of Portage.

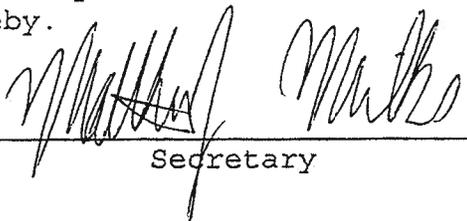
The results of a roll-call vote on the foregoing resolution were as follows:

YES:                All      
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
NO:                 None      
\_\_\_\_\_  
ABSTAIN:           None      
\_\_\_\_\_

THE RESOLUTION WAS THEREUPON DECLARED ADOPTED.

SECRETARY'S CERTIFICATE

The undersigned, being the duly qualified and acting Secretary of the Board of the City of Portage Downtown Development Authority, hereby certifies that (1) the foregoing is a true and complete copy of a resolution adopted by the Board at a regular meeting held on April 13, 2011, at which meeting a quorum was present and remained throughout, (2) the original thereof is on file in the records of the proceedings of the Board in my office, (3) the meeting was conducted, and public notice thereof was given, pursuant to and in full compliance with the Open Meetings Act (Act No. 267, Public Acts of Michigan, 1976, as amended), and (4) minutes of such meeting were kept and will be or have been made available as required thereby.

  
\_\_\_\_\_  
Secretary

**CITY OF PORTAGE**

At a \_\_\_\_\_ meeting of the City Council of the City of Portage, County of Kalamazoo, held in the Portage City Hall, in Portage, Michigan, on April 26, 2011 at 7:30 p.m. Eastern Daylight Savings Time, there were:

PRESENT: \_\_\_\_\_  
\_\_\_\_\_

ABSENT: \_\_\_\_\_

The following resolution was offered by \_\_\_\_\_ and was seconded by \_\_\_\_\_:

**RESOLUTION RECEIVING A 2011 AMENDED DEVELOPMENT PLAN  
WHICH IS A PART OF A 2011 AMENDED TAX INCREMENT FINANCING PLAN  
FROM THE DOWNTOWN DEVELOPMENT AUTHORITY  
OF THE CITY OF PORTAGE  
AND SETTING A PUBLIC HEARING THEREON**

WHEREAS, pursuant to the provisions of Act No. 197, Public Acts of Michigan of 1975, as amended (the "Act"), the City of Portage has established the Downtown Development Authority of the City of Portage (the "Authority") so it can create and implement a 2011 Amended Development Plan and a 2011 Amended Tax Increment Financing Plan to develop part of the City of Portage within a Downtown Development District approved by the City Council.

WHEREAS, the Authority has approved a 2011 Amended Development Plan as a part of a 2011 Amended Tax Increment Financing Plan (collectively the "Plans") copies of which are on file with the City Clerk, and

WHEREAS, pursuant to the Act, it is necessary that the City Council hold a public hearing on the Plans after notice as provided in the Act,

NOW THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PORTAGE, as follows:

1. The City of Portage has received and filed with the City Clerk copies of the Plans approved by the Downtown Development Authority of the City of Portage.

2. A hearing on both the 2011 Amended Development Plan and the 2011 Amended Tax Increment Financing Plan shall be held

on May 24, 2011 at the City Hall, 7900 South Westnedge Avenue, in the City of Portage at 7:30 p.m. Eastern Daylight Savings Time.

3. The City Clerk shall publish a Notice of Public Hearing in the form attached hereto as Attachment A twice in the Kalamazoo Gazette, a newspaper of general circulation in the City of Portage as required in the Act.

The results of a roll-call vote on the foregoing resolution were as follows:

YES: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

NO: \_\_\_\_\_  
\_\_\_\_\_

ABSTAIN: \_\_\_\_\_

THE RESOLUTION WAS THEREUPON DECLARED ADOPTED.

**CERTIFICATION**

I hereby certify that the foregoing is a true and complete copy of a resolution adopted at a \_\_\_\_\_ meeting of the City Council of the City of Portage, Kalamazoo County, Michigan, held on the \_\_\_\_th day of \_\_\_\_\_, 2011, the original of which is in the official proceedings of the City Council.

\_\_\_\_\_  
James R. Hudson, City Clerk

**ATTACHMENT A**

**NOTICE OF PUBLIC HEARING**

**TO: THE RESIDENTS AND TAXPAYERS  
OF THE CITY OF PORTAGE  
AND PROPERTY OWNERS IN THE  
FOLLOWING TAXING UNITS:  
THE CITY OF PORTAGE,  
THE COUNTY OF KALAMAZOO,  
THE KALAMAZOO VALLEY COMMUNITY COLLEGE, AND  
THE PORTAGE DISTRICT LIBRARY**

PLEASE TAKE NOTICE, that the City Council of the City of Portage will hold a public hearing on the 2011 Amended Development Plan and the 2011 Amended Tax Increment Financing Plan as approved by the Downtown Development Authority of the City of Portage pursuant to Act No. 197 of the Public Acts of Michigan of 1975, as amended, which will relate to public projects in the Downtown Development Authority District approved heretofore by the City Council which hearing will be held on May 24, 2011, at 7:30 p.m. Eastern Daylight Savings Time in the City Hall at 7900 South Westnedge Avenue, Portage, Michigan.

PLEASE TAKE FURTHER NOTICE that a representation of the property to which the 2011 Amended Development Plan and the 2011 Amended Tax Increment Financing Plan applies in relation to highways and streets is shown on the accompanying map.

[INSERT MAP]

Maps, plats, and a copy of the proposed 2011 Amended Development Plan, which is a part of the 2011 Amended Tax Increment Financing Plan including the method of relocating families and individuals who may be displaced from the area, are available for public inspection at the City Hall, 7900 South Westnedge Avenue, at the office of the City Clerk.

PLEASE TAKE FURTHER NOTICE that at the hearing the City Council will provide an opportunity for interested persons to be heard and will receive and consider communications in writing with reference to the matter it being the intention of the City Council to provide the fullest opportunity for expression of opinion, for argument on the merits and for introduction of

documentary evidence pertinent to the 2011 Amended Development Plan and the 2011 Amended Tax Increment Financing Plan. These actions are being considered to create jobs and business opportunities in the City of Portage, Kalamazoo County.

Written comments to the City of Portage prior to the public hearing are also welcome.

James R. Hudson  
City Clerk

Published: \_\_\_\_\_

Las.r6-por188

**THIS TRANSMITTED COPY OF THE PLAN IS TO BE PLACED ON FILE WITH THE  
CITY CLERK WHEN THE ORDINANCE IS INTRODUCED ON APRIL 26, 2011**

**2011 Amended Tax Increment Finance Plan  
/2011 Amended Development Plan**

**City of Portage  
Downtown Development Authority**

April 13, 2011

**Department of Community  
Development**  
7900 South Westnedge Avenue  
Portage, Michigan 49002  
(269) 329-4477  
(269) 329-4506 Fax

Reviewed by:  
**Axe & Ecklund, P.C.**  
Suite 360  
21 Kercheval Avenue  
Grosse Pointe Farms, Michigan 48236  
(313) 884-1550

DOWNTOWN DEVELOPMENT AUTHORITY BOARD

Terry V. Patterson, President

Benjamin J. Boyer, Vice President

Jeff Chrystal

Walter Hansen

James Huberty

Rich MacDonald

Matthew Milks

Maurice S. Evans

**CITY OF PORTAGE OFFICIALS**

CITY COUNCIL

Peter J. Strazdas, Mayor

Edward J. Sackley III, Mayor Pro Tem

Cory Bailes

Patricia Randall

Claudette S. Reid

Terry R. Urban

CITY MANAGER

Maurice S. Evans

CITY CLERK

James Hudson

FINANCE DIRECTOR

Daniel Foecking

COMMUNITY DEVELOPMENT DIRECTOR

Jeffrey M. Erickson

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### Appendices

- Appendix 1, Legal Description and DDA District Map
- Appendix 2, Existing Street, Water and Sewer Map
- Appendix 3, Existing Land Use Map
- Appendix 4, Future Land Use Map
- Appendix 5, Public/Right-of-way Improvements Map
- Appendix 6, 2003 Land Purchase Project Map
- Appendix 7, DDA Effect on Taxing Jurisdictions
- Appendix 8, City of Portage DDA Ordinance
- Appendix 9, Costs To Be Paid By City of Portage Table

## **PART I: DEVELOPMENT PLAN**

**A. DESIGNATION OF BOUNDARIES OF THE DEVELOPMENT AREA IN  
RELATION TO HIGHWAYS, STREETS, STREAMS, OR OTHERWISE.**

The property to which the Development Plan applies is the north portion of the South Westnedge Avenue Commercial Corridor in the City of Portage. The area includes approximately 97 acres of land and is bounded by Kilgore Road on the north, the city of Kalamazoo wellfield to the west, I-94 to the south and the business zoning districts to the east of South Westnedge Avenue on the east.

The legal description of the boundaries of the development area is attached hereto as Appendix 1 and included in this appendix is a map showing the area.

**B. THE LOCATION AND EXTENT OF EXISTING STREETS AND OTHER PUBLIC FACILITIES WITHIN THE DEVELOPMENT AREA AND DESIGNATION OF THE LOCATION, CHARACTER, AND EXTENT OF THE CATEGORIES OF PUBLIC AND PRIVATE LAND USES NOW EXISTING AND PROPOSED FOR THE RECREATIONAL, COMMERCIAL, INDUSTRIAL, EDUCATIONAL, AND OTHER USES AND A LEGAL DESCRIPTION OF THE DEVELOPMENT AREA.**

See Appendix 2, Existing Street, Water and Sewer Map

See Appendix 3, Existing Land Use Map

See Appendix 4, Future Land Use Map

See Appendix 1, Legal Description and DDA District Map

**C. DESCRIPTION OF EXISTING IMPROVEMENTS IN THE DEVELOPMENT AREA TO BE DEMOLISHED, REPAIRED, OR ALTERED, A DESCRIPTION OF ANY REPAIRS AND ALTERATIONS; AND AN ESTIMATE OF THE TIME REQUIRED FOR COMPLETION.**

1998 DDA TAX INCREMENT FINANCE PLAN / DEVELOPMENT PLAN - INFRASTRUCTURE IMPROVEMENT PROJECTS (COMPLETED)

<u>Roadway Improvements</u>	<u>Original Estimated Time Required for Completion</u>	<u>Original Estimated Cost</u>
1. Andy Avenue Extension	12 months	\$487,000
Construct a new 1400 feet long and thirty-six foot wide public street intersecting South Westnedge Avenue at the Andy Avenue signalized intersection, with necessary storm water facilities. Repave 1000 feet of DeHaan Street with intersection improvements at South Westnedge Avenue.		
2. DeHaan Drive Sanitary Sewer Relocation	12 months	\$307,000
Relocate approximately 2100 feet of existing sanitary sewer trunk main located west of DeHaan Drive to the south, paralleling the I-94 right-of-way.		
3. South Westnedge Avenue Property Acquisition	12 Months	\$850,000
Purchase the property addressed along South Westnedge Avenue and DeHaan Drive which is necessary for the extension of Andy Avenue.		

Note: Additional right-of-way and/or easements was provided by property owners for minimal consideration in order to construct the necessary public street and to relocate the sanitary sewer.

With regard to the identified projects, the Andy Avenue extension (renamed to be Market Place) and repaving of DeHaan Drive (renamed Trade Centre Way) was completed in 1999. The DeHaan Drive sanitary sewer relocation was subsequently completed in 1999. Finally, after lengthy litigation concerning the acquisition of land necessary for the construction of Market Place, the acquisition was completed in 2001. Bonds were subsequently sold in 2001 in the amount of \$3,100,000 to finance street improvements of \$521,342; sanitary sewer relocation of \$292,429; and property acquisition of \$2,286,229. (Lead underwriter is Morgan Stanley Dean Witter).

2003 DDA TAX INCREMENT FINANCE PLAN / DEVELOPMENT PLAN - (COMPLETED)

Not applicable to the 2003 amendment because there were no existing improvements in the development area to be demolished, repaired, or altered.

2011 AMENDED DDA TAX INCREMENT FINANCE PLAN / DEVELOPMENT PLAN -  
**(PROPOSED)**

Widening (repair; alteration) of South Westnedge Avenue to facilitate safe and efficient traffic flow will be accomplished. Water main replacement activities are planned as part of the public infrastructure work.

The realignment of a portion of Trade Centre Way and West Fork Crossing intersection (repair; alteration) is planned to ensure safe and efficient traffic flow. This alteration will necessitate street and utility removal and reconstruction and cooperation between the City of Portage and the State of Michigan regarding right-of-way and subsequent construction actions will be necessary.

The 2011 planned activities are explained in the following sections D and E.

**D. THE LOCATION, EXTENT, CHARACTER, AND ESTIMATED COST OF THE IMPROVEMENTS, INCLUDING REHABILITATION, CONTEMPLATED FOR THE DEVELOPMENT AREA AND AN ESTIMATE OF THE TIME REQUIRED FOR COMPLETION.**

1998 DDA TAX INCREMENT FINANCE PLAN / DEVELOPMENT PLAN - INFRASTRUCTURE IMPROVEMENT PROJECTS (COMPLETED)

<u>Public Improvements</u>	<u>Estimated Time Required for Completion</u>	<u>Estimated Cost</u>
1. Andy Avenue Extension	12 months	\$487,000

Construct a new 1400 feet long and thirty-six foot wide public street intersecting South Westnedge Avenue at the Andy Avenue signalized intersection, with necessary storm water facilities. Repave 1000 feet of DeHaan Street with intersection improvements at South Westnedge Avenue.

2. DeHaan Drive Sanitary Sewer Relocation	12 months	\$307,000
---	-----------	-----------

Relocate approximately 2100 feet of existing sanitary sewer trunk main located west of DeHaan Drive to the south, paralleling the I-94 right-of-way.

3. South Westnedge Avenue Property Acquisition	12 Months	\$850,000
--	-----------	-----------

Purchase the property addressed along South Westnedge Avenue and DeHaan Drive which is necessary for the extension of Andy Avenue.

Note: Additional right-of-way and/or easements will be provided by property owners for minimal consideration in order to construct the necessary public street and to relocate the sanitary sewer.

With regard to the identified projects, the Andy Avenue extension (Market Place) and repaving of DeHaan Drive (Trade Centre Way) was completed in 1999. The DeHaan Drive sanitary sewer relocation was subsequently completed in 1999. Finally, after lengthy litigation concerning the acquisition of land necessary for the construction of Market Place, the acquisition was completed in 2001. Bonds were subsequently sold in 2001 in the amount of \$3,100,000 to finance street improvements of \$521,342; sanitary sewer relocation of \$292,429; and property acquisition of \$2,286,229. (Lead underwriter is Morgan Stanley Dean Witter).

2003 DDA TAX INCREMENT FINANCE PLAN / DEVELOPMENT PLAN - PROPERTY ACQUISITION AND PUBLIC IMPROVEMENT PROJECTS (COMPLETED)

<u>Public Improvements</u>	<u>Estimated Time Required for Completion</u>	<u>Estimated Cost</u>
1. The acquisition of 5.44 acres of land for public street right-of-way and stormwater retention -	Fall 2003	\$ 909,000
2. The construction of an approximate 2200-foot long, 36-foot wide public cul-de-sac street, with pavement, curb and gutter, sidewalk, conduit for the installation of telecommunications fibre, street lighting and landscaping -	Fall 2003/ Spring 2004	\$ 689,000
3. The construction of public water main from the Milham Well Field to the DDA under I-94, to be looped with public water utilities in Holiday Lane -	Fall 2003/ Spring 2004	\$ 300,000
4. To facilitate "way finding" by customers from South Westnedge and West Fork Crossing the financing and construction of identification sign at South Westnedge and orientation sign at West Fork Crossing -	Summer 2004	\$ 30,000
5. The acquisition of 2.81 acres of land in the DeHaan Drive and West Fork Crossing vicinity of the DDA for stormwater or other public use -	2004	\$ 500,000
6. The annual maintenance, monitoring Of the retention facility mitigation facility -	Annually (Not Bonded)	\$ 5,000 (\$100,000 over 20 yrs.)

Note: The public right-of-way and stormwater retention area to be purchased by the City of Portage through the DDA is shown on the accompanying map and is generally situated adjacent to and lying immediately north of I-94 (See Appendix 6, 2003 Land Purchase Project Map).

2011 AMENDED DDA TAX INCREMENT FINANCE PLAN / DEVELOPMENT PLAN -  
PROPERTY ACQUISITION AND PUBLIC IMPROVEMENT PROJECTS (PROPOSED)

To further encourage private sector investment and the further development within the DDA and along South Westnedge Avenue when the DDA was established in 1998, public street, stormwater, and water main replacement projects identified in the South Westnedge Enhancement Projects (SWEPs) program are planned.

Additionally, to foster new private sector investment and the development of office, motel/accommodations, restaurant/retail and office uses in the Trade Centre that was also envisioned when the DDA was established, eligible activities will be financed and constructed as part of the 2011 amended DDA Tax Increment Finance Plan / Development Plan.

The following public improvements and projects are proposed:

<u>Public Improvements</u>	<u>Estimated Time Required for Completion</u>	<u>Estimated Cost</u>
1. SWEPs project improvements:		
a) The widening of portions of South Westnedge Avenue from north of Market Place to Kilgore Road including related land acquisition, design, and street and utility construction activities.	FY2018/FY2020	\$1,250,000
b) Traffic signal upgrades, overhead utility relocation activities, and access management activities along South Westnedge Avenue in the DDA district to facilitate safe and efficient traffic flow.		
2. Agreement to Purchase. The City agrees to purchase approximately 8,400 sq. ft. from the Developer to be used for public roadway purposes. Closing on the sale shall occur at a mutually agreeable time but not later than FY2011. At closing Developer agrees to provide City a Special Warranty Deed conveying title to such property, a survey showing the location of such property and an owner's policy of title insurance in the amount of the purchase price of such property.	FY2011	\$191, 623
3. Trade Centre Way/West Fork Crossing/South Westnedge Avenue improvements:		
a) Trade Centre Way will be realigned and improved from South Westnedge Avenue west 900 feet to just west of West Fork Crossing. The realignment will include curb and gutter, storm sewer, utility relocation, boulevards, first class road landscaping, lighting, fencing and related construction.	FY2011	\$1,148,377

( 3. continued )

b) West Fork Crossing will be realigned and improved to intersect with realigned Trade Centre Way easterly of the existing street intersection. The realignment and improvement will match existing West Fork Crossing street cross section characteristics. Private storm drainage will be relocated to adjacent property.

c) The Trade Centre Way and West Fork Crossing intersection will be reconstructed incorporating additional right-of-way from the State of Michigan. The intersection improvement will match existing Trade Centre Way and West Fork Crossing cross section characteristics. Excess public street right-of-way not necessary for reconstruction of Trade Centre Way and West Fork Crossing shall be vacated or disposed of by the City. Former State of Michigan right-of-way will be retained by the City for transportation purposes.

d) A portion of South Westnedge Avenue south of Trade Centre Way will be reconstructed to facilitate left turn-in and right turn-in movements from South Westnedge Avenue to Trade Centre Way and right turn-out movements from Trade Centre Way to South Westnedge Avenue. The improvements will match existing South Westnedge Avenue cross section characteristics.

Note: The Costs To Be Paid By City of Portage Table, Appendix 9 of this 2011 Plan Amendment, includes the:

1. SWEPS project improvements; and
2. The Phase III Development Agreement with Trade Center Holdings, LLC and includes a planned land purchase and Trade Centre Way/West Fork Crossing/South Westnedge Avenue improvements contemplated to facilitate private investment to be accomplished by Trade Center Holdings, LLC.

**E. A STATEMENT OF THE CONSTRUCTION OR STAGES OF CONSTRUCTION PLANNED AND THE ESTIMATED TIME OF COMPLETION OF EACH STAGE.**

1998 DDA TAX INCREMENT FINANCE PLAN / DEVELOPMENT PLAN - INFRASTRUCTURE IMPROVEMENT PROJECTS (COMPLETED)

<u>Roadway Improvements</u>	<u>Estimated Time Required for Completion</u>	<u>Estimated Cost</u>
1. Andy Avenue Extension	12 months	\$487,000
Construct a new 1400 feet long and thirty-six foot wide public street intersecting South Westnedge Avenue at the Andy Avenue signalized intersection, with necessary storm water facilities. Repave 1000 feet of DeHaan Street with intersection improvements at South Westnedge Avenue.		
2. DeHaan Drive Sanitary Sewer Relocation	12 months	\$307,000
Relocate approximately 2100 feet of existing sanitary sewer trunk main located west of DeHaan Drive to the south, paralleling the I-94 right-of-way.		
3. South Westnedge Avenue Property Acquisition	12 Months	\$850,000
Purchase the property addressed along South Westnedge Avenue and DeHaan Drive which is necessary for the extension of Andy Avenue.		

Note: Additional right-of-way and/or easements will be provided by property owners for minimal consideration in order to construct the necessary public street and to relocate the sanitary sewer.

With regard to the identified projects, the Andy Avenue extension (Market Place) and repaving of DeHaan Drive was completed in 1999. The DeHaan Drive sanitary sewer relocation was subsequently completed in 1999. Finally, after lengthy litigation concerning the acquisition of land necessary for the construction of Market Place, the acquisition was completed in 2001. Bonds were subsequently sold in 2001 in the amount of \$3,100,000 to finance street improvements \$521,342; sanitary sewer relocation \$292,429; and property acquisition \$2,286,229). (Lead underwriter is Morgan Stanley Dean Witter).

2003 DDA TAX INCREMENT FINANCE PLAN / DEVELOPMENT PLAN -  
PROPERTY ACQUISITION AND CONSTRUCTION OF PUBLIC IMPROVEMENT PROJECTS

(COMPLETED)

<u>Improvements</u>	<u>Estimated Time Required for Completion</u>	<u>Estimated Cost</u>
1. The acquisition of 5.44 acres of land for public street right-of-way and stormwater retention -	Fall 2003	\$ 909,000
2. The construction of an approximate 2200-foot long, 36-foot wide public cul-de-sac street, with pavement, curb and gutter, sidewalk, conduit for the installation of telecommunications fibre, street lighting and landscaping -	Fall 2003/ Spring 2004	\$ 689,000
3. The construction of public water main from the Milham Well Field to the DDA under I-94, to be looped with public water utilities in Holiday Lane -	Fall 2003/ Spring 2004	\$ 300,000
4. To facilitate "way finding" by customers from South Westnedge and West Fork Crossing the financing and construction of identification sign at South Westnedge and orientation sign at West Fork Crossing -	Summer 2004	\$ 30,000
5. The acquisition of 2.81 acres of land in the DeHaan Drive and West Fork Crossing vicinity of the DDA for stormwater or other public use -	2004	\$ 500,000
6. The annual maintenance, monitoring Of the retention facility mitigation facility -	Annually (Not Bonded)	\$ 5,000 (\$100,000 over 20 yrs.)

Note: The public right-of-way and stormwater retention area to be purchased by the City of Portage through the DDA is shown on the accompanying map and is generally situated adjacent to and lying immediately north of I-94 (See Appendix 6, 2003 Land Purchase Project Map).

2011 AMENDED DDA TAX INCREMENT FINANCE PLAN / DEVELOPMENT PLAN -  
PROPERTY ACQUISITION AND CONSTRUCTION OF PUBLIC IMPROVEMENT PROJECTS  
(PROPOSED)

To further encourage private sector investment and the further development within the DDA and along South Westnedge Avenue when the DDA was established in 1998, public street, stormwater, and water main replacement projects identified in the South Westnedge Enhancement Projects (SWEPS) program are planned.

Additionally, to foster new private sector investment and the development of office, motel/accommodations, restaurant/retail and office uses in the Trade Centre that was also envisioned when the DDA was established, eligible activities will be financed and constructed as part of the 2011 amended DDA Tax Increment Finance Plan / Development Plan.

The following public improvements and projects are proposed:

<u>Public Improvements</u>	<u>Estimated Time Required for Completion</u>	<u>Estimated Cost</u>
1. SWEPS project improvements:		
a) The widening of portions of South Westnedge Avenue from north of Market Place to Kilgore Road including related land acquisition, design, and street and utility construction activities.	FY2018/FY2020	\$1,250,000
b) Traffic signal upgrades, overhead utility relocation activities, and access management activities along South Westnedge Avenue in the DDA district to facilitate safe and efficient traffic flow.		
2. Agreement to Purchase. The City agrees to purchase approximately 8,400 sq. ft. from the Developer to be used for public roadway purposes. Closing on the sale shall occur at a mutually agreeable time but not later than FY2011. At closing Developer agrees to provide City a Special Warranty Deed conveying title to such property, a survey showing the location of such property and an owner's policy of title insurance in the amount of the purchase price of such property.	FY2011	\$191,623
3. Trade Centre Way/West Fork Crossing/South Westnedge Avenue improvements:		
a) Trade Centre Way will be realigned and improved from South Westnedge Avenue west 900 feet to just west of West Fork Crossing. The realignment will include curb and gutter, storm sewer, utility relocation,	FY2011	\$1,148,377

boulevards, first class road landscaping, lighting, fencing and related construction.

b) West Fork Crossing will be realigned and improved to intersect with realigned Trade Centre Way easterly of the existing street intersection. The realignment and improvement will match existing West Fork Crossing street cross section characteristics. Private storm drainage will be relocated to adjacent property.

c) The Trade Centre Way and West Fork Crossing intersection will be reconstructed incorporating additional right-of-way from the State of Michigan. The intersection improvement will match existing Trade Centre Way and West Fork Crossing cross section characteristics. Excess public street right-of-way not necessary for reconstruction of Trade Centre Way and West Fork Crossing shall be vacated or disposed of by the City. Former State of Michigan right-of-way will be retained by the City for transportation purposes.

d) A portion of South Westnedge Avenue south of Trade Centre Way will be reconstructed to facilitate left turn-in and right turn-in movements from South Westnedge Avenue to Trade Centre Way and right turn-out movements from Trade Centre Way to South Westnedge Avenue. The improvements will match existing South Westnedge Avenue cross section characteristics.

F. A DESCRIPTION OF ANY PARTS OF THE DEVELOPMENT AREA TO BE LEFT AS OPEN SPACE AND THE USE CONTEMPLATED FOR THE SPACE.

Not Applicable

**G. A DESCRIPTION OF ANY PORTIONS OF THE DEVELOPMENT AREA THAT THE AUTHORITY DESIRES TO SELL, DONATE, EXCHANGE, OR LEASE TO OR FROM THE MUNICIPALITY AND THE PROPOSED TERMS.**

The public facilities to be constructed and acquired by the issuance of bonds in this 2011 Plan Amendment by the Authority will be retained and/or transferred to the City of Portage. The public facilities will be constructed and acquired by the city, using as revenues to retire bonds to be issued by the city, payments from the Authority to the city, which will be provided for in a contract between the city and the Authority.

H. **A DESCRIPTION OF DESIRED ZONING CHANGES AND CHANGES IN STREETS, STREET LEVELS, INTERSECTIONS, AND UTILITIES.**

1998 DDA TAX INCREMENT FINANCE PLAN/DEVELOPMENT PLAN (COMPLETED)

Zoning Changes

Approximately 60 acres of land was rezoned to CPD, commercial planned development and OS-1, office service by the City of Portage in June 1998. No additional zoning changes are contemplated.

Street Changes

As part of the original Tax Increment Finance / Development Plan, Andy Avenue extension (now Market Place) was completed. DeHaan Drive was resurfaced.

A new public cul-de-sac street was constructed that is identified on the preceding pages of D. and E. in the Amended 2003 Plan.

Street Intersections

No additional intersection improvements were undertaken.

Utilities

No additional sanitary sewer utilities were undertaken.

New public utilities were constructed to serve the planned development and future development within the DDA in the Amended 2003 Plan. These public utilities include public water mains, stormwater facilities and street appurtenances (landscaping, sidewalks, street lighting, traffic control and related facilities).

2003 TAX INCREMENT FINANCE PLAN/DEVELOPMENT PLAN (COMPLETED)

Zoning Changes

No additional zoning changes are contemplated.

Street Changes

A new public cul-de-sac street was constructed that is identified on the preceding pages of D. and E. in the Amended 2003 Plan.

Street Intersections

Consistent with the street changes above, related intersection work at DeHaan Drive (now Trade Centre Way) was completed as generally described on pages of D. and E in the Amended 2003 Plan.

Utilities

New public utilities were constructed to serve the planned development and future development within the DDA in the Amended 2003 Plan. These public utilities include public water mains, stormwater facilities and street appurtenances (landscaping, sidewalks, street lighting, traffic control and related facilities).

2011 AMENDED TAX INCREMENT FINANCE PLAN/DEVELOPMENT PLAN (PROPOSED)

Zoning Changes

No additional zoning changes are contemplated.

Street Changes

Reconstruction of part of South Westnedge Avenue will occur.

A realigned intersection of two public streets will be constructed that is explained on the preceding pages of D. and E. in the 2011 Amended Plan.

In the future, additional improvements including widening along South Westnedge Avenue are planned as part of the SWEPS program.

Street Intersections

Consistent with the street changes above, related intersection work at Trade Centre Way and West Fork Crossing will be completed as generally described on pages of D. and E.

Utilities

New public utilities will be constructed to serve the planned development and future development within the DDA in the 2011 Amended Plan. These public utilities include street and street appurtenances (landscaping, sidewalks, street lighting, fencing, undergrounding of overhead utilities where possible), stormwater facilities as needed, traffic control and related facilities.

**I. AN ESTIMATE OF THE COST OF THE DEVELOPMENT, A STATEMENT OF THE PROPOSED METHOD OF FINANCING THE DEVELOPMENT, AND THE ABILITY OF THE AUTHORITY TO ARRANGE THE FINANCING.**

It is anticipated that the 2011 Amended Plan will cost an additional \$2,590,000, which does not include annual maintenance. The costs include the following bond issuance and other costs:

	<u>Trade Centre Improvements</u>	<u>South West- nedge En- hancement (SWEPS) Im- provements *</u>
ACQUISITION AND CONSTRUCTION COSTS	\$1,115,256	\$1,200,000
FINANCING COSTS AND BOND DISCOUNT	\$ 79,552	\$ 50,000
SUBTOTAL	\$1,194,808	\$1,250,000
CAPITALIZED INTEREST	\$ 105,000	0
CONTINGENCY	\$ 40,192	0
TOTAL	\$1,340,000	\$1,250,000

Notes: All costs of the public improvements and activities to be paid from the proceeds of Downtown Development Authority (DDA) bonds or other bonds issued by the City as may be allowed by law.

Debt service will be paid by the DDA. The tax on the captured values in the DDA district will provide the revenues for the DDA.

\* SWEPS public improvements, costs, financing and related project details are estimated and programmed for FY18-19 and FY19-20 in the City of Portage FY2011-21 Capital Improvement Program (CIP).

**J. DESIGNATION OF THE PERSON OR PERSONS, NATURAL OR CORPORATE, TO WHOM ALL OR A PORTION OF THE DEVELOPMENT IS TO BE LEASED, SOLD, OR CONVEYED, IN ANY MANNER, AND FOR WHOSE BENEFIT THE PROJECT IS BEING UNDERTAKEN IF THAT INFORMATION IS AVAILABLE TO THE AUTHORITY.**

The public improvements undertaken along South Westnedge Avenue as part of the SWEPS program will benefit the community in general, as envisioned when the DDA was established in 1998, and the businesses, employees, consumers and related citizenry who conduct business, work, shop or otherwise visit this corridor.

Additional public improvements will be undertaken to foster economic development and job creation in the Trade Centre Way area within the DDA. Joseph Gesmundo and Roger Hinman, being principals in Trade Center Holdings, LLC, are referenced and there is a 2011 Phase III Development Agreement with terms with this entity.

Other property owners/developers may also express interest in land purchase and subsequent development of office, motel/accommodations and/or retail development, which will also be consistent with applicable city requirements.

- K. THE PROCEDURES FOR BIDDING FOR THE LEASING, PURCHASING, OR CONVEYING, IN ANY MANNER, OF ALL OR A PORTION OF THE DEVELOPMENT UPON ITS COMPLETION, IF THERE IS NO EXPRESS OR IMPLIED AGREEMENT BETWEEN THE AUTHORITY AND PERSON, NATURAL OR CORPORATE, THAT ALL OR A PORTION OF THE DEVELOPMENT WILL BE LEASED, SOLD, OR CONVEYED, IN ANY MANNER, TO THOSE PERSONS.

Not applicable

L. ESTIMATES OF THE NUMBER OF PERSONS RESIDING IN THE DEVELOPMENT AREA AND THE NUMBER OF FAMILIES AND INDIVIDUALS TO BE DISPLACED. IF OCCUPIED RESIDENCES ARE DESIGNATED FOR ACQUISITION AND CLEARANCE BY THE AUTHORITY, A DEVELOPMENT PLAN SHALL INCLUDE A SURVEY OF THE FAMILIES AND INDIVIDUALS TO BE DISPLACED, INCLUDING THEIR INCOME AND RACIAL COMPOSITION; A STATISTICAL DESCRIPTION OF THE HOUSING SUPPLY IN THE COMMUNITY, INCLUDING THE NUMBER OF PRIVATE AND PUBLIC UNITS IN EXISTENCE OR UNDER CONSTRUCTION; THE CONDITION OF THOSE UNITS IN EXISTENCE; THE NUMBER OF OWNER-OCCUPIED AND RENTER-OCCUPIED UNITS; THE ANNUAL RATE OF TURNOVER OF THE VARIOUS TYPES OF HOUSING; THE RANGE OF RENTS AND SALE PRICES; AN ESTIMATE OF THE TOTAL DEMAND FOR HOUSING IN THE COMMUNITY AND THE ESTIMATED CAPACITY OF PRIVATE AND PUBLIC HOUSING AVAILABLE TO DISPLACED FAMILIES AND INDIVIDUALS.

Not Applicable

M. **PLAN FOR ESTABLISHING PRIORITY FOR THE RELOCATION OF PERSONS DISPLACED BY THE DEVELOPMENT IN ANY NEW HOUSING IN THE DEVELOPMENT AREA.**

Not Applicable

N. PROVISION FOR THE COSTS OF RELOCATING PERSONS DISPLACED BY THE DEVELOPMENT AND FINANCIAL ASSISTANCE AND REIMBURSEMENT OF EXPENSES, INCLUDING LITIGATION EXPENSES AND EXPENSES INCIDENT TO THE TRANSFER OF TITLE, IN ACCORDANCE WITH THE STANDARDS AND PROVISIONS OF THE FEDERAL UNIFORM RELOCATION ASSISTANCE AND REAL PROPERTY ACQUISITION POLICIES ACT OF 1970.

Not Applicable

- . **A PLAN FOR COMPLIANCE WITH ACT NO. 227 OF THE PUBLIC ACTS OF 1972, BEING SECTIONS 213.321 TO 213.332 OF THE MICHIGAN COMPLIED LAWS.**

Not Applicable

P. **OTHER MATERIAL THAT THE AUTHORITY, LOCAL PUBLIC AGENCY,  
OR GOVERNING BODY CONSIDERS PERTINENT.**

None

**PART II - TAX INCREMENT FINANCING PLAN**

**A. DETAILED EXPLANATION OF THE TAX INCREMENT PROCEDURE.**

Tax increment financing permits the Authority to capture tax revenues attributable to increases in the value of real and personal property resulting from the acquisition and construction of eligible property as defined in the Act. Property value increases, in the case of the development within the district boundaries, will be attributable to the construction of projects.

At the time the tax increment financing plan is approved by the City Council, the value of the eligible property to which the plan pertains (the initial value) is established. The initial value is the taxable value of the eligible property on that date.

In each subsequent year for the duration of the tax increment financing plan the "current value" of the eligible property will be determined. The current value for each year is the taxable value of the eligible property for that year.

The amount by which the current value exceeds the initial value in any one year is the captured value. For the duration of the tax increment financing plan, the local taxing jurisdictions will continue to receive tax revenues based upon the initial value. The Authority, however, receives that portion of the tax levy of the City of Portage, Portage District Library, Kalamazoo County and Kalamazoo Valley Community College (as taxing jurisdictions) paid each year on the captured value of the eligible property included in the tax increment financing plan; provided, however, that the Authority does not receive any part of millage specifically levied for the payment of principal of and interest on obligations approved by the electors or obligations pledging the unlimited taxing power of the local governmental unit.

For example, in year one a tax increment financing plan relating to eligible property having a taxable value of \$500,000 is established. The initial value is \$500,000. Assume that the tax rate applicable to the eligible property is 52 mills and, of the 52 mills, 2 mills are levied for the payment of principal and interest on obligations described above. In year one, the taxes on the eligible property will be 52 mills times \$500,000 or \$26,000. None of those taxes will be paid to the Authority. In year two, because of the construction of eligible property, the taxable value of the eligible property is \$750,000. The current value in year two is \$750,000 and the captured value in year two is \$250,000 (\$750,000 less than the initial value of \$500,000). If there were no agreements for the sharing of captured value, the Authority would receive tax increments of \$13,000 (52 mills times \$250,000). The taxing jurisdictions would receive \$26,500 (52 mills time \$500,000 which represents the initial value, plus 2 mills times \$250,000 which represents the captured value). In each subsequent year for the duration of the tax increment financing plan a similar computation would be made.

If agreements to share captured value were in place the calculations would be adjusted to reflect the terms of those agreements.

**B. MAXIMUM AMOUNT OF BONDED INDEBTEDNESS TO BE INCURRED.**

The maximum amount of note or bond indebtedness is estimated at \$1,340,000 including capitalized interest.

An Estimated Debt Service Schedule Follows:

**2011 Special Assessment - Estimated  
Principal and Interest payments**

<u>Date</u>	<u>\$ 1,340,000 Principal</u>	<u>Coupon Rate %</u>	<u>Interest</u>	<u>Total Semi-annual Debt Service</u>
12/1/11	Capitalized Interest		\$ 18,733.33	\$ 18,733.33
6/1/12	Capitalized Interest		\$ 28,100.00	\$ 28,100.00
12/1/12	Capitalized Interest		\$ 28,100.00	\$ 28,100.00
6/1/13	Capitalized Interest		\$ 28,100.00	\$ 28,100.00
12/1/13			\$ 28,100.00	\$ 28,100.00
6/1/14			\$ 28,100.00	\$ 28,100.00
12/1/14			\$ 28,100.00	\$ 28,100.00
6/1/15			\$ 28,100.00	\$ 28,100.00
12/1/15	\$ 40,000	3.00%	\$ 28,100.00	\$ 68,100.00
6/1/16			\$ 27,500.00	\$ 27,500.00
12/1/16	\$ 40,000	3.00%	\$ 27,500.00	\$ 67,500.00
6/1/17			\$ 28,900.00	\$ 28,900.00
12/1/17	\$ 45,000	3.00%	\$ 28,900.00	\$ 71,900.00
6/1/18			\$ 26,225.00	\$ 26,225.00
12/1/18	\$ 45,000	3.25%	\$ 26,225.00	\$ 71,225.00
6/1/19			\$ 25,493.75	\$ 25,493.75
12/1/19	\$ 50,000	3.50%	\$ 25,493.75	\$ 75,493.75
6/1/20			\$ 24,618.75	\$ 24,618.75
12/1/20	\$ 50,000	3.50%	\$ 24,618.75	\$ 74,618.75
6/1/21			\$ 23,743.75	\$ 23,743.75
12/1/21	\$ 55,000	3.70%	\$ 23,743.75	\$ 78,743.75
6/1/22			\$ 22,726.25	\$ 22,726.25
12/1/22	\$ 55,000	3.75%	\$ 22,726.25	\$ 77,726.25
6/1/23			\$ 21,695.00	\$ 21,695.00
12/1/23	\$ 60,000	3.80%	\$ 21,695.00	\$ 81,695.00
6/1/24			\$ 20,555.00	\$ 20,555.00
12/1/24	\$ 60,000	3.85%	\$ 20,555.00	\$ 80,555.00
6/1/25			\$ 19,400.00	\$ 19,400.00
12/1/25	\$ 65,000	3.95%	\$ 19,400.00	\$ 84,400.00
6/1/26			\$ 18,116.25	\$ 18,116.25
12/1/26	\$ 70,000	4.05%	\$ 18,116.25	\$ 88,116.25
6/1/27			\$ 16,698.75	\$ 16,698.75
12/1/27	\$ 75,000	4.20%	\$ 16,698.75	\$ 91,698.75
6/1/28			\$ 15,123.75	\$ 15,123.75
12/1/28	\$ 75,000	4.30%	\$ 15,123.75	\$ 90,123.75
6/1/29			\$ 13,511.25	\$ 13,511.25
12/1/29	\$ 85,000	4.50%	\$ 13,511.25	\$ 98,511.25
6/1/30			\$ 11,598.75	\$ 11,598.75
12/1/30	\$ 85,000	4.75%	\$ 11,598.75	\$ 96,598.75
6/1/31			\$ 9,580.00	\$ 9,580.00
12/1/31	\$ 90,000	4.90%	\$ 9,580.00	\$ 99,580.00
6/1/32			\$ 7,375.00	\$ 7,375.00
12/1/32	\$ 95,000	5.00%	\$ 7,375.00	\$ 102,375.00
6/1/33			\$ 5,000.00	\$ 5,000.00
12/1/33	\$ 100,000	5.00%	\$ 5,000.00	\$ 105,000.00
6/1/34			\$ 2,500.00	\$ 2,500.00
12/1/34	\$ 100,000	5.00%	\$ 2,500.00	\$ 102,500.00

**B. MAXIMUM AMOUNT OF BONDED INDEBTEDNESS TO BE INCURRED.**

The maximum amount of note or bond indebtedness is estimated at \$1,250,000 including capitalized interest.

An Estimated Debt Service Schedule Follows:

**2018 DDA Bond Issue - Estimated  
Principal and Interest payments**

Dated date July 1, 2018 closing date July 1, 2018  
First coupon January 1, 2019

<u>Date</u>	<u>\$</u> 1,250,000 <u>Principal</u>	<u>Coupon</u> <u>Rate %</u>	<u>Interest</u>	<u>Total Semi-Annual</u> <u>Debt Service</u>
1/1/19			\$ 26,348.75	\$ 26,348.75
7/1/19	-		\$ 26,348.75	\$ 26,348.75
1/1/20			\$ 26,348.75	\$ 26,348.75
7/1/20	\$ 40,000	3.00%	\$ 26,348.75	\$ 66,348.75
1/1/21			\$ 25,748.75	\$ 25,748.75
7/1/21	\$ 40,000	3.00%	\$ 25,748.75	\$ 65,748.75
1/1/22			\$ 25,148.75	\$ 25,148.75
7/1/22	\$ 40,000	3.25%	\$ 25,148.75	\$ 65,148.75
1/1/23			\$ 24,498.75	\$ 24,498.75
7/1/23	\$ 40,000	3.50%	\$ 24,498.75	\$ 64,498.75
1/1/24			\$ 23,798.75	\$ 23,798.75
7/1/24	\$ 50,000	3.50%	\$ 23,798.75	\$ 73,798.75
1/1/25			\$ 22,923.75	\$ 22,923.75
7/1/25	\$ 55,000	3.70%	\$ 22,923.75	\$ 77,923.75
1/1/26			\$ 21,906.25	\$ 21,906.25
7/1/26	\$ 55,000	3.75%	\$ 21,906.25	\$ 76,906.25
1/1/27			\$ 20,875.00	\$ 20,875.00
7/1/27	\$ 60,000	3.80%	\$ 20,875.00	\$ 80,875.00
1/1/28			\$ 19,735.00	\$ 19,735.00
7/1/28	\$ 60,000	3.85%	\$ 19,735.00	\$ 79,735.00
1/1/29			\$ 18,580.00	\$ 18,580.00
7/1/29	\$ 65,000	3.95%	\$ 18,580.00	\$ 83,580.00
1/1/30			\$ 17,296.25	\$ 17,296.25
7/1/30	\$ 80,000	4.05%	\$ 17,296.25	\$ 97,296.25
1/1/31			\$ 15,676.25	\$ 15,676.25
7/1/31	\$ 80,000	4.20%	\$ 15,676.25	\$ 95,676.25
1/1/32			\$ 13,996.25	\$ 13,996.25
7/1/32	\$ 80,000	4.30%	\$ 13,996.25	\$ 93,996.25
1/1/33			\$ 12,276.25	\$ 12,276.25
7/1/33	\$ 80,000	4.50%	\$ 12,276.25	\$ 92,276.25
1/1/34			\$ 10,476.25	\$ 10,476.25
7/1/34	\$ 85,000	4.75%	\$ 10,476.25	\$ 95,476.25
1/1/35			\$ 8,457.50	\$ 8,457.50
7/1/35	\$ 85,000	4.90%	\$ 8,457.50	\$ 93,457.50
1/1/36			\$ 6,375.00	\$ 6,375.00
7/1/36	\$ 85,000	5.00%	\$ 6,375.00	\$ 91,375.00
1/1/37			\$ 4,250.00	\$ 4,250.00
7/1/37	\$ 85,000	5.00%	\$ 4,250.00	\$ 89,250.00
1/1/38			\$ 2,125.00	\$ 2,125.00
7/1/38	\$ 85,000	5.00%	\$ 2,125.00	\$ 87,125.00

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**C. DURATION OF THE PROGRAM.**

The development plan and the tax increment financing plan are to continue for the period of time needed to complete the plan and collect and disburse tax increments as may be needed to pay and retire any tax increment bonds issued by the Authority or other obligations.

It is anticipated that the program identified in the amended plan will extend through the year 2038.

D. **STATEMENT OF THE ESTIMATED IMPACT OF TAX INCREMENT FINANCING ON THE ASSESSED VALUES OF ALL TAXING JURISDICTION IN WHICH THE DEVELOPMENT AREA IS LOCATED.**

See Appendix 7

**E. STATEMENT AS TO WHETHER PLAN PROVIDES FOR THE USE OF  
SOME OR ALL OF THE CAPTURED VALUE.**

The use of all of the captured value is contemplated.

F. **METHOD FOR EXCLUDING GROWTH IN PROPERTY VALUE RESULTING SOLELY FROM INFLATION.**

Not Applicable

Las.r5-por124

## **APPENDICES**

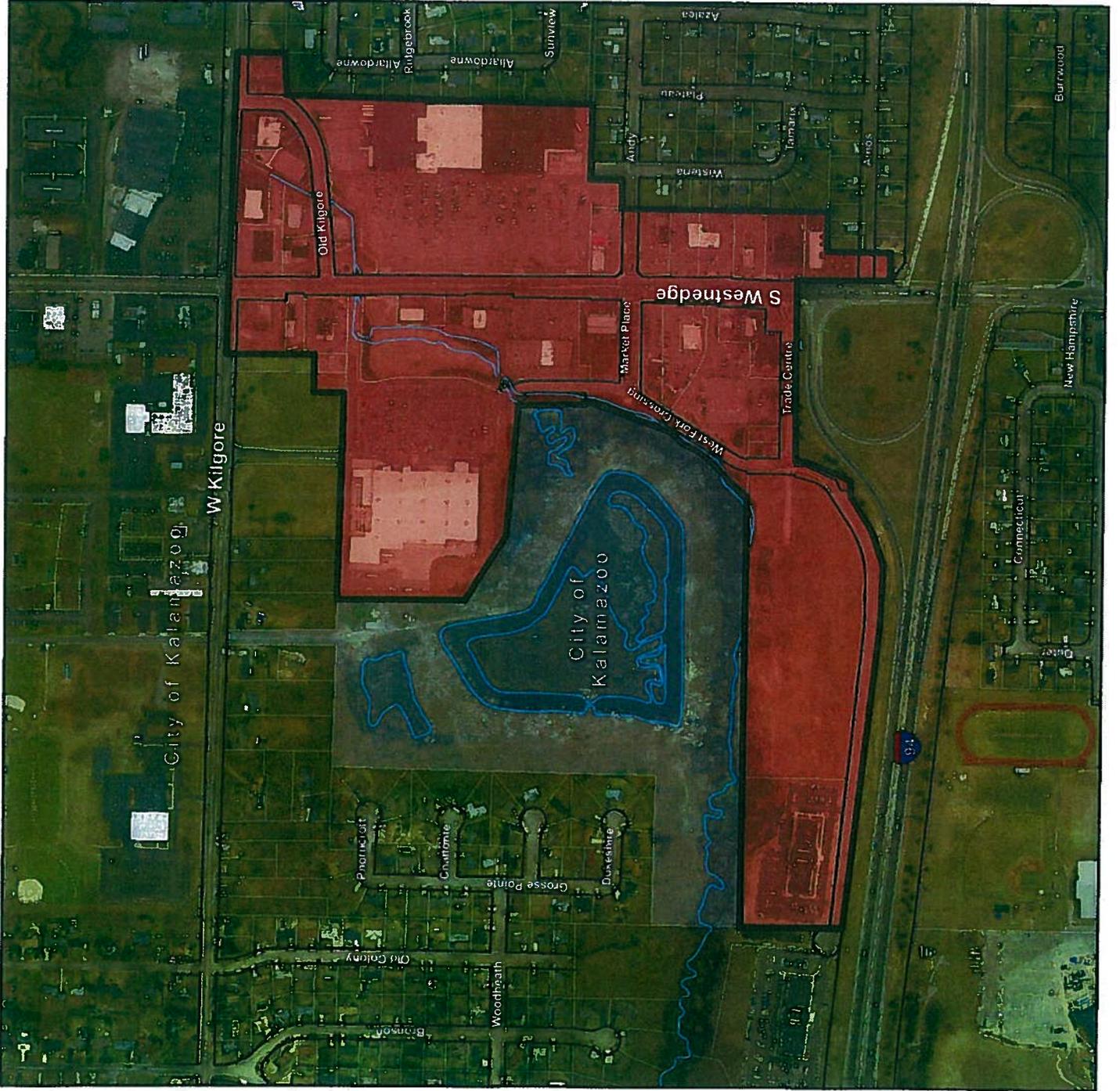
Appendix 1

A parcel of land located in the northwest quarter of section three and the northeast quarter of section four, township three south, range eleven west, more particularly described as follows:

Commencing at the west quarter post of said section three; thence east along the east-west quarter line of said section three 131.69 feet to a point 34.31 feet west of the southeast corner of lot 19 of the Assessor's Plat of DeBoer Homestead Acres and the place of beginning; thence northwesterly 100.00 feet to the northwest corner of said lot 19; thence northerly 66.00 feet along the west line of lot 18 of said Assessor's Plat to the northwest corner of said lot 18; thence northerly 66.00 feet along the west line extended of said lot 18 to the southwest corner of lot 17 of said Assessor's Plat; thence continuing northerly 264.00 feet more or less along the west line of lots 14, 15, 16, and 17 of said Assessor's Plat to the northwest corner of said lot 14; thence westerly 80.00 feet more or less to the intersection of the south right-of-way line of DeHaan Drive with the west right-of-way line of South Westmedge Avenue; thence westerly 590.00 feet more or less along the south right-of-way line of DeHaan Drive to the intersection of the south right-of-way line of DeHaan Drive with the east right-of-way line of Clara Drive; thence southwestly 280.00 feet more or less along the east right-of-way line of Clara Drive; thence westerly 50.00 feet more or less to the southeast corner of lot 108 of said Assessor's Plat; thence westerly 63.40 feet more or less along the south line of said lot 108; thence south 58 degrees 3 minutes 8 seconds west, 119.84 feet; thence south 72 degrees 5 minutes 59 seconds west, 163.48 feet; thence north 89 degrees 2 minutes 44 seconds west, 250.80 feet; thence north 84 degrees 28 minutes 18 seconds west, 1,241.33 feet more or less to the south line of said Assessor's Plat; thence westerly 21.00 feet more or less along the south line of said Assessor's Plat to the southwest corner of lot 98 of said Assessor's Plat; thence north 0 degrees 20 minutes 0 seconds west, 419.30 feet along the north-south quarter line of said section four; thence easterly 1,763.82 feet to the northwest corner of lot 68 of said Assessor's Plat; thence northeasterly 481.00 feet more or less along the center line of the west branch of Portage Creek; thence northeasterly 188.00 feet more or less along said creek; thence northerly along said creek to a point on the east-west eighth line of said section four 458.64 feet west of the east line of said section four; thence westerly 50.00 feet along said east-west eighth line; thence northerly 289.06 feet parallel with the east line of said section four; thence north 85 degrees 16 minutes 20 seconds west, 549.72 feet; thence north 58 degrees 41 minutes 0 seconds west, 317.39 feet to the west line of the east half of the northeast quarter of said section four; thence north 0 degrees 0 minutes 3 seconds west, 527.79 feet along the west line of the east half of the northeast quarter of said section four to a point 480.37 feet south of the north line of said section four, said point also being in the south line of lot 17 of Kilgore Plat; thence east along the south line of Kilgore Plat 869.44 feet to the southwest corner of lot 5 of said plat; thence north along the west line of lot 5, 125.00 feet; thence east 154.00 feet to the east line of lot 4 of said plat; thence north 322.37 feet to the north line of section four; thence easterly 304.00 feet to the northeast corner of said section four, this point also being the northwest corner of said section three; thence continuing easterly 951.78 feet along the north line of the northwest quarter of said section three to the west line extended of lot 121 of Ridgebrook No. 1; thence southerly 50.00 feet along the west line extended of said lot 121 to the northwest corner of said lot 121; thence continuing southerly 157.09 feet along the west line of said lot 121 to the southwest corner of said lot 121; thence southwestly 173.82 feet along the north line of lot 122 of Ridgebrook No. 1 to the northwest corner of said lot 122 and the easterly right-of-way line of Old Kilgore Road; thence southerly 1,255.74 feet along the westerly line and the westerly line extended of Ridgebrook No. 1 to a point in the north line of lot 64 of Terrace Heights; thence westerly 183.95 feet along the north line of lots 64, 65 and 66 of Terrace Heights to the northwest corner of said lot 66; thence southerly 132.00 feet along the west line of said lot 66 to the southwest corner of said lot 66 and the north right-of-way line of Andy Avenue; thence westerly 264.00 feet along the north right-of-way line of Andy Avenue to the west line of Terrace Heights; thence southerly 858.00 feet along the west line of Terrace Heights to the southwest corner of lot 9 of Terrace Heights and a point in the north line of lot 53 of said Assessor's Plat; thence westerly 165.00 feet along the north line of lots 53, 54 and 55 of said Assessor's Plat to the northwest corner of said lot 55; thence southerly 198.00 feet along the west line and the west line extended of said lot 55 to the northwest corner of lot 20 of said Assessor's Plat; thence continuing southerly 132.00 feet along the west line of said lot 20 to the southwest corner of said lot 20 and the southeast corner of said lot 19; thence westerly 34.31 feet along the east-west quarter line of said section three and along the south line of said lot 19 to the place of beginning.

Downtown Development  
 Authority

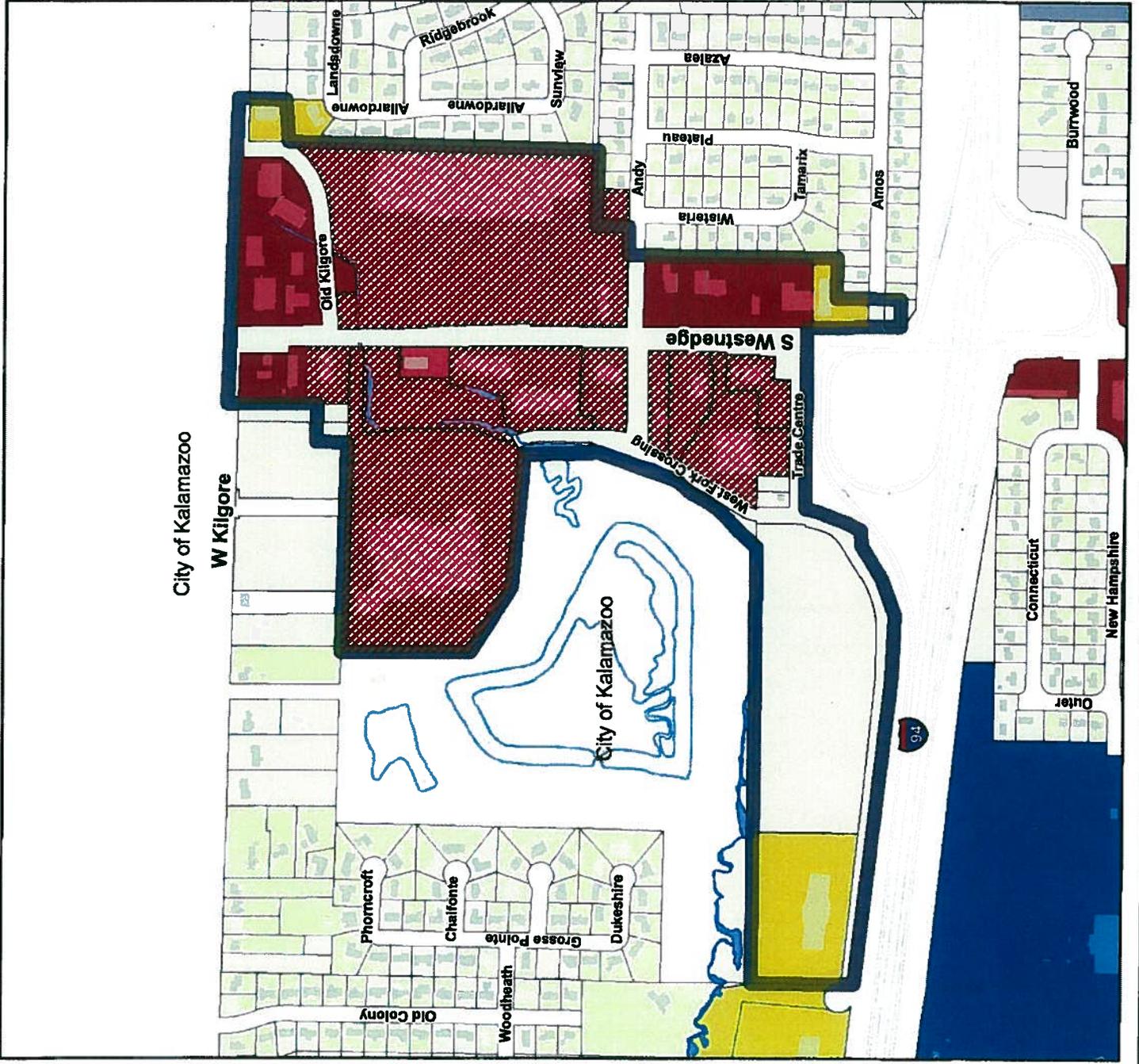
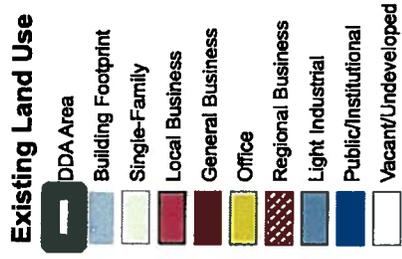
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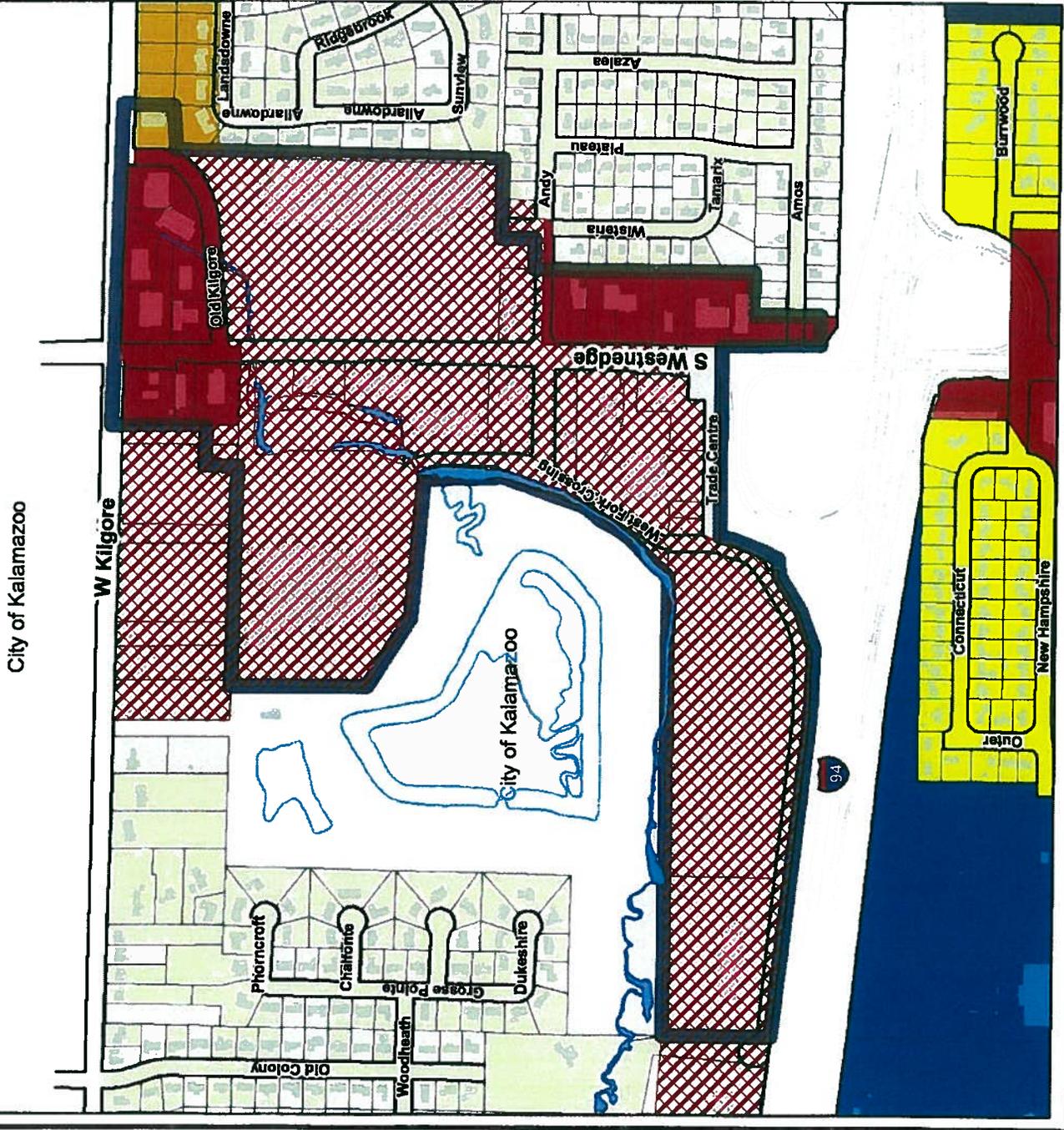
Date of Aerial Photography: March, 2009  
 Date Printed: January 27, 2011



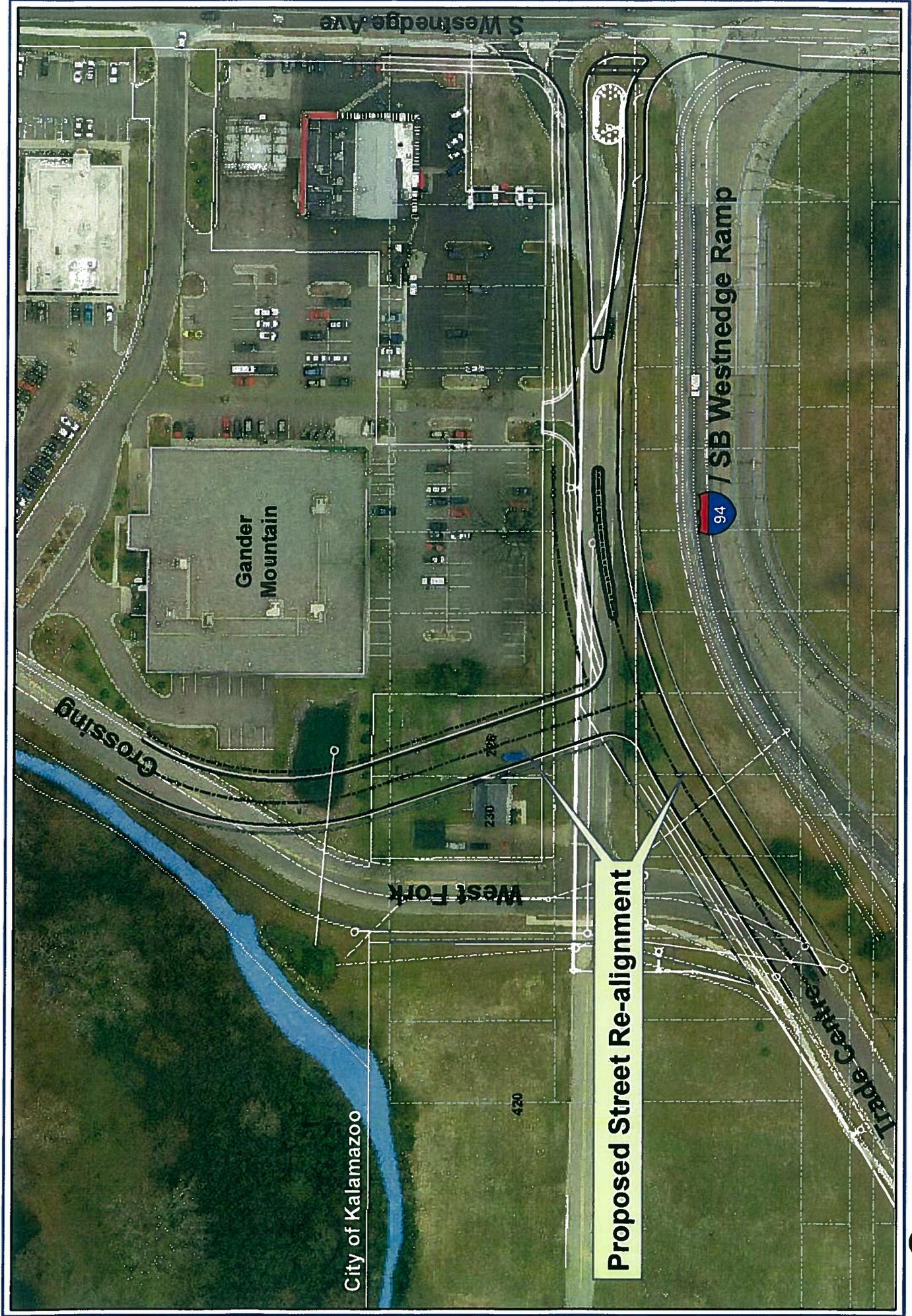
**Downtown Development Authority  
Existing Land Use**



### Downtown Development Authority Future Land Use



1 inch = 600 feet  
Date Printed: January 28, 2011

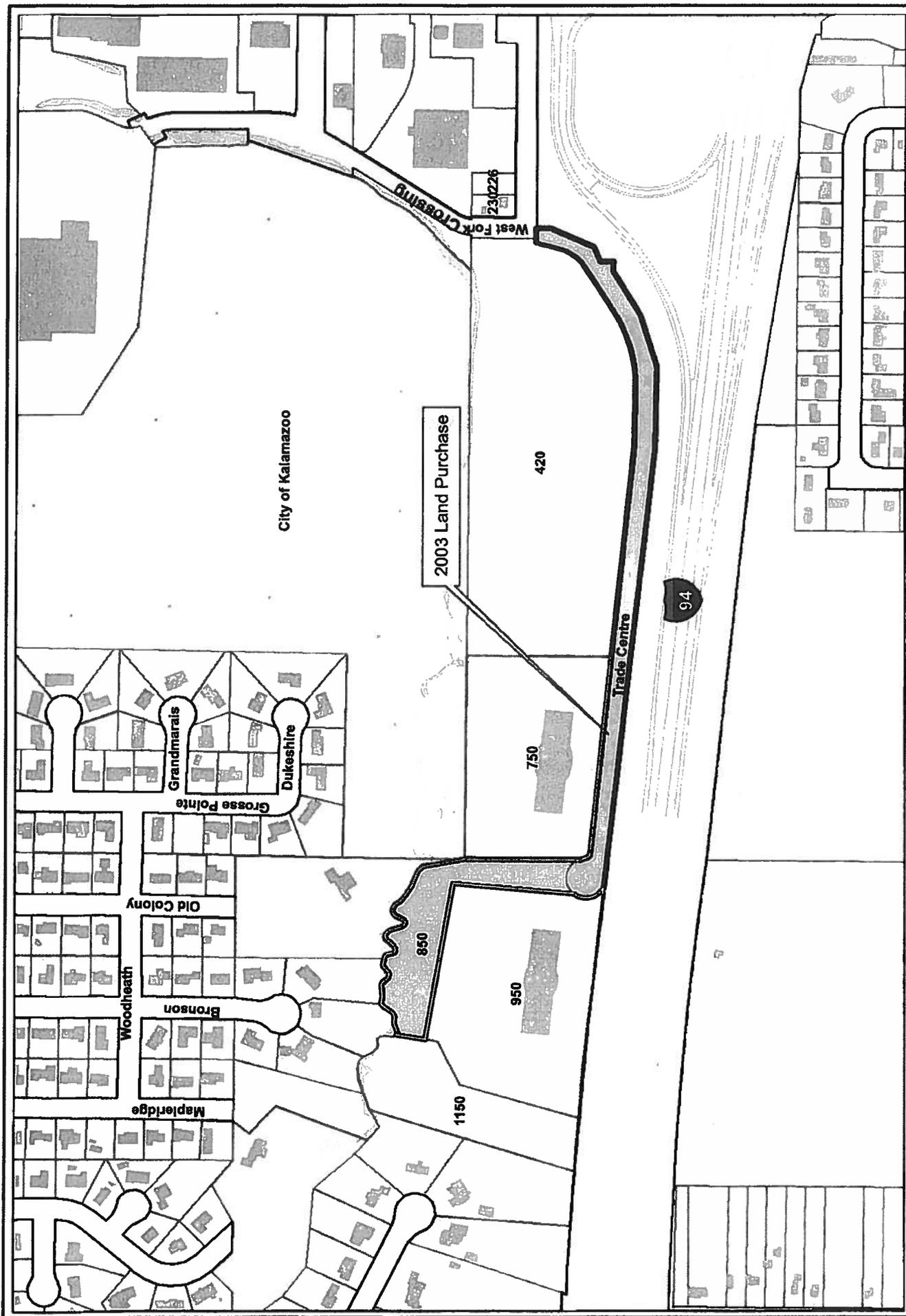


# Public Facilities Improvement Map



1 inch = 100 feet

path: R:\GIS\A\N\kar\projects\DEPT\SCOM DE\V\DDA-A-WESTNED\6E\lida a plan\up\pendix-c.mxd



1 inch = 385 feet

Appendix 6

# 2003 Land Purchase Project Map



2003 Land Purchase

## Appendix 7, page 1

Estimated Impact of DDA Tax Capture on Taxing Jurisdictions within the Downtown Development Area  
Relating to the Trade Centre Way realignment project

<u>Tax Year</u>	<u>Estimated Captured Taxable Value</u>	<u>10.7312 City Capture</u>	<u>2.8139 KVCC Capture</u>	<u>6.5262 County Capture</u>	<u>1.5000 Library Capture</u>	<u>Total Capture for tax year</u>
2011	0	0	0	0	0	0
2012	\$ 26,128	\$ 280	\$ 74	\$ 171	\$ 39	\$ 564
2013	52,648	565	148	344	79	1,136
2014	4,052,648	43,490	11,404	26,448	6,079	87,421
2015	4,139,566	44,423	11,648	27,016	6,209	89,296
2016	4,227,787	45,369	11,897	27,591	6,342	91,199
2017	4,317,332	46,330	12,149	28,176	6,476	93,131
2018	9,317,332	99,986	26,218	60,807	13,976	200,987
2019	9,483,220	101,766	26,685	61,889	14,225	204,565
2020	9,651,596	103,573	27,159	62,988	14,477	208,197
2021	9,822,498	105,407	27,640	64,104	14,734	211,885
2022	9,995,964	107,269	28,128	65,236	14,994	215,627
2023	10,172,031	109,158	28,623	66,385	15,258	219,424
2024	10,350,740	111,076	29,126	67,551	15,526	223,279
2025	10,532,129	113,022	29,636	68,735	15,798	227,191
2026	10,716,239	114,998	30,154	69,936	16,074	231,162
2027	10,903,110	117,003	30,680	71,156	16,355	235,194
2028	11,092,785	119,039	31,214	72,394	16,639	239,286
2029	11,285,305	121,105	31,756	73,650	16,928	243,439
2030	11,480,712	123,202	32,306	74,925	17,221	247,654
2031	11,679,051	125,330	32,864	76,220	17,519	251,933
2032	11,880,365	127,491	33,430	77,534	17,821	256,276
2033	12,084,789	129,684	34,005	78,868	18,127	260,684
2034	12,292,097	131,909	34,589	80,221	18,438	265,157
		<u>\$ 2,141,475</u>	<u>\$ 561,533</u>	<u>\$ 1,302,345</u>	<u>\$ 299,334</u>	<u>\$ 4,304,687</u>

## Appendix 7, page 2

Estimated Impact of DDA Tax Capture on Taxing Jurisdictions within the Downtown Development Area  
Related to SWEPs project

<u>Tax Year</u>	<u>Estimated Captured Taxable Value</u>	10.7312 <u>City Capture</u>	2.8139 <u>KVCC Capture</u>	6.5262 <u>County Capture</u>	1.5000 <u>Library Capture</u>	<u>Total Capture for tax year</u>
2018	\$ 4,500,000	\$ 48,290	\$ 12,663	\$ 29,368	\$ 6,750	\$ 97,071
2019	4,590,000	49,256	12,916	29,955	6,885	99,012
2020	4,681,800	50,241	13,174	30,554	7,023	100,992
2021	4,775,436	51,246	13,438	31,165	7,163	103,012
2022	4,870,945	52,271	13,706	31,789	7,306	105,072
2023	4,968,364	53,317	13,980	32,425	7,453	107,175
2024	5,067,731	54,383	14,260	33,073	7,602	109,318
2025	5,169,086	55,470	14,545	33,734	7,754	111,503
2026	5,272,467	56,580	14,836	34,409	7,909	113,734
2027	5,377,917	57,711	15,133	35,097	8,067	116,008
2028	5,485,475	58,866	15,436	35,799	8,228	118,329
2029	5,595,184	60,043	15,744	36,515	8,393	120,695
2030	5,707,088	61,244	16,059	37,246	8,561	123,110
2031	5,821,230	62,469	16,380	37,991	8,732	125,572
2032	5,937,654	63,718	16,708	38,750	8,906	128,082
2033	6,056,408	64,993	17,042	39,525	9,085	130,645
2034	6,177,536	66,292	17,383	40,316	9,266	133,257
2035	6,301,086	67,618	17,731	41,122	9,452	135,923
2036	6,427,108	68,971	18,085	41,945	9,641	138,642
2037	6,555,650	70,350	18,447	42,783	9,833	141,413
2038	6,686,763	<u>71,757</u>	<u>18,816</u>	<u>43,639</u>	<u>10,030</u>	<u>144,242</u>
		\$ 1,245,086	\$ 326,482	\$ 757,200	\$ 174,039	\$ 2,502,807

CITY OF PORTAGE  
ORDINANCE NO. 98-14

AN ORDINANCE ENTITLED "AN ORDER TO ESTABLISH A DOWNTOWN DEVELOPMENT AUTHORITY IN THE CITY OF PORTAGE PURSUANT TO ACT 197 OF MICHIGAN, 1975, TO DETERMINE THE NECESSITY THEREOF; TO PROVIDE FOR THE CREATION OF THE AUTHORITY; TO DEFINE THE BOUNDARIES OF THE DOWNTOWN DEVELOPMENT DISTRICT; TO PROVIDE FOR THE ESTABLISHMENT OF THE BOARD OF DIRECTORS FOR THE AUTHORITY; TO PROVIDE FOR THE POWERS OF THE AUTHORITY; TO PROVIDE DEFINITIONS; TO PROVIDE FOR THE FISCAL YEAR OF THE AUTHORITY; TO PROVIDE FOR THE SEVERABILITY OF THE ORDINANCE; TO PROVIDE FOR THE REPEAL OF CONFLICTING ORDINANCES; TO PROVIDE FOR THE NOTICE AND EFFECTIVE DATE THEREOF"; TO PRESCRIBE ITS POWER AND DUTIES; TO CORRECT AND PREVENT DETERIORATION IN THE CENTRAL BUSINESS DISTRICT; TO AUTHORIZE THE ACQUISITION AND DISPOSAL OF REAL AND PERSONAL PROPERTY; TO AUTHORIZE THE CREATION AND IMPLEMENTATION OF DEVELOPMENT PLAN IN THE DISTRICT; TO PROMOTE THE ECONOMIC GROWTH IN THE DISTRICT; TO PROVIDE FOR A BOARD; TO PRESCRIBE ITS POLICIES AND DUTIES; TO AUTHORIZE, TO LEVY AND COLLECTION OF TAXES; TO AUTHORIZE THE ISSUANCE OF BONDS AND OTHER EVIDENCES OF INDEBTEDNESS; AND TO AUTHORIZE THE USE OF TAX INCREMENT FINANCING; TO PROVIDE FOR THE PUBLICATION AND EFFECTIVE DATE.

WHEREAS, the City of Portage (the "City") has established a downtown development authority known as the Downtown Development Authority of the City of Portage (the "Authority") and has designated a downtown district (the "District") pursuant to Act No. 197 of the Public Acts of 1975, as amended, ("Act 197"); and

WHEREAS, pursuant to Act 197, a public hearing was held on April 21, 1998 which is a date prior to the adoption of the Ordinance.

THE CITY OF PORTAGE ORDAINS:

**ARTICLE I  
INCORPORATION, BOUNDARIES, AND  
DETERMINATION OF NEED**

Section 1. This Ordinance shall serve as the permanent Articles of Incorporation of the Downtown Development Authority of the City of Portage.

Section 2. Pursuant to Public Act No. 197 of the Michigan Public Acts of Michigan of 1975, as amended, (the "Act"), there is hereby established the Downtown Development Authority of the City of Portage.

Section 3. The boundaries of the Downtown District shall be as set forth in Appendix A.

Section 4. The following words shall have the meaning set forth, unless the context clearly indicates otherwise:

(a) "Authority" means the Downtown Development Authority of the City of Portage created by this Ordinance.

(b) "Board" or "Board of Directors" means the Board of Directors of the Authority, the governing body of the Authority.

(c) "Business District" means an area in the downtown of the City of Portage zoned and used principally for business.

(d) "The Chief Executive Officer" means the City Manager of the City.

(e) "Development Area" means that area to which a Development Plan is applicable.

(f) "Development Plan" means that information and those requirements for development as required by Act 197.

(g) "Development Program" means the implementation of the Development Plan.

(h) "Downtown District" means the area in the Business District described in Appendix A.

(i) "Governing Body" means the City Council of the City of Portage.

(j) "Operations" means office maintenance, including salaries and expenses of employees, office supplies, consultation fees, design costs, and other expenses incurred in the daily management of the Authority and its activities.

(k) "Public Facility" means a street, plaza, pedestrian mall, and any improvements thereto including street furniture and beautification, parks, parking facilities, recreational facilities, right-of-way, structure, waterway, bridge, lake, pond, canal, utility line or pipe, building and access routes to any of the foregoing, designed and dedicated to use by the public generally, or used by public agency.

(l) "City" means the City of Portage, Kalamazoo County, Michigan.

(m) "City Council" means the City Council of the City of Portage.

Section 5. The City Council hereby determines that it is necessary for the best interests of the City to halt property value deterioration and increase property tax valuation where possible in the business district of the City, to eliminate the causes of that deterioration and to promote economic growth by establishing a Downtown Development Authority pursuant to Act 197.

Section 6. Creation of Authority. There is hereby created pursuant to Act 197 a Downtown Development Authority for the City. The Authority shall be a public body corporate and shall be known and exercise its powers under the title of "Downtown Development Authority of the City of Portage." The Authority may adopt a seal, may sue and be sued in any court of this state and shall possess all of the powers necessary to carry out the purpose of its incorporation as provided by this Ordinance and Act 197.

## ARTICLE II THE BOARD

Section 1. Board of Directors. The Authority shall be under the supervision and control of the Board of Directors consisting of the chief executive of the City and not less than eight (8) or more than twelve (12) members as determined by the City Council. The members shall be appointed by the chief executive officer of the City, subject to the approval by the City Council. Not less than a majority of the members shall be persons having an interest in property located in the Downtown District. Not less than one of the members shall be a resident of the Downtown District, if the Downtown District has 100 or more persons residing with it. Of the members first appointed, an equal number, as near as is practical, shall be appointed for one year, two years, three years and four years. Members shall hold office until the members' successor is appointed. Thereafter, each member shall serve for a term of four years. An appointment to fill a vacancy shall be made by the chief executive officer of the City for the unexpired term only. Members of the Board shall serve without compensation, but shall be reimbursed for actual and necessary expenses.

Section 2. The President of the Board of Directors shall be elected by the Board of Directors.

Section 3. Before assuming the duties of office, a member shall qualify by taking and subscribing to the Constitutional Oath of Office.

Section 4. The Officers of the Authority shall be as follows:

- a. A President
- b. A Vice President
- c. A Secretary
- d. A Treasurer

Section 5. The Board of Directors by resolution adopted by a majority of its members at a regular or special meeting shall elect the officers to terms of office set forth in the Resolution. The Board may elect one or more assistant secretaries and assistant treasurers of the Authority. Officers and members of the Board shall acknowledge their acceptance of the position by filing an acknowledgment thereof with the secretary of the Authority.

Section 6. The offices of Secretary and Treasurer may be vested in one person, if approved by the Board, in which event such person shall be the "Secretary-Treasurer."

### ARTICLE III MEETINGS

Section 1. The Board shall perform and conduct all business public meetings held in compliance with Act 267 of the Public Acts of 1976, being Sections 15.261 to 15.275 of the Michigan Compiled Laws Annotated, which is also known as the Open Meeting Act.

Section 2. The Board shall adopt any rules necessary governing its procedure and the holding of regular meetings subject to the approval of the governing body.

Section 3. Special Meetings may be held when called in the manner provided for in the Rules of the Board, as long as said meetings comply with the Open Meetings Act.

### ARTICLE IV FREEDOM OF INFORMATION ACT, EXPENSES AND FINANCIAL RECORDS

Section 1. All writings, items of records prepared, owned or used, in the possession of or retained by the Board in the performance of their official function shall be made available to the public in compliance with the Freedom of Information Act, Act 442 of the Public Acts of 1976, being Sections 15.231, 15.246 of Michigan Compiled Laws Annotated.

Section 2. All expense items of the authority shall be publicized monthly and the financial records will always be open to the public.

### ARTICLE V POWERS OF THE AUTHORITY

Section 1. The Authority shall have all the powers expressed granted or reasonably implied by Act 197 as presently in effect or as hereafter amended.

**ARTICLE VI**

No enumeration of the powers granted to the Authority in this Ordinance shall be interpreted as a limitation of the powers granted to the Authority, it being the intention of this Ordinance to grant to the Authority all powers granted to a downtown development authority by Act 197.

**ARTICLE VII  
BOUNDARY AREA OF THE DOWNTOWN DISTRICT**

The boundary of the Downtown District shall be as set forth in Appendix A.

**ARTICLE VIII  
BUDGET - FISCAL YEAR**

Section 1. The fiscal year of the Authority shall begin on July 1 of each year and end on June 30 of the succeeding year, or such other fiscal year as may hereafter be adopted by the City.

Section 2. The Board of Directors shall annually prepare a budget and shall submit it to the City Council on the same date that the proposed budget for the City is required by law to be submitted to the City Council. The Board shall not finally adopt a budget for any fiscal year until the budget has been approved by the City Council. The Board may, however, temporarily adopt a budget in connection with the operation of any improvements which have been financed by revenue bonds where required to do so by the Ordinance authorizing the revenue bonds.

Section 3. The Authority shall submit financial reports to the City Council at the same time and on the same basis as departments of the City are required to submit reports. The Authority shall be audited annually by the same independent auditors auditing the City and copies of the Audit report shall be filed with the City Council.

**ARTICLE IX  
SECTION HEADINGS  
SEVERABILITY - REPAIR**

Section headings are provided for convenience only and are not intended to be part of this Ordinance. If any portion of this Ordinance shall be held to be unlawful, the remaining portions shall remain in full force and effect. All ordinances and parts of ordinances in conflict herewith are hereby repealed.

ARTICLE X  
DISSOLUTION OF AUTHORITY UPON COMPLETION  
OF PURPOSES; TITLE OF PROPERTY

Section 1. The Authority shall be dissolved by Ordinance of the City Council after it has completed the purposes for which it was organized.

Section 2. The property and assets of Authority remain and after the satisfaction of the Authority shall belong to the City.

ARTICLE XI  
PUBLICATION; EFFECTIVE DATE

Section 1. This Ordinance shall be published once after its adoption in full in the Kalamazoo Gazette, a newspaper of general circulation in the City and the City Clerk shall file a certified copy of the Ordinance with the Michigan Secretary of State promptly after its adoption.

Section 2. This Ordinance shall take effect immediately on the date of publication.

INTRODUCED: June 16, 1998

ADOPTED: July 7, 1998

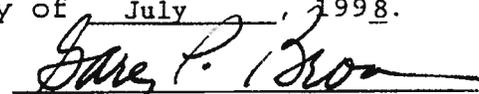
EFFECTIVE: Upon Publication

PUBLISHED: July 11, 1998

ORDINANCE NO. 98-14

CERTIFICATION

The foregoing ordinance is hereby certified to be the authentic record of the ordinance which was duly adopted by the City Council of the City of Portage on the 7<sup>th</sup> day of July, 1998 and published on the 11<sup>th</sup> day of July, 1998.

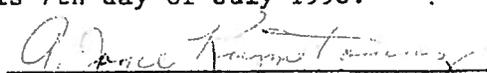


Mayor GARY P. BROWN



Clerk JAMES R. HUDSON

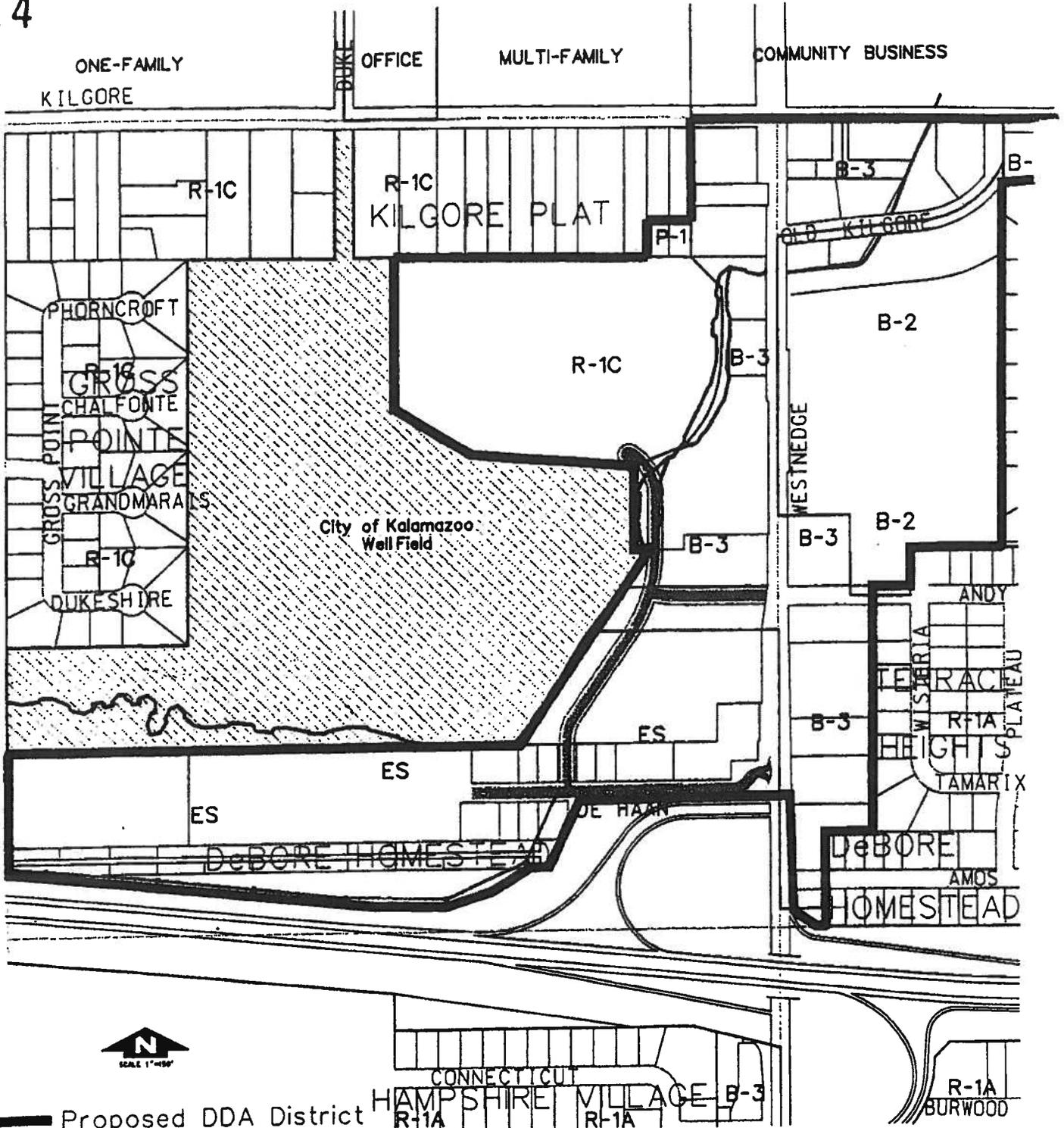
Subscribed and sworn to before me this 7th day of July 1998.



A. Joyce Kuzmitowicz, NOTARY  
Kalamazoo County, Michigan  
My Commission Expires: 4-17-2000

A parcel of land located in the northwest quarter of section three and the northeast quarter of section four, township three south, range eleven west, more particularly described as follows:

Commencing at the west quarter post of said section three; thence east along the east-west quarter line of said section three 131.69 feet to a point 34.31 feet west of the southeast corner of lot 19 of the Assessor's Plat of DeBoer Homestead Acres and the place of beginning; thence northwesterly 100.00 feet to the northwest corner of said lot 19; thence northerly 66.00 feet along the west line of lot 18 of said Assessor's Plat to the northwest corner of said lot 18; thence northerly 66.00 feet along the west line extended of said lot 18 to the southwest corner of lot 17 of said Assessor's Plat; thence continuing northerly 264.00 feet more or less along the west line of lots 14, 15, 16, and 17 of said Assessor's Plat to the northwest corner of said lot 14; thence westerly 80.00 feet more or less to the intersection of the south right-of-way line of DeHaan Drive with the west right-of-way line of South Westmedge Avenue; thence westerly 590.00 feet more or less along the south right-of-way line of DeHaan Drive to the intersection of the south right-of-way line of DeHaan Drive with the east right-of-way line of Clara Drive; thence southwesterly 280.00 feet more or less along the east right-of-way line of Clara Drive; thence westerly 50.00 feet more or less to the southeast corner of lot 108 of said Assessor's Plat; thence westerly 63.40 feet more or less along the south line of said lot 108; thence south 58 degrees 3 minutes 8 seconds west, 119.84 feet; thence south 72 degrees 5 minutes 59 seconds west, 163.48 feet; thence north 89 degrees 2 minutes 44 seconds west, 250.80 feet; thence north 84 degrees 28 minutes 18 seconds west, 1,241.33 feet more or less to the south line of said Assessor's Plat; thence westerly 21.00 feet more or less along the south line of said Assessor's Plat to the southwest corner of lot 98 of said Assessor's Plat; thence north 0 degrees 20 minutes 0 seconds west, 419.30 feet along the north-south quarter line of said section four; thence easterly 1,763.82 feet to the northwest corner of lot 68 of said Assessor's Plat; thence northeasterly 481.00 feet more or less along the center line of the west branch of Portage Creek; thence northeasterly 188.00 feet more or less along said creek; thence northerly along said creek to a point on the east-west eighth line of said section four 458.64 feet west of the east line of said section four; thence westerly 50.00 feet along said east-west eighth line; thence northerly 289.06 feet parallel with the east line of said section four; thence north 85 degrees 16 minutes 20 seconds west, 549.72 feet; thence north 58 degrees 41 minutes 0 seconds west, 317.39 feet to the west line of the east half of the northeast quarter of said section four; thence north 0 degrees 0 minutes 3 seconds west, 527.79 feet along the west line of the east half of the northeast quarter of said section four to a point 480.37 feet south of the north line of said section four, said point also being in the south line of lot 17 of Kilgore Plat; thence east along the south line of Kilgore Plat 869.44 feet to the southwest corner of lot 5 of said plat; thence north along the west line of lot 5, 125.00 feet; thence east 154.00 feet to the east line of lot 4 of said plat; thence north 322.37 feet to the north line of section four; thence easterly 304.00 feet to the northeast corner of said section four, this point also being the northwest corner of said section three; thence continuing easterly 951.78 feet along the north line of the northwest quarter of said section three to the west line extended of lot 121 of Ridgebrook No. 1; thence southerly 50.00 feet along the west line extended of said lot 121 to the northwest corner of said lot 121; thence continuing southerly 157.09 feet along the west line of said lot 121 to the southwest corner of said lot 121; thence southwesterly 173.82 feet along the north line of lot 122 of Ridgebrook No. 1 to the northwest corner of said lot 122 and the easterly right-of-way line of Old Kilgore Road; thence southerly 1,255.74 feet along the westerly line and the westerly line extended of Ridgebrook No. 1 to a point in the north line of lot 64 of Terrace Heights; thence westerly 183.95 feet along the north line of lots 64, 65 and 66 of Terrace Heights to the northwest corner of said lot 66; thence southerly 132.00 feet along the west line of said lot 66 to the southwest corner of said lot 66 and the north right-of-way line of Andy Avenue; thence westerly 264.00 feet along the north right-of-way line of Andy Avenue to the west line of Terrace Heights; thence southerly 858.00 feet along the west line of Terrace Heights to the southwest corner of lot 9 of Terrace Heights and a point in the north line of lot 53 of said Assessor's Plat; thence westerly 165.00 feet along the north line of lots 53, 54 and 55 of said Assessor's Plat to the northwest corner of said lot 55; thence southerly 198.00 feet along the west line and the west line extended of said lot 55 to the northwest corner of lot 20 of said Assessor's Plat; thence continuing southerly 132.00 feet along the west line of said lot 20 to the southwest corner of said lot 20 and the southeast corner of said lot 19; thence westerly 34.31 feet along the east-west quarter line of said section three and along the south line of said lot 19 to the place of beginning.



(Map Shows Existing Zoning Districts)

Appendix 9

COSTS TO BE PAID BY CITY OF PORTAGE TABLE

<u>Improvements</u>	<u>Estimated Time Required</u>	<u>Estimated Cost for Completion</u>
<p>1. SWEPS project improvements:</p> <p>a) The widening of portions of South Westnedge Avenue from north of Market Place to Kilgore Road including related land acquisition, design, and street and utility construction activities.</p>	FY2018/FY2020	\$1,250,000
<p>b) Traffic signal upgrades, overhead utility relocation activities, and access management activities along South Westnedge Avenue in the DDA district to facilitate safe and efficient traffic flow.</p>		
<p>2. Agreement to Purchase. The City agrees to purchase approximately 8,400 sq. ft. from the Developer to be used for public roadway purposes. Closing on the sale shall occur at a mutually agreeable time but not later than FY2011. At closing Developer agrees to provide City a Special Warranty Deed conveying title to such property, a survey showing the location of such property and an owner's policy of title insurance in the amount of the purchase price of such property.</p>	FY2011	\$191,623
<p>3. Trade Centre Way/West Fork Crossing/South Westnedge Avenue improvements:</p> <p>a) Trade Centre Way will be realigned and improved from South Westnedge Avenue west 900 feet to just west of West Fork Crossing. The realignment will include curb and gutter, storm sewer, utility relocation, boulevards, first class road landscaping, lighting, fencing and related construction.</p>	FY2011	\$1,148,377
<p>b) West Fork Crossing will be realigned and improved to intersect with realigned Trade Centre Way easterly of the existing street intersection. The realignment and improvement will match existing West Fork Crossing street cross section characteristics. Private storm drainage will be relocated to adjacent property.</p>		
<p>c) The Trade Centre Way and West Fork Crossing intersection will be reconstructed</p>		

incorporating additional right-of-way from the State of Michigan. The intersection improvement will match existing Trade Centre Way and West Fork Crossing cross section characteristics. Excess public street right-of-way not necessary for reconstruction of Trade Centre Way and West Fork Crossing shall be vacated or disposed of by the City. Former State of Michigan right-of-way will be retained by the City for transportation purposes.

d) A portion of South Westnedge Avenue south of Trade Centre Way will be reconstructed to facilitate left turn-in and right turn-in movements from South Westnedge Avenue to Trade Centre Way and right turn-out movements from Trade Centre Way to South Westnedge Avenue. The improvements will match existing South Westnedge Avenue cross section characteristics.

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S:\2010-2011 Department Files\Board Files\DDA BOARD\DDA phase III\2011 03 29 Final Phase III documents\2011 04 06 JME New Dda TIF Dev Plan draft.doc

CITY OF PORTAGE

At a \_\_\_\_\_ meeting of the City Council of the City of Portage, County of Kalamazoo, held in the Portage City Hall, in Portage, Michigan, on April 26, 2011 at \_\_:\_\_ \_\_.m. Eastern Daylight Savings Time, there were:

PRESENT: \_\_\_\_\_  
\_\_\_\_\_

ABSENT: \_\_\_\_\_

The following ordinance was introduced by \_\_\_\_\_ and was seconded by \_\_\_\_\_:

**AN ORDINANCE TO APPROVE A 2011 AMENDED DEVELOPMENT PLAN AND A 2011 AMENDED TAX INCREMENT FINANCING PLAN FOR DEVELOPMENT AREA WITHIN DOWNTOWN DISTRICT OF THE CITY OF PORTAGE**

WHEREAS, a 2011 Amended Development Plan and a 2011 Amended Tax Increment Financing Plan for the proposed development area within the downtown district established pursuant to Act No. 197 of the Public Acts of 1975, as amended, has been prepared by the Downtown Development Authority of the City of Portage and submitted to the City Council, a copy thereof is on file with the City Clerk, and

WHEREAS, a public hearing thereon was held before the City Council, on May 24, 2011, at 7:30 p.m. in the Portage City Hall, 7900 South Westnedge Avenue, Portage, Michigan, with notice thereof given in accordance with Section 18 of said Act No. 197, and

WHEREAS, the City Council now determines that the 2011 Amended Development Plan and the 2011 Amended Tax Increment Financing Plan constitutes a public purpose, and

WHEREAS, after careful consideration of the 2011 Amended Development Plan and the 2011 Amended Tax Increment Financing Plan it appears to the City Council that:

(a) The 2011 Amended Tax Increment Financing Plan meets the requirements set forth in Sections 14 and 15 of said Act 197;

(b) The 2011 Amended Development Plan meets the requirements set forth in Section 17(2) of said Act No. 197;

(c) The proposed method of financing the development is feasible and the authority has the ability to arrange the financing;

(d) The development is reasonable and necessary to carry out the purposes of said Act No. 197;

(e) The 2011 Amended Development Plan is in reasonable accord with the master plan of the City;

(f) Public services, such as fire and police protection and utilities, are or will be adequate to service the project area;

(g) Changes in streets, street levels, intersections and utilities are reasonably necessary for the project and for the City;

NOW, THEREFORE, the City of Portage Ordains:

Section 1. 2011 Amended Development Plan and 2011 Amended Tax Increment Financing Plan Approved. The 2011 Amended Development Plan and 2011 Amended Tax Increment Financing Plan for the development area within the downtown district established pursuant to Act No. 197 of the Public Acts of 1975, as amended, as prepared by the Downtown Development Authority of the City of Portage and submitted to the City Council (a copy of which is on file with the City Clerk), are hereby approved by the City Council.

Section 2. This Ordinance shall be published once after its adoption in full in the Kalamazoo Gazette, a newspaper of general circulation in the City and the City Clerk shall file a certified copy of the Ordinance with the Michigan Secretary of State promptly after its adoption.

Section 3. This Ordinance shall take effect immediately on the date of publication.

INTRODUCED: April 26, 2011

ADOPTED: \_\_\_\_\_, 2011

EFFECTIVE: \_\_\_\_\_, 2011

PUBLISHED: \_\_\_\_\_, 2011

**CERTIFICATION**

The foregoing ordinance is hereby certified to be the authentic record of the ordinance which was duly introduced by \_\_\_\_\_ and seconded by \_\_\_\_\_ at the City Council of the City of Portage on the 26th day of April, 2011;

\_\_\_\_\_  
Peter J Strazdas  
Mayor

\_\_\_\_\_  
James R. Hudson  
Clerk

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# CITY OF PORTAGE

# COMMUNICATION

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**TO:** Honorable Mayor and City Council

**DATE:** April 21, 2011

**FROM:** Maurice S. Evans, City Manager



**SUBJECT:** Trade Centre Way Relocation, Project #997-R

**ACTION RECOMMENDED:** That City Council adopt Resolution No. 1 for Trade Centre Way Relocation Project #997-R, approve the special assessment for properties contained within the preliminary special assessment roll, accept the City Manager Report and request preparation of Resolution No. 2.

The Fiscal Year 2009-10 and Fiscal Year 2010-11 Capital Improvement Programs provide funds for the relocation and improvement of Trade Centre Way and West Fork Crossing, including the Trade Centre Way/South Westnedge Avenue intersection. The project will improve access to Trade Centre Way from South Westnedge Avenue, relocate sanitary sewer, water main and private utilities and relocate the existing Trade Centre Way/West Fork Crossing intersection. The new Trade Centre Way/West Fork intersection and Trade Centre Way/South Westnedge Avenue intersection will take advantage of the reconfigured I-94/South Westnedge Avenue interchange by using property formerly utilized by the Michigan Department of Transportation for the interchange. The special assessment is in response to a petition received from the adjacent property owners and is a component of the Downtown Development Authority concurrently being presented for City Council consideration. The project also includes public water main and sanitary sewer utility relocations, curb and gutter, storm drainage improvements, sidewalks, fencing, streetlighting and landscaping to provide development opportunities for the adjacent properties.

The total estimated cost of the Trade Centre Way Relocation Project is \$1,340,000. The improvements are proposed to be funded by the utilization of special assessment bonds, as appropriate. The special assessment process is being commenced at this time to allow for construction to begin this summer with the intent to complete the project during the fall of 2011. Construction at this time will be in coordination with the I-94/South Westnedge Avenue interchange project. It is recommended that City Council initiate the project by adopting Resolution No. 1, accepting the City Manager Report and request preparation of Resolution No. 2 for this project. It is also recommended that the special assessment cost in the amount of \$1,340,000 be approved for the preliminary special assessment roll for the Trade Centre Way Relocation Project #997-R.

Attachments: Resolution No. 1  
City Manager's Report  
District #997-R Map

CITY OF PORTAGE  
SPECIAL ASSESSMENT RESOLUTION NO. 1  
Trade Centre Way Relocation Project # 997-R

At a regular meeting of the Council for the City of Portage, Kalamazoo County, Michigan, held at the City Hall Building in said City on the \_\_\_\_ day of \_\_\_\_\_, 2011, at 7:30 p.m., Prevailing Local Time.

PRESENT: \_\_\_\_\_

ABSENT: \_\_\_\_\_

The following resolution was offered by \_\_\_\_\_  
and seconded by \_\_\_\_\_.

WHEREAS, the City Council of the City of Portage is of the opinion that it is desirable and necessary for the public health, safety and welfare that the following described public improvement be constructed:

Reconstruct Trade Centre Way from West Fork Crossing to South Westnedge Avenue including the relocation of the Trade Centre Way/West Fork Crossing intersection along with all necessary utility relocations and construction.

AND WHEREAS, the Special Assessment Ordinance of the City provides that before determining to make any improvement by means of special assessment procedures, the City Council shall secure certain information from the City Manager.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. The City Council, in response to a property owner petition, hereby commences special assessment proceedings for the above described public improvement.
2. The matter of making such public improvement shall be referred to the City Manager who is hereby directed to prepare a report which shall include all necessary and pertinent information which will enable the Council to ascertain the probable cost, extent and necessity of the proposed improvement, the boundaries, the estimated useful life, a suggested method of apportioning the cost of the project and what proportion, if any, should be paid by the City-at-large.
3. The City Manager is hereby directed to file said report and recommendation with the City Clerk as soon as the same has been prepared.

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

ADOPTED: YEAS: \_\_\_\_\_

NAYS: \_\_\_\_\_

ABSENT: \_\_\_\_\_

\_\_\_\_\_  
JAMES R. HUDSON, CITY CLERK

STATE OF MICHIGAN )  
 ) : SS  
COUNTY OF KALAMAZOO)

I, the undersigned, the duly qualified and acting City Clerk of the City of Portage, Kalamazoo County, Michigan, do hereby certify that the foregoing is a true and complete copy of a resolution adopted at a regular meeting of the City Council of said City, held on the \_\_\_\_ day of \_\_\_\_\_, 2011, the original of which resolution is on file in my office.

IN WITNESS WHEREOF, I have hereunto affixed my official signature this \_\_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
JAMES R. HUDSON, CITY CLERK

resoluitontradecentreway

APPROVED AS TO FORM  
DATE 2/25/11  
[Signature]  
CITY ATTORNEY

## CITY MANAGER REPORT

### CITY OF PORTAGE

TO: Mayor and City Council

FROM: Maurice S. Evans, City Manager

DATE: April 15, 2011

SUBJECT: Trade Centre Way Relocation #997-R

I, the undersigned, being City Manager of the City of Portage, Michigan, in pursuance of a resolution adopted by the City Council, relative to the above entitled special assessment project, hereby report the probable cost, extent, necessity of the proposed improvement, the boundaries, the estimated useful life and suggested method of apportioning of the cost of the project, the proportion, if any, to be paid by the City-at-large, and other necessary and pertinent information as follows:

**Probable Cost:** \$1,340,000

**Extent of Project:** Reconstruct Trade Centre Way from West Fork crossing to South Westnedge Avenue including the relocation of the Trade Centre Way/West Fork Crossing intersection along with the necessary utility relocations and adjustments.

**Necessity:** The reconstruction of Trade Centre Way is needed to improve access, storm drainage, pavement conditions and provide pedestrian facilities in a major commercial area of the city.

**Boundaries:** Unplatted Land: Part of the Northeast quarter of section 4, town 3 South, range 11 West, City of Portage, Kalamazoo County, Michigan, described as: Commencing at the East quarter post of said section 4; Thence North 00 degrees 10'32" East on the East line of said section 4 a distance of 650.43 feet to the North line of the assessor's plat of DeBoer Homestead Acres, according to the plat thereof as recorded in liber 14 of plats, page 6, Kalamazoo County records, said North line being previously referred to as the North line of the North half of the South half of the South half of the Northeast quarter of said section 4; Thence North 89 degrees 55' 00" West on said North plat line 759.22 feet to the Northeast corner of lot 67, of said assessor's plat of DeBoer Homestead Acres and the point of beginning of the land herein described: Thence South on the East line of said lot 67 and on said East line extended a distance of 198.00 feet to the South line of De Haan Drive; Thence North 89 degrees 55' 00" West on said South line extended 9.18 feet; Thence South 15 degrees 05' 00" West 74.17 feet; Thence

Southwesterly 92.45 feet On a 124.00 foot radius curve to the right whose chord bears south 36 degrees 26' 36" West 90.33 feet; Thence South 57 degrees 48' 12" West 163.83 feet; Thence Southwesterly 243.48 feet on a 424.00 foot radius curve to the right whose chord bears South 74 degrees 15' 16" West 240.15 feet; Thence North 89 degrees 17' 40" West 181.89 feet; Thence North 84 degrees 43' 14" West 688.21 feet; Thence North 05 degrees 51' 51" East 433.28 feet to the Westerly extension of the North line of said DeBoer Homestead Acres; Thence South 89 degrees 55' 00" East on said North line extended 1,274.81 feet to the point of beginning and ending of the above described.

Platted Land: Lots 64 through 65 inclusive as originally recorded in the plat of DeBoer Homestead Acres in liber 14 of plats page 6 Kalamazoo County records.

<b>Useful Life:</b>	20 Years	
<b>Method of Apportioning:</b>	Special Assessments	\$1,340,000 (100%)
	TOTAL	\$1,340,000

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Maurice S. Evans  
City Manager

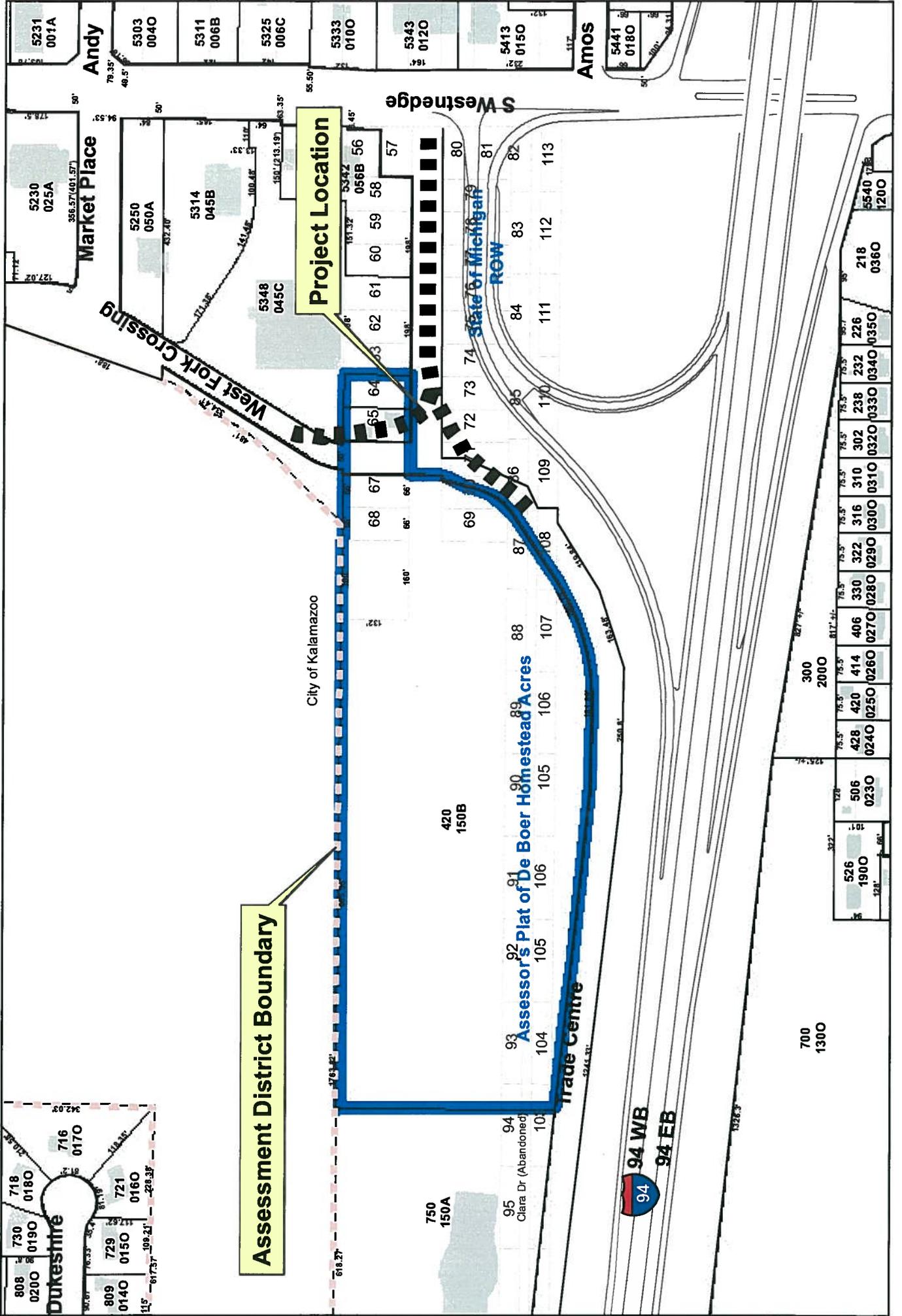
Attachments

# Proposed Trade Centre Way Relocation District #997-R



1 inch = 250 feet

Note: Address shown in order of priority



# CITY OF PORTAGE

# COMMUNICATION

**TO:** Honorable Mayor and City Council

**DATE:** April 21, 2011

**FROM:** Maurice S. Evans, City Manager



**SUBJECT:** 2011 Utility Rate Financial Study

**ACTION RECOMMENDED:** That City Council establish a public hearing for May 10, 2011 to consider resolutions to:

- a. adopt a sewer commodity rate increase from \$4.65 to \$4.81 per 1,000 gallons of metered water;
- b. adopt a water commodity rate increase from \$3.01 to \$3.10 per 1,000 gallons of metered water;
- c. adopt the recommendation that adjustments be made to both the sewer and water base quarterly charges;
- d. adopt the recommendation that the new rates become effective on October 1, 2011; and
- e. adopt the recommended water and sewer franchise area fees and other service fees and charges as outlined in the 2011 Utility Rate Financial Study.

The City Council Water/Sewer (Utility) Rate Study Committee (Mayor Pro Tem Sackley, Councilmembers Bailes and Randall, citizens Jeffrey Breneman and Ted W. Vliek, Sr.) has completed a review of the 2011 Utility Rate Financial Study as prepared by the City Administration. The 2011 Utility Rate Financial Study focuses on ensuring the financial health and stability of the utility system, while dealing with unique challenges such as continued increases in cost for sewage treatment by the City of Kalamazoo and unfunded mandates by the federal government regarding much lower levels of arsenic in public water supplies.

On November 16, 2010 City Council awarded Utility Financial Solutions, LLC (UFS) a contract to perform the 2011 Water and Wastewater Rate Study. The purpose of the UFS analysis was to determine the actual cost to provide water and wastewater services to the utility customers. The proposed 2011-12 utility rates are based in large part on the results of the comprehensive analysis performed by UFS.

The cost of service analysis prepared by UFS shows that the current rate structure is insufficient to ensure the receipt of revenues necessary to cover the fixed costs of the utility. To address this issue, the proposed 2011-12 rates begin the trend of shifting revenue collection based on the quarterly (meter) charges while keeping the commodity rate increases in line with normal

inflationary costs. A copy of the 2011 Utility Rate Financial Study, including UFS water and wastewater reports is included under separate cover in Materials Transmitted of April 22, 2011.

It is evident from the analysis that working capital (i.e., cash) in the utility funds continues to be seriously impacted by the significant amount of debt incurred with completion of major utility and environmental improvement projects such as the Consolidated Drain Improvement Project and the Stormwater Treatment Enhancement Project (STEP). The unfunded federally mandated arsenic standards for public water supplies has necessitated additional major expenditures, adding to the already significant debt burden in the Water Fund.

Due to the level of debt that has accumulated in the utility funds, the increased debt attributable to the Garden Lane Arsenic Removal Facility project, combined with increasing sanitary sewer treatment charges from the City of Kalamazoo, a continued aggressive rate of increase for utility charges will be necessary over the next couple of years in order to ensure the long-term financial viability of the utility funds. An adequate balance of cash must be maintained to ensure the operation of the utility and to make debt payments. It is essential that sufficient resources are available within the utility funds to meet obligations in order to avoid the need for subsidy by non-utility related funds.

As indicated to City Council as part of the analysis for the 2007 Utility Rate Financial Study, the City Administration continues to implement an action plan consisting of the following elements:

1. The focus of the utility rate review has changed from an emphasis on level of retained earnings to additional consideration of working capital, debt service and fund balance of the utility funds. More specifically:
  - a. In addition to the current revenue/expenditure analysis, a working capital analysis is performed. The yearly analysis includes necessary cash elements which ensure that adequate funds are available to meet ongoing obligations.
  - b. Even with increasing sewage treatment costs, the Sewer Fund will be able to maintain a positive working capital balance. However, the Water Fund and the Utility Fund as a whole are not projected to achieve a positive working capital balance until fiscal year 2013-14.
  - c. A minimum debt coverage ratio of 1.25 has been established and targeted in future years. This standard ensures adequate funds are available to meet debt payments, support variations in sales due to wet summers, fluctuating treatment costs and other such variables, as they may occur.
  - d. Levels of cash will be re-established over time and then maintained within the range of approximately 3 to 4 months of current liabilities for each fund. This currently translates to approximately \$1.5 million for the Sewer Fund and \$2.0 million for the Water Fund.
2. Outstanding bond issues will continue to be reviewed/recommended for potential refinancing to save interest charges and lower expenses to the utility funds.

3. The City Administration has examined planned future capital expenditures during development of the 2011-21 Capital Improvement Program and reprogrammed projects, where possible, to limit additional major capital expenditures over the next several years.
4. The City Administration will continue to investigate opportunities in areas of utility fund operations in the interest of further reducing operating expenses of the utility funds over time.

The projected revenues, expenditures and resulting rate modifications in the Sewer Fund and Water Fund as contained in the 2011 Utility Rate Financial Study for fiscal year 2011-12 result in a combined rate increase of 10.85%. Projected rate increases for the combined funds for 2012-13 through 2015-16 reduce from 4.96% to 1.90% in the 2011 Utility Rate Financial Study.

For fiscal year 2011-12, the sewer commodity rate is recommended to be increased from \$4.65 to \$4.81 per thousand gallons of metered water. The water commodity rate is recommended to increase from \$3.01 to \$3.10 per thousand gallons of metered water. Basic quarterly charges for both sewer and water use, which are calculated to provide funding for certain fixed costs for the utility systems, are recommended to be increased to meet current expenditures.

The net effect of the combined sewer and water rate recommendations on the typical residential customer is an overall utility rate increase of 10.85%. The combined utility rate recommendations represent an annual increase of approximately \$82.68 (from approximately \$762.12 per year to approximately \$844.80 per year) for the typical residential customer with both public sewer and water service. On a monthly basis, the recommended rate increases would result in an increased monthly cost of \$6.89.

Items less significant in dollar amount but still important to the continuing financial health of the utility systems were also reviewed by the City Council Water/Sewer Utility Rate Study Committee. It is essential that the amount charged for these services recover the costs to provide such services. If charges are inadequate to allow for recovery of costs, rate payers subsidize the service provided.

Charges and fees that were reviewed in the context of the 2011 Utility Rate Financial Study include water connection charges, meter charges, meter box charges, hydrant meter charges and water processing fees. Recommended charges are summarized as follows:

- Charges for 3/4 inch, 1 inch and 1-1/4 inch water service connections at \$914, \$983 and \$1,047, respectively, all remain the same;
- Charges for 5/8 inch, 3/4 inch and 1 inch water meters at \$225, \$280 and \$345, respectively, and for 1-1/2 inch meters at \$815, 2 inch irrigation meters at \$1,010, 2 inch compound meters at \$2,225, 3 inch compound meters at \$2,925, 4 inch compound meters at \$4,530 and 6 inch compound meters at \$7,840 all remain the same;

- Charges for installation of 3/4 inch, 1 inch and 1-1/4 inch meter boxes at \$950, \$1,000 and \$1,050, respectively, all remain the same;
- Continuation of the \$200 deposit for installation of a meter on a fire hydrant with the current minimum charge of \$120, which includes the use of up to 15,000 gallons of water. The commodity charge of \$4.50 per thousand gallons is maintained for all water used over 15,000 gallons from fire hydrants;
- Continuation of the charge for the processing fee associated with turn-on or shut-off of a water service at \$40, except that the initial turn-on for first time customers will be at no charge. When it is necessary for the city to dispatch a person to turn on water during non-business hours, the processing fee remains at \$80;
- Continuation of the flat rate for non-metered sewer customers at 20,000 gallons;
- Continuation of the sewer billing cap for residential customers having a zero water meter reading in the quarter that contains January at 20,000 gallons;
- Continuation of the charge for any returned/unpaid check or other failed financial instrument which results in uncollected funds at \$30 per occurrence;
- Continuation of the past due amount of more than \$60 as the shut-off level amount;
- Continuation of the credit of \$1.00 for each normal quarterly bill to each customer on the utility billing automatic payment plan; and
- Continuation of waiver of the utility billing late fee if the customer has paid all of the last 12 or more utility bills on time and the customer requests that the late fee be waived. The utility billing late fee will also be waived if the customer signs up for automatic payment.
- Modify the effective date for rate adjustments from July 1 to October 1.

Following a thorough review and analysis of the 2011 Utility Rate Financial Study, the City Council Water/Sewer Utility Rate Study Committee voted unanimously to recommend water and sewer rates and charges as proposed.

It is recommended that City Council establish a public hearing on May 10, 2011 for consideration of the proposed rates and charges as set forth in the 2011 Utility Rate Financial Study.

# CITY OF PORTAGE

# COMMUNICATION

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**TO:** Honorable Mayor and City Council

**DATE:** April 22, 2011

**FROM:** Maurice S. Evans, City Manager

*MS (for M. Evans)*

**SUBJECT:** Michigan Department of Transportation Contract - 2011 Major Street Reconstruction Program

**ACTION RECOMMENDED:** That City Council approve Contract 11-5170 between the Michigan Department of Transportation (MDOT) and the City of Portage pertaining to funding for the 2011 Major Street Reconstruction Program and approve a resolution authorizing the City Manager to sign all documents on behalf of the city.

The 2010-11 Capital Improvement Program (CIP) contains a project for the 2011 Major Street Reconstruction Program. With completion of the West Milham Avenue Reconstruction Project, the entire major arterial street network has been reconstructed. Future work on the major street network represents a shift in priority and will focus on preserving and restoring pavement conditions which will allow additional roadway mileage to be restored yearly. Major street reconstruction projects are selected based on pavement condition, average daily traffic, federal aid eligibility, as well as potential development activities. The selected major streets for the 2011 federally-funded program are listed below:

- Oakland Drive (Shaver Road to north of Katie Court)
- South Westnedge Avenue (West Melody Avenue to Centre Avenue – including water main replacement)
- Portage Road (Osterhout Avenue to Lakeview Drive)

Additionally, Lovers Lane (Forest Drive to East Centre Avenue) will be reconstructed using local funds and will be bid by the city separately. The funds for Lovers Lane are included in the proposed 2011-12 CIP. Accordingly, bids are scheduled to be received in June 2011 and recommend award of the project at the July 12, 2011 City Council meeting. Construction on Lovers Lane should begin in August 2011, with substantial completion by October 2011.

The attached contract between the city and the Michigan Department of Transportation (MDOT) is for planned street and utility improvements on Oakland Drive, South Westnedge Avenue and Portage Road projects. The City Administration was successful in securing \$773,641 in federal funds for these important street improvement projects. Remaining city expenditures of approximately \$1,087,700 will be financed through the sale of Capital Improvement Bonds, water utility bonds and available funds in the Municipal Street Fund.

Since federal funds are involved, MDOT must advertise and award the construction contract. Once awarded, MDOT turns the project over to the city for construction inspection and administration. All payments to the contractor are made by MDOT with the city reimbursing MDOT for the local share of the construction cost. Construction on the projects are scheduled to begin in early June 2011 with substantial completion by October 2011. Council approval of the MDOT contract is recommended. It is also recommended that Council authorize the City Manager to sign the contract on behalf of the city.

Attachments

**CITY OF PORTAGE**

**RESOLUTION**

At a regular meeting of the Council of the City of Portage, Kalamazoo County, Michigan, held at the City Hall in said City on the \_\_\_\_\_ day of \_\_\_\_\_, 2011 at 7:30 p.m., local time.

PRESENT: Councilmembers \_\_\_\_\_

ABSENT: Councilmembers \_\_\_\_\_

The following resolution was offered by Councilmember \_\_\_\_\_ and seconded by Councilmember \_\_\_\_\_.

RESOLVED, that the City Council for the City of Portage does hereby authorize the City Manager, Maurice Evans, to sign Contract 11-5170 between the City of Portage and the Michigan Department of Transportation. This contract is for street improvements on \_\_\_\_\_.

ADOPTED: YEAS:

NAYS:

ABSENT:

\_\_\_\_\_  
James R. Hudson, City Clerk

CERTIFICATION

I hereby certify this \_\_\_\_\_ day of \_\_\_\_\_, 2011 that the foregoing is a true and complete copy of the original on file in my office.

\_\_\_\_\_  
James R. Hudson, City Clerk

APPROVED AS TO FORM  
DATE 4/18/11  
[Signature]  
CITY ATTORNEY

STP

DAB

Control Section	STUL 39405
Job Number	108208; 108269; 108274
Project	STP 1139(019)(018)(020)
Federal Item No.	HH 7223; HH 7222; HH 7225
CFDA No.	20.205 (Highway Research Planning & Construction)
Contract No.	11-5170

### PART I

THIS CONTRACT, consisting of PART I and PART II (Standard Agreement Provisions), is made and entered into this date of \_\_\_\_\_, by and between the MICHIGAN DEPARTMENT OF TRANSPORTATION, hereinafter referred to as the "DEPARTMENT"; and the CITY OF PORTAGE, a Michigan municipal corporation, hereinafter referred to as the "REQUESTING PARTY"; for the purpose of fixing the rights and obligations of the parties in agreeing to the following improvements, in the City of Portage, Michigan, hereinafter referred to as the "PROJECT" and estimated in detail on EXHIBIT "I", dated March 23, 2011, attached hereto and made a part hereof:

#### PART A – STUL 39405; JOB #108208; STP 1139(019); HH 7223; FEDERAL PARTICIPATION

Hot mix asphalt cold milling and resurfacing work along Oakland Drive from Shaver Road to Katie Court; including base crushing and shaping, drainage structures, concrete curb and gutter, and sidewalk ramp work; and all together with necessary related work.

#### PART B – STUL 39405; JOB #108208; STP 1139(019); HH 7223; NO FEDERAL PARTICIPATION

Special project sign work along Oakland Drive from Shaver Road to Katie Court; and all together with necessary related work.

#### PART C – STUL 39405; JOB #108269; STP 1139(018); HH 7222; FEDERAL PARTICIPATION

Hot mix asphalt cold milling and resurfacing work along Portage Road from East Osterhout Avenue to Lakeview Drive; including concrete curb and gutter and sidewalk ramp work; and all together with necessary related work.

#### PART D – STUL 39405; JOB #108269; STP 1139(018); HH 7222; NO FEDERAL PARTICIPATION

Watermain and special project sign work along Portage Road from East Osterhout Avenue to Lakeview Drive; and all together with necessary related work.

PART E – STUL 39405; JOB #108274; STP 1139(020); HH 7225; FEDERAL PARTICIPATION

Hot mix asphalt cold milling and resurfacing work along South Westnedge Avenue from Melody Avenue to Center Avenue; including concrete curb and gutter and sidewalk ramp work; and all together with necessary related work.

PART F – STUL 39405; JOB #108274; STP 1139(020); HH 7225; NO FEDERAL PARTICIPATION

Watermain and special project sign work along South Westnedge Avenue from Melody Avenue to Center Avenue; and all together with necessary related work.

WITNESSETH:

WHEREAS, pursuant to Federal law, monies have been provided for the performance of certain improvements on public roads; and

WHEREAS, the reference "FHWA" in PART I and PART II refers to the United States Department of Transportation, Federal Highway Administration; and

WHEREAS, the PROJECT, or portions of the PROJECT, at the request of the REQUESTING PARTY, are being programmed with the FHWA, for implementation with the use of Federal Funds under the following Federal program(s) or funding:

SURFACE TRANSPORTATION PROGRAM

WHEREAS, the parties hereto have reached an understanding with each other regarding the performance of the PROJECT work and desire to set forth this understanding in the form of a written contract.

NOW, THEREFORE, in consideration of the premises and of the mutual undertakings of the parties and in conformity with applicable law, it is agreed:

1. The parties hereto shall undertake and complete the PROJECT in accordance with the terms of this contract.

2. The term "PROJECT COST", as herein used, is hereby defined as the cost of the physical construction necessary for the completion of the PROJECT, including any other costs incurred by the DEPARTMENT as a result of this contract, except construction engineering and inspection.

No charges will be made by the DEPARTMENT to the PROJECT for any inspection work or construction engineering.

The costs incurred by the REQUESTING PARTY for preliminary engineering, construction engineering, construction materials testing, inspection, and right-of-way are excluded from the PROJECT COST as defined by this contract.

3. The DEPARTMENT is authorized by the REQUESTING PARTY to administer on behalf of the REQUESTING PARTY all phases of the PROJECT, including advertising and awarding the construction contract for the PROJECT or portions of the PROJECT. Such administration shall be in accordance with PART II, Section II of this contract.

Any items of the PROJECT COST incurred by the DEPARTMENT may be charged to the PROJECT.

4. The REQUESTING PARTY, at no cost to the PROJECT or to the DEPARTMENT, shall:

- A. Design or cause to be designed the plans for the PROJECT.
- B. Appoint a project engineer who shall be in responsible charge of the PROJECT and ensure that the plans and specifications are followed.
- C. Perform or cause to be performed the construction engineering, construction materials testing, and inspection services necessary for the completion of the PROJECT.

The REQUESTING PARTY will furnish the DEPARTMENT proposed timing sequences for trunkline signals that, if any, are being made part of the improvement. No timing adjustments shall be made by the REQUESTING PARTY at any trunkline intersection, without prior issuances by the DEPARTMENT of Standard Traffic Signal Timing Permits.

5. The PROJECT COST shall be met in accordance with the following:

PART A

Federal Surface Transportation Funds shall be applied to the eligible items of the PART A portion of the PROJECT COST up to the lesser of: (1) \$316,539, or (2) an amount such that 81.85 percent, the normal Federal participation ratio for such funds, for the PART A portion of the PROJECT is not exceeded at the time of the award of the construction contract. The balance of the PART A portion of the PROJECT COST, after deduction of Federal Funds, shall be charged to and paid by the REQUESTING PARTY in the manner and at the times hereinafter set forth.

PARTS B, D, and F

The PART B, D, and F portions of the PROJECT COST are not eligible for Federal participation and shall be charged to and paid 100 percent by the REQUESTING PARTY in the manner and at the times hereinafter set forth.

PART C

Federal Surface Transportation Funds shall be applied to the eligible items of the PART C portion of the PROJECT COST up to the lesser of: (1) \$327,757, or (2) an amount such that 81.85 percent, the normal Federal participation ratio for such funds, for the PART C portion of the PROJECT is not exceeded at the time of the award of the construction contract. The balance of the PART C portion of the PROJECT COST, after deduction of Federal Funds, shall be charged to and paid by the REQUESTING PARTY in the manner and at the times hereinafter set forth.

PART E

Federal Surface Transportation Funds shall be applied to the eligible items of the PART E portion of the PROJECT COST up to the lesser of: (1) \$129,345, or (2) an amount such that 81.85 percent, the normal Federal participation ratio for such funds, for the PART E portion of the PROJECT is not exceeded at the time of the award of the construction contract. The balance of the PART E portion of the PROJECT COST, after deduction of Federal Funds, shall be charged to and paid by the REQUESTING PARTY in the manner and at the times hereinafter set forth.

Any items of PROJECT COST not reimbursed by Federal Funds will be the sole responsibility of the REQUESTING PARTY.

6. No working capital deposit will be required for this PROJECT.

In order to fulfill the obligations assumed by the REQUESTING PARTY under the provisions of this contract, the REQUESTING PARTY shall make prompt payments of its share of the PROJECT COST upon receipt of progress billings from the DEPARTMENT as herein provided. All payments will be made within 30 days of receipt of billings from the DEPARTMENT. Billings to the REQUESTING PARTY will be based upon the REQUESTING PARTY'S share of the actual costs incurred less Federal Funds earned as the PROJECT progresses.

In the event of any discrepancies between PART I and PART II of this contract, the provisions of PART I shall prevail.

7. Upon completion of construction of the PROJECT, the REQUESTING PARTY will promptly cause to be enacted and enforced such ordinances or regulations as may be necessary to prohibit parking in the roadway right-of-way throughout the limits of the PROJECT.

8. The performance of the entire PROJECT under this contract, whether Federally funded or not, will be subject to the provisions and requirements of PART II that are applicable to a Federally funded project.

9. The REQUESTING PARTY certifies that a) it is a person under 1995 PA 71 and is not aware of and has no reason to believe that the property is a facility as defined in MSA 13A.20101(1)(l); b) the REQUESTING PARTY further certifies that it has completed the tasks required by MCL 324.20126 (3)(h); MSA 13A.20126(3)(h); c) it conducted a visual inspection of property within the existing right of way on which construction is to be performed to determine if any hazardous substances were present; and at sites on which historically were located businesses that involved hazardous substances, it performed a reasonable investigation to determine whether hazardous substances exist. This reasonable investigation should include, at a minimum, contact with local, state and federal environmental agencies to determine if the site has been identified as, or potentially as, a site containing hazardous substances; d) it did not cause or contribute to the release or threat of release of any hazardous substance found within the PROJECT limits.

The REQUESTING PARTY also certifies that, in addition to reporting the presence of any hazardous substances to the Department of Environmental Quality, it has advised the DEPARTMENT of the presence of any and all hazardous substances which the REQUESTING PARTY found within the PROJECT limits, as a result of performing the investigation and visual inspection required herein. The REQUESTING PARTY also certifies that it has been unable to identify any entity who may be liable for the cost of remediation. As a result, the REQUESTING PARTY has included all estimated costs of remediation of such hazardous substances in its estimated cost of construction of the PROJECT.

10. If, subsequent to execution of this contract, previously unknown hazardous substances are discovered within the PROJECT limits, which require environmental remediation pursuant to either state or federal law, the REQUESTING PARTY, in addition to reporting that fact to the Department of Environmental Quality, shall immediately notify the DEPARTMENT, both orally and in writing of such discovery. The DEPARTMENT shall consult with the REQUESTING PARTY to determine if it is willing to pay for the cost of remediation and, with the FHWA, to determine the eligibility, for reimbursement, of the remediation costs. The REQUESTING PARTY shall be charged for and shall pay all costs associated with such remediation, including all delay costs of the contractor for the PROJECT, in the event that remediation and delay costs are not deemed eligible by the FHWA. If the REQUESTING PARTY refuses to participate in the cost of remediation, the DEPARTMENT shall terminate the PROJECT. The parties agree that any costs or damages that the DEPARTMENT incurs as a result of such termination shall be considered a PROJECT COST.

11. If federal and/or state funds administered by the DEPARTMENT are used to pay the cost of remediating any hazardous substances discovered after the execution of this contract and if there is a reasonable likelihood of recovery, the REQUESTING PARTY, in cooperation with the Department of Environmental Quality and the DEPARTMENT, shall make a diligent effort to recover such costs from all other possible entities. If recovery is made, the DEPARTMENT shall be reimbursed from such recovery for the proportionate share of the amount paid by the FHWA and/or the DEPARTMENT and the DEPARTMENT shall credit such sums to the appropriate funding source.

12. The DEPARTMENT'S sole reason for entering into this contract is to enable the REQUESTING PARTY to obtain and use funds provided by the Federal Highway Administration pursuant to Title 23 of the United States Code.

Any and all approvals of, reviews of, and recommendations regarding contracts, agreements, permits, plans, specifications, or documents, of any nature, or any inspections of work by the DEPARTMENT or its agents pursuant to the terms of this contract are done to assist the REQUESTING PARTY in meeting program guidelines in order to qualify for available funds. Such approvals, reviews, inspections and recommendations by the DEPARTMENT or its agents shall not relieve the REQUESTING PARTY and the local agencies, as applicable, of their ultimate control and shall not be construed as a warranty of their propriety or that the DEPARTMENT or its agents is assuming any liability, control or jurisdiction.

The providing of recommendations or advice by the DEPARTMENT or its agents does not relieve the REQUESTING PARTY and the local agencies, as applicable of their exclusive jurisdiction of the highway and responsibility under MCL 691.1402, MSA 3.996(102).

When providing approvals, reviews and recommendations under this contract, the DEPARTMENT or its agents is performing a governmental function, as that term is defined in MCL 691.1401; MSA 3.996(101), which is incidental to the completion of the PROJECT.

13. The DEPARTMENT, by executing this contract, and rendering services pursuant to this contract, has not and does not assume jurisdiction of the highway, described as the PROJECT for purposes of MCL 691.1402; MSA 3.996(102). Exclusive jurisdiction of such highway for the purposes of MCL 691.1402; MSA 3.996(102) rests with the REQUESTING PARTY and other local agencies having respective jurisdiction.

14. The REQUESTING PARTY shall approve all of the plans and specifications to be used on the PROJECT and shall be deemed to have approved all changes to the plans and specifications when put into effect. It is agreed that ultimate responsibility and control over the PROJECT rests with the REQUESTING PARTY and local agencies, as applicable.

15. The REQUESTING PARTY agrees that the costs reported to the DEPARTMENT for this contract will represent only those items that are properly chargeable in accordance with this contract. The REQUESTING PARTY also certifies that it has read the contract terms and has made itself aware of the applicable laws, regulations, and terms of this contract that apply to the reporting of costs incurred under the terms of this contract.

16. The parties shall promptly provide comprehensive assistance and cooperation in defending and resolving any claims brought against the DEPARTMENT by the contractor, vendors or suppliers as a result of the DEPARTMENT'S award of the construction contract for the PROJECT. Costs incurred by the DEPARTMENT in defending or resolving such claims shall be considered PROJECT COSTS.

17. The DEPARTMENT shall require the contractor who is awarded the contract for the construction of the PROJECT to provide insurance in the amounts specified and in accordance with the DEPARTMENT'S current Standard Specifications for Construction and to:

- A. Maintain bodily injury and property damage insurance for the duration of the PROJECT.
- B. Provide owner's protective liability insurance naming as insureds the State of Michigan, the Michigan State Transportation Commission, the DEPARTMENT and its officials, agents and employees, the REQUESTING PARTY and any other county, county road commission, or municipality in whose jurisdiction the PROJECT is located, and their employees, for the duration of the PROJECT and to provide, upon request, copies of certificates of insurance to the insureds. It is understood that the DEPARTMENT does not assume jurisdiction of the highway described as the PROJECT as a result of being named as an insured on the owner's protective liability insurance policy.
- C. Comply with the requirements of notice of cancellation and reduction of insurance set forth in the current standard specifications for construction and to provide, upon request, copies of notices and reports prepared to those insured.

18. This contract shall become binding on the parties hereto and of full force and effect upon the signing thereof by the duly authorized officials for the parties hereto and upon the adoption of the necessary resolutions approving said contract and authorizing the signatures thereto of the respective officials of the REQUESTING PARTY, a certified copy of which resolution shall be attached to this contract.

IN WITNESS WHEREOF, the parties hereto have caused this contract to be executed the day and year first above written.

CITY OF PORTAGE

MICHIGAN DEPARTMENT  
OF TRANSPORTATION

By \_\_\_\_\_  
Title:

By \_\_\_\_\_  
Department Director MDOT

By \_\_\_\_\_  
Title:



APPROVED AS TO FORM  
DATE 4/16/11  
[Signature]  
CITY ATTORNEY

EXHIBIT I

CONTROL SECTION STUL 39405  
 JOB NUMBER 108208; 108269; 108274  
 PROJECT STP 1139(019)(018)(020)

ESTIMATED COST

CONTRACTED WORK

	<u>PART A</u>	<u>PART B</u>	<u>PART C</u>	<u>PART D</u>	<u>PART E</u>	<u>PART F</u>	<u>TOTAL</u>
Estimated Cost	\$573,000	\$1,000	\$675,800	\$4,500	\$399,200	\$207,800	\$1,861,300

COST PARTICIPATION

GRAND TOTAL ESTIMATED COST	\$573,000	\$1,000	\$675,800	\$4,500	\$399,200	\$207,800	\$1,861,300
Less Federal Funds*	\$316,539	\$ 0	\$327,757	\$ 0	\$129,345	\$ 0	\$ 773,641
BALANCE (REQUESTING PARTY'S SHARE)	\$256,461	\$1,000	\$348,043	\$4,500	\$269,855	\$207,800	\$1,087,659

\*Federal Funds for each of the PART A, C, and E portions of the PROJECT are limited to the amounts as described in Section 5.

NO DEPOSIT

DOT

TYPE B  
BUREAU OF HIGHWAYS  
03-15-93

PART II

STANDARD AGREEMENT PROVISIONS

SECTION I COMPLIANCE WITH REGULATIONS AND DIRECTIVES

SECTION II PROJECT ADMINISTRATION AND SUPERVISION

SECTION III ACCOUNTING AND BILLING

SECTION IV MAINTENANCE AND OPERATION

SECTION V SPECIAL PROGRAM AND PROJECT CONDITIONS

## SECTION I

### COMPLIANCE WITH REGULATIONS AND DIRECTIVES

- A. To qualify for eligible cost, all work shall be documented in accordance with the requirements and procedures of the DEPARTMENT.
- B. All work on projects for which reimbursement with Federal funds is requested shall be performed in accordance with the requirements and guidelines set forth in the following Directives of the Federal-Aid Policy Guide (FAPG) of the FHWA, as applicable, and as referenced in pertinent sections of Title 23 and Title 49 of the Code of Federal Regulations (CFR), and all supplements and amendments thereto.
  - 1. Engineering
    - a. FAPG (6012.1): Preliminary Engineering
    - b. FAPG (23 CFR 172): Administration of Engineering and Design Related Service Contracts
    - c. FAPG (23 CFR 635A): Contract Procedures
    - d. FAPG (49 CFR 18.22): Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments—Allowable Costs
  - 2. Construction
    - a. FAPG (23 CFR 140E): Administrative Settlement Costs-Contract Claims
    - b. FAPG (23 CFR 140B): Construction Engineering Costs
    - c. FAPG (23 CFR 17): Recordkeeping and Retention Requirements for Federal-Aid Highway Records of State Highway Agencies
    - d. FAPG (23 CFR 635A): Contract Procedures
    - e. FAPG (23 CFR 635B): Force Account Construction
    - f. FAPG (23 CFR 645A): Utility Relocations, Adjustments and Reimbursement

- g. FAPG (23 CFR 645B): Accommodation of Utilities (PPM 30-4.1)
  - h. FAPG (23 CFR 655F): Traffic Control Devices on Federal-Aid and other Streets and Highways
  - i. FAPG (49 CFR 18.22): Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments--Allowable Costs
3. Modification Or Construction Of Railroad Facilities
- a. FAPG (23 CFR 140I): Reimbursement for Railroad Work
  - b. FAPG (23 CFR 646B): Railroad Highway Projects
- C. In conformance with FAPG (23 CFR 630C) Project Agreements, the political subdivisions party to this contract, on those Federally funded projects which exceed a total cost of \$100,000.00 stipulate the following with respect to their specific jurisdictions:
- 1. That any facility to be utilized in performance under or to benefit from this contract is not listed on the Environmental Protection Agency (EPA) List of Violating Facilities issued pursuant to the requirements of the Federal Clean Air Act, as amended, and the Federal Water Pollution Control Act, as amended.
  - 2. That they each agree to comply with all of the requirements of Section 114 of the Federal Clean Air Act and Section 308 of the Federal Water Pollution Control Act, and all regulations and guidelines issued thereunder.
  - 3. That as a condition of Federal aid pursuant to this contract they shall notify the DEPARTMENT of the receipt of any advice indicating that a facility to be utilized in performance under or to benefit from this contract is under consideration to be listed on the EPA List of Violating Facilities.
- D. Ensure that the PROJECT is constructed in accordance with and incorporates all committed environmental impact mitigation measures listed in approved environmental documents unless modified or deleted by approval of the FHWA.
- E. All the requirements, guidelines, conditions and restrictions noted in all other pertinent Directives and Instructional Memoranda of the FHWA will apply to this contract and will be adhered to, as applicable, by the parties hereto.

## SECTION II

### PROJECT ADMINISTRATION AND SUPERVISION

- A. The DEPARTMENT shall provide such administrative guidance as it determines is required by the PROJECT in order to facilitate the obtaining of available federal and/or state funds.
- B. The DEPARTMENT will advertise and award all contracted portions of the PROJECT work. Prior to advertising of the PROJECT for receipt of bids, the REQUESTING PARTY may delete any portion or all of the PROJECT work. After receipt of bids for the PROJECT, the REQUESTING PARTY shall have the right to reject the amount bid for the PROJECT prior to the award of the contract for the PROJECT only if such amount exceeds by twenty percent (20%) the final engineer's estimate therefor. If such rejection of the bids is not received in writing within two (2) weeks after letting, the DEPARTMENT will assume concurrence. The DEPARTMENT may, upon request, readvertise the PROJECT. Should the REQUESTING PARTY so request in writing within the aforesaid two (2) week period after letting, the PROJECT will be cancelled and the DEPARTMENT will refund the unused balance of the deposit less all costs incurred by the DEPARTMENT.
- C. The DEPARTMENT will perform such inspection services on PROJECT work performed by the REQUESTING PARTY with its own forces as is required to ensure compliance with the approved plans & specifications.
- D. On those projects funded with Federal monies, the DEPARTMENT shall as may be required secure from the FHWA approval of plans and specifications, and such cost estimates for FHWA participation in the PROJECT COST.
- E. All work in connection with the PROJECT shall be performed in conformance with the Michigan Department of Transportation Standard Specifications for Construction, and the supplemental specifications, Special Provisions and plans pertaining to the PROJECT and all materials furnished and used in the construction of the PROJECT shall conform to the aforesaid specifications. No extra work shall be performed nor changes in plans and specifications made until said work or changes are approved by the project engineer and authorized by the DEPARTMENT.

- F. Should it be necessary or desirable that portions of the work covered by this contract be accomplished by a consulting firm, a railway company, or governmental agency, firm, person, or corporation, under a subcontract with the REQUESTING PARTY at PROJECT expense, such subcontracted arrangements will be covered by formal written agreement between the REQUESTING PARTY and that party.

This formal written agreement shall: include a reference to the specific prime contract to which it pertains; include provisions which clearly set forth the maximum reimbursable and the basis of payment; provide for the maintenance of accounting records in accordance with generally accepted accounting principles, which clearly document the actual cost of the services provided; provide that costs eligible for reimbursement shall be in accordance with clearly defined cost criteria such as 49 CFR Part 18, 48 CFR Part 31, 23 CFR Part 140, OMB Circular A-87, etc. as applicable; provide for access to the department or its representatives to inspect and audit all data and records related to the agreement for a minimum of three years after the department's final payment to the local unit.

All such agreements will be submitted for approval by the DEPARTMENT and, if applicable, by the FHWA prior to execution thereof, except for agreements for amounts less than \$100,000 for preliminary engineering and testing services executed under and in accordance with the provisions of the "Small Purchase Procedures" FAPG (23 CFR 172), which do not require prior approval of the DEPARTMENT or the FHWA.

Any such approval by the DEPARTMENT shall in no way be construed as a warranty of the subcontractor's qualifications, financial integrity, or ability to perform the work being subcontracted.

- G. The REQUESTING PARTY, at no cost to the PROJECT or the DEPARTMENT, shall make such arrangements with railway companies, utilities, etc., as may be necessary for the performance of work required for the PROJECT but for which Federal or other reimbursement will not be requested.
- H. The REQUESTING PARTY, at no cost to the PROJECT, or the DEPARTMENT, shall secure, as necessary, all agreements and approvals of the PROJECT with railway companies, the Railroad Safety & Tariffs Division of the DEPARTMENT and other concerned governmental agencies other than the FHWA, and will forward same to the DEPARTMENT for such reviews and approvals as may be required.
- I. No PROJECT work for which reimbursement will be requested by the REQUESTING PARTY is to be subcontracted or performed until the DEPARTMENT gives written notification that such work may commence.

- J. The REQUESTING PARTY shall be responsible for the payment of all costs and expenses incurred in the performance of the work it agrees to undertake and perform.
- K. The REQUESTING PARTY shall pay directly to the party performing the work all billings for the services performed on the PROJECT which are authorized by or through the REQUESTING PARTY.
- L. The REQUESTING PARTY shall submit to the DEPARTMENT all paid billings for which reimbursement is desired in accordance with DEPARTMENT procedures.
- M. All work by a consulting firm will be performed in compliance with the applicable provisions of 1980 PA 299, Subsection 2001, MCL 339.2001; MSA 18.425(2001), as well as in accordance with the provisions of all previously cited Directives of the FHWA.
- N. The project engineer shall be subject to such administrative guidance as may be deemed necessary to ensure compliance with program requirement and, in those instances where a consultant firm is retained to provide engineering and inspection services, the personnel performing those services shall be subject to the same conditions.
- O. The DEPARTMENT, in administering the PROJECT in accordance with applicable Federal and State requirements and regulations, neither assumes nor becomes liable for any obligations undertaken or arising between the REQUESTING PARTY and any other party with respect to the PROJECT.
- P. In the event it is determined by the DEPARTMENT that there will be either insufficient Federal funds or insufficient time to properly administer such funds for the entire PROJECT or portions thereof, the DEPARTMENT, prior to advertising or issuing authorization for work performance, may cancel the PROJECT, or any portion thereof, and upon written notice to the parties this contract shall be void and of no effect with respect to that cancelled portion of the PROJECT. Any PROJECT deposits previously made by the parties on the cancelled portions of the PROJECT will be promptly refunded.
- Q. Those projects funded with Federal monies will be subject to inspection at all times by the DEPARTMENT and the FHWA.

### SECTION III

#### ACCOUNTING AND BILLING

##### A. Procedures for billing for work undertaken by the REQUESTING PARTY:

1. The REQUESTING PARTY shall establish and maintain accurate records, in accordance with generally accepted accounting principles, of all expenses incurred for which payment is sought or made under this contract, said records to be hereinafter referred to as the "RECORDS". Separate accounts shall be established and maintained for all costs incurred under this contract.

The REQUESTING PARTY shall maintain the RECORDS for at least three (3) years from the date of final payment of Federal Aid made by the DEPARTMENT under this contract. In the event of a dispute with regard to the allowable expenses or any other issue under this contract, the REQUESTING PARTY shall thereafter continue to maintain the RECORDS at least until that dispute has been finally decided and the time for all available challenges or appeals of that decision has expired.

The DEPARTMENT, or its representative, may inspect, copy, or audit the RECORDS at any reasonable time after giving reasonable notice.

If any part of the work is subcontracted, the REQUESTING PARTY shall assure compliance with the above for all subcontracted work.

In the event that an audit performed by or on behalf of the DEPARTMENT indicates an adjustment to the costs reported under this contract, or questions the allowability of an item of expense, the DEPARTMENT shall promptly submit to the REQUESTING PARTY, a Notice of Audit Results and a copy of the audit report which may supplement or modify any tentative findings verbally communicated to the REQUESTING PARTY at the completion of an audit.

Within sixty (60) days after the date of the Notice of Audit Results, the REQUESTING PARTY shall: (a) respond in writing to the responsible Bureau or the DEPARTMENT indicating whether or not it concurs with the audit report, (b) clearly explain the nature and basis for any disagreement as to a disallowed item of expense and, (c) submit to the DEPARTMENT a written explanation as to any questioned or no opinion expressed item of expense, hereinafter referred to as the "RESPONSE". The RESPONSE shall be clearly stated and provide any supporting documentation necessary to resolve any disagreement or questioned or no opinion expressed item of expense. Where the documentation is voluminous, the REQUESTING PARTY may supply appropriate excerpts and make alternate

arrangements to conveniently and reasonably make that documentation available for review by the DEPARTMENT. The RESPONSE shall refer to and apply the language of the contract. The REQUESTING PARTY agrees that failure to submit a RESPONSE within the sixty (60) day period constitutes agreement with any disallowance of an item of expense and authorizes the DEPARTMENT to finally disallow any items of questioned or no opinion expressed cost.

The DEPARTMENT shall make its decision with regard to any Notice of Audit Results and RESPONSE within one hundred twenty (120) days after the date of the Notice of Audit Results. If the DEPARTMENT determines that an overpayment has been made to the REQUESTING PARTY, the REQUESTING PARTY shall repay that amount to the DEPARTMENT or reach agreement with the DEPARTMENT on a repayment schedule within thirty (30) days after the date of an invoice from the DEPARTMENT. If the REQUESTING PARTY fails to repay the overpayment or reach agreement with the DEPARTMENT on a repayment schedule within the thirty (30) day period, the REQUESTING PARTY agrees that the DEPARTMENT shall deduct all or a portion of the overpayment from any funds then or thereafter payable by the DEPARTMENT to the REQUESTING PARTY under this contract or any other agreement, or payable to the REQUESTING PARTY under the terms of 1951 PA 51, as applicable. Interest will be assessed on any partial payments or repayment schedules based on the unpaid balance at the end of each month until the balance is paid in full. The assessment of interest will begin thirty (30) days from the date of the invoice. The rate of interest will be based on the Michigan Department of Treasury common cash funds interest earnings. The rate of interest will be reviewed annually by the DEPARTMENT and adjusted as necessary based on the Michigan Department of Treasury common cash funds interest earnings. The REQUESTING PARTY expressly consents to this withholding or offsetting of funds under those circumstances, reserving the right to file a lawsuit in the Court of Claims to contest the DEPARTMENT'S decision only as to any item of expense the disallowance of which was disputed by the REQUESTING PARTY in a timely filed RESPONSE.

The REQUESTING PARTY shall comply with the Single Audit Act of 1984, P.L. 98-502.

The REQUESTING PARTY shall adhere to the following requirements associated with audits of accounts and records:

- a. Agencies expending a total of \$500,000 or more in federal funds, from one or more funding sources in its fiscal year, shall comply with the requirements of the federal Office of Management and Budget (OMB) Circular A-133, as revised or amended.

The agency shall submit two copies of:

- The Reporting Package
- The Data Collection Form
- The management letter to the agency, if one issued by the audit firm

The OMB Circular A-133 audit must be submitted to the address below in accordance with the time frame established in the circular, as revised or amended.

b. Agencies expending less than \$500,000 in federal funds must submit a letter to the Department advising that a circular audit was not required. The letter shall indicate the applicable fiscal year, the amount of federal funds spent, the name(s) of the Department federal programs, and the CFDA grant number(s). This information must also be submitted to the address below.

c. Address: Michigan Department of Transportation  
Bureau of Highways Technical Services  
425 W. Ottawa, P.O. Box 30050  
Lansing, MI 48909

d. Agencies must also comply with applicable State laws and regulations relative to audit requirements.

e. Agencies shall not charge audit costs to Department's federal programs which are not in accordance with the OMB Circular A-133 requirements.

f. All agencies are subject to the federally required monitoring activities, which may include limited scope reviews and other on-site monitoring.

2. Agreed Unit Prices Work - All billings for work undertaken by the REQUESTING PARTY on an agreed unit price basis will be submitted in accordance with the Michigan Department of Transportation Standard Specifications for Construction and pertinent FAPG Directives and Guidelines of the FHWA.

3. Force Account Work and Subcontracted Work - All billings submitted to the DEPARTMENT for Federal reimbursement for items of work performed on a force account basis or by any subcontract with a consulting firm, railway company, governmental agency or other party, under the terms of this contract, shall be prepared in accordance with the provisions of the pertinent FHPM Directives and the procedures of the DEPARTMENT. Progress billings may be submitted monthly during the time work is being performed provided, however, that no bill of a lesser amount than \$1,000.00 shall be submitted unless it is a final

or end of fiscal year billing. All billings shall be labeled either "Progress Bill Number \_\_\_\_\_", or "Final Billing".

4. Final billing under this contract shall be submitted in a timely manner but not later than six months after completion of the work. Billings for work submitted later than six months after completion of the work will not be paid.
5. Upon receipt of billings for reimbursement for work undertaken by the REQUESTING PARTY on projects funded with Federal monies, the DEPARTMENT will act as billing agent for the REQUESTING PARTY, consolidating said billings with those for its own force account work and presenting these consolidated billings to the FHWA for payment. Upon receipt of reimbursement from the FHWA, the DEPARTMENT will promptly forward to the REQUESTING PARTY its share of said reimbursement.
6. Upon receipt of billings for reimbursement for work undertaken by the REQUESTING PARTY on projects funded with non-Federal monies, the DEPARTMENT will promptly forward to the REQUESTING PARTY reimbursement of eligible costs.

B. Payment of Contracted and DEPARTMENT Costs:

1. As work on the PROJECT commences, the initial payments for contracted work and/or costs incurred by the DEPARTMENT will be made from the working capital deposit. Receipt of progress payments of Federal funds, and where applicable, State Critical Bridge funds, will be used to replenish the working capital deposit. The REQUESTING PARTY shall make prompt payments of its share of the contracted and/or DEPARTMENT incurred portion of the PROJECT COST upon receipt of progress billings from the DEPARTMENT. Progress billings will be based upon the REQUESTING PARTY'S share of the actual costs incurred as work on the PROJECT progresses and will be submitted, as required, until it is determined by the DEPARTMENT that there is sufficient available working capital to meet the remaining anticipated PROJECT COSTS. All progress payments will be made within thirty (30) days of receipt of billings. No monthly billing of a lesser amount than \$1,000.00 will be made unless it is a final or end of fiscal year billing. Should the DEPARTMENT determine that the available working capital exceeds the remaining anticipated PROJECT COSTS, the DEPARTMENT may reimburse the REQUESTING PARTY such excess. Upon completion of the PROJECT, payment of all PROJECT COSTS, receipt of all applicable monies from the FHWA, and completion of necessary audits, the REQUESTING PARTY will be reimbursed the balance of its deposit.

2. In the event that the bid, plus contingencies, for the contracted, and/or the DEPARTMENT incurred portion of the PROJECT work exceeds the estimated cost therefor as established by this contract, the REQUESTING PARTY may be advised and billed for the additional amount of its share.

C. General Conditions:

1. The DEPARTMENT, in accordance with its procedures in existence and covering the time period involved, shall make payment for interest earned on the balance of working capital deposits for all projects on account with the DEPARTMENT. The REQUESTING PARTY in accordance with DEPARTMENT procedures in existence and covering the time period involved, shall make payment for interest owed on any deficit balance of working capital deposits for all projects on account with the DEPARTMENT. This payment or billing is processed on an annual basis corresponding to the State of Michigan fiscal year. Upon receipt of billing for interest incurred, the REQUESTING PARTY promises and shall promptly pay the DEPARTMENT said amount.
2. Pursuant to the authority granted by law, the REQUESTING PARTY hereby irrevocably pledges a sufficient amount of funds received by it from the Michigan Transportation Fund to meet its obligations as specified in PART I and PART II. If the REQUESTING PARTY shall fail to make any of its required payments when due, as specified herein, the DEPARTMENT shall immediately notify the REQUESTING PARTY and the State Treasurer of the State of Michigan or such other state officer or agency having charge and control over disbursement of the Michigan Transportation Fund, pursuant to law, of the fact of such default and the amount thereof, and, if such default is not cured by payment within ten (10) days, said State Treasurer or other state officer or agency is then authorized and directed to withhold from the first of such monies thereafter allocated by law to the REQUESTING PARTY from the Michigan Transportation Fund sufficient monies to remove the default, and to credit the REQUESTING PARTY with payment thereof, and to notify the REQUESTING PARTY in writing of such fact.
3. Upon completion of all work under this contract and final audit by the DEPARTMENT or the FHWA, the REQUESTING PARTY promises to promptly repay the DEPARTMENT for any disallowed items of costs previously disbursed by the DEPARTMENT. The REQUESTING PARTY pledges its future receipts from the Michigan Transportation Fund for repayment of all disallowed items and, upon failure to make repayment for any disallowed items within ninety (90) days of demand made by the DEPARTMENT, the DEPARTMENT is hereby authorized to withhold an equal amount from the REQUESTING PARTY'S share of any future distribution of Michigan Transportation Funds in settlement of said claim.

4. The DEPARTMENT shall maintain and keep accurate records and accounts relative to the cost of the PROJECT and upon completion of the PROJECT, payment of all items of PROJECT COST, receipt of all Federal Aid, if any, and completion of final audit by the DEPARTMENT and if applicable, by the FHWA, shall make final accounting to the REQUESTING PARTY. The final PROJECT accounting will not include interest earned or charged on working capital deposited for the PROJECT which will be accounted for separately at the close of the State of Michigan fiscal year and as set forth in Section C(1).
5. The costs of engineering and other services performed on those projects involving specific program funds and one hundred percent (100%) local funds will be apportioned to the respective portions of that project in the same ratio as the actual direct construction costs unless otherwise specified in PART I.

## SECTION IV

### MAINTENANCE AND OPERATION

A. Upon completion of construction of each part of the PROJECT, at no cost to the DEPARTMENT or the PROJECT, each of the parties hereto, within their respective jurisdictions, will make the following provisions for the maintenance and operation of the completed PROJECT:

1. All Projects:

Properly maintain and operate each part of the project, making ample provisions each year for the performance of such maintenance work as may be required, except as qualified in paragraph 2b of this section.

2. Projects Financed in Part with Federal Monies:

a. Sign and mark each part of the PROJECT, in accordance with the current Michigan Manual of Uniform Traffic control Devices, and will not install, or permit to be installed, any signs, signals or markings not in conformance with the standards approved by the FHWA, pursuant to 23 USC 109(d).

b. Remove, prior to completion of the PROJECT, all encroachments from the roadway right-of-way within the limits of each part of the PROJECT.

With respect to new or existing utility installations within the right-of-way of Federal Aid projects and pursuant to FAPG (23 CFR 645B): Occupancy of non-limited access right-of-way may be allowed based on consideration for traffic safety and necessary preservation of roadside space and aesthetic quality. Longitudinal occupancy of non-limited access right-of-way by private lines will require a finding of significant economic hardship, the unavailability of practicable alternatives or other extenuating circumstances.

c. Cause to be enacted, maintained and enforced, ordinances and regulations for proper traffic operations in accordance with the plans of the PROJECT.

d. Make no changes to ordinances or regulations enacted, or traffic controls installed in conjunction with the PROJECT work without prior review by the DEPARTMENT and approval of the FHWA, if required.

- B. On projects for the removal of roadside obstacles, the parties, upon completion of construction of each part of the PROJECT, at no cost to the PROJECT or the DEPARTMENT, will, within their respective jurisdictions, take such action as is necessary to assure that the roadway right-of-way, cleared as the PROJECT, will be maintained free of such obstacles.
- C. On projects for the construction of bikeways, the parties will enact no ordinances or regulations prohibiting the use of bicycles on the facility hereinbefore described as the PROJECT, and will amend any existing restrictive ordinances in this regard so as to allow use of this facility by bicycles. No motorized vehicles shall be permitted on such bikeways or walkways constructed as the PROJECT except those for maintenance purposes.
- D. Failure of the parties hereto to fulfill their respective responsibilities as outlined herein may disqualify that party from future Federal-aid participation in projects on roads or streets for which it has maintenance responsibility. Federal Aid may be withheld until such time as deficiencies in regulations have been corrected, and the improvements constructed as the PROJECT are brought to a satisfactory condition of maintenance.

## SECTION V

### SPECIAL PROGRAM AND PROJECT CONDITIONS

- A. Those projects for which the REQUESTING PARTY has been reimbursed with Federal monies for the acquisition of right-of-way must be under construction by the close of the twentieth (20th) fiscal year following the fiscal year in which the FHWA and the DEPARTMENT projects agreement covering that work is executed, or the REQUESTING PARTY may be required to repay to the DEPARTMENT, for forwarding to the FHWA, all monies distributed as the FHWA'S contribution to that right-of-way.
- B. Those projects for which the REQUESTING PARTY has been reimbursed with Federal monies for the performance of preliminary engineering must be under construction by the close of the tenth (10th) fiscal year following the fiscal year in which the FHWA and the DEPARTMENT projects agreement covering that work is executed, or the REQUESTING PARTY may be required to repay to the DEPARTMENT, for forwarding to the FHWA, all monies distributed as the FHWA'S contribution to that preliminary engineering.
- C. On those projects funded with Federal monies, the REQUESTING PARTY, at no cost to the PROJECT or the DEPARTMENT, will provide such accident information as is available and such other information as may be required under the program in order to make the proper assessment of the safety benefits derived from the work performed as the PROJECT. The REQUESTING PARTY will cooperate with the DEPARTMENT in the development of reports and such analysis as may be required and will, when requested by the DEPARTMENT, forward to the DEPARTMENT, in such form as is necessary, the required information.
- D. In connection with the performance of PROJECT work under this contract the parties hereto (hereinafter in Appendix "A" referred to as the "contractor") agree to comply with the State of Michigan provisions for "Prohibition of Discrimination in State Contracts", as set forth in Appendix A, attached hereto and made a part hereof. The parties further covenant that they will comply with the Civil Rights Acts of 1964, being P.L. 88-352, 78 Stat. 241, as amended, being Title 42 U.S.C. Sections 1971, 1975a-1975d, and 2000a-2000h-6 and the Regulations of the United States Department of Transportation (49 C.F.R. Part 21) issued pursuant to said Act, including Appendix "B", attached hereto and made a part hereof, and will require similar covenants on the part of any contractor or subcontractor employed in the performance of this contract.
- E. The parties will carry out the applicable requirements of the DEPARTMENT'S Disadvantaged Business Enterprise (DBE) program and 49 CFR, Part 26, including, but not limited to, those requirements set forth in Appendix C.

APPENDIX A  
PROHIBITION OF DISCRIMINATION IN STATE CONTRACTS

In connection with the performance of work under this contract; the contractor agrees as follows:

1. In accordance with Act No. 453, Public Acts of 1976, the contractor hereby agrees not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or as a matter directly or indirectly related to employment, because of race, color, religion, national origin, age, sex, height, weight, or marital status. Further, in accordance with Act No. 220, Public Acts of 1976 as amended by Act No. 478, Public Acts of 1980 the contractor hereby agrees not to discriminate against an employee or applicant for employment with respect to hire, tenure, terms, conditions, or privileges of employment, or a matter directly or indirectly related to employment, because of a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. A breach of the above covenants shall be regarded as a material breach of this contract.
2. The contractor hereby agrees that any and all subcontracts to this contract, whereby a portion of the work set forth in this contract is to be performed, shall contain a covenant the same as hereinabove set forth in Section 1 of this Appendix.
3. The contractor will take affirmative action to insure that applicants for employment and employees are treated without regard to their race, color, religion, national origin, age, sex, height, weight, marital status or a disability that is unrelated to the individual's ability to perform the duties of a particular job or position. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.
4. The contractor will, in all solicitations or advertisements for employees placed by or on behalf of the contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, national origin, age, sex, height, weight, marital status or disability that is unrelated to the individual's ability to perform the duties of a particular job or position.
5. The contractor or his collective bargaining representative will send to each labor union or representative of workers with which he has a collective bargaining agreement or other contract or understanding, a notice advising the said labor union or workers' representative of the contractor's commitments under this appendix.
6. The contractor will comply with all relevant published rules, regulations, directives, and orders of the Michigan Civil Rights Commission which may be in effect prior to the taking of bids for any individual state project.
7. The contractor will furnish and file compliance reports within such time and upon such forms as provided by the Michigan Civil Rights Commission, said forms may also elicit information as to the practices, policies, program, and employment statistics of each subcontractor as well as the contractor himself, and said contractor will permit access to his books, records, and accounts by the Michigan Civil Rights Commission and/or its agent, for purposes of investigation to ascertain compliance with this contract and relevant with rules, regulations, and orders of the Michigan Civil Rights Commission.
8. In the event that the Civil Rights Commission finds, after a hearing held pursuant to its rules, that a contractor has not complied with the contractual obligations under this agreement, the Civil Rights Commission may, as part of its order based upon such findings, certify said findings to the Administrative Board of the State of Michigan, which Administrative Board may order the cancellation of the contract found to have been violated and/or declare the contractor ineligible for future contracts with the state and its political and civil subdivisions, departments, and officers, and including the governing boards of institutions of higher education, until the contractor complies with said order of the Civil Rights Commission. Notice of said declaration of future ineligibility may be given to any or all of the persons with whom the contractor is declared ineligible to contract as a contracting party in future contracts. In any case before the Civil Rights Commission in which cancellation of an existing contract is a possibility, the contracting agency shall be notified of such possible remedy and shall be given the option by the Civil Rights Commission to participate in such proceedings.
9. The contractor will include, or incorporate by reference, the provisions of the foregoing paragraphs (1) through (8) in every subcontract or purchase order unless exempted by the rules, regulations or orders of the Michigan Civil Rights Commission, and will provide in every subcontract or purchase order that said provisions will be binding upon each subcontractor or seller.

March, 1998

APPENDIX B

During the performance of this contract, the contractor, for itself, its assignees, and successors in interest (hereinafter referred to as the "contractor") agrees as follows:

1. Compliance with Regulations: The contractor shall comply with the Regulations relative to nondiscrimination in Federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 27, as they may be amended from time to time (hereinafter referred to as the Regulations), which are herein incorporated by reference and made a part of this contract.
2. Nondiscrimination: The contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or natural origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The contractor shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.
3. Solicitations for Subcontracts, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by the contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the contractor of the contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
4. Information and Reports: The contractor shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the Michigan Department of Transportation or the Federal Highway Administration to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of a contractor is in the exclusive possession of another who fails or refuses to furnish this information, the contractor shall so certify to the Michigan Department of Transportation, or the Federal Highway Administration as appropriate, and shall set forth what efforts it has made to obtain the information.
5. Sanctions for Noncompliance: In the event of the contractor's noncompliance with the nondiscrimination provisions of this contract, the Michigan Department of Transportation shall impose such contract sanctions as it or the Federal Highway Administration may determine to be appropriate, including, but not limited to:
  - (a) Withholding of payments to the contractor under the contract until the contractor complies, and/or
  - (b) Cancellation, termination, or suspension of the contract, in whole or in part.
6. Incorporation of Provisions: The contractor shall include the provisions of paragraphs 1 through 6 of every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto. The contractor shall take such action with respect to any subcontract or procurement as the Michigan Department of Transportation or the Federal Highway Administration may direct as a means of enforcing such provisions including sanctions for non-compliance; provided, however, that in the event a contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the contractor may request the Michigan Department of Transportation to enter into such litigation to protect the interests of the State, and, in addition, the contractor may request the United States to enter into such litigation to protect the interests of the United States.

## APPENDIX C

### TO BE INCLUDED IN ALL FINANCIAL ASSISTANCE AGREEMENTS WITH LOCAL AGENCIES

#### Assurance that Recipients and Contractors Must Make (Excerpts from US DOT Regulation 49 CFR 26.13)

- A. Each financial assistance agreement signed with a DOT operating administration (or a primary recipient) must include the following assurance:

The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any US DOT-assisted contract or in the administration of its DBE program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of US DOT-assisted contracts. The recipient's DBE program, as required by 49 CFR Part 26 and as approved by US DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

- B. Each contract MDOT signs with a contractor (and each subcontract the prime contractor signs with a subcontractor) must include the following assurance:

The contractor, sub recipient or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of US DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as the recipient deems appropriate.

# CITY OF PORTAGE

# COMMUNICATION

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**TO:** Honorable Mayor and City Council

**DATE:** April 21, 2011

**FROM:** Maurice S. Evans, City Manager



**SUBJECT:** West Milham Avenue/12<sup>th</sup> Street/Texas Drive Intersection Improvements

**ACTION RECOMMENDED:** That City Council approve an inter-local agreement with Texas Township for the design, construction and maintenance of landscaping improvements at the 12<sup>th</sup> Street/Texas Drive/West Milham Avenue intersection and authorize the City Manager to execute all documents related to this matter.

The Fiscal Year 2010-11 Capital Improvement Program contains a project for cost participation towards improvements to the West Milham Avenue/12<sup>th</sup> Street/Texas Drive intersection. The West Milham Avenue/12<sup>th</sup> Street/Texas Drive intersection is a shared jurisdiction intersection with the Kalamazoo County Road Commission (KCRC) having jurisdiction of 12<sup>th</sup> Street and Texas Drive and the City of Portage having jurisdiction of West Milham Avenue.

As the Council is aware, studies conducted by KCRC indicated that the current four-way stop condition at the intersection was insufficient to adequately accommodate the large volume of peak hour morning and afternoon traffic. KCRC studied the current and future traffic needs of the intersection and decided that a round-about design best meets the needs of this intersection. KCRC has received confirmation that \$500,000 of federal highway funds are available for the project. On December 1, 2009, City Council approved an agreement with KCRC to pay 25% of the total project cost not covered by federal funds. The project design is complete and the project is scheduled for the May 6, 2011 Michigan Department of Transportation (MDOT) bid letting.

KCRC has submitted correspondence stating that there are no project funds available for streetscape landscaping. City staff has met with Texas Township officials to propose a tasteful landscaped entry statement for both Texas Township and the City of Portage. In general, the landscaping will consist of low growing grasses and shrubs with in-ground irrigation for the center of the round-about circle. The maintenance costs are estimated at approximately \$500 per year.

The inter-local agreement sets forth responsibilities for design, construction, irrigation and annual maintenance costs for the landscaping. All expense will be evenly divided between Texas Township and the city. It is recommended that City Council approve an inter-local agreement with Texas Township for the design, construction, and maintenance of landscaping improvements at the 12<sup>th</sup> Street/Texas Drive/West Milham Avenue intersection and authorize the City Manager to execute all documents related to this matter. The agreement has been reviewed and approved by the City Attorney.

Attachments: KCRC Letter  
Inter-local Agreement



Kalamazoo  
County  
Road  
Commission

3801 East Kilgore Road • Kalamazoo, Michigan 49001  
Telephone: (269) 381-3171 • Fax: (269) 381-1760  
<http://www.kalamazoocountyroads.com>

November 11, 2010

Mr. Chris Barnes  
City Engineer  
Transportation and Utilities  
7719 South Westnedge Avenue  
Portage, MI 49002

Dear Mr. Barnes:

The Kalamazoo County Road Commission's design for the roundabout project at Texas Drive/ Milham Avenue and 12<sup>th</sup> Street is well underway. The project was designated for funding through the Congestion Mitigation and Air Quality program. Recently, our design consultant met with the adjacent property owners to review the roundabout concept, and they expressed an interest in a landscaping plan. Project funds are only available for turf grass restoration.

If you prefer to develop a landscaping plan, then please respond to indicate so. If there will be a landscaping plan then we will need to coordinate the contractor's schedules. As you know the construction for the project is tentatively scheduled to start in mid June 2011, and be complete in late August 2011. Note that I am also sending a letter to Texas Township as the west side of the roundabout falls within the township.

Mr. George Wedel, of Wedel's Nursery requested that he be included in the development of the landscaping plan.

Please call me at 381-3170 ext. 221 if you have any questions. Thank you.

Sincerely,

A handwritten signature in black ink that reads "Tom J. Hohm".

Tom J. Hohm  
Chief Engineer

**INTERGOVERNMENTAL JOINT LANDSCAPING INSTALLATION  
AND MAINTENANCE AGREEMENT**

This Intergovernmental Joint Landscaping Installation and Maintenance Agreement ("Agreement") dated the \_\_\_\_\_ day of \_\_\_\_\_, 2011, between the undersigned municipalities is as follows:

WHEREAS, the intersection of 12<sup>th</sup> Street at West Milham Avenue/Texas Drive is planned for reconstruction in the summer of 2011;

WHEREAS, the City of Portage ("City") and Charter Township of Texas ("Township"), collectively referred to as "municipalities", each have jurisdiction of the roads scheduled for reconstruction;

WHEREAS, the municipalities are desirous of making landscaping improvements ("the Project") to the intersection which add value to the community and result in improved traffic flow and to determine responsibility for continued maintenance and repair of the Project;

WHEREAS, the location of said Project is attached hereto as Exhibit A;

WHEREAS, this Agreement is authorized by the Urban Cooperation Act of 1967, 1967 P.A. 7 being MCLA 124.501, et. seq., which provides that municipalities may exercise jointly with other municipalities or any other public agency of the state, any power, privilege or authority that the agencies share in common and that each may exercise separately;

WHEREAS, this Agreement is intended to set forth the responsibilities of each municipality with regard to the landscaping installation and maintenance of the intersection improvements.

NOW, THEREFORE, in consideration of the mutual undertakings of the parties, it is hereby agreed as follows:

1. Design Contract. The Township shall contract with Wedel's, Inc., of 5020 Texas Drive, Kalamazoo, Michigan 49009, to develop the landscape design, specifications, inspection services and cost estimate for the Project. The Township shall administer this aspect of the Project. The City shall reimburse the Township for fifty (50%) percent of the total cost of the Wedel's, Inc., contract within thirty (30) days of receiving an invoice from the Township. The Township shall present all landscape design, plans, specifications and documents prepared by Wedels, Inc., to the City and the parties shall confer and make reasonable efforts to resolve any differences and modifications to the plans.
2. Landscaping Installation Contract. The City shall prepare bid documents, advertise and award a landscape installation contract based upon the plans and specifications prepared by Wedel's Inc. The contract award process shall comply with City ordinances. The City shall administer and supervise the contract. The Township shall reimburse the City for fifty (50%) percent of the total costs of the contract within thirty (30) days of receiving an invoice from the City.

3. **Maintenance and Repair.** The City shall perform all landscape annual maintenance operations including, but not limited to, mowing, irrigation system repair and seasonal maintenance along with seasonal watering charges or contract for those services or enter into a contract for these services. The City shall invoice the Township for fifty (50%) of the total cost of all such maintenance and repair services. Upon receipt of the same, the Township shall pay within thirty (30) days, or within that same time period indicate in writing any disagreement with the invoice and, thereafter, the parties shall confer and make reasonable efforts to resolve such differences in a timely fashion.
4. **Jurisdiction.** All landscaping improvements installed in the intersection are and shall remain under the jurisdiction of each municipality.
5. **Dispute Resolution.** In the event of disagreement concerning the terms and provisions of this Agreement, the parties shall, to the extent they are unable to resolve the disagreements between them, submit the dispute for arbitration in accordance with the arbitration rules of the American Arbitration Association in effect at the time of submission. The award rendered by the arbitrator shall be final, and judgment may be entered in accordance with applicable in any court having jurisdiction thereof.
6. **Mutual Indemnification.** The parties agree to save, defend, indemnify and hold harmless the other, its board, officers, employees (the indemnified parties) from and against all claims, damages, demands, expenses, liabilities and losses, including, but limited to fines, costs, fees, and penalties imposed by any court or administrative agency, injury or damage to persons or property, relating to the design, construction, placement, maintenance and repair of the intersection improvements. Provided, however, if such injury or damage is caused in whole or in part by the acts or omissions of the indemnified parties, then the indemnification obligation shall be reduced in proportion to the indemnified parties percentage of responsibility for such injury or damage. The indemnification obligations provided above shall include the payment of all reasonable attorney fees and other expenses of defense not covered through insurance relating to any of the above-referenced claims, damages and losses. In providing the indemnification set forth above, the parties are not waiving any defenses otherwise available to them by law. No party shall be responsible for the indemnification obligations set forth above with respect to any indemnified party to the extent that the indemnified party has failed or refused to defend any claim or lawsuit brought against it, having had notice thereof, or to the extent that the indemnified party has waived a defense that was otherwise available by law.
7. **Liability Coverage.**
  - A. During the term of this Agreement, any entity, firm or individual providing services for the Project or performing work in the intersection (contractor) shall maintain in full force and effect, at its sole cost and expense, the following types and limits of insurance. All insurance coverage shall be with insurance carriers acceptable to the City and Township. If any insurance is written with a deductible or self-insured retention, the contractor shall be

solely responsible for said deductible or self-insured retention. The purchase of insurance and the furnishing of a certificate of insurance shall not be a satisfaction of the contractor's duty to indemnify the parties. The insurance required by this section is as follows:

- i. If applicable, professional liability coverage (errors and omissions) covering actual or alleged error, statement, act, omission, neglect or breach of official duty, including misfeasance and malfeasance and nonfeasance in the amount of at least Two Million (\$2,000,000.00) Dollars per occurrence.
- ii. Commercial General Liability Insurance on an "occurrence" basis with limits of liability not less than One Thousand (\$1,000.00) Dollars per occurrence for bodily injury and personal injury, and One Thousand (\$1,000.00) Dollars per occurrence for property damage. Coverage shall include the following extensions:
  - a. Contractual Liability
  - b. Products and Completed Operations
  - c. Independent Contractors Coverage
  - d. Broad Form General Liability Extensions or Equivalent
  - e. Other coverages deemed necessary and appropriate.
- iii. Motor Vehicle Liability Coverage, including Michigan No-Fault Coverage for all vehicles used in the performance of the Contract. Limits of Liability shall not be less than One Thousand (\$1,000.00) Dollars per occurrence combined single limit Bodily Injury and Property Damage.
- iv. Workers Compensation Insurance, Commercial General Liability Insurance and Motor Vehicle Liability Insurance as described above shall include an endorsement stating the following:

"It is hereby understood and agreed that this insurance policy may not be canceled by the insurer nor the intention not to renew be stated by the insurer until thirty (30) days after receipt by the City and Township, by certified or registered mail, of a written notice of such intention to cancel or not renew."

Said notice shall be sent to:  
City of Portage  
Attn: Christopher Barnes  
7900 S. Westnedge Avenue  
Portage, Michigan 49002

Charter Township of Texas  
Attn: Dave Healy  
7110 West Q Avenue  
Kalamazoo, Michigan 49009

- B. Certificates of insurance for each insurance policy required to be obtained in compliance with this paragraph shall be filed with the City and Township within ten (10) working days of notification of award and prior to execution of any work.
  - C. Such person, firm or entity providing services for the Project shall also agree to indemnify and save harmless the City and Township from and against the payment of any deductibles, self-insured retention and from the payment of any premium on any insurance policy required to be furnished by the Agreement.
  - D. All policies, except for auto coverage and workers compensation policies shall name the City and Township, their respective officers, boards, commissions, employees, agents and contractors as their respective interest may appear as additional insureds.
  - E. It shall be the responsibility of the contractor to provide similar insurance for each subcontractor or to provide evidence that each subcontractor carries insurance in like amounts prior to the time such subcontractor proceeds to perform under the contract.
  - F. Insurers shall have no right of recovery or subrogation against the City and Township (including their agents and employees) it being the intent of the parties that the insurance policies so affected shall protect the parties and be primary coverage for any and all losses covered by the insurance required in this section.
  - G. The coverage amounts set forth in this section may be met by a combination of underlying and umbrella policies so long as in combination the limits equal or exceed those stated.
  - H. All insurance shall be under valid and enforceable policies insured by insurers licensed to do business by the State of Michigan which are satisfactory to the municipalities.
8. Reliance of City. In consideration of the obligations of the City described in this Agreement, and the other mutual covenants herein, City, its respective officers, boards, commissions, employees and agents shall not be liable to Township for any personal injury, property damage or loss of life or property caused by or arising out of, or in connection with, the services provides by City under this Agreement including, but not limited to, preparation of bid documents, advertising and award of any contract, the installation, supervision, construction, maintenance and repair of the Project described in this Agreement. Excluding, however, personal injury, property damage or loss of life or property arising out of the gross negligence or intentional misconduct of the City. With respect to the claims released above, Township covenants not to sue or to otherwise prosecute any claim against City whether by way of lawsuit, an action at law or equity, administrative proceeding, arbitration, mediation or otherwise.

9. Binding Agreement. This Agreement shall be binding on the parties hereto and in full force and effect upon the signing thereof by the duly authorized officials of the City and the Township. This Agreement is hereby declared to be binding upon the successors and assigns of the parties hereto.
10. Authority to Contract. Each municipality represents that it has the power and authority under state law, charter or ordinance to enter into this Agreement and assume the obligations and the rights so conferred herein.
11. No Transfer of Property. Nothing contained herein shall be construed as a grant, release or transfer of any property, easement or right-of-way under the control and jurisdiction of either municipality.
12. Term and Termination. This Agreement shall be effective for an initial term of fifty (50) years commencing from the date set forth in the first paragraph of this Agreement. The Agreement may be renewed by consent of both parties. Either party to this Agreement may terminate it upon written notice of intent to terminate mailed by certified mail to the other party. Such notice shall be effective on the date set forth in the notice, but in no event shall occur earlier than one-hundred and eight (180) days after receipt by the other party of the notice to terminate. Notwithstanding any election to terminate this Agreement, the parties remain financially responsible to pay for their share of all contracted intersection improvements. If a termination becomes effective after completion of the Project, the non-terminating party may, at its option, continue to be responsible for all maintenance and repair of the intersection improvements by giving the other party thirty (30) days notice of its decision. If the non-terminating party chooses not to be responsible, the intersection improvements shall be removed and the parties shall be equally responsible for all costs associated with removing the intersection improvements, as well as all work necessary to return the street to a safe condition.
13. Notices. All notices, certificates or other communication hereunder shall be sufficiently given and shall be deemed even when dispatched by regular first class, registered or certified mail, postage prepaid, addressed as follows:

If to the City:  
City of Portage  
Attn: Christopher Barnes  
7900 South Westnedge Avenue  
Portage, Michigan 49002

If to the Township:  
Charter Township of Texas  
Attn: Dave Healy  
7110 West Q Avenue  
Kalamazoo, Michigan 49009

The parties hereto may, by notice given hereunder, designate any further or different address to which subsequent notices, certificates or other communications may be sent.

14. Governing Law. This Agreement shall be construed in all respects in accordance with the laws of the State.
15. Severability. In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.
16. Binding Effect. The covenants herein contained shall bind, and the benefits and advantages shall inure to, the respective successors and assigns of the parties hereto.
17. Counterparts. This Agreement may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.
18. Captions. The captions or headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.
19. Entire Agreement. This Agreement constitutes the entire agreement between the parties and there are no representations, warranties, promises, guarantees or agreements, oral or written, express or implied, between the parties hereto with respect to this Agreement.
20. Amendments. This Agreement may not be amended, changed, modified, altered, assigned or terminated without the written consent of the City and the Township.
21. Exhibits. Any exhibits attached hereto are hereby incorporated as though fully stated herein.
22. Assignment. This Agreement, and all rights and obligations hereunder, shall not be assignable unless both parties agree in writing to such assignment.
23. Waiver. The waiver by any part hereto of a breach of violation of any provision of this Agreement shall not be a waiver of any subsequent breach of the same or any other provision of this Agreement.
24. Parties. This Agreement shall be enforceable only by the parties hereto and their successors in interest by virtue of an assignment which is not prohibited under the terms of this Agreement and no other person shall have the right to enforce any provisions contained herein.

IN WITNESS WHEREOF, the City and the Township have caused these presents to be signed by their respective, duly authorized officers all as of the day and year first written above.

APPROVED AS TO FORM  
DATE 4/21/11  
RS  
CITY ATTORNEY

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 \_\_\_\_\_, 20\_\_\_\_, 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

CHARTER TOWNSHIP OF TEXAS

By: \_\_\_\_\_  
Dave Healy  
Its: Township Supervisor

STATE OF MICHIGAN )  
 ) ss  
COUNTY OF KALAMAZOO )

On this \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, before me personally came the above named Dave Healy to me personally known, who being duly sworn, did for himself say that he is the Township Supervisor of the charter township named in and who executed the within instrument and that said instrument was signed on behalf of said charter township by authority of its Township Board; and said Dave Healy 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

## CITY OF PORTAGE

## COMMUNICATION

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**TO:** Honorable Mayor and City Council

**DATE:** April 18, 2011

**FROM:** Maurice S. Evans, City Manager



**SUBJECT:** Downtown Development Authority Annual Report -- Information Only

Attached is the Portage Downtown Development Authority (DDA) annual report for the information of City Council. The report will also be forwarded to the Michigan State Tax Commission consistent with PA 197 of 1975, as amended.

The annual report contains information about the public improvements and activities initiated in 1998 with the establishment of the DDA district along South Westnedge Avenue between Kilgore Road and I-94 and the approval of the original Development Plan/Tax Increment Finance Plan. Subsequent public improvements and activities were accomplished in 2003 with approval of the 2003 Amended Development Plan/Tax Increment Finance Plan. The intent of the public improvements and activities that were accomplished was to promote commercial development and redevelopment in the district, expand the tax base in the community and encourage job creation.

The Portage DDA Board of Directors convened a meeting on April 13, 2011 to review the Annual Financial Report for FY 2009-10. As indicated in the accompanying report, all of the public improvements and activities have been completed. As for financial information, \$7.6 million in principal and interest remain on the outstanding bonded indebtedness of the Authority as of June 30, 2010. The initial assessed value in the DDA project area was established at \$12.76 million and the additional captured assessed value retained by the Authority is \$18.55 million for FY 2009-10. It is estimated that 1,425 full and part-time jobs have been created within the DDA through FY 2009-10. Attached is the Resolution with Appendix A approved by the Board of Directors.

The report documents the continued success of the 1998 and 2003 initiatives in facilitating private sector investment in the community and strengthening the local economy.

**Attachments:** Resolution with FY2009-2010 Annual Financial Report  
Board meeting minutes dated April 13, 2011 (draft)

c: Jeffrey M. Erickson, Director of Community Development

**CITY OF PORTAGE**

At a regular meeting of the Board of the Downtown Development Authority of the City of Portage, Michigan, held on April 13, 2011, at 8:00\_a.m. at the City Hall, Portage, Michigan, there were:

PRESENT: Matt Milks, Terry Patterson, Jeff Chrystal, Ron Dunlop, Wält Hansen,  
James Huberty, Ben Boyer, Rich MacDonald.

ABSENT: None

The following preamble and resolution were offered by Boyer and supported by MacDonald.

**RESOLUTION APPROVING AND AUTHORIZING  
THE TRANSMISSION OF THE FINANCIAL  
REPORT ON THE STATUS OF THE TAX INCREMENT  
FINANCING PLAN**

WHEREAS, the Downtown Development Authority of the City of Portage (the "Authority") has been duly incorporated by the City of Portage (the "City") pursuant to Act No. 197 of the Public Acts of Michigan of 1975 (the "Act") and the Board of the Authority has been duly appointed and sworn into office; and

WHEREAS, the Authority is to transmit annually to the City Council of the City of Portage and the State Tax Commission a Financial Report on the Status of the Tax Increment Financing Plan which report shall include certain matters as required by Section 15 of the Act; and

WHEREAS, such material has been prepared and is attached hereto as Appendix A to this Resolution.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF THE DOWNTOWN DEVELOPMENT AUTHORITY OF THE CITY OF PORTAGE, as follows:

1. The Financial Report on the Status of the Tax Increment Financing Plan attached hereto as Appendix A is approved.

2. The Director of the Authority is authorized to transmit said financial report to the City Council of the City of Portage and the State Tax Commission.

The results of a roll-call vote on the foregoing resolution were as follows:

YES:            All

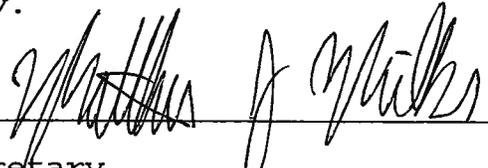
NAYS:           None

ABSTAIN:       None

THE RESOLUTION WAS DECLARED ADOPTED:

SECRETARY'S CERTIFICATE

The undersigned, being the duly qualified and acting Secretary of the Board of the Downtown Development Authority of the City of Portage, Michigan, hereby certifies that (1) the foregoing is a true and complete copy of a resolution duly adopted by the Board at a regular meeting held on April 13, 2011, at which meeting a quorum was present and remained throughout, (2) the original thereof is on file in the records of the proceedings of the Board in my office, (3) the meeting was conducted, and public notice thereof was given, pursuant to and in full compliance with the Open Meetings Act (Act No. 267, Public Acts of Michigan, 1976, as amended), and (4) minutes of such meeting were kept and will be or have been made available as required thereby.

  
\_\_\_\_\_  
Secretary

[SEAL]

Dated:

1as.YR-POR-DDA

**ANNUAL FINANCIAL REPORT**

**CITY OF PORTAGE**

**DOWNTOWN DEVELOPMENT AUTHORITY**

**for**

**FY 2009 - 2010**

Portage, Michigan

**DOWNTOWN DEVELOPMENT AUTHORITY**

**OF**

**THE CITY OF PORTAGE**

**FY 2009-10 ANNUAL FINANCIAL REPORT**

**As Approved by the Authority Board**

**on**

**April 13, 2011**

## INTRODUCTION

As specified in PA 197 of 1975, the Downtown Development Authority Act provides government financing methods to eliminate property value deterioration within business districts and promote economic growth in communities. Of particular interest to the City of Portage are the provisions which allow tax increment financing to undertake public improvements in business districts in order to correct and prevent deterioration and stimulate business growth.

By way of example, the City of Portage has utilized this approach to construct public improvements on West Centre Avenue and Angling Road (for the SPX Corporation, formerly Allen Testproducts Facility). Also, Portage utilized tax increment financing to construct several important infrastructure projects to assist Pfizer, Inc. (formerly Pharmacia & Upjohn) and the Stryker Corporation with significant development projects during the early 1990's and 2000's.

With the 1998 Community Investment Initiative, the City of Portage again utilized tax increment financing to construct public improvements that revitalized the north portion of South Westnedge Avenue, between Kilgore Road and I-94. This part of South Westnedge Avenue exhibited signs of deterioration and development and redevelopment activities by the private sector were hampered by lack of access, traffic concerns and existing utility infrastructure. With tax increment financing under the Downtown Development Authority Act, tax increment revenue from tax millage levied within a downtown development authority district by the City of Portage, Portage District Library, Kalamazoo County and Kalamazoo Valley Community College was captured and used to improve public infrastructure which benefited all of Kalamazoo County, including the business sector. In the future, other public improvements could also be proposed and undertaken by the downtown development authority to further strengthen the local business sector within the district.

In 2003, additional efforts to further stimulate private sector investment were initiated and the Development Plan/Tax Increment Finance Plan was amended. These additional street, water main, signage and related public activities were included in the amended plan to promote development of additional vacant and underutilized land in the existing development area.

The purpose of the Tax Increment Financing Plan / Development Plan, per PA 197 of 1975 is to provide public improvements necessary for private sector investment. The property to which the Development Plan applies is the north portion of the South Westnedge Avenue Commercial Corridor. The area includes approximately 97 acres of land and is bounded by Kilgore Road on the north, the city of Kalamazoo wellfield to the west, I-94 to the south and the business zoning districts to the east of South Westnedge Avenue on the east.

Following are descriptions of the public improvements and activities undertaken in 1998 and in 2003. The descriptions encompass several public improvements and activities that were completed to foster private sector investment in the DDA.

1998 DDA TAX INCREMENT FINANCE PLAN / DEVELOPMENT PLAN –  
INFRASTRUCTURE IMPROVEMENT PROJECTS (COMPLETED)

<u>Public Improvements</u>	<u>Original Estimated Time Required for Completion</u>	<u>Original Estimated Cost</u>
1. Andy Avenue Extension	12 months	\$487,000
Construct a new 1400 feet long and thirty-six foot wide public street intersecting South Westnedge Avenue at the Andy Avenue signalized intersection, with necessary storm water facilities. Repave 1000 feet of DeHaan Street with intersection improvements at South Westnedge Avenue.		
2. DeHaan Drive Sanitary Sewer Relocation	12 months	\$307,000
Relocate approximately 2100 feet of existing sanitary sewer trunk main located west of DeHaan Drive to the south, paralleling the I-94 right-of-way.		
3. South Westnedge Avenue Property Acquisition	12 Months	\$850,000
Purchase the property addressed along South Westnedge Avenue and DeHaan Drive which is necessary for the extension of Andy Avenue.		

Note: Additional right-of-way and/or easements will be provided by property owners for minimal consideration in order to construct the necessary public street and to relocate the sanitary sewer.

With regard to the identified projects, the Andy Avenue extension (Market Place) and repaving of DeHaan Drive was completed in 1999. The DeHaan Drive sanitary sewer relocation was subsequently completed in 1999. Finally, after lengthy litigation concerning the acquisition of land necessary for the construction of Market Place, the acquisition was completed in 2001. Bonds were subsequently sold in 2001 in the amount of \$3,100,000 to finance street improvements of \$521,342; sanitary sewer relocation of \$292,429; and property acquisition of \$2,286,229. (Lead underwriter is Morgan Stanley Dean Witter).

**2003 AMENDED DDA TAX INCREMENT FINANCE PLAN / DEVELOPMENT PLAN--  
PROPERTY ACQUISITION AND PUBLIC IMPROVEMENT PROJECTS  
(COMPLETED)**

<u>Public Improvements</u>	<u>Estimated Time Required for Completion</u>	<u>Estimated Cost</u>
1. The acquisition of 5.44 acres of land for public street right-of-way and stormwater retention -	Fall 2003	\$ 909,000
2. The construction of an approximate 2200-foot long, 36-foot wide public cul-de-sac street, with pavement, curb and gutter, sidewalk, conduit for the installation of telecommunications fibre, street lighting and landscaping -	Fall 2003/Spring 2004	\$ 689,000
3. The construction of public water main from the Milham Well Field to the DDA under I-94, to be looped with public water utilities in Holiday Lane -	Fall 2003/ Spring 2004	\$ 300,000
4. To facilitate "way finding" by customers from South Westnedge and West Fork Crossing the financing and construction of identification sign at South Westnedge and orientation sign at West Fork Crossing -	Summer 2004	\$ 30,000
5. The acquisition of 2.81 acres of land in the DeHaan Drive (now Trade Centre Way) and West Fork Crossing vicinity of the DDA for stormwater or other public use --	2004	\$ 500,000
6. The annual maintenance, monitoring of the retention facility mitigation facility -	Annually (Not Bonded)	\$ 5,000 (\$100,000 over 20 yrs.)

Notes: The public right-of-way and stormwater retention area to be purchased by the City of Portage through the DDA is immediately north of I-94.

Wayfinding signs by H&G, LLC have been installed along South Westnedge Avenue and I94.

FY 2009-2010 FINANCIAL INFORMATION

The Annual Financial Report has been prepared pursuant to Section 15 (1) of PA 197 of 1975, as amended, The Downtown Development Authority Act. The Annual Report is for FY09-10 and contains the information required by the Act.

Section 15 (3) (a): THE AMOUNT AND SOURCE OF REVENUE IN THE ACCOUNT

Tax Increment Revenue	\$410,511
Interest	\$3,693

Section 15 (3) (b): THE AMOUNT IN ANY BOND RESERVE ACCOUNT

In the DDA bond reserve account there is \$363,182

Section 15 (3) (c): THE AMOUNT AND PURPOSE OF EXPENDITURES FROM THE ACCOUNT

\$393,921 was transferred to the Bond paying agent to pay debt service.

Section 15 (3) (d): THE AMOUNT OF PRINCIPAL AND INTEREST ON ANY OUTSTANDING BONDED INDEBTEDNESS

\$7,654,204 as of June 30, 2010.

Section 15 (3) (e): THE INITIAL ASSESSED VALUE OF THE PROJECT AREA

The initial value is established at \$ 12,767,600.

Section 15 (3) (f): THE CAPTURED ASSESSED VALUE RETAINED BY THE AUTHORITY

The captured value is established at \$18,556,543 for FY 2009-10.

Section 15 (3) (g): THE TAX INCREMENT REVENUES RECEIVED

The tax increment revenues received in 2009-2010 = \$410,511

Section 15 (3) (h): THE NUMBER OF JOBS CREATED AS A RESULT OF THE IMPLEMENTATION OF THE TAX INCREMENT FINANCING PLAN

It is estimated that 1,425 jobs have been created.

(includes 275 jobs at Trade Centre II, which is just outside the DDA district)

Section 15 (3) (i): ANY ADDITIONAL INFORMATION THE GOVERNING BODY OR THE STATE TAX COMMISSION CONSIDERS NECESSARY

Attached find page excerpts from the FY2009-10 audited financial statement for the City of Portage. This information provides supporting documentation for this financial report.

**CITY OF PORTAGE, MICHIGAN**

**Downtown Development Authority Debt Service Fund  
Schedule of Revenues, Expenditures and Changes in Fund Balance  
Budget and Actual**

**Fiscal Year Ended June 30, 2010  
With Comparative Actual Amounts for Fiscal Year Ended June 30, 2009**

	2010		Variance with Amended Budget + / (-)	2009 Actual
	Amended Budget	Actual		
<b>REVENUES:</b>				
Taxes	\$ 390,000	\$ 410,511	\$ 20,511	\$ 436,298
Interest on investments	4,000	3,693	(307)	6,716
Total revenues	<u>394,000</u>	<u>414,204</u>	<u>20,204</u>	<u>443,014</u>
<b>EXPENDITURES:</b>				
Debt Service				
Principal	140,000	140,000	-	125,000
Interest	254,175	253,921	254	258,836
Total expenditures	<u>394,175</u>	<u>393,921</u>	<u>254</u>	<u>383,836</u>
Excess (deficiency) of revenues over expenditures	(175)	20,283	20,458	59,178
Net change in fund balance	(175)	20,283	20,458	59,178
Fund balance - beginning	342,899	342,899	-	283,721
Fund balance - ending	<u>\$ 342,724</u>	<u>\$ 363,182</u>	<u>\$ 20,458</u>	<u>\$ 342,899</u>

DOWNTOWN DEVELOPMENT AUTHORITY

 **DRAFT**

Minutes of Meeting – Wednesday, April 13, 2011

The meeting of the Downtown Development Authority (DDA) was called to order at 8:00 a.m. in Conference Room #1, at Portage City Hall, 7900 South Westnedge Avenue, Portage, Michigan.

MEMBERS PRESENT:

Terry Patterson, Benjamin Boyer, Matthew Milks, James Huberty, Walter Hansen, Rich MacDonald, Ronald Dunlap, Jeff Chrystal and Maurice Evans.

MEMBERS EXCUSED:

None.

IN ATTENDANCE:

Jeffrey M. Erickson, Director of Community Development; John Axe, Bond Counsel; Daniel Foecking, Finance Director; Christopher Barnes, Director of Transportation and Utilities; Vicki Georgeau, Deputy Director of Neighborhood Services; and Christopher Forth, Deputy Director of Planning and Development Services.

APPROVAL OF MINUTES:

The minutes of the July 23, 2010 meeting were introduced for approval. A motion was offered by MacDonald and seconded by Evans to approve the meeting minutes as presented. The motion was unanimously approved.

BUSINESS:

1. FY 2009-10 Annual Financial Report.

Mr. Erickson reviewed the communication concerning the 2009-2010 annual report to the City Council and State Tax Commission. Mr. Erickson indicated the construction projects associated with the 2003 amended plan have been completed. A resolution has been prepared that approves and authorizes the transmission of the financial reports on the status of the tax increment finance plan. Attached to the resolution is appendix A, which summarizes the report and the applicable annual financial information as required by statute. There being no further discussion, a motion was offered by Boyer and seconded by MacDonald that the Resolution Approving and Authorizing the Transmission of The Financial Reports on The Status of The Tax Increment Financing Plan be approved. Upon a roll call vote, the motion was unanimously approved.

2. 2011 Amended Tax Increment Finance Plan/2011 Amended Development Plan

Mr. Erickson reviewed the April 6<sup>th</sup> communication concerning the 2011 Amended Plan that has been prepared to facilitate the development of private property along South Westnedge Avenue, north of I-94, within the City of Portage Downtown Development Authority district (DDA). Mr. Erickson noted there are two primary elements identified in the 2011 Amended Plan:

- Development of approximately 15 acres of land to accommodate a motel and office buildings, together with the potential for additional office and retail projects. To facilitate this private investment, improvements to South Westnedge, Trade Centre Way and West Fork Crossing are necessary at an estimated cost of \$1.34 million.

 **DRAFT**

- Completion of the South Westnedge Avenue Projects (SWEPs), which will involve public infrastructure improvements to help ensure the continued success of the north portion of the South Westnedge Avenue Commercial Corridor within the DDA. Estimated cost of this part of the SWEPs program within the DDA is \$1.25 million.

Mr. Erickson also summarized the financing framework that includes the sale of municipal bonds and establishment of a special assessment district. With regards to the special assessment district, Mr. Erickson stated the plan includes an incentive to the developer. If development projects are promptly completed, during the twenty-year period of the special assessments that will be paid by the developer, the developer would receive a credit from the city of the amount of the increased tax increment revenue up to the amount of the annual special assessment payment for that particular year. Mr. Erickson also briefly summarized the City Council review process and anticipated dates of review/approval.

Mr. Dunlap asked about displacement of any existing residents. Mr. Erickson indicated the developers have purchased the remaining residential structures and the residents have relocated. Mr. Chrystal asked for clarification regarding permitted turning movements at the intersection of South Westnedge Avenue and Trade Centre Way. Mr. Erickson stated only the left turn movement from eastbound Trade Centre Way to northbound South Westnedge Avenue is prohibited.

There being no further discussion, a motion was offered by Chrystal and seconded by Boyer that the Resolution Approving and Authorizing Transmission of the 2011 Amended Development Plan and 2011 Amended Tax Increment Financing Plan to the City Council be approved. Upon a roll call vote, the motion was unanimously approved.

STATEMENT OF CITIZENS:

None.

ADJOURNMENT:

There being no further business to come before the DDA, the meeting was adjourned at 8:40 a.m.

Respectfully submitted,

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Jeffrey M. Erickson, AICP  
Director of Community Development

**CITY OF PORTAGE**

**COMMUNICATION**

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**TO:** Honorable Mayor and City Council

**DATE:** April 11, 2011

**FROM:** Maurice S. Evans, City Manager



**SUBJECT:** March 2011 Summary Environmental Activity Report – Information Only

Attached please find the March 2011 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

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**TO:** Maurice S. Evans, City Manager

**DATE:** April 11, 2011

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

**SUBJECT:** March 2011 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.

Attachment

## SUMMARY ENVIRONMENTAL ACTIVITY REPORT

March 2011 (*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. <i>Sampling completed in April 2010. Annual report submitted to MDNRE in June 2010. General groundwater quality continues to improve, but site will require monitoring for the foreseeable future. 2011 sampling completed in March. Sample analysis underway.</i>
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 3 site/building plans and/or plats completed in March 2011.</i>
Sewer Connection Program	Groundwater protection program requiring residential/business hookup to the sanitary sewer where available.	<i>-Sanitary sewer hookup permits issued in March 2011: 2 commercial and 10 residential. One connection made as part of the Mandatory Sewer Program. Three properties have court appearances scheduled in response to non-compliance.</i>
West Lake Management Program	Special assessment district designed to maintain/improve lake conditions.	-Five Year Lake Management Assessment District process was approved by City Council on March 23, 2010. 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. The 2009/2010 lake treatments are complete. The 2011 lake survey and treatment preparations are under way.
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. 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. The 2010 year report received in January 2011. The 2010 results

show declining groundwater levels throughout the city. Declining levels range from 6” to 3’ – 0”. Surface storm water outfall sampling shows stable results. *Next monitoring will occur in June 2011.*

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. <i>Staff has met internally to discuss the future needs to update the plan. Plan implementation is ongoing.</i>
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. 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. 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. Staff completed an updated SWIPPI submittal to MDNRE. SWIPPI was submitted for MDNRE approval on June 25, 2010. Permit implementation is ongoing. Received a notice MDNRE rescinding the 2008 permit due to a recent court case ruling. MDNRE reinstated the 2003 permit for implementation. Information on new permit requirement was received February 2011. MDNRE expected to issue new permit in 2012. <i>City staff presented public information with other local agencies at the 2011 Home Expo on March 9 – 12, 2011.</i>
National Pollution Discharge Elimination System (NPDES) permit implementation	Kalamazoo River Mainstem Watershed Management Plan	-First meeting was held September 17, 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. Draft watershed

plan submitted to MDEQ on December 30, 2005. Review comments received from MDEQ and revised watershed plan due in December 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. Complete grant application was submitted on October 25, 2010. No update on application status.

#### Portage River Watershed Management Plan

-Public participation plan submitted June 28, 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. 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. *Interest has been raised by local conservation groups to update the current Watershed Plan using grant funds. Discussion will continue.*

#### Plan to implement and maintain an Illicit Discharge Elimination Program (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 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. 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. 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. 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 approximately 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 March 2011 – 0. No investigations and none requiring emergency cleanup. Emergency spill response contract for 2011-13 with Terra Contracting is in place.*

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. Work was completed on October 31, 2008. City staff continues to investigate other remedies for local groundwater table issues. 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 December 2010. Current sampling continued to show a slight decline in the groundwater table. *Sampling will continue through the spring/summer months as staff time permits.*

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. Met with MDNRE staff to determine feasible method to lower water levels. Association currently working with MDNRE permit staff on February 26, 2010 to clarify permit requirements. Lower groundwater table elevation has reduced the concerns from the Condominium Association.

Conference call with MDNRE held on December 8, 2010 to discuss permit submission updates. Condo Association discussing project with other property owners for support. Association submitted a letter to City Administration asking that the city consider the Wetland Water Level Regulation a municipal project. *On March 22, 2011, city staff response recommending the Association consider governmental lake board.*

#### 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. 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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**TRANSMITTAL FROM  
HUMAN SERVICES BOARD**

**DATE:** April 12, 2011

**TO:** Honorable Mayor and City Council

**FROM:** Marc Meulman, Chair, Human Services Board



**SUBJECT:** Representative to Metro Transit ADA Local Advisory Committee

As requested by City Council, the Human Services Board has reviewed the issue of Portage representation on the Metro Transit ADA Local Advisory Committee. At the April 11, 2011 Human Services Board meeting, a motion was approved to recommend to City Council that effective October 1, 2011, that I be appointed to serve as the Human Services Board representative on behalf of the City of Portage to the Metro Transit ADA Local Advisory Committee. In the interim, Human Services Board member Bill Lenehan will continue in his current capacity through September 2011.

Attached for your reference are the Human Services Board meeting minutes that summarize the Board discussions on this issue. Please feel free to contact me if there are additional questions or comments regarding this matter.

**Attachments:**        December 2, 2010 Human Services Board meeting minutes  
                              March 3, 2011 Human Services Board meeting minutes  
                              April 11, 2011 Human Services Board meeting minutes

**Ec:** Deputy Director Georgeau

**CITY OF PORTAGE HUMAN SERVICES BOARD**

Minutes of Meeting, December 2, 2010

**CALL TO ORDER:** 6:30 p.m.

**MEMBERS PRESENT:** Diane Durian, Bill Lenehan, Elma (Pat) Maye, Marc Meulman, Genna Nichols, Sandra Sheppard, Kyle Huitt (Youth Advisory Committee Liaison)

**MEMBERS EXCUSED:** Pamela Gilchrist and Amy Tuley

**MEMBERS ABSENT:** Angela Manahan Ilori

**STAFF PRESENT:** Vicki Georgeau, Deputy Director of Neighborhood Services

**APPROVAL OF MINUTES:** November 4, 2010 minutes were approved as submitted, 6-0.

**OLD BUSINESS:**

Human/Public Services Public Education: Meulman summarized past discussions and reports of the Ad Hoc Committee and the proposal that the Board hold a forum with current grantees and other key service providers. Representatives of the larger community, such as school counselors, church pastors, and other entities with ties to residents in need would be invited to attend. It was suggested that a forum could be planned in the late summer/fall 2011. There was Board consensus that this issue be revisited in March 2011 after the annual human/public service funding cycle.

**NEW BUSINESS:**

Metro Transit ADA Advisory Committee – Board discussion: Meulman reviewed the November 2, 2010 City Council minutes and the November 5<sup>th</sup> letter from the City Clerk re-appointing Bill Lenehan to the Human Services Board for a one-year term ending October 1, 2011. Lenehan indicated he is able and willing to continue as the City of Portage representative on the Metro Transit ADA Advisory Committee through October 2011. There was Board consensus that Lenehan should continue to serve in this capacity and report monthly to the Human Services Board regarding issues of interest or concern. Meulman further noted that prior to October 2011, an alternative member of the Board would have to be recommended to City Council to serve on the Metro Transit ADA Advisory Committee once Lenehan's term expires. Lenehan provided a brief overview of the demand-response services reviewed by the Committee and the time commitment involved. Meulman recommended Board members consider over the next two months if anyone is willing and able to serve on the Committee starting October 2011. Meulman recommended this issue be revisited at the March 2011 Board meeting.

FY 2011-12 Human/Public Service Grant Review Process and January meeting schedule: Meulman reviewed the upcoming process for the annual review of grant applications. In particular, the Board would hear presentations from applicants on January 6, 2011, and a special meeting of the Board would be held on January 20, 2011 to review Board scores of applications and to rank the applicants. On February 3, 2011, the Board would make a final recommendation to City Council. Staff added that requests for applications were mailed out on November 15<sup>th</sup> and were due to the city on December 13<sup>th</sup> and that the Board would be provided the applications booklet in late December. In response to Lenehan, staff provided an overview of how requests for applications were disseminated, and noted that the City Administration will also provide their recommendation on funding for Board review prior to final action by the Board in February 2011.

**STATEMENT OF CITIZENS:** None.

**ADJOURNMENT:** There being no further business before the Board, the meeting was adjourned at about 7:15 p.m. The Board subsequently held a potluck, and several members of City Council and the Planning Commission attended.

Respectfully Submitted,   
Vicki Georgeau, Deputy Director of Neighborhood Services

## CITY OF PORTAGE HUMAN SERVICES BOARD

Minutes of Meeting, March 3, 2011

**CALL TO ORDER:** 6:35 p.m.

**MEMBERS PRESENT:** Diane Durian, Angela Manahan Ilori, Bill Lenehan, Elma (Pat) Maye, Marc Meulman, Genna Nichols, Sandra Sheppard, Kyle Huitt (Youth Advisory Committee Liaison)

**MEMBERS EXCUSED:** Pamela Gilchrist

**STAFF PRESENT:** Vicki Georgeau, Deputy Director of Neighborhood Services

**APPROVAL OF MINUTES:** February 3, 2011 minutes were approved as submitted, 8-0.

### **OLD BUSINESS:**

1. Human/Public Services Public Education – Community Forum – Board discussion: The Board discussed hosting a public information meeting either at City Hall or the Portage District Library open to the public in the Fall 2011. Existing and past grantees and others such as the Portage Senior Center could attend and provide an overview of services available to Portage residents. The Board discussed using the Portager, the city web site and direct mailings to promote the event. In addition to the general public, community representatives that work with residents in need, such as school counselors, church pastors and social justice committees, teachers, etc. would be invited to attend to learn more about human services available to assist Portage residents.
2. Selection of Human Services Board representative to Metro Transit ADA Advisory Committee: Lenehan provided a review of the work and meeting requirements for representation on the committee. Nichols suggested that Gilchrist may be a good candidate for the position. Meulman added that if Gilchrist is not available, he may be able to serve. As Gilchrist was not in attendance, action was postponed until the next meeting.

### **NEW BUSINESS:**

1. Fair Housing Activity Update – Draft Analysis of Impediments to Fair Housing study and presentation by Bob Ells, Executive Director, Fair Housing Center of Southwest Michigan: Staff summarized the Analysis of Impediments to Fair Housing Study, including: an overview of fair housing laws, fair housing services in southwest Michigan, trends in regard to housing discrimination complaints in the region and within Portage, results of fair housing testing in the region and within Portage, data on home mortgage lending, and actions recommended to address potential impediments to fair housing. Maye noted most complaints involving persons with a disability could be avoided through landlord education. Ells suggested the city may wish to consider adopting a local fair housing ordinance, citing data that most complaints are better handled at a local level. Nichols indicated that a County ordinance may be a better approach. Meulman noted there would be costs of administering and enforcing such an ordinance, but the County may have an interest in this issue. Maye indicated some communities include source of income as protected from discrimination through local ordinances. Staff indicated a final draft of the study would be provided to the Board along with a complete draft of the 2011-15 Consolidated Plan and FY 2011-12 Annual Action Plan at the next meeting during a required public hearing, which will then be reviewed by City Council.

Ells provided an overview of fair housing services provided to the City of Portage over the past year, which included training for property managers, realtors, housing service providers, and volunteer testers located within the city, or providing services to Portage residents. The Fair Housing Center responded to 31 housing complaints, four that involved housing discrimination relating to disability, race, marital status, and age. Additionally, the center announced its annual Fair Housing Conference on April 29<sup>th</sup>, and the award of a three-year HUD grant for \$308,000.

2. Metro Transit ADA Advisory Committee – Member report: Lenehan indicated there was no meeting in February and there was nothing new to report.

**STATEMENT OF CITIZENS:** Councilman Bailes asked if the Board will meet in the summer. Meulman indicated the Board had not discussed the schedule, but in the past has taken June and July off, unless there is an action item.

**ADJOURNMENT:** There being no further business before the Board, the meeting was adjourned at 8:25 p.m.

Respectfully submitted,  
Vicki Georgeau, Deputy Director of Neighborhood Services

# CITY OF PORTAGE HUMAN SERVICES BOARD

Minutes of Meeting, April 11, 2011

**CALL TO ORDER:** 6:40 p.m.

**MEMBERS PRESENT:** Diane Durian, Angela Manahan Ilori, Elma (Pat) Maye, Marc Meulman, Sandra Sheppard

**MEMBERS EXCUSED:** Genna Nichols, Kyle Huitt (Youth Advisory Committee Liaison)

**MEMBERS ABSENT:** Pamela Gilchrist, Bill Lenehan

**STAFF PRESENT:** Vicki Georgeau, Deputy Director of Neighborhood Services

 **DRAFT**

**APPROVAL OF MINUTES:** March 3, 2011 minutes were approved as submitted, 5-0.

## OLD BUSINESS:

1. Human/Public Services Public Education – Community Forum – Board discussion: The Ad Hoc Committee was not able to meet prior to the meeting. Meulman recommended discussion be postponed until May 5<sup>th</sup>. Ilori offered to assist with the Ad Hoc Committee work.
2. Selection of Human Services Board representative to Metro Transit ADA Advisory Committee: Meulman explained that Gilchrist is interested in serving, but has other commitments through the Spring 2012. Meulman indicated he could serve beginning October 1, 2011, and that if Gilchrist is still interested next spring, the Board could revisit the issue. A motion was made by Maye, supported by Ilori, that a recommendation be made to City Council that Marc Meulman serve as the Human Services Board representative on behalf of the City of Portage on the Metro Transit ADA Local Advisory Committee. The motion was approved 5-0.

## NEW BUSINESS:

1. Public Hearing - Draft Community Development Block Grant (CDBG) Program: FY 2011-15 Consolidated Plan, FY 2011-12 Annual Action Plan and Analysis of Impediments to Fair Housing: The Board Secretary opened the public hearing. Pat (Elma) Maye, an employee of the Fair Housing Center of Southwest Michigan (a CDBG sub-recipient) disclosed a conflict of interest and abstained from discussion. Staff provided an overview of the FY 2011-2015 Consolidated Plan, FY 2011-12 Annual Action Plan, and Analysis of Impediments to Fair Housing. Staff summarized proposed activities with funding estimated over the next fiscal year, but noted that the CDBG entitlement grant amount is still not known, and additional reductions in funding are anticipated. Once the actual grant amount is known, the program activity budget will have to be revised as determined appropriate. Cindy Graham of Housing Resources, Inc. provided a letter outlining the housing needs of low-income residents in the community and increased poverty and aging housing in Portage. The letter referenced the potential benefit of a rental registration program to ensure low-income renters have decent housing. Graham also outlined efforts of the Kalamazoo LISC Affordable Housing Partnership to address low-income housing needs in the community. Kellie Swikoski of the YWCA thanked the city for addressing the housing needs of domestic violence victims in the Consolidated Plan. Diane Schrock of the Portage Community Center inquired if the plan would be updated as 2010 Census data becomes available. Staff indicated that the Consolidated Plan would not be updated again until 2016, but that other planning efforts carried out by the city will include an analysis of 2010 Census data. As no further comments were received, the public hearing was closed. Staff explained the next steps in the process were a City Council budget workshop on April 19<sup>th</sup> and City Council review and approval of the CDBG Program documents on May 10<sup>th</sup> and submission to HUD by May 15<sup>th</sup>.
2. Metro Transit ADA Advisory Committee–Member report: As Lenehan was not present, no report was provided.
3. 2010-11 Goal Update and Proposed 2011-12 Goals – Board Discussion: The Board reviewed the draft memo to City Council. Staff noted a minor change to the fair housing study report title, and Ilori recommended that the FY 2011-12 Goals be revised to emphasize item 3(b)(3) in the current goals. After further discussion, Maye moved, and Ilori supported a motion to revise the memo and recommended goals to reflect the two items discussed. The motion carried 5-0.

**STATEMENT OF CITIZENS:** Ilori inquired about the Board summer meeting schedule. Meulman indicated the Board could decide to take June and July off, unless there is an action item or other needed work activity.

**ADJOURNMENT:** There being no further business before the Board, the meeting was adjourned at 7:25 p.m.

Respectfully submitted,  
Vicki Georgeau, Deputy Director of Neighborhood Services

## CITY OF PORTAGE

## COMMUNICATION

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**TO:** Honorable Mayor and City Council

**DATE:** March 30, 2011

**FROM:** Maurice S. Evans, City Manager

**SUBJECT:** Tax Exemption for Kalamazoo Family Non-Profit Housing Corporation

**ACTION RECOMMENDED:** That City Council accept for first reading an ordinance to amend the Codified Ordinances of the City of Portage to grant the Kalamazoo Family Non-Profit Housing Corporation a tax exemption, establish a payment in lieu of taxes for 1506 Schuring Road and take final action on April 26, 2011.

The attached communication from the Community Development Director explains a request from Kalamazoo Family Non-Profit Housing Corporation (KFNPNC) for a tax exemption and Payment in Lieu of Taxes (PILOT) for the acquisition, minor rehabilitation and subsequent affordable rental of a single-family dwelling at 1506 Schuring Road. The city has adopted PILOT ordinances for the Hearthiside Apartments I & II, Spring Manor Apartments, Centre Street Village Apartments, The Crossings II Apartments and Barrington Woods Apartments. The KFNPNC application is the first PILOT request that involves a single-family dwelling. The City Attorney has prepared the accompanying ordinance for consideration by City Council.

As background, the Kalamazoo County Public Housing Commission was awarded an \$841,000 grant from the Michigan State Housing Development Authority (MSHDA) for the purchase of scattered-site homes in Kalamazoo County to be rented at affordable rates to low-income households. KFNPNC will enter into a 40-year forgivable MSHDA mortgage with affordability requirements. MSHDA is now reviewing an application for project-based housing vouchers for scattered-site homes. The Kalamazoo County Public Housing Commission has also encumbered \$28,250 of Portage General Fund monies granted to the Local Housing Assistance Fund to meet the MSHDA required 25% local match for the purchase of the property, which has a sales price of \$113,000. A PILOT equal to four percent of annual shelter rents is proposed.

The request by KFNPNC has been carefully reviewed. A tax exemption and PILOT equal to four percent of annual shelter rent for this project is recommended. The proposal is consistent with the City Council quality of life goal to ensure decent and safe housing and improve neighborhood livability. This action is also consistent with the current 2005-09 Consolidated Plan, which has been accepted by the City Council and approved by the U.S. Department of Housing and Urban Development as part of the Community Development Block Grant program.

It is recommended that Council accept the application and proposed ordinance for first reading and take final action on the ordinance on April 26, 2011.

Attachment: Department of Community Development Communication

## CITY OF PORTAGE

## COMMUNICATION

---

**TO:** Maurice S. Evans, City Manager

**DATE:** March 30, 2011

**FROM:** Jeffrey M. Erickson, Director of Community Development

**SUBJECT:** Tax exemption and Payment in Lieu of Taxes (PILOT) for Kalamazoo Family Non-Profit Housing Corporation

### **Introduction**

Kalamazoo Family Non-profit Housing Corporation (KFNPHC) has requested a property tax exemption and Payment in Lieu of Taxes (PILOT) for the acquisition and minor rehabilitation of the single-family dwelling at 1506 Schuring Road. The property at 1506 Schuring Road is zoned R-1C, One-family Residential and is improved with a 1,040 square foot one-story dwelling and 480 square foot attached garage built in 1988. The sale price is \$113,000.

As background, the Kalamazoo County Public Housing Commission was awarded an \$841,000 grant from the Michigan State Housing Development Authority (MSHDA) for the purchase of scattered-site homes in Kalamazoo County. As a program requirement, all scattered-site dwelling units, including the house at 1506 Schuring Road, will be rented at affordable rates to low-income households. MSHDA required the creation of a separate non-profit housing corporation to receive the grant funding, and will require the Kalamazoo Family Non-Profit Housing Corporation (KFNPHC) to enter into a 40-year forgivable mortgage with affordability restrictions. MSHDA is concurrently reviewing an application for project-based housing vouchers to further assist with affordable rental rates. The Kalamazoo County Public Housing Commission has also encumbered \$28,250 of City of Portage Local Housing Assistance Fund monies to meet the MSHDA required 25% local match for the purchase of the property.

Based on the cash flow projections prepared by KFNPHC and MSHDA, a PILOT has been requested to make the project financially viable. As a condition of financing approval from MSHDA, a City of Portage PILOT ordinance equal to four percent of annual shelter rents is necessary.

### **Michigan Public Act 346 of 1966**

MSHDA was created and tax exemptions and Payment of Lieu of Taxes were permitted for specified housing developments. Act 346 stipulates that: 1) a tax exemption granted for eligible projects remains in effect for as long as the authority or federally-aided mortgage is outstanding; 2) any payments in lieu of taxes received by the city must be distributed to the affected taxing units in the same proportion as the property tax in the previous calendar year; and 3) the city establish a service charge to be paid in lieu of taxes in order to implement the tax exemption for the eligible housing project. The service charge is negotiable, but may not exceed the property tax that would be paid without a service charge.

### **Project Benefits and Costs**

There are a number of community benefits made possible by this project:

- The project fulfills goals of the current 2005-2009 Consolidated Plan accepted by City Council, as part of the Community Development Block Grant program, and is consistent with the goals of the draft 2011-2015 Consolidated Plan;
- The project will fulfill the goal to partner with for-profit and non-profit developers by providing a PILOT incentive to help meet financing requirements for affordable housing;
- Approval of the proposed project would demonstrate the continued commitment on the part of the city to enhance the range of housing choice for low income residents;
- Based on data included in the 2005-2009 Consolidated Plan, there are approximately 5,700 low income households in Portage, and 47% or approximately 2,700 with a housing cost burden. More recent data compiled in the draft 2011-2015 Consolidated Plan indicates there are an estimated 7,145 low income households, and 61% or approximately 4,350 low income households with a housing cost burden.

As with all developments, there are costs to the City of Portage and other taxing jurisdictions to provide municipal services. As with other PILOT requests received by the city, costs also include foregone tax revenues due to the proposed PILOT. The service costs for the single-family dwelling include public safety and general government services, and the cost to the city for a single-family dwelling unit has been estimated by the Finance Department as shown below.

<b>General Fund</b>	<b>Estimated Cost Per Unit</b>
Police	\$195
Fire	\$96
Other	\$200
<b>TOTAL COST</b>	<b>\$491</b>

With regard to foregone tax revenue, the house was owner-occupied in 2010, with annual property taxes of \$1,999. If the property was renter-occupied by a family household, the annual tax liability in 2011 is estimated at \$2,924. The table below illustrates annual foregone tax revenue for all taxing units if the dwelling is renter-occupied in 2011, compared to estimated tax revenue that would be received from the proposed PILOT in 2011.

<b>Taxing Unit</b>	<b>Annual Revenue Without Tax Exemption</b>	<b>Annual Revenue with PILOT</b>
City of Portage	\$587	\$44
State Education	\$936	\$70
School Operating	\$262	\$20
School Building/Debt	\$312	\$23
Portage District Library	\$146	\$11
KVCC	\$253	\$19
KRESA	\$319	\$24
Kalamazoo County	\$21	\$2
County Transport	\$78	\$6
County Juvenile	\$11	\$1
	<b>\$2,924</b>	<b>\$218</b>

NOTE: The minimum PILOT payment proposed by the ordinance amendment is \$218, but the PILOT payment is projected to increase slightly over the 40-year period of the PILOT to \$471, with an average annual payment of \$329.

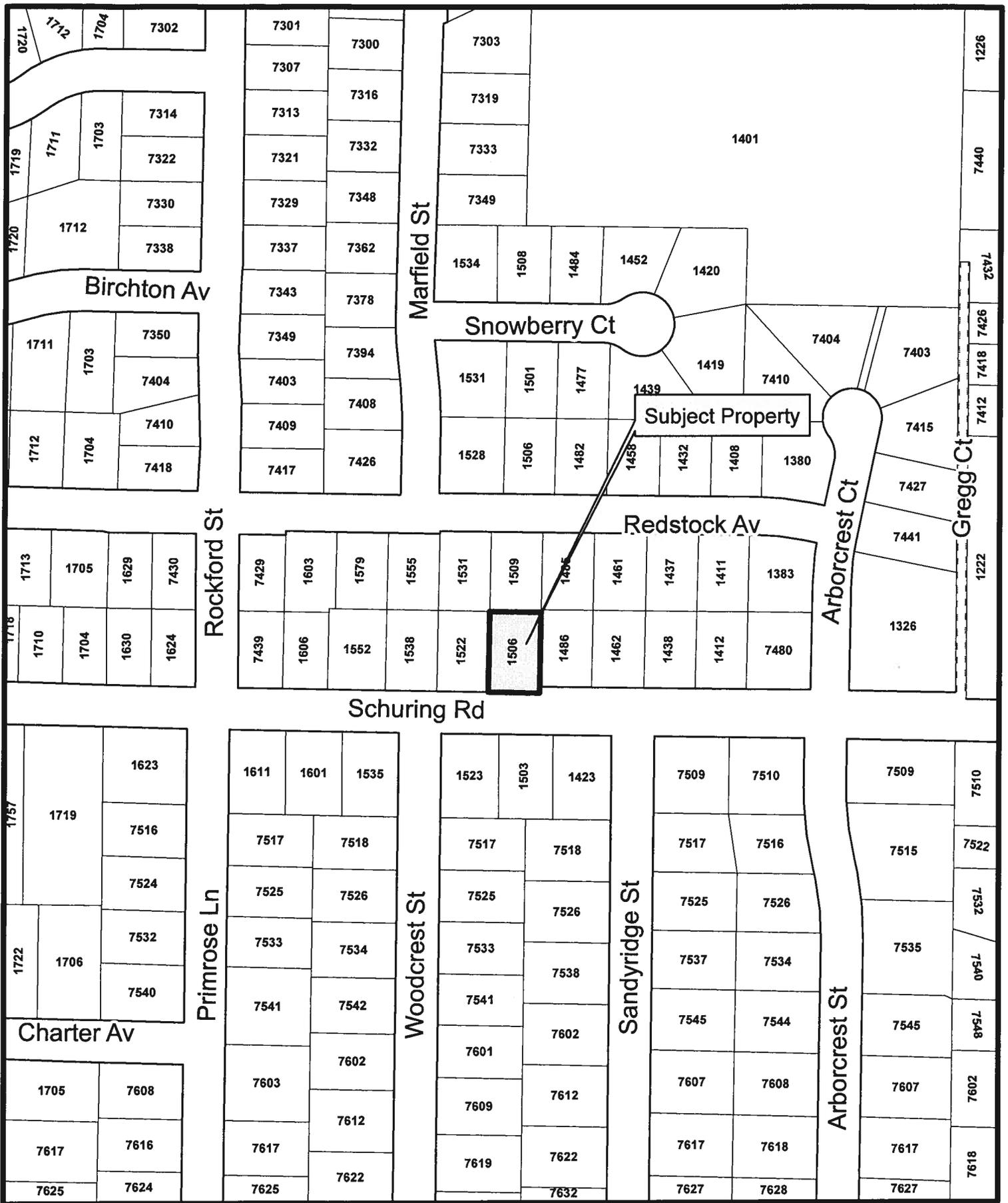
With specific regard to the City of Portage, the estimated annual revenue without the tax exemption that would be received by the city is \$587 compared to the \$44 average annual payment that would be received with the proposed PILOT over the 40-year period.

**Review/Recommendation**

The Department of Community Development has reviewed the application, and discussed the project with the applicant and MSHDA. The Office of the City Attorney has prepared the ordinance, also in consultation with MSHDA. A tax exemption with a four percent PILOT is recommended as referenced in the proposed ordinance amendment to be added to Chapter 70, Article 2, Division 9 of the Code of Ordinances.

Attachments:       Vicinity Map  
                          Correspondence from Kalamazoo Family Non-Profit Housing Corporation – February 16, 2011  
                          Proposed PILOT Ordinance

c: Deputy City Manager Brian J. Bowling  
    City Attorney Randy Brown  
    Deputy Director Vicki Georgeau



**Kalamazoo Family Non-Profit Housing Corporation**

**10095 Pepperell Court, Portage, MI 49024**

February 16, 2011

City of Portage  
Jeffrey Erickson, Director of Community Development  
7900 South Westnedge Avenue  
Portage, MI 49002

**RECEIVED**  
**FEB 22 2011**  
**COMMUNITY DEVELOPMENT**

RE: Tax Exemption / Payment in Lieu of Taxes (PILOT) proposal for 1506 Schuring Road

Dear Mr.  Erickson,

The Kalamazoo Family Non-Profit Housing Corporation (KFNPHC) is requesting that a PILOT be granted for 1506 Schuring Road. KFNPHC will be the owner of record for the 1506 Schuring Road property for the duration of the grant.

Without a PILOT, it is not economically feasible to proceed with this project at 1506 Schuring Road. The pro forma, cash flow and overall feasibility of this project as outlined in The Michigan State Housing Development Authority (MSHDA) documents previously submitted underscore the financial necessity of the PILOT for 1506 Schuring Road to be a long term (40 year) success.

Listed below are answers to the questions you had requested in other communications:

1. Please provide documentation that the PILOT is required by MSHDA as a condition of the grant awarded to the Kalamazoo County Public Housing Commission for the acquisition of property and the proposed MSHDA Project Based Voucher.

Although the PILOT is not statutorily required by MSHDA, it has been an expectation of MSHDA that local political jurisdictions participate through granting PILOTs. In addition, if full Ad Valorem Taxes are owed by the KFNPHC the prospect of providing long-term affordable Housing will be challenging. Please see - attachment A.

2. Please provide documentation that the property will have MSHDA or other federally-aided mortgage loan. All existing City of Portage PILOT ordinances reference a federally-aided mortgage loan, and the PILOTs are effective while a federally-aided mortgage loan remains outstanding.

Please see attachment B.

3. Please specify the amount of PILOT requested for the property and how the proposed amount was determined.

We are requesting a 4% PILOT. This percentage was determined through operating cash flow projections. Please see attachment C.

4. Please provide a description of the scope of work (including any necessary rehabilitation) and a project profoma for providing projected revenues and expenditures for each property.

There is minor light decorating that will need to be done.

5. Please provide more information regarding the use of each dwelling, such as whether rentals will be offered for families, or if small group homes are proposed.

This dwelling will provide affordable housing for a single family.

Please see attachment D.

6. Please provide additional information regarding the legal relationship between the Kalamazoo Family Non Profit Housing Corporation, and the Kalamazoo County Public Housing commission (KCPHC).

Kalamazoo Family Non-Profit Housing Corporation is a legal Stand- Alone Non-Profit Housing Corporation established under the laws of the State of Michigan. Although the original MSHDA Grant was received through the KCPHC, all functional responsibilities and requirements are being transferred to the KFNPHC. Please see attachment E.

If you have any questions, please call 269 569-9476 or at home at 269 321-1788. You may also contact Tracy Free, KCMHSAS Facilities and Housing Projects Assistant at 269-553-7128. Please use the mailing address at the top of this letter for written correspondence. Thank you in advance for your efforts on behalf of those we serve.

Sincerely,



David P. Artley  
President, KFNPHC Board



Department of Community Development  
Received

December 6, 2010

DEC 09 2010

Ms. Tracy Free, Family and Housing Project Assistant  
Kalamazoo Community Mental Health and Substance Abuse Services  
3299 Gull Road, P.O. Box 63  
Nazareth, MI 49074-0063

Kalamazoo Community Mental  
Health & Substance Abuse Services  
Administration

RE: Tax Exemption / Payment in Lieu of Taxes (PILOT) proposal for 5876 Old Mission Street  
and 1506 Schuring Road

Dear Ms. Free:

I am writing in response to your letter received on November 19, 2010 regarding the acquisition of two single-family dwellings at 5876 Old Mission Street and 1506 Schuring Road, and the proposal for a Payment in Lieu of Taxes (PILOT) ordinance for each of the two properties. While this is the first request the City of Portage has received for a PILOT involving single-family homes, the Kalamazoo Family Non Profit Housing Corporation and these two projects appear eligible under state statute for a tax exemption/PILOT. In order to further consider your proposal, the following information is requested:

- The rationale for the PILOT requested for each property. For example:
  - Please provide documentation that the PILOTs are required by MSHDA as a condition of the grant awarded to the Kalamazoo County Public Housing Commission for the acquisition of the properties and/or the proposed MSHDA Project Based Vouchers;
  - Please provide documentation that the two properties will have a MSHDA or other federally-aided mortgage loan. All existing City of Portage PILOT ordinances reference a federally-aided mortgage loan, and the PILOTs are effective while a federally-aided mortgage loan remains outstanding;
  - Please specify the amount of PILOT requested for each property, and how the proposed amount was determined;
  - Please provide a description of the scope of work (including any necessary rehabilitation) and a project proforma for providing projected revenues and expenditures for each property.
- Please provide more information regarding the use of each dwelling, such as whether rentals will be offered for families, or if small group homes are proposed.
- Please provide additional information regarding the legal relationship between the Kalamazoo Family Non Profit Housing Corporation, and the Kalamazoo County Public Housing Commission (PHC).

I look forward to your written response in regard to this matter. If you have any questions or comments, please feel free to contact me in the Department of Community Development at 269-329-4480.

Sincerely,

  
Vicki Georgeau, AICP  
Deputy Director of Neighborhood Services

C: David Anderson, Kalamazoo Community Mental Health and Substance Abuse Services  
Ec: Jeffrey M. Erickson, Director of Community Development; Randall R. Brown, City Attorney

S:\2010-2011 Department Files\Subject Files\2010 12 06 (PHC & Kzoo Family NHC PILOTs)\_1.doc

7900 South Westnedge Avenue • Portage, Michigan 49002 • (269) 329-4477  
www.portagemi.gov

This is a list of items  
MSHDA asks for before  
Finalizing the Grant

**SMALL SCALE RENTAL DE**

Date Rec'd    Date Submitted for Review    Reviewer

**Application - Small Scale**

Site Approval

**Appraisal**

**Legal**

Land Control - purchase agreement/deed

Title Commitment: Without standard exceptions and in the amount of MSDHA funds

Zoning Letter

Zoning Ordinance and Map

Mortgage Survey/Report

Filed Articles of Incorporation

Certificate of Good Standing: certified within 30 days

IRS Federal Identification Number

**PILOT Ordinance/Property Tax**

Site Plan - New Construction

**MOU/Service Agreement.** Project Specific and current service providers

Management Agreement

Leveraged Resources: Letters of commitment

**PROFORMA** - Development and operating costs with source documentation/notes

**Construction/Rehabilitation**

MSHDA/Contract documents

Cost Estimates - Specifications - Bid(s)

Trade Payment Breakdown

Contractor License and proof of insurance

Drawing and Plans

**Federal Environmental Assessment**

**(NEPA):** MSHDA will complete. Four or fewer units may be categorically excluded subject to 58.35 and 58.6.

**Environmental Site Assessment (ESA)**

**Phase I** - Tab D Combined Application

Lead-Based Paint: pre-1978 units

**Affirmative Fair Housing Marketing Plan:**

5 or more HOME assisted units

**EEO Plan:** 5 or more units - Tab F  
Combined Application

**Labor Standards/Prevailing Wages:** More  
than 11 units/PBV 9 or more

**Relocation/displacement** must be  
minimized. URA-using federal funds

**Project Based Voucher**

PBV Owner Application

Rent Reasonableness Test

Project Based Application Checklist

Project Based Voucher/Subsidy Layering  
Checklist/HUD Form 2880

PBV's trigger NEPA 5 or more units, this  
process must begin as soon as possible as  
it could take up to 2 months to complete.

**Please note that this checklist will be  
project specific and subject to change;  
depending on funding source. Some  
items will apply and other may not or  
other items can be added.**

26-Mar-10



JENNIFER M. GRANHOLM  
GOVERNOR

STATE OF MICHIGAN  
MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY  
LANSING

KEITH MOLIN  
EXECUTIVE DIRECTOR

April 28, 2010

Mr. David F. Anderson  
P.O. Box 51545  
Kalamazoo, MI. 49005

Subject: Homeless Family Initiative Reservation/PBV Intent – Triple Play – Kalamazoo, MI

Dear Mr. Anderson:

This letter will serve as confirmation that the Authority agrees to reserve funds under its Homeless Families Initiative Grant in an amount not to exceed of \$841,000 and to accept an application for HCV/Project Based Vouchers (PBV). The project will consist of six (6) single family homes scattered throughout Kalamazoo County with a mixture of 2 and 3 bedrooms.

The reservation is strictly based on the project's need and financial gap. The sponsor must provide the Authority with documentation demonstrating the availability of funding from several possible sources that may include private foundation funds, and/or FHLBI AHP, and/or other sources as necessary to complete the funding for the Proposal.

To the extent administratively feasible and consistent with the Authority's PHA and Administrative Plan, MSHDA will endeavor to make six (6) Housing Choice Vouchers/Project Based Vouchers available subject to the requirements of the PHA and Administrative Plans. Tenants would be responsible for 30% of their adjusted household income; for rent to include tenant paid utilities.

The Authority agrees to issue its HOME/MSHDA Loan Commitment to the sponsor at the time the sponsor satisfies all Authority Supportive Housing underwriting and processing requirements and provides the documentation of necessary funding commitments from other sources, as required above. In the event the sponsor, in the judgment of the Authority, is unable to satisfy processing requirements and underwriting issues, the Authority will terminate this reservation.

This reservation of the Authority's HOME/MSHDA funds will expire six months from the date of this reservation unless an extension of the reservation is requested by the Nonprofit and approved by the Authority.

The proposal will need to minimally meet the Housing Quality Standards in 24 CFR part 92.251, comply with affordability requirements from 24 CFR PART 92.252, a lease will be used complying with 24 CFR part 92.252 and comply with affirmative marketing procedures as defined in 24 CFR part 92.351.

Sincerely,

Sally Harrison, Director  
Office of Rental Development and Homeless Initiatives

Cc: John Hundt



Income Limits for Kalamazoo County (Effective May 14, 2010)

	1 Person	2 Person	3 Person	4 Person	5 Person	6 Person
30% of area median	12,810	14,640	16,470	18,300	19,770	21,240
40% of area median	17,080	19,520	21,960	24,400	26,360	28,320
50% of area median	21,350	24,400	27,450	30,500	32,950	35,400
60% of area median	25,620	29,280	32,940	36,600	39,540	42,480

Development Schuring  
 Financing Supportive Housing  
 Stimulus Type 0  
 MSHDA No. 0  
 Step Preliminary Assessment  
 Date #####  
 Type Acquisition/Rehab

Unit	No. of Units	Type	Bedrooms	Baths	Net Sq. Ft.	Contract Rent	Utilities	Total Housing Expense	Gross Rent	% of Gross Rent	% of Total Units	Gross Square Feet	% of Total Square Feet	Unit Type	Allowed Housing Expense	Rent Limited By	Differential (Under/Over)	Differential %	Effective AMI%	Contract Rent/Sq. Foot
<b>Rental Income</b>																				
<b>Area Median Income Units</b>																				
A	1	Occupancy	3	1.0	1,540	828	0	828	9,936	100.0%	100.0%	1,540	100.0%	TC Rent	0	(828)	#DIV/0!	52.2%	\$0.54	
B						0	0	0	0	0.0%	0.0%	0	0.0%	N/A	N/A	N/A	N/A	N/A	N/A	N/A
C						0	0	0	0	0.0%	0.0%	0	0.0%	N/A	N/A	N/A	N/A	N/A	N/A	N/A
D						0	0	0	0	0.0%	0.0%	0	0.0%	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<b>Area Median Income Units</b>																				
A	3	Occupancy	3	1.0	1,540	0	0	0	0	0.0%	0.0%	0	0.0%	N/A	N/A	N/A	N/A	N/A	N/A	N/A
B						0	0	0	0	0.0%	0.0%	0	0.0%	N/A	N/A	N/A	N/A	N/A	N/A	N/A
C						0	0	0	0	0.0%	0.0%	0	0.0%	N/A	N/A	N/A	N/A	N/A	N/A	N/A
D						0	0	0	0	0.0%	0.0%	0	0.0%	N/A	N/A	N/A	N/A	N/A	N/A	N/A
<b>Total Units</b>																				
1																				

Gross Rent Potential	9,936
Average Monthly Rent	828
Gross Square Footage	1,540

HOME Units SF/Total Units SF	0.0%	Within Range
# HOME Units/# Total Units	0.0%	Within Range

Tenant-Paid Utility Allowances	Electricity	A/C	Gas	Water/Sewer	Other	Total	Override
A	0	0	0	0	0	0	0
B	0	0	0	0	0	0	0
C	0	0	0	0	0	0	0
D	0	0	0	0	0	0	0
E	0	0	0	0	0	0	0
F	0	0	0	0	0	0	0
G	0	0	0	0	0	0	0
H	0	0	0	0	0	0	0

Total Income	Annual	Monthly
Rental Income	9,936	828
Non-Rental Income	0	0
Total Project Revenue	9,936	828

Annual Non-Rental Income  
 Misc. and Interest  
 Laundry  
 Carpets  
 Other: \_\_\_\_\_ 0

Development Schuring  
 Financing Supportive Housing

Use Revenue Page: Standard

Stimulus Type

MSHDA No.

Step Preliminary Assessment

Date 12/20/2010

Type Acquisition/Rehab

Mortgage Assumptions:

Debt Coverage Ratio 1.25

Mortgage Interest Rate

Pay Rate

Mortgage Term 35 years

**Total Development Income Potential**

	Per Unit	Total
Annual Rental Income	9,936	9,936
Annual Excess Section 8	0	0
Annual Non-Rental Income	0	0
<b>Total Project Revenue</b>	<b>9,936</b>	<b>9,936</b>

**Total Development Expenses**

Vacancy Loss	10.00% of annual rent potential	994	994
Management Fee	456 per unit per year	456	456
Administration		624	624
Project-paid Fuel		1,908	1,908
Common Electricity		888	888
Water and Sewer		708	708
Operating and Maintenance		1,920	1,920
Real Estate Taxes		0	0
Payment in Lieu of Taxes (PILOT)	4.00%	218	218
Insurance		1,200	1,200
Replacement Reserve	1200 per unit per year	1,200	1,200
Other: Employee Benefits/Worker's Comp.		0	0
Other: Asset Management Fee		0	0

Initial Inflation Factor	Beginning in Year	Future Inflation Factor
1.0%	6	2.0%
1.0%	6	2.0%
Future Vacancy		
	1	10.0%
3.0%	1	3.0%
3.0%	1	3.0%
6.0%	6	3.0%
6.0%	6	3.0%
6.0%	6	3.0%
3.0%	1	3.0%
3.0%	1	3.0%
3.0%	1	3.0%
3.0%	1	3.0%
3.0%	1	3.0%

	% of Revenue	10,115	10,115
<b>Total Expenses</b>	101.80%	<b>10,115</b>	<b>10,115</b>
Base Net Operating Income (excludes Excess Section 8)		-179	-179
Part A Mortgage Payment	0.00%	0	0
<b>Part A Mortgage</b>		<b>0</b>	<b>0</b>
Non MSHDA Financing Mortgage Payment		0	0
<b>Non MSHDA Financing Type:</b>		<b>0</b>	<b>0</b>
Base Project Cash Flow (excludes ODR and Part B)	-1.80%	-179	-179

<b>Level Debt Service and Part B Loan Analysis</b>			
Part B Term In Months			0
Part B Debt Coverage Ratio			1.00
Level Debt Service Requirement		0	
Excess Section 8 Income	0.00%	0	0
Part B Mortgage Payment		0	0
<b>Part B Mortgage</b>		<b>0</b>	<b>0</b>

Summary	Annual Payment		Total Loan Amount	
	Per Unit	Total	Per Unit	Total
Part A Mortgage	0	0	0	0
Part B Mortgage	0	0	0	0
<b>Total Mortgage</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>

**Cash Flow Projections**

Development Schuring  
Financing Supportive Housing  
Stimulus Type 0  
MSHDA No. 0

Step Preliminary Assessment  
Date 12/20/2010  
Type Acquisition/Rehab

Future Initiator  
Starting in Yr  
Initial Initiator

2010 2011 2012 2013 2014 2015 2016 2017 2018 2019 2010

Income																						
Annual Rental Income	1.0%	6	###	9,936	10,035	10,136	10,237	10,339	10,546	10,757	10,972	11,192	11,416	0	0	0	0	0	0	0	0	0
Annual Excess Section 8				0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Annual Non-Rental Income	1.0%	6	###	9,936	10,035	10,136	10,237	10,339	10,546	10,757	10,972	11,192	11,416	0	0	0	0	0	0	0	0	0
<b>Total Project Revenue</b>				<b>9,936</b>	<b>10,035</b>	<b>10,136</b>	<b>10,237</b>	<b>10,339</b>	<b>10,546</b>	<b>10,757</b>	<b>10,972</b>	<b>11,192</b>	<b>11,416</b>									

Expenses																						
Vacancy Loss	###	1	###	994	1,004	1,014	1,024	1,034	1,055	1,076	1,097	1,119	1,142									
Management Fee	3.0%	1	###	456	470	484	498	513	529	544	561	578	595									
Administration	3.0%	1	###	624	643	662	682	702	723	745	767	790	814									
Project-paid Fuel	6.0%	6	###	1,908	2,022	2,144	2,272	2,409	2,481	2,556	2,632	2,711	2,792									
Common Electricity	6.0%	6	###	888	941	998	1,058	1,121	1,155	1,189	1,225	1,262	1,300									
Water and Sewer	6.0%	6	###	708	750	796	843	894	921	948	977	1,006	1,036									
Operating and Maintenance	3.0%	1	###	1,920	1,978	2,037	2,098	2,161	2,226	2,293	2,361	2,432	2,505									
Real Estate Taxes	3.0%	1	###	0	0	0	0	0	0	0	0	0	0									
Payment in Lieu of Taxes (PILOT)				218	213	207	202	195	197	200	202	204	206									
Insurance	3.0%	1	###	1,200	1,236	1,273	1,311	1,351	1,391	1,433	1,476	1,520	1,566									
Replacement Reserve	3.0%	1	###	1,200	1,236	1,273	1,311	1,351	1,391	1,433	1,476	1,520	1,566									
Other: Employee Benefits/Worker's Comp.	3.0%	1	###	0	0	0	0	0	0	0	0	0	0									
Other: Asset Management Fee	3.0%	1	###	0	0	0	0	0	0	0	0	0	0									
<b>Subtotal: Operating Expenses</b>				<b>10,115</b>	<b>10,492</b>	<b>10,887</b>	<b>11,299</b>	<b>11,731</b>	<b>12,069</b>	<b>12,416</b>	<b>12,774</b>	<b>13,142</b>	<b>13,521</b>									

Debt Service																					
Debt Service Part A				0	0	0	0	0	0	0	0	0	0								
Debt Service Part B				0	0	0	0	0	0	0	0	0	0								
Debt Service Conventional/Other Financing				0	0	0	0	0	0	0	0	0	0								

<b>Total Expenses</b>				<b>10,115</b>	<b>10,492</b>	<b>10,887</b>	<b>11,299</b>	<b>11,731</b>	<b>12,069</b>	<b>12,416</b>	<b>12,774</b>	<b>13,142</b>	<b>13,521</b>								
Cash Flow/(Deficit)				(179)	(457)	(751)	(1,062)	(1,391)	(1,522)	(1,659)	(1,802)	(1,951)	(2,106)								
Cash Flow Per Unit				(179)	(457)	(751)	(1,062)	(1,391)	(1,522)	(1,659)	(1,802)	(1,951)	(2,106)								
Debt Coverage Ratio on Part A Loan				N/A																	
Debt Coverage Ratio on Conventional/Other Financing				N/A																	

Interest Rate on Reserves **5%**

Operating Deficit Reserve (ODR) Analysis																					
Maintained Debt Coverage Ratio (Hard Debt)				1.15																	
Maintained Operating Reserve (No Hard Debt)				250																	
Initial Balance				26,797																	
Total Annual Draw to achieve 1.0 DCR				(179)	(457)	(751)	(1,062)	(1,391)	(1,522)	(1,659)	(1,802)	(1,951)	(2,106)								
Total Annual Deposit to achieve Maintained DCR				(250)	(250)	(250)	(250)	(250)	(250)	(250)	(250)	(250)	(250)								
Total 1.0 DCR and Maintained DCR				(429)	(707)	(1,001)	(1,312)	(1,641)	(1,772)	(1,909)	(2,052)	(2,201)	(2,356)								

Interest				27,958	28,898	29,592	30,009	30,119	30,102	29,948	29,644	29,175	28,528								
Ending Balance at 1.0 DCR				250	250	250	250	250	250	250	250	250	250								
Maintained Cash Flow Per Unit				N/A																	
Maintained Debt Coverage Ratio on Part A Loan				N/A																	
Maintained Debt Coverage Ratio on Conventional/Other Standard ODR				N/A																	
Non-standard ODR				18,794																	

Operating Assurance Reserve Analysis																					
Required in Year				1																	
Initial Deposit				3,372																	
Ending Balance				3,372																	

Deferred Developer Fee Analysis																					
Initial Balance				0	0	0	0	0	0	0	0	0	0								
Dev Fee Paid				0	0	0	0	0	0	0	0	0	0								
Ending Balance				0	0	0	0	0	0	0	0	0	0								

Subordinate MSHDA Financing																					
Interest Rate on Subordinate Financing				3%																	
Principal Amount of all MSHDA Soft Funds				0																	
Current Yr Int				0	0	0	0	0	0	0	0	0	0								
Accrued Int				0	0	0	0	0	0	0	0	0	0								
Subtotal				0	0	0	0	0	0	0	0	0	0								
Annual Payment Due				0	0	0	0	0	0	0	0	0	0								
Year-End Balance				0	0	0	0	0	0	0	0	0	0								



**1506 Schuring, Portage, MI 49024**

PILOT	Year	Rent		Site Paid	Net Sheltered	Estimated PILOT
		Potential	Vacancy Loss	Utilities	Rents	Payment
4.00%	1	\$ 9,936	\$ 994	\$ 3,504.00	\$ 5,438	218
4.00%	2	\$ 10,135	\$ 1,013	\$ 3,574.08	\$ 5,547	222
4.00%	3	\$ 10,337	\$ 1,034	\$ 3,645.56	\$ 5,658	226
4.00%	4	\$ 10,544	\$ 1,054	\$ 3,718.47	\$ 5,771	231
4.00%	5	\$ 10,755	\$ 1,076	\$ 3,792.84	\$ 5,887	235
4.00%	6	\$ 10,970	\$ 1,097	\$ 3,868.70	\$ 6,004	240
4.00%	7	\$ 11,190	\$ 1,119	\$ 3,946.07	\$ 6,125	245
4.00%	8	\$ 11,413	\$ 1,141	\$ 4,024.99	\$ 6,247	250
4.00%	9	\$ 11,642	\$ 1,164	\$ 4,105.49	\$ 6,372	255
4.00%	10	\$ 11,874	\$ 1,187	\$ 4,187.60	\$ 6,499	260
4.00%	11	\$ 12,112	\$ 1,211	\$ 4,271.36	\$ 6,629	265
4.00%	12	\$ 12,354	\$ 1,235	\$ 4,356.78	\$ 6,762	270
4.00%	13	\$ 12,601	\$ 1,260	\$ 4,443.92	\$ 6,897	276
4.00%	14	\$ 12,853	\$ 1,285	\$ 4,532.80	\$ 7,035	281
4.00%	15	\$ 13,110	\$ 1,311	\$ 4,623.45	\$ 7,176	287
4.00%	16	\$ 13,373	\$ 1,337	\$ 4,715.92	\$ 7,319	293
4.00%	17	\$ 13,640	\$ 1,364	\$ 4,810.24	\$ 7,466	299
4.00%	18	\$ 13,913	\$ 1,391	\$ 4,906.45	\$ 7,615	305
4.00%	19	\$ 14,191	\$ 1,419	\$ 5,004.57	\$ 7,767	311
4.00%	20	\$ 14,475	\$ 1,447	\$ 5,104.67	\$ 7,923	317
4.00%	21	\$ 14,764	\$ 1,476	\$ 5,206.76	\$ 8,081	323
4.00%	22	\$ 15,060	\$ 1,506	\$ 5,310.89	\$ 8,243	330
4.00%	23	\$ 15,361	\$ 1,536	\$ 5,417.11	\$ 8,408	336
4.00%	24	\$ 15,668	\$ 1,567	\$ 5,525.46	\$ 8,576	343
4.00%	25	\$ 15,981	\$ 1,598	\$ 5,635.96	\$ 8,747	350
4.00%	26	\$ 16,301	\$ 1,630	\$ 5,748.68	\$ 8,922	357
4.00%	27	\$ 16,627	\$ 1,663	\$ 5,863.66	\$ 9,101	364
4.00%	28	\$ 16,960	\$ 1,696	\$ 5,980.93	\$ 9,283	371
4.00%	29	\$ 17,299	\$ 1,730	\$ 6,100.55	\$ 9,468	379
4.00%	30	\$ 17,645	\$ 1,764	\$ 6,222.56	\$ 9,658	386
4.00%	31	\$ 17,998	\$ 1,800	\$ 6,347.01	\$ 9,851	394
4.00%	32	\$ 18,358	\$ 1,836	\$ 6,473.95	\$ 10,048	402
4.00%	33	\$ 18,725	\$ 1,872	\$ 6,603.43	\$ 10,249	410
4.00%	34	\$ 19,099	\$ 1,910	\$ 6,735.50	\$ 10,454	418
4.00%	35	\$ 19,481	\$ 1,948	\$ 6,870.21	\$ 10,663	427
4.00%	36	\$ 19,871	\$ 1,987	\$ 7,007.61	\$ 10,876	435
4.00%	37	\$ 20,268	\$ 2,027	\$ 7,147.77	\$ 11,094	444
4.00%	38	\$ 20,674	\$ 2,067	\$ 7,290.72	\$ 11,316	453
4.00%	39	\$ 21,087	\$ 2,109	\$ 7,436.53	\$ 11,542	462
4.00%	40	\$ 21,509	\$ 2,151	\$ 7,585.27	\$ 11,773	471

TOTAL ESTIMATED PILOT PAID DURING MORTGAGE TERM

13,140

**MICHIGAN STATE HOUSING DEVELOPMENT AUTHORITY (MSHDA)  
OFFICE OF HOUSING VOUCHER PROGRAMS  
PROJECT-BASED VOUCHER (PBV) PROJECT PROPOSAL**

**EXISTING HOUSING**

*NOTE: Existing housing units are defined as units that already exist on the proposal selection date and that substantially comply with the HQS on that date. Existing units must fully comply with the HQS before execution of the HAP Contract.*

<b>Name of Project:</b>	
<b>Project Address:</b>	
<b>Total # of Units:</b>	
<b>Sponsor Name:</b>	
<b>Sponsor Address:</b>	
<b>MSHDA Contact:</b>	
<b>Date:</b>	

**EXISTING HOUSING PROPOSALS FOR PROJECT-BASED VOUCHERS MUST PROVIDE THE FOLLOWING INFORMATION AND MEET THE STANDARD CRITERIA FOR EXISTING HOUSING AS FOLLOWS.**

- A. Submit a signed copy of the Owner PBV Application and cover letter.
- B. Submit a copy of the MSHDA Office of Rental Development/Homeless Initiatives (ORDHI) approval letter of the Addendum IIIa or MOU/Inclusion Plan.
- C. Submit a copy of approved Addendum III or MOU/Inclusion Plan to identify types of Supportive Services being offered, and Service Agencies involved.

Provide the following contact information below:

- Identify Lead Agency:
  - Lead Agency Contact person:
  - Contact person e-mail address:
  - Identify Management Company:
  - Management Company address:
  - Management Company contact person & phone number
  - Management Company contact e-mail address:
- D. Attach a letter of support from local Continuum of Care attesting to the project's responsiveness to priorities identified by local collaborative effort for housing people with special needs. (Ten year plan to end homeless)

E. Number and unit type of MSHDA/PBV units: \_\_\_\_\_

F. 25% Cap Information: No more than 25% of the units in a building can receive PBV unless they are units in a single-family (1-4 units) building; units that house elderly or disabled households, or units that receive supportive services. Provide the following information below:

- Total units in project:
- Total number of MSHDA/PBV:
- Total number of buildings:
- Total number of units per building:
- Total number of MSHDA/PBV units per building:
- Total number of Elderly/Disabled Units:
- Total number of units receiving supportive services:
- Total number of MSHDA/PBV barrier free units in the PBV units being requested:
- Total number of MSHDA/PBV barrier free units in the Development:

G. The project has successfully competed for housing assistance under a federal, state, or local government housing assistance, community development, and supportive services program; the proposal must have been selected in accordance with such program’s competitive selection requirements within three years of the PBV proposal selection date, and the earlier competitive selection proposal did not involve any consideration that the project would receive PBV assistance. (Note: When selecting projects using this method, public notice of the project selected is not required.)

Date Project received a reservation for LIHTC, HOME or other Competitive Process Program funding: \_\_\_\_\_ Submit a copy of the reservation/commitment notification.

H. Provide the following proposed rent information below:

- LIHTC rent:
- QCT or Non-QCT:
- Owner requested rent per unit type and size:
- Tenant paid utilities per unit type and size:

I. Submit documentation indicating the environmental review requirements have been met. Date of HUD Release or MSHDA Memo: \_\_\_\_\_

**THE DEVELOPMENT MUST MEET THE FOLLOWING PBV SITE SELECTION CRITERIA [24 CFR 983.57]**

Provide a narrative for each of the items listed below; and attach source documentation when necessary to support the response provided.

The PHA/OHVP may not select a proposal for existing PBV housing on a site or enter into an Agreement or HAP contract for units on the site unless the PHA/OHVP has determined that Project-based assistance for housing at the selected site is consistent with the statutory

requirement of deconcentrating poverty and expanding housing and economic opportunities. The standard for deconcentrating poverty and expanding housing and economic opportunities can be found in 24 CFR part 903. The PHA/OHVP must consider all of the following:

- \_\_\_ a) Whether the census tract in which the proposed project will be located is in or adjacent to a HUD-designated Enterprise Zone, Economic Community, or Renewal Community.
- \_\_\_ b) Whether the PBV development is located in a census tract where the concentration of assisted units will be or has decreased as a result of public housing demolition;
- \_\_\_ c) Whether the census tract where the proposed PBV development is located is undergoing significant revitalization.
- \_\_\_ d) Whether state, local, or federal dollars have been invested in the area that has assisted in the achievement of the statutory requirement - deconcentration of poverty and expanding housing and economic opportunities.
- \_\_\_ e) Whether new market rate units are being developed in the same area as the PBV development and the likelihood that such market rate units will positively impact the poverty rate in the area.
- \_\_\_ f) If the poverty rate in the area where the proposed PBV development will be located is greater than 20%, has there been a decline in the overall poverty rate in the census tract in the last 5 years?
- \_\_\_ g) Whether there are meaningful opportunities for educational and economic advancement in the census tract where the PBV development will be located.
- \_\_\_ h) Whether the local government will provide PILOT/tax abatement.
- \_\_\_ i) Whether there is a homeless population that exceeds shelter bed capacity.

**EXISTING UNITS MUST SUBSTANTIALLY MEET HQS STANDARDS.** Provide certification that existing units substantially meet the following HUD definition. “Existing housing units are defined as units that already exist on the proposal selection date and that substantially comply with the HQS on that date. Provide certification that existing units substantially meet HQS.”

**MUST MEET ALL THE FOLLOWING PROPERTY NEIGHBORHOOD STANDARDS FOR EXISTING PROPERTIES [24 CFR 983.57].** Include a narrative response for each of the items listed below; attach supporting documentation if needed to support the response provided:

- \_\_\_ a) The site must be adequate in size to the number of units proposed to meet appropriate infrastructure and utility needs.

- \_\_\_ b) The site must offer a greater choice of housing opportunities and avoid a larger concentration of assisted persons in an area already containing a high concentration of low-income persons.
  
- \_\_\_ c) The site must be accessible to a wide variety of social, recreational, educational, commercial, and health facilities that are similar to those found in a neighborhood of primarily unassisted housing of a similar nature.
  
- \_\_\_ d) The site must be so located that travel time and cost via public transportation or private automobile from the neighborhood to places of employment providing arrange of jobs for lower-income worker is not excessive. While it is important that housing for the elderly not be totally isolated from employment opportunities this requirement need not be adhered to rigidly for such projects.

NOTE: HUD subsidy layering is not required for existing developments.

Attachment E  
-Easier Version to  
Read

MICHIGAN DEPARTMENT OF LABOR AND ECONOMIC GROWTH- BUREAU OF COMMERCIAL SERVICES		
Date Received		<b>(FOR BUREAU USE ONLY)</b>  This document is effective on the date filed, unless a subsequent effective date within 90 days after received date is stated in the document.
<b>Name</b> Richard W. Pennings		
<b>Address</b> 124 W. Allegan, Suite 700		
<b>City</b>	<b>State</b>	<b>EFFECTIVE DATE:</b>
<b>Zip Code</b>		
Lansing	MI	
48933		

Document will be returned to the name and address you enter above.

If left blank document will be mailed to the registered office.

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## ARTICLES OF INCORPORATION

OF

## KALAMAZOO FAMILY NONPROFIT HOUSING CORPORATION

These Articles of Incorporation are signed by the incorporator for the purpose of forming a nonprofit Corporation pursuant to the provisions of Act 346, Public Acts of 1966, as amended (the "Act"), and Act 162 of Public Acts of 1982, as amended, as follows:

### ARTICLE I

The name of the corporation is Kalamazoo Family Nonprofit Housing Corporation.

### ARTICLE II

A. This Corporation is organized exclusively for charitable, religious, and educational purposes, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under Section 501(c)(3) of the Internal Revenue Code or corresponding section of any future federal tax code.

B. This Corporation is organized with the exclusive purpose of providing housing facilities for persons of low and moderate income, or for persons whose income does not exceed limits established in the Act, as amended, and providing such social, recreational, commercial and communal facilities as may be necessary to serve and improve a residential area in which Michigan State Housing Development Authority (Authority) or federally-aided housing is located or planned to be located thereby enhancing the viability of the housing and, in general, carrying on any business in connection therewith and incidental thereto not inconsistent with 1966 PA 346, as amended, and doing any and all things necessary, required and not expressly prohibited by the laws of the State of Michigan and not inconsistent with the requirements of a nonprofit charitable organization under Section 501(c)(3) of the Internal Revenue Code of 1986 or corresponding section of any future federal tax code.

C. Notwithstanding any other provision of these Articles, all the income and earnings of the Corporation shall be used exclusively for corporate purposes, and no part of the net income or net earnings of the Corporation shall inure to the benefit or profit of or be distributed or distributable to any director, officer, member, trustee, individual, firm, corporation, partnership, association or other private person except that the Corporation shall be authorized and empowered (subject to the requirements of Act No. 346 of the Public Acts of 1966 of the State of Michigan, as amended) to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in this Article II.

D. No substantial part of the activities of the Corporation shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the Corporation shall not participate in, or intervene in (including the publishing or distribution of statements) in a political campaign on behalf of any candidate for public office.

E. Notwithstanding any other provisions of these Articles, the exclusive purpose of the Corporation shall be to carry on only those activities permitted to be carried on (a) by a corporation exempt from federal income tax under Section 501(c)(3) of the Internal Revenue Code of 1986 (or corresponding provision of any future United States Internal Revenue Law), or (b) by a corporation, contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code of 1986 (or corresponding provision of any future United States Internal Revenue Law).

F. Notwithstanding any other provision of these Articles, the Corporation shall in no manner be controlled by or under the direction of or acting in the substantial interest of any private individual, firm, corporation, partnership or association seeking to derive profit or gain therefrom or seeking to eliminate or minimize losses in any dealing or transactions with the Corporation.

G. Notwithstanding any other provision of these Articles, the operations of the Corporation may be supervised by the Authority or by another governmental body as the Authority directs, and the Corporation shall enter into agreements with the Authority or with the governmental body as the Authority from time to time requires. Any such agreements shall provide for regulation by the Authority or designated governmental body of the planning, development and management of

any housing project undertaken by the Corporation and the disposition of the property and franchises of the Corporation.

H. No individual member or director of the Corporation or other private person shall have any title to or interest in the corporate property or earnings in his or her individual or private capacity.



B. A volunteer director of the Corporation shall not be personally liable to the Corporation for monetary damages for a breach of fiduciary duty as a director except that a director remains liable:

- (1) For any breach of the director's duty of loyalty to the Corporation;
- (2) For any acts or omissions not in good faith or that involve intentional misconduct or knowing violation of law;
- (3) For any violation of Section 551(1) of Act No. 162 of Public Acts of 1982, as amended;
- (4) For any transaction from which the director derived an improper personal benefit;
- (5) For any act or omission occurring before the effective date of this Article as filed by the Michigan Department of Labor and Economic Growth for which the director was otherwise personally liable; and
- (6) For any act or omission that is grossly negligent.

The Corporation shall assume all liability to any person other than the Corporation for all acts or omissions of a volunteer director occurring on or after the date of this Article as filed by the Michigan Department of Labor and Economic Growth incurred in the good-faith performance of the volunteer director's duties; provided, however, that the Corporation shall not be considered to have assumed any liability to the extent such assumption is inconsistent with the status of the Corporation as an organization described in Section 501(c)(3) of the Internal Revenue Code of 1986, or comparable provisions of subsequent legislation (the "Code").

If, after the adoption of this Article, the Michigan Nonprofit Corporation Act is hereafter amended to further eliminate or limit the liability of a director, then the liability of any director to the Corporation (in addition to the circumstances in which a director is not personally liable as set forth in the preceding paragraph) shall be limited to the fullest extent permitted by the Michigan Nonprofit Corporation Act, as so amended; except to the extent such limitation, elimination or assumption of liability is inconsistent with the status of the Corporation as an organization described in Section 501(c)(3) of the Code.

Any repeal or modification of this Article shall not adversely affect any right or protection of a director of the Corporation existing at the time of such repeal or modification.

C. The Corporation hereby assumes the liability for all acts or omissions of a non-director volunteer, as that term is defined in the Michigan Nonprofit Corporation Act, provided all of the following are met:

- (1) The volunteer was acting or reasonably believed he or she was acting within the scope of his or her authority.

- (2) The volunteer was acting in good faith.
- (3) The volunteer's conduct did not amount to gross negligence or willful and wanton misconduct.
- (4) The volunteer's conduct was not an intentional tort.
- (5) The volunteer's conduct was not a tort arising out of the ownership, maintenance, or use of a motor vehicle for which tort liability may be imposed as provided in section 3135 of the insurance code of 1956, Act No. 218 of the Public Acts of 1956, being section 500.3135 of the Michigan Compiled Laws.
- (6) The volunteer's act or omission occurred on or after the effective date of this Article as filed by the Michigan Department of Labor and Economic Growth.

#### **ARTICLE VII**

Upon dissolution of the Corporation, assets remaining after providing for debts and obligations of the Corporation shall be distributed for one or more exempt purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code, or corresponding section of any future federal tax code, to that organization exempt from tax under Section 501(c)(3) of the Internal Revenue Code of 1986 (or comparable provisions of subsequent legislation) as may be designated by the Board of Directors or to the federal government, or to a state or local government, for public purposes. Any such assets not disposed of shall be disposed of by the circuit court of the county in which the principal office of the organization is then located, exclusively for such purposes or to such organization or organizations, as said court shall determine, which are organized and operated exclusively for such purposes.

#### **ARTICLE VIII**

Notwithstanding any other provisions of these Articles, the Authority shall have the power to appoint to the Board of Directors of the Corporation a number of new directors, which number shall be sufficient to constitute a majority of the board, notwithstanding any other provisions of these Articles of Incorporation or any other provisions of law, if:

A. The Corporation has received a loan or advance as provided for in the Act and the Authority determines that the loan or advance is in jeopardy of not being repaid;

B. The Corporation has received a loan or advance as provided for in the Act and the Authority determines that the proposed housing project for which the loan or advance was made is in jeopardy of not being constructed;

C. The Authority determines that some part of the net income or net earnings of the Corporation is inuring to the benefit of any private individual, firm, corporation, partnership or association;

D. The Authority determines that the Corporation is in some manner controlled by or under the direction of or acting in the substantial interest of any private individual, firm, corporation, partnership or association seeking to derive benefit or gain therefrom or seeking to eliminate or minimize losses in any dealings or transactions therewith;

E. The Authority determines that the Corporation is in violation of the rules promulgated under Section 22 of the Act; or

F. The Authority determines that the Corporation is in violation of any agreements entered into with the Authority providing for regulation by the Authority of the planning, development and management of any housing project undertaken by the Corporation and the disposition of the property and franchises of such Corporation.

### ARTICLE IX

Notwithstanding any other provisions of these Articles of Incorporation, the Authority may rely upon the continuing effect of these Articles of Incorporation in this form as approved by the Authority, and the corporation agrees not to amend, alter or change the provisions of these Articles of Incorporation without the prior written consent of an Authorized Officer of the Authority.

I, the incorporator, sign my name this \_\_\_\_\_ day of \_\_\_\_\_ 2008.

---

Richard W. Pennings

**Name of person or organization remitting fees:**

Loomis, Ewert, Parsley, Davis & Gotting, P.C.

**Prepared by:**

Richard W. Pennings (517) 482-2400

**ORDINANCE TO AMEND THE CODE OF ORDINANCES OF THE CITY OF PORTAGE, MICHIGAN BY AMENDING ARTICLE 2 OF CHAPTER 70, TAXATION, TO ADD DIVISION 9, KALAMAZOO FAMILY NONPROFIT HOUSING CORPORATION PROVIDING FOR A SERVICE CHARGE IN LIEU OF TAXES.**

THE CITY OF PORTAGE ORDAINS:

That Article 2 of Chapter 70, Taxation, is hereby amended to add Division 9, Kalamazoo Family Nonprofit Housing Corporation:

**DIVISION 9. KALAMAZOO FAMILY NONPROFIT HOUSING CORPORATION**

**Section 70-261. Preamble and intent.**

A. It is acknowledged that it is a proper public purpose of the State of Michigan and its political subdivisions to provide housing for its citizens of low income and to encourage the development of such housing by providing a service charge in lieu of property taxes in accordance with the State Housing Development Authority Act ("Act") (1966 PA 346 as amended). The City of Portage ("City") is authorized by this Act to establish or change the service charge to be paid in lieu of taxes by any or all classes of housing exempt from taxation under this Act at any amount it chooses, not to exceed the taxes that would be paid but for the Act.

B. The City of Portage acknowledges that Kalamazoo Family Nonprofit Housing Corporation (the "Sponsor") has offered, subject to receipt of a Mortgage Loan from the Michigan State Housing Development Authority, to rehabilitate, own and operate a housing development identified as Kalamazoo Family Nonprofit Housing Corporation Development at the property commonly described as 1506 Schuring Road, Portage, Michigan 49024, with the following legal description:

All that certain piece of real estate located in the City of Portage, County of Kalamazoo and State of Michigan and more fully described as:

SECTION 16-3-11 COM AT W 1/4 POST SEC 16, TH E 600.56 FT TO POB, TH N 159 FT, TH E 80 FT, TH S 159 FT, TH W 80 FT TO POB, RES S 33 FT FOR RD ROW.

The development project will serve persons of low income and that the Sponsor has offered to pay the City on account of this housing development an annual service charge for public services in lieu of all taxes.

**Section 70-262. Definitions.**

The following words, terms and phrases, when used in this Division, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

- A. *Act* means the State Housing Development Authority Act (MCL 125.1401 et seq.).
- B. *Annual shelter rent* means the total collections during an agreed annual period from all occupants of a housing development representing rent or occupancy charges, exclusive of charges for gas, electric, heat or other utilities furnished to the occupants.

- C. *Authority* means the Michigan State Housing Development Authority.
- D. *Housing development* means a development which contains a significant element of housing for persons of low or moderate income and such elements of other housing, commercial, recreational, industrial, communal and educational facilities as the Authority determines to improve the quality of the development as it relates to housing for persons of low or moderate income.
- E. *Low income persons and/or families* shall have the same meaning as contained in Section 15(a) of the Act.
- F. *Mortgage Loan* means any loan to be made by the Authority to the Sponsor for the construction and/or permanent financing of a housing development.
- G. *Sponsor* means persons who have applied to the Authority for a Mortgage Loan to finance a housing development. The term "Sponsor" includes all transferees, successors, assigns and heirs.

**Section 70-263. Exemption of low income housing developments.**

It is hereby determined that the class of housing developments to which the tax exemption shall apply and for which a service charge shall be paid in lieu of such taxes under this Division shall be housing developments which are financed or assisted pursuant to the act (MCL 125.1401 et seq.). It is further determined that the housing development known as Kalamazoo Family Nonprofit Housing Corporation Development is of this class.

**Section 70-264. Amount of service charge on part of development occupied by low income housing.**

A. The housing development identified as Kalamazoo Family Nonprofit Housing Corporation Development and the property on which it shall be located shall be exempt from all property taxes. The City, acknowledging that the Sponsor and the Authority have established the economic feasibility of the housing development in reliance upon the enactment and continuing effect of this Division and the qualification of the housing development for exemption from all property taxes and a payment in lieu of taxes as established in this Division, and in consideration of the Authority's offer to the Sponsor to make a Mortgage Loan to finance the Sponsor's acquisition and minor rehabilitation of the housing development, subject to the satisfaction of all the terms and conditions of its loan commitment to the Sponsor, hereby agrees to accept payment of a service charge for public services in lieu of all property taxes from the Sponsor. The annual service charge shall be four (4%) percent of the annual shelter rents collected by the Sponsor for 15 years of operation, but in any event not less than \$218.00. Thereafter, for the 16th through the 40th year, the annual service charge shall be reviewed, and if the Mortgage Loan from the Authority is still in effect, the annual service charge and minimum payment stated in this section shall not change.

B. Notwithstanding anything contained in this ordinance to the contrary, Sponsor recognizes and acknowledges that it will receive valuable public services including, but not limited to, police protection, fire protection and street repair and maintenance for its payment in lieu of taxes. Sponsor represents and warrants to the City that, at the time of the effective date of this ordinance, it is not exempt from ad valorem property taxes under any state law except for the exemption provided for in the Act. If at any time Sponsor expects to or becomes exempt from ad

valorem property taxes, for any reason other than the exemption provided for in the Act, it shall notify the City in writing within seven (7) days and thereafter the City may take all necessary action to repeal this ordinance. Sponsor waives and relinquishes any claim it has or may have for a refund of any payment in lieu of taxes which is in excess of the taxes which would be paid but for the application of the Act.

**Section 70-265. Amount of service charge if development is occupied by other than low income persons.**

Notwithstanding any section of this ordinance, the service charge to be paid each year in lieu of taxes for the housing development occupied by other than low income persons, shall be equal to the full amount of the taxes which would be paid on that portion of the housing development if the housing development were not tax exempt.

**Section 70-266. Payment of service charge.**

The service charge in lieu of taxes, as determined according to this Division, shall be payable, enforceable and, if not paid timely, collectible in the same manner as general property taxes are payable to the City, except that the annual payment shall be made as follows:

- (1) The minimum payment of \$218.00 is due on or before December 31 of each year.
- (2) All additional amounts owing from the December 31<sup>st</sup> payment of the previous year, as determined to be owing based on an audit, is due on or before by July 1 of each year.

**Section 70-267. Verification of annual shelter rent.**

The Sponsor shall verify annual shelter rent revenues to the City with a statement of profit and loss as reported to the State Housing Development Authority or other form of financial deemed suitable by the City.

**Section 70-268. Effective period of Division.**

This Division shall:

- (1) Become effective only after Sponsor receives and closes a Mortgage Loan, and
- (2) Shall remain in effect and shall not terminate so long as a Mortgage Loan remains outstanding and unpaid or the Michigan State Housing Development Authority has any interest in the property, provided that acquisition and minor rehabilitation of the housing development commences within one year from the effective date of the ordinance codified in this Division and a certificate of compliance is issued by the City. Upon satisfaction in full of the Authority Mortgage Loan or termination of any interest of the Authority in the property, this Division shall automatically terminate.

**Section 70-269. Contractual effect of Division.**

Notwithstanding the provisions of Section 15(a)(5) of the act (MCL 125.1415a(5), to the contrary, a contract between the City and the State Housing Development Authority with the Sponsor as third party beneficiary under the contract to provide tax exemption and accept payments in lieu of taxes, as described in this Division is effectuated by enactment of this Division.

**Section 70-270. Severability.**

The various sections and provisions of this Division shall be deemed to be severable, and should any section or provision of this Division be declared by any court of competent jurisdiction to be unconstitutional or invalid the same shall not affect the validity of the Division as a whole or any section or provision of this Division other than the section or provision so declared to be unconstitutional or invalid.

\_\_\_\_\_  
Peter J. Strazdas, Mayor

FIRST READING: \_\_\_\_\_

SECOND READING: \_\_\_\_\_

ORDINANCE #: \_\_\_\_\_

EFFECTIVE DATE:

CERTIFICATION

I, James R. Hudson, do hereby certify that I am the duly appointed and acting City Clerk of the City of Portage and that the foregoing ordinance was adopted by the City of Portage on the \_\_\_ day of \_\_\_\_\_, 2011.

\_\_\_\_\_  
James R. Hudson, City Clerk

PREPARED BY:  
Randall L. Brown (P34116)  
City Attorney  
1662 East Centre Avenue  
Portage, MI 49002

Approved as to Form:

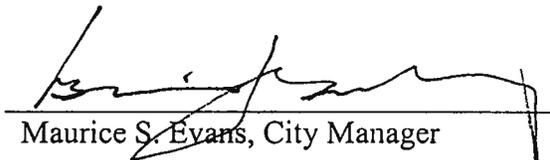
Date: 4/7/11

RLB  
\_\_\_\_\_  
City Attorney

**MATERIALS TRANSMITTED**

Friday, April 8, 2011

1. Communication from the City Manager regarding the April 14, 2011 Joint Meeting (CRC).
2. Communication from the City Manager regarding the March 2011 Citizen Comment Summary – Information Only.

  
Maurice S. Evans, City Manager (for M. Evans)

cc: Brian J. Bowling, Deputy City Manager